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The bill provides circumstances in which an applicant would be deemed ineligible to obtain a temporary license and also authorizes the DOH or the appropriate board to revoke a temporary license upon discovering a temporary license holder has violated the profession's governing practice act.

The bill also provides for the naming of temporary certificates issued for practice in areas of critical need.

The DOH or boards within the DOH may incur costs associated with implementing the bill, which should be off-set by the application fees received for temporary licensure.

This bill substantially amends the following sections of the Florida Statutes: 456.024, 458.315, and 459.0076, F.S.

II. Present Situation:

Background

The United States currently has 1.4 million people serving in the armed forces, over 23 million veterans living in the U.S., and over 200 military installations in 46 states, the District of Columbia, and Puerto Rico. In addition, there are more than 400,000 National Guard members throughout the 50 states, the District of Columbia, and commonwealths and territories. The military operations of the United States touch every state in some manner.¹

In Florida, there are 22 military bases, over 58,000 active duty military personnel, and over 37,000 Reserve and National Guard personnel.² There are approximately 37,000 military spouses that currently live in Florida.³

Military families often face frequent moves and these moves can add unique financial pressures, as spouses may have to leave their employment due to a military transfer and the families may face a reduction in income.

While the majority of programs and benefits for soldiers and veterans are administered by the federal government, states and state legislatures are playing an increasingly larger role in military issues. With many active duty military members and National Guard and Reservists, and their

¹ National Conference of State Legislatures, *Military Personnel, Veterans and Their Families*, available at: <http://www.ncsl.org/default.aspx?TabID=123&tabs=858,137,1160#858> (Last visited on March 10, 2011).

² Telephone interview with Col. Rocky McPherson, USMC, Director of Military and Defense Programs, Enterprise Florida, by professional staff of the Senate Health Regulation Committee on March 10, 2011.

³ Agency for Workforce Innovation, *Military Family Employment Advocacy Program*, available at: <http://www.floridajobs.org/workforce/mfea.html> (Last visited on March 11, 2011).

families, facing multiple deployments, state policymakers are creating benefits and programs designed to assist both the military personnel and their families.⁴

In Florida, in 2009, the Legislature enacted HB 7123, which became ch. 2009-155, Laws of Florida. The Florida Council on Military Base and Mission Support (council) was created with the enactment of this law. The council was created to:

- Support and strengthen all DoD missions and bases located in Florida;
- Know the capabilities of Florida's military installations in order to support future military growth opportunities;
- Support community efforts relating to mission support of a military base by acting as a liaison between the local communities and the Legislature; and
- Enhance Florida's defense economy.⁵

In 2010, the Legislature enacted HB 713, which became ch. 2010-106, Laws of Florida. This law authorizes the Department of Business and Professional Regulation (DBPR) to issue a temporary professional license, which is valid for 6 months after issuance and is not renewable, to the spouse of an active duty member of the Armed Forces of the United States if the spouse applies to the DBPR for the temporary license. The applicant for a temporary license must submit to the DBPR proof of marriage to the military member, proof that he or she holds an active license in another state or jurisdiction, and proof that the military member is assigned to a duty station in Florida. The applicant must also be subject to a criminal history check and is responsible for the cost of the fingerprinting process. The applicant must also pay an application fee.

In Florida, military spouses also enjoy benefits related to education and unemployment compensation.⁶ Through federal funding under the Wagner-Peyser Act, the Agency for Workforce Innovation provides services to military spouses and dependents through the Military Family Employment Advocacy Program. The program delivers employment assistance services, including interviewing, assessment, counseling, job search and placement assistance, labor market information, and resume assistance through Military Family Employment Advocates co-located within selected One-Stop Career Centers. Persons eligible for assistance through this program include spouses and dependents of active-duty military personnel, Florida National Guard members, and military reservists.⁷

The Department of Health

Section 20.43, F.S., creates the DOH. The DOH is responsible for the state's public health system, which is designed to promote, protect, and improve the health of all people in the state. The mission of the state's public health system is to foster the conditions in which people can be healthy, by assessing state and community health needs and priorities through data collection, epidemiologic studies, and community participation; by developing comprehensive public health policies and objectives aimed at improving the health status of people in the state; and by ensuring essential health care and an environment which enhances the health of the individual

⁴ *Supra* fn. 1.

⁵ Section 288.984(1), F.S.

⁶ *See* ss. 295.01, 1009.21(10), and 443.101(1)(a)1., F.S.

⁷ Agency for Workforce Innovation, *AWI Programs*, available at: http://www.floridajobs.org/workforce/WP_MFEA.html (Last visited on March 10, 2011).

and the community.⁸ The State Surgeon General is the State Health Officer and the head of the DOH.

Section 20.43, F.S., creates several divisions under the DOH, including the Division of Medical Quality Assurance, which is responsible for the following boards and professions established within the division:

- The Board of Acupuncture, created under chapter 457.
- The Board of Medicine, created under chapter 458.
- The Board of Osteopathic Medicine, created under chapter 459.
- The Board of Chiropractic Medicine, created under chapter 460.
- The Board of Podiatric Medicine, created under chapter 461.
- The Board of Optometry, created under chapter 463.
- The Board of Nursing, created under part I of chapter 464.
- The Board of Pharmacy, created under chapter 465.
- The Board of Dentistry, created under chapter 466.
- The Board of Speech-Language Pathology and Audiology, created under part I of chapter 468.
- The Board of Nursing Home Administrators, created under part II of chapter 468.
- The Board of Occupational Therapy, created under part III of chapter 468.
- The Board of Athletic Training, created under part XIII of chapter 468.
- The Board of Orthotists and Prosthetists, created under part XIV of chapter 468.
- The Board of Massage Therapy, created under chapter 480.
- The Board of Clinical Laboratory Personnel, created under part III of chapter 483.
- The Board of Opticianry, created under part I of chapter 484.
- The Board of Hearing Aid Specialists, created under part II of chapter 484.
- The Board of Physical Therapy Practice, created under chapter 486.
- The Board of Psychology, created under chapter 490.
- The Board of Clinical Social Work, Marriage and Family Therapy, and Mental Health Counseling, created under chapter 491.

In addition to the professions regulated by the various aforementioned boards, the DOH also regulates the following professions: naturopathy, as provided under chapter 462; nursing assistants, as provided under part II of chapter 464; midwifery, as provided under chapter 467; respiratory therapy, as provided under part V of chapter 468; dietetics and nutrition practice, as provided under part X of chapter 468; electrolysis, as provided under chapter 478; medical physicists, as provided under part IV of chapter 483; and school psychologists, as provided under chapter 490.

Temporary Licensure by the Department of Health

There are several examples of laws that authorize individuals in Florida to obtain temporary permits or licenses from the DOH, typically only if certain conditions are met.

Advanced Registered Nurse Practitioners

⁸ Section 381.001, F.S.

Under s. 464.012(1)(b), F.S., the Board of Nursing is authorized to provide by rule for provisional state certification of graduate nurse anesthetists and nurse midwives for a period of time determined to be appropriate for preparing for and passing the national certification exam.

Clinical Laboratory Personnel

Under s. 483.813, F.S., the DOH may grant a temporary license to any candidate it deems properly qualified, for a period not to exceed 1 year.

Dentistry

Under s. 466.025, F.S., the DOH has authority to issue temporary certificates to graduates of accredited dental schools, which are approved by the Board of Dentistry, to practice in state and county government facilities, working under the general supervision of licensed dentists in the state or county facility. The certificate is only valid for such a time as the dentist remains employed by a state or county government facility.

Dietetics/Nutritionists

Under s. 468.511, F.S., the Board of Medicine may issue a temporary permit to an applicant seeking to practice dietetics and nutrition if the applicant files an application, pays a temporary permit fee, submits proof of completion of the required education requirement and is supervised by a licensed dietitian or nutritionist. The temporary permit expires 1 year from the date of issuance, but one extension may be granted for good cause shown.

Electrolysis

Under s. 478.46, F.S., the DOH is authorized to issue a temporary permit to practice electrolysis if an applicant qualifies for licensure. The temporary permit is valid until the next Board of Medicine meeting at which license applications are to be considered or if the applicant qualifies for licensure but has not taken an exam, the permit is valid until notification of the results of the examination.

Nursing Home Administrators

Under s. 468.1705, F.S., the DOH may issue a one-time temporary license to an applicant who has filed an application for license by endorsement, has paid a fee to take an exam, has filed an application and paid an application fee, has an active license in another state, and has worked as a fully licensed nursing home administrator for 2 years within the 5-year period immediately preceding the application for the temporary license.

Occupational Therapy

Under s. 468.209, F.S., an applicant who qualifies for licensure by endorsement may be issued a temporary permit. Also, an applicant who has not passed an examination, but meets all of the other licensure requirements may be issued a temporary permit by the Board of Occupational Therapy Practice which is valid until the notification of the results of the examination. A person may not practice under the temporary permit unless he or she practices under the supervision of a licensed occupational therapist.

Physician Assistants

Under s. 458.347, F.S., The DOH may grant temporary licensure to an applicant who meets licensure requirements. The temporary license expires 30 days after receipt and notice of scores

to the licenseholder from the first available examination following licensure by the DOH. The applicant may be granted one extension of the temporary license.

Radiologic Technologists

Under s. 468.307, F.S., the DOH may issue a temporary certificate to an applicant who has completed an educational program and is awaiting examination for a certificate. However, the applicant must meet all other certification requirements specified in law.

Rear Admiral LeRoy Collins, Jr.

Rear Admiral LeRoy Collins, Jr., died July 29, 2010, in Tampa, Florida, at the age of 75. He was a native of Tallahassee and the son of former Florida Governor LeRoy Collins. He graduated from the U.S. Naval Academy in 1956, embarking upon a 34-year military career and retiring as a two-star Rear Admiral in 1990.⁹

Admiral Collins also became a prominent businessman and civic leader in Florida. He was instrumental in the growth of electronic payment systems in the United States, starting with the introduction of credit cards in Florida and the Southeast. As the founder and president of the Armed Forces Financial Network, Admiral Collins pioneered the deployment of ATMs and point-of-sale devices in U.S. military installations worldwide, including major U.S. aircraft carriers. He also held several other positions, including founding president of Financial Transaction Systems, Inc. and a senior executive of Telecredit Service Center, Inc.¹⁰

Rather than retiring, Admiral Collins mounted an unsuccessful campaign for the U.S. Senate in 2006. He was then appointed by Governor Charlie Crist as the executive director of the Florida Department of Veterans' Affairs, where he directed the state agency responsible for all of Florida's 1.8 million veterans. Continuing his support of the military community, Admiral Collins also founded the Florida Veterans Foundation, Inc.¹¹

III. Effect of Proposed Changes:

This bill amends s. 456.024, F.S., to authorize the appropriate board, or the DOH when there is no board, to issue a temporary professional license, which is valid for 12 months after issuance and is not renewable, to the spouse of an active duty member of the Armed Forces of the United States. To be eligible for licensure, the spouse must submit to the DOH:

- A completed application upon a form prepared and furnished by the DOH in accordance with the board's rules;
- An application fee;
- Proof of marriage to an active duty service member;
- Proof of a valid license to practice the profession in another state, the District of Columbia, a possession or territory of the United States, and is not the subject of any disciplinary proceeding in any jurisdiction in which the applicant holds a license to practice a profession regulated under ch. 456, F.S.;

⁹ Collins Center for Public Policy, *LeRoy Collins Jr.*, available at http://www.collinscenter.org/?page=Leroy_Collins_Mem (Last visited on March 14, 2011). See also http://www.collinscenter.org/?page=LCJr_ObituaryPage.

¹⁰ *Id.*

¹¹ *Id.*

- Proof that the applicant's spouse is an active duty service member assigned to a duty station in Florida; and
- Proof that the applicant is eligible to take the respective licensure examination as required in Florida.

The bill also requires an applicant for a temporary license to submit a complete set of fingerprints to the FDLE to undergo a statewide criminal history check. The FDLE is required to forward the fingerprints to the Federal Bureau of Investigation for a national criminal history check to be conducted. The DOH or the appropriate board must review the results of the criminal history check when granting and denying a temporary license.

The bill requires the applicant to pay the cost of fingerprint processing for criminal history checks and requires the applicant to pay an application fee, which may not exceed the DOH's cost of issuing a license.

The bill provides that an applicant who has met any of the following conditions is ineligible to obtain a temporary license:

- Has been convicted of or pled nolo contendere to any felony or misdemeanor related to the practice of a health care profession;
- Has had a health care provider license revoked or suspended;
- Has been reported to the National Practitioner Data Bank; or
- Has previously failed the Florida examination required to receive a license to practice the profession for which the applicant is seeking a license.

In addition, the DOH or the appropriate board may revoke a temporary license upon discovering a temporary license holder has violated the profession's governing practice act.

The bill requires an applicant who is issued a temporary license to practice as a dentist must practice under the indirect supervision of a dentist license pursuant to ch. 466, F.S.

The bill provides for the naming of temporary certificates for practice in areas of critical need under ss. 458.315 and 459.0076, F.S., to name such certificates, "Rear Admiral LeRoy Collins, Jr., Temporary Certificate for Practice in Areas of Critical Need."

The bill provides that it shall take effect July 1, 2011.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The provisions of this bill have no impact on municipalities and the counties under the requirements of Article VII, Section 18 of the Florida Constitution.

B. Public Records/Open Meetings Issues:

The provisions of this bill have no impact on public records or open meetings issues under the requirements of Article I, Section 24(a) and (b) of the Florida Constitution.

C. Trust Funds Restrictions:

The provisions of this bill have no impact on the trust fund restrictions under the requirements of Article III, Subsection 19(f) of the Florida Constitution.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

The applicant for a temporary professional license is required to pay an application fee and for the processing of fingerprints for criminal history checks. Statewide and nationwide criminal history checks cost a total of \$54.25.¹²

B. Private Sector Impact:

Although military spouses may incur costs associated with applying for a temporary license, they may be able to find employment more quickly after transferring to Florida should they be issued a temporary license.

C. Government Sector Impact:

The DOH or boards within the DOH may incur costs associated with implementing the bill, which should be off-set by the application fees received for temporary licensure.

VI. Technical Deficiencies:

The term “Armed Forces” is not defined in the bill or in ch. 456, F.S. The term “Armed Forces” is defined under s. 250.01(4), F.S., to mean the United States Army, Navy, Air Force, Marine Corps, and Coast Guard, but does not include Reservists or National Guardsmen. It may be appropriate to either define the term “Armed Forces” or cross-reference s. 250.01(4), F.S.

VII. Related Issues:

None.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS/CS by Military Affairs, Space & Domestic Security on March 23, 2011:

The CS makes the following changes:

- Requires an applicant to provide proof that he or she is eligible to take the licensure exam in Florida;

¹² Florida Department of Law Enforcement, *Criminal History Record Checks/Background Checks Fact Sheet*, January 4, 2011, available at: <http://www.fdle.state.fl.us/Content/getdoc/39b8f116-6d8b-4024-9a70-5d8cd2e34aa5/FAQ.aspx> (Last visited on March 11, 2011).

- Provides circumstances in which an applicant would be deemed ineligible to receive a temporary professional license;
- Allows a board or the DOH to revoke a temporary license if an individual violates the profession's governing practice act;
- Extends the temporary licensure from 6 months to 12 months;
- Requires an applicant, who is issued a temporary license as a dentist, to practice under the indirect supervision of a fully licensed dentist; and
- Specifies that a person issued a temporary license is subject to the requirements under s. 456.013(3)(a) and (c), F.S., relating to a review by the board or the DOH of the applicant's eligibility for licensure.

CS by the Health Regulation Committee on March 14, 2011:

The CS differs from the bill in that it:

- Authorizes a board within the DOH to issue a temporary professional license to the spouse of an active duty member of the Armed Forces of the United States if certain requirements are met by the applicant;
- Requires the applicant for a temporary license to complete an application upon a form prepared and furnished by the DOH in accordance with a board's rules;
- Removes the authorization of temporary licensure for an applicant having a valid license in a foreign jurisdiction;
- Requires an applicant to prove that he or she is not subject to any disciplinary proceeding in any jurisdiction in which the applicant holds a license to practice a profession regulated under ch. 456, F.S.;
- Removes the requirement that an applicant prove that he or she is assigned to a duty station in Florida pursuant to his or her spouse's official active duty military orders;
- Specifies that a person issued a temporary license is subject to the requirements under s. 456.013(3), F.S., relating to a review by the board or the DOH of the applicant's eligibility for licensure; and
- Provides for the naming of temporary certificates for practice in areas of critical need, to name such certificates, "Rear Admiral LeRoy Collins, Jr., Temporary Certificate for Practice in Areas of Critical Need."

B. Amendments:

None.