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**DATE:** January 11, 2002

**HOUSE OF REPRESENTATIVES  
COMMITTEE ON  
COLLEGES & UNIVERSITIES  
ANALYSIS**

**BILL #:** HB 519

**RELATING TO:** Nursing Shortage Solutions

**SPONSOR(S):** Representative(s) Murman

**TIED BILL(S):**

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

- (1) COLLEGES & UNIVERSITIES
  - (2) EDUCATION APPROPRIATIONS
  - (3) COUNCIL FOR LIFELONG LEARNING
  - (4)
  - (5)
- 

**I. SUMMARY:**

THIS DOCUMENT IS NOT INTENDED TO BE USED FOR THE PURPOSE OF CONSTRUING STATUTES, OR TO BE CONSTRUED AS AFFECTING, DEFINING, LIMITING, CONTROLLING, SPECIFYING, CLARIFYING, OR MODIFYING ANY LEGISLATION OR STATUTE.

HB 519 creates a new loan forgiveness program that requires students to maintain employment in an eligible occupation in the area of nursing for one year for every year of loan forgiveness. The Department of Education (DOE) administers the program and makes payments on loans granted or approved specifically for a certificate, an associate degree, or baccalaureate degree in nursing. The bill does not specify a funding source for the new loan forgiveness program. The program replaces the Careers for Florida's Future Incentive Grant Program and will be in addition to the Nursing Loan Forgiveness Program and the Nursing Scholarship Program.

HB 519 creates the Sunshine Workforce Solutions Grant Program, which provides funding to school districts for the creation and implementation of nursing education programs in middle schools and high schools. The bill does not specify a funding source for the grant program.

HB 519 modifies the grounds for disciplinary action that are currently prescribed for all health care practitioners in ch. 456, F.S., to exclude persons licensed under chapter 464, F.S., (Nursing) for certain acts. Grounds for disciplinary action are added to ch. 464, F.S.

HB 519 modifies the provisions governing approval of nursing programs by the Board of Nursing.

HB 519 provides for licensure by reciprocity for nursing professionals. This process is for nursing professionals licensed in other states with licensure examinations and requirements similar to Florida's requirements who move to Florida and want to practice here. Unlike the current licensure by endorsement process which is also designed to provide Florida licensure for nurses from out-of-state, the licensure by reciprocity does not require a criminal background check or the submission of fingerprints to law enforcement agencies before obtaining a license to practice in the state.

HB 519 repeals ss. 445.0121-445.0125, F.S., pertaining to the implementation and administration of the Careers for Florida's Future Incentive Grant Program.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- |                                   |   |  |   |
|-----------------------------------|---|--|---|
| 1. <u>Less Government</u>         | Yes <input type="checkbox"/>            | No <input checked="" type="checkbox"/> | N/A <input type="checkbox"/>            |
| 2. <u>Lower Taxes</u>             | Yes <input type="checkbox"/>            | No <input type="checkbox"/>            | N/A <input checked="" type="checkbox"/> |
| 3. <u>Individual Freedom</u>      | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/>            | N/A <input type="checkbox"/>            |
| 4. <u>Personal Responsibility</u> | Yes <input type="checkbox"/>            | No <input checked="" type="checkbox"/> | N/A <input type="checkbox"/>            |
| 5. <u>Family Empowerment</u>      | Yes <input type="checkbox"/>            | No <input type="checkbox"/>            | N/A <input checked="" type="checkbox"/> |

For any principle that received a "no" above, please explain:

The bill creates a new loan forgiveness program to be administered by the Department of Education. The bill creates a new grant program for creating nursing education programs in middle schools and high schools to be administered by the Department of Education and the Legislature.

The bill limits the types of acts that constitute grounds for which disciplinary action may be taken against licensed nursing professionals.

B. PRESENT SITUATION:

**The Nursing Shortage**

- According to a June 2000 study conducted by the Florida Hospital Association (FHA), there is a statewide and nationwide shortage of nurses. The study reported that as of February 2000, there were 1,708 open Registered Nursing positions in the 55 hospitals reporting vacancies. Shortages in Florida were found to mirror the shortage problems on the national level. "The American Organization of Nurse Executives concludes that the solutions to address this current nursing shortage will require actions by nurse education programs to increase the supply and the skill of graduating nurses to assure an adequate, appropriate skill mix for the future."
- Instructional programs and educational institutions in Florida are finding it difficult to react quickly to community needs and requests to produce more nurses. One institution reported approximately 470 spaces available in their nursing program but no students to fill the seats. A health care facility being served by that institution is hiring over 200 nurses from out of the country. Conversely, another institution, with high demand in the county served, reports admissions of 450 students per year and 400 students on a waiting list. However, the Board of Nursing reports that approximately 60 percent of all newly licensed nurses each year are licensed by endorsement through other states, not from Florida's nursing programs.
- The Massachusetts Nursing Association attributes nursing shortages, at least in part, to working conditions. According to that organization, studies show that nurses are leaving the field because of working conditions in which they do not feel they are able to provide adequate care.
- The Southern Regional Education Board (SREB) reports that nursing faculty shortages are worsening in the 16 SREB states and the District of Columbia to the point that the "... projected shortage of nurse educators threatens the region's capacity to ensure the health of its residents." The SREB survey shows that resignations reported by nursing education programs

in the southern region for the 2000-2001 academic year and projected for the next two years will total 558. Of the 350 resignations and 144 retiring nurse educators for 2000-2001, 465 held a masters' degree or a doctorate. Florida, with 56 resignations or expected resignations, was one of four states with total resignations exceeding 50. The two most common reasons for resigning were family responsibilities and salaries. The survey projections indicate that 784 nurse educators expect to retire in 2002-2006. Florida, with 84, reported the second highest expected number of retiring nurse educators among the SREB states. Twelve institutions in Florida reported not having enough faculty for undergraduate and graduate nursing programs.

**C. EFFECT OF PROPOSED CHANGES:**

See SECTION-BY-SECTION ANALYSIS

**D. SECTION-BY-SECTION ANALYSIS:**

**Section 1.** Creates title "Nursing Shortage Solution Act"

**Section 2.** Amends s. 445.012, F.S., relating to the Careers for Florida's Future Incentive Grant Program.

**Present Situation:**

Florida statutes currently provide for a number of scholarship, grant, and loan forgiveness programs specifically designated for students studying in areas of critical need in the medical field such as nursing.

Section 240.4075, F.S., the Nursing Student Loan Forgiveness Program, provides loan forgiveness for recipients employed in nursing homes or hospitals in the state or in state operated medical and health care facilities, public schools, birth centers, federally sponsored community health centers, family practice teaching hospitals, and specialty children's hospitals. The program provides for repayment of loan principal and accrued interest at the following rate:

- 25% of the principal and accrued interest retired after the first year of eligible employment
- 50% of the principal and accrued interest retired after the second year of eligible employment
- 75% of the principal and accrued interest retired after the third year of eligible employment
- 100% of the remaining principal and accrued interest retired after the fourth year of eligible employment.

The Nursing Student Loan Forgiveness Program is available to graduates of accredited or approved nursing programs who have received a Florida license as a Licensed Practical Nurse (L.P.N.), a Registered Nurse (R.N.), or an Advanced Nurse Practitioner (A.R.N.P.).

Section 240.4076, F.S., the Nursing Scholarship Program, provides scholarships for students enrolled full-time or part-time in approved programs leading to an associate, bachelor, or graduate degree in nursing or advanced nurse practitioner. The scholarship provides payments at the following rates:

- \$8,000 per year for eligible candidates during two years of their undergraduate studies.
- \$12,000 per year for registered nurses pursuing a graduate degree for a faculty position or to practice as an advanced registered nurse practitioner.

For each full year of scholarship assistance, the recipient must work for 12 months in a faculty position in a university or community college nursing program in the state or in a medically underserved area, as approved by the Department of Health. The Nursing Scholarship Program has penalties for recipients who default on their education or service requirements. Any recipient who does not complete an appropriate program of study or who does not become licensed must

repay the Department of Health (DOH) the entire amount of the scholarship plus 18 percent interest accruing from the date of the scholarship payment. Any recipient who does not accept employment as a nurse at an approved health care facility or who does not complete 12 months of approved employment for each year of scholarship assistance received must repay the DOH an amount equal to two times the entire amount of the scholarship plus interest accruing from the date of the scholarship payment at the maximum allowable interest rate permitted by law. Repayment must be made within one year of notice that the recipient is in default. The DOH administers both the Nursing Scholarship Program and the Nursing Student Loan Forgiveness Program.

Section 240.4067, F.S., the Medical Education Reimbursement and Loan Repayment Program, provides reimbursement for medical professionals who work in medically underserved areas, as defined by the DOH. Such underserved areas include correctional facilities, state hospitals, and areas with high infant mortality rates. The program provides for reimbursement payments in an effort to offset loans and educational expenses incurred by students for studies leading to nursing or medical degrees and licensure or certification. Payments may be applied to expenses associated with the costs of tuition, matriculation, registration, books, lab and other fees, and reasonable living expenses at the following rates:

- Up to \$4,000 per year for an L.P.N. or R.N.
- Up to \$10,000 per year for an A.R.N.P. or Physician Assistant
- Up to \$20,000 per year for an M.D. or D.O.

It is unclear from the statutory language if this program has a restriction as to the maximum amount a professional may be reimbursed or for how long the reimbursement payments may continue.

During the 2000 Legislative Session, the Florida Legislature enacted s. 445.012, F.S., known as the Careers for Florida's Future Incentive Grant Program (the Grant). The Grant was created to encourage students in this state to obtain degrees or certificates in postsecondary programs whose graduates acquire job skills in advanced technologies critical to the economic future of the state. The Grant provided a forgivable loan that required the student to enroll in and complete an eligible program and then to maintain employment in an eligible occupation in this state for one year for each year of grant receipt.

Workforce Florida, Inc. (WFI) is to manage the Grant program in accordance with rules and procedures established for that purpose. WFI is to contract with the Department of Education's Office of Student Financial Assistance (OSFA) to administer the Grant for students seeking baccalaureate degrees or those enrolled in degree career education programs that articulate into baccalaureate degrees. The office must advertise the availability of the Grant program and collect delinquent grant repayments.

Recipients pursuing a baccalaureate degree receive \$100 for each lower-division credit hour at an eligible college or university up to a maximum of \$1500 per semester; \$200 for each upper-division credit hour at an eligible college or university up to a maximum of \$3,000 per semester. Students in applied technology or diploma programs, certificate career education programs, or degree career education programs that do not articulate into baccalaureate degrees, receive \$2 for each vocational contact hour or \$60 for each credit hour. Funds received from the Grant may be applied toward classes taken during the summer, but they may not be applied toward payment for remedial or college prep classes.

The Grant was never implemented because the funding was vetoed by the Governor after its passage by the 2000 Florida Legislature.

However, WFI reports that despite the vetoed funding they have introduced training and certification programs in key targeted industries identified as important to the state's economy, such as

information technology/telecommunications, biomedical technology, manufacturing electronics, aviation/transportation and skilled building trades, through competitive grant processes.

WFI further reports the following success: "Last year, through Board Chairman Toni Jennings' "Chairman's Challenge," nearly 1,600 workers in Florida received training resulting in 1,277 industry-validated certifications in information technology. A similar endeavor is underway this year to train/certify at least 1,500 workers in key targeted industry sectors."

### **Effect of Proposed Changes:**

HB 519 creates the Careers for Florida's Future Loan Forgiveness Program (the Program) by changing the name of s. 445.012, F.S., Careers for Florida's Future Incentive Grant Program, and specifies that the Program is for students learning skills in the nursing field rather than a broad sector of industries.

The Program is to be administered by the OSFA. WFI has no duties in administering the Program under the proposed changes. The OSFA must advertise the availability of the Program and the DOE makes the payments on loans from federal or state programs or commercial lending institutions for the support of approved certificate, associate degree, or baccalaureate degree programs in nursing.

HB 519 provides for the forgiveness of loans that require a student to maintain employment in an eligible occupation in the area of nursing in Florida for one year for each year of loan forgiveness. The bill does not define what qualifies as an "eligible occupation". The bill appears to provide forgiveness only for loans that require the recipient to maintain employment in "eligible occupations" in the State of Florida. It is unclear what loans are currently available to students that require the student to maintain employment in an eligible occupation for one year for each year of loan forgiveness, and therefore it is uncertain who will be able to take advantage of the forgiveness program proposed by this bill. Additionally, it is unclear why loans which already contain a loan forgiveness provision to entice students into nursing careers would need to be covered by the Program. Federal student loans, such as Stafford Loans, do not carry any post-graduation employment requirements or loan forgiveness provisions and therefore it does not appear that they would be forgiven under the proposed provisions of HB 519.

HB 519 requires DOE to make payments on loans from federal or state programs or commercial lending institutions for the support of postsecondary study in approved certificate, associate degree, or baccalaureate degree programs in nursing. This language indicates that only loans that have been specifically set aside and funded for nursing degree programs would qualify for retirement under the Program. No loans meeting those criteria have been identified. Federal student loans do not require a student to study a specific discipline in order to qualify for them.

HB 519 also stipulates that repayment will only cover loans for the cost of tuition, fees, books, and living expenses in an amount not to exceed:

- \$1,800 per year for certificate programs
- \$3,000 per year for associate degree programs or lower-division credits earned toward a baccalaureate degree
- \$6,000 per year for upper-division credits earned toward a baccalaureate degree

HB 519 requires the student to prove employment in an eligible occupation in the area of nursing to receive loan principle payments by the Program. The bill does not detail how "proof of employment" is to be established, and the bill does not define "eligible" occupation in the area of nursing. Loan principle payments are made directly to the federal or state program or commercial lending institution holding the loan at the following rate:

- 25% of loan principle and accrued interest after the first year of eligible employment;
- 50% of loan principle and accrued interest after the second year of eligible employment;
- 75% of the loan principle and accrued interest retired after the third year of eligible employment;
- 100% of the remaining principle and interest is retired after the fourth year of eligible employment.

There appears to be a possible conflict between the complete loan retirement following the fourth year of eligible employment and a provision of the bill that stipulates that payments are not to exceed \$6,000 in any 12-month period. Such conflict could arise when there remains more than \$6,000 in loans to be retired after the fourth year of employment. However, other loan forgiveness programs, such as the Nursing Student Loan Forgiveness Program, contain similar language.

HB 519 provides that the DOE may adopt rules necessary for administering the Program. The bill also provides that the Program is to be implemented only as specifically funded but does not identify a funding source.

**Section 3.** Creates an unnumbered section of the Florida Statutes, relating to the Sunshine Workforce Solution Grant Program.

**Present Situation:**

Section 233.0612, F.S., currently allows for school districts to provide students with programs and instruction at the appropriate grade levels in care of nursing home patients. However, these programs would be paid for with “district dollars”.

The DOE reports that currently there are, in existence, 58 approved Certified Nursing Assistant (CNA) programs in Florida high schools. These CNA programs can articulate directly into Patient Care Technician or Practical Nursing. The CNA program provides a student with the first 22 of 42 competencies for the Practical Nursing (PN) program. DOE additionally reports that the following health science education programs in Florida high schools allow students to attain the first 11 competencies of the PN and RN programs:

- |                           |                           |
|---------------------------|---------------------------|
| • Allied Health Assisting | • Health Unit Coordinator |
| • Dental Aide             | • Home Health Aide        |
| • Dental Lab Assisting    | • Medical Lab Assisting   |
| • Electrocardiograph Aide | • Nursing Assistant       |
| • First Responder         | • Vision Care Assisting   |

Furthermore, in 2000-2001, five high schools reported having Practical Nursing programs – three in Broward County, one in Dade County, and one in Duval County. Data from DOE shows that for 1999-2000, there were ten “completers” of secondary PN programs. Of those ten, the department was able to obtain information on nine. Of those nine, eight were found to have gone on to postsecondary education and training. Of those eight, one was found to be in an associate degree nursing program. The other seven could not be specifically linked to an upper level nursing program; however, that does not necessarily mean that they did not go on to further nursing studies.

**Effect of Proposed Changes:**

HB 519 creates the Sunshine Workforce Solutions Grant Program, which provides grants, on a competitive basis, to allow school districts to fund all or some of the costs associated with establishing exploratory middle school programs or comprehensive career and technical education programs within high schools to provide for seamless transition to an “appropriate postsecondary

education or employment.” The bill does not define “exploratory” program or “comprehensive career and technical education” program. It is unclear what parameters would define such programs.

The bill requires high school programs to be certified or endorsed by the nursing industry to ensure relevant and appropriate student preparation for further education or employment in the nursing industry. The bill does not define “nursing industry” for purposes of determining which entities or persons would be charged with certifying or endorsing the high school programs. The bill does not provide parameters for qualification of a program for certification or endorsement. The bill states that the certification or endorsement would ensure that all components of the program are relevant and appropriate to prepare the student for further education and employment in nursing. The bill does not provide any guidelines or definitions for what materials would be “relevant” or “appropriate”.

The bill also requires that each high school career and technical education program capable of articulating into the postsecondary level must have an articulation agreement with one or more “appropriate” postsecondary education institutions to ensure a seamless transition to a related postsecondary program without a loss of credit for the student. It is unclear if these programs are meant to be considered as dual-enrollment courses for the high school students. If they are dual-enrollment courses, the DOE stated that there would not be a problem with the student receiving credit for any coursework in which they received a passing grade.

The bill also requires participation in work-based learning experiences, as defined by rule by the DOE, at the high school level.

DOE must rank each grant application and must submit to the Legislature a priority list of middle and high schools who have been selected. Selection is based on existing infrastructure that would ensure success of the program. Ranking is determined both by existing infrastructure and statewide geographic dispersion of grant funds. The bill does not define “infrastructure”. Other criteria include demonstrated successful student recruitment, retention, and program completion. It is unclear whether institutions who qualify for the grant will have to reapply and requalify every year for grant monies. It is also unclear whether the DOE or the Legislature will make the final decision regarding which institutions will receive grant money.

Funds awarded may be used for instructional equipment, lab equipment, supplies, personnel, student services, or other expenses associated with the development of a program in nursing. The bill does not identify a source of funding for the Workforce Solutions Grant.

**Section 4.** Amends paragraphs (aa) and (bb) of s. 456.072(1), F.S., which list certain acts that constitute grounds for which the Department of Health may take disciplinary actions against a professional licensed by the department.

#### **Present Situation:**

The 2000 Legislature created the Florida Commission on Excellence in Health Care (Commission) to facilitate the development of a comprehensive statewide strategy for improving the health care delivery system through meaningful reporting standards, data collection and review, and quality measurement. The Legislature directed the Commission *to develop a framework for organizations that license, accredit, or credential health care practitioners and health care providers to more quickly and effectively identify unsafe practitioners and providers and to take action necessary to remove the unsafe practitioner or provider from practice or operation until such time as the practitioner or provider has proven safe to practice or operate.* The Commission was also directed *to evaluate the benefits and problems of the current disciplinary systems and make recommendations regarding alternatives and improvements.* As a result of the findings of the

Commission, the 2001 Legislature added new grounds for discipline for *all health care practitioners*, including providing health care services to the wrong patient/wrong-site/wrong-procedure and leaving a foreign body in a patient such as a sponge, clamp, forceps, or surgical needle. (see Laws of Florida 2001-277)

For the purposes of ss. 456.039-456.082, F.S., “board” is defined as a board, or other statutorily created entity to the extent such entity is authorized to exercise regulatory or rulemaking functions, within the Division of Medical Quality Assurance. “Department” is defined as the Department of Health (DOH).

Section 456.072(1), F.S., enumerates acts which constitute grounds for a variety of disciplinary actions by a board. These acts include performing or attempting to perform health care services on the wrong patient, a wrong-site procedure, a wrong procedure, or an unauthorized procedure or a procedure that is medically unnecessary or otherwise unrelated to the patient’s diagnosis or medical condition. Performing or attempting to perform health care services includes the preparation of the patient. (See s. 456.072(1)(aa), F.S.)

The acts also include leaving a foreign body in a patient, such as a sponge, clamp, forceps, surgical needle, or other paraphernalia commonly used in surgical, examination, or other diagnostic procedures. (See s. 456.0721(1)(bb), F.S.) Paragraph (bb) also creates a legal presumption that leaving a foreign body in a patient is not in the best interest of the patient and is not within the standard of care of the profession, regardless of the intent of the professional.

Section 456.072(2), F.S., provides that when grounds for disciplinary action exist due to a violation listed in s. 456.072(1), F.S., the board or the DOH may refuse to certify or certify with restrictions, an application for a license; suspend or permanently revoke a license; restrict the licensee from practicing in certain settings or restrict the licensee to work under designated conditions; restrict him/her from working more than a designated number of hours, or any other restriction found to be necessary to protect the public health, safety, and welfare. The board may also institute a fine not to exceed \$10,000 for each violation, issue a letter of reprimand or concern, take corrective action, impose administrative fines pursuant to s. 381.0261, F.S.<sup>1</sup>, order a refunding of fees billed and collected from the patient or third party, and require the practitioner to undergo remedial education.

#### **Effect of Proposed Changes:**

The acts constituting grounds for disciplinary actions set forth in paragraphs (aa) and (bb) of s. 456.072(1), F.S., would no longer apply to nursing professionals licensed under chapter 464. Separate disciplinary provisions for nursing professionals in s. 464.018(1)(o) are cross-referenced.

**Section 5.** Amends s. 464.018(1), F.S., by creating paragraph (o) under subsection (1).

#### **Present Situation:**

Section 464.018(1), F.S., details acts which constitute grounds for denial of a license to practice in the nursing field or which give cause for disciplinary action against nursing professionals, licensed by the board. Paragraph (n) of s. 464.018(1) states that “violating any provision of this chapter or chapter 456, or any rules adopted pursuant thereto” shall constitute grounds for denial of a license or disciplinary action.

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<sup>1</sup> Section 381.0261, F.S., provides for the imposition of fines when there is a failure to make available to a patient a summary of their rights as enumerated in the Florida Patient Bill of Rights and Responsibilities.

### **Effects of Proposed Changes:**

HB 519 creates s. 464.018(1)(o), F.S., adding to the acts that constitute grounds for denial of a license or disciplinary action for licensed nursing professionals.

The bill revises the conditions for disciplinary action or denial of license for persons licensed under ch. 464 with regard to acts on the wrong patient, a wrong-site procedure, the wrong procedure, or a procedure that is medically unnecessary or otherwise unrelated to the patient's diagnosis or medical condition. Grounds for disciplinary action would be limited to acts involving the performance of a surgical procedure rather than the performance of "health care services."

The bill also revises the conditions for disciplinary action with regard to leaving a foreign body in a patient. Rather than a legal presumption that retention of a foreign body is not in the best interest of the patient and is not within the standard of care of the profession, regardless of the intent of the professional, grounds for disciplinary action would include acts of leaving a foreign body in a patient when leaving the foreign body is not medically necessary unless removal of the foreign body is not in the best interest of the patient.

The bill stipulates that s. 464.018(1)(o), F.S., supercedes s. 456.072(1)(aa) or (bb) in any case involving disciplinary action relating to a nursing professional. This may be in conflict with s. 464.018(1)(n), F.S., which states that violating any provision of chapter 464 or chapter 456, or any rules adopted pursuant thereto constitute grounds for disciplinary action or denial of licensure.

**Section 6.** Amends s. 464.019(2), F.S., which details the rules and regulations governing approval of nursing programs, and creates s. 464.019(6), F.S., providing nursing program exemption from board rules regarding student pass rates.

### **Present Situation:**

Section 464.019(1), F.S., requires an institution desiring to conduct an approved nursing program for the education of professional or practical nurses to apply to the DOH and submit evidence that demonstrates compliance with the Nurse Practice Act (Part I of ch. 464, F.S.) and with rules of the Board of Nursing (the Board). The application must include a program review fee that may not exceed \$1,000.

The DOH must survey each institution applying for approval and submit its findings to the Board. If the Board is satisfied that the program meets the requirements of the Nurse Practice Act and rules pursuant thereto, the Board must certify the program for approval and the DOH must approve the program. Provisional approval of new programs may be granted pending the licensure results of the first graduating class.

Section 464.019(2), F.S., requires the Board to adopt rules regarding educational objectives, faculty qualifications, curriculum guidelines, administrative procedures, and clinical training as are necessary to ensure that approved programs graduate nurses capable of competent practice under the Nurse Practice Act. In addition, Board rules prescribe student/faculty ratios for clinicals and acceptable minimum performance of graduates on the licensing examination. The Board further stipulates "no institution shall deviate from these rules unless it has received permission from the Board, beforehand, and can show that the variance is necessary, appropriate, and is otherwise consistent with the purposes and application of this chapter."

In addition to delineating minimum curriculum guidelines and administrative procedures, the Board also prohibits certain activities without prior approval of the Board. Rule 64B9-2.006(4), FAC, provides that permission of the Board must be granted before any of the following can be changed:

- Number of credit or clock hours, theoretical or clinical instruction in a course
- Sequence of courses in the program
- Number of courses in the program
- Content alterations between courses

Rule 64B9-2.007(12), FAC, states that permission of the Board must also be obtained prior to increasing enrollment of full-time students in a year. This rule allows programs with part-time students to equate part-time student admissions to approved full-time student admissions on a two-to-one basis.

According to the Board, an educational institution that wants to increase the enrollment in its nursing program must follow the following process:

The director of the program must submit the following information to the Board:

- the additional or total number of students the program wishes to enroll per class;
- when the increased number of students will begin (some schools enter classes two or three times per year);
- a clinical rotation schedule showing the availability of appropriate clinical experiences;
- documentation of sufficient qualified faculty to teach the increased number of students; and
- letters of understanding or support from other approved schools sharing the same clinical sites.

The information is then validated by the Board of Nursing Education Unit staff (consisting of master's prepared nurses with nursing education backgrounds), and a report is prepared that outlines whether or not the request meets requirements as stated in the Approved Program rules (64B9-2, FAC).

All information/data are presented to the Board for its consideration.

Board staff report that the Board approves requests that are accompanied by sufficient information to support that the program can provide appropriate facilities and experiences. If the documentation is not available, the Board may give the program additional time to collect the necessary data. The Board denies the request if the program cannot document the necessary clinical space.

Board staff indicate that when there is a request for an enrollment increase where there are several schools using the same clinical facilities, the Board confirms that other programs are NOT adversely affected by requesting letters of understanding or support from other programs.

During the 2001 Legislative Session, legislation passed which provided that "[t]he Board of Nursing within the Department of Health shall hold in abeyance until July 1, 2002, the development of any rule pursuant to s. 464.019(2), F.S., which relates to the establishment of faculty/student clinical ratios. The Board of Nursing and the Department of Education shall submit to the President of the Senate and the Speaker of the House of Representatives by December 31, 2001, an implementation plan that details both the impact and the cost of any such proposed rule change."<sup>2</sup>

Accordingly, the DOE and the Board formed the Task Force on Clinical Ratios in Florida Nursing Programs (Task Force). The Task Force was composed of representatives of the Board of Nursing, the Division of Community Colleges, the Division of Colleges & Universities, community college presidents, a vocation-technical school director, and program representatives of community

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<sup>2</sup> Chapter 2001-203, L.O.F. and Chapter 2001-277, L.O.F.

colleges and private colleges. Upon completion of its study of the issues, the Task Force offered the following two recommendations:

- Due to the severity of the nursing shortage, the current budgetary crisis, and the lack of empirical data linking the relationship of the level of faculty-student ratios to patient safety and quality education, the Task Force recommends no changes in the faculty-student clinical ratio for a period of two years.
- The Task Force recommends that a study be conducted to examine the issues of the relationship of clinical ratios to patient safety and the quality of education. The study should be conducted by the Florida Center for Nursing or by the Council for Educational Policy research and Improvement (CEPRI). The data from the study should be presented to a future task force composed of representatives of the Board of Nursing and the Department of Education in order to investigate possible alteration of rules affecting clinical ratios.

### **Effect of Proposed Change:**

HB 519 modifies the provision relating to the Board process for approving programs. The bill provides that no program will be fully approved or exempted from the Board rules prior to the graduation of the program's first class. The bill requires the Board to adopt rules regarding educational objectives and curriculum guidelines necessary for full approval of a program. The bill requires that such educational objectives consider student attrition rate standards and retention of qualified faculty. The significance of "retention" of qualified faculty is not clear. A program may experience a high turnover of qualified faculty but replace the faculty who leave with faculty who are equally qualified.

HB 519 requires the Board to adopt rules governing probation, suspension, and termination status of programs that fail to comply with the standards set by the Board. The bill prohibits the Board from limiting the number of students admitted to a nursing program as long as student-to-teacher ratios are maintained.

HB 519 provides an exemption from Board rules for any nursing program that maintains accreditation through an accrediting body recognized by the United States Department of Education, or any nursing program located within a regionally accredited institution of higher education. The exemption does not exempt these institutions from rules regarding educational objectives and curriculum guidelines necessary for full approval of a program. The exemption only applies to the extent the program maintains a student pass rate on the National Clinical Licensure Exam of not less than seven percentage points below the national average pass rate as reported annually by the National Council of State Boards of Nursing.

**Section 7.** Creates s. 464.085, F.S., relating to reciprocity issues for licensed nurses and licensed practical nurses.

### **Present Situation:**

Section 464.009, F.S., currently provides for licensure by endorsement of nursing professionals from other states. The DOH may issue licensure by endorsement upon a showing that the applicant meets certain specific criteria. The applicant must:

- Hold a valid license to practice professional or practical nursing in another state of the United States provided that the licensure examination in that state is of a comparable level of difficulty to that of this state. If the individual took their licensure exam after 1980, comparable difficulty level is presumed.
- Qualify under the licensure by examination requirements of s. 464.008, F.S. Licensure by examination requires that the individual complete an application form and remit a fee set by

the Board; that the individual submit to a criminal background check conducted by the Department of Law Enforcement; the applicant is in good physical and mental condition, has graduated from an approved nursing program, and has the ability to communicate in English.

- Submit a set of fingerprints to the DOH for submission to FDLE and the FBI.

No endorsement is issued to any applicant under investigation in another state for an act which would constitute a violation of this section or section 456, F.S. (see Section 4).

**Effect of Proposed Change:**

HB 519 creates s. 464.085, F.S., which provides for professional or practical nurses from other states to obtain licensure by reciprocity. The individual must apply to DOH and show the following:

- The applicant holds a full, valid and unrestricted license to practice professional or practical nursing in another state.
- The applicant has completed a state, regional, or national exam that is substantially equivalent to the examination given by the DOH. It is unclear who will be responsible for making determinations as to the level of equivalence between exams given by the DOH and those administered elsewhere.
- The applicant is proficient in communicating in the English language as determined by an exam administered by the DOH.

The DOH will not be able to issue a license by reciprocity to any applicant who is under investigation in another state for an act that would constitute a violation of s. 456, F.S., or this section. HB 519 does not provide for submission of fingerprints and it is unclear how the DOH will determine whether an applicant is under investigation in another state because the bill does not provide for background checks or detail who will conduct an investigation of the applicant's background. The bill does not require fingerprinting of nursing professionals.

It is not clear whether additional rule-making authority is needed for the Department of Health to issue a license by reciprocity.

**Section 8.** Repeals ss. 445.0121-445.0125, F.S., pertaining to the administration of the Careers for Florida's Future Incentive Grant Program.

**Current Situation:**

Section 445.0121, F.S., provides criteria for student eligibility for initial awards of a Careers for Florida's Future Incentive Grant Program.

Section 445.0122, F.S., provides student eligibility requirements for renewal awards under the Careers for Florida's Future Incentive Grant Program.

Section 445.0123, F.S., provides criteria for qualifying as an eligible postsecondary education institution for participation in the Careers for Florida's Future Incentive Grant Program.

Section 445.0124, F.S., provides definitions for what programs are eligible programs under the Careers for Florida's Future Incentive Grant Program.

Section 445.0125, F.S., outlines the repayment schedule for Careers for Florida's Future Incentive Grant recipients who do not remain employed in an eligible occupation.

**Effect of Proposed Changes:**

HB 519 abolishes the Careers for Florida's Future Incentive Grant Program by amending s. 445.012, F.S., and repealing ss. 445.0121-445.0125, F.S., which constitute the operational and directorial statutory guidelines for the administration of the grant program.

**Section 9.** The act shall take effect upon becoming a law.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

See Fiscal Comments.

2. Expenditures:

See Fiscal Comments.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

See Fiscal Comments.

2. Expenditures:

See Fiscal Comments.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Private health care facilities and organizations may benefit economically if the nursing shortage is reduced as a result of the implementation of HB 519.

D. FISCAL COMMENTS:

It appears that the Careers for Florida's Future Loan Forgiveness Program and the Sunshine Workforce Solutions Grant would require dollars to implement the programs. The bill does not identify a funding source for either.

Both the aforementioned provisions as well as the increased nursing program approval procedures and the licensure by reciprocity provisions provided for in the bill may require additional administrative dollars for the DOE and the DOH. It is unclear whether local school districts will have to use district funds for the Workforce Solutions Grant Program.

The fiscal impact of changing the types of acts that constitute grounds for which disciplinary action may be taken is not known.

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

A. APPLICABILITY OF THE MANDATES PROVISION:

The bill does not require counties or municipalities to spend funds or take an action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

The 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:

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

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

HB 519 does not appear to violate any constitutional provisions.

B. RULE-MAKING AUTHORITY:

HB 519 requires the Board of Nursing to adopt rules regarding educational objectives and curriculum guidelines necessary for full approval of a program; requires the Board to adopt rules governing probation, suspension, and termination status of programs that fail to comply with the standards set by the Board; prohibits the Board from adopting any rules that would limit the number of students admitted to a nursing program provided faculty-to-student ratios are maintained.

It is not clear whether additional rule-making authority is needed for the Department of Health to issue a license by reciprocity.

C. OTHER COMMENTS:

None

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

None

VII. SIGNATURES:

COMMITTEE ON COLLEGES & UNIVERSITIES:

Prepared by:

Staff Director:

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Steven Henderson

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Betty H. Tilton. Ph.D.