

**STORAGE NAME:** h0355s1.llc.doc

**DATE:** February 26, 2002

**HOUSE OF REPRESENTATIVES  
AS REVISED BY  
COUNCIL FOR LIFELONG LEARNING  
ANALYSIS**

**BILL #:** CS/HB 355

**RELATING TO:** Public School Health Care Services

**SPONSOR(S):** Committee on General Education & Representatives Cusack, Bendross-Mindingall, Brutus, & Richardson

**TIED BILL(S):** None.

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

- (1) GENERAL EDUCATION YEAS 10 NAYS 0
- (2) COUNCIL FOR LIFELONG LEARNING
- (3)
- (4)
- (5)

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**I. SUMMARY:**

CS/HB 355 establishes a public school volunteer health care practitioner program with incentives and coordinates the program with the School Health Services Act. The program is designed to encourage physicians, osteopathic physicians, chiropractic physicians, podiatric physicians, optometrists, advanced registered nurse practitioners, registered nurses, licensed practical nurses, pharmacists, dentists, dental hygienists, midwife practitioners, speech-language pathologists, speech-language audiologists, or physical therapists to provide their services to public schools.

Any licensed health care professionals cited above who volunteer for at least eighty hours a year for each school year during the two year licensing period will be granted a waiver for payment of their licensing renewal fee. Additionally, they will be eligible for fulfillment of a maximum of 25 percent of the continuing education hours required for license renewal. If the licensed health care professionals are retired, they must provide at least 400 hours a year for each school year during the two-year licensing period. The school districts may establish a schedule for health care professionals who participate in the program.

CS/HB 355 specifies that in order for applicants to become eligible for the program, they must have a valid, active license to practice their professions in Florida and must submit fingerprints to the Florida Department of Law Enforcement to conduct a criminal history check and background screening.

The Department of Health (DOH), in cooperation with the Department of Education (DOE), supervises the program and performs periodic program reviews, publicizes the availability of the program and its benefits; and may adopt rules to implement the program.

According to the DOH, estimated expenditures to implement this program are \$100,000 non-recurring costs plus \$546,969 recurring costs, or an estimated total of \$646,969 for the first year. The total recurring costs for the second year is \$652,607. According to the DOH, the Medical Quality Assurance Trust Fund (MQATF) will lose revenue currently generated by the various boards for license renewal fees. The estimated loss of revenue to MQATF for each of the first two years is \$46,125.

SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- |                                   |                              |  |   |
|-----------------------------------|------------------------------|--|---|
| 1. <u>Less Government</u>         | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> | N/A <input 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"/> |

This committee substitute does not support the principles of less government because it requires the Department of Health, in cooperation with the Department of Education, to supervise the administration of this program. In addition, the committee substitute authorizes rulemaking authority.

B. PRESENT SITUATION:

**Health Care Practices and Practitioners**

Florida Statutes provides for the licensing of health care practitioners as follows:

- Physicians in Chapter 458, Florida Statutes;
- Osteopathic physicians in Chapter 459, Florida Statutes;
- Chiropractic physicians in Chapter 460 Florida Statutes;
- Podiatric physicians in Chapter 461 Florida Statutes;
- Optometrists in Chapter 463 Florida Statutes;
- Advanced registered nurse practitioners in Chapter 464, Florida Statutes;
- Registered nurses in Part I, Chapter 464, Florida Statutes;
- Licensed practical nurses in Chapter 464, Florida Statutes;
- Pharmacists in Chapter 465, Florida Statutes;
- Dentists or dental hygienists in Chapter 466, Florida Statutes;
- Midwife practitioners in Chapter 467, Florida Statutes;
- Speech-language pathologists or audiologists in Part I, Chapter 468, Florida Statutes; and
- Physical therapists in Chapter 486.

**School Health Services Act**

The "School Health Services Act" (s. 381.0056(2), F.S.) was established as part of the total school health program. School health services *supplement, rather than replace*, parental responsibility and are designed to encourage parents to devote attention to child health, to discover health problems, and to encourage the use of the services of their physicians, dentists, and community health agencies. The Department of Health, in cooperation with the Department of Education, is required to supervise the administration of the school health services program and perform periodic program reviews. The principal of each school must have the immediate supervisory authority over the health personnel working in the school. Each county health department must develop, jointly with the district school board and the local school health advisory committee, a school health services plan.

**Full Service Schools**

Pursuant to s. 402.3026, F.S., the State Board of Education and the Department of Health must jointly establish full-service schools to serve students from schools that have a student population that has a high risk of needing medical and social services, based on the results of demographic

evaluations. Full-service schools must integrate the services of the Department of Health that are critical to the continuity-of-care process. The Department of Health must provide services to these high-risk students through facilities established within the grounds of the school. Such services may include, without limitation, nutritional services, basic medical services, aid to dependent children, parenting skills, counseling for abused children, counseling for children at high risk for delinquent behavior and their parents, and adult education. Two programs that are part of full service schools are the Volunteer School Nurse Program and the Volunteer Health Care Provider Program.

#### The Volunteer School Nurse Program

According to the Department of Health, the Volunteer School Nurse Program was implemented in eight counties in 2001 and will expand to fourteen counties in 2002. In each of these counties, a county health department registered nurse, whose salary is paid for pursuant to the General Appropriations Act 2000-2001, is responsible for recruiting, training, orienting, supervising, and scheduling the volunteer nurses.

#### Volunteer Health Care Provider Program

The Volunteer Health Care Provider Program was established in 1992 by s. 766.1115, F.S. According to the Department of Health, this program has been successful in using volunteers to increase access to health care services for the indigent. State sovereign immunity coverage for volunteers under this program has been a key to its success. However, this program relies on continuity in supervising, screening, and training volunteers by program staff. In most situations, a physician supervises the health care practitioners.

#### **Comprehensive School Health Services Project**

The Comprehensive School Health Services Project provides health services in schools with a high proportion of students at-risk and in need of medical services. This program serves every school in 17 of Florida's 67 counties, and 47 of Florida's counties have the program in at least one school. The Comprehensive School Health Service Project has one health care professional for every 2.05 schools and one health care professional for every 1,614 students.

#### **Florida Volunteer Protection Act**

Pursuant to s. 768.1355, F.S., any person who volunteers to perform any service for any nonprofit organization, including an officer or director of such organization, without compensation, except for reimbursement for actual expenses, must be considered an agent of such nonprofit organization when acting within the scope of any official duties performed under such volunteer services. Such person must incur no civil liability for any act or omission by such person which results in personal injury or property damage if: (1) the person was acting in good faith within the scope of any official duties performed under the volunteer service, and the person was acting as an ordinary reasonably prudent person would have acted under the same or similar circumstances; and (2) the injury or damage was not caused by any wanton or willful misconduct on the part of the person in the performance of his or her duties.

#### **Sovereign Immunity**

Pursuant to s. 768.28(9)(a), F.S., no officer, employee, or agent of the state or of any of its subdivisions must be held personally liable in tort or named as a party defendant in any action for any injury or damage suffered as a result of any act, event, or omission of action in the scope of her or his employment or function, unless the officer, employee, or agent acted in bad faith or with malicious purpose or in a manner exhibiting wanton and willful disregard of human rights, safety, or property.

#### **Background Screening Requirements**

Pursuant to s. 381.0059(1)(a), F.S., any person who provides services under a school health plan must complete level 2 screening as provided in s. 435.04(1), F.S. Subsection 435.04(1), F.S.,

requires that all employees in positions designated by law as positions of trust or responsibility undergo security background investigations as a condition of employment or continued employment. The security and background checks must include, but not be limited to:

- Fingerprinting;
- Statewide criminal and juvenile records checks through the Florida Department of Law Enforcement (FDLE); and
- Federal criminal records checks through the Federal Bureau of Investigation (FBI), and may include local criminal records checks through local law enforcement agencies.

### **Health Care Practitioner/School/Student Ratios**

In the 1999-2000 school year there were, in Florida's schools, a total of 2,375,196 students, of which 454,522 were Exceptional Student Education (ESE) students or medically complex students.

In 1999-2000 there were a total 2,148 in (Full-Time Equivalents) *advanced registered* nurse practitioners, *registered* nurses, licensed practical nurses and physician's assistant staffing non-medically complex students in public schools.

In 1999-2000 there were 371 health care professionals for the 454,522 medically complex students in Florida.

In Florida that year, according to the 1999-2000 State Summary of School Health Services, produced by the Florida Department of Health, the *registered* nurse to *student* ratio was 1:3,515 and the *registered nurse* to *school* ratio was 1:4.25. The National Association of School Nurses recommends one (1) *registered* nurse for every 750 students, and one (1) *registered* nurse for every 250 medically complex students.

### **Waiver of Continuing Education Hours**

Pursuant to s. 456.013(9), F.S., specifies any board or department that currently requires continuing education for renewal of a license must adopt rules to establish the criteria for continuing education courses. The rules may provide that up to a maximum of 25 percent of the required continuing hours can be fulfilled by the performance of pro bono services to indigent or underserved populations or in areas of critical need within the state where the licensee practices.

## **C. EFFECT OF PROPOSED CHANGES:**

CS/HB 355 establishes a public school volunteer health care practitioner program with incentives and coordinates the program with the School Health Services Act. Licensed health care professionals who volunteer for at least eighty hours a year for each school year during the two year licensing period will be granted a waiver for payment of their licensing renewal fee. In addition, they will be eligible for fulfillment of a maximum of 25 percent of the continuing education hours required for license renewal. If licensed health care professionals are retired and participate in the program, they must volunteer at least 400 hours a year for each school year during the two-year licensing period to receive these benefits.

This committee substitute could increase the availability of licensed health care practitioners at schools to perform school health services for students and reduce the ratio of students to health care practitioners. However, the incentives may not be attractive enough to serve as a recruitment and retention tool.

CS/HB 355 increases the supervisory duties for the Department of Health (DOH) and the Department of Education (DOE) by requiring the DOH, in cooperation with the DOE, to be

responsible for supervising the program, performing periodic reviews, and publicizing the availability of the program and its benefits.

The committee substitute provides that the DOH, in cooperation with the DOE, may adopt rules necessary to implement the proposed legislation. The rules must include forms to be completed and procedures to be followed by applicants and school personnel under the program. The forms and procedures for implementing the programs must be distributed to the district by November 30, 2002. Publication of the program must begin no later than one month after the forms and procedures are completed and distributed to the school district. Additional costs may be associated with the publication of the program.

Some additional costs may be associated with administering the program as well. CS/HB 355 requires school districts to pay for any increase in insurance premiums for liability protection for the health care practitioners participating in the program other than those employed by the school or school district. The committee substitute specifies that school districts may establish a schedule for the volunteers. Each school district must make application forms and other required materials available to all public schools in the district. School principals must provide administrative supervision. As a result of these additional requirements, school districts may experience additional costs.

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

**Section 1:** Creates s. 381.00593, F.S., the Public School Volunteer Health Care Practitioner Act, establishing an incentive program that encourages health care practitioners to provide their services to public schools; providing for certain health care professionals a waiver of the biennial licensure renewal fee and fulfillment of a portion of continuing education hours required for license renewal; providing for program and administration requirements; providing for payment of any resulting increase in liability insurance premiums; providing administrative responsibility; and providing for rulemaking authority.

**Section 2:** Provides for timetables for completion of administrative actions.

**Section 3:** Provides an effective date upon becoming law.

**II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:**

**A. FISCAL IMPACT ON STATE GOVERNMENT:**

**1. Revenues:**

According to the Division of Medical Quality Assurance (MQA), the Medical Quality Assurance Trust Fund (MQATF) is projected to have a cash balance of \$76,875 at June 30, 2003 with each subsequent year projected to be in a deficit status in excess of \$10 million.

According to the Department of Health (DOH), the MQATF will lose the revenue currently generated by license renewal fees for the various boards. At this point, it is difficult to estimate the extent of this impact. Even a relatively small decrease in revenues could jeopardize the ability of these boards to meet expenses.

Although the number of participants is undetermined, if 900 health care practitioners participate in the program, this committee substitute would result in an annual loss of revenues estimated at \$46,125 a year. This estimate is based on a mix of 720 nurses, 90 physicians, and 90 other licensed health care practitioners. According to DOH, any significant increase in participation above 300 would place a severe financial burden on the trust fund.

2. Expenditures:

According to the DOH, estimated expenditures to implement this program are:

	<u>Amount Year 1</u>	<u>Amount Year 2</u>
<b>Non-Recurring or First-Year Start-Up Effects:</b>		
Development and production of training materials	\$100,000	
<b>Recurring or Annualized Continuation Effects:</b>		
Contracted nursing consultants to provide supervision, training, and evaluation of volunteer health care providers	\$457,719	\$542,507
Printing of training materials and reports	\$ 15,000	\$ 15,000
Background Screening for Volunteers @\$39.00 each x 750 (estimated for year one) and 900 (estimated for year two)	\$ 29,250	\$ 35,100
Promotional Items and Recruitment	\$ 45,000	\$ 60,000
<b>TOTAL RECURRING COSTS</b>	<u>\$546,969</u>	<u>\$652,607</u>
<b>Total Estimated Expenses</b>	<b>\$646,969</b>	<b>\$652,607</b>

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

According to the DOH, this bill could increase referrals to private physicians through early assessment and identification of health problems. Competition with the private sector could occur if a volunteer physician initiates treatment rather than referring a student to his or her own private physician.

D. FISCAL COMMENTS:

The Department of Education states, school districts could experience increased costs for administration of the program, including coordination of health care practitioners; supervision of volunteers; training the volunteers; and tracking the hours the volunteers work to document eligibility for license fee waivers. School districts may also experience an increase in insurance premiums related to liability coverage due to risks associated with volunteer health care practitioners.

III. 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 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 a state tax shared with counties or municipalities.

IV. COMMENTS:

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

This bill grants additional rule-making authority to the Department of Health, in cooperation with the Department of Education.

C. OTHER COMMENTS:

V. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

On January 9, 2002, the Committee on General Education adopted a strike-all amendment to HB 355 and passed the bill as a committee substitute. The committee substitute differs from the original bill in the following ways:

- Adds the following health care professionals to those covered in the HB 355: chiropractic physicians, podiatric physicians, optometrists, pharmacists, dentists, dental hygienists, midwives, speech-language pathologists, speech-language audiologists, and physical therapists.
- Coordinates the Public School Volunteer Health Care Practitioner Act with the School Health Services Act.
- Requires health care practitioners participating in the program to volunteer at least 80 hours a year for each school year of the biennial licensing period.
- Requires retired health care practitioners participating in the program to volunteer at least 400 hours a year for each school year of the biennial licensing period.
- Provides participants with an additional incentive of fulfillment of a maximum of 25 percent of continuing education hours required for license renewal.
- Removes language that authorizes school districts to secure loans if the funds of the school district in any fiscal year are insufficient to cover any increase in liability insurance premiums resulting from the operation of the program.
- Removes language regarding tort liability under s. 768.28, F.S., and worker's compensation under ch. 440, F.S.
- Changes the responsibility for supervising the administration of the program and for performing periodic reviews, to the DOH in cooperation with the DOE.
- Changes rulemaking authority to DOH, in cooperation with the DOE.

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- Requires the forms and procedures to be completed and distributed to the school districts by November 30, 2002, instead of June 1, 2002.
- Requires each school district to make the application forms and any other forms available to the school by one month after the forms and procedures are completed, instead of July 1, 2002.
- Requires publication of the program begin no later than one month after the forms and procedures are completed, instead of July 1, 2002.

VI. SIGNATURES:

COMMITTEE ON GENERAL EDUCATION:

Prepared by:

Elsie J. Rogers

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Staff Director:

Ouida Ashworth

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AS REVISED BY THE COUNCIL FOR LIFELONG LEARNING:

Prepared by:

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