

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1093 Physicians
SPONSOR(S): Altman and others
TIED BILLS: **IDEN./SIM. BILLS:** SB 1410

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

SUMMARY ANALYSIS

HB 1093 requires the Division of Health Access and Tobacco within the Department of Health to monitor, evaluate, and report on the supply, distribution and specialty of allopathic and osteopathic physicians in Florida. The bill requires the division to utilize data that is available from public and private sources.

The bill requires physicians seeking licensure to submit their credentials to the Federation Credentials Verifications Services of the Federation of State Medical Boards for verification. The federation verifies the submitted information and certifies it as a primary source document from which a physician profile may be created and sent to employers, hospitals, and the Board of Medicine who then may evaluate an individual's eligibility for licensure.

Fiscal Impact: According to the Department of Health, the cost to implement the provisions of the bill will be approximately \$161,000 for the first year and approximately \$110,000 each succeeding year.

The bill takes effect on October 1, 2006.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provides limited government-The bill requires the Division of Health Access and Tobacco to monitor, evaluate and report on the supply and demand of physicians in the state. The bill requires physicians to submit information and pay a fee to a private credentialing organization.

B. EFFECT OF PROPOSED CHANGES:

The bill requires the Division of Health Access and Tobacco within the Department of Health to monitor, evaluate, and report on the supply and distribution of physicians in the state. The division is required to develop a strategy to track and analyze, on an ongoing basis, the distribution of licensed physicians by specialty and geographic location. The division must use public and private resources for available data. A report must be submitted to the Governor, the President of the Senate, and the Speaker of the House each year, starting January 1, 2008.

The bill adds a requirement to the licensure by endorsement and licensure by examination provisions, which requires physicians who are seeking licensure to submit their core credentials to the Federation Credentials Verification Services of the Federation of State Medical Boards for verification.

The bill reenacts s. 458.347(7)(b), F.S., to incorporate the language requiring physicians to submit their core credentials to the Federation Credentials Verification Services. This section is included in the bill as a technicality in order to ensure that the amendment to s. 458.311(1)(g), F.S. dealing with the credentialing by the federation is applied.

The reenacted section relates to physician assistants, but also provides an alternative pathway for foreign trained physicians to gain licensure to practice as a physician assistant in Florida. The reenacted section also allows for the administration of a state examination. Based on statutory construction, concern was raised that reenacting this section of law will supersede s. 456.017(1)(c), F.S., which prohibits the Department of Health and boards from administering a state-developed written examination if a national examination is available. For this reason, language was added to the directory of Section 4 that stipulates that reenacting s. 458.347(7)(b), F.S., does not supersede s. 456.017(1)(c), F.S.

The bill provides an appropriation from the General Revenue Fund for the Department of Health to implement the provisions of this bill for the 2006-2007 fiscal year. The bill may be not implemented unless funds are appropriated.

PRESENT SITUATION

Physician Workforce Data

Recently, the Council on Graduate Medical Education, a national advisory organization that makes recommendations on the adequacy of the supply and distribution of physicians, predicted that the demand for physicians, nationally, would significantly outpace the supply. In Florida, the costs of medical malpractice insurance, the recent adoption of a constitutional amendment that prohibits licensure or continued licensure of physicians who have committed three or more incidents of medical malpractice, and other variables have affected the number of students applying to medical schools in Florida. The number of allopathic and osteopathic physicians applying for licensure and practicing in Florida has also been impacted.

The statewide collection of physician data and its analysis is fragmented in Florida and under the purview of different agencies. Currently, there is no centralized physician workforce database that is available to provide objective statewide information on physician practice and manpower needs.

Under s. 408.05, F.S., the State Center for Health Statistics within the Agency for Health Care Administration (AHCA) must collect data on health resources, including physicians, dentists, nurses, and other health care professionals. The Division of Health Access and Tobacco within DOH administers several programs that relate to physician access. The Florida Medicaid program in AHCA has claims data for physicians participating in the Medicaid program. Although several entities collect information on Florida physicians, there is no centralized responsibility for statewide collection and analysis of health workforce data, including physician data.

Current Statutory Licensure Requirements

Chapter 458, F.S., governs the practice of allopathic medicine. The bill adds language to two sections (ss. 458.311 and 458.313, F.S.) relating to licensure by examination and by endorsement, that requires physicians to submit core credentials to the Federation of State Medical Boards for verification.

Currently, an applicant seeking licensure in Florida must submit specified information regarding education, training, and discipline to the Board of Medicine and shall submit an application fee not to exceed \$500.

Credentialing Process by the Board of Medicine

As part of the initial licensure process, the staff of the Board of Medicine verifies an applicant's core credentials. The core credentials include medical education, all postgraduate medical training, national licensure examination history, Educational Commission for Foreign Medical Graduates (ECFMG) certification, any current staff privileges, and any physician licenses held in other states, disciplinary history, and medical malpractice claims. Primary source verification of a physician licensure applicant's credentials can be a laborious process, which results in substantial delay in a board's evaluation of an applicant's credentials.

The Florida Board of Medicine encourages, but does not require, licensure applicants to use the Federation Credentials Verification Service (FCVS) to have the applicant's core credentials verified. A one time fee is assessed by the federation for this service of approximately \$275. Additional fees or surcharges may be assessed depending upon what additional information is needed.

Federation Credentials Verification Service offered by the Federation of State Medical Boards

Federation Credentials Verification Service (FCVS) was established in September 1996 to provide a centralized, uniform process for state medical boards to obtain a verified, primary source record of a physician's core medical credentials. The FCVS acts as a repository of information for physicians and establishes a confidential, lifetime professional portfolio with FCVS which can be forwarded, at the physician's request, to any state medical board that has established an agreement with FCVS, hospital, health care or any other entity. FCVS obtains primary source verification of medical education, postgraduate training, examination history, board action history, board certification and identity.

This service is designed to lighten the workload of credentialing staff and reduce duplication of effort by gathering, verifying and permanently storing the physician's and/or physician assistant's credentials in a central repository at the federation.

Currently, 38 states *accept* a physician's credentials that are verified by the federation, including Florida. Nine states currently *require* verification by the federation. The bill will make Florida the tenth state to *require* physicians to get verification by the federation.

Hospital Credentialing and Federation Credentials Verification Service

Currently, hospitals are not required to recognize the Federation Credentials Verification Service (FCVS). According to information received from the FCVS, limited numbers of hospitals have accepted credentialing from the federation. Since 2001, only 69 medical groups or health care facilities in the state accepted FCVS physician profiles. In comparison, (as of 2005) there were 264 licensed hospitals in the state.

Hospitals and other health care entities are required to meet certain accreditation standards that are set by such entities as the Joint Commission (JCAHO), and the National Committee for Quality Assurance (NCQA) and they are ultimately responsible for the accuracy of employee's credentials. For this reason, a physician could submit their credentials to the FCVS and still be responsible for submitting the identical information to a hospital.

C. SECTION DIRECTORY:

Section 1. Creates s. 381.0304, F.S., to require the Division of Health Access and Tobacco within the Department of Health to monitor, evaluate, and report on the supply and distribution of physicians and osteopathic physicians in the state.

Section 2. Amends s. 458.311, F.S., to require an individual seeking licensure by examination as a physician must submit their core credentials to the Federation Credentials Verification Services of the Federation of State Medical Boards for verification.

Section 3. Amends s. 458.313, F.S., to require an individual seeking licensure by endorsement as a physician to submit their core credentials to the Federation Credentials Verification Services of the Federation of State Medical Boards for verification.

Section 4. Reenacts s. 458.347, F.S., for the purpose of incorporating the amendment to s. 458.311, F.S., and provides that the reenactment is not intended to supersede s. 456.017(1)(c), F.S.

Sections 5 through 7 amend ss. 458.316, 458.3165, and 458.317, F.S., to conform cross-references.

Section 8. Provides for an appropriation from the General Revenue Fund and that implementation is contingent upon receiving an appropriation.

Section 9. Provides that the bill will take effect on October 1, 2006.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

According to the Department of Health the fiscal impact reflects costs for compiling and evaluating reports of physician licensure data by specialty and location.

1. Revenues:

No dedicated source of revenue.

2. Expenditures:

<u>Estimated Expenditures</u>	<u>1st Year</u>	<u>2nd Year</u> (Annualized/Recurr.)
Salaries		
1 FTE Research Associate (no lapse, base + 10% w/28% fringe) - DHAT	\$50,340	\$50,340
1 part time OPS Admin. Support staff at 25 hours/week @\$10.00 hour – DHAT	\$13,995	\$13,995
1 part time OPS Operations Management Consultant at 25	\$23,791	\$23,791

hours/week @\$17.00 hour -to
support desk audit functions -
DHAT

Expense

DOH Professional Package 1 FTE with limited travel and 1 OPS - DHAT	\$23,479	\$16,793
DOH Support Staff Package - DHAT	\$7,986	\$5,195
GIS Mapping Software - DHAT	\$10,000	
HR Services (1FTE and 2 part- time OPS) – DHAT	\$657	\$657
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OCO		
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Standard OCO professional packages for 1 FTE and 1 OPS - DHAT	\$3,800	0
Standard OCO package for 1 support staff – DHAT	\$2,100	0
Other		
Software costs (MQA)	\$25,000	0
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Total Estimated Expenditures	\$161,148	\$110,771

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Physicians will incur the cost of having their core credentials verified by the Federation of State Medical Boards (FSMB). A one time fee is assessed for this service of approximately \$275. Additional fees may be assessed to collect such items as examination transcripts and Educational Commission for Foreign Medical Graduates (ECFMG) Program certification.¹ Physicians, who complete the verification process conducted by the federation, establish a life-long file of their credentials, which can be easily accessed throughout their career by potential employers, state licensure, hospital privileges, and professional memberships. This may also be beneficial for foreign trained physicians who may have difficulty accessing or gathering core credentialing information from the medical school they attended in another country.

D. FISCAL COMMENTS:

According to the Department of Health, the cost to implement the provisions of the bill will be approximately \$161,000 for the first year and approximately \$110,000 each preceding year.

¹ The Educational Commission for Foreign Medical Graduates (ECFMG) assesses whether international medical graduates met minimum standards of eligibility to include the verification of education. In order for international medical graduates to receive licensure to practice medicine in Florida, applicants must have ECFMG certification.

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:

According to the House General Counsel Office, the bill's reenactment of section 458.347(7)(b), F.S., is not necessary. Reenacting this section was included in the bill as a technicality in order to ensure that the amendment to s. 458.311(1)(g), F.S. is applied.

In determining the Legislature's intention as to whether reenactment of a statute containing a cross-reference to another statute being amended, is required in order that the changes to the statute being amended are incorporated into the statute containing the reference, the general rule is that:²

A cross-reference to a general body of law (without reference to a specific statute) incorporates the referenced law and any subsequent amendment to or repeal of the referenced law....

In contrast, as a general rule, a cross-reference to a specific statute incorporates the language of the referenced statute as it existed at the time the reference was enacted, unaffected by any subsequent amendments to or repeal of the incorporated statute.³

In *U. S. v. Rodriguez-Rodriguez*, the Court recognized the general rule, but went on to find, however, that "[a] provision which... reads as a specific reference may, in context, be construed as a general reference. In addition, if the legislature expressly or by strong implication shows an intention to incorporate subsequent amendments, such subsequent amendments are to be considered part of a general scheme."⁴ Both in *Rodriguez* and *E.E.O.C. v. Chrysler Corp.*⁵, the courts found that although there was a specific reference in the form of a statute number, the reference nonetheless should be construed as a general reference.

According to General Counsel, while s. 458.347(b)1.b.(I), F.S., refers to requirements for licensure set forth in s. 458.311(1), F.S., it might just as easily refer to requirements for license set forth in "general law." There is nothing in Florida law to suggest that the particular licensing provisions in s. 458.311(1), F.S., were selected over some other statutory medical licensing requirements.

According to General Counsel, this is a general reference posing as a specific one as was the case in *E.E.O.C.*, where the court found that "the complex interplay of two statutory schemes, one of which is incorporated into the other, warrants the conclusion that this facially specific reference actually operates as a general one."⁶

² Florida Statutes, vol. 1, p. viii, Statutory Construction, Cross-references.

³ *Ibid.*

⁴ *U. S. v. Rodriguez-Rodriguez*, 863 F.2d 830 (11th Cir. 1989), citing 2A Sutherland Statutory Construction § 51.07 at 514 (4th ed. 1984).

⁵ *E.E.O.C. v. Chrysler Corp.*, 546 F.Supp. 54, 74 (E.D. Mich. 1982) aff'd 733 F.2d 1183 (6th Cir.1984).

⁶ *Id.* at 74.

B. RULE-MAKING AUTHORITY:

No additional rulemaking authority is required to implement the provisions of this bill.

C. DRAFTING ISSUES OR OTHER COMMENTS:

According to the Department of Health, current data sources, particularly the department's MQA licensure data, are not sufficient to prepare a report on the geographic distribution of physicians by specialty. To prepare an annual report to meet the needs of the Graduate Medical Education Committee and the Community Hospital Education Council, the collection of data on physicians in the DOH licensing process must be expanded.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES