

**STORAGE NAME:** h0329s1a.hhs

**DATE:** April 22, 1997

**HOUSE OF REPRESENTATIVES  
AS REVISED BY THE COMMITTEE ON  
HEALTH AND HUMAN SERVICES APPROPRIATIONS  
BILL RESEARCH & ECONOMIC IMPACT STATEMENT**

**BILL #:** CS/HB 329

**RELATING TO:** Mental Health Services

**SPONSOR(S):** Committee on Health Care Standards & Regulatory Reform and Representative Morse

**STATUTE(S) AFFECTED:** Chapters 455, 490, and 491, F.S.

**COMPANION BILL(S):** HB 605 (c), SB 490 (i), SB 660 (c)

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

- (1) HEALTH CARE STANDARDS & REGULATORY REFORM YEAS 5 NAYS 0
- (2) HEALTH AND HUMAN SERVICES APPROPRIATIONS YEAS 9 NAYS 0
- (3)
- (4)
- (5)

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**I. SUMMARY:**

The bill includes specified mental health professionals within the definition of "practitioner of the healing arts" for purposes of practicing therapeutic hypnosis. It establishes provisional licensure requirements for psychologists licensed under chapter 490, Florida Statutes, and psychotherapists licensed under chapter 491, F.S. Provisional licensure fees are established for practitioners.

The bill requires clinical social work, marriage and family therapy, and mental health counseling interns to register with the Department of Health and establishes requirements for certain licensed mental health practitioners to obtain licensure as a marriage and family therapist. It revises educational requirements for licensure by examination for marriage and family therapy and mental health counseling to conform to the accreditation standards of the Council for the Accreditation of Counseling and Related Educational Programs, effective January 1, 2001. Provisional licensure and registration fees are established for practitioners.

The bill revises requirements for marriage and family therapy and mental health counseling licensure applicants to allow any person who has completed a master's degree in the appropriate mental health field to start the clinical experience requirements while completing any additional course work required for licensure. It provides for dual licensure as a marriage and family therapist

The bill has a fiscal impact on state government.

II. SUBSTANTIVE ANALYSIS:

A. PRESENT SITUATION:

Chapter 490, Florida Statutes, provides for the regulation of psychologists and school psychologists by the Board of Psychology within the Agency for Health Care Administration (AHCA). The chapter provides definitions for the practice of psychology and school psychology. Any person who wishes to become a licensed psychologist must complete a doctoral-level program in a psychology program accredited by a programmatic agency recognized and approved by the United States Department of Education, complete an equivalent doctoral-level program from a school outside the United States which is officially recognized by the government of the country in which it is located, or, prior to July 1, 1999, receive certification of an augmented doctoral-level psychological education from the program director of a doctoral-level psychology program recognized and approved by a programmatic agency recognized and approved by the United States Department of Education. Psychology licensure applicants must complete a post-doctoral supervised psychological residency. The chapter authorizes the board to approve continuing education courses and providers. The chapter specifies grounds for which a licensed psychologist or school psychologist may be subject to discipline for professional misconduct. The chapter specifies violations for which persons are subject to criminal penalties and provides exemptions to certain persons from the psychology licensing requirements. The chapter provides that communications between a licensed psychologist or school psychologist and his or her patient or client are confidential and that confidentiality may be waived under certain circumstances.

Chapter 491, F.S., similarly provides for the regulation of psychotherapists by the Board of Clinical Social Work, Marriage and Family Therapy, and Mental Health Counseling within AHCA. The chapter provides definitions of practice for the regulation of clinical social work, marriage and family therapy, and mental health counseling. The chapter provides grounds for which a licensed psychotherapist may be subject to discipline for professional misconduct. The chapter specifies violations for which persons are subject to criminal penalties and provides exemptions to certain persons from the licensing requirements for psychotherapists. The chapter provides that communications between a licensed psychotherapist and his or her patient or client are confidential and that confidentiality may be waived under certain circumstances.

Chapter 491, F.S., specifies educational requirements for the licensure of psychotherapists. The chapter requires persons to complete a post-master's or postgraduate supervised clinical experience for licensure. Marriage and family therapy or mental health counseling licensure applicants must have a master's degree in the field and must complete all course work requirements before commencing the post-master clinical experience. The Council for the Accreditation of Counseling and Related Educational Programs (CACREP), an accrediting body, has established educational and competency standards for educational institutions offering counseling-related programs. The board has the authority to determine, by adopting an administrative rule, the examinations required for licensure.

Chapter 455, F.S., sets forth the general regulatory powers and duties of the Department of Business and Professional Regulation and the Agency for Health Care Administration to implement and enforce professional regulation. Effective July 1, 1997,

the regulation of health professions will transfer to the newly created Department of Health.

Chapter 456, F.S., allows the practice of hypnosis for therapeutic purposes by certain licensed practitioners of the healing arts. Section 456.32, F.S., defines practitioners of the healing arts to include any person licensed to practice medicine, surgery, psychiatry, dentistry, osteopathic medicine, chiropractic, naturopathy, podiatry, chiropody, or optometry.

**B. EFFECT OF PROPOSED CHANGES:**

The bill provides for the inclusion of specified mental health professionals within the definition of "practitioner of the healing arts". It revises and provides definitions relating to the regulation of psychological services. It provides for provisional licensure and repeals an unnecessary provision relating to inactive status. The Board of Psychology is authorized to create an organization responsible for approval of continuing education providers, programs, and courses for psychologists. It revises and provides grounds for disciplinary action. It provides requirements for display of licenses and provisional licenses, eliminates a requirement relating to use of the license number on professional advertisements, and provides requirements for promotional materials of provisional licensees.

The bill also provides the same requirements as above relating to the regulation of clinical, counseling and psychotherapy services.

Fees are established for provisional licensure applicants under chapter 490, F.S., and for provisional licensure and registration under chapter 491, F.S.

Specified mental health professionals are included within the definition of "health care provider" under the Access to Health Care Act.

**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?

No.

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

No.

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

No.

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?

N/A

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

N/A

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

N/A

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, it provides for fees for newly created provisional categories.

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?

N/A

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

New provisional licensees will pay a fee.

4. Individual Freedom:

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

N/A

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

N/A

5. Family Empowerment:

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

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

N/A

- (2) Who makes the decisions?

N/A

- (3) Are private alternatives permitted?

N/A

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

N/A

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

N/A

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

N/A

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?

N/A

(2) service providers?

N/A

(3) government employees/agencies?

N/A

**D. SECTION-BY-SECTION ANALYSIS:**

Section 1. Amends s. 456.32, F.S., relating to the practice of hypnosis, to add psychology, clinical social work, marriage and family therapy, and mental health counseling to the definition of "practitioner of the healing arts," thus permitting these practitioners to use hypnosis for therapeutic purposes.

Section 2. Amends s. 490.003, F.S., relating to psychology, to provide a definition for a "provisional psychologist licensee" to mean a person provisionally licensed under the psychology practice act who may provide psychological services under supervision. It makes other minor technical and conforming changes.

Section 3. Amends s. 490.005(1)(b), F.S., relating to psychology licensure by examination, to make technical and conforming changes.

Section 4. Creates s. 490.0051, F. S., to authorize the Board of Psychology to issue a provisional license to any person who pays an application fee no greater than \$250, has earned a doctoral degree from an accredited psychology program and has met any other additional requirements that the board may specify by rule. A provisional licensee must work under the supervision of a licensed psychologist. The provisional license expires 24 months after issuance and may not be renewed or reissued.

Section 5. Repeals s. 490.008, F.S., relating to procedures for the reactivation of inactive status licenses. Similar licensure procedures exist in the general regulatory provisions of chapter 455, F.S., which are applicable to all professions under the jurisdiction of the Agency for Health Care Administration.

Section 6. Amends s. 490.009, F.S., 1996 Supplement, relating to psychology, to provide that holders of a provisional psychology license are subject to discipline.

Section 7. Amends s. 490.012, F.S., relating to violations and penalties, to require a psychologist to publicly display his or her license and to eliminate a requirement for a licensed psychologist to use his or her license number in all professional advertisements. Provisional licensees must also display their licenses and must use the words "provisional psychologist licensee" on all promotional materials. Violations of the license display and advertising requirements are made subject to disciplinary action rather than being designated as misdemeanors of the first degree. It makes other minor technical changes.

Section 8. Amends s. 490.014, F.S., relating to psychology licensing exemptions, to prohibit any person whose license to practice psychology or school psychology has been suspended or revoked by the board or by another jurisdiction from practicing under an exemption unless the Board of Psychology has stipulated that the person may practice with stipulated conditions. The section makes technical and conforming changes.

Section 9. Amends s. 491.003, F.S., to modify the list of activities which define the practice of clinical social work, marriage and family therapy, and mental health counseling, and to define provisional licensees and registered interns.

Section 10. Creates s. 491.0045, F.S., to establish requirements for intern registration, effective January 1, 1998. The registration process will allow an intern who is completing his or her post graduate or post-master's level experience to become informed as to whether the intern has met the requisite licensure educational requirements before commencing the experience. Any person who intends to satisfy the postgraduate or post-master's level experience requirement must register with the department and the board must certify that he has completed the application and paid the application fee, met specified educational requirements for clinical social work, marriage and family therapy, and mental health counseling, and identified a qualified supervisor. A registered intern must remain under supervision.

Section 11. Creates s. 491.0046, F.S., to provide for provisional licensure requirements. A person who wishes to provide clinical social work, marriage and family therapy or mental health counseling services to satisfy the course work or examination requirements for licensure must be provisionally licensed. The holder of a provisional license may practice under supervision until he or she is fully licensed by completing the application form and remitting a nonrefundable application fee no greater than \$100 and provided that the Board of Clinical Social Work, Marriage and Family Therapy, and Mental Health Counseling certifies that the applicant has earned the requisite graduate degree or has been approved for the licensure examination as an endorsement candidate. A provisional licensee must work under the supervision of a licensed mental health professional. The provisional license is nonrenewable and expires 24 months after its issuance.

Section 12. Amends s. 491.005, F.S., relating to licensure by examination requirements for clinical social work, marriage and family therapy, and mental health counseling, to provide that a licensed mental health professional must be on the premises at any time an intern is providing psychotherapy services. Clinical social work applicants must complete not less than two years, instead of at least 3 years, of a clinical experience. The requirements for marriage and family therapy and mental health counseling applicants are revised to allow any person who has completed a master's degree in the appropriate mental health field to start the clinical experience requirements while completing any additional course work required for licensure. The section authorizes the board, to establish by rule, a requirement for licensure applicants under the chapter to demonstrate a knowledge of laws and rules governing the practice of clinical social work, marriage and family therapy, and mental health counseling.

Section 13. Effective January 1, 2001, amends s. 491.005, F.S., to revise the licensure by examination requirements for marriage and family therapy and mental health counseling by expanding the educational requirements for licensure so that they conform to the requirements for counseling-related programs that are accredited by the Council for the Accreditation of Counseling and Related Educational Programs (CACREP).

Section 14. Creates s. 491.0057, F.S., to establish requirements for a person who holds an active license for at least 3 years as a psychologist, clinical social worker, mental health counselor, or an advanced registered nurse practitioner who specializes in psychiatric mental health to obtain dual licensure as a marriage and family therapist after passage of the marriage and family therapist licensure examination.

Section 15. Amends s. 491.007, F.S., relating to procedures for licensure renewal, to provide that the Board of Clinical Social Work, Marriage and Family Therapy, and Mental Health Counseling or the Department of Health may adopt a rule specifying procedures and a fee no greater than \$100 for the biennial renewal of an intern registration.

Section 16. Amends s. 491.009, F.S., relating to clinical social work, marriage and family therapy, and mental health counseling, to provide that holders of a provisional license or intern registration are subject to discipline.

Section 17. Amends s. 491.012, F.S., relating to the practice of clinical social work, marriage and family therapy, and mental health counseling, to prohibit the use of protected titles to conform to changes in the bill relating to provisional licensure and registration unless the individual holds a valid license or registration.

Section 18. Amends s. 491.014, F.S., to revise an exception to the exemptions to the clinical social work, marriage and family therapy, and mental health counseling licensing requirements so that psychotherapists whose licenses have been suspended or revoked may work pursuant to an exemption under conditions set by the board. The section makes other minor technical and conforming changes relating to the creation of provisional licensure and registration.

Section 19. Amends s. 491.0149, F.S., relating to the display of licenses and the use of professional titles on promotional materials, to require a registered intern or provisional



licensee to conspicuously display his or her registration or license and to require that their titles appear on all promotional materials.

Section 20. Amends s. 232.02, F.S., to correct a cross-reference.

Section 21. Amends. S. 394.55, F.S., to correct a cross-reference.

Section 22. Provides an effective date of October 1, 1997, except as otherwise provided in the bill.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

The Department of Health projects total non-recurring costs of \$34,162.

2. Recurring Effects:

The Department of Health projects total revenues of \$170,000 for FY 1997-98 and \$200,000 for FY 1998-99.

Projected recurring expenditure requirements are 3 FTE and \$56,600 for FY 1997-98 and \$78,032 for FY 1998-99.

3. Long Run Effects Other Than Normal Growth

None.

4. Total Revenues and Expenditures:

See sections 1 and 2 above.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

N/A

2. Recurring Effects:

N/A

3. Long Run Effects Other Than Normal Growth:

N/A

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

1. Direct Private Sector Costs:

Newly licensed (provisional) individuals under chapter 490, F.S., will pay an application fee no greater than \$250. Applicants for intern registration under chapter 491, F.S. will pay an application fee no greater than \$200. An applicant for provisional licensure under chapter 491, F.S., will pay an application fee no greater than \$100.

2. Direct Private Sector Benefits:

N/A

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

N/A

D. **FISCAL COMMENTS:**

AHCA indicates that if the funding for 30 F.T.E.'s is not provided, Sections 4, 12, and 13 cannot be implemented, because current staffing is not sufficient to handle the increased workload.

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.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

One "strike everything" amendment was adopted in th Committee on Health Care Standards and Regulatory Reform. The differences between the original bill and the Committee Substitute are:

- ▶ Deletes language relating to continuing education providers;
- ▶ Deletes language relating to controlled substances in chapters 490 and 491, F.S.;
- ▶ Inserts language in chapters 490 and 491, F.S., of the bill clarifying that licensed professionals working in exempt settings can continue to work under board-stipulated agreements under certain circumstances;
- ▶ Deletes language relating to confidentiality at the request of the school psychologists;
- ▶ Removes controversial language from chapter 491, F.S., relating to the mental health scope of practice;
- ▶ Clarifies language making marriage and family and mental health counseling postmaster beginning supervision more accessible;
- ▶ Clarifies language making dual licensure for marriage and family therapists more accessible;
- ▶ Deletes language relating to protected titles found controversial to psychiatry and to community mental health counselors;
- ▶ Deletes language relating to immunity for liability for the provision of indigent care; and
- ▶ Deletes a provision from the bill which called for a study of employees serving in community mental health centers, which has been the subject of a great deal of contention in the past.

On April 18, 1997, the Committee on Health and Human Services adopted the bill with one amendment. The amendment appropriated three full time equivalent positions and \$90,762 from the Health Care Trust Fund for nine months funding for the purpose of implementing this act. Of this amount, \$34,162 is non-recurring.

VII. SIGNATURES:

COMMITTEE ON HEALTH CARE STANDARDS & REGULATORY REFORM:  
Prepared by: \_\_\_\_\_ Legislative Research Director: \_\_\_\_\_

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AS REVISED BY THE COMMITTEE ON HEALTH AND HUMAN SERVICES  
APPROPRIATIONS:

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