

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 775 CS

Psychologist Specialties

SPONSOR(S): Roberson

TIED BILLS:

IDEN./SIM. BILLS: SB 1560

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Health Care Regulation Committee	9 Y, 0 N, w/CS	Hamrick	Mitchell
2) Governmental Operations Committee		Mitchell	Williamson
3) Health & Families Council			
4) _____	_____	_____	_____
5) _____	_____	_____	_____

SUMMARY ANALYSIS

This bill provides criteria and rulemaking authority for the Board of Psychology to approve certifying bodies that recognize a psychologist or school psychologist as a “certified psychology specialist” or a “psychology diplomate.” The bill defines the terms “specialist” and “diplomate.”

The bill prohibits a licensed psychologist or school psychologist from representing that he or she is a certified psychology specialist or a psychology diplomate unless that recognition is from a certifying body that has been approved by the Board of Psychology.

The bill permits a licensed psychologist or school psychologist to indicate the services offered and whether his or her practice is limited to one or more types of services as long as it accurately reflects their scope of practice.

The bill does not appear to have a fiscal impact on local governments. The fiscal impact on state government expenditures appears to be minimal implementation costs of rulemaking and processing.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide limited government – This bill authorizes the Board of Psychology to adopt rules for approving entities that recognize psychology specialists and psychology diplomates.

Safeguard individual liberty – The bill prohibits a licensed psychologist or school psychologist from making certain professional titles unless those titles were conferred by an entity approved by the Board of Psychology.

Promote Personal Responsibility – The bill limits the use of certain professional titles by psychologists and school psychologists.

B. EFFECT OF PROPOSED CHANGES:

Psychology and School Psychology Licensing and Specialties

Chapter 490, Florida Statutes, is the Psychological Services Act.¹ The Psychological Services Act creates the Board of Psychology within the Department of Health.² The Board of Psychology is responsible for certifying that applicants meet the criteria for licensure by examination³ or licensure by endorsement.⁴ The Department of Health then issues the applicant a license⁵ as a psychologist or a school psychologist.⁶ There are approximately 3,439 active licensed psychologists and 572 active school psychologists.⁷

There is, however, no authority for the Board of Psychology or the Department of Health to recognize specialties in psychology. As such, licensed psychologists and school psychologists, may use a psychological specialty recognized by a private entity or certifying body as long as the use of the specialty recognition does not violate statutory disciplinary standards.⁸

The use of psychological specialties, however, has implications for the public and the legal system,⁹ which must evaluate the varying specialty credentials of psychologists and school psychologists. Some certifying entities require review of credentials, documentation, and work sample, as well as a comprehensive oral or written examination.¹⁰ Yet, other boards are referred to as “vanity boards” and require very little documentation other than a brief one-page or two-page application form and a fee.¹¹

¹ Fla. Stat. § 490.001 (2005).

² Fla. Stat. § 490.004 (2005) (The Board of Psychology is composed of seven members appointed by the Governor and confirmed by the Senate. Five members of the Board of Psychology must be state-licensed psychologists and two members must be citizens with no connection to the practice of psychology. Members of the Board of Psychology serve four year terms.).

³ Fla. Stat. § 490.005 (2005).

⁴ Fla. Stat. § 490.006 (2005).

⁵ See, e.g., § 490.005(1) (2005).

⁶ See, e.g., § 490.003(4) (2005) (defining the "practice of psychology" as the observation, description, evaluation, interpretation, and modification of human behavior, by the use of scientific and applied psychological principles, methods, and procedures, for the purpose of describing, preventing, alleviating, or eliminating symptomatic, maladaptive, or undesired behavior and of enhancing interpersonal behavioral health and mental or psychological health).

⁷ Fla. Dep't of Health, 2004-2005 Annual Report, available at http://www.doh.state.fl.us/mqa/Publications/04-05mqa_ar.pdf, p. 34 (last visited Apr. 11, 2006).

⁸ See, e.g., Fla. Stat. § 490.009(1)(d) (2005) (false, deceptive, or misleading advertising).

⁹ Psychologists, for example, render opinions to courts on issues such as competency to stand trial.

¹⁰ Frank M. Dattilio & Robert L. Sadoff, How Expert is Your Mental Health Expert?, 27 Pa. Law. 28, 31 (Jan./Feb. 2005) (specifically referencing the American Board of Professional Psychology).

¹¹ *Id.* at 32.

Recognizing Psychology Specialties

This bill allows the Board of Psychology to establish criteria, by rule, to approve certifying bodies that recognize a psychologist or a school psychologist as a “certified psychology specialist or a “psychology diplomate.” The bill requires the Board of Psychology to utilize the following criteria in approving certifying bodies:

- Peer review and self study;
- Established standards;
- Assessment of competency characteristics of the specialty;
- Administrative support; and
- Unified relationship to the public and the profession.

The bill also defines the term “specialist” or “diplomate” to mean a psychologist with recognized competency acquired through an organized sequence of formal education, training, experience, and professional standing.

The bill prohibits a licensed psychologist or school psychologist from representing that he or she is a certified psychology specialist or a psychology diplomate unless that recognition is from a certifying body that has been approved by the Board of Psychology.

The bill permits a licensed psychologist or school psychologist to indicate the services offered or whether his or her practice is limited to one or more types of services as long as it accurately reflects their scope of practice.

C. SECTION DIRECTORY:

Section 1: Creates section 490.0149, Florida Statutes, to provide a definition; to limit the use of certain specialty titles; to authorize rulemaking; and to allow offered or limited services to be indicated.

Section 2: Provides an effective date of July 1, 2006.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

This bill does not appear to have a fiscal impact on state government revenues.

2. Expenditures:

This bill appears to have a fiscal impact on state government expenditures through minimal increases in rulemaking, entity processing, and complaint processing costs.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

This bill does not appear to have a fiscal impact on local government revenues.

2. Expenditures:

This bill does not appear to have a fiscal impact on local government expenditures.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

This bill will have a direct economic impact on the representation and advertising of psychologists and school psychologists who utilize psychological specialties. This bill also will have a direct economic impact on certifying bodies of psychological specialties.

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 counties municipalities have to raise revenue.

2. Other:

First Amendment

To the extent this bill permits restrictions on professional advertising, it may be subject to challenge under the First Amendment of the United States Constitution. Courts, however, have previously upheld similar restrictions.

B. RULE-MAKING AUTHORITY:

This bill authorizes the Board of Psychology to adopt rules for approving entities that recognize psychology specialists and psychology diplomates.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Drafting Issue: Consistent Terminology

The bill uses the terms “specialist,” “diplomate,” “certified psychology specialist,” “psychology diplomate,” and “board-certified psychology specialist.” The sponsor may wish to use consistent terminology throughout the bill.

Drafting Issue: Criteria

The sponsor may wish to consider two changes to the section of the bill that provides the criteria for the Board of Psychology to use in approving certifying bodies. First, the reference to subsection (2) is potentially confusing. Second, the criteria may not be stringent enough to prevent a “vanity board” from meeting the criteria and being approved.

Drafting Issue: More Specific Rulemaking Authority

As the Department of Health is responsible for rulemaking for school psychologists, the sponsor may wish to provide more specific rulemaking authority.¹²

¹² Dep’t of Health, HB 775 CS (2006) Bill Analysis, Economic Statement, and Fiscal Note (Apr. 11, 2006).

Other Comments: American Psychological Association

According to a telephone conversation between the Health Care Regulation Committee and staff of the American Psychology Association (“APA”), the APA recognizes that there is a problem nationally with individuals who hold themselves out as a board-certified specialist or a diplomate, but who have “suspect training” or “vanity credentials.”

The APA has discussed the possibility of developing criteria that may be used to identify an appropriate certifying body of legitimate psychology specialties. To date, there has been no policy action by the APA.¹³

Other Comments: The American Board of Professional Psychology

One example of a certifying body is the American Board of Professional Psychology (ABPP), which was incorporated in 1947 with the support of the American Psychological Association. The American Board of Professional Psychology currently recognizes 13 specialty boards.¹⁴

The ABPP provides the following criteria for organizations to determine the competency of certifying bodies that provide certified specialties in professional psychology:¹⁵

- National in scope, appropriately incorporating standards of the profession and collaborating closely with organizations related to specialization in psychology.
- Have clearly described purposes, related by-laws, policies, and procedures which are accountable to the public, its certified specialists, and the profession.
- Develop and implement examinations designed to assess the competencies required to provide quality services in the specialties it certifies.
- Not be a governmental, membership, advocacy, or accrediting body.
- Have organizational and financial stability with professional and office support staff.
- Be governed by a single, national in scope, not-for-profit corporation comprised of a certified specialist Trustee (Board Member) from each of its multiple, member Specialty Boards as well as public member representation. The multiple board structure provides a continuing peer review of the organization's activities. The governing board has formal procedures for the selection and tenure of Trustees.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

On April 4, 2006, the Health Care Regulation Committee adopted a “strike-all” amendment that made the following changes:

¹³ E-mail from the Deputy Exec. Dir. for Educ., Am. Psychological Ass’n (on file with the Health Care Regulation Comm.).

¹⁴ (1) The American Board of Cognitive and Behavioral Psychology; (2) The American Board of Clinical Psychology; (3) The American Board of Clinical Child and Adolescent Psychology; (4) The American Board of Clinical Health Psychology; (5) The American Board of Clinical Neuropsychology; (6) The American Board of Counseling Psychology; (7) The American Board of Family Psychology; (8) The American Board of Forensic Psychology; (9) The American Board of Group Psychology; (10) The American Board of Psychoanalysis in Psychology; (11) The American Board of Rehabilitation Psychology; (12) The American Board of School Psychology; and (13) The American Board of Organizational and Business Consulting Psychology. According to the ABPP, practice activities in any specialty seldom are exclusive to the specialty and most practice activities are shared with the general practice of professional psychology. The pattern of practice activities, including limiting the scope of practice, and focus upon more complex or unique problems or technologies is more relevant in defining a specialty together with advanced education, training, and experience.

¹⁵ American Board of Professional Psychology, Standards for the Purpose and Structure of a Body Certifying Psychologists as Specialists in Professional Psychology, available at http://www.abpp.org/brochures/general_brochure.htm (last visited Apr. 5, 2006).

- Removed the specific mention of the American Board of Professional Psychology as a recognized agency;
- Added a definition of specialist or diplomate;
- Provided the criteria that the board must use in establishing specific criteria for the approval of certifying bodies; and
- Made a more specific reference to “certified psychology specialists” or “psychology diplomate” and removes the general reference to “specialist” or “diplomate”.

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