

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 521 Board of Medicine
SPONSOR(S): Flores and others
TIED BILLS: **IDEN./SIM. BILLS:** SB 1180

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Health Care Regulation Committee		Hamrick	Mitchell
2) Health & Families Council			
3) _____			
4) _____			
5) _____			

SUMMARY ANALYSIS

HB 521 changes the composition of the Board of Medicine by decreasing the number of physicians and including more consumers.

The Board of Medicine has 15 board members. HB 521 will decrease the number of required physician members from twelve to ten and specifies that physician members must possess an unrestricted medical license. This means that the physician must be in good standing and able to practice medicine in the State of Florida. Four of the fifteen board members must be consumers and have lived in Florida for 5-years preceding their appointment. The bill also provides stipulations for consumer member eligibility.

The Board of Medicine is one of 28 boards regulated by the Department of Health's (DOH) Division of Medical Quality Assurance. Boards are responsible for approving or denying applications for licensure and are involved in disciplinary hearings. The range of disciplinary actions taken by boards includes citations, suspensions, reprimands, probations, and revocations.

The bill also removes the requirement that a member be a licensed risk manager and requires that a member be a chief operations officer of a hospital.

The bill terminates all current board members' terms on October 31, 2005. The new appointments of all board members will take effect on November 1, 2005 and will provide for staggered terms. Following the first term appointments in November of 2005, all subsequent members will be appointed by the Governor every 4 years.

The act shall take effect upon becoming a law.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide Limited Government-The bill decreases the number of physician members and changes the make-up of the board membership to include more consumers.

B. EFFECT OF PROPOSED CHANGES:

Effect of the Bill

HB 521 alters the composition of the Board of Medicine. The bill will decrease the number of required physician members from twelve to ten and specifies that physician members must possess an unrestricted medical license. This means that the physician must be in good standing and able to practice medicine with the State of Florida. Four of the fifteen board members must be consumers and have lived in Florida 5-years preceding their appointment.

In order for a consumer member to be eligible for appointment, they can not be licensed as a health care practitioner as defined in Florida statute.¹ The bill further stipulates that a consumer member may not have a substantial personal or financial interest with a licensed health care provider, medical education, or a health care facility, unless as a patient.

The bill removes the requirement that a member be a licensed risk manager and requires that a member be a chief operations officer of a hospital.

The bill terminates all current board members' terms on October 31, 2005. The new appointments of all board members will take effect on November 1, 2005.

The terms of the 15 new board members are broken down in the following manner:

- 5 physician members will be appointed for 2 year terms;
- 5 physician members will be appointed for 3 year; and
- 4 consumer members and 1 Chief Operations Officer will be appointed for 4 year terms.

Following the first term appointments on November 1, 2005, all subsequent members will be appointed by the Governor every 4 years. The bill does not preclude the Governor from reappointing of current board members if they meet the specified qualifications. In order to conduct business by November 1, 2005 the Governor will have to appoint at least 8 members.

CURRENT SITUATION

Professional Licensing Boards and Councils

Most health care practitioners in Florida are governed by professional licensing boards or councils that are independent entities overseen by the Department of Health's Division of Medical Quality Assurance. The Division of Medical Quality Assurance (MQA) also directly regulates some practitioner groups that are not governed by an external board or council, as well as some health care facilities, such as pharmacies.

The Department of Health's Division of Medical Quality Assurance

The department's Division of Medical Quality Assurance (MQA) regulates health care practitioners to ensure the health, safety and welfare of the public. Currently, MQA supports licensure and disciplinary activities for 37 professions and 6 facilities, and works with 28 boards and councils. Boards are

¹ See Chapter 456, F.S.

responsible for approving or denying applications for licensure and are involved in disciplinary hearings. The range of disciplinary actions taken by boards includes citations, suspensions, reprimands, probations, and revocations.

Board of Medicine

The mission of the Board of Medicine is to protect health care consumers by licensing qualified health providers, establishing and enforcing health care standards and disseminating appropriate information to consumers and practitioners.

The Board of Medicine is composed of 15 members. The members of the board are appointed by the Governor and confirmed by the Senate. Members are appointed for a four year term, which are staggered. Each board member is held accountable to the Governor for their performance.

Currently, twelve members of the board must be licensed physicians in good standing of the state and engaged in the practice or teaching of medicine for at least 4 years immediately preceding their appointment. The composition of the twelve physicians should be the following: one a member of the faculty at a medical school within the state; one must be in private practice and a full-time staff member at a statutory teaching hospital²; and one must be a graduate of a foreign medical school. The other three members of the board must be residents of the state and can not be licensed as a health care practitioner. One of these three members must be a licensed health care risk manager. Of the 15 members one must be over the age of 60.

Members of the board are provided periodic training in the grounds for disciplinary action, actions the board and the Department of Health (DOH) may take, changes in rules and statutes, relevant judicial and administrative decisions. Board members are appointed to probable cause panels and participate in disciplinary decisions. The Board reviews approximately 4,000 licensure applications annually.

Board membership can become void and considered vacant if a member has three consecutive unexcused absences that constitute 50% or more of the board's meetings within any 12 month period. In 2004 members met to conduct board business a total of 290.25 hours, which included 39 conference calls and 54 face-to-face meetings. Board members are paid a \$50 per day allocation to attend board meetings.

C. SECTION DIRECTORY:

Section 1. Amends s. 458.307 F.S., to changes membership composition and requirements for the Board of Medicine.

Section 2. This section provides that this act shall take effect upon becoming law.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

² Any Florida hospital officially affiliated with an accredited Florida medical school which exhibits activity in the area of graduate medical education as reflected by at least seven different graduate medical education programs accredited by the Accreditation Council for Graduate Medical Education or the Council on Postdoctoral Training of the American Osteopathic Association. The hospital must also have 100 or more full-time equivalent resident physicians. The Agency for Health Care Administration determines which hospitals meet this definition.

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:

There may be costs associated with training new board members. According to the Department of Health, the expense for training would include the cost of travel to Tallahassee, reproduction of training materials, and \$50 per day per member cost for participation. The training would include a 1-day new member training and 4-hour disciplinary training. Funding would come from the Medical Quality Trust Fund, which is paid from fees assessed by licensed health care professionals.

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:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

This bill will discharge all current board members. According to the Department of Health, the Governor recently appointed two new members and reappointed two other members in December of 2004.

The Department of Health also stated that the additional requirement of four consumer members having no significant interest in health care may be problematic. The provision does not define "significant" and this undefined requirement may be a continuing issue and source of litigation for licensees seeking relief for being denied licensure or being disciplined by the Board.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES