

STORAGE NAME: h0957a.hcl

DATE: March 18, 1999

**HOUSE OF REPRESENTATIVES  
COMMITTEE ON  
HEALTH CARE LICENSING & REGULATION  
ANALYSIS**

**BILL #:** HB 957

**RELATING TO:** Health Care Practitioners/Fingerprints

**SPONSOR(S):** Representative Farkas and others

**COMPANION BILL(S):** SB 1022(I)

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

- (1) HEALTH CARE LICENSING & REGULATION YEAS 10 NAYS 0
  - (2) HEALTH & HUMAN SERVICES APPROPRIATIONS
  - (3)
  - (4)
  - (5)
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**I. SUMMARY:**

HB 957 limits the requirement for a statewide and national criminal background check in conjunction with the January 1, 2000 initial renewal, to only those physicians who received an initial license after January 1, 1992 and before October 1, 1997. Effective October 1, 1997, pursuant to s. 455.565(4)(a), Florida Statutes, all new applicants for licensure have been required to submit fingerprints and the Department of Health has performed a full statewide and national background check. The provisions of the profiling requirements apply to medical, osteopathic, chiropractic, and podiatric physicians.

**Under the provisions of the profiling law, applicants are required to submit a set of fingerprints with their initial renewal after January 1, 2000. This requirement only applies to applicants for renewal who have not already provided a set of fingerprints for background checks.** The department must submit the fingerprints to the Department of Law Enforcement for a national criminal background check (with the FBI). According to the Department of Health, **the estimated number of fingerprinting cards to be processed for statewide and national criminal history checks in conjunction with the January 1, 2000 renewal is approximately 47,000. The average length of time for an FDLE response to a fingerprint card is two weeks; an FBI response to a fingerprint card takes an average of six weeks.**

This "grandfather provision" will substantially reduce the potential backlog of fingerprint card processing and subsequent response time from the FDLE and the FBI. It will reduce the estimated number of physicians requiring a full national criminal background check from 47,000 to approximately 13,000, according to the Department of Health. Practitioners licensed before January 1, 1992, while not required to have a full criminal background check, will still be required to have FDLE do a statewide criminal history check.

Finally, the bill prohibits the department from delaying the renewal of a license due to the processing of a statewide or national criminal background check. This prevents a physician from losing practice privileges based upon delays in processing fingerprint cards which are beyond the control of the physician or department.

Per the Department of Health, this bill will not have a fiscal impact on the department, local government, or the private sector in general. For the physicians licensed prior to January 1, 1992, each physician should save \$24, or a total savings of \$806,520 for the entire group.

II. SUBSTANTIVE ANALYSIS:

A. PRESENT SITUATION:

Passage of chapter 97-273, Laws of Florida, relating to physician profiling provided for the Department of Health to compile certain information submitted in a physician profile of each licensee and to make these profiles available to the public. **The profiles were to be developed for medical, osteopathic, chiropractic, and podiatric physicians.** The profiles were mailed out by the department in February, 1999, and are to be returned to the department by April 15, 1999, and compiled and available to the public over the Internet beginning July 1, 1999. However, prior to release of the profile over the Internet, the department is required to allow the practitioner 30 days to review and make factual corrections. In 2000, the department is to recommend other professions, if any, that should be added to the profiling requirements of s. 455.565, F.S.

Effective October 1, 1997, all applicants for licensure in the four professions were required to submit a set of fingerprints for a full national criminal background check, and pay certain fees. According to the Department of Health, these background checks have been performed. **Applicants for relicensure are not required to submit a set of fingerprints until after January 1, 2000. This requirement only applies to applicants for renewal who have not already provided a set of fingerprints for background checks.** The department must submit the fingerprints to the Department of Law Enforcement (FDLE) for a national criminal background check (with the FBI). Failure to comply within 30 days of notice of noncompliance, may result in a citation and a fine of up to \$50 for each day of noncompliance.

According to the Department of Health, **the estimated number of fingerprinting cards to be processed for statewide and national criminal background checks in conjunction with the January 1, 2000 renewal is 47,000. The processing cost is \$42 per applicant (\$18 for the FDLE and \$24 for the FBI). The average length of time for an FDLE response to a fingerprint card is two weeks; an FBI response to a fingerprint card takes an average of six weeks.**

B. EFFECT OF PROPOSED CHANGES:

The most significant effect of the bill is to limit the requirement for a statewide and national criminal background check in conjunction with the January 1, 2000 initial renewal, to those practitioners who received an initial license after January 1, 1992 and before October 1, 1997. Effective October 1, 1997, all applicants for licensure were required to submit fingerprints for a full background check.

Practitioners licensed before January 1, 1992, while not required to submit fingerprints for a full criminal background check, will still be required to have FDLE do a statewide criminal history check. This "grandfather provision" will substantially reduce the potential backlog of fingerprint card processing and subsequent response from FDLE and the FBI. It will reduce the number of fingerprint cards processed from approximately 47,000, to approximately 13,000.

Finally, the bill prohibits the department from delaying the renewal of a license due to the processing of a statewide or national criminal background check. This prevents a physician from losing practice privileges based upon delays in processing fingerprint cards which are beyond the control of the physician or department.

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?

It will decrease the number of full national criminal background checks to those physicians licensed after January 1, 1992, and before October 1, 1997.

- (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?

None.

- (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?

N/A

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

N/A

4. Individual Freedom:

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

N/A

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

N/A

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:**

Sections 455.565(4), s. 458.319(1), s. 459.008(1), 460.407(1), and 461.007(1), Florida Statutes.

**E. SECTION-BY-SECTION ANALYSIS:**

Section 1. Amends s. 455.565(4), Florida Statutes, to provide that an applicant for licensure who received an initial license in this state after January 1, 1992, and before October 1, 1997, must submit a set of fingerprints for their initial renewal after January 1, 2000, for a statewide criminal history check and a full national criminal background check.

Section 2. Amends s. 458.319(1), Florida Statutes, to provide that an applicant for licensure as a medical physician who received an initial license in this state after January 1, 1992, and before October 1, 1997, must submit a set of fingerprints for their initial renewal after January 1, 2000, for a statewide criminal history check and a full national criminal background check. It prohibits the department from delaying the renewal of a license due to the processing of a statewide or national criminal background check.

Section 3. Amends s. 459.008(1), Florida Statutes, to provide that an applicant for licensure as an osteopathic physician who received an initial license in this state after January 1, 1992, and before October 1, 1997, must submit a set of fingerprints for their initial renewal after January 1, 2000, for a statewide criminal history check and a full national criminal background check. It prohibits the department from delaying the renewal of a license due to the processing of a statewide or national criminal background check.

Section 4. Amends s. 460.407(1), Florida Statutes, to provide that an applicant for licensure as a chiropractic physician who received an initial license in this state after January 1, 1992, and before October 1, 1997, must submit a set of fingerprints for their initial renewal after January 1, 2000, for a statewide criminal history check and a full national criminal background check. It prohibits the department from delaying the renewal of a license due to the processing of a statewide or national criminal background check.

Section 5. Amends s. 461.007(1), Florida Statutes, to provide that an applicant for licensure as a podiatric physician who received an initial license in this state after January 1, 1992, and before October 1, 1997, must submit a set of fingerprints for their initial renewal after January 1, 2000, for a statewide criminal history check and a full national criminal background check. It prohibits the department from delaying the renewal of a license due to the processing of a statewide or national criminal background check.

Section 6. Provides an effective date of July 1, 1999.

**III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:**

**A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:**

1. Non-recurring Effects:

None.

2. Recurring Effects:

None.

3. Long Run Effects Other Than Normal Growth:

None.

4. Total Revenues and Expenditures:

None.

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:

There will be a cost savings of \$24 to each physician licensed before January 1, 1992. In addition, these physicians will not be required to submit fingerprints to the FBI for a national criminal background check. An estimated 33,605 physicians, with active licenses, will not have to participate in these national criminal background checks. The estimated savings for this group is \$806,520.

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

None.

D. FISCAL COMMENTS:

Per the Department of Health, there will be no fiscal impact on the department from this bill.

There will be an estimated savings of \$806,520 to the physicians licensed prior to January 1, 1992.

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.

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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:

The department states that they will have to rely on the honesty of physicians licensed prior to January 1, 1992, in reporting criminal activity. There is no mechanism to verify the information submitted by these physicians.

They recommend that s. 455.624(1), Florida Statutes, be amended to provide additional grounds for discipline: failing to comply with the requirements for profiling and credentialing; and failing to report to the board in writing within 30 days after the licensee has been convicted or found guilty of, regardless of adjudication, a crime in any jurisdiction. Convictions, findings, adjudications, and pleas entered into prior to the enactment of this paragraph must be reported in writing to the board, on or before October 1, 1999.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

One amendment was adopted and the bill as amended was passed by the Committee on Health Care Licensing and Regulation at its meeting on March 18, 1999. The amendment clarifies that any physician licensed after January 1, 1992, who had already provided the department with a set of fingerprints was exempt from the fingerprint requirement.

COMMITTEE ON HEALTH CARE LICENSING & REGULATION:

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