

# SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: Health Care Committee

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BILL: PCS/SB 1560

INTRODUCER: Health Care Committee and Senator Margolis

SUBJECT: Psychological services

DATE: April 12, 2006

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Munroe	Wilson	HE	<b>Pre-meeting</b>
2.	_____	_____	_____	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

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## I. Summary:

The Proposed Committee Substitute for Senate Bill 1560 prohibits a Florida-licensed psychologist from holding himself or herself out as a board-certified specialist or diplomate unless the psychologist has received formal recognition as a specialist or diplomate from a recognized certifying body that provides certified specialties in the practice of psychology and that has been approved by the Florida Board of Psychology. The Florida Board of Psychology must adopt rules to establish criteria for approval of certifying bodies that provide certified specialties in the practice of psychology. The criteria must include: peer review and self study, established standards for the practice of psychology, administrative support, and a unified relationship to the public and the profession. Under the bill, a Florida-licensed psychologist may indicate the services offered and may state that his or her practice is limited to one or more types of services if this accurately reflects the scope of practice of the psychologist.

This bill creates section 490.0149, Florida Statutes.

## II. Present Situation:

Chapter 490, F.S., governs the practice of psychology by the Board of Psychology and the practice of school psychology by the Department of Health. The chapter specifies exemptions to the licensure requirements for psychology and school psychology. A psychologist or school psychologist who violates the regulations set forth in ch. 490, F.S., may be subject to disciplinary action by the Florida Board of Psychology or the Department of Health, as applicable.

The American Board of Professional Psychology, Inc., (ABPP) consists of several specialty boards that certify psychologists in various specialty areas of psychology who have completed specific educational, training, and experience requirements of a specialty. The specialty board

may also require an examination as a part of the certification process.<sup>1</sup> The American Board of Professional Psychology certifies specialists in thirteen areas of professional practice, which include: child and adolescent psychology, clinical psychology, clinical health psychology, clinical neuropsychology, cognitive and behavioral psychology, counseling psychology, family psychology, forensic psychology, group psychology, organizational and business consulting psychology, psychoanalysis in psychology, rehabilitation psychology, and school psychology.

In addition to ABPP, several other entities certify psychologists in various specialty areas.<sup>2</sup> The Council of Specialties in Professional Psychology (CoSPP or council) is a non-profit joint venture, initially sponsored by the American Psychological Association (APA) and the ABPP, to represent and support the development and functioning of recognized specialties in professional psychology. Recently, the council has proposed that an inter-organizational effort be formed to ensure that competency-based criteria for specialty certification be developed in order to protect the public, which would include criteria for a single certification board per specialty, and the recognition of an oversight mechanism to insure quality and consistency of such boards for the practice of specialties in professional psychology.<sup>3</sup> According to staff at the APA, although the association has discussed the possibility of developing criteria that may be used to identify an appropriate certifying entity for legitimate psychology specialties, the issue has not resulted in any formal policy action by the APA.

### **III. Effect of Proposed Changes:**

The Proposed Committee Substitute for Senate Bill 1560 prohibits a Florida-licensed psychologist from holding himself or herself out as a board-certified specialist or diplomate unless the psychologist has received formal recognition as a specialist or diplomate from a recognized certifying body that provides certified specialties in the practice of psychology and that has been approved by the Florida Board of Psychology. The Florida Board of Psychology must adopt rules to establish criteria for approval of certifying bodies that provide certified specialties in the practice of psychology. The criteria must include: peer review and self study, established standards for the practice of psychology, administrative support, and a unified relationship to the public and the profession. Under the bill, a Florida-licensed psychologist may indicate the services offered and may state that his or her practice is limited to one or more types of services if this accurately reflects the scope of practice of the psychologist.

The effective date of the bill is July 1, 2006.

### **IV. Constitutional Issues:**

#### **A. Municipality/County Mandates Restrictions:**

The provisions of this bill have no impact on municipalities and the counties under the requirements of Article VII, Section 18 of the Florida Constitution.

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<sup>1</sup> See the website for the American Board of Professional Psychology, Inc., at <[www.abpp.org](http://www.abpp.org)> (last visited 04/11/06).

<sup>2</sup> See e.g., the National Register of Health Service Providers in Psychology at <<http://www.nationalregister.org>> (last visited 04/11/06), and the National Association of School Psychologists at <<http://www.nasponline.org/>> (last visited 04/11/06).

<sup>3</sup> See “Highlights of the November 2005 Meeting of the Council of Specialties in Professional Psychology,” at <<http://www.cospp.org>> (last visited 04/11/06).

**B. Public Records/Open Meetings Issues:**

The provisions of this bill have no impact on public records or open meetings issues under the requirements of Article I, Section 24(a) and (b) of the Florida Constitution.

**C. Trust Funds Restrictions:**

The provisions of this bill have no impact on the trust fund restrictions under the requirements of Article III, Subsection 19(f) of the Florida Constitution.

**D. Other Constitutional Issues:**

Applicable case law has held that, as long as commercial speech describes lawful activity and is truthful and not fraudulent or misleading, it is entitled to the protections of the First Amendment of the United States Constitution. To regulate or ban commercial speech, the government must have substantial governmental interest that is directly advanced by the restriction, and must demonstrate that there is a reasonable fit between the legislature's ends and narrowly tailored means chosen to accomplish those ends. In enacting or enforcing a restriction on commercial speech, the government need not select the least restrictive means, but rather must tailor its restriction to meet the desired objective. Applicable case law describes various regulatory safeguards that the state may impose in place of the total ban on commercial speech, such as requiring a disclaimer to ensure that the consumer is not misled.<sup>4</sup>

**V. Economic Impact and Fiscal Note:****A. Tax/Fee Issues:**

None.

**B. Private Sector Impact:**

Florida-licensed psychologists who wish to hold themselves out as board-certified specialists may incur costs to receive formal recognition.

**C. Government Sector Impact:**

None.

**VI. Technical Deficiencies:**

None.

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<sup>4</sup> See *Abramson v. Gonzalez* 949 F.2d 1567 (11th Cir. 1992), *Parker v. Commonwealth of Ky.* 818 F.2d 504 (6th Cir.1987), and *Borgner v. Brooks*, 284 F.3d 1208 (11<sup>th</sup> Cir. 2002), cert. denied sub nom. *Borgner v. Florida Board of Dentistry*, 537 U.S. 1080 (2002).

**VII. Related Issues:**

None.

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This Senate staff analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

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## **VIII. Summary of Amendments:**

None.

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