

STORAGE NAME: h1993.hcr

DATE: April 16, 1997

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
HEALTH CARE STANDARDS & REGULATORY REFORM
BILL RESEARCH & ECONOMIC IMPACT STATEMENT**

BILL #: HB 1993

RELATING TO: Medical Practitioners/Profiles/Backgrounds

SPONSOR(S): Representative Bloom

STATUTE(S) AFFECTED: Amends ss. 455.225, 455.2285, 455.2478, 458.311, 458.313, 458.319, 459.0055, 459.008, 460.406, 460.407, 461.006, 461.007, and 627.912, F.S.

COMPANION BILL(S): HB 1995(c), CS/SB1814(c), and CS/SB 948(i)

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:

- (1) HEALTH CARE STANDARDS & REGULATORY REFORM
- (2)
- (3)
- (4)
- (5)

I. SUMMARY:

The bill provides for the Department of Health to compile certain information submitted into a physician profile of each licensee and to make these profiles available to the public. The profiles are to be developed for the following four practitioners: medical, osteopathic, chiropractic, and podiatric physicians. The profiles are to be compiled beginning July 1, 1999, in a format determined by the department. Upon completion of a profile, the department shall allow the practitioner 30 days to review, and make factual corrections.

Applicants for licensure or relicensure in the four professions must submit a set of fingerprints, and pay certain fees. The department must submit the fingerprints to the Department of Law Enforcement for a national criminal background check (includes FBI). Failure to comply within 30 days of notice of noncompliance, may result in a citation and a fine of up to \$50 for each day of noncompliance.

Provides that the Agency for Health Care Administration (AHCA) complete its initial investigative findings within 6 months after receipt of the complaint. Requires AHCA to issue emergency orders suspending the license of a medical or osteopathic physician who AHCA has reasonable cause to believe has violated the financial responsibility requirements of the appropriate chapter.

Provides that liability actions and information in the possession of the department relating to bankruptcy proceedings of specified practitioners are public records. The department is required to make this information available upon request. Insurers are required to report professional liability claims and actions. The timeframe for reporting is revised from 60 days to 30 days. Provides for a toll-free telephone number for reporting complaints relating to medical care or service.

This bill will have a substantial fiscal impact on the state, none on local government, and an indeterminate amount on the private sector.

II. SUBSTANTIVE RESEARCH:

A. PRESENT SITUATION:

This bill applies to medical, osteopathic, podiatric, and chiropractic physicians currently regulated by the Agency for Health Care Administration (AHCA). However, effective 7/1/97, these four professions, along with all of the other medical practitioners, will be transferred to the Department of Health, Division of Medical Quality Assurance (department).

Some of the information required in this bill is currently submitted by applicants at the time they apply for initial licensure, and is available in automated form. For example, information already being collected on the initial licensure application and available in automated form on physicians is: (1) medical school attended and date of graduation, (2) certification received from a specialty board, and (3) mailing address(which is not necessary the practice address).

Other information collected on physicians but not available in automated form is: (1) criminal history, and (2) final disciplinary action in other jurisdictions.

Information required by the bill which is not currently being collected on physicians is : (1) description of graduate medical education, (2) hospitals at which the applicant has privileges, (3) number of years applicant has practiced, and (4) medical school faculty appointments.

After initial licensure, the only information that licensees are mandated to furnish the department is: (1) their current address and place of practice, (2) under s. 455.247, F.S., any malpractice claims which are not required to be reported under s. 627.912, F.S., (chiropractors are not required to report under this statute), and (3) any disciplinary action taken against the licensee by another licensing authority (this mandate applies only to medical, osteopathic, and podiatric physicians).

All electronic health care practitioner licensure data resides on "BEST", a computer licensure system that belongs to the Department of Business and Professional Regulation. Prior to 1993, the only licensure data available in automated form was: name, address, date license was issued, and renewal history. In 1993, the licensure data base was expanded considerably to capture more information. Information on individuals licensed prior to 1993 has already been microfilmed. There are approximately 50,000 active licensees in the four professions affected by the bill. Most of these individuals were licensed prior to 1993, therefore, licensure renewal forms will have to be significantly expanded to recapture the information not already computerized.

Licensing boards require applicants for initial licensure to submit data concerning medical malpractice cases filed against them as well as data about any felonies they have committed. Any information in an application file, except school transcripts and test scores, is considered public and can be released, upon request.

Each self-insurer authorized under s. 627.357, F.S., and each insurer or joint underwriting association providing professional liability insurance to medical, osteopathic, chiropractic, and podiatric physicians, hospitals licensed under the provisions of ch. 395, F.S., and other organizations listed in s. 627.357, F.S., must

report to the Department of Insurance any claim or action for damages, if the claim resulted in: (1) a final judgment in any amount, (2) a settlement in any amount, and (3) a final disposition not resulting in payment on behalf of the insured.

Insurers and self-insurers are not currently required to report such claims against chiropractors. However, reports must be filed with the licensing authority if the insured party is licensed pursuant to chs. 458 (medical), 459 (osteopathic), 461 (podiatric), and 466 (dentist) within 60 days following the occurrence.

B. EFFECT OF PROPOSED CHANGES:

It provides for the department to compile certain information submitted into a physician profile of each licensee and to make these profiles available to the public. The profiles are to be developed for the following four practitioners: medical, osteopathic, chiropractic, and podiatric physicians. The profiles are to be compiled beginning July 1, 1999, in a format determined by the department. Upon completion of a profile, the department shall allow the practitioner 30 days to review, and make factual corrections.

Provides for the following information to be collected at initial licensure or in conjunction with renewal of each licensee: name of each medical school attended, including dates and description of all graduate medical education; name of each hospital at which the applicant has privileges; primary address of their practice; any certification that the applicant has received from a specialty board; number of years the applicant has practiced in this state, another jurisdiction or foreign country; any appointment to a medical faculty or responsibility for graduate medical education within the past 10 years; description of any criminal offense found guilty or under appeal, description of any final disciplinary action taken within the prior 10 years (describes various type reportable discipline); and in addition, each applicant must provide information required by s. 455.247, F. S. Each person who submitted information must notify the department within 45 days of any reportable occurrence. Failure to comply is grounds for disciplinary action. Provides for practitioners to update information and for the department to update the profiles. Requires the department to retain information in updated profiles. Also, favorable information may be submitted for possible inclusion in the profile.

Applicants for licensure or relicensure in the four professions must submit a set of fingerprints, and pay certain fees. The department must submit the fingerprints to the Department of Law Enforcement for a national criminal background check (includes FBI). Failure to comply within 30 days of notice of noncompliance, may result in a citation and a fine of up to \$50 for each day of noncompliance.

Information relating to how practitioners licensed under chs. 458 and 459, F.S., have elected to comply with financial responsibility requirements is to be included in the profile. Also, information on liability actions which have been reported under ss. 455.247, and 627.912, F.S., must be included for chs. 458, 459, and 461, F.S., licensees.

Effective upon this act, the department may develop or contract for a computer system to accommodate the new data collection and storage requirements of this act, pending the development and operation of a computer system to handle the requirements of practitioner profiles and their updates.

Revises procedures to discipline professionals. Requires AHCA or appropriate regulatory boards to establish plans to resolve incomplete investigations or disciplinary proceedings. Provides that AHCA complete its initial investigative findings within 6 months after receipt of the complaint. Requires AHCA to issue emergency orders suspending the license of a medical or osteopathic physician who AHCA has reasonable cause to believe has violated the financial responsibility requirements of the appropriate chapter.

Requires additional information in the annual report by the department and by AHCA.

Provides that liability actions and information in the possession of the department relating to bankruptcy proceedings of specified practitioners are public records. The department is required to make this information available upon request.

Insurers are required to report professional liability claims and actions. The timeframe for reporting is revised from 60 days to 30 days.

Provides for a toll-free telephone number for reporting complaints relating to medical care or service.

C. APPLICATION OF PRINCIPLES:

1. Less Government:

a. Does the bill create, increase or reduce, either directly or indirectly:

(1) any authority to make rules or adjudicate disputes?

Yes.

(2) any new responsibilities, obligations or work for other governmental or private organizations or individuals?

Yes. Private individuals will have to provide the required information prior to licensure.

(3) any entitlement to a government service or benefit?

b. If an agency or program is eliminated or reduced:

(1) what responsibilities, costs and powers are passed on to another program, agency, level of government, or private entity?

No.

(2) what is the cost of such responsibility at the new level/agency?

Not Applicable.

(3) how is the new agency accountable to the people governed?

Not Applicable.

2. Lower Taxes:

a. Does the bill increase anyone's taxes?

No.

b. Does the bill require or authorize an increase in any fees?

Yes. The various physicians will be required to pay the ultimate costs of physician profiles.

c. Does the bill reduce total taxes, both rates and revenues?

No.

d. Does the bill reduce total fees, both rates and revenues?

No.

e. Does the bill authorize any fee or tax increase by any local government?

No.

3. Personal Responsibility:

a. Does the bill reduce or eliminate an entitlement to government services or subsidy?

Not Applicable.

b. Do the beneficiaries of the legislation directly pay any portion of the cost of implementation and operation?

Yes. The full costs will be paid by the professions regulated by the Department of Health.

4. Individual Freedom:

- a. Does the bill increase the allowable options of individuals or private organizations/associations to conduct their own affairs?

Not Applicable.

- b. Does the bill prohibit, or create new government interference with, any presently lawful activity?

Not Applicable.

5. Family Empowerment:

- a. If the bill purports to provide services to families or children:

- (1) Who evaluates the family's needs?

Not Applicable.

- (2) Who makes the decisions?

Not Applicable.

- (3) Are private alternatives permitted?

Not Applicable.

- (4) Are families required to participate in a program?

Not Applicable.

- (5) Are families penalized for not participating in a program?

Not Applicable.

- b. Does the bill directly affect the legal rights and obligations between family members?

Not Applicable.

- c. If the bill creates or changes a program providing services to families or children, in which of the following does the bill vest control of the program, either through direct participation or appointment authority:

(1) parents and guardians?

Not Applicable.

(2) service providers?

Not Applicable.

(3) government employees/agencies?

Not Applicable.

D. SECTION-BY-SECTION RESEARCH:

Section 1. Provides certain information is to be provided for physician profiles by physicians licensed under ss. 458 (medical), 459 (osteopathic), 460 (chiropractic), 461(podiatric), F.S. Provides for the following information to be provided: Provides for the following information to be collected at initial licensure or in conjunction with renewal of each licensee: name of each medical school attended, including dates and description of all graduate medical education; name of each hospital at which the applicant has privileges; primary address of their practice; any certification that the applicant has received from a specialty board; number of years the applicant has practiced in this state, another jurisdiction or foreign country; any appointment to a medical faculty or responsibility for graduate medical education within the past 10 years; description of any criminal offense found guilty or under appeal, description of any final disciplinary action taken within the prior 10 years (describes various type reportable discipline); and in addition, each applicant must provide information required by s. 455.247, F. S. Each person who submitted information must notify the department within 45 days of any reportable occurrence. Failure to comply is grounds for disciplinary action. Provides for practitioners to update information and for the department to update the profiles. Requires the department to retain information in updated profiles. Also, favorable information may be submitted for possible inclusion in the profile.

Applicants for licensure or relicensure in the four professions must submit a set of fingerprints, and pay certain fees. The department must submit the fingerprints to the Department of Law Enforcement for a national criminal background check (includes FBI). Failure to comply within 30 days of notice of noncompliance, may result in a citation and a fine of up to \$50 for each day of noncompliance.

Section 2. Provides for the department to compile certain information submitted into a physician profile of each licensee and to make these profiles available to the public. The profiles are be developed for the following four practitioners: medical, osteopathic, chiropractic, and podiatric physicians. The profiles are to be compiled beginning July 1, 1999, in a format determined by the department. Upon completion of a profile, the department shall allow the practitioner 30 days to review, and make factual corrections.

- Section 3. Provides for the department to update each practitioner's profile periodically. An updated profile is subject to the same requirements as the original. Also, the practitioner may review it for inaccuracies.
- Section 4. Effective upon this act becoming law, the department must develop or contract for a computer system to accommodate the new data collection and storage requirements pending development and operation of a new computer system to handle and process the required information.
- Section 5. Effective upon this act becoming law, the department may adopt rules for the form of a practitioner profile that the agency is required to prepare.
- Section 6. Provides for information in superseded practitioner profiles to be maintained by the department.
- Section 7. Amends s. 458.311, F.S., to require a set of fingerprints for a criminal background check (including cost), to be submitted by any person applying for licensure as a medical physician.
- Section 8. Amends s. 458.313, F.S., to require a set of fingerprints for a criminal background check (including cost), to be submitted by any person applying for licensure renewal as a medical physician.
- Section 9. Amends s. 458.319, F.S., to require a set of fingerprints for a criminal background check (including cost), to be submitted by any person applying for licensure renewal as a medical physician. In addition, it provides that all the information outlined in section 1 of the bill must be provided by any physician applying for renewal. Failure to comply within 30 days of notice of noncompliance, may result in a citation and a fine of up to \$50 for each day of noncompliance.
- Section 10. Amends s. 459.0055, F.S., to require a set of fingerprints for a criminal background check (including cost), to be submitted by any person applying for licensure as an osteopathic physician.
- Section 11. Amends s. 459.008, F.S., to require a set of fingerprints for a criminal background check (including cost), to be submitted by any person applying for licensure renewal as an osteopathic physician. In addition, it provides that all the information outlined in section 1 of the bill must be provided by any physician applying for renewal. Failure to comply within 30 days of notice of noncompliance, may result in a citation and a fine of up to \$50 for each day of noncompliance.
- Section 12. Amends s. 460.406, F.S., to require a set of fingerprints for a criminal background check (including cost), to be submitted by any person applying for licensure as a chiropractic physician.
- Section 13. Amends s. 460.407, F.S., to require a set of fingerprints for a criminal background check (including cost), to be submitted by any person applying for licensure renewal as a chiropractic physician. In addition, it provides that all the information outlined in section 1 of the bill must be provided by

any physician applying for renewal. Failure to comply within 30 days of notice of noncompliance, may result in a citation and a fine of up to \$50 for each day of noncompliance.

Section 14. 461.006, F.S., to require a set of fingerprints for a criminal background check (including cost), to be submitted by any person applying for licensure renewal as an podiatric physician.

Section 15. Amends s. 461.007, F.S., to require a set of fingerprints for a criminal background check (including cost), to be submitted by any person applying for licensure renewal as a podiatric physician. In addition, it provides that all the information outlined in section 1 of the bill must be provided by any physician applying for renewal. Failure to comply within 30 days of notice of noncompliance, may result in a citation and a fine of up to \$50 for each day of noncompliance.

Section 16. Amends s. 455.225, F.S., to revise procedures to discipline professionals. Requires AHCA or appropriate regulatory boards to establish plans to resolve incomplete investigations or disciplinary proceedings. Provides that AHCA complete its initial investigative findings within 6 months after receipt of the complaint. Requires AHCA to issue emergency orders suspending the license of a medical or osteopathic physician who AHCA has reasonable cause to believe has violated the financial responsibility requirements of the appropriate chapter.

Section 17. Amends s. 455.2285, F.S., to provide in the annual report description of pending cases an any efforts to reduce or close such cases within 1 year of initial filing of the complaint.

Section 18. Amends s. 455.2478, F.S., to provide that liability actions and information in the possession of the department relating to bankruptcy proceedings of specified practitioners are public records. This applies to anyone licensed under chs. 458, 459, 461, or 466. F.S. The department is required to make this information available upon request. .

Section 19. Amends s. 627.912, F.S., to provide insurers are required to report professional liability claims and actions to AHCA. The time frame for reporting is revised from 60 days to 30 days.

Section 20. Provides for AHCA to establish a toll-free telephone number for public reporting of complaints relating to medical treatment or services.

Section 21. Except as otherwise provided, this act shall take effect October 1, 1997.

III. FISCAL RESEARCH & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

See Fiscal Comments.

2. Recurring Effects:

See Fiscal Comments.

3. Long Run Effects Other Than Normal Growth:

See Fiscal Comments.

4. Total Revenues and Expenditures:

See Fiscal Comments.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

None.

2. Recurring Effects:

None.

3. Long Run Effects Other Than Normal Growth:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

Indeterminante at this time. However, the cost of the one time fingerprinting at \$39 person will be approximately \$2.7 million.

2. Direct Private Sector Benefits:

It would make availble information on physicians to assist the public in selecting a physician for their personal use.

3. Effects on Competition, Private Enterprise and Employment Markets:

None.

D. FISCAL COMMENTS:

The Department of Health provided the following information to implement this bill. The bill will not generate any additional revenues. A total of approximately \$2.7 million will be generated from fees to do fingerprinting. However, a like amount will be expended to obtain the criminal background checks. These costs are separate from the cost to implement a new computer system to handle the total regulation of all health care practitioners.

1) Cost to verify information and enter into computer:	
Nonrecurring	\$611,423
Recurring	370,085
2) Cost to compile and publish profile:	
Nonrecurring	\$261,365
Recurring	175,032
Total Nonrecurring	\$872,788
Total Recurring	<u>545,117</u>
Total Costs - DOH/MQA Trust Fund	\$1,417,905

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill does not require counties or municipalities to spend funds or to take an action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the authority that municipalities or counties have to raise revenues in the aggregate.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

This bill does not reduce the percentage of a state tax shared with counties or municipalities.

V. COMMENTS:

None.

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VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

None.

VII. SIGNATURES:

COMMITTEE ON HEALTH CARE STANDARDS & REGULATORY REFORM:

Prepared by:

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