

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Health Regulation Committee

BILL: SB 1258

INTRODUCER: Senator Benacquisto

SUBJECT: Continuing Education for Athletic Trainers and Massage Therapists

DATE: January 20, 2012

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Steele	Stovall	HR	Pre-meeting
2.			BC	
3.				
4.				
5.				
6.				

I. Summary:

This bill repeals s. 456.034, F.S., to delete the requirement for a massage therapist or an athletic trainer to complete an educational course in HIV/AIDS as part of the initial application for licensure and continuing education in HIV/AIDS as part of licensure renewal.

This bill repeals the following sections of the Florida Statutes: 456.034.

II. Present Situation:

Acquired Immune Deficiency Syndrome (AIDS) is a disorder that results in the irreparable degradation of a patient's immune system. It is caused by a retrovirus known as the Human Immunodeficiency Virus (HIV). HIV and AIDS remain leading causes of illness and death in the United States.

The Centers for Disease Control and Prevention (CDC) estimated that at the end of 2006, over one million persons in the United States were living with HIV or AIDS.¹ According to the CDC, the annual number of AIDS cases and deaths declined substantially after 1994; and stabilized during the period 1999-2004.² Florida ranks third³ among the states in the cumulative number of reported AIDS cases, with 123,112 cases reported through August 2011.⁴

¹ *HIV in the United States: An Overview*, Revised July 2010, CDC. Available at:

<http://www.cdc.gov/hiv/topics/surveillance/resources/factsheets/pdf/us_overview.pdf> (Last visited on January 20, 2011).

² CDC Revised Recommendations for HIV Testing of Adults, Adolescents, and Pregnant Women in Health Care Settings. MMWR (Morbidity and Mortality Weekly Report), September 22, 2006; 55(RR 14):1-17. Available at:

<<http://www.cdc.gov/mmwr/preview/mmwrhtml/rr5514a1.htm>> (Last visited on January 20, 2011).

HIV can be transmitted through certain body fluids (blood, semen, vaginal secretions, and breast milk) from an HIV-infected person. These specific fluids must come in contact with a mucous membrane or damaged tissue or be directly injected into the bloodstream (from a needle or syringe) for transmission to possibly occur. In the United States, HIV is most commonly transmitted through specific sexual behaviors (anal or vaginal sex) or sharing needles with an infected person.⁵

The risk of healthcare workers acquiring HIV on the job is very low, especially if they carefully follow universal precautions (e.g., using protective practices and personal protective equipment to prevent HIV and other blood-borne infections).⁶ The greatest risk of exposure is from an injury, such as a cut from a contaminated sharp object, but can also occur from a splash to the eyes, nose, or mouth; contact on non-intact (broken or cracked) skin; or a human bite. HIV is not transmitted through normal skin contact.⁷

According to the CDC, implementation of “Standard Precautions” constitutes the primary strategy for the prevention of health care-associated transmission of infectious agents among patients and health care personnel. Standard precautions are based on the principle that all blood, body fluids, secretions, excretions (except sweat), non-intact skin, and mucous membranes may contain transmissible infectious agents. Standard precautions include a group of infection prevention practices that apply to all patients, regardless of suspected or confirmed infection status, in any setting in which health care is delivered. These include hand hygiene; use of gloves, gowns, masks, eye protection, or face shields, depending on the anticipated exposure; and safe injection practices. Also, equipment or items in the patient environment likely to have been contaminated with infectious body fluids must be handled in a manner to prevent transmission of infectious agents (e.g., wear gloves for direct contact, contain heavily soiled equipment, and properly clean and disinfect or sterilize reusable equipment before use on another patient).⁸

The CDC and state health departments have been investigating cases of HIV infection in health care personnel without identified risk factors since the early days of the AIDS epidemic. There have been no confirmed cases of occupational HIV transmission to health care workers in the

³ Florida – 2010 Profile. Found at: <http://www.cdc.gov/nchhstp/stateprofiles/pdf/florida_profile.pdf> (Last visited on January 20, 2011).

⁴ The Florida Department of Health, Division of Disease Control, *Monthly Surveillance Report* (Hepatitis, HIV/AIDS, STD and TB), September 2011, p. 16. Available at: <http://www.doh.state.fl.us/disease_ctrl/aids/trends/msr/2011/MSR0911b.pdf> (Last visited on January 20, 2011).

⁵ CDC, HIV Transmission, *How is HIV passed from one person to another?* Found at: <<http://www.cdc.gov/hiv/resources/qa/transmission.htm>> (Last visited on January 20, 2011).

⁶ Paul J. Kaprocki, *HIV/AIDS: Information for Massage Therapists*, 1 Edt., January 2011. Available at: <<http://www.body-balancing.com/CEU%20Documents/CEU%20Document%20-%20HIV%20Aids%20for%20Massage%20Therapists.pdf>> (Last visited on January 20, 2012); Center for Disease Control and Prevention. *HIV Transmission*. Available at: <<http://www.cdc.gov/hiv/resources/qa/transmission.htm>> (Last visited on January 20, 2012).

⁷ Australasian College of Dermatologists. *A-Z of Skin: HIV and the Skin*. Available at: <http://www.dermcoll.asn.au/public/a-z_of_skin-hiv_and_the_skin.asp> (Last visited on January 20, 2012).

⁸ Jane D. Siegel, MD; Emily Rhinehart, RN MPH CIC; Marguerite Jackson, PhD; Linda Chiarello, RN MS; the Healthcare Infection Control Practices Advisory Committee, CDC, *2007 Guideline for Isolation Precautions: Preventing Transmission of Infectious Agents in Healthcare Settings*, p. 66. Available at: <<http://www.cdc.gov/hicpac/pdf/isolation/Isolation2007.pdf>> (Last visited on January 20, 2011).

United States since 1999.⁹ Of those health care professionals in the “other healthcare occupation” category for whom case investigations were completed from 1981 to 2010 there were six *possible* cases of professionals having acquired HIV infection through occupational exposure, but no documented cases.¹⁰

Athletic Trainers, Standards and Certification

Athletic training is the recognition, prevention, and treatment of athletic injuries.¹¹ An athletic injury is an injury sustained during an athletic activity which affects the athlete's ability to participate or perform.¹² An athletic activity includes the participation in an event that is conducted by an educational institution, a professional athletic organization, or an amateur athletic organization, involving exercises, sports, games, or recreation requiring any of the physical attributes of strength, agility, flexibility, range of motion, speed, and stamina.¹³

In 1994, the Florida Legislature began licensing and fully regulating athletic trainers to protect the public and ensure that athletes are assisted by individuals adequately trained to recognize, prevent, and treat physical injuries sustained during athletic activities.¹⁴ Athletic trainers are regulated by the Florida Department of Health (DOH), Division of Medical Quality Assurance and the Board of Athletic Training.¹⁵ There are 1,488 active, licensed athletic trainers in Florida.¹⁶

An applicant seeking licensure as an athletic trainer must:¹⁷

- Complete the application form and remit the required fees;
- Be at least 21 years of age;
- Possess a baccalaureate degree from a college or university accredited by the United States Department of Education (U.S. DOE) or the Commission on Recognition of Postsecondary Accreditation (Commission), or from a program approved by the board;
- Complete an approved athletic training curriculum from a college or university accredited by an accrediting agency recognized and approved by the U.S. DOE or the Commission, or approved by the board;
- Be certified in cardiopulmonary resuscitation (CPR) from the American Red Cross, the American Heart Association, or an equivalent certification entity as determined by the board;
- Submit proof of taking a 2-hour course on the prevention of medical errors;

⁹ Center for Disease Control and Prevention. *Occupational HIV Transmission and Prevention among Health Care Workers*. Aug. 2011. Available at: <<http://www.cdc.gov/hiv/resources/factsheets/PDF/hcw.pdf>> (Last visited on January 20, 2011).

¹⁰ CDC, *Surveillance of Occupationally Acquired HIV/AIDS in Healthcare Personnel, as of December 2010*, updated May, 2011. Available at: <<http://www.cdc.gov/HAI/organisms/hiv/Surveillance-Occupationally-Acquired-HIV-AIDS.html>> (Last visited on January 20, 2011).

¹¹ S. 468.701(5), F.S.

¹² S. 468.701(3), F.S.

¹³ S. 468.701(2), F.S.

¹⁴ S. 320, ch. 94-119; s 468.70, F.S.

¹⁵ S. 468.701(8), F.S.; S. 468.701(6), F.S.

¹⁶ Florida Department of Health, Division of Medical Quality Assurance, Athletic Training: Application & Licensure Requirements. Available at: <<http://www.doh.state.fl.us/mqa/Publications/10-11mqa-ara.pdf>> (Last visited on January 20, 2011).

¹⁷ S. 468.707, F.S.

- Submit a certified copy of the National Athletic Trainers Association Board of Certification certificate or a notarized copy of examination results; and
- Submit a certificate of completion for a 1-hour course on HIV/AIDS.¹⁸

Licensed athletic trainers are required to complete 24 hours of continuing education courses biennially, including a minimum of one hour in HIV/AIDS, a 2-hour course in prevention of medical errors, and current certification in CPR with an automated external defibrillator (AED) at the professional rescue level. According to the DOH, HIV/AIDS is covered in the CPR-AED Professional Rescuer course and the medical errors course that must be taken every 2 years by athletic trainers.¹⁹

The additional hours of continuing education must focus on the prevention of athletic injuries; recognition, evaluation, and immediate care of athletic injuries; rehabilitation and reconditioning of athletic injuries; health care administration; or professional development and responsibility of athletic trainers.²⁰

The Board of Athletic Training unanimously approved deletion of the biennial HIV/AIDS requirement at its board meeting on April 8, 2011.²¹

Massage Therapists, Standards and Certification

Massage is the manipulation of the soft tissues of the human body with the hand, foot, arm, or elbow, whether or not such manipulation is aided by hydrotherapy, including colonic irrigation, or thermal therapy; any electrical or mechanical device; or the application to the human body of a chemical or herbal preparation.²² Massage therapists are regulated by the Florida Department of Health, Division of Medical Quality Assurance and the Board of Massage Therapy.²³ There are 30,323 active, licensed massage therapists in Florida.²⁴ All massage therapists are required to renew their licenses biennially on or before August 31.²⁵

Currently, an individual is qualified for an active license as a massage therapist in Florida if the individual:²⁶

- Completes the application form and remits the required fees;
- Is at least 18 years of age or possesses a high school diploma or graduate equivalency diploma;

¹⁸ Florida Department of Health, Division of Medical Quality Assurance, Athletic Training: Application & Licensure Requirements. Available at: <http://www.doh.state.fl.us/mqa/athtrain/info_AT_Lic_req.pdf> (Last visited on January 20, 2011). See also Rule 64B33-2.002, F.A.C.

¹⁹ Department of Health *Bill Analysis, Economic State and Fiscal Note* for SB 1258 (dated January 12, 2012), on file with the Senate Health Regulation Committee.

²⁰ S. 456.034, F.S., and Rule 64B33-2.003, F.A.C.

²¹ *Supra* fn. 20.

²² S. 480.033(3), F.S.

²³ S. 480.033(1), F.S. and S. 480.033(2), F.S.

²⁴ Florida Department of Health, Division of Medical Quality Assurance, Athletic Training: Application & Licensure Requirements. Available at: <<http://www.doh.state.fl.us/mqa/Publications/10-11mqa-ara.pdf>> (Last visited on January 20, 2011).

²⁵ Rule 64B7-28.001, F.A.C.

²⁶ S. 480.041, F.S., and Rule 64B7-25.0012, F.A.C.

- Has completed a course of study at a board-approved massage school or completed an apprenticeship program that meets the standards adopted by the board;
- Received a passing grade on the national examination administered by the DOH, and
- Completes a 3-hour educational course that has been approved by the board on HIV/AIDS.

Finally, licensed massage therapists are required to complete one continuing education hour for each month or part of a month that has elapsed since the issuance of the license for which renewal is sought, up to a maximum of 24 hours.²⁷ The courses must focus on massage therapy techniques, the prevention of medical errors, professional ethics, and laws and rules of massage therapy.²⁸ In addition, the licensee must complete a 1-hour continuing education course on HIV/AIDS for biennial licensure renewal.

The Board of Massage Therapy unanimously approved deletion of the biennial HIV/AIDS requirement at its board meeting on May 23, 2011.²⁹

III. Effect of Proposed Changes:

This bill repeals s. 456.034, F.S., to delete the requirement for a massage therapist or athletic trainer to complete an educational course in HIV/AIDS as part of the initial application for licensure and continuing education in HIV/AIDS as part of their biennial licensure renewals. The corresponding rulemaking authority in this section is also repealed.

This bill has an effective date of July 1, 2012.

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 the 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.

D. Other Constitutional Issues:

The Florida Constitution states: “Every law shall embrace but one subject and matter properly connected therewith, and the subject shall be briefly expressed in the title.”³⁰

²⁷ S. 456.034, F.S.; Rules 64B7-28.001 and 64B7-28.009, F.A.C.

²⁸ Rule 64B7-28.009(3)(a)-(c), F.A.C.

²⁹ *Supra* fn. 20.

The Florida Supreme Court noted in *State v. Thompson*, 750 So. 2d 643, 646 (Fla. 1999) that the purposes of the single subject requirement are:

- To prevent hodge-podge or “log-rolling” legislation, i.e., putting two unrelated matters in one act;
- To prevent surprise or fraud by means of provisions in bills about which the titles gave no intimation, and which might therefore be overlooked and carelessly and unintentionally adopted; and
- To fairly apprise the people of the subjects of legislation that are being considered, in order that they may have opportunity of being heard thereon.³¹

The title of this bill references repealing the requirement for continuing education for athletic trainers and massage therapists by repealing all of s. 456.034, F.S. However, s. 456.034(4), F.S., concerns an educational requirement for initial application for licensure. This bill repeals not only continuing education requirements, but also initial education requirements, which may be counter to the single subject requirement.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

There would be an impact to the providers of both initial and continuing education courses for instruction on HIV/AIDS awareness. Massage therapists and athletic trainers may see a reduction in course fees related to the elimination of the specific course requirements.

C. Government Sector Impact:

The Boards of Athletic Training and Massage Therapy will need to repeal or amend current rules relating to the educational requirements

VI. Technical Deficiencies:

The title of this bill is “An act relating to continuing education for athletic trainers and massage therapists.” However, the section repealed also concerns educational requirements for initial licensure. The title of the bill should be revised to reflect the broader scope so that it is in conformance with the single subject requirement of Article III, section 6 of the Florida Constitution.

VII. Related Issues:

None.

³⁰ Section 6, Article III, FLA CONST.

³¹ *Franklin v. State*, 887 So.2d 1063, 1072 (Fla. 2004) (quoting *State v. Thompson*, 750 So.2d 643, 646 (Fla.1999)).

VIII. Additional Information:

- A. **Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

- B. **Amendments:**

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.
