

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/HB 657 Licensure of Internationally Trained Physicians  
**SPONSOR(S):** Health Quality Subcommittee; Diaz, Jr.  
**TIED BILLS:**                   **IDEN./SIM. BILLS:**

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

### SUMMARY ANALYSIS

The Department of Health (DOH), in conjunction with the Board of Medicine (Board), oversees the licensure and regulation of allopathic physicians in this state, pursuant to ch. 458, F.S. Florida law prescribes the minimum standards an applicant for licensure must meet to be licensed as a physician.

For licensure by examination, an applicant must meet minimum medical education and postgraduate training standards, as well as achieve an acceptable score on a Board-approved national licensing examination. Licensure by endorsement is available to an individual who is licensed in another state or U.S. territory for a specified period of time, and who can demonstrate compliance with the minimum medical education and postgraduate training standards, as well as a passing score on a Board-approved national licensing examination.

HB 657 provides an additional option for graduates of foreign medical schools to meet the education and training requirements for licensure as a physician. The bill allows a graduate of an allopathic foreign medical school listed in the World Directory of Medical Schools that has been accredited by an agency recognized by the governing body of the foreign jurisdiction to apply for licensure by examination. The applicant must also demonstrate that he or she is proficient in English, has completed an approved residency or fellowship of at least two years, and has held an active physician license and practiced medicine in a foreign jurisdiction for at least the 10 years immediately preceding the date of application for licensure.

The bill also provides that a foreign medical school graduate, who applies for licensure pursuant to its provisions, may meet the licensure examination requirement by achieving a passing score on an examination that the Board determines is substantially equivalent to, or more stringent than, the United States Medical Licensing Examination (USMLE).

The bill provides that the Board may certify an applicant for licensure who meets the education and training requirements, as well as any other licensure requirements, with a condition, limitation, or restriction, including a probationary period, a scope of practice limitation, or a supervision requirement, to be imposed by DOH, for a duration specified by the Board.

The bill authorizes DOH to issue a license pursuant to these provisions of the bill from January 1, 2019 through December 31, 2023. A license certified in this manner may continue beyond this expiration date, but subsequently will be subject to all licensure and licensure renewal requirements.

The bill has no fiscal impact on state or local government.

The bill has 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:** h0657b.HQS

**DATE:** 1/31/2018

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### **Present Situation**

##### Licensure and Regulation of Physicians

Chapter 458, F.S., provides for the licensure and regulation of the practice of medicine by the Florida Board of Medicine (Board) in conjunction the Department of Health (DOH). The chapter provides, among other things, licensure requirements by examination for medical school graduates and licensure by endorsement requirements.

##### *Licensure by Examination*

An individual seeking to be licensed by examination as a medical doctor, must meet the following requirements:<sup>1</sup>

- Pay an application fee;<sup>2</sup>
- Be at least 21 years of age;
- Be of good moral character;
- Has not committed an act or offense that would constitute the basis for disciplining a physician, pursuant to s. 458.331, F.S.;
- 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;
- Meets one of the following medical education and postgraduate training requirements:
  - Is a graduate of 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 has completed at least one year of approved residency training;
  - Is a graduate of 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 has completed at least one year of approved residency training; or
  - Is a graduate of an allopathic foreign medical school that has not been certified pursuant to statute; has an active, valid certificate issued by the Educational Commission for Foreign Medical Graduates (ECFMG),<sup>3</sup> has passed that commission's examination; and has completed an approved residency or fellowship of at least 2 years in one specialty area;
- Has submitted to a background screening by DOH; and
- Has obtained 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

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<sup>1</sup> S. 458.311(1), F.S.

<sup>2</sup> Pursuant to Rule 64B8-3.002(5), F.A.C., the application fee for a person desiring to be licensed as a physician by examination is \$500. The applicant must pay an initial license fee of \$429. Section 766.314(4), F.S., assesses a fee to be paid with at time of an initial license to finance the Florida Birth-Related Neurological Injury Compensation Plan. The current assessment amount is \$250.

<sup>3</sup> 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. s. 458.311, F.S.

- 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.

### *Licensure by Endorsement*

An individual who holds an active license to practice medicine in another jurisdiction may seek licensure by endorsement to practice medicine in Florida.<sup>4</sup> The applicant must meet the same requirements for licensure by examination.<sup>5</sup> Additionally, the applicant must 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.<sup>6</sup>

If the Board determines that an applicant has failed to meet the requirements for licensure by endorsement, it may enter an order requiring one or more of the following terms:<sup>7</sup>

- Refusal to certify to DOH an application for licensure, certification, or registration;
- Certification to DOH of an application for licensure, certification, or registration with restrictions on the scope of practice of the licensee; or
- Certification to DOH of an application for licensure, certification, or registration with placement of the physician on probation for a period of time and subject to such conditions as the Board may specify, including, but not limited to, requiring the physician to submit to treatment, attend continuing education courses, submit to reexamination, or work under the supervision of another physician.

### Certification of Foreign Educational Institutions

Section 458.314, F.S., authorizes DOH to develop standards and a process by which a foreign medical school may be certified as meeting standards comparable to those required for the accreditation of a U.S. medical school. A graduate of a foreign medical school certified as meeting DOH's standards is eligible for licensure as a medical doctor after obtaining a passing score on a medical licensure examination, demonstrating proficiency in English, and successfully completing one year of graduate training in an approved program.<sup>8</sup> In determining whether a foreign medical school is to be certified, DOH will evaluate several areas, including governance, administration, curriculum, admissions, class size, and the availability of resources, such as faculty and budget.<sup>9</sup>

### World Directory of Medical Schools

The World Directory of Medical Schools (world directory) is a world-wide database of medical schools jointly developed by the World Federation for Medical Education and the Foundation for Advancement of International Medical Education and Research (FAIMER).<sup>10</sup> The data contained in the world directory was derived from the University of Copenhagen's Avicenna Directory, which was the successor of the World Health Organization's World Directory of Medical Schools, and the International Medical Education Directory compiled by FAIMER.<sup>11</sup> The information provided in the International Medical

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<sup>4</sup> S. 458.313, F.S.

<sup>5</sup> S. 458.313(1)(a), F.S.

<sup>6</sup> S. 458.313(1)(c), F.S.

<sup>7</sup> S. 458.313(7), F.S.

<sup>8</sup> Rule 64B8-15, F.A.C. Prior to being admitted to an approved residency program, the Accreditation Council for Graduate Medical Education must verify that the foreign medical graduate has been certified by the ECFMG.

<sup>9</sup> See generally Rule 64B8-15, F.A.C.

<sup>10</sup> WORLD DIRECTORY OF MEDICAL SCHOOLS, *About the World Directory*, <http://www.wdoms.org/about/> (last visited Jan. 25, 2018).

<sup>11</sup> WORLD DIRECTORY OF MEDICAL SCHOOLS, *History of the World Directory of Medical Schools*, <https://www.wdoms.org/about/> (last visited Jan. 25, 2018). The Avicenna Directory is managed by the World Federation for Medical Education.

Education Directory was derived from data collected by the ECFMG throughout its history of evaluating the medical credentials of graduates of foreign medical schools.

The world directory defines a “medical school” as an educational institution that provides a complete or full program leading to a basic medical qualification that permits the holder to obtain a license to practice as a medical doctor or physician.<sup>12</sup>

The database provides basic details about each medical school, such as contact information, operational status, the year instruction began, the percentage of clinical training and access to clinical facilities, curriculum duration, prerequisite education, and language of instruction, if available. However, being listed in the directory does not denote any recognition, accreditation, or endorsement by the world directory or the organizations producing the world directory.<sup>13</sup>

Effective June 30, 2015, the ECFMG uses the world directory to determine eligibility for certification of foreign medical graduates by its organization.<sup>14</sup> If a foreign medical school meets the ECFMG requirements, the school’s profile contains a notation of such and its graduates are eligible to apply for ECFMG certification and the USMLE. However, if the medical school is not listed in the world directory or it is listed but its profile does not have the ECFMG notation, its students are ineligible to apply for ECFMG certification and the USMLE.<sup>15</sup>

### English Proficiency Tests

The Educational Testing Service (ETS) administers standardized tests, including those measuring English proficiency. The Test of English as a Foreign Language (TOEFL) was developed in the 1960s to assess international students wishing to study at universities in the United States.<sup>16</sup> The TOEFL is now the most widely used English-language tests in the world and is universally accepted in colleges, agencies, and other institutions to demonstrate proficiency of English at the university level.<sup>17</sup> Medical and licensing agencies use TOEFL scores for professional certification purposes.<sup>18</sup>

The TOEFL began as a written exam, but has adapted over time.<sup>19</sup> The Test of Spoken English (TSE) was added to the TOEFL to address the oral component of English proficiency.<sup>20</sup> The ETS discontinued the TSE in 2011 when the TOEFL transitioned into an internet-based format and could incorporate the oral component.<sup>21</sup> The TOEFL, in its current form, measures the ability to listen, read, write, and speak English in one exam.<sup>22</sup>

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<sup>12</sup> *Supra* note 10.

<sup>13</sup> WORLD DIRECTORY OF MEDICAL SCHOOLS, *Search the World Directory*, available at <https://search.wdoms.org/> (last visited on Jan. 25, 2018).

<sup>14</sup> *Update: World Directory of Medical Schools Replaces International Medical Education Directory for Purposes of Determining Eligibility for ECFMG Certification and USMLE*, EDUCATIONAL COMMISSION FOR FOREIGN MEDICAL GRADUATES (June 30, 2015), available at <http://www.ecfm.org/news/2015/06/30/update-world-directory-of-medical-schools-replaces-international-medical-education-directory-for-purposes-of-determining-eligibility-for-ecfm-certification-and-usmle/> (last visited Jan. 25, 2018).

<sup>15</sup> Beginning in 2023, ECFMG will only certify graduates from medical schools accredited by an agency that is recognized by the World Federation for Medical Education’s Programme for Recognition of Accrediting Agencies. THE EDUCATIONAL COMMISSION FOR FOREIGN MEDICAL GRADUATES, *ECFMG Certification Fact Sheet*, <https://www.ecfm.org/forms/certfact.pdf> (last visited Jan. 28, 2018).

<sup>16</sup> *TOEFL iBT Research, Series 1, vol.6: TOEFL Program History*, EDUCATION TESTING SERVICE, 2011, available at: [https://www.ets.org/s/toefl/pdf/toefl\\_ibt\\_insight\\_s1v6.pdf](https://www.ets.org/s/toefl/pdf/toefl_ibt_insight_s1v6.pdf) (last visited Jan. 25, 2018).

<sup>17</sup> TOEFL, *About the TOEFL iBT Test*, <https://www.ets.org/toefl/ibt/about/> (last visited Jan. 25, 2018).

<sup>18</sup> TOEFL, *Who Accepts TOEFL Scores?* [https://www.ets.org/toefl/ibt/about/who\\_accepts\\_scores](https://www.ets.org/toefl/ibt/about/who_accepts_scores) (last visited Jan. 25, 2018).

<sup>19</sup> *Supra* note 16.

<sup>20</sup> *Id.* The TSE only measured oral proficiency in English, but did not test reading or writing abilities.

<sup>21</sup> *Supra* note 16.

<sup>22</sup> *Supra* note 17.

## Effect of the Proposed Changes

All applicants for licensure as a physician must meet minimum medical educational standards by graduating from an accredited or government-approved medical school and successfully completing postgraduate training requirements. Foreign-trained physicians are eligible to apply under the current provisions of s. 458.311, F.S., provided they meet the examination and training requirements.

Effective January 1, 2019, the bill provides an additional option that graduates of foreign medical schools may use to meet the education requirements for licensure by examination. The bill allows a graduate of an allopathic foreign medical school listed in the world directory and accredited by an agency recognized by the governing body of the foreign jurisdiction to qualify for licensure, if the applicant:

- Demonstrates competency in English by obtaining a satisfactory score on the TOEFL or a similar Board-approved test, if the foreign medical school provides instruction in a language other than English;
- Has completed an approved residency or fellowship of at least 2 years in one specialty area, which counts towards the regular or subspecialty certification by a board recognized and certified by the American Board of Medical Specialties; and
- Has been a licensed physician and has practiced medicine in a foreign jurisdiction for at least 10 years immediately preceding the date of application.

Currently, if an applicant for licensure by examination studied medicine in a foreign language, he or she must demonstrate competency in English with a satisfactory grade on the TSE or similar test approved by the Board.<sup>23</sup> The bill changes the requisite exam to the TOEFL or similar test approved by the Board.

The bill allows applicants to receive a license pursuant to these provisions until December 31, 2023. The bill states that an applicant who receives a license in this manner may continue to renew his or her license beyond the initial expiration date, but will subsequently be subject to all licensure and licensure renewal requirements.

All licensure applicants must achieve a passing score on a Board-approved licensure examination. The bill allows applicants who apply pursuant to this provision to meet the examination requirement by obtaining a passing score on an examination determined by the Board to be substantially equivalent to, or more stringent than, the USMLE.

The bill permits DOH to impose a condition, limitation, or restriction, including but not limited to, a probationary period of practice, a scope of practice limitation, or a supervision requirement for any applicant certified by the Board to be licensed pursuant to the provisions of the bill, for a duration specified by the Board.

The Accreditation Council for Graduate Medical Education will only approve a residency program for a foreign medical graduate if the graduate has ECFMG certification.<sup>24</sup> The bill does not require an applicant to have ECFMG certification. This prevents an applicant from participating in a 2-year medical residency program as required by the bill. Therefore, no foreign medical graduates will qualify for licensure under the bill's provisions.

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

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<sup>23</sup> S. 458.311, F.S.

<sup>24</sup> ACCREDITATION COUNCIL FOR GRADUATE MEDICAL EDUCATION, *Program Requirements* (2017), at 7-8, available at [http://www.acgme.org/Portals/0/PFAssets/ProgramRequirements/CPRs\\_2017-07-01.pdf](http://www.acgme.org/Portals/0/PFAssets/ProgramRequirements/CPRs_2017-07-01.pdf) (last visited Jan. 28, 2018).

**B. SECTION DIRECTORY:**

- Section 1:** Amends s. 458.311, F.S., relating to licensure by examination requirements.
- Section 2:** Provides an effective date.

**II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

**A. FISCAL IMPACT ON STATE GOVERNMENT:**

1. Revenues:

The bill authorizes DOH to collect application, licensure and renewal fees from foreign medical graduates. The bill may have a nominal, positive fiscal impact on DOH related to processing applications of foreign medical graduates who mistakenly believe they qualify for licensure. DOH will not retain any license fees as foreign medical graduates will not be able to qualify for licensure under the bill's provisions.

2. Expenditures:

There will be no expenditures because there are no foreign medical graduates that will qualify for licensure under the bill's provisions. The Accreditation Council for Graduate Medical Education will only approve a residency program for a foreign medical graduate if the graduate has ECFMG certification. The bill does not require an applicant to have ECFMG certification. This prevents an applicant from participating in a 2-year medical residency program as required by the bill. Therefore, no foreign medical graduates will qualify for licensure under the bill's provisions.

**B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

1. Revenues:

None.

2. Expenditures:

None.

**C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

None.

**D. FISCAL COMMENTS:**

None.

**III. COMMENTS**

**A. CONSTITUTIONAL ISSUES:**

1. Applicability of Municipality/County Mandates Provision:

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

2. Other:

None.

**B. RULE-MAKING AUTHORITY:**

None.

#### C. DRAFTING ISSUES OR OTHER COMMENTS:

The bill states that foreign-trained physicians may only qualify for licensure in the manner proposed by the bill from January 1, 2019 until December 31, 2023. The bill further states that such licensure shall continue beyond the expiration date, but will be subject to all licensure and licensure renewal requirements. Unrestricted medical licenses, once issued, are presumably subject to licensure renewal requirements, are renewed every two years, and do not expire unless the license is not renewed.<sup>25</sup> Therefore, it is unclear if this language is necessary in the bill, or if the intent is to not require licenses issued under the provisions of the bill to be subject to the licensure renewal requirements until after December 31, 2023.

#### IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On January 29, 2018, the Health Quality Subcommittee adopted an amendment that:

- Updated the name of the entity that produces the World Directory of Medical Schools.
- Increased the residency program requirement from 1 year to 2 years for the pathway to licensure for foreign-trained physicians proposed by the bill.

The bill was reported favorably as a committee substitute. The analysis is drafted to the committee substitute as passed by the Health Quality Subcommittee.

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<sup>25</sup> Ss. 458.319, 456.036(5), F.S. If a license is not renewed for two consecutive biennium periods, it becomes null and void, but licensees may reactivate their expired or delinquent licenses at any time prior to the licenses going null and void, s. 456.036(6), F.S.