

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 203 Dental Licensure
SPONSOR(S): Kravitz and others
TIED BILLS: **IDEN./SIM. BILLS:** SB 490 (S)

| REFERENCE | ACTION | ANALYST | STAFF DIRECTOR |
|--------------------------|-----------|------------|----------------|
| 1) Health Appropriations | 10 Y, 0 N | Massengale | Massengale |
| 2) Appropriations | | Massengale | Baker |
| 3) | | | |
| 4) | | | |
| 5) | | | |

SUMMARY ANALYSIS

House Bill 203 allows dental students to take the Florida dental licensure examination and regional licensure examinations for other states in their final year. The bill amends s. 466.006, F.S., to authorize a dental student to sit for the state dental examination in their final year of attendance at an accredited dental school. The student must have successfully completed all the coursework necessary to prepare them to perform the clinical and didactic procedures required to pass the examination. The examination score is valid for 180 days after the date the examination was completed. The student must have graduated before he or she may be certified for licensure.

The bill also creates s. 466.0065, F.S., to provide for accredited dental schools, with approval from the Florida Board of Dentistry, to offer a regional licensure examination to final year students who meet criteria set forth in the bill. The bill requires accredited dental schools in Florida to seek approval from the board to offer the regional examinations for the sole purpose of facilitating the student's licensing in other jurisdictions. Students who take the regional examination, the schools that offer the examinations, and the regional examination body that hosts the exam do not have standing to assert that a state agency has taken action for which an administrative hearing may be sought.

The effective date of the bill is July 1, 2003.

The Department of Health is concerned that the additional responsibilities on the Board of Dentistry to oversee the regional examinations will require rulemaking authority and will involve additional costs (see section II.A. Fiscal Impact on State Government).

On March 11, 2004, the Subcommittee on Health Appropriations adopted one amendment. See section IV. Amendment/Committee Substitute Changes for details.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

STORAGE NAME: h0203b.ap.doc
DATE: April 13, 2004

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. DOES THE BILL:

- | | | | |
|--------------------------------------|-----------------------------------------|----------------------------------------|-----------------------------------------|
| 1. Reduce government? | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> | N/A <input type="checkbox"/> |
| 2. Lower taxes? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. Expand individual freedom? | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/> |
| 4. Increase personal responsibility? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. Empower families? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

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

The bill allows dental students to take the Florida dental licensure examination and regional licensure examinations for other states in their final year, but increases Board of Dentistry and Department of Health responsibilities to oversee the regional examinations

B. EFFECT OF PROPOSED CHANGES:

Chapter 466, F.S., provides for the regulation of the practice of dentistry by the Board of Dentistry within the Department of Health.

Currently, the Department of Health (DOH) only offers the Florida State Board Examination to candidates who have successfully completed the course work and graduated from an accredited dental school. DOH is not required to determine if the course work not completed would be necessary to prepare the candidate to perform all the procedures required to pass the exam. DOH currently has no involvement in the administration of the regional licensure examinations offered in this state. DOH does not require dental schools to apply for approval to offer a regional licensure examination or regulate the school's compliance with requirements for approval. Likewise, the Board of Dentistry has no rules governing the approval of regional examinations or rules governing students taking the exam before graduation.

Licensure and Examination Process

Any person wishing to practice dentistry must apply to the Department of Health and meet specified requirements. Section 466.006, F.S., requires dentistry licensure applicants to sit for and pass a state written and clinical dental examination as part of the requirements for licensure, in addition to the National Board of Dental Examiners (NBDE) dental examination within 10 years of the date of application. To qualify to take the Florida dental licensure examination, an applicant must be 18 years of age or older, be a graduate of a dental school accredited by the American Dental Association, and have successfully completed the NBDE dental examination within 10 years of his or her application. Dental applicants who practice dentistry while taking the clinical portion of the state licensure examination do so pursuant to the licensure requirements without an express exemption.

The Board of Dentistry may require any person applying to take the examination to practice dentistry in Florida to obtain malpractice insurance to cover patient harm during the clinical examination.¹

¹ See s. 466.0075, F.S. The board has adopted Rule 64B5-2.014(2), Florida Administrative Code, which states "Every candidate who is scheduled to take the entire clinical (or practical) portion of the examination or who is scheduled to retake any part of the clinical (or practical) portion which involves the use of a live patient must secure liability coverage for injuries which may be sustained or may be claimed to have been sustained by a dental patient in the course of the examination and present proof of such coverage to the credentials committee before he or she will be allowed to perform any of the procedures on a live patient." Rule 64B5-17.011, F.A.C.,

Once a licensure application is verified as complete, it must be reviewed by the Department of Health or appropriate board to determine whether the applicant has met the licensure qualifications for the profession or occupation and the applicant must be notified within 30 days of any errors or omissions.

Section 456.013, F.S., provides general licensing provisions for health professions. These provisions require that every application must be approved or denied within 90 days of the department's receipt of the application or request for additional information. An incomplete application expires 1 year after initial filing. In considering applications for licensure, the board or the Department of Health may require a personal appearance of the applicant. The licensure applicant bears the burden of proof of showing fitness for licensure.²

Once the applicant has proved that he or she meets the licensure qualifications, the Board of Dentistry must certify the applicant for licensure. The Board of Dentistry may refuse to certify any applicant who has violated any of the provisions relating to the practice of dentistry.

Regional Examinations

A number of regional dental testing entities exist that are composed of groups of states. The Western Regional Examining Board (WREB) includes Alaska, Arizona, Idaho, Montana, New Mexico, Oklahoma, Oregon, Texas, Utah, Washington, and Wyoming. The Central Regional Dental Testing Service, Inc. membership includes: Colorado, Illinois, Iowa, Kansas, Minnesota, Missouri, Nebraska, North Dakota, South Dakota, Washington, Wisconsin, and Wyoming. The Southern Regional Testing Agency, Inc. (SRTA) membership includes: Alaska, Georgia, Kentucky, South Carolina, Tennessee, and Virginia. The North East Regional Board of Dental Examiners, Inc. (NERB) membership includes: Connecticut, District of Columbia, Illinois, Maine, Maryland, Massachusetts, Michigan, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Vermont, and West Virginia.

The Western Regional Examining Board dental examination is administered at Nova Southeastern University College of Dental Medicine in Florida to applicants for licensure in states located in the western United States.³ The next administration of the examination is scheduled in April 2003.

Exemptions from Licensure Requirements

Section 466.002, F.S., provides the following exemptions from dental licensure requirements in Florida: a Florida-licensed physician or surgeon who practices his or her profession, including surgical procedures involving the oral cavity; qualified anesthesiologists giving an anesthetic for a dental operation under the supervision of a licensed dentist; graduate dentists or dental surgeons practicing dentistry in the discharge of their official duties in the military; licensed dentists appearing as clinicians at meetings of board-approved dental organizations; and students and instructors in Florida schools of dentistry and dental hygiene or dental assistant educational programs while performing regularly assigned work under the curriculum of such schools.

HB 203 allows dental students to take the Florida dental licensure examination and regional licensure examinations for other states in their final year. The bill amends s. 466.006, F.S., to authorize a dental student to sit for the state dental examination in their final year of attendance at an accredited dental school. The student must have successfully completed all the coursework necessary to prepare them to perform the clinical and didactic procedures required to pass the examination. The examination score is

specifies minimum professional liability coverage and other financial responsibility limits that a dentist must have prior to licensure or licensure renewal unless otherwise exempt.

² See *Florida Dept. of Transportation v. J.W.C. Co.*, 396 So.2d 778 (Fla. 1st DCA 1981); and *Balino v. Dept. of Health & Rehabilitative Services*, 348 So.2d 349 (Fla. 1st DCA 1977).

³ In a letter dated April 3, 2002, the General Counsel of the Department of Health declared that none of the students who take the WREB dental examination or the examiners who administer the WREB dental examination will be subject to criminal prosecution by the Department of Health for the illegal practice of dentistry without a license.

valid for 180 days after the date the examination was completed. The student must have graduated before he or she may be certified for licensure.

The bill creates s. 466.0065, F.S., to express legislative intent that schools of dentistry be allowed to offer regional licensure examinations to dental students who are in the final year of an approved dental school for the sole purpose of facilitating the student's licensing in other jurisdictions. Legislative intent is provided that a person who is permitted to take a regional licensure examination is not granted any authority to sit for the Florida dental examination for licensure in Florida without otherwise meeting the dental licensure requirements.

The bill provides that each accredited school of dentistry in Florida may, upon written approval by the Florida Board of Dentistry, offer regional licensure examinations only to dental students who are in the final year of an approved dental school.

The Florida Board of Dentistry may not approve the request from the school of dentistry hosting the regional examinations unless the following conditions are met:

- The examining body must be a member of the American Association of Dental Examiners.
- The student must have successfully completed parts I and II of the National Board of Dental Examiners (NBDE) dental examination within 2 years before taking the regional examination.
- The student must have medical malpractice insurance in amounts that the board determines is sufficient to cover any reasonably foreseeable incident of harm to a patient during the clinical portion of the examination.
- The examination must be proctored by dentists licensed in Florida who are approved by the board and at least one of whom must have met specified requirements for exercises to standardize grading.
- Adequate arrangements, as specified by the board, for patients who require follow-up care as a result of the procedures performed during the clinical portion of the examination.
- The board chairman or the chairman's designee must be allowed to observe testing while it is in progress.
- Each student must receive a written disclosure in at least 12-point boldface type which notes that the examination does not meet the Florida dental licensure requirements and for more information on Florida's licensure procedures to contact the Florida Board of Dentistry.
- The student must be enrolled as a dental student in his or her final year at an accredited dental school that is approved by the Board of Dentistry.
- The student must have completed all necessary coursework to prepare the student to perform all clinical and didactic procedures required to pass the examination.
- The student's academic record must not include any evidence suggesting that the student poses an unreasonable risk to any live patients who are required for the clinical examination.

Further, the bill provides protection to the health and safety of Florida residents by allowing the board to request additional information and documents relating to the candidate's mental and physical health so as to fully assess the candidate's fitness to engage in exercises involving a live patient.

The bill also requires that students who take the regional examination, schools that offer the examinations, and the regional examination body that hosts the exam do not have standing to assert that a state agency has taken action for which an administrative hearing may be sought.

C. SECTION DIRECTORY:

Section 1: Amends s. 466.006, F.S., allowing eligible dental students to take the Florida licensure examination during the student's final year at an approved dental school under specified conditions.

Section 2: Creates s. 466.0065, F.S., allowing dental students to take regional licensure examinations under specified conditions, and to restrict the applicability of examination results to licensing in other jurisdictions than Florida.

Section 3: Provides an effective date of July 1, 2005.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The cost of administering an additional exam and the position would be offset by exam revenues as required by s. 456.017(1)(b), F.S. According to the Department of Health, each student wanting to take a regional exam would have an examination fee of approximately \$1,500. The fees to re-take an exam would be slightly less.

2. Expenditures:

| | FY 2004-05 | FY 2005-06 |
|--------------------------------------|------------|------------|
| Department of Health | | |
| One-time Expenses | | |
| Medical Quality Assurance Trust Fund | 4,561 | - |
| Recurring Expenses | | |
| Medical Quality Assurance Trust Fund | 339,589 | 359,171 |
| | ===== | ===== |
| Total Expenditures | | |
| Medical Quality Assurance Trust Fund | 344,150 | 359,171 |
| 1 FTE | | |

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None

2. Expenditures:

None

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

According to the department, there may be additional costs to private universities associated with implementing this bill. This may be offset by using the availability of the regional examination as a recruitment tool that will assist students in obtaining licensure in other states.

D. FISCAL COMMENTS:

According to the Department of Health, the Board of Dentistry will experience increased cost of regulatory oversight of the schools, examiners and candidates taking the regional licensure examination in Florida. The board and the department will be required to establish additional oversight to grant approval for offering a regional licensure examination and to ensure continued compliance with all the conditions for approval. Additional responsibilities include:

- Determination of the amount of Medical malpractice insurance required of students taking a regional examination.
- Approval of licensed dentists to monitor the regional examination including ensuring these monitors have completed standardization prior to every examination.

The department is also concerned about the fiscal impact of determining a candidate's eligibility to take an examination. Because the bill does not clearly identify the responsible party for determining candidate eligibility and states that the "board" may request additional information, the bill implies that the board will be reviewing the candidate's course work record and making the eligibility determination for the regional examination, which would be a significant cost to the board.

According to the department, one professional position is required for oversight and psychometric support to determine student eligibility for the examination. Year one is the annual midpoint for a pay band 10 with the 28 percent fringe and a 25 percent lapse.

The bill allows dental students to take the licensure examination during the student's final year at an approved dental school. Currently, the department administers the examination at only one site in December and two sites in June. Based on the changes proposed in Section 1 of the bill, which would allow both in-state and out-of-state exam candidates to take the exam in their final year, the department anticipates the need to administer Florida's licensure examination at dual sites in December, as well as June, to accommodate an increased number of candidates.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This legislation does not require counties or municipalities to spend funds or to take action requiring the expenditure of funds. The legislation does not reduce the percentage of a state tax shared with counties or municipalities. Finally, the legislation does not reduce the authority that municipalities have to raise revenues.

2. Other:

None

B. RULE-MAKING AUTHORITY:

The Department of Health is concerned that the Board of Dentistry will be required to change procedures for determining whether a final year student is eligible to take an examination and the board does not have rule authority. The board will have to change its application process to deem a final year student eligible to sit for the examination, and will have to determine what constitutes "all the coursework necessary to prepare" the candidate to perform the procedures required to pass the regional examination.

C. DRAFTING ISSUES OR OTHER COMMENTS:

The Department of Health is concerned that the Board of Dentistry will be required to change the application process and develop a process for enforcement and compliance. The department is also concerned that the 180 time limit on a valid passing score is not adequate to hear challenges from a candidate who has not applied or was unable to apply for licensure within that time limit. The six-month (180-day) window does not allow time for special circumstances that may arise for students to complete their senior year.

The department has offered the following amendments to replace the need for rulemaking authority, as well as reduce the fiscal impact.

| PAGE | LINE | AMENDMENT |
|------|-------|--------------------------------------------------------------------------|
| 3 | 66-68 | Strike "completed" and insert "passed": (b) <u>The student must have</u> |

successfully passed completed parts I and II of the National Board of Dental Examiners examination within 2 years before taking the regional examination.

- 3 69-72 Strike "board" and insert "dental school": (c) The student must possess medical malpractice insurance in amounts that the regional examination body and dental school board determines to be sufficient to cover any reasonably foreseeable incident of harm to a patient during the clinical portion of the regional examination.
- 3 73-76 Strike all of said lines and insert: (d) At least one of the examination monitors must be a dentist licensed in this state who has completed all necessary standardization exercises required by the regional examination body. Recruitment of examination monitors is the responsibility of the regional examination body.
- 3 77-80 Strike all of said lines and insert: (e) Adequate arrangements, as defined by regional examination body, must be made, when necessary, for patients who require follow-up care as a result of procedures performed during the clinical portion of the regional examination. The regional examination body shall inform patients in writing of their right to follow-up care in advance of any procedures performed by a student.
- 3 & 4 83-91 Strike all of said lines and insert: (g) Each student, upon deemed eligible by the dental school to apply to the regional examination body to take the regional examination, must receive written disclosure in a least 12-point boldface type which states: "This examination does not meet the licensure requirements of chapter 466, Florida Statutes, for licensure in the State of Florida. Persons wishing to practice dentistry in Florida must pass the Florida licensure examinations. For more information on Florida's licensure examination procedures, please contact the Florida Board of Dentistry."
- 4 96-98 Strike all of said lines and insert: (i) The student must have completed all coursework deemed necessary by the dental school to prepare the student to perform all clinical and diagnostic procedures required to pass the regional examination.
- 4 99-106 Strike all of said lines and insert: (j) The student's academic record must not include any evidence suggesting that the student poses an unreasonable risk to any live patients who are required for the clinical portion of the regional examination. In order to protect the health and safety of the public, the dental school may request additional information and documents pertaining to the candidates' mental and physical health in order to fully access the candidate's fitness to engage in exercises involving a live patient.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

On March 12, 2004, the Subcommittee on Health Appropriations adopted one amendment without objection that changes the responsibilities for student eligibility and examination monitor eligibility and recruitment from the Board of Dentistry to the dental schools and the regional examination body, respectively. This eliminates the need for rulemaking authority for the Department of Health. The amendment also makes clear that a member of the regional examination body rather than the examination body itself must be a member of the American Association of Dental Examiners. Finally, the amendment designates the amount of malpractice insurance required by the student taking the exam rather than leaving the standard to be determined by the regional examination body. Although

the amendment eliminates the need for the position and related funding, \$270,000 is still the estimated fiscal impact for administering one additional exam. This is offset by the examination fee revenue paid by the students taking the exam.