

STORAGE NAME: h1077.hcl

DATE: March 10, 2000

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
HEALTH CARE LICENSING & REGULATION
ANALYSIS**

BILL #: HB 1077

RELATING TO: Mental Health Professionals

SPONSOR(S): Representative Kelly and others

TIED BILL(S): None

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

- (1) HEALTH CARE LICENSING & REGULATION
 - (2) JUDICIARY
 - (3) GOVERNMENTAL RULES & REGULATION
 - (4) HEALTH & HUMAN SERVICES APPROPRIATIONS
 - (5)
-

I. SUMMARY:

The bill amends exemption provisions in chapters 490 and 491, F.S., which allow persons employed by the state, in an agency licensed by the state, or a nonprofit organization to provide psychological or psychotherapeutic services without a license under certain circumstances. This bill requires the unlicensed person to work under a protocol and notify their clients and the Court that they are unlicensed. The bill also requires employers to maintain a list of unlicensed persons, their disclosure to clients as to the employee's licensure status, and a log of unlicensed activities.

There is no fiscal impact to the Department of Health.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- | | | | |
|-----------------------------------|------------------------------|-----------------------------|---|
| 1. <u>Less Government</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. <u>Lower Taxes</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. <u>Individual Freedom</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. <u>Personal Responsibility</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. <u>Family Empowerment</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a "no" above, please explain:

B. PRESENT SITUATION:

Sections 490.014 and 491.014, F.S., provide exemptions from licensure as a psychologist and exemptions from licensure as a clinical social worker, marriage and family therapist, or mental health counselor, respectively. Current law does not require that the person follow a protocol, nor does it require the unlicensed person to notify the client or a Court when providing testimony as an expert witness or otherwise of the person's status as unlicensed. Current law does not require the employer to maintain a list of unlicensed persons, their disclosure to clients as to the employee's licensure status, or a log of unlicensed activities.

According to the proponents of this bill, the exempted persons do not always voluntarily disclose to clients nor to the Court when providing expert witness testimony the fact that they are not licensed psychologists or licensed psychotherapists with special education, training, and experience to render such expert diagnosis opinions. Such non-disclosure has resulted in testimony being admitted into evidence as expert testimony and given greater weight than it might have been if the status of the witness as an unlicensed person been known to the Court and the parties.

C. EFFECT OF PROPOSED CHANGES:

The bill does not require these persons currently exempt from licensure to become licensed. However, it does require the unlicensed person to work under a protocol and notify their clients and the court that they are unlicensed. The bill also requires employers to maintain a list of unlicensed persons, their disclosure to clients as to the employee's licensure status, and a log of unlicensed activities.

D. SECTION-BY-SECTION ANALYSIS:

Section 1. Amends s. 490.014, F.S., to require unlicensed person performing psychological services to follow a protocol and disclose to client or court the fact that he or she is unlicensed. Requires employing state agency, agency licensed or endorsed by state, or nonprofit organization to maintain a list identifying unlicensed persons and a log of their activities. Also, requires employer to maintain a record of employee's disclosure to client or court regarding licensure status.

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Section 2. Amends s. 491.014, F.S., to require unlicensed person performing psychotherapeutic services to follow a protocol and disclose to client or court the fact that he or she is unlicensed. Requires employing state agency, agency licensed or endorsed by state, or nonprofit organization to maintain a list identifying unlicensed persons and a log of their activities. Also, requires employer to maintain a record of employee's disclosure to client or court regarding licensure status.

Section 3. Provides for an effective date of January 1, 2002.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

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

A. APPLICABILITY OF THE MANDATES PROVISION:

The bill does not require a county or municipality to expend funds or to take any 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:

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

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

None.

C. OTHER COMMENTS:

The Florida Board of Psychology has expressed its opposition to the bill on the basis that "it does not go far enough in protecting the public from unlicensed individuals who are not required to meet the minimum competency standards as set forth in chapter 490, F.S."

The Department of Health has suggested two amendments to clarify the language used in the bill. The suggested amendments strike the language "a person employed by the state or who works in an agency licensed or endorsed by the state" as used on page 2, line 3 and on page 3, line 25, and insert "such employee."

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

None.

VII. SIGNATURES:

COMMITTEE ON HEALTH CARE LICENSING & REGULATION:

Prepared by:

Staff Director:

Wendy Smith Hansen

Lucretia Shaw Collins