

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.)

BILL: CS/SB 1726

SPONSOR: Senator Meek

SUBJECT: Non-Clinical Social Work Practice

DATE: April 21, 1999 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Munroe</u>	<u>Wilson</u>	<u>HC</u>	<u>Favorable/CS</u>
2.	_____	_____	<u>FP</u>	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____

I. Summary:

This bill creates a 15-member Nonclinical Social Work Study Committee to review the need to regulate nonclinical social workers. The bill provides requirements for appointment to the study committee and requires the Department of Health to provide staff support and technical assistance to the committee. The bill requires the study committee to report its findings to the Legislature by December 31, 1999.

This bill creates two undesignated sections of law.

II. Present Situation:

Chapter 491, Florida Statutes, provides for the regulation of the practice of psychotherapy by the Board of Clinical Social Work, Marriage and Family Therapy, and Mental Health Counseling within the Department of Health. The chapter prohibits the practice of psychotherapy by any person unless that person meets the licensing requirements for clinical social work, marriage and family therapy, mental health counseling or is otherwise exempt from those requirements.

Section 491.015, F.S., authorizes the department to certify applicants for the designation as a "certified master social worker" and to exercise all functions reserved to boards under part II, ch. 455, F.S., with respect to the regulation of certified master social workers. Chapter 491, F.S., does not provide any penalties for individuals who use the title, "certified master social worker," without being certified by the department under ch. 491, F.S. Applicants for the certification must have met requirements specified in s. 491.0145, F.S., including completion of a doctoral degree in social work from a graduate school of social work accredited by the United States Department of Education, or a master's degree in social work with a major emphasis or specialty in clinical practice or administration, including agency administration and supervision, program planning and evaluation, staff development, research, community organization, community services, social planning, and human service advocacy from a graduate school of social work accredited by the Council on Social Work Education or the Canadian Association of Schools of Social Work, or an

accreditation agency with comparable standards. An applicant for the designation of certified master social worker must have a minimum of 3 years of experience in clinical services or administrative activities, 2 years of which must be at the post-master's level under the supervision of a person who meets the education and experience requirements for certification as a certified master social worker or licensure as a clinical social worker.

Section 491.0145(6), F.S., provides that nothing in the chapter may be construed to authorize a certified master social worker to provide clinical services. A person who holds a certified master social worker designation is prohibited from providing clinical social work services unless he or she meets the licensing requirements for psychotherapists. According to the Department of Health, there are 6 persons who currently hold the designation "certified master social worker." As of March, 1998, the certified master social workers had incurred a deficit of \$117,500 in the trust fund used by the Department of Health to implement their professional regulation.

The Sunrise Act, codified in s. 11.62, F.S., requires the Legislature to consider specific factors in determining whether to regulate a new profession or occupation. The act requires that all legislation proposing regulation of a previously unregulated profession or occupation be reviewed by the Legislature based on a showing of the following: (1) that substantial risk of harm to the public is a risk of no regulation; (2) that the skills the profession requires are specialized and readily measurable; (3) that other forms of regulation do not or cannot adequately protect the public; and (4) that the overall cost-effectiveness and economic impact of the proposed regulation is favorable. The act requires proponents of regulation of a previously unregulated profession to provide the agency that is proposed to have jurisdiction over the regulation and the legislative committees of reference information concerning the effect of proposed legislation to initially regulate a previously unregulated profession on the agency's resources to implement and enforce the regulation.

In response to a Sunrise questionnaire, the Florida Chapter of the National Association of Social Workers estimates that, as of April, 1998, there are approximately 12,000 professional social workers practicing in Florida. Social workers provide services to an array of client populations in both public and private settings. The proponents of the regulation of social work practice assert that there is a two-tiered standard for the provision of social work services for those unable to pay for services, who are restricted to public social services, and for those who are able to pay. The proponents for the regulation of social work practice note that unregulated practice allows persons who do not have professional training or who complete educational programs that do not meet the national standards of accreditation for social work education to provide services to clients. Proponents of the regulation indicated that some form of regulation for social work practice exists in all fifty states: 37 states regulate multiple levels of social work practice; 44 states identify exempt categories; 12 states require licensure of clinical social work; 4 states require licensure of non-clinical social work; and 36 states require ongoing continuing education. According to the proponents of the regulation, it is probable that most instances of harm to the public resulting from the actions of untrained and incompetent "social workers" are not documented or reported.

Proponents indicate that the functions and tasks of the profession of social work are clearly defined. A licensed bachelor social worker provides basic social work services, including the use of scientific and applied knowledge, theories, and methods, to provide assessment and referral;

needed information and education to clients; case management and supportive services to individuals, families, groups, and communities; problem-solving intervention; client-centered advocacy; and research. A licensed master social worker provides advanced social work services, including the use of scientific and applied knowledge, theories, and methods, to provide assessment and referral; casework management and supportive services to individuals, families, groups, and communities; needed education to clients; client-centered advocacy, planning, community organization, supervision and formulation; program development and implementation; problem-solving intervention; and research and program evaluation.

Chapter 468, F.S., contains regulatory provisions for fourteen miscellaneous professions and occupations. The chapter contains fourteen parts. The health care professions regulated under this chapter include: speech-language pathology and audiology; nursing home administration; occupational therapy; radiologic technology; respiratory therapy; dietetics and nutrition practice; athletic trainers; and orthotics, prosthetics, and pedorthics.

III. Effect of Proposed Changes:

The bill creates a 15-member Nonclinical Social Work Study Committee to review the need to regulate nonclinical social workers. The study committee will include the secretary or his or her designee from each of the following departments: Health; Elder Affairs; Children & Families; and Juvenile Justice. The Secretary of Health must appoint a person from each of the following associations or organizations: Florida Chapter of the National Association of Social Workers; Florida Association of Deans and Directors; American Association of State Social Work Boards; Children's Home Society; Florida Society of Clinical Social Work; Florida Association of Marriage & Family Therapy; Florida Mental Health Counselors Association; Florida Counseling Association; Florida Psychological Association; Florida Association of Counties; Florida Council of Community Mental Health, Inc.; and the Certification Board of Addiction Professionals of Florida. The Secretary of the Department of Health, or his or her designee, must serve as chair of the study committee and provide the necessary staff support and technical assistance to the study committee.

In order to determine if the lack of regulation of unlicensed activity poses a significant harm or damage to the health, safety, and welfare of the public, the study committee must review: whether the potential for harm exists, is recognizable, and imminent because of the unregulated practice of nonclinical social work; whether the practice of nonclinical social work requires special skills or training, and whether that skill or training is readily measurable or quantifiable so that examination or training requirements would reasonably assure initial and continuing professional or occupational ability; whether regulation has an unreasonable effect on job creation or job retention in the state or whether regulation places unreasonable restrictions on the employment prospects of persons who practice nonclinical social work; whether the public is effectively protected by means other than regulation; and whether the overall cost-effectiveness and economic impact of regulation is favorable.

The findings and recommendations of the study committee must be submitted to the Legislature, including the appropriate substantive committees by December 31, 1999, and must include specified information. The report must include: the number of persons subject to the regulation; documentation of the nature and extent of harm to the public caused by the unregulated practice

of nonclinical social work; state and federal regulation of nonclinical social work; associated costs of the regulation of nonclinical social work; and any details of previous efforts in Florida to implement regulation of nonclinical social workers. The study committee members may not be reimbursed for expenses associated with participation on the study committee except for expenses as provided by law.

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:

The provisions of this bill have no impact on public records or open meetings issues under the requirements of Article I, Subsections 24(a) and (b) of the Florida Constitution.

C. Trust Funds Restrictions:

The provisions of this bill have no impact on the trust fund restrictions under the requirements of Article III, Subsection 19(f) of the Florida Constitution.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Representatives of private associations that participate on the study will incur travel and related costs to participate.

C. Government Sector Impact:

The Department of Health will incur costs to provide necessary staff support and technical assistance to the study committee created under the bill.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Amendments:

None.

This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.
