

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	5 Y, 1 N, w/CS	Mitchell	Williamson
3) Health & Families Council		Hamrick	Moore
4) _____	_____	_____	_____
5) _____	_____	_____	_____

SUMMARY ANALYSIS

The bill defines "certified psychology specialist," "board-certified psychology specialist," and "psychology diplomate."

The bill authorizes the Board of Psychology to approve certifying bodies which recognize certified psychology specialists, board-certified psychology specialists, or psychology diplomates. The bill prohibits a licensed psychologist from representing that he or she is a certified psychology specialist, a board-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 as amended provides criteria that a certifying body must require of psychologists in order to be approved by the Board of Psychology. It permits the Board of Psychology to adopt, by rule, an application and an approval process.

The bill provides that a licensed psychologist is permitted to indicate the services they offer, including 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 fiscal impact of the bill appears to be minimal and limited to the implementation costs for rulemaking and complaint processing.

The bill will take effect on July 1, 2006.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

STORAGE NAME: h0775d.HFC.doc

DATE: 4/18/2006

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, board-certified psychology specialists, and psychology diplomates.

Safeguard individual liberty – The bill prohibits a licensed psychologist from using 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.

B. EFFECT OF PROPOSED CHANGES:

CURRENT SITUATION

The Department of Health licenses the practice of psychology, but does not license individuals by specialty. Because of this, the number of individuals in Florida with a specialty in psychology is unknown.

Currently, there are 4,118 licensed psychologists in the state. A licensed psychologist in Florida must have a doctoral degree.¹ The doctoral degree may be in psychology or a doctoral-level degree in psychological education.²

The use of psychological “specialties” has implications for the public and the legal system.³ Some certifying entities require review of credentials, documentation, and a work sample, as well as a comprehensive oral or written examination.⁴ Other certifying entities are referred to as “vanity boards” and require very little documentation other than a brief one or two-page application form and a fee.⁵

According to staff with the American Psychology Association, the association 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 American Psychology Association (APA) is exploring the development of criteria that may be used to identify an appropriate certifying body of legitimate psychology specialties. According to staff with the American Psychological Association, the issue has been discussed, but to date has not resulted in policy action by the APA.⁶

¹ See ss. 490.005(1)(a)1., 490.006(1)(c) and 490.0051(1)(b), F.S.

² See s. 490.003(3), F.S.

³ Psychologists, for example, render opinions to courts on issues such as competency to stand trial.

⁴ 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).

⁵ *Id.* at 32.

⁶ E-mail from the Deputy Executive Director for Education, the American Psychology Association. (on file with the Health Care Regulation Committee).

Psychology Licensing and Specialties

Chapter 490, Florida Statutes, is the Psychological Services Act.⁷ The Psychological Services Act creates the Board of Psychology within the Department of Health.⁸ The Board of Psychology is responsible for certifying that applicants meet the criteria for licensure by examination⁹ or licensure by endorsement.¹⁰ The Department of Health then issues the applicant a license¹¹ as a psychologist.¹² There is, however, no authority for the Board of Psychology to recognize specialties in psychology. As such, licensed 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 any statutory disciplinary standards.¹³

EFFECTS OF THE BILL

The bill defines "certified psychology specialist," "board-certified psychology specialist," or "psychology diplomate" as a psychologist with special competency which has been recognized by an approved certifying body. This special competency must have been acquired through an organized sequence of formal education, training, experience, and professional standing.

The bill authorizes the Board of Psychology to approve certifying bodies which recognize certified psychology specialists, board-certified psychology specialists, or psychology diplomates. The bill as amended provides that a certifying body must require psychologists to meet the following criteria in order to be approved by the Board of Psychology:

- A minimum of three years of experience as a psychologist.
- Peer review of applicants.
- Additional education which may include self-study.
- Adherence to standards established by the certifying body.

The bill permits the Board of Psychology to adopt, by rule, an application and an approval process for licensed psychologists who have a specialty from a recognized certifying body.

The bill prohibits a licensed psychologist from representing that he or she is a certified psychology specialist, board-certified psychology specialist, or 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 to indicate the services offered, including whether his or her practice is limited to one or more types of services, as long as it accurately reflects their scope of practice.

⁷ Fla. Stat. § 490.001 (2005).

⁸ 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.).

⁹ Fla. Stat. § 490.005 (2005).

¹⁰ Fla. Stat. § 490.006 (2005).

¹¹ See, e.g., § 490.005(1) (2005).

¹² 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).

¹³ See, e.g., Fla. Stat. § 490.009(1)(d) (2005) (false, deceptive, or misleading advertising).

BACKGROUND

What is the Practice of Psychology?

Section 490.003(4), Florida Statutes, defines 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. The ethical practice of psychology includes, but is not limited to:

- Psychological testing and the evaluation or assessment of personal characteristics such as intelligence, personality, abilities, interests, aptitudes, and neuropsychological functioning, including evaluation of mental competency to manage one's affairs and to participate in legal proceedings;
- Counseling, psychoanalysis, all forms of psychotherapy, sex therapy, hypnosis, biofeedback, and behavioral analysis and therapy;
- Psychoeducational evaluation, therapy, remediation, and consultation; and
- Use of psychological methods to diagnose and treat mental, nervous, psychological, marital, or emotional disorders, illness, or disability, alcoholism and substance abuse, and disorders of habit or conduct, as well as the psychological aspects of physical illness, accident, injury, or disability, including neuropsychological evaluation, diagnosis, prognosis, etiology, and treatment.

American Psychology Association

The American Psychology Association (APA) defines "psychology" as the study of the mind and behavior. The discipline embraces all aspects of the human experience — from the functions of the brain to social actions and from child development to care for the aged. In every conceivable setting from scientific research centers to mental health care services, "the understanding of behavior" is the enterprise of psychologists.

There are 53 professional divisions in the APA, which include such areas as:

- Developmental Psychology
- School Psychology
- Rehabilitation Psychology
- Psychotherapy
- Psychology of Religion
- Clinical Neuropsychology
- Exercise and Sport Psychology
- Trauma Psychology
- Behavioral Analysis

The American Board of Professional Psychology and Certifying Bodies

The American Board of Professional Psychology (ABPP) certifies specialties in psychology. They were incorporated in 1947 with the support of the American Psychological Association. ABPP governs several separately incorporated specialty examining boards and currently recognizes thirteen specialty boards:¹⁴

1. The American Board of Cognitive and Behavioral Psychology

¹⁴ According to the ABPP, it should be noted that the practice activities in any specialty seldom are exclusive to the specialty and that most practice activities are shared with the general practice of professional psychology. The pattern of practice activities, including limiting the scope of practice, and focusing upon more complex or unique problems or technologies is more relevant in defining a specialty together with advanced education, training, and experience.

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
13. The American Board of Organizational and Business Consulting Psychology

The ABPP provides the following criteria that may be used by an organization to determine the competency of certifying bodies that provide certified specialties in the profession of 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.

Several other entities certify psychologists in various specialty areas. The Council of Specialties in Professional Psychology (CoSPP) is a non-profit joint venture, initially sponsored by the American Psychological Association (APA) and the ABPP, to represent and support the development and functioning of recognized specialties in professional psychology.

Recently, the council has proposed that an inter-organizational effort be formed to develop competency-based criteria for specialty certification in order to protect the public. The proposed criteria included a single certification board per specialty requirement and an oversight mechanism to insure quality and the consistency of such boards.¹⁶

C. SECTION DIRECTORY:

Section 1. Creates section 490.0149, Florida Statutes, to provide a definition; to limit the use of certain specialty titles; to require approval of certifying bodies; to provide criteria for approving a certifying body; to authorize rulemaking; and to allow offered or limited services to be indicated.

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

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

¹⁶ Council of Specialties in Professional Psychology. President's Highlights. <http://www.cospp.org/president.html> (April 18, 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 minimal fiscal impact on state government expenditures through increased 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 who have recognized 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:

The bill provides the Board of Psychology adequate rule-making authority to implement the provisions in the bill.

C. DRAFTING ISSUES OR OTHER COMMENTS:

An amendment will be offered in the Health and Families Council to clarify the criteria that the Board of Psychology must use to approve a certifying body.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

On April 4, 2006, the Health Care Regulation Committee adopted a “strike-all” amendment and reported the bill favorably with committee substitute:

- Removed the specific mention of the American Board of Professional Psychology as a recognized agency;
- Added a definition of specialist or diplomate;
- Provided criteria that the Board of Psychology 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 removed the general reference to “specialist” or “diplomate”.

On April 17, 2006, the Governmental Operations Committee adopted a “strike-all” amendment and reported the bill favorably with committee substitute:

- Removed school psychologists from the bill;
- Expanded the defined terms; and
- Narrowed the rulemaking authority of the Board of Psychology through a revised process that provides a certifying body must require psychologists to meet certain criteria in order to be approved as a certifying body by the Board of Psychology.

This analysis is drafted to the committee substitute.