

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

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

Date: April 3, 1998 Revised: 04/08/98 _____

Subject: Health Care Practitioners; Credentials Verification

	<u>Analyst</u>	<u>Staff Director</u>	<u>Reference</u>	<u>Action</u>
1.	<u>Munroe</u>	<u>Wilson</u>	<u>HC</u>	<u>Fav/1 amendment</u>
2.	<u>_____</u>	<u>_____</u>	<u>WM</u>	<u>Withdrawn</u>
3.	<u>_____</u>	<u>_____</u>	<u>_____</u>	<u>_____</u>
4.	<u>_____</u>	<u>_____</u>	<u>_____</u>	<u>_____</u>
5.	<u>_____</u>	<u>_____</u>	<u>_____</u>	<u>_____</u>

I. Summary:

This bill requires the Department of Health to develop guidelines for the development of a standardized system for collecting and verifying core credentials of health care practitioners through certified credentials-verification entities. The department must appoint a nine-member Credentials-Verification Advisory Committee to assist with development of guidelines for the development of the credentials-verification program. The department must develop a standard form for the reporting of core-credentials data for credentialing and recredentialing. The bill holds harmless any health care entity and provides that the entity will not be liable, if it relies on data obtained from a certified credentials-verification entity. Health care practitioners must have an opportunity to review the core-credentials data before it is stored in the data bank of a credentials-verification entity. The Secretary of Health must appoint a task force to develop procedures to expand the standardized credentials-verification program to include site visits. Health care entities are prohibited from attempting to collect duplicate core-credentials data from individual health care practitioners or from originating sources. The bill requires the department to adopt rules necessary to develop and implement a standardized credentials-verification program.

This bill creates 1 section that is not designated in the Florida Statutes.

II. Present Situation:

The 1997 Legislature recognized that health care practitioner credentialing activities have increased significantly as a result of health care reform and recent changes in health care delivery and reimbursement systems. The Department of Health estimates that approximately 50,000 practitioners are licensed in Florida as medical physicians, osteopathic physicians, chiropractic physicians, and podiatric physicians. These practitioners are subject to multiple credentialing processes required by various health care entities (hospitals, managed care plans, health insurance

plans and other third-party health care payers). Duplication involved in credentialing and recredentialing is unnecessarily costly and cumbersome for both the practitioner and the entity granting practice privileges or network participation. No single group receives and verifies the core credentials of a physician in a standardized format. A health care practitioner's core credentials data is collected, validated, maintained, and stored, by each health care entity for which the practitioner applies for practice privileges or network participation.

To expedite a standardized credentialing system and to eliminate duplication, the Legislature passed s. 103, ch. 97-261, Laws of Florida, to require the Secretary of Health to appoint a special task force to study the issue and report its findings and recommendations to the 1998 Legislature.

The task force reviewed the issues and made its final report January, 1998. The following is a summary of their recommendations:

1. A standardized system for collecting and verifying core credentials of health care practitioners through a certified credentials verification entity should be established.
2. Data on individual practitioners should be centrally stored with only one entity. Each entity must meet national standards and be certified by national accrediting organizations. Monitoring procedures should be in place to ensure quality control and maintain continuity in the credentials verification process.
3. Health care entities should be held harmless and should not be liable if they rely on data obtained from a certified credentials verification entity.
4. Core credentials data should be collected only once by a certified credentials verification entity. However, a health care entity may obtain additional information if required by the entity's credentialing process.
5. All efforts should be made in the legislation to minimize costs to health care practitioners as well as to health care entities.
6. Credentials verification entities should be required to establish procedures to ensure primary source verification of core credentials, whenever possible. Exceptions should be allowed only in accordance with standards outlined by national accrediting organizations.
7. Health care practitioners should have an opportunity to review the core credentials data before it is stored in the data bank of an entity.
8. The credentials verification entity must collect the core credentials data on a standardized form. The data must be updated whenever the practitioner's status changes; otherwise at least quarterly.

Section 455.565, F.S., requires medical physicians, osteopathic physicians, chiropractors, and podiatrists to submit specified information which beginning July 1, 1999, pursuant to s. 455.5651, F.S., will be compiled into practitioner profiles to be made available to the public. The information includes: graduate medical education; hospitals at which the physician has privileges; specialty certification; year the physician began practice; a description of any criminal offense committed; a description of any final disciplinary action taken within the most recent 10 years; malpractice paid claims exceeding \$5,000; professional awards and publications; languages, other than English, used by the physician to communicate with patients; and an indication of whether the physician participates in the Medicaid program. The department may include in each practitioner's practitioner profile any other information that is a public record of any governmental entity and that relates to a practitioner's ability to competently practice his or her profession. The department must consult with the board having regulatory jurisdiction over the practitioner before such information is included in his or her profile. Physicians are provided an opportunity to review and correct any factual errors in the information contained in their profile prior to public release of the profiles. Section 455.565, F.S., provides for the issuance of a citation for minor violations and an administrative fine for physicians who fail to submit and update the information required by the physician profile. Physicians must submit fingerprints for a national criminal history check as part of initial licensure, beginning October 1, 1997. The requirement to fingerprint physician renewal applicants, on a one-time-basis, to obtain national criminal history data is delayed until January 1, 2000.

Section 455.5656, F.S., provides that any patient name or other information that identifies a patient which is in a record obtained by the Department of Health or its agent for the purpose of compiling a practitioner profile is confidential and exempt from ch. 119, F.S., and s. 24(a), Art. I of the Fla. Const. Section 455.5656, F.S., also exempts other data received by the department or its agent as a result of its duty to compile and promulgate practitioner profiles and makes such data confidential and exempt from ch. 119, F.S., and s. 24(a), Art. I of the Fla. Const. until the profile into which the data are incorporated or with respect to which the data are submitted is made public. The section specifies that any information or record that the Department of Health obtains from the Agency for Health Care Administration or any other governmental entity for the purpose of compiling a practitioner profile or substantiating other information or records submitted for that purpose that was exempt from the provisions of ch. 119, Florida Statutes, relating to the public records and meetings law and Section 24(a), Article I of the State Constitution shall remain exempt.

Section 455.5654, F.S., requires the Department of Health to adopt administrative rules and hold workshops for rule development pursuant to the Administrative Procedures Act to develop the form of the profile.

Section 455.5653, F.S., requires the Department of Health to develop by the year 2000, a schedule and procedures for other licensed health care practitioners to submit relevant information for inclusion in practitioner profiles.

Section 455.647, F.S., provides that all information required by the Department of Health from any applicant shall be a public record and shall be open to public inspection pursuant to the public records law, except financial information, medical information, school transcripts, examination questions, answers, papers, grades, and grading keys, which remain confidential and exempt from the public records law and may not be discussed with anyone except members of the board, the department or agency, and staff thereof, who have a bona fide need to know such information.

III. Effect of Proposed Changes:

The bill creates a mechanism for standardized credentialing of health care practitioners licensed as medical physicians, osteopathic physicians, chiropractic physicians, and podiatric physicians. The bill provides definitions for use with the standardized system of verifying health care professionals credentials. "Certification" means a quality assessment program from the National Committee for Quality Assurance, the Joint Commission on Accreditation of Healthcare Organizations, and other national accreditation organizations and other entities that is used to assess and certify credentials-verification organizations and other entities that verify the credentials of health care entities. "Core credentials" means education, training, continuing education, references, licensure, drug-enforcement-administration certification, personal identification number, board certification, Education-Commission-for-Foreign-Medical Graduate information, hospital affiliations, managed-care-organization affiliations, other institutional affiliations, professional society memberships, professional liability insurance, claims, suits, Medicare and Medicaid sanctions, civil and criminal law violations, practitioner-profiling data, special conditions of impairment, and regulatory exemptions not previously reported to the Department of Health. "Credentialing" means the process of assessing and validating the qualifications of a licensed independent health care practitioner to provide patient care services in a health care facility or for any other health care entity. "Recredentialing" means the process by which a credentials-verification entity verifies the credentials of a health care practitioner whose credentials are currently on file.

The bill requires the Department of Health to develop guidelines for the development of a standardized system for collecting and verifying core credentials of health care practitioners through certified credentials-verification entities in order to eliminate duplication. "Credentials-verification entity" means any program, entity, or organization that is organized and certified for the expressed purpose of collecting, verifying, maintaining, and providing, as authorized by the health care practitioner in accordance with the provisions of this section, his or her core credentials to health care entities. Once the core credentials are collected, the health care practitioner is not required to resubmit the initial data when applying for practice privileges with health care entities. The bill requires the Department of Health to appoint a nine-member Credentials-Verification Advisory Committee to assist with development of the credentials-verification program. The department, in consultation with the committee, must develop a standard form for the reporting of core-credentials data for credentialing and recredentialing.

The bill requires persons applying for licensure under the medical practice act, osteopathic medical practice act, chiropractic practice act, and podiatric practice act, to collect and submit initial core-credentials data to a certified credentials-verification entity. Applicants may decide

which credentials verification entity through which they want to process and store their core-credentials data. Any health care entity that employs, contracts with, or allows health care practitioners to treat patients may use a certified credentials-verification entity to obtain core-credentials data on health care practitioners applying for privileges with their entity. "Health care entity" means any health care facility or managed care organization licensed or certified to provide approved medical and allied health services in Florida. The bill authorizes health care entities to contract with other entities to collect and verify core credentials data on health care practitioners applying for privileges. "Health care practitioner" means any licensee under the medical practice act, osteopathic medical practice act, chiropractic practice act, and podiatric practice act.

The Department of Health must make any core-credentials data it collects on any licensee available to a credentials-verification entity on a one-time basis, if the licensee authorizes the release of the information. Credentialing information furnished by the department must be used solely for credentialing and recredentialing. The department may charge a reasonable fee for accessing the core-credentials data that it maintains on applicants and licensees. The fee must be set in consultation with the advisory committee and must not exceed the actual cost of providing the data. The credentials-verification entity may rely upon core-credentials data from the department if the department certifies that the information was obtained in accordance with the department's primary-source verification procedures. "Primary-source verification" means verification of professional qualifications based on evidence obtained directly from the issuing source of the qualification. The department must meet national standards as outlined by the Joint Commission on the Accreditation of Health Care Organizations and the National Committee for Quality Assurance, for the department's credentials-verification procedures. The bill requires any credentials-verification entity that does business in Florida to meet national standards for its credentialing procedures.

The bill holds harmless any health care entity and provides that the entity will not be liable if it relies on data obtained from a certified credentials-verification entity. Health care practitioners must have an opportunity to review the core-credentials data before it is stored in the data bank of a credentials-verification entity. The Secretary of Health must appoint a task force to develop procedures to expand the standardized credentials-verification program to include site visits. Health care entities are prohibited from attempting to collect duplicate core-credentials data from individual health care practitioners or from originating sources. The bill requires the department to adopt rules necessary to develop and implement a standardized credentials-verification program.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

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

B. Public Records/Open Meetings Issues:

On page 5, lines 11-14, the Department of Health must make any core-credentials data it collects on any licensee available to a credentials-verification entity on a **one-time basis**, if the licensee **authorizes the release of the information**. This intermediate process of requiring the licensee to authorize the release of information maintained by the department, to the extent the information is a public record, may reasonably be interpreted to impose a condition on the release of existing public records, so that a private party determines what access the public will have to the records and therefore what is or is not exempt from the public records law. To give a private party the authority to determine what public records will not be available to the public, including the core-credentials data, so that the private party may determine what may be released and what may be disseminated to the public may constitute an unlawful delegation by the Legislature in violation of Article I, Section 24 of the Florida Constitution. Art. I, section 24, Fla. Const., provides that any exemption to the public's right to inspect a public record maintained by a government agency must be created by the Legislature by the enactment of general law.

On page 5, lines 15-16, the bill limits the use of credentialing information furnished by the department to credentialing and recredentialing. This limitation on the use of the information, and by implication, its release by imposing a condition that credentialing information furnished by the department must be used solely for credentialing and recredentialing creates a public records exemption. Art. I, section 24, Fla. Const. provides that any public records exemption created by enactment of general law of the Legislature must pass in a bill that relates only to public records and meetings exemptions.

C. Trust Funds Restrictions:

None.

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

The bill authorizes the Department of Health to charge a reasonable fee for accessing the core-credentials data it maintains on applicants and licensees. The fee must be set in consultation with the Credentials-Verification Advisory Committee and must not exceed the actual cost of providing the data.

B. Private Sector Impact:

To the extent the bill may decrease duplication in existing credentials verification processes, health care practitioners subject to these processes may eventually save time and costs.

C. Government Sector Impact:

The Department of Health estimates that to implement the bill its non-recurring costs for 1998-1999 will total \$5.1 million (\$1.9 million for capital outlay and \$3.2 million for expenses). The department estimates recurring costs which include salary and benefits for 7 full-time positions are \$460,000.

VI. Technical Deficiencies:

On page 4, line 22, the word “from” should be “form.”

VII. Related Issues:

On page 6, lines 13-15, the bill prohibits health care entities from attempting to collect duplicate core-credentials data from individual health care practitioners or from originating sources. The bill does not provide any penalty for failure to comply with the prohibition.

On page 6, lines 4-7, the bill holds harmless any health care entity and provides that the entity will not liable if it relies on data obtained from a certified credentials-verification entity. It is unclear to what extent additional liability may be imposed on certified credentials-verification entities for negligence relating to its activities in the verification of information used by the health care entities. It is unclear what additional liability the Department of Health will incur if it fails to meet the standards required under the bill for its collection and dissemination of core-credentials information.

It is unclear under the bill whether the term “health care practitioner” is limited to physicians licensed under the medical practice act, osteopathic medical practice act, chiropractic practice act, and podiatric practice act, or whether it applies to all licensees under those practice acts.

VIII. Amendments:

#1 by Health Care:
Corrects the spelling of the term “form.”