

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide Limited Government-The bill provides for an additional member to the Board of Medicine.

B. EFFECT OF PROPOSED CHANGES:

Effect of the Bill

HB 521 CS alters the composition of the Board of Medicine. The bill adds a member to the Board of Medicine for a total of 16 members. The additional member must be a resident and can not be licensed as a health care practitioner as defined in Florida statute.¹

This bill specifies that physician members must possess an unrestricted medical license, such that they are engaged in the active practice or teaching of medicine and eligible to practice medicine with the State of Florida. The bill states that a physician must have been in practice or teaching for 5 years prior to appointment to the board, which reflects a 1-year increase.

The bill further stipulates that a the remaining 4 members 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 or potential patient.

The new board member's term appointment begins on November 1, 2005. The bill clarifies that the addition of a new board member should not be construed to end the terms or appointments of any current members.

The bill requires a probable cause panel considering disciplinary action against a licensed physician's assistant to include a licensed physician assistant designated by the Council on Physician Assistants on the panel. Identical language is added to the practice acts for allopathic and osteopathic doctors.

The bill provides individuals who wish to be licensed as a physician another option to meet licensure requirements by enabling them to complete a 2-year externship at a Florida licensed non-statutory teaching hospital. The externship program must be substantially similar to residency training and must be approved by the board prior to entering the externship. The bill provides the board the authority to adopt rules to implement the externship, to include the implementation of fees to cover costs. The board may impose conditions, limitations, or restrictions on a license of individuals who participate in an externship program.

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 or the applicable practice act.

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 members of the board are appointed by the Governor and confirmed by the Senate. Members are appointed for 4-year terms, which are staggered. Each board member is held accountable to the Governor for their performance. 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 period².

The Board of Medicine is composed of 15 members as follows:

- 12 licensed physicians
- 2 residents who are not licensed as health care practitioners
- 1 licensed risk manager

Currently, the twelve licensed physicians must be in good standing with 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 hospital³; 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. According to a MQA report, the Board of Medicine reviews approximately 4,000 licensure applications annually.

C. SECTION DIRECTORY:

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

Section 2. Amends s. 458.307, F.S., to clarify and preserve the current terms of board members on or after the effective date of this act and provides the term of the new member begins November 1, 2005.

Section 3. Amends s. 458.311, F.S., to provide an option for applicants for physician licensure to complete an externship and authorizes the Board of Medicine the authority to promulgate implementing rules, fees, and license restrictions.

Section 4.-7. Amends ss. 458.313, 458.316, 458.3165, 458.317, and 458.347, F.S., to correct cross references.

Section 8. Amends s. 458.331, F.S., to provide a requirement for a probable cause panel considering disciplinary action against a physician assistant.

² See s. 456.011, F.S.

³ 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.

Section 9. Amends s. 458.347, F.S., to correct a cross reference.

Section 10. Amends s. 459.015, F.S., to provide a requirement for a probable cause panel considering disciplinary action against a physician assistant.

Section 11. 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. 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:

According to the Department of Health the Board of Medicine may incur cost to adopt rules to implement the externship requirements. The bill provides the Board of Medicine the authority to assess fees to cover associated costs.

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:

The bill provides rulemaking authority to the Department of Health and the Board of Medicine to implement the externship requirements.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

On March 9, 2004, the Health Care Regulation Committee adopted a strike all amendment sponsored by Representative Flores. The Committee Substitute differs from the original bill as filed in that the Committee Substitute:

- Increases the board membership by one member
- Preserves the original requirement that a member must be a licensed risk manager
- Removes the decrease in physician members by two
- Removes staggering terms
- Removes the requirement that a member must be a chief operations officer of a hospital
- Removes the terminology "consumer member"
- Preserves the appointments and terms of current board members.

On April 22, 2005, the Health and Families Council adopted two amendments. One amendment was sponsored by Representative Flores and the other by Representative Garcia.

Amendment 1- Requires a probable cause panel considering disciplinary action against a licensed physician's assistant to include a licensed physician assistant designated by the Council on Physician Assistants. This amendment adds the identical language to the practice act for allopathic and osteopathic doctors.

Amendment 2- Provides individuals who wish to be licensed as a physician another option to meet licensure requirements by enabling them to complete a 2-year externship at a Florida licensed non-statutory teaching hospital. The amendment provides that the externship program must be substantially similar to residency training and must be approved by the board prior to entering the externship. The board may adopt rules to implement, to include the implementation of fees to cover costs. The board may impose conditions, limitations, or restrictions on a license of individuals who participate in an externship program.

The bill, as amended, was reported favorably as a committee substitute.

This analysis is drafted to the committee substitute.