

STORAGE NAME: h0463a.hhs

DATE: April 9, 1999

**HOUSE OF REPRESENTATIVES
AS FURTHER REVISED BY THE COMMITTEE ON
HEALTH AND HUMAN SERVICES APPROPRIATIONS
ANALYSIS**

BILL #: HB 463

RELATING TO: Pharmacy Practice/Licensure by Endorsement

SPONSOR(S): Representative Morroni and others

COMPANION BILL(S): SB 1036 (Identical)

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

- (1) HEALTH CARE LICENSING & REGULATION YEAS 9 NAYS 1
 - (2) GOVERNMENTAL RULES AND REGULATIONS YEAS 5 NAYS 1
 - (3) HEALTH AND HUMAN SERVICES APPROPRIATIONS YEAS 6 NAYS 2
 - (4)
 - (5)
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I. SUMMARY:

HB 463 creates s. 465.0075, F.S., to provide for pharmacy licensure by endorsement. It provides that applicants must have passed the national examination (NABPLEX), or a similar national examination not more than 15 years prior to the date of the application.

The applicant must submit proof of the "active licensed practice of pharmacy" in two of the immediately preceding seven years; or evidence of successful completion of either board-approved postgraduate training; or a board-approved clinical competency examination within the year preceding application.

It defines the "active licensed practice of pharmacy" as the practice of pharmacy by pharmacists, including those employed by any governmental entity in community or public health, and those on the active teaching faculty of an accredited pharmacy school. It provides certain limitations on licensure by endorsement for those on probation in other jurisdictions.

The bill's negative fiscal impact is expected to be covered by collected fees. There is no fiscal impact on local government or the private sector.

II. SUBSTANTIVE ANALYSIS:

A. PRESENT SITUATION:

Chapter 465, F.S., regulates the practice of pharmacy and vests in the Board of Pharmacy the authority to adopt rules to implement Ch. 465, F.S. The Board of Pharmacy is comprised of two consumer members and seven pharmacists.

Current pharmacy law fails to provide for licensure by endorsement.

In 1986, the Florida Board of Pharmacy began using the National Association of Boards of Pharmacy [NABPLEX] exam for pharmacy licensure which is the same exam used by all other states, except California. Most major medical professions in Florida that take the same national examination as other states, recognize the grades on such examination for licensure in Florida, except for pharmacists. For instance, medical professions such as medical physicians, osteopathic physicians, podiatric physicians, and nurses provide for full Florida licensure by endorsement.

During the 1998 interim, the House Committee on Health Care Licensing and Regulation conducted an informal review of pharmacy issues in the state. The review identified Florida's lack of reciprocity/endorsement with other states as an area of concern by most of the members of the responding groups. The review indicated that Florida and California were the only two states lacking the ability to transfer licensure or issue a license by endorsement. The only respondents opposing licensure by endorsement were the Florida Pharmacy Association (F.P.A.).

Many of the review respondents questioned why pharmacists in other states, who have taken the same NABPLEX exam as their counterparts in Florida, are denied the ability to transfer those scores into Florida for licensure. Respondents recommended that Florida honor NABPLEX exam scores from other states, therefore permitting Florida-educated pharmacists seeking professional opportunities in other states the option to do so.

It should be noted that the issue of authorizing pharmacy licensure by endorsement was recommended during the 1986 Sunset Review.

B. EFFECT OF PROPOSED CHANGES:

Creates s. 465.0075, F.S., to provide for pharmacy licensure by endorsement. It provides that applicants must have passed the national examination (NABPLEX), or a similar national examination not more than 15 years prior to date of the application.

The applicant must submit proof of the "active licensed practice of pharmacy" in two of the immediately preceding seven years or evidence of successful completion of either board-approved postgraduate training or a board-approved clinical competency examination within the year preceding application.

It defines the "active licensed practice of pharmacy" as the practice pharmacy by pharmacists, including those employed by any governmental entity in community or public health, and those on the active teaching faculty of an accredited pharmacy school. It provides certain limitations on licensure by endorsement.

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?

While no specific authority is included for rulemaking, the board could use their general rulemaking authority to implement the provisions relating to licensure by endorsement.

- (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?

No.

- 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?

Yes. Any pharmacist that obtains Florida licensure by endorsement will pay all related costs.

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. STATUTE(S) AFFECTED:

Creates s. 465.0075, Florida Statutes

E. SECTION-BY-SECTION ANALYSIS:

Section 1. Creates s. 465.0075, Florida Statutes, to provide for pharmacy licensure by endorsement. It provides that applicants must pass the national examination (NABPLEX), or a similar national examination not more than 15 years prior to the date of the application.

The applicant must submit proof of the “active licensed practice of pharmacy” in two of the immediately preceding seven years or evidence of successful completion of either board-approved postgraduate training or a board-approved clinical competency examination within the year preceding application.

It defines the “active licensed practice of pharmacy” as the practice of pharmacy by pharmacists, including those employed by any governmental entity in community or public health, and those on the active teaching faculty of an accredited pharmacy school. It provides certain limitations on licensure by endorsement for applicants on probation in other jurisdiction.

Section 2. Provides an effective date of upon becoming law.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

Expenditures:	1999-2000
Department of Health	
OCO 1FTE	\$6,564

2. Recurring Effects:

Revenues:	1999-2000	2000-2001
Department of Health		
350 applicants @ \$100	\$35,000	\$35,000
Expenditures		
Department of Health		
1FTE (RSI)	\$21,965	\$29,287
1FTE Expenses	4,988	4,988
Medical Quality Assurance Trust Fund	\$26,953	\$34,275

3. Long Run Effects Other Than Normal Growth:

None.

4. Total Revenues and Expenditures:

Revenues:		
Department of Health	\$35,000	\$35,000
Expenditures:		
Department of Health	\$33,517	\$34,275

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:

None.

2. Direct Private Sector Benefits:

None. However, see comments under Employment Markets.

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

While the bill will not have any effect on competition or the employment markets in general, the availability of additional pharmacists could benefit a number of the pharmacies located in Florida. Eckerd Drugs and Walgreen Drugs both stated they can offer employment to more pharmacists than are available in the state. However, they cannot go outside of the state to recruit because Florida does not permit endorsement with other states, or even allow license examination scores to be transferred.

D. FISCAL COMMENTS:

None.

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

A. APPLICABILITY OF THE MANDATES PROVISION:

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

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:

The following are comments provided by the Committee on Health Care Licensing and Regulation:

According to the Department of Health's analysis, the bill limits the endorsement provision to pharmacists that passed the national exam more than 15 years ago. They suggest this is a drafting error. Upon review, it could be interpreted that way. The other option is it should read "**not** more than 15 years ago". This would allow a pharmacist who took the exam 15 years ago or less, to apply for licensure by endorsement. Another interpretation is that anyone who took a similar national exam more than 15 years ago must be certified by the board prior to licensure by endorsement. A clarifying amendment is needed.

The department suggested that the bill should be amended to make a recent approved internship an alternative to the 2 years of active practice. This would allow recent graduates this avenue of licensure without waiting two years to apply. Also, they suggested that applicants by endorsement should have to take the Florida jurisprudence examination the same as applicants for licensure by examination. The Board of Pharmacy has taken a neutral position on licensure by endorsement.

The following are comments by the Committee on Governmental Rules and Regulations:

The Department of Health states that an amendment to section 465.007, F.S., providing for licensure by endorsement and providing appropriate protection for the public's health, safety, and welfare, could be proposed. However, in previous attempts to pass similar legislation, the Board of Pharmacy reviewed three draft proposals and voted to remain neutral on the issue.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

The Health Care Licensing & Regulation Committee passed the bill with one amendment on March 11, 1999. The amendment clarified that this bill would allow a pharmacist who took the exam 15 years ago or less, to apply for licensure by endorsement. In addition, it provides for a recent approved internship as an alternative to the 2 years of active practice. This would allow recent graduates this avenue of licensure without waiting two years to apply. Also, applicants by endorsement are required to take the Florida jurisprudence examination the same as applicants for licensure by examination.

On March 22, 1999, the Committee on Governmental Rules and Regulations passed the bill with one amendment to the traveling amendment. The amendment changed the requirements for claiming an "active licensed practice of pharmacy." The amendment requires that an applicant must submit evidence of an active licensed practice of pharmacy in another jurisdiction for at least 2 of the immediately preceding 5 years, instead of the immediately preceding 7 years.

VII. SIGNATURES:

COMMITTEE ON HEALTH CARE LICENSING & REGULATION:

Prepared by:

Staff Director:

Robert W. Coggins

Lucretia Shaw Collins

AS REVISED BY THE COMMITTEE ON GOVERNMENTAL RULES AND REGULATIONS:

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APPROPRIATIONS:

Prepared by:

Staff Director:

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