

STORAGE NAME: h0035.hcl

DATE: November 24, 1998

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
HEALTH CARE LICENSING & REGULATION
BILL RESEARCH & ECONOMIC IMPACT STATEMENT**

BILL #: HB 35

RELATING TO: Orthotics, Prosthetics, and Pedorthics

SPONSOR(S): Representative Ball

COMPANION BILL(S):

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:

- (1) HEALTH CARE LICENSING & REGULATION
 - (2) BUSINESS REGULATION & CONSUMER AFFAIRS
 - (3) HEALTH & HUMAN SERVICES APPROPRIATIONS
 - (4)
 - (5)
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I. SUMMARY:

Section 468.805, Florida Statutes, provides an exemption from the Bachelor of Science degree and examination requirements (grandfather clause) for those who have practiced orthotics (5 years) or prosthetics (5 years) in this state and applied for licensure prior to March 1, 1998. The educational requirements for a pedorthist are a high school diploma or its equivalent and practice in this state for 2 years prior to March 1, 1998.

HB 35 changes the grandfather date contained in s. 468.805, Florida Statutes, from March 1, 1998, to July 1, 1999. Depending upon when HB 35 becomes law, this would allow a period of approximately 60 days for anyone who failed to apply by March 1, 1998, to apply for licensure without meeting the educational and examination requirements.

However, the potential exists for allowing people who did not qualify for the original grandfather clause to now meet the practice requirements by extending the date from March 1, 1998, to July 1, 1999. For example, a person who only had 4 years of practice as of March 1, 1998, could conceivably have 5 years and 4 months of practice by the July 1, 1999 date.

The Department of Health could not provide the number, if any, of applicants that would qualify for the extended practice period. The number of applicants who qualified, but missed the March 1, 1998, is estimated at 20.

The bill would have minimal fiscal impact on the State, and no fiscal impact on local government or the private sector.

II. SUBSTANTIVE RESEARCH:

A. PRESENT SITUATION:

Prior to 1997, the practices of prosthetics and orthotics were not regulated in Florida. Chapter 97-284, Laws of Florida, provided for the creation of a practice act for the regulation of these professions. A Board of Orthotists and Prosthetists was created within the Department of Health, consisting of seven members appointed by the Governor and confirmed by the Senate for four-year staggered terms. The board is responsible for adopting rules relating to administration of this act and standards of practice for orthotists, prosthetists, and pedorthists, and for issuing biennial licenses to practice orthotics and prosthetics. Two members of the board must be prosthetists; one prosthetist member must hold a Bachelor of Science in Prosthetics and Orthotics, and one prosthetist must be a practicing prosthetist with at least six years of experience after receiving certification from a national certifying body. Two members must be practicing orthotists; one with three years' experience after receiving a Bachelor of Science degree in Orthotics and Prosthetics, and the other must have at least six years' experience after certification by a national certifying body. Two members must be prosthetic or orthotic users who have never been an orthotist or prosthetist or a practitioner in any closely related profession. One member of the board must be a physician licensed to practice medicine, osteopathic medicine, chiropractic medicine, or podiatry in Florida. The board's official headquarters is in Tallahassee and the provisions of chapter 455, F.S., apply to the activities of the board.

Definitions of practice are created for each category of orthotics and prosthetics practitioner to defined activities which are performed pursuant to a licensed physician's written prescription. Prosthetists whose patients are under the care of a licensed occupational therapist or physical therapist are required to consult with the therapist if the therapist has notified the prosthetist of specific recommendations regarding the fitting, design, or fabrication of a prosthesis or treatment with a prosthesis for the patient.

For each licensure category, applicants must pay an application fee no greater than \$500 and an examination fee no greater than \$500 and take the appropriate licensure examination, including a practical examination demonstrating clinical patient management, and written examinations, to demonstrate orthotic or prosthetic problem-solving skills, and meet certain educational requirements. For example, an orthotist and a prosthetist are required to have a Bachelor of Science degree.

An exemption from the Bachelor of Science requirement and examination is provided for those who had practiced orthotics (5 years) or prosthetics (5 years) in this state for the required period of time since July 1, 1990, and applied for licensure prior to March 1, 1998. Only if the applicant has passed a national examination, is he exempt from taking the state examination. The educational requirements for a pedorthist are a high school diploma or its equivalent and practice for 2 years prior to March 1, 1998.

Prosthetists write specifications for, make, fit, and repair braces, artificial limbs, and prosthetic devices (protheses) following a prescription by a physician for patients with a total or partial absence of a limb. Orthotists provide care to patients with disabling conditions of the limbs and spine by fitting and preparing supportive devices (orthoses) under the direction of a physician.

B. EFFECT OF PROPOSED CHANGES:

Under present law, an exemption from the Bachelor of Science degree and examination (grandfather clause) is provided for those who have practiced orthotics (5 years) or prosthetics (5 years) in this state for the required period of time and applied for licensure prior to March 1, 1998. The educational requirements for a pedorthist are a high school diploma or its equivalent and practice for 2 years prior to March 1, 1998.

The bill changes the grandfather date contained in s. 468.805, Florida Statutes, from March 1, 1998, to July 1, 1999. Depending upon when HB 35 becomes law, this would allow a period of approximately 60 days for anyone who failed to apply by March 1, 1998, to apply for licensure without meeting the educational and examination requirements.

However, the potential exists for allowing people who did not qualify for the original grandfather clause to now meet the practice requirements by extending the date from March 1, 1998 to July 1, 1999. For example, a person who only had 4 years of practice as of March 1, 1998, could conceivably have 5 years and 4 months of practice by the July 1, 1999 date.

C. APPLICATION OF PRINCIPLES:

1. Less Government:

a. Does the bill create, increase or reduce, either directly or indirectly:

(1) any authority to make rules or adjudicate disputes?

No.

(2) any new responsibilities, obligations or work for other governmental or private organizations or individuals?

No.

(3) any entitlement to a government service or benefit?

No.

b. If an agency or program is eliminated or reduced:

- (1) what responsibilities, costs and powers are passed on to another program, agency, level of government, or private entity?

N/A

- (2) what is the cost of such responsibility at the new level/agency?

N/A

- (3) how is the new agency accountable to the people governed?

N/A

2. Lower Taxes:

- a. Does the bill increase anyone's taxes?

No.

- b. Does the bill require or authorize an increase in any fees?

No.

- c. Does the bill reduce total taxes, both rates and revenues?

No.

- d. Does the bill reduce total fees, both rates and revenues?

No.

- e. Does the bill authorize any fee or tax increase by any local government?

No.

3. Personal Responsibility:

- a. Does the bill reduce or eliminate an entitlement to government services or subsidy?

No.

- b. Do the beneficiaries of the legislation directly pay any portion of the cost of implementation and operation?

Yes, those individuals subject to licensure will pay the fees.

4. Individual Freedom:

- a. Does the bill increase the allowable options of individuals or private organizations/associations to conduct their own affairs?

No.

- b. Does the bill prohibit, or create new government interference with, any presently lawful activity?

No.

5. Family Empowerment:

- a. If the bill purports to provide services to families or children:

- (1) Who evaluates the family's needs?

N/A

- (2) Who makes the decisions?

N/A

- (3) Are private alternatives permitted?

N/A

- (4) Are families required to participate in a program?

N/A

- (5) Are families penalized for not participating in a program?

N/A

- b. Does the bill directly affect the legal rights and obligations between family members?

N/A

- c. If the bill creates or changes a program providing services to families or children, in which of the following does the bill vest control of the program, either through direct participation or appointment authority:

(1) parents and guardians?

N/A

(2) service providers?

N/A

(3) government employees/agencies?

N/A

D. STATUTE(S) AFFECTED:

Section 468.805, Florida Statutes.

E. SECTION-BY-SECTION RESEARCH:

This section need be completed only in the discretion of the Committee.

III. FISCAL RESEARCH & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

None. See Fiscal Comments.

2. Recurring Effects:

None. See Fiscal Comments.

3. Long Run Effects Other Than Normal Growth:

None. See Fiscal Comments.

4. Total Revenues and Expenditures:

None. See Fiscal Comments.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

None.

2. Recurring Effects:

None.

3. Long Run Effects Other Than Normal Growth:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

None.

2. Direct Private Sector Benefits:

None.

3. Effects on Competition, Private Enterprise and Employment Markets:

None.

D. FISCAL COMMENTS:

The Department of Health stated that approximately 600 applications have been received between February 1998 and November 1998, the bulk of which were filed by applicants under the "grandfather clause". The exact number who applied under the grandfather clause was not available. The Department knows of 10 individuals who were denied licensure under the "grandfather clause" for failure to meet the March 1, 1998 deadline. In addition, two other individuals who would have been qualified for licensure under the "grandfather clause" failed to apply for licensure by the March 1, 1998 deadline.

The Department estimated that a total of 20 additional applications would be received. They estimated additional revenue of \$7,100 would be received.

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill does not reduce the authority that municipalities or counties have to raise revenues in the aggregate.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the authority that municipalities or counties have to raise revenues in the aggregate.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

This bill does not reduce the percentage of a state tax shared with counties or municipalities.

V. COMMENTS:

If changing the date allows additional individuals to qualify for the five years experience, they would not be required to meet the Bachelor of Science requirement and take the examination. **The Department has no estimate of the number, if any, that could fall in this category.**

If the goal is only to open the application date for those individuals who missed the cut off date of March 1, 1998, a technical amendment is needed to clarify that this additional time can not be used to meet the experience requirements.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

N/A

VII. SIGNATURES:

COMMITTEE ON HEALTH CARE LICENSING & REGULATION:

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