

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 881 CS

Physician Licensure Requirements

SPONSOR(S): Flores

TIED BILLS:

IDEN./SIM. BILLS:

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

SUMMARY ANALYSIS

HB 881 amends a provision of s. 458.3124, F.S. that expired on December 31, 2000, to allow a foreign trained physician to practice medicine with a restricted license for the purpose of meeting residency training requirements for licensure. The bill amends s. 458.3124, F.S., to: clarify that part II of the United States Medical Licensing Examination includes the clinical knowledge and clinical skills component; require applicants applying for a restricted license to be a Florida resident for at least 5 years; and remove language relating to a state-developed examination. Current law prohibits the Department of Health and boards from administering a state-developed written examination if a national examination is available (s. 456.017(1)(c), F.S.).

The bill also creates a new section in statute that provides a definition for international medical graduate, legislative intent and a summary of current licensure options available for international medical graduates, through cross-references.

Fiscal Impact: The bill does not appear to have a fiscal impact on state or local governments.

The bill takes effect on July 1, 2006.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Promote personal responsibility-The bill allows individuals to work in the profession for which they were trained.

B. EFFECT OF PROPOSED CHANGES:

The bill amends a provision that expired on December 31, 2000, that allows for the issuance of a restricted license to a foreign trained physician. Reinstating the provision allows international medical graduates, also referred to as foreign trained physicians, the opportunity to practice medicine for one year under the direct supervision and one year under the indirect supervision of a licensed physician, in lieu of attending an accredited residency program. At the completion of the two year period the international medical graduate may sit for part III of the United States Medical Licensing Examination (USMLE) and if they pass, they may be eligible for full licensure.

The reinstated provision, allows a person to apply for a restricted license if they meet specified criteria. The specified criteria require that they have: graduated from a medical school that is listed in the World Directory of Medical Schools; passed Part I and Part II of the USMLE; received certification from the Educational Commission for Foreign Medical Graduates (ECFMG); legally practiced medicine for at least 5 years in the country where the medical school is located; not been the subject of discipline, investigation or prosecution; and been a resident of this state for at least 5 years.

The USMLE examination consists of three parts. Parts I and II must be successfully completed prior to entry into a residency program and is required to receive an ECFMG certificate that verifies foreign education. Part II includes both a written and a practical clinical component. Part III of the USMLE may be taken at any time after successfully completing parts I and II. Currently, an individual may not receive full licensure until they have passed all parts of the USMLE, received ECFMG certification and completed an accredited residency program.

The provisions of the bill amend s. 458.3124, F.S., to clarify that part II of the United States Medical Licensing Examination includes the clinical knowledge and clinical skills component; applicants applying for a restricted license must be a Florida resident for at least 5 years; and to remove language relating to a state-developed examination. Current law prohibits the Department of Health and boards from administering a state-developed written examination if a national examination is available (s. 456.017(1)(c), F.S.).

The bill also creates a new section in statute that provides a definition for international medical graduate, legislative intent and a summary of current licensure options available for international medical graduates through cross-references. The bill states, pursuant to s. 456.021(1), F.S., it is the intent to use foreign-speaking state residents that are duly qualified to become actively qualified in their profession so that all people of this state may receive better services. The current options available for an international medical graduate to become licensed to practice medicine in the state are:

- Full license, pursuant to s. 458.311, F.S.;
- Restricted licensure, pursuant to s. 458.3124, F.S.;
- House physician, pursuant to s. 458.345, F.S.; and
- Visiting physician, pursuant to ss. 458.3135, 458.3137, and 458.3145, F.S.

PRESENT SITUATION

Accredited by the Council for Graduate Medical Education (ACGME) and Residency Programs

The Accreditation Council for Graduate Medical Education (ACGME) is responsible for the Accreditation of post-MD (residency) medical training programs within the United States. Accreditation is accomplished through a peer review process and is based upon established standards and guidelines.¹ ACGME accredits nearly 7,800 residency education programs.

To gain and maintain accreditation, residency programs are expected to comply with the Accreditation Standards for their discipline and adhere to a set of Institutional Requirements. Compliance with the ACGME's standards are measured through periodic reviews of all programs. Residency programs in the Florida are accredited by the ACGME.

According to medical malpractice insurance carriers, individuals who do not attend an ACGME accredited residency program may have difficulty receiving medical malpractice insurance coverage or they may be assessed a higher premium.

Educational Commission for Foreign Medical Graduates (ECFMG) Program Certification Verifies a Foreign Trained Physician's Education

To receive a license to practice medicine in Florida, foreign trained physicians must receive a certificate from the Educational Commission for Foreign Medical Graduates (ECFMG) Program. The ECFMG, through its program of certification, assesses whether international medical graduates are ready to enter residency or fellowship programs in the United States that are accredited by the Accreditation Council for Graduate Medical Education (ACGME).²

ECFMG and its organizational members define an international medical graduate as a physician who received his/her basic medical degree or qualification from a medical school located outside the United States and Canada. ECFMG Certification assures directors of ACGME-accredited residency and fellowship programs, and the people of the United States, that international medical graduates have met minimum standards of eligibility required to enter such programs. International medical graduates (IMG), who were formally referred to as foreign trained medical graduates, must have had at least four credit years (or academic years for which credit has been given toward completion of the medical curriculum) in attendance at a medical school listed in the International Medical Education Directory (IMED).

In general, an international medical graduate is defined as a physician whose basic medical degree or qualification was conferred by a medical school located outside the United States, Canada, and Puerto Rico.

United States Medical Licensing Examination (USMLE) Examination and Credentialing

To be eligible for certification by ECFMG, international medical graduates must meet an examination and medical education credential requirement. To meet the examination requirement applicants must pass Step 1 and both parts of Step 2 of the United States Medical Licensing Examination (USMLE). Step 2 of the exam has two separately administered components: the Clinical Knowledge (CK) component and the Clinical Skills (CS) component.³ The medical education credential requirement requires applicants to provide their medical education credentials, which includes their final medical

¹Accreditation Council for Graduate Medical Education. *About ACGME*.

<http://www.acgme.org/acWebsite/home/home.asp> (February 12, 2006).

² ECFMG Information Booklet. *Frequently Asked Questions*. <http://www.ecfm.org/2006ib/ibfaq.html> (February 12, 2006)

³ Ibid.

diploma and final medical school transcript. ECFMG certification is one of the eligibility requirements to take Step 3 of the USMLE examination.

Examination Requirements that were formally available to International Medical Graduates

The 1-day ECFMG medicine examination, the 2-day Visa Qualifying Examination, the Part I and Part II examinations of the National Board of Medical Examiners (NBME), and Day 1 and Day 2 of the Foreign Medical Graduate Examination in the Medical Sciences, are no longer administered, but a passing performance on any of these medical science examinations is accepted for ECFMG certification

The 3-day Federation Licensing Examination (FLEX) is accepted for ECFMG certification if taken prior to June 1985 with a score of 75 or higher on each of the 3 days of a single administration.

While foreign national physicians may meet the medical science examination requirement for ECFMG certification based on the former 1-day ECFMG examination that was last administered in February 1984, or the FLEX examination taken prior to June 1985, these examinations are not currently recognized by the US Secretary of Health and Human Services as meeting the medical science examination requirement to obtain a visa to enter the United States.

Other Option to a Clinical Residency Program provided by the Liaison Committee on Medical Education (LCME)

The Liaison Committee on Medical Education (LCME) is the nationally recognized accrediting authority for medical education programs leading to the M.D. degree in U.S. and Canadian medical schools. The LCME is sponsored by the Association of American Medical Colleges and the American Medical Association. Accreditation by the Liaison Committee on Medical Education (LCME) is required for schools to receive federal grants for medical education and to participate in federal loan programs.⁴

The LCME also accredits the Fifth Pathway Program that provides an alternative for clinical residency. Currently, only two medical schools provide the Fifth Pathway Program. They are located in New York and Puerto Rico.⁵

The Fifth Pathway Program is an academic year of supervised clinical education provided in a medical school accredited by the Liaison Committee on Medical Education (LCME). It is available to persons who meet all of the following conditions:

- Have completed an accredited US college or university, undergraduate premedical work of the quality acceptable for matriculation in an accredited US medical school;
- Have studied medicine in a medical school located outside the United States, Puerto Rico, and Canada that is listed in the World Directory of Medical Schools, published by the World Health Organization; and
- Have completed all of the formal requirements of the non-US medical school except internship and/or social service.

Students who have completed the academic curriculum in residence at a non-US medical school and who meet the above conditions may be offered the opportunity to substitute an academic year of supervised clinical training provided in a medical school accredited by the LCME, for an internship and/or social service required by a non-US medical school.

⁴ Liaison Committee on Medical Education. Overview: Accreditation and the LCME. <http://www.lcme.org/> (February 12, 2006).

⁵ Accreditation Council for Graduate Medical Education. Section I: Graduate Medical Education Useful Information. http://www.acgme.org/acWebsite/GME_info/gme_sect1Policy.asp (February 13, 2006).

Before beginning the supervised clinical training, students must pass an examination acceptable to the sponsoring medical school.

Physicians who have a Fifth Pathway Certificate and have passed Steps I and II of the United States Medical Licensing Examination (USMLE) are eligible for appointment to a residency program. They must also meet requirements established by the state medical board in the state where the residency program is located and must be accepted for appointment by the director of the residency program. Any medical school accredited by the LCME can provide Fifth Pathway education.

Statutory Provisions for Foreign Trained Physicians

Restricted License

Section 458.3124, F.S., expired on December 31, 2000. This section provided an exemption to foreign trained medical graduates that allowed them to apply to take Step III of the USMLE examination if they successfully complete a two-year period of direct and indirect supervised training as a restricted licensee. Applicants for the restricted license had to have at least legally practiced medicine for 5 years in the county where they received their medical degree, received ECFMG certification, and been a resident of Florida since July 1, 1996.

Under this program, the applicant was required to practice for the first year under the direct supervision of a licensed medical doctor, approved by the Board of Medicine. For the second year, they were required to practice under indirect supervision in a community service setting that served the indigent population.

If the foreign trained medical graduate completed the two-year period of supervised training and successfully passed part III of the USMLE examination they were eligible for full licensure.

Current Administrative Rules Regarding Supervision of Physicians Issued a Restricted License under s. 458.3124, F.S.

Administrative rules require physicians issued a restricted license pursuant to s. 458.3124, F.S., to comply with direct and indirect supervision requirements for a two-year period.

According to rules promulgated by the department, direct supervision requires that the supervising physician be on the premises and be immediately available when needed by the physician holding a restricted license.⁶ The restricted licensee must practice at least 30 hours per week under direct supervision for one year. Indirect supervision does not require the physical presence of the supervising physician, but requires the supervising physician to be reasonably available to provide consultation or direction in a timely fashion in order to provide appropriate care to the patient.⁷ The restricted licensee must practice under indirect supervision for one year in a location that serves the indigent population, such as non-profit organizations, public health units, prisons, or other community service organizations approved by the Board of Medicine.

Graduates of a Medical School may work in Hospitals as a House Physician

Section 458.345, F.S., provides that a person who is at least 21 years of age, has not committed any act or offense within or outside the state that would constitute grounds for disciplinary action, and is a graduate of a medical school or college is eligible to work in a hospital as a house physician, resident physician, assistant resident physician, intern, or fellow in fellowship training. Registration under this provision expires every two years.

A house physician is a person who holds a degree as a medical doctor, and is employed and paid by a hospital, who does not have (and has never had) a license to practice medicine in Florida.⁸ A house

⁶ See 64B8-4.027, F.A.C.

⁷ Ibid.

⁸ See 64B8-6.006, F.A.S.

physician generally assists in writing histories, doing and recording physical examinations, performing laboratory work, and other functions that the medical staff of the hospital feels are within the house physician's capabilities.⁹ The other functions performed by a house physician are to be performed under the direct supervision of a licensed physician.¹⁰

According to the Department of Health, currently, there are 307 individuals licensed as a house physician.

C. SECTION DIRECTORY:

Section 1. Amends s. 458.3124, F.S., to revise criteria to provide foreign-trained physicians the ability to receive a restricted license and apply to sit for part III of the United States Medical Licensing Examination.

Section 2. Creates s. 458.3126, F.S., to define international medical graduate; provide legislative intent; provide a summary of current licensure options available for international medical graduates and provide statutory cross-references.

Section 7. Provides that the bill will take effect on July 1, 2006.

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:

Under the requirements of a restricted license, a practitioner must work in a community setting that serves the indigent population for one year.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

⁹ See 64B8-6.007, F.A.S.

¹⁰ Ibid.

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:

No additional rule-making authority is needed to implement the provisions of this bill.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

On March 15, 2006, the Health Care Regulation Committee adopted a strike-all amendment offered by the bill's sponsor. The Committee Substitute differs from the original bill as filed in that it:

- Removes the "community-based internships" provision that provided in lieu of a residency program, individuals may opt, with approval by the board of medicine, to complete a 2-year community-based internship at a hospital licensed in the state. If a doctor successfully completed the community-based internship, they meet the residency education requirement.
- Amends a current provision for a restricted license for foreign trained physicians within the practice act of medicine that expired on December 31, 2000.
- Creates a new section in statute that provides a definition for international medical graduate, legislative intent and a summary of current licensure options available for international medical graduates through cross-references.

The bill, as amended, was reported favorably as a committee substitute. This analysis is drafted to the committee substitute.