

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 259 CS Podiatric Medicine
SPONSOR(S): D. Davis
TIED BILLS: none **IDEN./SIM. BILLS:** SB 478

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>Health Care Regulation Committee</u>	10 Y, 0 N, w/CS	Bell	Mitchell
2) <u>Criminal Justice Committee</u>	7 Y, 0 N, w/CS	Bond	Kramer
3) <u>Health & Families Council</u>			
4) _____			
5) _____			

SUMMARY ANALYSIS

HB 259 w/CS amends podiatric residency program requirements to match current practices. The bill changes the reporting requirement for hospitals to submit a list of podiatric residents to the Board of Podiatric Medicine from a semiannual to an annual requirement, because currently residency programs only admit students annually. Additionally, the bill revises the period a residency program may allow a podiatric physician to continue as an unlicensed resident from 2 to 3 years. Recently, the Council of Podiatric Medical Education has expanded educational requirements for podiatric resident surgery programs to 3 years.

The bill authorizes a registered resident podiatric physician to prescribe medicinal drugs described in schedules set out in chapter 893, F.S., and pursuant to the practice of podiatric medicine so they can meet the needs of patients they serve in the hospital.

The bill requires that podiatric physicians registered under the Board of Podiatric Medicine to practice as residents are subject to disciplinary provisions applicable to the practice of podiatric medicine, as provided in s. 461.013, F.S.

The bill creates a criminal offense. Any person who violates the newly created provisions allowing a resident to prescribe drugs commits a first degree misdemeanor.

This bill does not appear to have a fiscal impact on state or local governments.

The effective date of the bill is July 1, 2005.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide Limited Government – This bill will decrease the number of times hospitals will be required to report their list of podiatric residents to the Board of Podiatric Medicine from semi-annually to annually.

Promote personal responsibility – This bill allows podiatric residents to prescribe medicine and it creates a criminal penalty for persons who violate the requirements of the law allowing such residents to prescribe medicine.

B. EFFECT OF PROPOSED CHANGES:

Requirements of the Board of Podiatric Medicine

Chapter 461, F. S., provides for the regulation of the practice of podiatric medicine by the Board of Podiatric Medicine. Section s. 461.014, F.S., which is amended by the bill, requires hospitals that have podiatric residency programs to submit a list of podiatric residents and such other information as required by the board semiannually on January 1st and July 1st of each year.¹ Currently, podiatric residents can only join a residency program once a year. Thus, semiannual reporting is not needed.

Currently, a residency program may not allow a resident to continue as an unlicensed resident for an aggregate period of time in excess of 2 years. Since the two year provision was established by the legislature, the Council on Podiatric Medical Education has expanded educational requirements for podiatric resident surgery programs to 3 years.

Prescribing authority under the Florida Comprehensive Drug Abuse Prevention and Control Act

Chapter 893, Florida Statutes, sets forth the Florida Comprehensive Drug Abuse Prevention and Control Act. The chapter classifies controlled substances into five schedules in order to regulate the manufacture, distribution, preparation, and dispensing of the substances. The chapter defines practitioners to include licensed medical physicians, dentists, veterinarians, osteopathic physicians, naturopathic physicians, and podiatric physicians who may hold a valid federal controlled substance registry number to prescribe controlled substances. Federal DEA numbers are used as unique identifiers to track prescriptions.

The Drug Enforcement Administration (DEA) permits an individual practitioner who is an agent of a hospital or other institution, when acting in the normal course of business or employment, to use an institutional DEA number for purposes of dispensing, administering, and prescribing controlled substances.² Under applicable federal regulation, an individual practitioner who is an agent or employee of a hospital or other institution may, when acting in the normal course of business or employment, administer, dispense, or prescribe controlled substances under the registration of the hospital or other institution which is registered in lieu of being registered himself or herself, if:

- Such dispensing, administering or prescribing is done in the usual course of his/her professional practice;
- Such individual practitioner is authorized or permitted to do so by the jurisdiction in which he or she is practicing;
- The hospital or other institution by whom he or she is employed has verified that the individual practitioner is so permitted to dispense, administer, or prescribe drugs within the jurisdiction;

¹ See also Rules 64B18-16.002, 64B18-16.005, and 64B18-16.006, Florida Administrative Code.

² See 21 CFR 1301.22(c).

- Such individual practitioner is acting only within the scope of his or her employment in the hospital or institution;
- The hospital or other institution authorizes the individual practitioner to administer, dispense or prescribe under the institution's registration and designates a specific internal code number for each individual practitioner so authorized. The code number must consist of numbers, letters, or a combination thereof and must be a suffix to the institution's DEA registration number, preceded by a hyphen (e.g., APO123456-10 or APO123456-A12); and
- A current list of internal codes and the corresponding individual practitioners is kept by the hospital or other institution and is made available at all times to other registrants and law enforcement agencies upon request for the purpose of verifying the authority of the prescribing individual practitioner.³

Under chapters 459 and 458 physician and osteopathic residents are authorized to prescribe drugs using the DEA number assigned to their teaching hospital. Currently, podiatric residents are not authorized to prescribe drugs using the DEA number assigned to their teaching hospital.

Effect of Bill

HB 259 w/CS requires hospitals with podiatric residency programs to submit a list of podiatric residents annually, rather than semiannually, to the Board of Podiatric Medicine. The bill increases the time a resident may continue as an unlicensed resident from 2 to 3 years.

The bill authorizes a registered resident podiatric physician to prescribe medicinal drugs described in schedules set out in chapter 893, F.S. The resident must be authorized by the hospital or teaching hospital to use an institutional Drug Enforcement Administration (DEA) number issued to the hospital, the drug must be prescribed only in the normal course of employment, the resident must be identified by a discrete suffix appended to the institution's DEA number, and the use of the institution's identification number and the resident's suffix must conform to DEA requirements.

The bill requires that resident podiatric physicians registered under the Board of Podiatric Medicine are subject to disciplinary provisions applicable to the practice of podiatric medicine, as provided in s. 461.013, F.S.

This bill creates a criminal offense. Any person who willfully violates s. 461.014(1)(f), F.S., the newly created paragraph allowing a podiatric resident to prescribe drugs, commits a misdemeanor of the first degree, punishable as provided in s. 775.082, F.S., or s. 775.083, F.S. A first degree misdemeanor is punishable by up to one year in county jail and a fine of up to \$1,000.

The Board of Podiatric Medicine is required to adopt rules as necessary to administer the requirements of s. 461.014, F.S.

The effective date of the bill is July 1, 2005.

C. SECTION DIRECTORY:

Section 1. Amends s. 461.014, F.S., regarding podiatric residency.

Section 2. Provides an effective date of July 1, 2005.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

³ See 21 CFR 1301.22.

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.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not require counties or municipalities to spend funds or take an action requiring the expenditure of funds. This bill does not reduce the percentage of a state tax shared with counties or municipalities. This bill does not reduce the authority that municipalities have to raise revenue.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

This bill creates rulemaking authority for the Board of Podiatric Medicine to administer s. 461.014, F.S.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

On February 23, 2005 the Health Care Regulation Committee adopted an amendment to HB 259 to conform the bill to the Senate version and reported the bill favorably as a committee substitute. The amendment limits the prescription of controlled substances by a podiatric physician resident to those that are within the practice of podiatric medicine; and provides that podiatric physicians registered under the Board of Podiatric Medicine to practice as residents are subject to disciplinary provisions applicable to the practice of podiatric medicine.

On March 9, 2005, the Criminal Justice Committee adopted one amendment to the CS, limiting the newly created criminal offense to only acts in violation of the newly created section allowing a resident to prescribe drugs. The bill was then reported favorably with a committee substitute.