

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1921 (PCB HC 04-04) Regulation of Health Professions
SPONSOR(S): Committee on Health Care and Farkas
TIED BILLS: None. **IDEN./SIM. BILLS:** CS/SB 2170 (s)

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Health Care	19 Y, 0 N	Mitchell	Collins
2)			
3)			
4)			
5)			

SUMMARY ANALYSIS

The health practitioner licensure boards and Division of Medical Quality Assurance (MQA) of the Department of Health (DOH) are charged with licensing health care practitioners and regulating their standards of care.

Because the practices of health care professions constantly change, MQA continually assesses its administrative and regulatory procedures and proposes statutory revisions to bring health care regulation in line with current licensure and practice standards. The changes involve: examination and licensure requirements; complaint and incident reporting; and the investigation and prosecution of negligent practitioners.

HB 1921 is a comprehensive bill that addresses a wide range of health regulation issues administered by the Department of Health. Provisions of the bill include:

- Providing applicants and licensees with improved procedures for licensure in certain professions, including expanded avenues for temporary licensure and streamlined requirements for initial licensure.
- Enhanced protection for consumers through more efficient procedures for enforcement and expansion and revision of authority to discipline practitioners who may harm the public.
- Authorizing and clarifying the department's role regarding conflict resolution, posting of examination scores, reporting requirements, fees for record duplication, and grounds for disciplinary action.
- Technical and clarifying changes that distinguish between the duties of the DOH and the Agency for Health Care Administration (AHCA) in evaluating certain incident reports.
- Corrections of cross references and names of organizations.

The effective date of the bill is upon becoming law.

See "Fiscal Analysis & Economic Impact Statement" section of the analysis for details.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

STORAGE NAME: h1921.hc.doc
DATE: April 12, 2004

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. DOES THE BILL:

- | | | | |
|--------------------------------------|---|-----------------------------|---|
| 1. Reduce government? | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/> |
| 2. Lower taxes? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. Expand individual freedom? | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/> |
| 4. Increase personal responsibility? | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/> |
| 5. Empower families? | 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 provisions of the bill address professional regulation. Some effects of the bill are to reduce areas of existing regulation and provide greater professional freedom with reduced licensure fees. Other effects of the bill are to strengthen existing licensure provisions and provide for fees to fund licensure costs.

B. EFFECT OF PROPOSED CHANGES:

The licensure boards and Division of Medical Quality Assurance (MQA) of the Department of Health (DOH) are charged with licensing health care practitioners and regulating the standard of care with which they provide services. HB 1921 is a comprehensive bill that addresses a wide range of health regulation issues administered by the Department of Health.

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- Corrections of cross references and names of organizations.

Increased Efficiency

The bill addresses issues that result in cost savings and streamlining for the Division of Medical Quality Assurance through efficiencies in regulation, deregulation of practitioners or requirements for practitioners, and enhanced use of technology, including:

- Posting exam scores on the Internet to provide easy and early access for applicants to their grades.
- Streamlining licensure processes for volunteer physicians in order to provide those practitioners needed to serve the uninsured in our state.

- Allowing practitioners to place licenses on inactive status at any time to eliminate paperwork and time delays.
- Eliminating licensure for future Certified Master Social Worker applicants. Currently, there are only 4 of these master level social workers, who do not have clinical training, and do only administrative work.
- Expanding administrative remedies available to boards for scope of practice disputes.
- Allowing practitioner boards to establish the content of continuing education courses for licensure renewal to better protect the people of the state.
- Creating a biennial renewal cycle for Certified Nursing Assistants (CNAs) to: comply with a federal mandate; keep language consistent between nursing and CNAs; and periodically update the records on the CNA registry.

Enhanced Enforcement

The bill also addresses issues that enhance the enforcement abilities of the department and its boards by clarifying confusing statutes, creating better uniformity among professions and equipping the department with tools to complete disciplinary actions expeditiously, including:

- Amending disciplinary violations to permit leaving foreign bodies in a patient if medically necessary.
- Addressing certain Internet prescribing and drug distribution practices to make them subject to discipline when no valid patient/practitioner relationship has been established.
- Revising the pharmacy practice act to require registration for Internet pharmacies that is consistent with the requirements imposed on brick and mortar pharmacies, establishing prohibited acts and adding qualifications for licensure of a pharmacy.
- Requiring dentists and unlicensed persons in dental labs to maintain a copy of their work orders for 4 years instead of 2, conforming to the medical records requirements.
- Providing a standardized time for all practitioners to provide a written response to complaints.
- Strengthening licensure requirements and fortifying disciplinary measures for Massage Therapists and Massage Establishments.

Transfer and Cleanup

The bill makes changes needed to correct reporting glitches caused by the transfer of the investigative and prosecutorial sections of Medical Quality Assurance from AHCA to DOH in 2002, including:

- Clarifying that, copies of adverse incident reports in hospitals, nursing homes and assisted living facilities must be forwarded to DOH for review of potential disciplinary violations involving health care practitioners.
- Clarifying that DOH has subpoena powers to obtain patient records from these facilities and that the records must be certified as true and complete by the records custodian.
- Clarifying that DOH and the probable cause panel of the appropriate regulatory board may issue a reasonable cause subpoena under certain circumstances when there is no patient release available.

Technical Corrections

The bill also replaces outdated references to Commission on Postsecondary Accreditation (COPA) and Commission on Recognition of Postsecondary Accreditation (CORPA), with the name of the successor organizations, the Council for Higher Education Accreditation (CHEA), and the United States Department of Education (USDOE), and makes allowances for future succession, if necessary.

Background Information on Health Care Professions Regulation

The Department of Health's Medical Quality Assurance Program

The Division of Medical Quality Assurance regulates 37 professions and 6 facilities, and works with 22 boards and 6 councils. According to the division, this represents 91 different licensure categories and over 750,000 licensed health care practitioners. Each profession, except those regulated directly by the department, is represented by a board or council comprised of individuals licensed in that profession,

as well as consumer members. The division provides administrative support as they review cases related to health care practitioner licensure and disciplinary actions. It also helps conduct board meetings—345 per year on average.

Professional Licensing Boards and Councils

Most health care practitioners in Florida are governed by professional licensing boards or councils that are independent entities assigned to the Department of Health for administrative support purposes. MQA also directly regulates some practitioner groups that are not governed by an external board or council, as well as some health care facilities, such as pharmacies.

Current Enforcement Activities

Practitioner enforcement activities of the division include a consumer complaint call center, investigation, and legal services. The program investigates complaints and assesses probable cause for each case. Cases are then presented to licensing boards and councils for final action. If a board finds that an allegation is justified, it may take disciplinary action. If a practitioner contests a finding of probable cause, the case is heard by an administrative law judge. Disciplinary measures can range from a reprimand and fine to suspension or revocation of the practitioner's license.

EFFECTS ON EACH PROFESSION

Chapter 381, F.S., Public Health

The bill corrects a statutory cross reference relating to board authority to adopt rules to establish the criteria for continuing education courses for the public school volunteer health care practitioner program.

Chapter 395, F.S., Hospitals and Related Facilities

The bill requires hospitals, ambulatory surgical centers, and mobile surgical facilities to report disciplinary actions against staff or physicians to the Division of Medical Quality Assurance (MQA) of DOH rather than to the Agency for Health Care Administration (AHCA), within 30 working days.

The bill requires AHCA to forward a copy of each adverse incident report by hospitals, ambulatory surgical centers, and mobile surgical facilities to MQA for DOH to determine whether the incident involved inappropriate conduct by the licensed health care professional who is subject to discipline.

The bill provides for hospital patient records to be disclosed to facility personnel and all other licensed health care practitioners, rather than just licensed facility personnel and attending physicians, for use in connection with the treatment of a patient. It grants DOH access to patient records upon subpoena for use in the investigation, prosecution, and appeal of disciplinary proceedings. The administrator or records custodian in a licensed facility is required to certify a true and complete copy of the records requested. The bill provides that the facility may charge the department reasonable costs of reproducing the records. Reasonable costs of reproducing copies of written or typed documents or reports may not be more than \$1 per page for the first 25 pages; and 25 cents per page, for each page in excess of 25 pages. Reasonable costs of reproducing X-rays and other special kinds of records are the actual costs. "Actual costs" means the cost of the material and supplies used to duplicate the record, as well as the labor costs associated with the duplication.

The bill provides that without a specific written release or authorization, patient information may not be used for "marketing" purposes. The term "marketing" has the meaning established in the federal Health Insurance Portability and Accountability Act (HIPAA) regulations regarding patient confidentiality and protection of records.

Currently, patient records in a licensed facility are confidential and may not be disclosed without the consent of the person to whom they pertain, but appropriate disclosures may be made without consent

under specified circumstances. The bill allows patient records to be disclosed without patient consent to researchers or to facility personnel for research purposes if the researchers demonstrate compliance with the requirements of federal privacy regulations.

Chapter 397, F.S., Substance Abuse Services

The bill provides that Advanced Registered Nurse Practitioners are included in the definition of “qualified professional” that can provide authorized substance abuse services, along with already authorized physicians, psychologists and counselors.

Chapter 400, F.S., Nursing Homes and Related Facilities

The bill requires the release of a certified copy of a nursing home or assisted living facility resident’s records to DOH for health care practitioner disciplinary cases, when subpoenaed.

The bill requires AHCA to forward a copy of adverse incident reports from nursing homes and assisted living facilities that relate to licensed health care practitioners to MQA for DOH to determine whether they involve conduct subject to disciplinary action.

The bill also reduces the number of inservice education hours a Certified Nurse Assistant must have to ensure competence from 18 to 12 hours per year.

Chapter 456, F.S., Health Professions

The bill provides for licensed health care practitioners, along with boards, to provide input to development of the MQA long-range plan for regulatory boards.

The bill provides for procedures to resolve disputes between boards when two or more boards have identified a conflict in the interpretation or application of their respective practice acts. The department must provide legal representation for the administrative remedies. The following administrative remedies must be used:

- One board or the Secretary of Health must request that the boards establish a special committee to resolve the conflict. The committee must make recommendations to resolve the differences by majority vote.
- Matters that cannot be resolved through the special committee may be resolved by DOH through informal mediation. A mediated settlement reached by the special committee is binding on the applicable boards.
- If the boards elect not to resolve a conflict through the use of a special committee or through informal mediation, the Secretary of Health may resolve the differences by recommending rules for adoption by the appropriate board or, in the case of a declaratory statement, by providing a proposed order which may resolve the matter if adopted by the appropriate board.

The bill expands the prohibition on any board from having standing to challenge another board’s rule or proposed rule, to include declaratory statements of another board.

The bill allows the board or DOH, when there is no board, to establish rules to issue a temporary license to an applicant who is otherwise eligible for licensure, but does not have a social security number because they are not an American citizen or resident. The length of time for the temporary license is changed from 30 days to 90 days. After DOH receives the applicant’s social security number, DOH must issue a new license which expires at the end of the current two year licensure period.

The board, or DOH if there is no board, is authorized to adopt a rule allowing a licensure applicant to complete the coursework requirements for licensure by successfully completing the required courses as

a student or by teaching the required graduate course as an instructor or professor in an accredited institution.

Requirements for the issuance of a wall certificate are revised to delete the size requirements of the certificate and to limit the issuance of the certificate upon initial licensure if the board has a positive cash balance. The circumstance under which a licensee must surrender to DOH a license that had been issued is expanded to include instances when the license was issued in error.

The bill revises requirements relating to challenging an examination. A candidate may only challenge the validity of an examination if they failed with a score that is less than 10 percent below the minimum required to pass the examination.

The Department of Health is authorized to post examination scores electronically on the Internet in lieu of mailing the scores to each applicant.

The bill authorizes, rather than requires the boards or DOH, when there is no board, to require licensees to complete courses in domestic violence and HIV/AIDS. The bill deletes provisions that include specific requirements for the content of continuing education for domestic violence and HIV/AIDS. Course content is required to include a skills-based curriculum. The length and frequency of the course is changed to 2 hours of continuing education on domestic violence every 4 years, rather than the current requirement of 1 hour on domestic violence as a part of biennial renewal. Initial licensees are given 1 year, rather than 6 months under the current law, to complete the domestic violence instruction requirement. The bill deletes the requirement for an annual report on the implementation of domestic violence instruction.

The bill provides that courses completed in the specified subject areas must count towards the total number of continuing education hours required for license renewal for the profession. Any person who holds two or more licenses is required to complete only the requirement for one license. Failure to comply with any of the courses required constitutes grounds for disciplinary action.

The content of the required quarterly DOH management report is revised to include: revenue and expenditures, performance measures, and recommendations. The department is no longer required to identify and include any changes or projected changes made to the boards' budgets since its last presentation of a report.

The bill authorizes the boards or DOH, when there is no board, by rule, to require the display of a license.

It provides that charges assessed by health care practitioners or record owners for furnishing records to DOH are limited to the reasonable costs of reproducing copies of written or typed documents or reports which may not be more than:

- \$1 per page for the first 25 pages;
- 25 cents per page, for each page in excess of 25 pages.

Reasonable costs of reproducing X-rays and other special kinds of records are the actual costs. "Actual costs" means the cost of the material and supplies used to duplicate the record, as well as the labor costs associated with the duplication.

The bill allows each board or DOH, if there is no board, to adopt rules for reporting allegations of sexual misconduct, including the sufficiency of allegations.

The bill revises the grounds for which a licensed health care practitioner may be subject to discipline, to exclude noninvasive actions taken to prepare a patient for a procedure. Such noninvasive actions will no longer be considered to be performing or attempting to perform services on the wrong patient, a

wrong-site procedure, or a wrong procedure. The bill also limits the grounds under which a licensed health care practitioner is liable for discipline for leaving a foreign body in a patient to exclude a foreign body that is medically indicated and documented in the patient record.

A health care practitioner is liable for prescribing, administering, dispensing, or distributing a legend drug, including a controlled substance, if the practitioner knows or reasonably should know that the receiving patient has not established a valid professional relationship with the prescribing practitioner. A medical questionnaire completed via Internet, telephone, electronic transfer, or mail does not establish a valid professional relationship.

A health care practitioner who is terminated from an impaired practitioner program for failure to comply, without good cause, with the terms of his or her monitoring or treatment contract is subject to disciplinary action.

After July 1, 2004, final disciplinary orders by a regulatory board or DOH are required to assess a fee of \$25 per month to defray the costs of monitoring a licensed health care practitioner's compliance with a final order involving probation, suspension, or practice restrictions, and may assess the same fee to offset costs of monitoring compliance with other final orders.

The bill deletes an exception to disciplinary complaint procedures to grant physicians a specified period to review complaint information. The time in which a subject may provide a written response to a disciplinary complaint is expanded from 20 days to 30 days.

Chapter 457, F.S., Acupuncture

The bill revises acupuncture requirements to provide for licensure of persons who were enrolled in a 3-year acupuncture and oriental medicine program, but had not yet completed the program before the statutory change in licensure requirements in 2001. Statutory changes in 2001 limited licensure to persons who completed either a 2-year program before August 1, 1997, or complete a 4-year program.

Examination requirements for acupuncture licensure are revised to require the passage of a national examination approved by the Board of Acupuncture rather than an examination administered by DOH.

The bill revises criteria for the Board of Acupuncture to adopt rules for continuing education requirements and authorizes the board to adopt rules for establishing standards for continuing education providers.

The bill revises disciplinary grounds to include conviction or entering a plea of nolo contendere to a crime directly related to the practice of acupuncture. The bill deletes language stating that any plea of nolo contendere shall be considered a conviction.

Chapter 458, F.S., Medical Practice

The bill revises provisions for licensure by examination and licensure by endorsement to create one uniform set of requirements for the practice of medicine.

The bill allows an applicant for physician licensure to practice medicine in Florida if the applicant:

- Is at least 21 years of age;
- Is of good moral character;
- Has not committed any act or offense in Florida or another jurisdiction which would constitute the basis for disciplining a Florida-licensed physician;
- Has submitted a set of fingerprints and payment in amount equal to costs incurred by DOH for the criminal background check of the applicant;

- Has caused to be submitted verification of core credentials by the Federation Credentials Verification Services of the Federation of State Medical Boards; and
- If the applicant holds a valid license in another state, has submitted evidence of the active licensed practice of medicine in another jurisdiction for at least 2 years of the immediately preceding 4 years, or evidence of successful completion of board-approved postgraduate training program within 2 years preceding filing of an application for licensure.

The applicant must demonstrate that he or she has meet one of the following medical education requirements:

- Is a graduate of an allopathic medical school recognized and approved by the United States Department of Education or an allopathic medical school within a territorial jurisdiction of the United States recognized by the accrediting agency of the governmental body of that jurisdiction; or
- Is a graduate of an allopathic international medical school registered with the World Health Organization and has had his or her medical credentials evaluated by the Educational Commission for Foreign Medical Graduates (ECFMG), holds an active, valid certificate issued by ECFMG, and has passed the examination used by that commission.

The applicant must have completed an approved residency or fellowship of at least 2 years in one specialty area which is counted as a regular or subspecialty certification by a board recognized and certified by the American Board of Medical Specialties. Applicants must have obtained a passing score on a national medical licensure examination. DOH and the Board of Medicine must assure that applicants meet the criteria for licensure through an investigative process.

The board is authorized, when it determines that an applicant has failed to meet requirements of this section, to:

- Refuse to certify to the department an application for licensure, certification, or registration;
- Certify an application with restrictions on the scope of practice of the licensee; or
- Certify an application with placement of the physician on probation.

Limited License

The bill also establishes limited licensure with one uniform set of licensure requirements to streamline and simplify the limited licensure process. It consolidates provisions from four existing sections of statute (ss. 458.315, 458.316, 458.3165 and 458.317, F.S.).

The bill authorizes physicians to receive a license to provide uncompensated health care services to low-income or uninsured persons if the physician has been licensed to practice medicine in any jurisdiction in the United States, U. S. territory or Canada for at least two years, and has submitted evidence of active licensed practice for at least two of the immediately preceding four years. If an applicant has not been in the active licensed practice of medicine within the prior 3 years, a Florida-licensed physician approved by the Board of Medicine must supervise the applicant for 6 months after he or she is granted a limited license to practice to ensure that the applicant is qualified for licensure. The applicant must not have committed any act or offense in Florida or any other jurisdiction which would constitute the basis for disciplining a Florida-licensed physician. The applicant must submit a set of fingerprints for a criminal background check.

A physician with a limited license for uncompensated practice may only practice in specified programs and facilities of DOH, community and migrant health centers, and volunteer programs that provide uncompensated health care to low-income persons or uninsured persons by volunteer licensed professionals.

A physician with a limited license for compensated practice may only practice in programs and facilities that provide health care services, including: the Department of Corrections, county or municipal correctional facilities, the Department of Juvenile Justice, the Department of Children and Family

Services, and DOH, and must be located within federally designated Primary Care Health Professional Shortage Areas unless otherwise approved by the Secretary of Health.

The recipient of a limited license must notify the Board of Medicine within 30 days after accepting employment, and where he practices or has been denied practice privileges. The licensee must renew the limited license biennially and verify compliance with the restrictions.

Any person who holds an active or inactive license may convert the license to a limited license in order to provide volunteer, uncompensated care for low-income persons with fees waived.

The bill reduces the number of days for a physician to submit a written response to DOH for information contained in a disciplinary complaint from 45 to 30.

Physician Assistant

The bill deletes a provision relating to physician assistant licensure that expired on July 1, 2001. The expired provision had established a state-sponsored examination for certain applicants who were graduates of foreign medical schools, or who had completed all coursework requirements of a Master of Medical Science Physician's Assistants program that closed in 1996, in place of the requirement to pass the National Commission on Certification of Physician examination.

The bill revises requirements for a temporary certificate for physician assistant licensure applicants who are recent graduates of an approved program for physician assistants. The temporary license expires 1 year after the date of graduation, rather than 30 days after the receipt of scores of the national physician assistant program. The bill also eliminates a provision for an applicant who had failed the proficiency examination to reapply for an extension of the temporary license pending passage of the national physician assistant licensure examination. References to the proficiency examination for physician assistants in the section are revised to clarify that it is the National Commission on Certification of Physician Assistants examination that an applicant must pass to be granted permanent licensure.

Chapter 459, F.S., Osteopathic Medicine

The bill provides that the Board of Osteopathic Medicine may mandate by rule specific continuing medical education requirements and may approve by rule alternative methods of obtaining continuing education credits.

It decreases from 45 to 30 the number of days for an osteopathic physician to submit a written response to DOH for information contained in a disciplinary complaint.

The bill revises the requirements for registration for osteopathic medicine residents, interns, and fellows, to require residents to be registered no later than 30 days before commencing a training program. The bill creates a registration renewal fee not greater than \$300 as set by the Board of Osteopathic Medicine.

Chapter 460, F.S., Chiropractic Medicine

The requirements for chiropractic physician licensure are revised to allow a student in his or her final year of an accredited chiropractic school or college to apply for licensure, to take all of the required examinations for licensure, submit a set of fingerprints and pay all fees for licensure. A chiropractic student who takes and successfully passes the licensure examinations and who otherwise meets all requirements for licensure as a chiropractic physician during the student's final year must have graduated before being certified for licensure by the Board of Chiropractic Medicine.

It decreases from 45 to 30 the number of days for a chiropractic physician to submit a written response to DOH for information contained in a disciplinary complaint.

Chapter 461, F.S., Podiatric Medicine

The bill decreases from 45 to 30 the number of days for a podiatric physician to submit a written response to DOH for information contained in a disciplinary complaint.

It allows every hospital having a podiatric medicine residency program to annually, on July 1, rather than semiannually, provide the Board of Podiatric Medicine with a list of podiatric residents and such other information required by the board.

Chapter 463, F.S., Optometry

The bill changes a reference to "Commission on Recognition of Postsecondary Accreditation" to its successor agency the "Council for Higher Education Accreditation, or a successor organization."

Chapter 464, F.S., Nursing

The bill reenacts provisions relating to nursing licensure by endorsement, to allow applicants to become licensed to practice nursing in Florida without completing an equivalent examination if the applicant has actively practiced nursing in another state, jurisdiction, or territory of the United States for 2 of the preceding 3 years without having his or her license acted against. Under this alternative licensure path, the applicant must complete an approved Florida laws and rules course within 6 months after licensure.

The bill defines "practice of a certified nursing assistant" as providing care and assisting persons with tasks relating to the activities of daily living, and other tasks that a certified nursing assistant may perform after training beyond that required for initial certification and upon validation of competence in that skill by a registered nurse.

The bill requires the Board of Nursing to adopt rules regulating the practice of certified nursing assistants (CNAs) which specify the scope of practice authorized and the level of supervision required for the practice of CNAs.

The bill provides a procedure for CNA certificate renewal. DOH must renew a CNA certificate upon receipt of the renewal application and a fee of \$20 and not more than \$50 biennially. It requires DOH to adopt rules establishing a procedure for the biennial renewal. Any certificate that is not renewed by July 1, 2006, is void. A certified nursing assistant must complete 12 rather 18 hours of inservice training during each calendar year.

The bill deletes an element of intent which must be proved for a violation to occur when a CNA has violated professional regulations. A CNA is liable for discipline for violating any applicable provision of the nursing practice act, chapter 456, F.S., or rules adopted by the Board of Nursing.

Chapter 465, F.S., Pharmacy

The bill revises provisions for pharmacy licensure by endorsement, to require an applicant licensed in another state for a period for more than 2 years to submit a total of at least 30 hours of board-approved continuing education for the 24 months immediately preceding application, rather than the current 2 calendar years.

The bill revises requirements for pharmacy permits for applicants to have good moral character, and to clarify that any permit issued to a corporation shall be issued only to corporations whose officers are not less than 21 years of age and of good moral character. No permit shall be issued to a person who has been convicted, pled guilty or nolo contendere to any felony within the last 15 years.

An application for a pharmacy permit must include a set of fingerprints from each person with an ownership interest of 5 percent or more, and from any person who directly or indirectly, manages, oversee, or controls, the operation of the applicant. For corporations with over \$100 million of assets in Florida, DOH may, as an alternative, require a set of fingerprints of up to five corporate officers who are involved in the management and operation of the pharmacy. DOH must submit the fingerprints to the Department of Law Enforcement (FDLE) for a statewide criminal history check and FDLE must forward the fingerprints to the Federal Bureau of Investigation for a national criminal history check.

The bill deletes requirements for each pharmacy to substitute drugs listed on a formulary of generic and brand name drug products. The bill repeals a requirement for each community pharmacy to establish a formulary of generic and brand name drug products. A prescribing practitioner is authorized to indicate by electronic means that a "brand name" drug is medically necessary and may not be substituted with a generic equivalent.

The bill allows a pharmacist to provide an expiration date other than that provided by the manufacturer or repackager, which may be up to one year past the date the prescription was filled.

The bill provides that a pharmacy that performs centralized prescription filling services may not mail or otherwise deliver a filled prescription directly to a patient or individual practitioner if the prescription was filled on behalf of another. The filled prescription must be transported to the originating pharmacy for dispensing.

A pharmacy that provides centralized prescription filling services may prepare prescriptions on behalf of pharmacies only if it has a contractual agreement to provide these services or it shares a common owner. Each pharmacy that performs centralized prescription filling services must keep a list of pharmacies for which it has agreed to provide such services and must verify the Drug Enforcement Administration registration of any pharmacy for which it is filling prescriptions before sending or receiving a prescription for a controlled substance.

Each pharmacy must keep a list of pharmacies that fill prescriptions on its behalf and verify that those pharmacies are registered with the Drug Enforcement Administration. A pharmacy that provides centralized prescription filling services must comply with the same security requirements applicable to pharmacies, including the general requirement to maintain effective controls and procedures to guard against theft and diversion of controlled substances. The effect of these provisions is to insure that the patient who delivers a prescription or a refill request to one pharmacy will receive all pharmacy services under the purview of that pharmacy and that all pharmacies involved are appropriately licensed and registered.

Chapter 466, F.S., Dentistry

The bill revises dental hygienist, alternative licensure requirements, for graduates of a dental college or school so that in addition to a dental school diploma comparable to a D.D.S. or D.M.D., the applicant may submit transcripts totaling 4 academic years of postsecondary dental education, rather than a transcript of pre-dental education and dental education totaling 5 academic years in current law.

It revises requirements for dental work orders so that dentists must maintain a copy of work orders of unlicensed employees for 4 years rather than 2 years. Any unlicensed person who works in a dental lab must also maintain the dental work order for 4 years rather than 2 years. References to a "permanent" dentist's file or records are deleted.

The bill authorizes the Board of Dentistry to allow up to 2 hours credit for a course on practice management.

Chapter 467, F.S., Midwifery

The bill deletes requirements for placement of a midwife's license on inactive status, and eliminates continuing education requirements for license reactivation. The bill authorizes DOH to charge a renewal fee of \$500 for an active license and \$500 for an inactive license and to refund the application fee. The bill revises requirements for emergency care plans to provide that a midwife must submit a plan upon request, rather than at licensure renewal.

Chapter 468, F.S., Miscellaneous Professions

Part V, Respiratory Therapy

The bill substantially rewords and reorganizes provisions for respiratory therapy licensure.

It substantially rewords definitions for the regulation of respiratory care:

- "Critical care" is redefined to mean care given to a patient in any setting involving a life-threatening emergency.
- "Direct supervision" is redefined to mean supervision under the direction of a licensed, registered, or certified respiratory therapist who is physically on the premises and readily available, as defined by the board.
- "Physician supervision" (currently defined as "direct supervision") is defined to mean supervision and control by a licensed allopathic or osteopathic physician who assumes legal liability for the services rendered by the personnel employed in his or her office.
- "Certified respiratory therapist" is redefined to mean any licensed person certified by the National Board for Respiratory Care, who delivers care under the order of an allopathic or osteopathic physician in accordance with protocols established by a hospital or other health care provider, or the Board of Respiratory Care.
- "Registered respiratory therapist" is redefined to mean any licensed person who is registered by the National Board for Respiratory Care, who delivers care under the order of an allopathic or osteopathic physician in accordance with protocols established by a hospital or other health care provider, or the Board of Respiratory Care.
- "Respiratory care practitioner" is defined to mean any licensed person under direct supervision and pursuant to an order of an allopathic or osteopathic physician.
- "Respiratory care services" is revised to include specific expanded practices.

The bill substantially revises licensure requirements for respiratory therapists. To be eligible for licensure as a respiratory therapist, an applicant must be certified as a "Certified Respiratory Therapist" or registered as a "Registered Respiratory Therapist" by the National Board for Respiratory Care, or its successor.

The bill also substantially revises exemptions to respiratory care regulation. The regulation may not be construed to prevent or restrict the practice, service, or activities including:

- A friend or family member who is providing respiratory care services to an ill person and who does not represent himself or herself to be a respiratory care practitioner or respiratory therapist;
- An individual providing respiratory care services in an emergency who does not represent himself or herself as a respiratory care practitioner or respiratory therapist;
- Any individual employed to deliver, assemble, set up, or test equipment for use in a home, upon the order of a Florida-licensed allopathic or osteopathic physician;
- Any individual certified or registered as a pulmonary function technologist who is credentialed by the National Board for Respiratory Care for performing cardiopulmonary diagnostic studies;
- Any student who is enrolled in an accredited respiratory care program approved by the Florida Board of Respiratory Care, while performing respiratory care as an integral part of a required course;

- The delivery of incidental respiratory care to noninstitutionalized persons by surrogate family members who do not represent themselves as registered or certified respiratory care therapists; and
- Any individual credentialed in hyperbaric medicine by the Underseas Hyperbaric Society, or its equivalent as determined by the Florida Board of Respiratory Care, while performing related duties.

Effective, January 1, 2005, the bill repeals requirements for the approval of respiratory care therapy educational programs and procedures for the licensure by examination of persons wishing to practice as certified respiratory therapists.

Part X, Dietetics and Nutrition Practice

The bill changes a reference to “Commission on Recognition of Postsecondary Accreditation” to its successor agency the “Council for Higher Education Accreditation,” or a successor organization.

Part XIII, Athletic Trainers

The athletic trainer licensure requirements are revised to eliminate requirements for each applicant to complete a continuing education course on HIV/AIDS as part of initial licensure, and delete a requirement that continuing education include standard first aid. A reference to the accrediting agency is changed.

The bill eliminates an exemption to the athletic trainer licensure act for a person employed as a teacher apprentice trainer or who is a teacher athletic trainer.

Chapter 480, F.S., Massage Practice

In 1997, the practice of massage therapy transitioned from a regulated profession to a regulated health care profession in the State of Florida. This transition was based upon the changes in the nature and scope of the practice of massage therapy. The current scope of practice for massage therapists involves treating pathologies as an accepted method of health care treatment in conjunction with physician referrals. The practice act has not been modified to incorporate the changes in the scope of massage therapy practice.

The bill revises licensure requirements for massage therapists, to require applicants to: complete an application form and submit the appropriate fee to DOH; be at least 18 years of age and have received a high school diploma or its equivalent; demonstrate good moral character; complete a course of study at a Board of Massage Therapy approved massage school; and receive a passing grade on a board-approved national examination certified by DOH. The bill deletes the apprenticeship program as an avenue for licensure.

There is continuing concern that a number of massage establishments are associated with sexual misconduct. The bill strengthens the requirements for licensure of massage establishments to include fingerprinting of all owners or business managers, along with disclosing all interested parties affiliated with the property. It establishes conditions under which transfer of ownership or officers of the company can take place, and requires all transfers to reapply for licensure approval. The bill provides grounds for disciplinary action for both massage therapists and massage establishment owners that impose greater penalties and include any criminal activity occurring in massage establishments.

The Board of Massage Therapy previously had a rule that exempted certain health care practitioners from having to have their offices licensed as a massage establishment if the massage therapist only practiced on the patients of said practitioner. When the Joint Administration Procedures Committee determined that the board did not have statutory authority for this rule, the provision was repealed. Currently, the formerly exempted practitioners are required to obtain massage establishment licensure.

The bill exempts the offices of certain licensed health care practitioners and facilities from having to obtain massage establishment licensure.

Chapter 486, F.S., Physical Therapy Practice

The bill deletes obsolete language relating to physical therapy practiced under a temporary permit, because temporary permits are no longer issued for physical therapy practice.

The bill provides that an examination candidate is no longer eligible to take the physical therapy licensure examination after three failed attempts. It eliminates a provision that allows candidates who have failed the examination in three attempts to sit two additional times for reexamination after completion of additional educational or training requirements.

The bill revises and updates provisions allowing a person who is licensed to practice physical therapy in another jurisdiction to be licensed in Florida. Technical changes are made to reflect that “licensure without examination” in effect refers to “licensure by endorsement.” The evidence that such licensure by endorsement applicants must submit must be done under oath. If an applicant seeking reentry into the profession has not been in active practice within the last 3 years, the applicant must submit documentation to the Board of Physical Therapy showing his or her competence to practice, before applying for licensure.

The bill provides that the Board of Physical Therapy must accept courses sponsored by a college or university which provide an accredited physical therapy program.

The bill exempts from the licensure requirements and the physical therapy practice act, any physical therapist who is licensed in another jurisdiction of the U.S. or credentialed in another country if that person is providing physical therapy to individuals affiliated with or employed by an established athletic team, athletic organization, or performing arts company temporarily practicing, competing, or performing in Florida for not more than 60 days in a calendar year.

Chapter 490, F.S., Psychological Services

The bill changes a reference to “Commission on Recognition of Postsecondary Accreditation” to its successor agencies the “Council for Higher Education Accreditation, the United States Department of Education, or a successor organization.”

Chapter 491, F.S., Clinical, Counseling, and Psychotherapy Services

The bill requires applicants for licensure by examination for clinical social work, marriage and family therapy and mental health counseling, to pass a theory and practice examination approved by the Board of Clinical Social Work, Marriage and Family Therapy, and Mental Health Counseling. The examination may be taken only following the completion of the clinical experience requirement. The licensure requirements are revised to allow applicants to satisfy all coursework requirements either by successfully completing the required course as a student or by teaching the required graduate course as an instructor or professor in an accredited institution.

The bill provides that an applicant for licensure by endorsement as a mental health counselor who has not completed a psychopathology or abnormal psychology course may be accepted for licensure by the Board of Clinical Social Work, Marriage and Family Therapy, and Mental Health Counseling if the applicant has completed 2 years of post-master’s level supervised clinical experience, and has actively practiced as a mental health counselor in another state or territory for 5 of the last 6 years, without being subject to disciplinary action.

The bill prohibits DOH from adopting any rules allowing a person who was not licensed as a certified master social worker on January 1, 1990, to become licensed. In effect, this prevents any additional

applicants from being designated as a certified master social worker. It allows all licenses valid on October 1, 2002, to remain in effect. The bill provides that DOH has jurisdiction to discipline a person who is a certified master social worker.

The bill provides that there is no civil or criminal liability arising from the disclosure of otherwise confidential communications by a licensed psychotherapist or certified master social worker when there is a clear and immediate probability of physical harm to the patient or client, other individuals, or society, and the person only communicates with the potential victim, appropriate family member, or law enforcement authorities.

Chapter 766, F.S., Medical Malpractice

The bill removes an assessment for the Florida Birth-Related Neurological Injury Compensation Plan for physicians with limited licenses who provide uncompensated services.

Chapter 817, F.S., Fraudulent Practices

The bill revises the definition of “health care provider or health care facility” within the provisions prohibiting patient brokering to include any person or entity licensed, certified or registered with DOH.

The bill changes a reference to “Commission on Recognition of Postsecondary Accreditation” to its successor agencies the “United States Department of Education, the Council for Higher Education Accreditation, or a successor organization.”

Chapter 1009, F.S., Educational Scholarships, Fees and Financial Assistance

In a provision related to Florida Higher Education Loans, the bill changes a reference to “Commission on Recognition of Postsecondary Accreditation” to its successor agencies the “United States Department of Education, the Council for Higher Education Accreditation, or a successor organization.”

Chapter 1012, F.S., Educational Personnel—Athletic Trainers

In a provision related to school district athletic trainers, the bill provides that a school district employee who is a first responder and who administers first aid and similar care may not hold himself or herself out to the school district or public as a licensed athletic trainer. Requirements for a teacher athletic trainer are revised to clarify that the person must be a licensed athletic trainer and meet certification standards as a teacher to be used by a school district.

Undesignated Chapter Law

The bill creates an undesignated section of law to provide an alternative licensure path which allows a person aged not less than 85 years on July 1, 2004, who at the time of retirement from the practice of medicine, was in good standing with the Florida Board of Medicine, to have his or her license reinstated, without examination, to solely practice medicine as part of a clinical study that has been reviewed and approved by an institutional review board. Such applicant must not have been out of the practice of medicine for more than 15 years at the time of license reactivation. The board must, by rule, set the reactivation fee, not to exceed \$300. The provisions creating the alternative medical licensure path expire June 30, 2005, unless reviewed and saved from repeal through reenactment by the Legislature.

C. SECTION DIRECTORY:

Section 1. Amends s. 381.00593, F.S., relating to: Public school volunteer health care practitioner program—to correct a cross reference.

- Section 2.** Amends s. 395.0193, F.S., relating to: Licensed facilities; peer review; disciplinary powers; agency or partnership with physicians—to correct a cross reference.
- Section 3.** Amends s. 395.0197, F.S., relating to: Internal risk management program—to require copies of hospital adverse incident reports to be forwarded to the Division of Medical Quality Assurance of the Department of Health.
- Section 4.** Amends s. 395.3025, F.S., relating to: Patient and personnel records; copies; examination—to clarify access to patient records for patient treatment and professional disciplinary purposes; requiring certification of documents provided to department; providing for costs of copying records; providing access for research purposes; and revising a provision relating to use of patient information for marketing purposes requiring compliance with HIPAA.
- Section 5.** Amends s. 395.7015, F.S., relating to: Annual assessment on health care entities—to correct a cross reference.
- Section 6.** Amends s. 397.311, F.S., relating to: Definitions—to provide for advanced registered nurse practitioners to be included as “qualified professionals” who provide substance abuse services.
- Section 7.** Amends s. 400.141, F.S., relating to: Administration and management of nursing home facilities—to require copies of records relating to nursing home residents to be provided to the department upon subpoena.
- Section 8.** Amends s. 400.145, F.S., relating to: Records of care and treatment of resident; copies to be furnished—to require certification of copies of resident care and treatment records requested pursuant to subpoena or patient release.
- Section 9.** Amends s. 400.147, F.S., relating to: Internal risk management and quality assurance program—to correct a cross reference; and requiring copies of nursing home adverse incident reports to be forwarded to the Division of Medical Quality Assurance of the Department of Health.
- Section 10.** Amends s. 400.211, F.S., relating to: Persons employed as nursing assistants; certification requirement—to reduce inservice training hours for nursing assistants; and correcting cross reference.
- Section 11.** Amends s. 400.423, F.S., relating to: Internal risk management and quality assurance program; adverse incidents and reporting requirements—to require copies of assisted living facility adverse incident reports related to practitioners to be forwarded to the Division of Medical Quality Assurance of the Department of Health.
- Section 12.** Creates s. 400.455, F.S., relating to: Certified copy of subpoenaed records—to require a certified copy of subpoenaed records of assisted living facilities under certain circumstances,
- Section 13.** Amends s. 440.13, F.S., relating to: Medical services and supplies; penalty for violations; limitations—to correct a cross reference.
- Section 14.** Amends s. 456.005, F.S., relating to: Long-range policy planning; plans, reports, and recommendations—to provide for licensee input to long-range plans for regulation of health professions.
- Section 15.** Amends s. 456.011, F.S., relating to: Boards; organization; meetings; compensation and travel expenses—to provide procedures to resolve differences in interpretation of practice acts by different boards.

Section 16. Amends s. 456.012, F.S., relating to: Board rules; final agency action; challenges—to protect board declaratory statements from challenge by another board.

Section 17. Amends s. 456.013, F.S., relating to: Department; general licensing provisions—to provide for temporary licenses to be issued according to rules; providing for completion of required coursework; providing requirements for issuance of wall certificates; and removing certain requirements for content of continuing education.

Section 18. Amends s. 456.017, F.S., relating to: Examinations—to provide for electronic posting of examination scores.

Section 19. Creates s. 456.020, F.S., relating to: Continuing education; instruction on domestic violence; instruction on HIV/AIDS; instruction on prevention of medical errors—to provide for content of continuing education to include domestic violence, HIV/AIDS, and prevention of medical errors; and providing requirements for completion of continuing education courses.

Section 20. Amends s. 456.025, F.S., relating to: Fees; receipts; disposition—to require management reports on revenues and expenditures to each board at least quarterly.

Section 21. Amends s. 456.031, F.S., relating to: Requirement for instruction on domestic violence—to require continuing education on domestic violence to be skills-based.

Section 22. Amends s. 456.036, F.S., relating to: Licenses; active and inactive status; delinquency—to provide for rule to require display of license.

Section 23. Amends s. 456.037, F.S., relating to: Business establishments; requirements for active status licenses; delinquency; discipline; applicability—to provide for rule to require display of license.

Section 24. Amends s. 456.039, F.S., relating to: Designated health care professionals; information required for licensure—to correct a cross reference.

Section 25. Amends s. 456.057, F.S., relating to: Ownership and control of patient records; report or copies of records to be furnished—to provide for costs of copying records.

Section 26. Amends s. 456.063, F.S., relating to: Sexual misconduct; disqualification for license, certificate, or registration—to provide rulemaking authority for reporting allegations of sexual misconduct.

Section 27. Amends s. 456.072, F.S., relating to: Grounds for discipline; penalties; enforcement—to clarify grounds for discipline for performing or attempting to perform health care services on the wrong patient or that are otherwise wrong or unnecessary or leaving a foreign body in the patient; providing for discipline for prescribing, administering, dispensing, or distributing certain medications without a valid professional relationship; and providing for a \$25 fee per month to monitor compliance with final order.

Section 28. Amends s. 456.073, F.S., relating to: Disciplinary proceedings—to correct a cross reference.

Section 29. Amends s. 457.105, F.S., relating to: Licensure qualifications and fees—to provide prerequisites for training requirements for licensure to practice acupuncture; and providing time period for review of application for licensure.

Section 30. Amends s. 457.109, F.S., relating to: Disciplinary actions; grounds; action by the board—to provide that a plea of nolo contendere to certain offenses relating to the practice of acupuncture is grounds for discipline.

Section 31. Amends s. 458.303, F.S., relating to: Provisions not applicable to other practitioners; exceptions, etc.—to correct a cross reference.

Section 32. Amends s. 458.311, F.S., relating to: Licensure; requirements; fees—providing substantial rewording to consolidate and revise provisions relating to requirements for licensure of physicians; providing one uniform set of licensure requirements for the unrestricted practice of medicine; and establishing limited licensure with one uniform set of requirements to streamline and simplify provisions related to temporary certificates in areas of critical need, public health certificates, public psychiatry certificates, and limited licenses.

Section 33. Amends s. 458.3124, F.S., relating to: Restricted license; certain experienced foreign-trained physicians—to correct a cross reference.

Section 34. Amends s. 458.315, F.S., relating to: Limited licenses—to revise requirements for a limited license, to consolidate provisions from four existing sections of statute, relating to temporary certificates in areas of critical need, public health certificates, public psychiatry certificates, and limited licenses, to establish one uniform set of licensure requirements to streamline and simplify the limited licensure process.

Section 35. Amends s. 458.319, F.S., relating to: Renewal of license—to correct a cross reference.

Section 36. Amends s. 458.320, F.S., relating to: Financial responsibility—to correct a cross reference.

Section 37. Amends s. 458.331, F.S., relating to: Grounds for disciplinary action; action by the board and department—to reduce the time period for physicians to respond to information contained in a complaint from 45 to 30 days.

Section 38. Amends s. 458.345, F.S., relating to: Registration of resident physicians, interns, and fellows; list of hospital employees; prescribing of medicinal drugs; penalty—to correct a cross reference.

Section 39. Amends s. 458.347, F.S., relating to: Physician assistants—to delete obsolete provisions for licensure for physician assistants.

Section 40. Amends s. 459.008, F.S., relating to: Renewal of licenses and certificates—to provide for rules regarding alternate methods of obtaining continuing education for osteopathic physicians; and deleting a cross reference.

Section 41. Amends s. 459.015, F.S., relating to: Grounds for disciplinary action; action by the board and department—to reduce the time period for osteopathic physicians to respond to information contained in a complaint from 45 to 30 days.

Section 42. Amends s. 459.021, F.S., relating to: Registration of resident physicians, interns, and fellows; list of hospital employees; penalty—to provide a limit on fees for registration renewal for resident physicians, interns, and fellows; and revising elements of a crime relating to employment and reporting of such persons.

Section 43. Amends s. 460.406, F.S., relating to: Licensure by examination—to revise the name of an accrediting agency.

Section 44. Amends s. 460.413, F.S., relating to: Grounds for disciplinary action; action by board or department—to reduce the time period for chiropractic physicians to respond to information contained in a complaint from 45 to 30 days.

Section 45. Amends s. 461.013, F.S., relating to: Grounds for disciplinary action; action by the board; investigations by department—to reduce the time period for podiatric physicians to respond to information contained in a complaint from 45 to 30 days.

Section 46. Amends s. 463.006, F.S., relating to: Licensure and certification by examination—to revise the name of an accrediting agency.

Section 47. Amends s. 464.0205, F.S., relating to: Retired volunteer nurse certificate—to correct a cross reference.

Section 48. Amends s. 464.201, F.S., relating to: Definitions—to define the scope of practice of certified nursing assistants.

Section 49. Amends s. 464.202, F.S., relating to: Duties and powers of the board—to provide for rules to establish scope of practice and level of supervision for certified nursing assistants.

Section 50. Amends s. 464.203, F.S., relating to: Certified nursing assistants; certification requirement—to clarify requirements for criminal history checks of certified nursing assistants; reducing from 18 to 12 hours the inservice training required each year; providing for biennial renewal of certification, including fees.

Section 51. Amends s. 464.204, F.S., relating to: Denial, suspension, or revocation of certification; disciplinary actions—to provide specificity for a ground for disciplinary action and removing requirement of intentionality.

Section 52. Amends s. 465.0075, F.S., relating to: Licensure by endorsement; requirements; fee—to provide for continuing education during the 24 months immediately preceding application rather than two calendar years.

Section 53. Amends s. 465.018, F.S., relating to: Community pharmacies; permits—to provide additional requirements for a community pharmacy permit; prohibiting issuance of permits to persons with a related criminal conviction; providing grounds for suspension, revocation, or denial of a permit; and requiring background checks, including fingerprints.

Section 54. Amends s. 465.025, F.S., relating to: Substitution of drugs—to remove requirement for each community pharmacy to have a generic drug substitution formulary; and providing requirements for electronic prescriptions for brand name drugs.

Section 55. Amends s. 465.0251, F.S., relating to: Generic drugs; removal from formulary under specified circumstances—to correct a cross reference.

Section 56. Amends s. 465.0255, F.S., relating to: Expiration date of medicinal drugs; display; related use and storage instructions—to revise requirements for expiration dates of medicinal drugs.

Section 57. Amends s. 465.0265, F.S., relating to: Centralized prescription filling—to prohibit central fill pharmacies from filling prescriptions directly to a patient or provider.

Section 58. Amends s. 466.007, F.S., relating to: Examination of dental hygienists—to require 4 years of postsecondary dental education to qualify to take the examinations to practice dental hygiene.

Section 59. Amends s. 466.0135, F.S., relating to: Continuing education; dentists—to add provision for practice management course.

Section 60. Amends s. 466.021, F.S., relating to: Employment of unlicensed persons by dentist; penalty—to increase required retention of work order records of unlicensed persons from 2 to 4 years.

Section 61. Amends s. 467.009, F.S., relating to: Midwifery programs; education and training requirements—to revise the name of an accrediting agency.

Section 62. Amends s. 467.013, F.S., relating to: Inactive status—to provide for inactive licensure status for midwives pursuant to rule; and deleting certain provisions for examination to conform.

Section 63. Amends s. 467.0135, F.S., relating to: Fees—to revise midwifery licensure status and fees; deleting obsolete provisions relating to examination.

Section 64. Amends s. 467.017, F.S., relating to: Emergency care plan; immunity—to require a midwife's emergency care plan to be available to the department upon request.

Section 65. Amends s. 468.1155, F.S., relating to: Provisional license; requirements—to revise the name of an accrediting agency.

Section 66. Amends s. 468.352, F.S., relating to: Respiratory therapy, definitions—to revise definitions for the regulation of respiratory therapy.

Section 67. Amends s. 468.355, F.S., relating to: Respiratory therapy, licensure requirements—to reword licensure and testing requirements.

Section 68. Amends s. 468.368, F.S., relating to: Respiratory therapy, exemptions—to revise exemptions from respiratory therapy licensure.

Section 69. Amends s. 468.509, F.S., relating to: Dietitian/nutritionist; requirements for licensure—to revise the name of an accrediting agency.

Section 70. Amends s. 468.707, F.S., relating to: Licensure by examination; requirements—to revise the name of an accrediting agency; and deleting a provision relating to a continuing education course on HIV/AIDS for initial licensure as an athletic trainer.

Section 71. Amends s. 468.711, F.S., relating to: Renewal of license; continuing education—to delete a provision relating to a continuing education course on HIV/AIDS for initial licensure as an athletic trainer.

Section 72. Amends s. 468.717, F.S., relating to: Violation and penalties—to clarify licensure requirement by removing “for compensation” from practice of athletic training.

Section 73. Amends s. 468.723, F.S., relating to: Exemptions—to delete exemption from licensure for teacher apprentice trainers and teacher athletic trainers.

Section 74. Amends s. 480.033, F.S., relating to: Definitions—to revise definitions relating to massage practice to create categories of licensed premises and related persons.

Section 75. Amends s. 480.034, F.S., relating to: Exemptions—to exempt certain massage therapists from premises licensure.

Section 76. Amends s. 480.041, F.S., relating to: Massage therapists; qualifications; licensure; endorsement—to revise requirements for licensure of massage therapists to require approved training programs; and deleting provisions allowing licensure of apprentices.

Section 77. Amends s. 480.043, F.S., relating to: Massage establishments; requisites; licensure; inspection—to provide additional requirements for licensure as a massage establishment; prohibiting issuance of massage establishment licenses to persons with criminal conviction; requiring background checks; and prohibiting license transfer, with exceptions.

Section 78. Amends s. 480.044, F.S., relating to: Fees; disposition—to provide conforming changes.

Section 79. Amends s. 480.046, F.S., relating to: Grounds for disciplinary action by the board—to provide conditions for suspension or revocation of a massage establishment license.

Section 80. Amends s. 486.021, F.S., relating to: Definitions—to provide conforming changes.

Section 81. Amends s. 486.031, F.S., relating to: Physical therapist; licensing requirements—to revise the name of an accrediting agency.

Section 82. Amends s. 486.051, F.S., relating to: Physical therapist; examination of applicant—to reduce opportunities to retake the physical therapist licensure examination.

Section 83. Amends s. 486.081, F.S., relating to: Physical therapist; issuance of license by endorsement without examination to a person licensed in another jurisdiction—to revise provisions for physical therapist licensure by endorsement and reactivating such a license.

Section 84. Amends s. 486.102, F.S., relating to: Physical therapist assistant; licensing requirements—to revise licensing requirements for physical therapist assistants; and revising name of accrediting agency.

Section 85. Amends s. 486.104, F.S., relating to: Physical therapist assistant; examination of applicant—to reduce opportunities to retake the physical therapist assistant licensure examination.

Section 86. Amends s. 486.107, F.S., relating to: Physical therapist assistant; issuance of license by endorsement without examination to a person licensed in another jurisdiction; fee—to revise provisions for physical therapist assistant licensure by endorsement and reactivating such a license.

Section 87. Amends s. 486.109, F.S., relating to: Continuing education—to revise continuing education requirements.

Section 88. Amends s. 486.161, F.S., relating to: Exemptions—to exempt out-of-state licensed physical therapists from Florida licensure when in the state temporarily serving athletes.

Section 89. Amends s. 490.005, F.S., relating to: Licensure by examination, school psychologist—to revise names of accrediting agencies.

Section 90. Amends s. 491.005, F.S., relating to: Licensure by examination, clinical social work, marriage and family therapy and mental health counseling—to revise names of accrediting agencies; requiring direct supervision of clinical experience for licensure; requiring completion of clinical experience prior to written examination; and permitting teaching of a certain course to count for successful completion.

Section 91. Amends s. 491.006, F.S., relating to: Licensure or certification by endorsement—to provide for substitution of certain experience for required course.

Section 92. Amends s. 491.009, F.S., relating to: Discipline—to provide for discipline of certified master social workers by the department.

Section 93. Amends s. 491.0145, F.S., relating to: Certified master social worker—to prohibit the licensure of a certified master social worker if not licensed before January 1, 1990.

Section 94. Amends s. 491.0146, F.S., relating to: Saving clause—to provide a saving clause for certified master social workers licensed on October 1, 2002.

Section 95. Amends s. 491.0147, F.S., relating to: Confidentiality and privileged communications—to provide clinical social worker, marriage and family therapists and mental health counselors with protection when disclose information to protect persons from harm.

Section 96. Amends s. 766.314, F.S., relating to: Assessments; plan of operation—to remove uncompensated physicians with limited license from assessment for Florida Birth-Related Neurological Injury Compensation Plan.

Section 97. Amends s. 817.505, F.S., relating to: Patient brokering prohibited; exceptions; penalties—to add certain entities licensed by the department to those prohibited from patient brokering.

Section 98. Amends s. 817.567, F.S., relating to: Making false claims of academic degree or title—to revise name of accrediting agency.

Section 99. Amends s. 1009.992, F.S., relating to: Definitions—to revise name of accrediting agency.

Section 100. Amends s. 1012.46, F.S., relating to: Athletic trainers—to prevent first responders from presenting selves as athletic trainers and eliminate provision for teacher athletic trainers.

Section 101. Creates undesignated chapter law—to provide for reactivation of medical license for clinical research purposes under certain circumstances.

Section 102. Repeals obsolete sections 456.033, 456.034, 458.313, 458.3147, 458.316, 458.3165, and 458.317, F.S., relating to the consolidation of licensure provisions by the bill.

Section 103. Repeals ss. 468.356 and 468.357, F.S., effective January 1, 2005, to remove obsolete provisions relating to approval of educational programs and licensure by examination.

Section 104. Provides the act shall take effect upon becoming a law, except as otherwise provided.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

Estimates from the Department of Health:

<u>Estimated Revenue</u>	<u>1st Year</u>	<u>2nd Year</u> (Annualized/Recurring)
Total Estimated Revenue	\$195,000	\$3,550,000
	\$195,000	\$3,550,000

See Fiscal Comments.

2. Expenditures:

Estimates from the Department of Health:

<u>Estimated Expenditures</u>	<u>1st Year</u>	<u>2nd Year</u> (Annualized/Recurring)
Salaries		
Other Personal Services		
Expenses	(\$38,634)	(\$38,634)
Operating Capital Outlay		
Total Estimated Expenditures	(\$38,634)	(\$38,634)

See Fiscal Comments.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Certified Nurse Assistants (CNAs) will be subject to a renewal application fee of no less than \$20 and no more than \$50 biennially. As of December 31, 2003, there were 294,132 certified nursing assistants registered in the State of Florida. DOH strongly believes there are not that many certified nursing assistants who will renew their certificates. Estimated revenues are based on 150,000 paying a \$20 fee beginning in FY 2005-2006. Biennial expenditures for the CNA program are currently estimated at almost \$3 million.

Disciplined health care practitioners will be subject to a fee of \$25 per month or portion of a month set forth in the final disciplinary order to complete the length of term of the probation, suspension, or practice restriction imposed by the final order to defray the costs of monitoring the licensee's compliance with the order.

Osteopathic medical residents will be subject to a registration renewal fee not greater than \$300 as set by the Board of Osteopathic Medicine.

Retired physicians who reactivate their licenses to practice only in conjunction with a clinical study reviewed and approved by an institutional review board will be subject to a reactivation fee of not more than \$300.

D. FISCAL COMMENTS:

Expenditures and revenue related to these statutory provisions are allocated to the Medical Quality Assurance Trust Fund, which is funded for the purpose of regulation of health care professions out of licensure and renewal fees charged to the professions. Section 456.025(3), F.S., requires each licensed health profession to ensure that license fees are adequate to cover all anticipated costs of licensure and maintain a reasonable cash balance.

Increased Revenue

The Department of Health has indicated that by authorizing a \$25 per month fee to cover the costs of monitoring a licensee's compliance with a disciplinary order it will have increased revenue to cover

current monitoring costs. DOH reports that the average number of new final orders each month is 100 with an average monitoring time of 24 months. The estimated revenues assume the same numbers for future years. According to the department, revenues would increase each month through the end of FY 2005-2006 and would level off at \$555,000 for subsequent years if the assumptions were realized.

The provisions related to biennial certification renewal for certified nursing assistants authorize a renewal fee for certified nursing assistants not less than \$20 and no more than \$50 biennially to meet the costs of regulation of the profession. Currently, biennial expenditures for the CNA program are estimated by the department to be almost \$3 million.

Cost Savings

The Department of Health reports that the requirement that a board has to have positive cash balance before a wall certificate may be issued at initial licensure will result in an estimated annual cost savings of \$34,134. DOH assumes the same number of initial licensees in FY 2002-2003 (21,604) for those boards projected to be in a deficit for FY 2004-2005 and FY 2005-2006.

The Department of Health notes that the posting of examination scores on the Internet in lieu of mailing the scores to each applicant will result in an estimated annual cost savings of \$4,500. This estimate is based on eliminating postage, envelopes, paper, and hours for staff time in mailing examination scores to 2,000 initial licensees each year.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not require counties or municipalities to spend funds or to take an action requiring the expenditure of funds. This bill does not reduce the percentage of a state tax shared with counties or municipalities. This bill does not reduce the authority that municipalities have to raise revenues.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

Rulemaking authority is provided by the bill.

C. DRAFTING ISSUES OR OTHER COMMENTS:

According to the department, provisions amending s. 456.011, F.S., that allow the Secretary to resolve differences between the boards through either rulemaking, or in the case of a declaratory statement through an Order, inherently conflicts with s. 120.52(1), F.S., in that the language inappropriately allows the head of one agency to impose final agency action on a separate, independent agency.

According to the department, a series of amendments are needed for the bill. A number of them are technical bill drafting amendments clarifying use of the term "department" in ch. 400, F.S., to mean Department of Health not Department of Children and Families.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES