

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/CS/HB 1047 Department of Health
SPONSOR(S): Health & Human Services Committee; Health Quality Subcommittee; Gonzalez
TIED BILLS: IDEN./SIM. **BILLS:** SB 1486

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Health Quality Subcommittee	12 Y, 0 N, As CS	Siples	McElroy
2) Health Care Appropriations Subcommittee	11 Y, 0 N	Mielke	Pridgeon
3) Health & Human Services Committee	18 Y, 0 N, As CS	Siples	Calamas

SUMMARY ANALYSIS

CS/CS/HB 1047 makes numerous changes to programs under the Department of Health (DOH) and health care professions regulated by Medical Quality Assurance, within DOH. The bill:

- Authorizes DOH to request a date of birth on a licensure application;
- Authorizes DOH to adopt rules to implement the Conrad 30 Waiver program;
- Authorizes expedited licensure and fee waivers for the spouse of an active duty military member who holds an active license in another jurisdiction to practice dentistry;
- Prohibits a health care facility or DOH from requiring board certification of physicians, except in certain circumstances;
- Requires physician assistants to report a designated supervising physician or change in such to DOH;
- Repeals a requirement that a Florida-licensed dentist grade the dental licensure examination and that a Florida-licensed dentist or dental hygienist grade the dental hygienist licensure examination;
- Requires dentists and dental hygienists to report adverse incidents to the Board of Dentistry;
- Requires DOH to biennially inspect dental laboratories;
- Authorizes chiropractic physicians to fulfill up to 10 hours of continuing education with online courses;
- Repeals the voluntary registration of registered chiropractic assistants;
- Authorizes community pharmacies to use automated pharmacy systems, with certain restrictions;
- Establishes standards for permitting and regulating in-state sterile compounding pharmacies and outsourcing facilities;
- Authorizes DOH to issue a single license to a prosthetist-orthotist;
- Authorizes an individual to provide dietary or nutritional information for compensation if the individual does not state or imply that he or she is a licensed or registered dietitian or licensed nutritionist;
- Requires an athletic trainer to work within his or her scope of practice and revises licensure requirements;
- Limits massage therapy apprenticeships to those in colonic irrigations, and authorizes the Board of Massage Therapy to take action against a massage therapy establishment under certain circumstances;
- Updates the name of the accreditation body for psychology programs and revises psychology licensure requirements;
- Authorizes the Board of Clinical Social Work, Marriage and Family Therapists, and Mental Health Counseling to approve a one-time exception to the 60-month limit on an internship registration;
- Revises the licensure requirements for Marriage and Family Therapists and Licensed Mental Health Counselors;
- Requires a health care practitioner who provides an immunization to report such immunization to the electronic registry maintained by DOH, unless the parent or adult individual refused;
- Extends the time for certain cancer centers to pursue a National Cancer Center designation;
- Authorizes physical therapists to provide the medical certification for a disabled parking permit; and
- Deletes obsolete language and makes technical and conforming changes.

The bill has an insignificant, negative fiscal impact on DOH, which can be absorbed within existing resources. The bill has no fiscal impact on local governments.

The bill provides an effective date of July 1, 2018.

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

STORAGE NAME: h1047e.HHS

DATE: 2/26/2018

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

The Division of Medical Quality Assurance (MQA), within the Department of Health (DOH), has general regulatory authority over health care practitioners.¹ MQA works in conjunction with 22 boards and 4 councils to license and regulate 7 types of health care facilities and more than 40 health care professions.² Each profession is regulated by an individual practice act and by ch. 456, F.S., which provides general regulatory and licensure authority for MQA.

General Licensure Requirements

There are general licensure provisions that apply to all licensure applications, regardless of profession. For example, all applicants for licensure must apply in writing on an application form approved by DOH or electronically on a web-based application form.³ Additionally, an applicant must provide his or her social security number for identification purposes.⁴ However, an applicant is not required to provide his or her date of birth as DOH is not currently authorized to collect this information.

Conrad 30 Waiver Program

Federal law requires a foreign physician pursuing graduate medical education or training in the United States to obtain a J-1 visa. A holder of a J-1 visa is ineligible to apply for an immigrant visa, permanent residence, or certain nonimmigrant statuses unless he or she has resided and been physically present in his or her country of nationality for at least two years after completion of the J-1 visa program.⁵ However, the Conrad 30 Waiver program allows such foreign physicians to apply for a waiver of the two-year residency requirement upon the completion of the J-1 visa program. To be eligible for a Conrad 30 Waiver, the foreign physician must:⁶

- Obtain a contract for full-time employment at a health care facility in an area dedicated as a Health Professional Shortage Area, Medically Underserved Area, or Medically Underserved Population;
- Obtain a “no objection” letter from his or her home country if the home government funded his or her exchange program; and
- Agree to begin employment at the health care facility within 90 days of receipt of the waiver, no later than the date his or her J-1 visa expires.

¹ Pursuant to s. 456.001(4), F.S., health care practitioners are defined to include acupuncturists, physicians, physician assistants, chiropractors, podiatrists, naturopaths, dentists, dental hygienists, optometrists, nurses, nursing assistants, pharmacists, midwives, speech language pathologists, nursing home administrators, occupational therapists, respiratory therapists, dieticians, athletic trainers, orthotists, prosthetists, electrologists, massage therapists, clinical laboratory personnel, medical physicists, dispensers of optical devices or hearing aids, physical therapists, psychologists, social workers, counselors, and psychotherapists, among others.

² Florida Department of Health, Division of Medical Quality Assurance, *Annual Report and Long-Range Plan, Fiscal Year 2016-2017*, available at <http://www.floridahealth.gov/licensing-and-regulation/reports-and-publications/documents/annual-report-1617.pdf> (last visited January 18, 2018).

³ Section 456.013, F.S. If an applicant does not have a social security number, DOH may issue a unique personal identification number to the applicant.

⁴ Id.

⁵ Department of Homeland Security, U.S. Citizenship and Immigration Services, *Conrad 30 Waiver Program*, (last rev. May 5, 2014), available at <https://www.uscis.gov/working-united-states/students-and-exchange-visitors/conrad-30-waiver-program#Background> (last visited January 18, 2018).

⁶ Id.

A state may only be issued 30 waivers per year and each state may develop its own applications rules and guidelines. DOH does not currently have statutory authority to develop rules and guidelines for its Conrad 30 program.

Currently, there are 90 physicians practicing in Florida under the Conrad 30 Waiver program.⁷ More than 70 percent, or nearly 450 physicians have remained in practice in Florida since the inception of the Conrad 30 Waiver Program.⁸ Currently, Florida approves these waivers on a first come basis.

Licensure of Military Spouses

Military Spouses

DOH offers expedited licensing and fee waivers to the spouse of a person serving on active duty with the United States Armed Forces who holds an active license to practice a health care profession in another state or jurisdiction.⁹ To qualify for expedited licensure and fee waivers, the military spouse must:¹⁰

- Submit a complete application;¹¹
- Submit evidence of training or experience substantially equivalent to the requirements for licensure in this state for that health care profession and evidence that he or she has obtained a passing score on an appropriate licensing examination, if required for licensure in this state;
- Attest that he or she is not, at the time of submission, the subject of a disciplinary proceeding in a jurisdiction in which he or she holds a license or by the U.S. Department of Defense for a reason related to the practice of the profession for which he or she is applying;
- Have actively practiced the profession for which he or she is applying for the 3 years preceding the date of application; and
- Submits to a background screening, if required for the profession for which he or she is applying, and does not have any disqualifying offenses.

Under current law, military spouses who are dentists are not eligible for expedited licensing and fee waivers. No other health care profession is excluded.

The regulatory boards, or DOH if there is no board, are also authorized to issue temporary licenses to the spouse of a member of the U.S. Armed Forces to practice his or her health care profession in Florida, including dentistry.¹² A temporary license is valid for one year and is not renewable.¹³ To be eligible for a temporary license, a military spouse must:¹⁴

- Submit a completed application and application fee;¹⁵
- Provide proof that he or she is married to a member of the U.S. Armed Forces serving on active duty in this state pursuant to official military orders;
- Provide proof of a valid license from another state or jurisdiction to practice the health profession for which he or she is applying and that such license is not subject to any disciplinary proceeding;

⁷ E-mail correspondence with the Department of Health, dated January 22, 2018 (on file with the Health Quality Subcommittee).

⁸ Department of Health, *2017 Physician Workforce Annual Report*, (November 2017), available at <http://www.floridahealth.gov/licensing-and-regulation/reports-and-publications/documents/annual-report-1617.pdf> (last visited January 18, 2018).

⁹ Section 456.024(3), F.S. The application fee, licensure fee, and unlicensed activity fee is waived for such applicants.

¹⁰ Section 456.024(3)(b), F.S.

¹¹ DOH operates the Veterans Application for Licensure Online Response System (VALOR) to provide expedited licensing for active duty military members, honorably discharged veterans, and spouses of active duty military members with an active license in another state. See <http://www.flhealthsource.gov/valor> (last visited January 18, 2018).

¹² Section 456.024(4), F.S.

¹³ Section 456.024(4)(f), F.S.

¹⁴ Section 456.024(4)(a)-(d), F.S.

¹⁵ Pursuant to rule 64B-4.007, F.A.C., the application fee is \$65.

- Provide proof that he or she would otherwise be entitled to full licensure and is eligible to take the respective licensure examination as required in this state; and
- Pass a background screening.

A military spouse who holds a temporary license to practice dentistry must practice under the indirect supervision¹⁶ of a dentist who holds an active license to practice in this state.¹⁷ This requirement does not apply to any other profession.

Physician Specialty Certification

Allopathic Physicians

Chapter 458, F.S., governs licensure and regulation of the practice of medicine by the Florida Board of Medicine (allopathic board) in conjunction with DOH. The chapter imposes requirements for licensure examination and licensure by endorsement.

Allopathic Education and Training Requirements

An individual seeking to be licensed by examination as an allopathic physician must, among other things:¹⁸

- Complete 2 years of post-secondary education which includes, at a minimum, courses in fields such as anatomy, biology, and chemistry prior to entering medical school;
- Meet one of the following medical education and postgraduate training requirements:
 - Graduate from an allopathic medical school recognized and approved by an accrediting agency recognized by the U.S. Office of Education or recognized by an appropriate governmental body of a U.S. territorial jurisdiction, and have completed at least one year of approved residency training;
 - Graduate from an allopathic foreign medical school registered with the World Health Organization and certified pursuant to statute as meeting the standards required to accredit U.S. medical schools, and have completed at least one year of approved residency training; or
 - Graduate from an allopathic foreign medical school that has not been certified pursuant to statute; have an active, valid certificate issued by the Educational Commission for Foreign Medical Graduates (ECFMG),¹⁹ have passed that commission's examination; and have completed an approved residency or fellowship of at least 2 years in one specialty area; and
- Obtain a passing score on:
 - The United States Medical Licensing Examination (USMLE);
 - A combination of the USMLE, the examination of the Federation of State Medical Boards of the United States, Inc. (FLEX), or the examination of the National Board of Medical Examiners up to the year 2000; or
 - The Special Purpose Examination of the Federation of State Medical Boards of the United States (SPEX), if the applicant was licensed on the basis of a state board examination, is currently licensed in at least one other jurisdiction of the United States or Canada, and has practiced for a period of at least 10 years.

¹⁶ Section 466.003(9), F.S., defines indirect supervision as supervision whereby a Florida-licensed dentist authorizes the procedure and a Florida-licensed dentist is on the premises while the procedures are performed.

¹⁷ Section 456.024(4)(j), F.S.

¹⁸ Section 458.311(1), F.S.

¹⁹ A graduate of a foreign medical school does not need to present an ECFMG certification or pass its exam if the graduate received his or bachelor's degree from an accredited U.S. college or university, studied at a medical school recognized by the World Health Organization, and has completed all but the internship or social service requirements, has passed parts I and II of the National Board Medical Examiners licensing examination or the ECFMG equivalent examination. Section 458.311, F.S.

An individual who holds an active license to practice medicine in another jurisdiction may seek licensure by endorsement to practice medicine in Florida.²⁰ The applicant must meet the same requirements for licensure by examination. To qualify for licensure by endorsement, the applicant must also submit evidence of the licensed active practice of medicine in another jurisdiction for at least 2 of the preceding 4 years, or evidence of successful completion of either a board-approved postgraduate training program within 2 years preceding filing of an application or a board-approved clinical competency examination within the year preceding the filing of an application for licensure.

Allopathic Continuing Medical Education (CME)

Physician licenses are renewed biennially.²¹ Within each biennial licensure renewal period, a physician must complete 40 hours of continuing medical education (CME) courses approved by the allopathic board.²² As a part of the 40 hours of CME, a licensee must also complete the following:

- A two-hour course regarding domestic violence every third biennial;²³
- A one-hour course addressing the Human Immunodeficiency Virus and Acquired Immune Deficiency Syndrome no later than upon the first biennial licensure renewal;²⁴ and
- Two hours of CME relating to the prevention of medical errors.²⁵

DOH may not renew a license until a licensee complies with all CME requirements.²⁶ The allopathic board may also take action against a license for failure to comply with CME requirements.

Osteopathic Physician Licensure

Chapter 459, F.S., provides for the licensure and regulation of the practice of medicine by the Florida Board of Osteopathic Medicine (osteopathic board) in conjunction with DOH. The chapter imposes requirements for licensure by examination and licensure by endorsement.

Osteopathic Education and Training Requirements

An individual seeking to be licensed as an osteopathic physician must, among other things:²⁷

- Graduate from a medical college recognized and approved by the American Osteopathic Association;
- Successfully complete a resident internship of at least 12 months in a hospital approved by the Board of Trustees of the American Osteopathic Association or any other internship approved by the osteopathic board; and
- Obtain a passing score, as established by rule of the osteopathic board, on the examination conducted by the National Board of Osteopathic Medical Examiners or other examination approved by the osteopathic board, no more than five years prior to applying for licensure.²⁸

If an applicant for a license to practice osteopathic medicine is licensed in another state, the applicant must have actively practiced osteopathic medicine within the two years prior to applying for licensure in this state.

²⁰ Section 458.313, F.S.

²¹ Rule 64B8-3.003, F.A.C. If a practitioner dispenses medicinal drugs, an additional fee of \$100 must be paid at the time of renewal.

²² Rule 64B8-13.005, F.A.C.

²³ Section 456.031, F.S.

²⁴ Section 456.033, F.S.

²⁵ Section 456.013(7), F.S.

²⁶ Section 456.031, F.S.

²⁷ Section 459.0055(1), F.S.

²⁸ However, if an applicant has been actively licensed in another state, the initial licensure in the other state must have occurred no more than five years after the applicant obtained the passing score on the licensure examination.

Osteopathic CME

Osteopathic physician licenses are renewed biennially.²⁹ Within each biennial licensure renewal period, an osteopathic physician must complete 40 hours of continuing medical education (CME) courses approved by the osteopathic board.³⁰ As a part of the 40 hours of CME, a licensee must also complete the following:

- A two-hour course regarding domestic violence every third biennial;³¹
- A one-hour course addressing the Human Immunodeficiency Virus and Acquired Immune Deficiency Syndrome no later than upon the first biennial licensure renewal;³²
- Two hours of CME relating to the prevention of medical errors;³³
- A one-hour course on professional and medical ethics education; and
- A one-hour course on the federal and state laws related to the prescribing of controlled substances.³⁴

DOH may not renew a license until a licensee complies with all CME requirements.³⁵ The osteopathic board may also take action against a license for failure to comply with CME requirements.

Board Certification of Physicians

Medical licensure of physicians sets the minimum competency requirements to diagnose and treat patients; it is not specialty specific.³⁶ Medical specialty certification is a voluntary process that gives a physician a way to develop and demonstrate expertise in a particular specialty or subspecialty.³⁷

Board Certification by the Specialty Boards of the ABMS

When a physician or surgeon is board certified by an ABMS specialty board, it means he or she has met the standards³⁸ and requirements for certification in a specialty or subspecialty of one or more of the 24 ABMS Member Boards.³⁹

Initial Certification

Initial certification occurs soon after completion of residency training.⁴⁰ To receive initial board certification in a specialty from one of the ABMS boards, the physician must first:⁴¹

- Finish four years of premedical education in a college or university;

²⁹ Section 459.008, F.S.

³⁰ Rule 64B15-13, F.A.C.

³¹ Section 456.031, F.S.

³² Section 456.033, F.S.

³³ Section 456.013(7), F.S.

³⁴ Rule 64B15-13.001, F.A.C.

³⁵ Section 456.031, F.S.

³⁶ American Board of Family Medicine, *What does board-certified mean?*, available at <https://www.theabfm.org/diplomate/certified.aspx> (last visited February 21, 2018).

³⁷ Id.

³⁸ See American Board of Medical Specialties, *A Trusted Credential*, available at <http://www.abms.org/board-certification/a-trusted-credential/> (last visited February 21, 2018).

³⁹ American Board of Medical Specialties, *Standards for Initial Certification*, (2016), available at <http://www.abms.org/media/119927/abms-standards-for-initial-certification.pdf> (last visited February 21, 2018). For complete list of the member boards and the specialty and subspecialties certifications, please see: American Board of Medical Specialties, *Specialty and Subspecialty Certificates*, available at <http://www.abms.org/member-boards/specialty-subspecialty-certificates/> (last visited February 21, 2018).

⁴⁰ American Board of Medical Specialties, *ABMS Guide to Medical Specialties*, 2017, p. 7, available at http://www.abms.org/media/114634/guide-to-medicalspecialties_04_2016.pdf (last visited March 12, 2017).

⁴¹ American Board of Medical Specialties, *Steps Toward Initial certification and MOC*, available at <http://www.abms.org/board-certification/steps-toward-initial-certification-and-moc/> (last visited February 21, 2018).

- Earn a medical degree (MD, DO or other credential approved by an ABMS Member Board) from a qualified medical school;
- Complete three to five years of full-time experience in a residency training program accredited by the ACGME;
- Provide letters of attestation from their program director and/or faculty;
- Obtain an unrestricted medical license to practice medicine in the United States or Canada; and
- Pass a written and, in some cases, an oral examination created and administered by an ABMS Member Board.

The standards for initial certification consist of four general standards:

- Each ABMS Member Board's Standards for Initial certification will incorporate all six ABMS/ACGME Core Competencies:
 - Practice-Based Learning and Improvement;⁴²
 - Patient Care and Procedural Skills;⁴³
 - Systems-based Practice;⁴⁴
 - Medical Knowledge;⁴⁵
 - Interpersonal and Communication Skills;⁴⁶ and
 - Professionalism;⁴⁷
- The Member Board and the training programs in a specialty have a shared responsibility for assessing a candidate's suitability for certification;
- Each ABMS Member Board will determine criteria for eligibility, including the expiration date for the "Board Eligible" period;⁴⁸ and
- Each ABMS Member Board will work to maintain the value of initial certification to the public and profession through systematic efforts to evaluate and improve the initial certification program to reflect advances in medical practice and assessment methodology.⁴⁹

The standards for initial certification also includes standards that address professionalism;⁵⁰ education and training;⁵¹ and assessment of knowledge, judgment, and skills.⁵²

⁴² *Supra*, note 39 at 3. This refers to the candidate's ability to investigate and evaluate patient care practices, appraise and assimilate scientific evidence, and improve the candidate's own practice of medicine, the collaborative practice of medicine, or both.

⁴³ *Id.* This refers to the candidate's use of clinical skills and ability to provide care and promote health in an appropriate manner that incorporates evidence-based medical practice, demonstrates good clinical judgment, and fosters patient-centered decision-making.

⁴⁴ *Id.* This refers to the candidate's awareness of, and responsibility to, population health and systems of health care. The candidate should be able to use system resources responsibly in providing patient care (e.g., good resource stewardship, coordination of care).

⁴⁵ *Id.* This refers to the candidate's demonstration of knowledge about established and evolving biomedical, clinical, and cognate sciences, as well as the application of these sciences in patient care.

⁴⁶ *Id.* This refers to the candidate's demonstration of skills that result in effective information exchange and partnering with patients, their families, and professional associates (e.g., fostering a therapeutic relationship that is ethically sound; using effective listening skills with nonverbal and verbal communication; being mindful of health literacy; and working effectively in a team both as a team member and as a team leader).

⁴⁷ *Id.* This refers to the candidate's demonstration of a commitment to carrying out professional responsibilities; adhering to ethical principles; applying the skills and values to deliver compassionate, patient-centered care; demonstrating humanism; being sensitive to diverse patient populations and workforce; and practicing wellness and self-care.

⁴⁸ *Id.* at 4. "Board Eligibility" only applies to the period of time between a physician's completion of training and achievement of Initial certification in a specialty. The expiration date must be no fewer than three and no more than seven years following the successful completion of accredited training, and in accordance with the corresponding Member Board requirements, plus time (if any) in practice required by the Member Board for admission to the certifying examination.

⁴⁹ *Id.*

⁵⁰ *Id.* at 5. Each ABMS Member Board identifies and conveys its professionalism expectations to its candidates for Initial certification and has a process in place to consider the circumstances of an action taken against a candidate's license by a state medical board or other determination of unprofessional conduct by an appropriate authority and to respond appropriately.

⁵¹ *Id.* Each ABMS Member Board establishes requirements for training and documents that candidates have met these requirements prior to awarding initial general or subspecialty certification. ABMS Member Boards' training requirements address duration and quality of education and training by specifically requiring the total training time for general certification be a minimum of three years, training for subspecialty certification be a minimum of one year, and training programs be accredited by the ACGME. Member Boards may choose to recognize alternate pathways to Initial certification for candidates who have not completed residency training programs accredited by the ACGME.

Candidates for certification must pass an exam created and administered by the relevant Member Board.⁵³ Candidates who have passed the exam and completed all other requirements are considered certified as a specialist and a diplomate of their specialty board.⁵⁴

Subspecialty Board Certification

A similar eligibility process to the initial certification is followed for certified specialists seeking subspecialty certification. In order to obtain a subspecialty board certification, the physician must have an initial certification in the overarching specialty from the ABMS Member Board.⁵⁵ Subspecialty board certification involves additional training or completion of a fellowship program and passing an exam given by the ABMS Member Board.⁵⁶

Maintenance of Certification (MOC)

Once Board Certified, physicians maintain their certification by participating in a professional development program called the ABMS Program for MOC.⁵⁷ The MOC program provides physicians a structured approach for enhancing patient care and improving patient outcomes through focused assessment and improvement activities. The ABMS Program for MOC involves ongoing measurement of six core competencies defined by ABMS and ACGME:⁵⁸

- **Practice-based Learning and Improvement:** The board certified physician must demonstrate an ability to investigate and evaluate patient care practices, appraise and assimilate scientific evidence, and improve the practice of medicine.
- **Patient Care and Procedural Skills:** The board certified physician must provide care that is compassionate, appropriate, and effective treatment.
- **Systems-based Practice:** The board certified physician must demonstrate awareness of and responsibility to the larger context and systems of health care.
- **Medical Knowledge:** The board certified physician must demonstrate knowledge about established and evolving biomedical, clinical, and cognate sciences and their application in patient care.
- **Interpersonal and Communication Skills:** The board certified physician must demonstrate skills that result in effective information exchange and teaming with patients, their families and professional associates.
- **Professionalism:** The board certified physician must demonstrate a commitment to carrying out professional responsibilities, adherence to ethical principles and sensitivity to diverse patient populations.

These competencies, which are the same ones used in the ACGME's Next Accreditation System, are measured in the ABMS Program for MOC within a four-part framework:⁵⁹

- **Professionalism and Professional Standing.** The physician must behave in a professional manner, act in the patients' best interest, and hold a valid, unrestricted medical license.

⁵² Id. at 6-7. Initial certification by an ABMS Member Board is intended to provide patients, health care organizations, and the profession with a dependable mechanism for identifying specialists who have met standards for the specialty. Examination procedures should reflect accepted educational standards for test design, development, administration, reliability, validity, fidelity, scoring, and reporting.

⁵³ *Supra* note 40 at p. 7.

⁵⁴ Id.

⁵⁵ Id. at 11.

⁵⁶ Id.

⁵⁷ *Supra* note 41.

⁵⁸ American Board of Medical Specialties, *Based on Core Competencies*, <http://www.abms.org/board-certification/a-trusted-credential/based-on-core-competencies/> (last visited February 21, 2018).

⁵⁹ American Board of Medical Specialties, *Assessed Through a Four-Part Framework*, <http://www.abms.org/board-certification/a-trusted-credential/assessed-through-a-four-part-framework/> (last visited February 21, 2018).

- **Lifelong Learning and Self-Assessment.** The physician must participate in high quality, unbiased educational and self-assessment activities determined by each Member Board.
- **Assessment of Knowledge, Judgment, and Skills.** The physician must pass a written examination and other evaluations.
- **Improvement in Medical Practice.** The physician must engage in ongoing assessment and improvement activities to improve patient outcomes and demonstrate use of evidence and best practices compared to peers and national benchmarks.

All Programs for MOC implemented by the Member Boards measure the same six competencies within the same four-part framework.⁶⁰ While these elements are consistent across all Member Boards, the specific activities used to measure these competencies may vary according to the specialty.⁶¹

Board Certification by the American Osteopathic Association (AOA)

The AOA's Department of Certifying Board Services administers board certification for osteopathic physicians in 29 primary specialties and 77 subspecialties.⁶²

Primary Certification

Primary certification is conferred on diplomates who meet the requirements in a specified field of medical practice under the jurisdiction of a certifying board.⁶³ Primary certification represents a distinct and well-defined field of osteopathic medical practice.⁶⁴ Unlike the Member Boards of the AMBS, which are all subject to the same basic criteria for board certification, each of the certifying specialty boards of the AOA have their own eligibility for board certification.

Regardless of specialty board, there are certain requirements that apply to all osteopathic physicians seeking board certification; the physician must

- Be a graduate of an AOA-accredited college of osteopathic medicine;
- Hold an unrestricted license to practice in a state or territory;
- Be a member in good standing of the AOA for a set time prior to the date of certification;
- Have satisfactorily completed residency training in the relevant specialty; and
- Pass certification examinations.⁶⁵

Subspecialty Certification

Subspecialty certification is conferred by a certifying board in a specific subspecialty area of the field to which that AOA specialty board certifies.⁶⁶ A subspecialty certification requires prior attainment of general certification; however, there are certain subspecialty certifications that are considered specialized enough to not require maintenance of the primary board certification after a physician has

⁶⁰ *Supra* note 41.

⁶¹ *Id.*

⁶² American Osteopathic Association, *AOA Specialty Certifying Boards and Conjoint Examination Committees*, <https://www.osteopathic.org/inside-aoa/development/aoa-board-certification/Pages/aoa-specialty-boards.aspx> (last visited February 21, 2018). For a complete list of the specialty certifying boards and the specialty and subspecialty certifications, please see: American Osteopathic Association, *AOA Specialties & Subspecialties*, available at <http://www.osteopathic.org/inside-aoa/development/aoa-board-certification/Pages/specialty-subspecialty-certification.aspx> (last visited February 21, 2018).

⁶³ American Osteopathic Association, *Frequently Asked Questions*, available at <https://certification.osteopathic.org/faqs/> (last visited February 21, 2018).

⁶⁴ *Id.*

⁶⁵ See, e.g., American Osteopathic Board of Anesthesiology, *Board Eligibility*, available at <https://certification.osteopathic.org/anesthesiology/board-policies/> (last visited February 21, 2018); American Osteopathic Board of Internal Medicine, *Board Eligibility*, available at <https://certification.osteopathic.org/internal-medicine/board-policies/> (last visited February 21, 2018); and American Osteopathic Board of Orthopedic Surgery, 2018 Handbook for Candidates for Board Certification, (Nov. 2017), available at <http://www.aobos.org/mm/files/Candidate-Handbook-Master.pdf> (last visited February 21, 2018).

⁶⁶ *Supra*, note 63.

become subspecialty certified.⁶⁷ Such subspecialty certifications, which require longer than the standard one year of additional training, indicate the possession of knowledge, skill, training and successful examination in a subspecialty field over and above that required for primary certification.⁶⁸ For example, Cardiology is a limited area within the field of Internal Medicine for which physicians may earn a subspecialty certification that does not require them to maintain their primary certification in Internal Medicine, after they have become subspecialty certified in Cardiology.⁶⁹

Osteopathic Continuous Certification (OCC)

Each specialty certifying board developed OCC requirements implemented as of January 1, 2013.⁷⁰ A physician with a time-limited⁷¹ board certification is required to participate in the five components of the OCC process to maintain osteopathic board certification.⁷² The five components of OCC are:

- **Active Licensure.** Physicians who are board-certified by the AOA must hold a valid, active license to practice medicine in one of the 50 states and must adhere to the AOA's Code of Ethics.
- **Lifelong Learning/Continuing Medical Education.** All recertifying physicians must fulfill a minimum of 120 hours of CME credit during each three-year CME cycle; a minimum of 50 credit hours must be in the specialty area of certification.
- **Cognitive Assessment.** The physician must complete one or more psychometrically valid and proctored examinations that assess a physician's specialty medical knowledge, as well as core competencies in the provision of health care.
- **Practice Performance Assessment and Improvement.** The physician must engage in continuous quality improvement through comparison of personal practice performance measured against national standards for his or her medical specialty.
- **Continuous AOA Membership.** The physician must maintain membership in good standing through the AOA, and must participate in relevant specialty-specific educational activities.⁷³

Credentialing

Credentialing is the process of collecting and verifying a provider's professional qualifications, including academic background, relevant training and experience, licensure, and certification or registration to practice in a particular health care field.⁷⁴ Health plans and insurers use credentialing to determine whether to include a provider in the plan's or insurer's network; that is, to contract with the provider to provide services to enrollees and policyholders. Credentialing is a required element for health plan accreditation by the National Commission for Quality Assurance.⁷⁵ Health plans and insurers may require board-certified physicians to maintain board certification as a condition of participating in the network.

Admitting Privileges

⁶⁷ Id.

⁶⁸ Id.

⁶⁹ Id.

⁷⁰ American Osteopathic Association, *Introduction to the AOA Osteopathic Continuous Certification Process*, available at <https://www.osteopathic.org/inside-aoa/development/aoa-board-certification/Documents/OCC-brochure.pdf> (last visited February 21, 2018).

⁷¹ Certificates issued prior to 1993 are not time-limited and therefore are valid for life.

⁷² *Supra* note 70.

⁷³ Id.

⁷⁴ See, e.g., Aetna, *Health care professionals: Joining the Network FAQs*, available at <https://www.aetna.com/fags-health-insurance/health-care-professionals-join-network.html> (last visited February 21, 2018); Florida Blue, *Manual for Physicians and Providers*, (2015), at 14, available at <https://www.floridablue.com/providers/tools-resources/provider-manual> (last visited March 12, 2017); UnitedHealthcare, *Physician Credentialing and Recredentialing Frequently Asked Questions*, available at https://www.uhcommunityplan.com/content/dam/communityplan/healthcareprofessionals/providerinformation/KS-Provider-Information/KS_Credentialing_FAQ.pdf (last visited March 12, 2017).

⁷⁵ NCQA, *CR Standards & Guidelines*, <http://www.ncqa.org/tabid/404/Default.aspx> (last visited March 13, 2017).

Health care facilities also use the credentialing process to confer admitting privileges. An admitting privilege is the right of a physician to admit patients to a particular hospital, and to provide specific services in that facility.⁷⁶ Admitting privileges are different than clinical privileges, which are the privileges granted to a physician or other licensed health care practitioner to render patient care services in a hospital, but which do not include the privilege of admitting patients.⁷⁷

Board Certification and Florida Licensure

DOH does not license a physician by specialty or subspecialty based upon board certification; however, ch. 458 and ch. 459, F.S., limit which physicians may hold themselves out as board-certified specialists. An allopathic physician licensed under ch. 458, F.S., may not hold himself or herself out as a board-certified specialist unless he or she has received formal recognition as a specialist from a specialty board of the American Board of Medical Specialties (ABMS) or other recognizing agency⁷⁸ approved by the allopathic board.⁷⁹ Additionally, an allopathic physician may not hold himself or herself out as a board-certified specialist in dermatology unless the recognizing agency, whether authorized in statute or by rule, is triennially reviewed and reauthorized by the allopathic board.⁸⁰ Similarly, an osteopathic physician licensed under ch. 459, F.S., may not hold himself or herself out as a board-certified specialist unless he or she has successfully completed the requirements for certification by the AOA or the Accreditation Council on Graduate Medical Education (ACGME) and is certified as a specialist by a certifying agency⁸¹ approved by the board.⁸² These limitations on advertising are set out in rule 64B8-11.001, F.A.C. for allopathic physicians and rule 64B15-14.001, F.A.C., for osteopathic physicians.

Physician Assistants

Under Florida law, physician assistants (PAs) are governed by the physician practice acts for medical doctors and doctors of osteopathic medicine. PAs are regulated by the Florida Council on Physician Assistants (Council) in conjunction with either the allopathic board for PAs licensed under ch. 458, F.S., or the osteopathic board for PAs licensed under ch. 459, F.S.⁸³ There are 9,118 PAs who hold active licenses to practice in Florida.⁸⁴

In Florida, a PA practices under the delegated authority of a supervising physician. A physician supervising a PA must be qualified in the medical area in which the PA is practicing and is responsible and liable for the performance, acts, and omissions of the PA.⁸⁵

The Boards have established by rule that “responsible supervision” of a PA means the ability of the supervising physician to exercise control and provide direction over the services or tasks performed by the PA.⁸⁶ Whether the supervision of a PA is adequate, is dependent upon the:⁸⁷

- Complexity of the task;
- Risk to the patient;

⁷⁶ In order for a physician to be granted privileges, a hospital generally checks the individual’s medical credentials, license and malpractice history. Many hospitals also require physicians to admit a minimum number of patients to the hospital each year before they will grant or renew privileges. Others require the doctor to live within a minimum distance of the hospital.

⁷⁷ Section 395.002(5), F.S.

⁷⁸ The allopathic board has approved the specialty boards of the ABMS as recognizing agencies. Rule 64B8-11.001(1)(f), F.A.C.

⁷⁹ Section 458.3312, F.S.

⁸⁰ Id.

⁸¹ The osteopathic board has approved the specialty boards of the ABMS and AOA as recognizing agencies. Rule 64B15-14.001(h), F.A.C.

⁸² Section 459.0152, F.S.

⁸³ SS. 458.347(12) and 459.022(12), F.S.

⁸⁴ Email correspondence with the Department of Health, dated December 14, 2017 (on file with the Health Quality Subcommittee).

⁸⁵ Sections 458.347(3), F.S., and 459.022(3), F.S.; and Rules 64B8-30.012, F.A.C., and 64B15-6.010, F.A.C.

⁸⁶ Rules 64B8-30.001, F.A.C., and 64B15-6.001, F.A.C.

⁸⁷ Id.

- Background, training and skill of the PA;
- Adequacy of the direction in terms of its form;
- Setting in which the tasks are performed;
- Availability of the supervising physician;
- Necessity for immediate attention; and
- Number of other persons that the supervising physician must supervise.

A supervising physician may only delegate tasks and procedures to the PA which are within the supervising physician's scope of practice.⁸⁸ The decision to permit the PA to perform a task or procedure under direct or indirect supervision is made by the supervising physician based on reasonable medical judgment regarding the probability of morbidity and mortality to the patient.⁸⁹

A supervising physician may delegate the authority for a PA to:⁹⁰

- Prescribe or dispense any medicinal drug used in the supervising physician's practice unless such medication is listed in the formulary established by the Council;⁹¹
- Order any medication for administration to the supervising physician's patient in a hospital or other facility licensed under chapter 395, F.S., or a nursing homes licensed under part II of chapter 400, F.S.;⁹² and
- Perform any other services that are not expressly prohibited in ch. 458, F.S., ch. 459, F.S., or the rules adopted thereunder.

Under current law, a PA must notify DOH of his or her employment and the name of the supervising physician, within 30 days of commencing such employment or at any time his or her supervising physician changes.⁹³ If a PA works in a facility or group practice, the PA may be supervised by more than one physician and there may be no single point of contact to address supervision issues for PAs working in such practice settings.

Chiropractic Physicians

A chiropractic physician is authorized to adjust, manipulate, and treat the human body by manual, mechanical, electrical, or natural methods.⁹⁴ Chiropractic physicians may not prescribe or administer legend drugs, perform surgery, or practice obstetrics.⁹⁵ Licensure requirements for chiropractic physicians include:⁹⁶

- Graduation from a chiropractic college accredited by the Council on Chiropractic Education;
- Passage of the National Board of Chiropractic Examiners; and
- Passage of a background screening.

⁸⁸ *Supra* note 85.

⁸⁹ "Direct supervision" refers to the physical presence of the supervising physician so that the physician is immediately available to the PA when needed. "Indirect supervision" refers to the reasonable physical proximity of the supervising physician to the PA or availability by telecommunication. *Supra* note 86.

⁹⁰ Sections 458.347(4) and 459.022(e), F.S.

⁹¹ Sections 458.347(4)(f), F.S., and 459.022(e), F.S., directs the Council to establish a formulary listing the medical drugs that a PA may not prescribe. The formulary in Rules 64B8-30.008, F.A.C., and 64B15-6.0038, F.A.C., prohibits PAs from prescribing; general, spinal or epidural anesthetics; radiographic contrast materials; and psychiatric mental health controlled substances for children younger than 18 years of age. It also restricts the prescribing of Schedule II controlled substances to a 7-day supply. However, the rules authorize physicians to delegate to PAs the authority to order controlled substances in hospitals and other facilities licensed under ch. 395, F.S.

⁹² Chapter 395, F.S., provides for the regulation and the licensure of hospitals and trauma centers, part II of ch. 400, F.S., provides for the regulation and licensure of nursing home facilities.

⁹³ Section 458.347(7)(d), F.S.

⁹⁴ Section 460.403(9)(c), F.S.

⁹⁵ *Id.* However, there are limited exceptions for ordering, storing, and administering legend drugs and performing surgeries.

⁹⁶ Section 460.406, F.S.

A chiropractic physician must renew his or her license biennially; and as a condition of renewal, he or she must complete 40 contact classroom hours of continuing education.⁹⁷ Of the 40 required hours of continuing education, 27 are for general content and the remaining 13 hours are comprised of specific courses on medical errors, risk management, laws and rules, recordkeeping, and ethics. Pursuant to rule, a chiropractic physician may satisfy 10 hours of the required general continuing education courses by taking online courses that use the Shareable Content Objective Reference Model (SCROM) for security.⁹⁸ Although the Board of Chiropractic Medicine has authorized the use of online courses to meet the continuing education requirement, current statutory law requires 40 hours of contact classroom hours and does not authorize other methods of delivery.

Chiropractic Assistants

There are two types of chiropractic assistants: certified and registered.⁹⁹ A certified chiropractic assistant is an allied health professional who, under supervision, performs tasks or a combination of tasks traditionally performed by a chiropractic physician.¹⁰⁰ A registered chiropractic assistant is a professional, multi-skilled person dedicated to assisting in all aspects of chiropractic medical practice under the direct supervision of a chiropractic physician or certified chiropractic assistant.¹⁰¹

A registered chiropractic assistant voluntarily registers with the Board of Chiropractic Medicine.¹⁰² There are no educational or eligibility standards set in rule or statute for such registration. However, a person who becomes a registered chiropractic assistant must adhere to ethical and legal standards of professional practice, recognize and respond to emergencies, and demonstrate professional characteristics.¹⁰³ A registered chiropractic assistant may:¹⁰⁴

- Prepare patients for the chiropractic physician's care;
- Take vital signs;
- Observe and report patients' signs and symptoms;
- Administer basic first aid;
- Assist with patient examinations or treatments other than manipulations or adjustments;
- Operate office equipment;
- Collect routine laboratory specimens as directed by the chiropractic physician or certified chiropractic assistant;
- Administer nutritional supplements as directed by the chiropractic physician or certified chiropractic assistant; and
- Perform office procedures under the direct supervision of by the chiropractic physician or certified chiropractic assistant.

As of June 30, 2017, there were 3,800 active registered chiropractic assistants.¹⁰⁵ DOH does not regulate the practice of registered chiropractic assistants.¹⁰⁶

Board of Nursing

Rulemaking Authority

⁹⁷ Section 460.408, F.S., and r. 64B2-13.004, F.A.C. A

⁹⁸ Rule 64B2-13.004(3), F.A.C.

⁹⁹ Sections 460.4165 and 460.4166, F.S.

¹⁰⁰ Rule 64B2-18(5), F.A.C.

¹⁰¹ Section 460.4166(1), F.S.

¹⁰² Section 460.4166(3), F.S.

¹⁰³ *Supra* note 101.

¹⁰⁴ Section 460.4166, F.S.

¹⁰⁵ Department of Health, *2018 Agency Legislative Bill Analysis*, (Dec. 19, 2017), on file with the Health Quality Subcommittee.

¹⁰⁶ *Id.*

The Board of Nursing has authority to adopt rules to implement ch. 464, F.S., which regulates the practice of nursing in this state.¹⁰⁷ The Board of Nursing oversees the licensure and practice of certified nursing assistants, licensed practical nurses, registered nurses, and advanced registered nurse practitioners.

Certified Nursing Assistants

Certified Nursing Assistants (CNAs) provide care and assist individuals with tasks relating to the activities of daily living, such as those associated with personal care, nutrition and hydration, maintaining mobility, toileting, safety and cleaning, end-of-life care, cardiopulmonary resuscitation and emergency care.¹⁰⁸ An applicant for certification as a CNA must complete an approved training program, pass a competency examination, and pass a background screening.¹⁰⁹ A CNA who is certified in another state, is listed on that state's CNA registry,¹¹⁰ and has not been found to have committed abuse, neglect, or exploitation in that state, is eligible for certification by endorsement in Florida. However, a CNA from a territory of the United States or the District of Columbia, is not eligible for certification by endorsement.

The Board of Nursing may discipline a CNA for two violations:¹¹¹

- Obtaining or attempting to obtain certification or an exemption, or possessing or attempting to possess certification or letter of exemption, by bribery, misrepresentation, deceit, or through an error of the board; or
- Intentionally violating any provision of ch. 464, F.S., the practice act for nursing professions, ch. 456, F.S., the general licensing act, or the rules adopted by the Board of Nursing.

When seeking to discipline a CNA for violating the nurse practice act, the general licensing act, or a rule adopted thereunder, the Board of Nursing must prove that such violation is intentional. Therefore, if the Board of Nursing cannot prove intent or if a CNA acts negligently, the Board of Nursing is unable to discipline the CNA.

Pharmacy Regulation

Chapter 465, F.S., regulates pharmacies in Florida and contains the minimum requirements for safe practice.¹¹² A person who wants to operate a pharmacy in Florida must obtain one of the following DOH-issued permits:

- Community pharmacy - A permit is required for each location where medicinal drugs are compounded, dispensed, stored, or sold or where prescriptions are filled or dispensed on an outpatient basis.¹¹³
- Institutional pharmacy - A permit is required for every location in a hospital, clinic, nursing home, dispensary, sanitarium, extended care facility, or other facility where medicinal drugs are compounded, dispensed, stored, or sold.¹¹⁴
- Nuclear pharmacy - A permit is required for every location where radioactive drugs and chemicals within the classification of medicinal drugs are compounded, dispensed, stored, or

¹⁰⁷ Section 464.006, F.S.

¹⁰⁸ Section 464.201(5), F.S.

¹⁰⁹ Section 464.203, F.S. See also Department of Health, Board of Nursing, *Certified Nursing Assistant (CNA) by Examination*, available at <http://floridasnursing.gov/licensing/certified-nursing-assistant-examination/> (last visited January 19, 2018). An applicant who fails the competency examination 3 times, may not take the exam again until he or she completes an approved training program.

¹¹⁰ A CNA Registry is a listing of CNAs who received certification and maintain an active certification. (Rule 64B9-15.004, F.A.C.)

¹¹¹ Section 464.204, F.S.

¹¹² Section 465.002, F.S.

¹¹³ Sections 465.003(11)(a)1. and 465.018, F.S.

¹¹⁴ Sections 465.003(11)(a)2. and 465.019, F.S.

sold. The term “nuclear pharmacy” does not include hospitals licensed under chapter 395 or the nuclear medicine facilities of such hospitals.¹¹⁵

- Special pharmacy - A permit is required for every location where medicinal drugs are compounded, dispensed, stored, or sold if the location does not otherwise meet an applicable pharmacy definition in s. 465.003, F.S.¹¹⁶
- Internet pharmacy - A permit is required for a location not otherwise licensed or issued a permit under this chapter, within or outside this state, which uses the Internet to communicate with or obtain information from consumers in this state to fill or refill prescriptions or to dispense, distribute, or otherwise practice pharmacy in this state.¹¹⁷

All permitted pharmacies must pass an on-site inspection before DOH will issue an initial permit; an on-site inspection is also required any time a pharmacy changes its ownership or address.¹¹⁸

Compounding

Compounding is the professional act by a pharmacist or other practitioner authorized by law, incorporating ingredients to create a finished product for dispensing to a patient or for administration by a practitioner or the practitioner’s agent.¹¹⁹

There are two types of compounding: sterile and non-sterile. Sterile compounding is the preparation of a custom medication or product in a sterile environment to prevent contamination and protect patient safety.¹²⁰ Nonsterile compounding includes capsules, ointments, creams, gels, and suppositories that do not require a sterile preparation environment.¹²¹

Special Sterile Compounding Permit

Current law does not expressly provide for an in-state sterile compounding permit. However, s. 456.0196, F.S., grants DOH rulemaking authority to create and issue special pharmacy permits. Under that authority, DOH has adopted rules for the issuance of a special sterile compounding permit to regulate in-state pharmacies and outsourcing facilities that perform sterile compounding. Rule 64B-28.802, F.A.C., requires that a pharmacy engaging in the preparation of compounded sterile products in this state must obtain a Special Sterile Compounding Permit (SSCP). The Board of Pharmacy has adopted standards of practice in rule for compounding sterile products, including the Current Good Manufacturing Practices and specific chapters of the United States Pharmacopoeia.¹²² Stand-alone special parenteral/enteral pharmacies and special parenteral/enteral extended scope pharmacies are not required to obtain the SSCP.¹²³

Applications for new establishments submitted after March 21, 2014, must be accompanied with a \$255 application fee. However, pharmacies holding a sterile compounding permit prior to that date do not

¹¹⁵ Sections 465.003(11)(a)3. and 465.0193, F.S.

¹¹⁶ Sections 465.003(11)(a)4. and 465.0196, F.S.

¹¹⁷ Sections 465.003(11)(a)5. and 465.0197, F.S.

¹¹⁸ Rule 64B16-28(1)(d), F.A.C.

¹¹⁹ Rule 64B16-27.700, F.A.C.

¹²⁰ U.S. Dept. of Health and Human Services, Office of Inspector General, *Memorandum Report: High-Risk Compounded Sterile Preparations and Outsourcing by Hospitals That Use Them, OEI-01-13-00150*, (April 10, 2013), available at <https://oig.hhs.gov/oei/reports/oei-01-13-00150.pdf> (last visited January 19, 2018).

¹²¹ National Conference of State Legislatures, *Legisbrief: Regulating Compounding Pharmacies*, (June 2015), available at <http://www.ncsl.org/research/health/regulating-compounding-pharmacies-lb-june-2015.aspx> (last visited January 19, 2018).

¹²² Rule 64B16-28.797, F.A.C. The Current Good Manufacturing Practice regulation is the main regulatory standard used by the Food and Drug Administration to ensure pharmaceutical quality by assuring proper design, monitoring, and control of manufacturing processes and facilities. See U.S. Food and Drug Administration, *Facts about the Current Good Manufacturing Practices (CGMPs)*, available at <https://www.fda.gov/Drugs/DevelopmentApprovalProcess/Manufacturing/ucm169105.htm> (last visited January 19, 2018). The U.S. Pharmacopoeia sets standards for the identity, strength, quality, and purity of medicines, food ingredients, and dietary supplements manufactured, distributed, and consumed worldwide. See U.S. Pharmacopoeial Convention, *About USP*, available at <http://www.usp.org/about-usp> (last visited January 19, 2018).

¹²³ Rule 64B16-28.100, F.A.C.

have to pay such fee. The SSCP is issued in addition to the pharmacy permit (.i.e. community pharmacy or institutional pharmacy).¹²⁴

Nonresident Sterile Compounding Permit

All out-of-state pharmacies or outsourcing facilities must obtain a nonresident sterile compounding permit prior to shipping, mailing, delivering, or dispensing a compound sterile product¹²⁵ into this state. Any compounded product sent into this state must meet or exceed Florida's standards for sterile compounding.¹²⁶ To obtain the permit, a registered nonresident pharmacy or outsourcing facility must submit an application and a \$255 fee to DOH. The application must include:¹²⁷

- Proof of registration with the U.S. Food and Drug Administration (FDA) as an outsourcing facility;¹²⁸
- Proof of registration as a nonresident pharmacy under s. 465.0156, F.S., or, if the applicant is not a pharmacy, proof of an active and unencumbered license, registration, or permit issued by the state, territory, or district where the applicant is located, which is required to compound sterile products in that jurisdiction;
- An attestation by an owner or officer and the prescription department manager or the pharmacist in charge that:
 - They have read and understand Florida law and rules governing sterile compounding;
 - Any sterile compounded product shipped or otherwise introduced into this state will meet or exceed Florida law and rules governing sterile compounding; and
 - Any sterile compounded product shipped or otherwise introduced has not been, and will not be, compounded in violation of laws and rules governing sterile compounding where the applicant is located.
- Copies of existing policies and procedures governing sterile compounding that meet certain standards; and
- A current inspection report resulting from an inspection conducted by the regulatory or licensing agency of the state, territory or district where the applicant is located.

The Board of Pharmacy has authority to administratively discipline a nonresident sterile compounding permittee for violation of laws or rules governing pharmacies and entities licensed under MQA.

In-state sterile compounding pharmacies and outsourcing facilities are not statutorily required to obtain a permit for compounding in a manner similar to out-of-state compounding pharmacies or outsourcing facilities.

Automated Pharmacy Systems

An automated dispensing system is a mechanical system that delivers prescription drugs received from a Florida-permitted pharmacy and maintains related transaction information.¹²⁹ A pharmacy may use an automated pharmacy system to provide services to a long-term care facility, hospice, or a state correctional institution, and such system does not have to be located at the same location as the pharmacy.¹³⁰ A Florida-licensed pharmacist must supervise the automated pharmacy system.¹³¹ Such

¹²⁴ Rule 64B16-28.802, F.A.C.

¹²⁵ Section 465.003(20), F.S., defines "compounded sterile product" as a drug that is intended for parenteral administration, an ophthalmic or oral inhalation drug in aqueous format, or a drug or product that is required to be sterile under federal or state law or rule, which is produced through compounding, but is not approved by the FDA.

¹²⁶ Section 465.0158, F.S.

¹²⁷ Section 465.0158 (3), F.S.

¹²⁸ To register with the FDA as an outsourcing facility, the facility must comply with Current Good Manufacturing Practices, be inspected by the FDA according to a risk-based schedule, and meet certain other conditions such as adverse event reporting and providing the FDA with certain information about the products they compound.

¹²⁹ Section 465.003(17), F.S.

¹³⁰ Section 465.0235(1), F.S.

¹³¹ Section 465.0235(3), F.S.

supervision does not have to be at the same site of the automated pharmacy system and may be provided electronically.¹³² The pharmacy operating the system must have policies and procedures in place to ensure sufficient security and protect patient confidentiality.¹³³

In a community pharmacy, the automated pharmacy system must be located within or adjacent to the prescription department and must collect, control and maintain all transaction information.¹³⁴ Such system may not compound or administer medicinal drugs.¹³⁵ All prescriptions dispensed from the system are considered to be certified by the pharmacist.¹³⁶ The pharmacy operating the automated pharmacy system must:¹³⁷

- Have policies and procedures that address, among other things, security, a process for stocking the system, a method for identifying pharmacy personnel involved in the dispensing process, and a method for ensuring patient confidentiality;
- Ensure that each prescription is being dispensed in compliance with law;
- Maintain a readily retrievable electronic record to identify pharmacy personnel involved in the dispensing of a prescription;
- Be able to comply with product recalls;
- Only be stocked or restocked by a Florida-licensed pharmacist; and
- Use two separate verifications, such as a bar code verification, electronic verification, weight verification, or similar process to ensure that the proper medication is being dispensed.

Although the Board of Pharmacy has adopted rules, current law does not explicitly authorize the use of an automated dispensing system at a location other than a long-term care facility, hospice, or a state correctional institution.

Dentistry

Examination for Licensure

Any person wishing to practice dentistry in this state must apply to DOH and meet specified requirements. Section 466.006, F.S., requires dentistry licensure applicants to sit for and pass the following licensure examinations:

- The National Board of Dental Examiners dental examination (NBDE);
- A written examination on Florida laws and rules regulating the practice of dentistry; and
- A practical examination, which is the American Dental Licensing Examination developed by the American Board of Dental Examiners, Inc., and graded by a Florida-licensed dentist employed by DOH for such purpose.¹³⁸

To qualify to take the Florida dental licensure examination, an applicant must be 18 years of age or older, be a graduate of a dental school accredited by the American Dental Association or be a student in the final year of a program at an accredited institution, and have successfully completed the NBDE dental examination.

Any person wishing to be licensed as a dental hygienist must apply to DOH and meet the following qualifications:

¹³² Id.

¹³³ Rule 64B16-28.607, F.S.

¹³⁴ Rule 64B16-28.141, F.S.

¹³⁵ Id.

¹³⁶ Id. A pharmacy must certify the accuracy of the final prescription. By doing so, the pharmacist assumes the responsibility for the prescription. (Rule 64B-27.1001, F.A.C.).

¹³⁷ Id.

¹³⁸ A passing score is valid for 365 days after the date the official examination results are published. A passing score on an examination obtained in another jurisdiction must be completed on or after October 1, 2011.

- Be 18 years of age or older;
- Be a graduate of an accredited dental hygiene college or school,¹³⁹ and
- Obtain a passing score on the:
 - Dental Hygiene National Board Examination;
 - Dental Hygiene Licensing Examination developed by the American Board of Dental Examiners, Inc., which is graded by a Florida-licensed dentist or dental hygienist employed by DOH for such purpose; and
 - A written examination on Florida laws and rules regulating the practice of dental hygiene.

According to DOH, limiting the grading to Florida-licensed dentists and dental hygienists has created a shortage of dentists and dental hygienists available to grade the examinations, which jeopardizes the administration of the licensing examinations.¹⁴⁰

Adverse Incident Reporting

Dentists and dental hygienists certified by DOH to administer anesthesia must report, in writing, any adverse incident that occurs to the Board of Dentistry within 48 hours by registered mail.¹⁴¹ An adverse incident in an office setting is defined as any mortality that occurs during or as the result of a dental procedure, or an incident that results in a temporary or permanent physical or mental injury that requires hospitalization or emergency room treatment of a patient as a direct result of the use of general anesthesia,¹⁴² deep sedation,¹⁴³ moderate sedation,¹⁴⁴ pediatric moderate sedation,¹⁴⁵ minimal sedation,¹⁴⁶ nitrous oxide,¹⁴⁷ or local anesthesia.¹⁴⁸ The dentist must file a complete written report with the Board of Dentistry within 30 days.¹⁴⁹ Since 2014, 23 adverse incident reports have been filed with DOH.¹⁵⁰ Of those, 17 were closed without discipline, 1 was issued a letter of guidance, 4 are currently being prosecuted, and 1 is still under investigation.¹⁵¹

Allopathic and osteopathic physicians are statutorily required to report adverse incidents in office practice settings.¹⁵² Although required by rule, there is no statutory requirement that dentists or dental hygienists report adverse incidents that occur in the office practice settings.

¹³⁹ If the school is not accredited, the applicant must have completed a minimum of 4 years of postsecondary dental education and received a dental school diploma which is comparable to a D.D.S. or D.M.

¹⁴⁰ *Supra* note 105 at pp. 9-10.

¹⁴¹ Rule 64B5-14.006, F.A.C.

¹⁴² General anesthesia is a controlled state of unconsciousness, produced by a pharmacologic agent, accompanied by a partial or complete loss of protective reflexes, including inability to independently maintain an airway and respond purposefully to physical stimulation or verbal command. (Rule 64B5-14.001(2), F.A.C.)

¹⁴³ Deep sedation is a controlled state of depressed consciousness accompanied by partial loss of protective reflexes, including either or both the inability to continually maintain an airway independently or to respond appropriately to physical stimulation or verbal command, produced by pharmacologic or non-pharmacologic method or combination thereof. (Rule 64B5-14.001(3), F.A.C.)

¹⁴⁴ Moderate sedation is a depressed level of consciousness produced by the administration of pharmacologic substances, that retains the patient's ability to independently and continuously maintain an airway and respond appropriately to physical stimulation and verbal command. (Rule 64B5-14.001(4), F.A.C.)

¹⁴⁵ Pediatric moderate sedation is a depressed level of consciousness produced by the administration of pharmacologic substances, that retains a child patient's ability to independently and continuously maintain an airway and respond appropriately to physical stimulation or verbal command. (Rule 64B5-14.001(5), F.A.C.)

¹⁴⁶ Minimal sedation involves the perioperative use of medication to relieve anxiety before or during a dental procedure and does not produce a depressed level of consciousness and maintains the patient's ability to maintain an airway independently and to respond appropriately to physical and verbal stimulation. (Rule 64B5-14.001(10), F.A.C.)

¹⁴⁷ The use of nitrous oxide produces an altered level of consciousness that retains the patient's ability to independently and continuously maintain an airway and respond appropriately to physical stimulation or verbal command. (Rule 64B5-14.001(6), F.A.C.)

¹⁴⁸ Local anesthesia involves the loss of sensation of pain in a specific area of the body. (Rule 64B5-14.001(7), F.A.C.)

¹⁴⁹ *Supra* note 141.

¹⁵⁰ *Supra* note 105

¹⁵¹ *Id.*

¹⁵² See ss. 458.351 and 459.026, F.S.

Dental Laboratories

A dental laboratory is a facility that supplies or manufactures artificial substitutes for natural teeth, or that furnishes, supplies, constructs, reproduces, or repairs a prosthetic denture, bridge, or appliance to be worn in the human mouth or that otherwise holds itself out as a dental laboratory.¹⁵³ Dental laboratories must biennially register with DOH, and the owner or at least one employee must complete 18 hours on continuing education each biennium.¹⁵⁴ A dental laboratory must:¹⁵⁵

- Maintain and make available to DOH a copy of the laboratory's registration;
- Be clean and in good repair;
- Properly dispose of all waste materials at the end of each day in accordance with local restrictions;
- Maintain the original or a copy of a prescription from a dentist for each appliance or artificial restorative oral device authorizing its construction or repair for 4 years;
- Maintain a written policy and procedure manual on sanitation; and
- Have a designated receiving area.

A dental laboratory may not have dental chairs, x-ray machines, or anesthetics, sedatives, or medicinal drugs.¹⁵⁶ A dental laboratory may not solicit or advertise to the general public.¹⁵⁷

DOH inspects dental laboratories at least once each year, and such inspections may occur with or without notice.¹⁵⁸

Dietetics and Nutrition

The Dietetics and Nutrition Practice Act governs the licensure and practice of dietitians and nutritionists.¹⁵⁹ The Council of Dietetics and Nutrition, under the delegated authority of the Board of Medicine, regulates the practice of dietitians and nutritionists.¹⁶⁰

The practice of dietetics and nutrition includes:

- Assessing nutritional needs and status using appropriate data;
- Recommending appropriate dietary regimens, nutrition support, and nutrient intake;
- Ordering therapeutic diets;
- Improving health status through nutrition, research, counseling, and education; and
- Developing, implementing, and managing nutrition care systems, including evaluating, monitoring, and maintaining appropriate standards of high quality food and nutrition services.¹⁶¹

Nutrition counseling includes advising and assessing individuals or groups on appropriate nutritional intake by integrating information from a nutrition assessment.¹⁶² A nutrition assessment is an evaluation of nutritional needs using appropriate data to determine nutrient needs or status and making appropriate nutrition recommendations.¹⁶³

¹⁵³ Section 466.031, F.S.

¹⁵⁴ Section 466.032, F.S. However, dental laboratories that are located in another state or country that provides services to a Florida-licensed dentist is not required to register with the state and may provide services to a dentist in this state.

¹⁵⁵ Rule 64B27-1.001, F.A.C.

¹⁵⁶ Id. Personal prescriptions are permissible.

¹⁵⁷ Section 466.035, F.S.

¹⁵⁸ Rule 64B27-1.001(1), F.S.

¹⁵⁹ Sections 468.501 – 468.518, F.S.

¹⁶⁰ Section 468.506, F.S.

¹⁶¹ Section 468.503(5), F.S.

¹⁶² Section 468.503(10), F.S.

¹⁶³ Section 468.503(9), F.S.

An individual must be licensed to practice dietetics and nutrition or provide nutrition counseling for remuneration or to hold oneself out as a practitioner of dietetics and nutrition practice or nutrition counseling.¹⁶⁴ To qualify for licensure, an applicant must:

- Possess a baccalaureate or post-baccalaureate degree in human nutrition, food and nutrition, dietetics, or food management, or an equivalent course of study, from an accredited school or program;
- Complete preprofessional experience of at least 900 hours or has education or experience determined to be equivalent by the Board of Medicine; and
- Pass a licensure examination.¹⁶⁵

However, there are a number of exceptions to this licensure requirement:¹⁶⁶

- A person who is licensed in this state as an acupuncturist, allopathic or osteopathic physician, physician assistant, chiropractic physician, podiatric physician, naturopath, optometrist, registered nurse, licensed practical nurse, advanced registered practice nurse, pharmacist, dentist, dental hygienist, massage therapist, psychologist, licensed clinical social worker, marriage and family therapist, or mental health counselor, as long as such person is engaging in the practice of the profession for which he or she is licensed.
- A dietitian employed by the federal government, if such person engages in dietetics solely under the direction or control of the organization by which the person is employed.
- A person employed as a cooperative extension home economist.
- A person pursuing a course of study leading to a degree in dietetics and nutrition from an accredited school, if the activities and services are a part of a supervised course of study and the person's title clearly indicates that he or she is a student or trainee.
- A person is fulfilling the required preprofessional experience required for licensure.
- A registered dietitian or licensed dietitian or nutritionist from another state practicing dietetics or nutrition incidental to a course of study when taking or giving a postgraduate course or other course of study in this state, if the person holds an appointment on the faculty of an accredited school.
- A person who markets or distributes food, food materials, or dietary supplements, or any person who engages in the explanation of the use and benefits of those products or the preparation of those products, if the person does not engage for a fee in dietetics and nutrition practice or nutrition counseling.
- A person who markets or distributes food, food materials, or dietary supplements, or any person who engages in the explanation of the use or preparation of such products, as an employee of a permitted pharmacy.
- An educator who is employed by a nonprofit organization approved by the council, a governmental entity, an elementary or secondary school, an accredited institution of higher education, if his or her activities are part of such employment.
- A person who provides weight control services or related weight control products, provided that the program has been reviewed by, consultation is available from, and no program change can be made without approval by a licensed dietitian/nutritionist.
- A person employed by a licensed hospital, nursing home, continuing care facility, or assisted living facility, if the person is employed in compliance with governing facility licensure laws and rules regarding the operation of its dietetic department.
- A person employed by a nursing facility exempt from licensure or a person exempt from licensure under ch. 464, F.S.
- A person employed as a dietetic technician.

¹⁶⁴ Section 468.504, F.S.

¹⁶⁵ Section 468.509, F.S. An individual may be licensed without examination if the individual demonstrates that he or she is a registered dietitian or nutritionist with the Commission on Dietetic Registration or is a certified as nutrition specialist by the Certification Board of Nutrition Specialist or is a diplomate of the American Clinical Board of Nutrition.

¹⁶⁶ Section 468.505, F.S.

- A person who disseminates information, conducts a class or seminar, or gives a speech related to nutrition, if such information, class, seminar or speech is provided without a fee.

Individuals who provide dietary or nutrition information for compensation as a part of a profession that is not regulated, such as a fitness trainer or a life coach are subject to prosecution for unlicensed practice of a regulated health profession.¹⁶⁷

Currently, 7 states do not register or license dietitians: Arizona, California, Colorado, Michigan, New Jersey, Texas, and Virginia.¹⁶⁸ California, Texas, and Virginia provide title protection for dietitians.¹⁶⁹ Title protection limits the use of certain titles, such as “dietitian” or “nutritionist” to individuals meeting certain criteria, such as holding a national certification or having met the requirements for licensure.¹⁷⁰

Athletic Trainers

Athletic trainers provide service and care to individuals related to the prevention, recognition, evaluation, management, disposition, treatment, or rehabilitation of a physically active person who sustained an injury, illness, or other condition involving exercise, sport, recreation, or related physical activity.¹⁷¹ To be licensed as an athletic trainer, an applicant must:¹⁷²

- Hold a bachelor’s degree or higher from an accredited athletic training degree program and pass the national examination to be certified by the Board of Certification;¹⁷³
- If graduated before 2004, hold a current certification from the Board of Certification;
- Hold a current certification in both cardiopulmonary resuscitation and the use of an automated external defibrillator at the professional rescue level; and
- Pass a background screening.

Prior to 2004, athletic trainers could obtain training through a Board of Certification internship program to qualify for licensure.¹⁷⁴ Current law does not allow applicants who completed such an internship prior to 2004 to qualify for licensure.

An athletic trainer must renew his or her license biennially. During each biennial renewal period, an athletic trainer must complete at least 24 hours of continuing education, hold a current certification in both cardiopulmonary resuscitation and the use of an automated external defibrillator, and a current certification from the Board of Certification.¹⁷⁵ Although licensees must show current certification from the Board of Certification, there is no statutory requirement that a licensee maintain such certification without lapse and in good standing.

An athletic trainer must practice under the direction of an allopathic, osteopathic, or chiropractic physician,¹⁷⁶ and may provide care such as:¹⁷⁷

- Injury prevention, recognition, and evaluation;

¹⁶⁷ An individual prosecuted for the unlicensed practice of a regulated health care profession may be subject to both administrative and criminal sanctions if found guilty.

¹⁶⁸ Commission on Dietetic Registration, Academy of Nutrition and Dietetics, *Laws that Regulate Dietitians/Nutritionists*, available at <https://www.cdnet.org/vault/2459/web/files/Licensurelawsregulations.pdf> (last visited January 24, 2018).

¹⁶⁹ *Id.*

¹⁷⁰ Academy of Nutrition and Dietetics, *Licensure and Professional Regulation of Dietitians*, available at <http://www.eatrightpro.org/resource/advocacy/legislation/all-legislation/licensure> (last visited February 19, 2018).

¹⁷¹ Section 468.701(2), F.S.

¹⁷² Section 468.707, F.S.

¹⁷³ The Board of Certification is a not-for-profit credentialing agency to provide a certification program for the entry level athletic training profession. See Board of Certification for the Athletic Trainer, *What is the BOC?*, available at <http://www.bocatc.org/about-us#what-is-the-boc> (last visited January 20, 2018).

¹⁷⁴ *Supra* note 105.

¹⁷⁵ Section 468.711, F.S.

¹⁷⁶ Section 468.713, F.S.

¹⁷⁷ Rule 64B33-4.001, F.A.C.

- First aid and emergency care;
- Injury management and treatment;
- Rehabilitation through the use of safe and appropriate physical rehabilitation practices;
- Conditioning;
- Performance of tests and measurements to prevent, evaluate, and monitor acute and chronic injuries;
- Therapeutic exercises;
- Massage;
- Cryotherapy and thermotherapy;
- Therapy using other agents such as water, electricity, light, or sound; and
- The application of topical prescription medications at the direction of a physician.

The physician must communicate his or her direction through oral or written prescriptions or protocols, and the athletic trainer must provide service or care in the manner dictated by the physician.¹⁷⁸ A licensed athletic trainer may not provide, offer to provide, or represent that he or she is qualified to provide any care or service that he or she lacks the education, training, or experience to provide, or that he or she is otherwise prohibited by law from providing.¹⁷⁹

Orthotists and Prosthetists

The Board of Orthotists and Prosthetists oversees the licensure and regulation of orthotists¹⁸⁰ and prosthetists.¹⁸¹ A person applying for licensure must first apply to DOH to take the appropriate licensure examination. The board may accept the exam results of a national orthotic or prosthetic, standards organization in lieu of administering the state exam.¹⁸² The board must verify that an applicant for licensure examination meets the following requirements:¹⁸³

- Has completed the application form and paid all applicable fees;
- Is of good moral character;
- Is 18 years of age or older;
- Has completed the appropriate educational preparation, including practical training requirements; and
- Has successfully completed an appropriate clinical internship in the professional area for which the license is sought.

In addition to the requirements listed above, an applicant must meet the following requirements for each license he or she is seeking:¹⁸⁴

- A Bachelor of Science degree in Orthotics and Prosthetics from a regionally accredited college or university from an accredited college or university recognized by the Commission on Accreditation of Allied Health Education Programs, or a bachelor's degree with a certificate in orthotics or prosthetics from a program recognized by the Commission on Accreditation of Allied Health Education Programs, or its equivalent;
- An internship of one year of qualified experience or a residency program recognized by the board;
- Completion of the mandatory classes;¹⁸⁵ and

¹⁷⁸ *Supra* note 176.

¹⁷⁹ Section 468.701(1), F.S.

¹⁸⁰ An orthotist is a health care professional who evaluates, formulates treatment, measures, designs, fabricates, assembles, fits, adjusts, services or provides necessary training to accomplish the fitting of an orthosis or pedorthics (s. 468.80(9)-(10), F.S.)

¹⁸¹ An orthotist is a health care professional who evaluates, formulates treatment, measures, designs, fabricates, assembles, fits, adjusts, services or provides necessary training to accomplish the fitting of a prosthesis (s. 468.80(15)-(16), F.S.)

¹⁸² Section 468.803(4), F.S. The Board has approved the American Board for Certification in Orthotics, Prosthetics, and Pedorthics (ABC) exam for orthotist and prosthetist applicants (r. 64B14-4.001, F.A.C.)

¹⁸³ Section 468.803(2), F.S.

¹⁸⁴ Section 468.803(5), F.S. Licenses must be renewed biennially.

- Passage of the state orthotic examination or board-approved orthotic examination if applying for an orthotist license, or the state prosthetic examination or board-approved examination if applying for a prosthetist license.

Currently, a person who qualifies to be licensed as both an orthotist and a prosthetist must obtain two separate licenses.

Massage Therapy

Massage Establishments

The “Massage Practice Act” (Act), governs the practice of massage in Florida.¹⁸⁶ A significant portion of the Act is dedicated to regulating massage establishments, which are sites or premises, or portion thereof, wherein a massage therapist practices massage.¹⁸⁷ Massage establishments must be licensed by DOH in accordance with rules adopted by Board of Massage Therapy.¹⁸⁸ A massage establishment must:¹⁸⁹

- Have all individuals with an ownership interest, or for a corporation with more than \$250,000 in assets, the owner, officer, or management pass a background screening;
- Provide proof of property damage and bodily injury liability insurance coverage;
- Comply with local building code requirements;
- Provide a bathroom with at least one toilet and one sink with running water for its clients to use;
- Maintain toilet facilities in the common area of the establishment;
- Have a massage therapist on the premises if a client is in a treatment room for the purpose of receiving massage therapy;
- Maintain certain safety and sanitary requirements; and
- Pass initial and periodic inspections by DOH.

DOH must deny an application for a license or renewal of a license if a person with an ownership interest or is an officer, manager, or owner of a corporation has been convicted or found guilty of, or entered a plea of nolo contendere to a crime related to prostitution or a felony offense related to certain other crimes, such as human trafficking or kidnapping.¹⁹⁰

The Board of Massage Therapy may revoke or suspend the license of a massage establishment, or deny the subsequent license of a massage establishment:¹⁹¹

- Upon proof that a license has been obtained by fraud or misrepresentation; or
- Upon proof that the licenseholder is guilty of proof, fraud, deceit, gross negligence, incompetency, or misconduct in the operation of the licensed establishment.

Although the current law allows the Board of Massage to deny the subsequent licensure of the same establishment, it does not authorize the denial of a subsequent license to the same owner under a new name, even if it is being opened in the same location with the same employees.

Massage Therapists

¹⁸⁵ Pursuant to r. 64B14-5.005, F.A.C., mandatory courses include two hours on Florida laws and rules, two hours on the prevention of medical errors, one hour on infection disease control, and a CPR certification course.

¹⁸⁶ Chapter 480, F.S.

¹⁸⁷ Section 480.033(7), F.S.

¹⁸⁸ Section 480.043, F.S. Registration requirements do not apply to an allopathic, osteopathic, or chiropractic physician who employs a licensed massage therapist to perform massage on the physician’s patients at the physician’s practice location.

¹⁸⁹ Id. and r. 64B7-26.003, F.A.C.

¹⁹⁰ Section 480.043(8), F.S.

¹⁹¹ Section 480.046(3), F.S.

To be licensed as a massage therapist, an applicant must:¹⁹²

- Be at least 18 years of age or have received a high school diploma or graduate equivalency diploma;
- Complete a course of study at a board-approved massage school or apprentice program;
- Pass an examination; and
- Pass a background screening.

In the 2016-2017 fiscal year, 2,076 individuals applied for licensure by examination, 15 of which qualified for licensure by completing an approved Florida apprenticeship program.¹⁹³ Massage therapy education has become more formalized and massage therapists are trained in licensed massage schools. Florida is one of three states that continue to allow massage therapists to obtain training through an apprenticeship program.¹⁹⁴

Colonic Irrigation Apprenticeship Programs

A massage therapist, a massage apprentice, or a student in a board-approved massage therapy school may study colonic irrigation¹⁹⁵ under the direct supervision of a sponsor.¹⁹⁶ The sponsor must be licensed to practice massage, authorized to practice colonic irrigation, and have practiced colonic irrigation for at least 3 years.¹⁹⁷ The apprenticeship must be completed within 12 months of commencement¹⁹⁸ and must consist of a minimum of 100 hours of training, including 45 hours of clinical practicum with a minimum of 20 treatments given.¹⁹⁹ There are few schools in Florida that offer a colonic irrigation program so apprenticeships are the primary method of training. According to DOH, there are currently 87 colonic irrigation apprentices.²⁰⁰

Psychologists

Licensure Requirements

The Board of Psychology oversees the licensure and regulation of psychologists.²⁰¹ To receive a license to practice psychology, an individual must:²⁰²

- Meet one of the following educational requirements:
 - Received a doctoral-level psychological education from an accredited school in the United States or Canada and a psychology program within that institution that is accredited from an agency recognized and approved by the U.S. Department of Education;²⁰³
 - Received the equivalent of a doctoral-level education from a program at a school or university located outside of the United States or Canada, which is officially recognized by the government of the country in which it is located as a program or institution to train students to practice professional psychology;

¹⁹² Section 480.041, F.S. DOH must deny an application if the applicant has been convicted or found guilty of, or entered a plea of nolo contendere to a crime related to prostitution or a felony offense related to certain other crimes.

¹⁹³ *Supra* note 105.

¹⁹⁴ *Id.* The other states are Utah and Hawaii.

¹⁹⁵ Colonic irrigation is a method of hydrotherapy used to cleanse the colon with the aid of a mechanical device and water (s. 480.033(6), F.S.).

¹⁹⁶ Rule 64B7-29.001, F.A.C.

¹⁹⁷ *Id.*

¹⁹⁸ Rule 64B7-29.007, F.A.C.

¹⁹⁹ Rule 64B7-25.001, F.A.C.

²⁰⁰ *Supra* note 105.

²⁰¹ Section 490.004, F.S.

²⁰² Section 490.005(1), F.S.

²⁰³ Section 490.003(3), F.S., defines doctoral-level education as a Psy.D, an Ed.D., or a Ph.D in psychology.

- Received and submitted, prior to July 1, 1999, certification of an augmented doctoral-level psychological education from a doctoral-level psychology program accredited by an agency recognized and approved by the U.S. Department of Education; or
- Received and submitted, prior to August 31, 2001, certification of a doctoral-level program that at the time the applicant was enrolled and graduated maintained a standard of education and training comparable to the standard of training of a doctoral-level psychology program accredited by an agency recognized and approved by the U.S. Department of Education;
- Complete 2 years or 4,000 hours of supervised experience;
- Pass the Examination for Professional Practice in Psychology,²⁰⁴ and
- Pass an examination on Florida laws and rules.

The American Psychological Association is recognized by the U.S. Department of Education and the Council for Higher Education Accreditation as the national accrediting authority for professional education and training in psychology.²⁰⁵

An applicant who holds an active, valid license in another state may also qualify for licensure in this state if at the time the license was issued, the requirements were substantially equivalent to or more stringent than those in Florida at that time.²⁰⁶ Such individuals must have 20 years of experience as a licensed psychologist in any jurisdiction of the U.S. within the 25 years preceding the date of application. DOH indicates that under this standard, a law-to-law comparison is difficult and applicants who may otherwise qualify for licensure may be denied.²⁰⁷

School Psychologists

To be licensed as a school psychologist, an applicant must:²⁰⁸

- Hold a doctorate, specialist, or equivalent degree from a program primarily psychological in nature and has completed 60 semester hours or 90 quarter hours of graduate study in an area related to school psychology from a college or university which at the time the applicant was enrolled and graduated was accredited by an accrediting agency recognized and approved by the Commission on Recognition of Postsecondary Accreditation or an institution recognized as a member in good standing with the Association of Universities and Colleges of Canada;
- Have a minimum of 3 years of experience in school psychology, 2 of which must be supervised by a licensed school psychologist or other qualified school psychologist supervisor; and
- Pass the PRAXIS II School Psychology examination.²⁰⁹

The Commission on Recognition of Postsecondary Accreditation was dissolved in 1997, and its successor organization is the Council on Higher Education Accreditation.²¹⁰

Clinical Social Work, Marriage and Family Therapy, and Mental Health Counseling

Intern Registration

²⁰⁴ Rule 64B19-11.001, F.A.C.

²⁰⁵ American Psychological Association, *Understanding APA Accreditation*, available at <http://www.apa.org/ed/accreditation/about/index.aspx> (last visited February 13, 2018).

²⁰⁶ Section 490.006, F.S.

²⁰⁷ *Supra* note 105.

²⁰⁸ Section 490.005(2), F.S.

²⁰⁹ Department of Health, *School Psychology Licensing*, available at <http://www.floridahealth.gov/licensing-and-regulation/school-psychology/licensing/index.html> (last visited February 13, 2018).

²¹⁰ U.S. Department of Education, *Accreditation in the U.S.*, available at <https://www2.ed.gov/admins/finaid/accred/accredus.html> (last visited February 13, 2018).

To be licensed as a clinical social worker, marriage and family therapist, or mental health counselor, an applicant must meet educational requirements, complete at least 2 years of postgraduate or postmaster's clinical practice supervised by a licensed practitioner, and pass a theory and practice examination.²¹¹ During the time in which an applicant is completing the required supervised clinical experience or internship, he or she must register with the DOH as an intern.²¹² The supervised clinical experience may be met by providing at least 1,500 hours of face-to-face psychotherapy with clients, which may not be accrued in less than 100 weeks.²¹³

An applicant seeking registration as an intern must:²¹⁴

- Submit a completed application form and the nonrefundable fee to the DOH;
- Complete education requirements;
- Submit an acceptable supervision plan for meeting the practicum, internship, or field work required for licensure that was not satisfied by graduate studies; and
- Identify a qualified supervisor.

An intern registration expires 60 months after the date of issue and may only be renewed if the candidate has passed the theory and practice examination required for full licensure.²¹⁵ DOH has no authority to extend an intern registration beyond the 60 months if there are extenuating circumstances.

Marriage and Family Therapists

Marriage and family therapy incorporates marriage and family therapy, psychotherapy, hypnotherapy, sex therapy, counseling, behavior modification, consultation, client-centered advocacy, crisis intervention, and the provision of needed information and education to clients.²¹⁶ An applicant seeking licensure as a mental health counselor must:²¹⁷

- Possess a master's degree from an accredited program;
- Complete 36 semester hours of graduate coursework that includes a minimum of 3 semester hours of graduate-level coursework in:
 - The dynamics of marriage and family systems;
 - Marriage therapy and counseling theory;
 - Family therapy and counseling theory and techniques;
 - Individual human development theories throughout the life cycle;
 - Personality or general counseling theory and techniques;
 - Psychosocial theory; and
 - Substance abuse theory and counseling techniques.
- Complete at least one graduate level course of 3 semester hours in legal, ethical, and professional standards;
- Complete at least one graduate level course of 3 semester hours in diagnosis, appraisal, assessment, and testing for individual or interpersonal disorder or dysfunction;
- Complete at least one graduate level course of 3 semester hours in behavioral research;
- Complete at least one supervised clinical practicum, internship, or field experience in a marriage and family counseling setting, during which the student provided 180 direct client contact hours of marriage and family therapy services;

²¹¹ Section 491.005, F.S. A procedure for licensure by endorsement is provided in s. 491.006, F.S.

²¹² Section 491.0045, F.S.

²¹³ Rule 64B4-2.001, F.A.C.

²¹⁴ Section 491.0045(2), F.S.

²¹⁵ Section 491.0045(6), F.S.

²¹⁶ Id.

²¹⁷ Section 491.005(3), F.S. An individual may qualify for a dual license in marriage and family therapy if he or she passes an examination in marriage and family therapy and has held an active license for at least three years as a psychologist, clinical social worker, mental health counselor, or advanced registered nurse practitioner who is determined by the Board of Nursing to be a specialist in psychiatric mental health (s. 491.0057, F.S.)

- Complete two years of post-master's supervised experience under the supervision of a licensed marriage and family therapist with five years of experience or the equivalent who is qualified as a supervisor by board;
- Pass a board-approved examination; and
- Demonstrate knowledge of laws and rules governing the practice.

DOH must verify that an applicant's education matches the specified courses and hours as outlined in statute. However, there are organizations that accredit marriage and family therapy education programs, including the Commission on Accreditation for Marriage and Family Therapy Education and the Council for the Accreditation of Counseling and Related Educational Programs that establish the minimum educational standards to meet the requirements to practice the profession.²¹⁸

Mental Health Counselors

A mental health counselor is an individual who uses scientific and applied behavioral science theories, methods, and techniques to describe, prevent, and treat undesired behavior and enhance mental health and human development and is based on research and theory in personality, family, group, and organizational dynamics and development, career planning, cultural diversity, human growth and development, human sexuality, normal and abnormal behavior, psychopathology, psychotherapy, and rehabilitation.²¹⁹ To qualify for licensure as a mental health counselor, an individual must:²²⁰

- Have a master's degree from a mental health counseling program accredited by the Council of the Accreditation of Counseling and Related Educational Programs, or a program related to the practice of mental health counseling that includes coursework and a 1,000-hour practicum, internship, or fieldwork of at least 60 semester hours that meet certain requirements;
- Have at least two years of post-master's supervised clinical experience in mental health counseling;
- Pass an examination from the Professional Examination Service for the National Academy of Certified Clinical Mental Health Counselors; and
- Pass an eight-hour course on Florida laws and rules approved by the Board of Clinical Social Work, Marriage and Family Therapy, and Mental Health Counseling.²²¹

Currently, an applicant for a mental health counselor license must, by rule, pass the National Clinical Mental Health Counseling Examination. Current law refers to an outdated mental health counseling examination.

Florida Consortium of National Cancer Institute Centers Program

The National Cancer Institute (NCI) designated center performs research related to cancer and delivers cutting-edge cancer treatments to patients.²²² NCI-designated cancer centers are recognized for their scientific leadership, resources, and the depth and breadth of their research.²²³

In 2014, the Legislature established the Florida Consortium of National Cancer Institute (NCI) Centers Program to enhance the quality and competitiveness of cancer care in Florida, further a statewide biomedical research strategy directly responsive to the health needs of Florida's citizens, and capitalize

²¹⁸ See Commission on Accreditation for Marriage and Family Therapy Education, *About Accreditation*, available at <http://www.coamfte.org/iMIS15/COAMFTE/Accreditation/Value%20of%20Accreditation.aspx> (last visited February 13, 2018), and Council for the Accreditation of Counseling and Related Educational Programs, *Why Should I Choose an Accredited Program?*, available at <http://www.cacrep.org/value-of-accreditation/why-should-i-choose-an-accredited-program/> (last visited February 13, 2018).

²¹⁹ Sections 491.003(6) and (9), F.S.

²²⁰ Section 491.005(4), F.S.

²²¹ Section 491.005(4), F.S., and r. 64B4-3.0035, F.A.C.

²²² National Cancer Institute, *NCI-Designated Cancer Centers*, available at <https://www.cancer.gov/research/nci-role/cancer-centers> (last visited February 22, 2018).

²²³ *Id.*

on the potential educational opportunities available to students.²²⁴ DOH is directed to make quarterly distributions to Florida-based cancer centers that are NCI-designated cancer centers or comprehensive cancer centers, as well as cancer centers working toward achieving designation.²²⁵

The law directs DOH to calculate an allocation in combination with tier-allocated weights for distributing funds to participating cancer centers.²²⁶ The tier-allocated weights are based on the NCI status of the center, as follows:²²⁷

- Tier 1: NCI-designated comprehensive cancer center;
- Tier 2: NCI-designated cancer center; and
- Tier 3: Cancer center seeking designation as either an NCI-designated cancer center or NCI-designated comprehensive cancer center.

There are currently 3 participating cancer centers: H. Lee Moffitt Cancer Center, University of Florida Shands Cancer Hospital, and University of Miami Sylvester Comprehensive Cancer Center.²²⁸ The H. Lee Moffitt Cancer Center is the only NCI-designated comprehensive cancer center in Florida and there are no NCI-designated cancer centers in the state.²²⁹ The cancer centers at University of Florida and University of Miami are currently seeking NCI designation.²³⁰

To be eligible to continue receiving funding under the program, a cancer center seeking NCI-designation must:²³¹

- Conduct cancer-related basic scientific research and cancer-related population scientific research;
- Offer and provide the full range of diagnostic and treatment services on site, as determined by the Commission on Cancer of the American College of Surgeons;
- Host or conduct cancer-related interventional clinical trials that are registered with the NCI's Clinical Trials Reporting Program;
- Offer degree-granting programs or affiliating with universities through degree-granting programs accredited or approved by a nationally recognized agency and offered through the center or through the center in conjunction with another institution accredited by the Commission on Colleges of the Southern Association of Colleges and Schools;
- Provide training to clinical trainees, medical trainees accredited by the Accreditation Council for Graduate Medical Education or the American Osteopathic Association, and postdoctoral fellows recently awarded a doctorate degree; and
- Have more than \$5 million in annual direct costs associated with their total NCI peer-reviewed grant funding.

A cancer center may only participate in Tier 3 for 5 years.²³²

Immunization Registry

Current law requires the Department of Health (DOH) to implement a program to prevent and control vaccine-preventable diseases, including the immunization of all children in this state and to develop an

²²⁴ Chapter 2014-165, Laws of Fla., codified at s. 381.915, F.S.

²²⁵ *Id.*, Such distributions are subject to an appropriation by the Legislature.

²²⁶ Department of Health, Florida Consortium of National Cancer Institute Centers Program, *Report to the Cancer Control and Research Advisory Council*, (July 1, 2017), available at <http://www.floridahealth.gov/provider-and-partner-resources/research/NCI%20Report%202017.pdf> (last visited February 22, 2018).

²²⁷ Section 381.915(4), F.S.

²²⁸ *Supra* note 226.

²²⁹ National Cancer Institute, *Find a Cancer Center*, available at <https://www.cancer.gov/research/nci-role/cancer-centers/find#Florida> (last visited February 22, 2018).

²³⁰ *Supra* note 226.

²³¹ Section 381.915(4)(c), F.S.

²³² *Id.*

automated, electronic, and centralized registry of immunizations.²³³ For school admission or attendance, a child must obtain the following vaccinations.²³⁴

- Hepatitis B;
- Diphtheria, tetanus, and pertussis;
- Varicella (Chickenpox);
- Measles, mumps, rubella (MMR);
- Haemophilus influenza type b (Hib); and
- Polio.

Meningococcal meningitis and hepatitis B vaccines are required for individuals residing in on-campus housing of a postsecondary educational institution and are recommended for every student.²³⁵

Florida SHOTS

The Florida State Health Online Tracking System (SHOTS) is the statewide, online immunization registry employed by DOH to track immunization records.²³⁶ All children born in this state are included in SHOTS and other children are added to SHOTS as immunizations are provided.²³⁷ Only authorized health care practitioners, schools, childcare providers, and parents may access the system.²³⁸ A health care practitioner voluntarily enrolls to access SHOTS, and once enrolled, may upload his or her patients' immunization history into the system.²³⁹ A health care practitioner who provides an immunization that is required for school admission or attendance documents such immunization on a Florida Certification of Immunization Form (immunization form) or submits such information to SHOTS for electronic certification.²⁴⁰ The record in SHOTS includes:²⁴¹

- The child's name, date of birth, address, and other unique identifiers necessary;
- The immunization record, including the date, type of vaccine administered, and vaccine lot number; and
- The presence or absence of any adverse reaction or contraindication related to the immunization.

More than 15,000 practitioners are reporting data to SHOTS.²⁴² Any child entering a preschool, school (K-12), licensed childcare facility, or family daycare home must present an immunization form.²⁴³ An enrolled school or childcare facility may access the system to obtain certification of a child's

²³³ Section 381.003(1)(e), F.S.

²³⁴ Department of Health, *Immunization Guidelines: Florida Schools, Childcare Facilities, and Family Daycare Homes*, (March 2013), incorporated by reference in r. 64D-3.046, F.A.C., available at <http://www.floridahealth.gov/programs-and-services/immunization/children-and-adolescents/documents/school-guide.pdf> (last visited January 7, 2018). The schedule and the number of doses required varies by age.

²³⁵ Section 1006.69, F.S. A student or the parent of a minor who is required to have such vaccines, may refuse by signing a waiver for each vaccine.

²³⁶ Department of Health, *Frequency Asked Questions*, available at <http://www.floridahealth.gov/programs-and-services/immunization/immunization-faq.html> (last visited January 7, 2018).

²³⁷ Id.

²³⁸ Id.

²³⁹ Id.

²⁴⁰ Rule 64D-3.046, F.A.C.

²⁴¹ *Supra* note 233.

²⁴² Department of Health, *2018 Agency Legislative Bill Analysis for House Bill 1045*, dated December 20, 2017, (on file with the Health Quality Subcommittee).

²⁴³ *Supra* note 234. A parent who has a religious objection to the administration of vaccines may apply to DOH for an exemption. A child may also be exempted from immunizations based on medical reasons.

immunizations. A parent or guardian may access SHOTS to track their children's immunizations.²⁴⁴ Authorized users may access and use SHOTS at no charge.²⁴⁵

Section 381.003(1)(e)2., F.S., authorizes a parent or guardian to elect to exclude his or her child's immunization record from SHOTS by submitting a DOH-approved opt-out form. However, in practice, by rule, DOH does not allow a parent to exclude a child's data from SHOTS.²⁴⁶ Instead DOH prevents a child's immunization record from being automatically shared with preschools, schools, childcare facilities, and family daycare homes.²⁴⁷ Therefore, the opt-out only prevents the child's immunization record from being accessed electronically by persons or entities other than the child's physician; however, the child's record is still maintained in SHOTS. The opt-out does not exempt a child from obtaining required immunizations.²⁴⁸

DOH must maintain the confidentiality of the information stored in SHOTS, and any health care practitioner or other agency that obtains such information must maintain the confidentiality.²⁴⁹

DOH Rulemaking Authority for Immunizations

Current law authorizes DOH to adopt, repeal, and amend rules related to the prevention and control of communicable disease and the immunization registry (SHOTS).²⁵⁰ Specifically, DOH may adopt rules that address:

- Procedures for investigating diseases;
- Timeframes for reporting diseases;
- Definitions;
- Procedures for managing specific diseases;
- Requirements for follow-up reports of known or suspected exposure to disease;
- Procedures for providing access to confidential information necessary for disease investigations;
- Procedures for a health care practitioner to obtain authorization to use SHOTS;
- Methods for a parent or guardian to elect not to participate in SHOTS; and
- Procedures for a health care practitioner to access and share electronic immunization records with other entities allowed by law to have access to records.

School District Policies for Immunization Records

Each school district and the governing board of each private school must maintain and enforce a policy that requires each child who is admitted or attends a public or private school, respectively, present or have on file a certification of immunizations for those immunizations required by DOH.²⁵¹ The certification must be made on the DOH-approved immunization form and becomes a part of the child's permanent record.²⁵²

²⁴⁴ *Supra* note 236. A parent must obtain the identification and certification PIN numbers of their child's immunization record from the child's health care practitioner to access the information.

²⁴⁵ Florida SHOTS, *Frequently Asked Questions*, available at <http://flshotsusers.com/resources/frequently-asked-questions> (last visited January 14, 2018).

²⁴⁶ Rule 64D-3.046(6), F.A.C. See also Department of Health, *Florida SHOTS Notification and Opt Out Form*, Form DH-1478, (Sept. 3, 2014), available at <https://flshotsusers.com/sites/default/files/docs/DH%201478ENGLISH0914.pdf> (last visited January 30, 2018).

²⁴⁷ *Id.*

²⁴⁸ *Id.* See also Department of Health, *Florida SHOTS Notification and Opt Out Form*, Form DH-1478 (Sept. 3, 2014), available at <http://flshotsusers.com/sites/default/files/docs/DH%201478ENGLISH0914.pdf> (last visited January 7, 2018).

²⁴⁹ *Id.*

²⁵⁰ Section 381.003, F.S.

²⁵¹ Section 1003.22(4), F.S.

²⁵² *Id.*

Disabled Parking Permits

The Department of Highway Safety and Motor Vehicles and its agents may issue disabled parking permits to individuals with impaired mobility.²⁵³ An individual is eligible for a permit if he or she is:²⁵⁴

- Legally blind; or
- Cannot walk more than two feet without stopping to rest and has one of the following disabilities:
 - Inability to walk without the use of or assistance from a brace, cane, crutch, prosthetic device, or other assistive device, or without the assistance of another person;
 - Permanent need to use a wheelchair;
 - Restriction by lung disease to the extent that the person's forced (respiratory) expiratory volume for 1 second, when measured by spirometry, is less than 1 liter, or the person's arterial oxygen is less than 60 mm/hg on room air at rest;
 - Use of portable oxygen;
 - Restriction by cardiac condition to the extent that the person's functional limitations are classified in severity as Class III or Class IV according to standards set by the American Heart Association; or
 - Severe limitation in the person's ability to walk due to an arthritic, neurological, or orthopedic condition.

The individual must submit a certificate of disability signed by an allopathic physician, osteopathic physician, chiropractic physician, podiatric physician, optometrist, physician assistant, or advanced registered nurse practitioner that verifies that the disabled parking permit is medically necessary due to the individual's mobility limitations.²⁵⁵ A physical therapist is not authorized to provide such certification.

Effect of Proposed Changes

CS/CS/HB 1047 makes numerous changes to programs under DOH and professions regulated under the Division of Medical Quality Assurance within DOH.

General Licensure Requirements

The bill requires the application for licensure to include the applicant's date of birth, in addition to the currently required social security number. This will provide DOH an additional method to verify the identity of an individual applicant.

Conrad 30 Program

The bill authorizes DOH to adopt rules to implement the Conrad 30 Waiver program in this state. This allows DOH to set guidelines in addition to those required by federal law.

Physician Board Certification

Maintenance of Certification

The bill prohibits the allopathic board, osteopathic board, DOH, health care facilities licensed under chapter 395, F.S.,²⁵⁶ and insurers as defined in s. 624.03, F.S.,²⁵⁷ from requiring maintenance of certification or recertification as a condition of licensure, reimbursement, or admitting privileges for a

²⁵³ Section 320.0848, F.S.

²⁵⁴ Id.

²⁵⁵ Id.

²⁵⁶ These facilities are a hospitals, ambulatory surgical centers, and mobile surgical facilities.

²⁵⁷ "Insurer" includes every person engaged as indemnitor, surety, or contractor in the business of entering into contracts of insurance or of annuity. This includes insurance contracts under ch. 627, F.S., prepaid limited health service organizations and discount medical plans under ch. 636, F.S., health maintenance organizations under ch. 641, F.S., and state group health insurance under ch. 110, F.S.

physician who practices medicine and has achieved initial board certification in a subspecialty. The bill does not address specialty board certifications; only subspecialty certifications.

For allopathic physicians, the bill defines maintenance of certification as a periodic testing regimen, proprietary self-assessment requirement, peer evaluation, or other requirement imposed by the maintenance of certification program of the ABMS and its member boards, or by a recognizing agency approved by the allopathic board, for any board-certified specialty or subspecialty. Recertification is a subsequent recognition or certification of educational or scholarly achievement beyond initial board certification imposed by the maintenance of certification program of the ABMS and its member boards, or by a recognizing agency approved by the allopathic board, for any board-certified specialty or subspecialty.

For osteopathic physicians, the bill defines osteopathic continuing certification as a periodic testing regimen, proprietary self-assessment requirement, peer evaluation, or other requirement imposed by the osteopathic continuing certification program of the AOA and its specialty boards, or by any recognizing agency approved by the osteopathic board pursuant to rule for any board-certified specialty or subspecialty. Recertification is a subsequent recognition or certification of educational or scholarly achievement beyond initial board certification imposed by the AOA and its specialty boards, or by any recognizing agency approved by the osteopathic board, for any board-certified specialty or subspecialty.

The bill authorizes a physician, regardless of certification or recertification status, to participate in any health care facility or licensure. However, a health care facility may differentiate between physicians, with respect to certification or recertification, if:

- The health care facility's designation under the law or national certification or accreditation is contingent on the facility requiring the MOC of a physician for a specific medical specialty seeking staff privileges or credentialing at the facility ; or
- The physician members of the voting members of the health facility's medical staff authorize the facility to differentiate for a specified medical specialty, and such decision is not made by the facility's governing body, administration, or any other person.

The bill authorizes the allopathic and osteopathic boards, in consultation with the Agency for Health Care Administration, to review and overrule a health care facility's decision to require maintenance of certification.

Because DOH does not license a physician's specialty or subspecialty based upon board certification, the bill has no impact on licensure if a physician's board certification for a specialty or subspecialty lapses. The bill specifies that its provisions does not impact the boards' authority to require continuing medical education.

Dermatology

Currently, dermatology is the only specialty that statutorily requires the allopathic board to review and authorize the recognizing agency. The bill repeals the prohibition against a physician holding himself or herself out as a board-certified dermatologist unless the recognizing agency is triennially reviewed and reauthorized by the Board of Medicine.

Osteopathic Physician Licensure

To qualify for licensure as an osteopathic physician, an applicant must currently complete a resident internship approved by the Board of Trustees of the American Osteopathic Association or an internship program approved by the osteopathic board. The bill requires that such internship or residency be

approved by the American Osteopathic Association or the Accreditation Council for Graduate Medical Education,²⁵⁸ and repeals the authority of the osteopathic board to approve an internship program.

Physician Assistants

Under current law, a PA must notify DOH of his or her employment and the name of the supervising physician, within 30 days of commencing such employment or at any time his or her supervising physician changes. The bill requires a PA to also notify DOH of the supervising designated supervising physician and any change in a designated supervising physician within 30 days.²⁵⁹ If a PA has a designated supervising physician, he or she may still practice under the supervision of another physician.

Under the bill's provisions, the designated supervising physician must maintain a list of all approved supervising physicians at the practice or facility, which includes each supervising physician's name and area of practice. This list must be kept current and must be available upon written request by DOH.

Chiropractic Medicine

Continuing Education for Chiropractic Physicians

The bill defines "contact classroom hour" as a presentation in which the persons presenting and the persons attending are present on site. The bill authorizes chiropractic physicians to fulfill 10 hours of 40 hours of required continuing education by completing online courses. Such online course must use the Shareable Content Objective Reference Model standard or more stringent standards.

Registered Chiropractic Assistants

Currently, registered chiropractic assistants may voluntarily register with DOH. The bill repeals this voluntary registration, thereby eliminating registered chiropractic assistants.

Dentistry

Military Spouses

The bill expands the expedited licensure application process to include the spouse of an active duty military member who holds an active license to practice dentistry in another state or jurisdiction and waives the application, licensure, and unlicensed activity fees. The bill also repeals a provision that authorizes the spouse of a member of the U.S. Armed Forces serving on active duty in this state to obtain a temporary license to practice dentistry under the supervision of a Florida-licensed dentist.

These provisions allow dentistry to be treated in the same manner as all other health professions for which a military spouse may pursue licensure in this state.

Dental Licensure

Current law requires that a dental licensure applicant who does not attend an accredited dental school must submit proof that he or she completed at least 2 academic years at a full-time supplemental general dentistry program approved by the American Dental Association.²⁶⁰ The bill clarifies that a

²⁵⁸ The Accreditation Council for Graduate Medical Education is an independent, not-for-profit, physician-led organization that sets and monitors the professional educational standards essential in preparing physicians to deliver medical care. See Accreditation Council for Graduate Medical Education, *About Us*, available at <http://www.acgme.org/About-Us/Overview> (last visited February 22, 2018).

²⁵⁹ The bill defines "designated supervising physician" as a physician designated by the facility or practice to be the primary contact and supervising physician for the PAs in the practice where PAs are supervised by multiple supervising physicians.

²⁶⁰ Section 466.006(3)(b), F.S.

supplemental dentistry program does not include an advanced dental education program in a dental specialty.

The bill repeals a requirement that a Florida-licensed dentist grade the American Dental Licensing Examination, and that either a Florida-licensed dentist or dental hygienist grade Dental Hygienist Examination produced by the American Board of Dental Examiners, Inc., for applicants for licensure in this state.

Dental Adverse Incidents

Dentists and dental hygienists are currently required to submit adverse incidents related to the administration of anesthesia under rules adopted by the Board of Dentistry. The bill statutorily requires a dentist to report an adverse incident that occurs in his or her office to DOH in writing by certified mail and postmarked within 48 hours after the incident occurs. The bill defines an adverse incident as any death that occurs during or as a result of a dental procedure, or a temporary or permanent physical or mental injury that requires hospitalization or emergency room treatment as a result of the use of general anesthesia, deep sedation, conscious sedation, pediatric conscious sedation, oral sedation, minimal sedation, nitrous oxide, or local anesthesia.

The bill also requires a dentist to report any death or other adverse incident that occurs in the dentist's outpatient facility to the Board of Dentistry in writing by certified mail within 48 hours of such occurrence. Within 30 days, the dentist must file a complete report with the Board of Dentistry.

The bill requires a certified dental hygienist who holds a certificate to administer local anesthesia to notify the Board of Dentistry in writing by registered mail within 48 hours of an adverse incident that was related to or the result of the administration of local anesthesia. The dental hygienist must file a complete report with the Board of Dentistry within 30 days.

DOH must review each adverse incident report to determine whether the incident involved conduct by a health care practitioner that warrants disciplinary action by the applicable regulatory board. A dentist or dental hygienist who fails to timely and completely report adverse incidents as required is subject to disciplinary action by the Board of Dentistry.

Dental Laboratories

The bill adds a person, firm, or corporation who provides onsite consultations relating to dental appliances during dental procedures to the definition of "dental laboratories." The bill also requires DOH to biennially inspect dental laboratories, rather than annually as currently required by rule.

Nursing

The bill authorizes the Board of Nursing to adopt rules related to the standards of care for CNAs. The bill authorizes CNA applicants who are licensed in other territories of the United States or the District of Columbia to qualify for licensure by endorsement. The bill authorizes the Board of Nursing to discipline CNAs for any violation of a law or rule regulating CNA practice, repealing the requirement that such violation be intentional.

Pharmacy

In-State Sterile Compounding

Current law does not expressly provide for an in-state sterile compounding permit as it does for out-of-state pharmacies and outsourcing facilities that perform sterile compounding. However, s. 465.0196, F.S. grants the Board of Pharmacy rule-making authority to create and issue special pharmacy permits. Under that authority, the Board of Pharmacy has adopted rules for the issuance of a special sterile

compounding permit to regulate in-state pharmacies and outsourcing facilities that perform sterile compounding. The bill expressly gives DOH authority to issue an in-state sterile compounding permit.

The bill requires a pharmacy or outsourcing facility located in this state that dispenses, creates, delivers, ships, or mails a compound sterile product to obtain a sterile compounding permit. If, upon receipt of an application, the Board of Pharmacy verifies that the application complies with the laws and rules governing pharmacies, DOH must issue the permit. Within 90 days before issuing the permit, DOH must conduct an onsite inspection. General requirements and disciplinary guidelines for pharmacies will apply to in-state sterile compounding permittees.

A licensed pharmacist must supervise the compounding and dispensing of all drugs. A permittee must notify DOH within 10 days of a change in the supervising physician. A permittee must have a written policy and procedural manual specifying the duties, tasks, and functions a registered pharmacy technician is allowed to perform, if it uses registered pharmacy technicians.

The bill authorizes the Board of Pharmacy to adopt rules for the standards of practice for sterile compounding. In adopting such rules, the Board of Pharmacy must consider the U.S. Pharmacopeia; and for outsourcing facilities, the Board of Pharmacy must consider the Current Good Manufacturing Practice regulations by the FDA. Other authoritative professional standards may also be considered.

On-Site Inspections

Currently, DOH performs onsite inspections prior to issuing any new pharmacy permit or a permit for a change of location pursuant to rules adopted by the Board of Pharmacy. The bill expressly requires DOH to perform such inspections within 90 days before the issuance of a permit.

Automated Pharmacy Systems

The bill authorizes a community pharmacy to use an automated pharmacy system for outpatient dispensing. The system must meet all current statutory requirements that facility-based automated pharmacy systems must meet. A community pharmacy may deploy such system on an outpatient bases if it:

- Is under the supervision and control of Florida-permitted community pharmacy;
- Is under the supervision of a Florida-licensed pharmacist who is available and accessible for patient counseling prior to the dispensing of any medicinal drug;
- Does not store or dispense any controlled substances; and
- It ensures the confidentiality of personal health information.

The bill requires the community pharmacy to notify the Board of Pharmacy of the location of the system and any time the location of such system changes. The pharmacy must maintain a record of the medicinal drugs dispensed by the automated pharmacy system, including the identity of the pharmacist responsible for verifying the accuracy of the dosage and directions of the medicinal drug and providing patient counseling.

Dietetics and Nutrition

The bill authorizes an individual to provide compensated dietary and nutritional information as long as the individual does not represent or imply that he or she is a dietitian, licensed dietitian, registered dietitian, licensed nutritionist, licensed nutrition counselor, or use any other term or symbol that implies the he or she is a dietitian, nutritionist, or nutrition counselor. If the individual knows or has reason to believe that a person has a medical diagnosis for which he or she is seeking such dietary or nutritional information, then the individual may not provide any nutritional information, recommendations, or advice. This allows individuals, such as fitness trainers, health coaches, and chefs, to provide nutritional advice for compensation to individuals.

Athletic Trainers

The bill requires athletic trainers to work within her or his scope of practice as defined by Board of Athletic Training in rule. The bill adds another route to licensure by authorizing individuals who hold a bachelor's degree, completed a Board of Certification internship, and hold a certification from the Board of Certification to be eligible for licensure.

The bill establishes that a licensed athletic trainer must maintain his or her certification from the Board of Certification in good standing to be eligible for licensure renewal. The bill requires the Board of Athletic Training to establish rules for the supervision of an athletic training student.

Orthotics and Prosthetics

The bill authorizes the Board of Orthotists and Prosthetists to issue a single license for prosthetics and orthotics practice. Currently, an individual must hold two separate licenses: one as a prosthetist and one as an orthotist. To qualify for the single license, an individual must hold a Bachelor of Science degree or higher in orthotics and prosthetics from an accredited college or university. The bill also authorizes the completion of a dual residency program to qualify for licensure.

Massage Therapy

The bill limits apprenticeships to only those in colonic irrigations. A licensed massage therapist must supervise a colonic irrigation apprentice. The bill eliminates a massage therapy apprenticeship as a path to licensure. However, if an individual has been issued a license as a massage therapy apprentice before July 1, 2018, he or she may continue to perform massage therapy until the license expires. A massage therapist apprentice may apply for full licensure upon completion of the apprenticeship and before July 1, 2021.

The bill authorizes the Board of Massage Therapy to designate a national examination for licensure and repeals provisions requiring DOH to develop a licensure examination.

The bill authorizes the Board of Massage Therapy to revoke, suspend, or deny the licensure of a massage establishment that is owned by an individual who previously had a prior establishment license revoked if:

- The license was obtained by fraud or misrepresentation;
- The licensee is proven to be guilty of fraud, deceit, gross negligence, incompetence, or misconduct in the operation of the licensed establishment; or
- The owner of the massage therapy establishment or any person providing massage therapy services at the establishment has had 3 convictions of, or pleas of guilty or nolo contendere to, or dismissals of a criminal action after a successful completion of a pretrial intervention, diversion, or substance abuse program for any misdemeanor or felony, regardless of adjudication, or a crime related to prostitution and related acts that occur at or within the establishment.

DOH may not issue a license to an establishment disciplined under this provision unless there is change of ownership.

Psychologists

The bill requires psychology programs within educational institutions to be accredited by the American Psychological Association (APA), which is recognized as the national accrediting authority for professional education and training in psychology by the U.S. Department of Education and the Council

for Higher Education Accreditation.²⁶¹ The bill replaces references to the Commission on Recognition of Postsecondary Accreditation to its successor organization, the Council for Higher Education Accreditation.²⁶² For applicants for licensure who obtained their education in Canada, the bill authorizes those applicants to demonstrate that they have completed a program comparable to APA-accredited programs.

The bill eliminates a provision that allowed an applicant for licensure by endorsement to hold a license from another state that has licensure standards that are equivalent or more stringent than Florida to qualify for licensure. However, an individual may apply for licensure by endorsement if he or she has a doctoral degree in psychology and has practiced for at least 10 years of the last 25 years, rather than 20 years as required in current law.

The bill repeals obsolete provisions related to applicants for licensure prior to July 1, 1999.

Licensed Clinical Social Work, Marriage and Family Therapy, and Mental Health Counseling

Intern Registration

The bill authorizes the Board of Clinical Social Work, Marriage and Family Therapy, and Mental Health Counseling to make a one-time exception to the 60-month limit on an internship registration. Such exceptions may only be granted in an emergency or hardship case, as defined by rule. The bill deletes obsolete language related to biennial renewals of intern registrations.

Marriage and Family Therapists

The bill requires that an applicant for licensure hold a master's degree with an emphasis in marriage and family therapy from a program accredited by the Commission of Accreditation for Marriage and Family Therapy Education or a Florida university program accredited by the Council for Accreditation of Counseling and Related Educational Programs. An applicant may also qualify for licensure if he or she holds a master's degree in a closely related field and has completed graduated courses approved by the Board of Clinical Social Work, Marriage and Family Therapy, and Mental Health Counseling. The bill eliminates specified coursework and clinical experience required for licensure that is currently enumerated in statute.

To be licensed as a marriage and family therapist, s. 491.005(3), F.S., requires an applicant to complete two years of clinical experience. However, later in the same paragraph, it states the clinical experience required is three years. The bill corrects the scrivener's error in the paragraph.

The bill clarifies that DOH may deny or impose penalties on the license of a marriage and family therapist who violates the practice act or ch. 456, F.S., the general regulatory statute. This will alleviate confusion regarding the authority of DOH to impose such discipline or deny a license.

Licensed Mental Health Counselors

The bill updates the name of the licensure examination for mental health counseling licensure applicants to the National Clinical Mental Health Counseling Examination administered by the National Board for Certified Counselors or its successors. This will conform the law to current practice.²⁶³ The bill requires educational programs used to qualify for licensure contain coursework related to legal, ethical, and professional standards issues in the practice of mental health counseling, and diagnostic processes.

²⁶¹ American Psychological Association, *Understanding APA Accreditation*, available at <http://www.apa.org/ed/accreditation/about/index.aspx> (last visited January 20, 2018).

²⁶² U.S. Department of Education, *Accreditation in the U.S.*, available at <https://www2.ed.gov/admins/finaid/accred/accredus.html> (last visited July 20, 2018).

²⁶³ *Supra* note 105.

The bill reduces the number of hours required for the clinical practicum or internship from 1,000 hours to 700 hours to conform the number of hours to the accreditation standards established by the Council for Accreditation of Counseling and Related Educational Programs. The bill requires the clinical practicum or internship to include at least 280 hours of direct client services.

The bill requires that applicants who apply for licensure after July 1, 2024, to hold a master's degree from a program accredited by the Council for Accreditation of Counseling and Related Educational Programs.

Licensure by Endorsement

The bill repeals educational requirements for applicants for licensure by endorsement. Such applicant qualifies for licensure if he or she holds a valid, active license to practice in another state for 3 of the 5 years preceding the date of application, passes an equivalent licensure examination, and is not under investigation for and has not been found to have committed any act that would constitute a licensure violation in Florida.

Florida Consortium of National Cancer Institute Centers Program

The bill extends the time that an institution seeking a NCI designation may remain in Tier 3 from 5 years to 6 years.

Immunization Registry

The bill requires physicians, physician assistants, and nurses who administer vaccines to children aged 18 or younger, or to students aged 19 to 23, at a Florida college or university health care facility, to report the vaccination to SHOTS unless the child or student has been excluded from participating in SHOTS. The bill authorizes automated data uploads to the immunization registry from existing electronic health record systems used by health care practitioners and health care facilities.

Current law allows a parent to exclude a child's data from SHOTS. The bill retains this provision and also authorizes a student who receives a vaccination at a Florida college or university health care facility to refuse to be included in SHOTS. Vaccination data for any other individuals receiving immunizations may be voluntarily submitted to SHOTS.

The bill requires that school districts and private schools have a policy that requires each student to have a certification of immunizations on file with SHOTS. However, the school must accept the certification of immunization on a form approved by DOH, if the child's data is excluded from SHOTS.

The bill removes DOH's specific rulemaking authority and replaces it with general authority to adopt rules to administer the program.

Disabled Parking Permits

The bill authorizes physical therapists to issue a certification for a disabled parking permit.

The bill makes various conforming changes.

The bill provides an effective date of July 1, 2018.

B. SECTION DIRECTORY:

Section 1: Amends s. 320.0848, F.S., relating to persons who have disabilities; issuance of disabled parking permits; temporary permits; permits for certain providers of transportation services to persons who have disabilities.

- Section 2:** Amends s. 381.003, F.S., relating to communicable disease and AIDS prevention and control.
- Section 3:** Amends s. 381.4018, F.S., relating to physician workforce assessment and development.
- Section 4:** Amends s. 381.915, F.S., relating to Florida Consortium of National Cancer Institute Centers Program.
- Section 5:** Amends s. 456.013, F.S., relating to department; general licensing provisions.
- Section 6:** Amends s. 456.024, F.S., relating to members of Armed Forces in good standing with administrative boards or the department; spouses; licensure.
- Section 7:** Creates s. 458.3113, F.S., relating to conditions of licensure, reimbursement, or admitting privileges.
- Section 8:** Amends s. 458.3312, F.S., relating to specialties.
- Section 9:** Amends s. 458.347, F.S., relating to physician assistants.
- Section 10:** Amends s. 459.0055, F.S., relating to general licensure requirements.
- Section 11:** Creates s. 459.0056, F.S., relating to conditions of licensure, reimbursement, or admitting privileges.
- Section 12:** Amends s. 459.022, F.S., relating to physician assistants.
- Section 13:** Amends s. 460.408, F.S., relating to continuing chiropractic education.
- Section 14:** Repeals s. 460.4166, F.S., relating to certified chiropractic physician's assistants.
- Section 15:** Amends s. 464.202, F.S., relating to duties and powers of the board.
- Section 16:** Amends s. 464.203, F.S., relating to certified nursing assistants; certification requirement.
- Section 17:** Amends s. 464.204, F.S., relating to denial, suspension, or revocation of certification; disciplinary actions.
- Section 18:** Amends s. 465.019, F.S., relating to institutional pharmacies; permits.
- Section 19:** Amends s. 465.0193, F.S., relating to nuclear pharmacy permits.
- Section 20:** Creates s. 465.0195, F.S., relating to pharmacy or outsourcing facility; sterile compounding permit.
- Section 21:** Amends s. 465.0196, F.S., relating to special pharmacy permits.
- Section 22:** Amends s. 465.0197, F.S., relating to internet pharmacy permits.
- Section 23:** Amends s. 465.0235, F.S., relating to automated pharmacy systems used by long-term care facilities, hospices, or state correctional institutions.
- Section 24:** Amends s. 466.006, F.S., relating to examination of dentists.
- Section 25:** Amends s. 466.007, F.S., relating to examination of dental hygienists.
- Section 26:** Amends s. 466.017, F.S., relating to prescription of drugs; anesthesia.
- Section 27:** Amends s. 466.031, F.S., relating to "dental laboratory" defined.
- Section 28:** Amends s. 466.036, F.S., relating to information; periodic inspections; equipment and supplies.
- Section 29:** Amends s. 468.505, F.S., relating to exemptions; exceptions.
- Section 30:** Amends s. 468.701, F.S., relating to definitions.
- Section 31:** Amends s. 468.707, F.S., relating to licensure requirements.
- Section 32:** Amends s. 468.711, F.S., relating to renewal of license; continuing education.
- Section 33:** Amends s. 468.723, F.S., relating to exemptions.
- Section 34:** Amends s. 468.803, F.S., relating to license, registration, and examination requirements.
- Section 35:** Amends s. 480.033, F.S., relating to definitions.
- Section 36:** Amends s. 480.041, F.S., relating to massage therapists; qualifications; licensure; endorsement.
- Section 37:** Repeals s. 480.042, F.S., relating to examinations.
- Section 38:** Amends s. 480.046, F.S., relating to grounds for disciplinary action by the board.
- Section 39:** Amends s. 490.003, F.S., relating to definitions.
- Section 40:** Amends s. 490.005, F.S., relating to licensure by examination.
- Section 41:** Amends s. 490.006, F.S., relating to licensure by endorsement.
- Section 42:** Amends s. 491.0045, F.S., relating to intern registration; requirements.
- Section 43:** Amends s. 491.005, F.S., relating to licensure by examination.
- Section 44:** Amends s. 491.006, F.S., relating to licensure or certification by endorsement.
- Section 45:** Amends s. 491.007, F.S., relating to renewal of license, registration, or certificate.
- Section 46:** Amends s. 491.009, F.S., relating to discipline.

- Section 47:** Amends s. 1003.22, F.S., relating to school-entry health examinations; immunization against communicable diseases; exemptions; duties of the Department of Health.
- Section 48:** Amends s. 491.0046, F.S., relating to provisional license; requirements.
- Section 49:** Amends s. 945.42, F.S., relating to definitions; ss. 945.40-945.49.
- Section 50:** Provides an effective date of July 1, 2018.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

DOH will experience a loss of revenue of biennial registration and licensure fees due to the repeal of the registration of chiropractic assistants. However, the loss of revenue will be offset by eliminating the cost of registering chiropractic assistants.²⁶⁴

DOH may experience a loss of revenue related to the exemption of dentists who are military spouses from the payment of application and licensure fees and from the elimination of the temporary dentistry license. It is unknown how many military spouses may seek these exemptions.

2. Expenditures:

The bill will have an insignificant, negative fiscal impact on DOH. The bill authorizes DOH, or the appropriate regulatory board, to adopt rules related to the Conrad 30 waiver program, standards of care for CNAs, and the supervision of athletic training students. DOH will need to repeal adopted rules related to the deregulation of registered chiropractic assistants and amend rules related to licensed dental laboratories. Current resources can absorb these costs.²⁶⁵

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Dentists who are spouses of active duty military members and currently hold temporary licenses will no longer have to pay fees associated with the temporary license and indirect supervision by a Florida-licensed dentist. Individuals who voluntarily registered as chiropractic assistants will no longer have to pay fees associated with such registration.

The bill prohibits health care facilities from requiring maintenance of certification (MOC) as a condition of granting staff privileges. This prohibition may reduce costs for physicians related to MOC, if they have been maintaining such certification in order to obtain staff privileges at a health care facility.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

²⁶⁴ E-mail correspondence with DOH, dated January 29, 2018 (on file with the Health Care Appropriations Subcommittee).

²⁶⁵ E-mail correspondence with DOH, dated January 22, 2018 (on file with the Health Quality Subcommittee).

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to affect county or municipal governments.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill provides sufficient rulemaking authority for DOH or the applicable regulatory boards to adopt rules related to the Conrad 30 waiver program, standards of care for CNAs, and the supervision of athletic training students.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On January 24, 2018, the Health Quality Subcommittee adopted two amendments and reported the bill favorably as a committee substitute. The amendments:

- Eliminated requirement that office surgery centers register with the Department of Health; and
- Authorized individuals to provide paid dietary or nutrition advice, if they do not hold themselves out as being licensed as a dietician or nutritionist.

On February 21, 2018, the Health and Human Services adopted a strike-all amendment and reported CS/HB 1047 favorably as a committee substitute. The strike all amendment:

- Authorized a physical therapist to issue a certification of disability for a disabled parking permit;
- Required a health care practitioner who provides an immunization to report such immunization to the electronic registry maintained by DOH, unless the parent or adult individual refused;
- Extended the time for certain cancer centers to pursue a National Cancer Institute designation;
- Prohibited a health care facility or insurer from requiring certain certifications of physicians, except in certain circumstances;
- Repealed a requirement that the Board of Medicine conduct a triennial review of organizations that certify physicians in dermatology;
- Required a physician assistant to report certain information regarding his or her supervising physician or designated supervising physician;
- Required a designated supervising physician to maintain certain information about the supervising physicians of the facility of a physician practice group;
- Required an applicant for licensure as an osteopathic physician to complete an internship or residency accredited by the American Osteopathic Association or the Accreditation Council for Graduate Medical Education;
- Reinstated regulation of dental laboratories and requires DOH to inspect them biennially;
- Removed bill provisions relating to licensure by examination and endorsement for optometry;
- Defined "classroom contact hour" for continuing education for chiropractic physicians;
- Authorized chiropractic physicians to take up to 10 hours of general continuing education online;
- Removed the bill's rulemaking authority for the Board of Nursing to adopt rules on standards of care for nurses;
- Authorized a community pharmacy to operate an automated dispensing machine for outpatient dispensing with certain requirements and restrictions;
- Clarified that a supplemental general dentistry program required to sit for the licensure examination does not include an advanced education program in dentistry;

- Prohibited an individual not licensed as a dietitian or nutritionist from providing nutritional or dietary information, recommendations, advice, or marketing to a person who has a medical diagnosis and is seeking such services in support of that medical condition;
- Reinstated regulation of laboratory personnel; and
- Revised the licensure requirements for licensed mental health counselors by:
 - Requiring certain topics be included in coursework;
 - Requiring 280 hours of clinical experience be direct client services;
 - Updating the name of the accreditation approval entity, and
 - Requiring licensure applicants to have a degree from certain accredited programs beginning July 1, 2024.

The analysis is drafted to the committee substitute as passed by the Health and Human Services Committee.