

STORAGE NAME: h0567s2a.hhs

DATE: April 18, 2000

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

BILL #: CS/CS/HB 567

RELATING TO: Nursing

SPONSOR(S): Committee on Governmental Rules & Regulations, Committee on Health Care Licensing & Regulation, Representative Boyd, and others

TIED BILL(S):

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

- (1) HEALTH CARE LICENSING & REGULATION YEAS 13 NAYS 0
- (2) GOVERNMENTAL RULES & REGULATIONS YEAS 7 NAYS 0
- (3) HEALTH AND HUMAN SERVICES APPROPRIATIONS YEAS 10 NAYS 0
- (4)
- (5)

I. SUMMARY:

CS/CS/HB 567 transfers part XV, of ch. 468, F.S., relating to certified nursing assistants, to ch. 464, F.S., moving responsibility and rulemaking authority for the regulation of certified nursing assistants from the Department of Health (department) to the Board of Nursing (board). The bill makes technical changes to accommodate the transfer of this regulation from the department to the board. The bill creates a 5-member Council on Certified Nursing Assistants and specifies its duties. It revises requirements for CNA certification and application procedures.

The bill requires advanced registered nurse practitioners (ARNPs) to comply with the practitioner profiling and credentialing laws. Individuals requesting certification or recertification as advanced registered nurse practitioners must submit certain information, including a set of fingerprints. The department is to begin profiling and credentialing ARNPs on July 1, 2001. An effective date of July 1, 2000, is provided for the other provisions in the act.

The appropriate regulatory board within the Department of Health, or department itself when there is no board, is authorized to grant an exemption from disqualification to an employee or prospective employee who has received a professional license or certification from the department or a regulatory board within the department and who is subject to criminal background screening as a condition of employment or contract.

This bill has a significant fiscal impact on the Department of Health and the Board of Nursing. The department estimates that it will need six new full time employees to implement the provisions of this bill, costing the department \$538,829 in the first year and \$198,829 each following year. The bill appropriates \$280,000 to the department to implement the provisions of the act.

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:

The federal government has created guidelines pursuant to the Code of Federal Regulation, Title 42, ss. 483.150-158, which establish basic requirements regarding nurses aides that must be met by states. All state policies relating to certified nursing assistants (CNAs) must comply with the federal guidelines. These federal regulations outline the required training programs and competency evaluations for CNAs, require states to establish a registry of CNAs, and set up procedures by which states may receive federal reimbursement for some costs associated with CNA programs.

Certified nursing assistants are currently regulated in Florida by the Department of Health. The department oversees the discipline and certification of all CNAs. The Department of Health indicates that there is confusion among individuals who supervise and employ CNAs regarding the mechanism for their discipline. The department also asserts that the Board of Nursing is recognized and accepted by nurses and employers as an effective disciplinary body.

The department is responsible for ensuring that a statewide registry of certified nursing assistants is maintained. The Department of Health contracts with the Agency for Health Care Administration (AHCA) to maintain this registry.

In order to become certified as a CNA an individual must:

1. Successfully complete an approved training program and achieve a minimum score on the nursing assistant competency examination; or
2. Be at least 18 years of age, hold a high school diploma or its equivalent, and achieve a minimum score on the nursing assistant competency examination.

The Department of Education approves certified nursing assistant education programs.

In Florida, profiling and credentialing of allopathic, osteopathic, chiropractic, and podiatric physicians are required. Advanced registered nurse practitioners (ARNPs) are not required to be credentialed or profiled.

C. EFFECT OF PROPOSED CHANGES:

The bill transfers part XV, ch. 468, F.S., to ch. 464, F.S., consolidating and placing the regulation of certified nursing assistants under the Board of Nursing. It also transfers authority to approve certified nursing assistant education programs to the Board of Nursing from the Department of Education. It transfers the responsibility for the maintenance of the state registry of CNAs from the department to the board.

The bill includes advanced registered nurse practitioners under the credentialing and profiling programs administered by the Department of Health. ARNPs are required upon applying for initial licensure, or upon seeking renewal of a license to submit certain information to the department including a set of fingerprints.

The bill creates a 5-member Council on Certified Nursing Assistants and specifies its duties. It revises requirements for CNA certification and application procedures.

D. SECTION-BY-SECTION ANALYSIS:

Section 1. Renumbers ss. 468.821 - 468.829, F.S., as ss. 464.201 - 464.209, F.S., and designates them as part II of ch. 464, F.S.; amends said sections to transfer regulatory authority of certified nursing assistants (CNAs) from the Department of Health to the Board of Nursing; and replaces "department" with "board." The contract providers are directed to accept CNA applications via the Internet and complete testing within 5 calendar days and provide test scores within 2 calendar days after the test date.

Section 2. Creates s. 464.2085, F.S., to establish a 5-member Council on Certified Nursing Assistants under the Board of Nursing within the Department of Health, which will recommend policies and procedures for the certification of nursing assistants to the department, develop rules regulating the education, training, and certification process for nursing assistants, and address concerns and problems of CNAs to improve safety in their practice; provides for membership.

Section 3. Amends s. 20.43, F.S., to place nursing assistants in the correct numerical sequence in the list of boards and professionals under the oversight of the Division of Medical Quality Assurance.

Sections 4 - 16. Amend ss. 39.01, 39.304, 110.131, 232.46, 240.4075, 246.081, 310.102, 381.0302, 384.30, 384.31, 394.455, 395.0191, and 400.021, F.S., to make technical changes inserting "part I of" before "chapter 464" to reflect that ch. 464, F.S., is divided into two parts, where part I addresses licensed nurses and part II addresses nursing assistants.

Section 17. Amends s. 400.211, F.S., to require that any individual who works as a nursing assistant in a nursing home must be certified under part II of ch. 464, F.S. Makes technical changes to reflect that ch. 464, F.S., has two parts.

Section 18. Amends s. 400.215, F.S., to allow the appropriate board within the Department of Health to grant exemptions from disqualification from employment to certain individuals.

Sections 19 - 25. Amend ss. 400.402, 400.407, 400.4255, 400.426, 400.462, 400.464, and 400.506, F.S., to make technical changes inserting "part I of" and "part II of chapter

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464" to reflect that ch. 464, F.S., is divided into two parts, where part I addresses licensed nurses and part II addresses nursing assistants.

Section 26. Amends s. 400.512, F.S., to revise the manner in which exemptions from disqualification from employment are granted for certain individuals.

Sections 27 - 39. Amend ss. 400.6105, 401.23, 401.252, 408.706, 409.908, 415.1085, 455.597, 455.604, 455.667, 455.677, 455.694, 455.707, and 458.348, F.S., to make technical changes inserting "part I of" and "part II of chapter 464" to reflect that ch. 464, F.S., is divided into two parts, where part I addresses licensed nurses and part II addresses nursing assistants.

Sections 40 - 50. Amend ss. 464.001, 464.002, 464.003, 464.006, 464.009, 464.016, 464.018, 464.019, 464.022, 464.023, and 464.027, F.S., to make technical changes dividing ch. 464, F.S., into two parts.

Sections 51 - 71. Amend ss. 466.003, 467.003, 467.0125, 467.203, 468.505, 483.041, 483.801, 491.0112, 550.24055, 627.351, 627.357, 627.9404, 641.31, 766.101, 766.110, 766.1115, 877.111, 945.602, 960.28, 984.03, and 985.03, F.S., to make technical changes inserting "part I of" before "chapter 464" to reflect that ch. 464, F.S., is divided into two parts, where part I addresses licensed nurses and part II addresses nursing assistants.

Section 72. Amends s. 455.557, F.S., to revise provisions regarding the credentialing of health care practitioners, to delete obsolete language referring to the Credentials Advisory Council, and to add ARNPs to the list of health care practitioners required to participate in the credentialing program.

Section 73. Creates s. 455.56503, F.S., to require ARNPs to submit certain information when applying for certification or recertification renewal including a set of fingerprints for profiling purposes.

Section 74. Amends s. 455.5651, F.S., to allow the department to publish certain information relating to ARNPs in practitioner profiles, beginning July 1, 2001.

Section 75. Amends s. 455.5653, F.S., to remove obsolete language relating to the development of a schedule for practitioner profiles for other health care professionals, and to allow the Department of Health to access information about ARNPs that is compiled by the Agency for Health Care Administration.

Section 76. Amends s. 455.5654, F.S., to grant the department authority, by rule, to create a form for ARNPs to use when submitting profiling information.

Section 77. Appropriates from the Medical Quality Assurance Trust Fund to the Department of Health \$280,000 to implement the provisions of this act.

Section 78. Provides an effective date of July 1, 2000.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. <u>Revenues:</u>	<u>2000-01</u>	<u>2001-02</u>
Department of Health		
Medical Quality Assurance Trust Fund	\$280,000	\$280,000
=====	=====	=====
Total Revenues:	\$280,000	\$280,000

2. <u>Expenditures:</u>	<u>2000-01</u>	<u>2001-02</u>
Department of Health		
One-time Costs:		
Medical Quality Assurance Trust Fund	\$415,212	\$45,052
Recurring Costs:		
Medical Quality Assurance Trust Fund	\$126,617	\$153,777
=====	=====	=====
Total Expenses:		
Medical Quality Assurance Trust Fund	\$538,829	\$198,829
(3 FTEs)		
(3 OPS)		

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Advanced registered nurse practitioners will have to bear the cost of providing fingerprints and the other required information. Also, they will have to pay fees to cover the cost of obtaining a background check using the fingerprints they submit.

D. FISCAL COMMENTS:

Fiscal Comments by the Committee on Health Care Licensing & Regulation

The Department of Health indicates that in order to implement the provisions in the bill they will need one nurse consultant, two regulatory specialists, and three full time OPS positions. The nurse consultant will approve certified nursing assistant education programs. This function is currently accomplished as part of the duties included in two positions held within the Department of Education.

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One of the regulatory specialists will be added to the compliance unit with the Board of Nursing office to assist with the additional disciplinary workload that will be created due to the transfer of the regulation of CNAs to the Board of Nursing. The second regulatory specialist will be added to the Credentialing and Profiling Unit within the Bureau of Operations to assist in the investigation and research of profiling and credentialing responses and background responses received from ARNPs.

The three OPS positions will be added to the Credentialing and Profiling Unit and will be responsible for the initial and ongoing updating of profiling and credentialing information.

The department also identified one-time costs to set up the ARNP profiling system and the ARNP credentialing system of \$10,000 and \$275,000, respectively.

In most instances, licensure programs run by the state are supported through fees paid by licensees to obtain a license. However, federal regulations pursuant to the Code of Federal Regulation, Title 42, s. 483.156, prohibit states from imposing "any charges related to registration on [CNAs]." This makes it impossible for the state to assess CNA licensing fees to fund the CNA program.

The bill should have a positive fiscal impact on the Department of Education due to the transferral to the Board of Nursing the responsibility for approving certified nursing assistant education programs.

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 expend funds or take any actions requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the authority that counties or municipalities 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 state tax shared with counties or municipalities.

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

The bill transfers rulemaking authority regarding the certification of certified nursing assistants from the Department of Health to the Board of Nursing. Also, the bill grants the department authority to create a form that ARNPs will use to submit profiling information.

C. OTHER COMMENTS:

None.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

At the February 22, 2000, meeting of the Health Care Licensing & Regulation Committee six amendments to HB 567 were adopted. The bill, as amended, was approved as a committee substitute for HB 567.

The original bill required all hospitals, home health agencies, and other health agencies in Florida that employ unlicensed individuals to perform health care services under the supervision of licensed nurses to report the names and work titles of those employees to the Board of Nursing. The bill required the department to begin profiling ARNPs in July 2000. Also, the original bill did not appropriate any funds to the department.

The committee substitute does not require the reporting of the names and titles of unlicensed individuals working under the supervision of licensed nurses. ARNPs are not required to participate in the profiling and credentialing programs until July 1, 2001. The bill appropriates \$280,000 to the department to implement the provisions in the act.

On March 30, 2000, the Committee on Governmental Rules & Regulations adopted a "strike everything after the enacting clause" amendment and reported the bill favorably as a committee substitute for committee substitute. Main differences between the amendment and the committee substitute include the following:

- Created a 5-member Council on Certified Nursing Assistants and specified its duties.
- Directed that contract providers accept applications via the Internet and complete testing within 5 calendar days and provide test scores within 2 calendar days after the test date.
- Removed language restricting CNAs trained other states from practicing in this state.
- Revised examination language.
- Restored current law regarding the discipline of CNAs.

On April 18, 2000, the Committee on Health and Human Services Appropriations adopted two amendments as follows:

- The first amendment did the following:
 - Repealed subsection (20) of 400.462, F.S., relating to the definition of "screening".
 - Adds subsection (3) of 400.484, F.S., regarding assessing costs related to an investigation.
 - Amends section 400.487, F.S., regarding physician's treatment orders.
 - Amends section 400.497, F.S., creating a home health aide competency test.

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- Amends section 400.509, F.S., relating to assessment of costs of investigation in certain circumstances.
- Amends section 500.512, F.S., relating to screening of home health agency personnel; nurse registry personnel and companion and homemaker services personnel.
- The second amendment added authority for licensed practical nurses to supervise other licensed practical nurses, certified nursing assistants, and other unlicensed personnel in nursing homes in accordance with rules adopted by the Board of Nursing.

VII. SIGNATURES:

COMMITTEE ON HEALTH CARE LICENSING & REGULATION:

Prepared by:

Staff Director:

Andrew "Andy" Palmer

Lucretia Shaw Collins

AS REVISED BY THE COMMITTEE ON GOVERNMENTAL RULES & REGULATIONS:

Prepared by:

Staff Director:

Shari Z. Whittier

David M. Greenbaum

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

Prepared by:

Staff Director:

Lynn Dixon

Lynn Dixon