



This bill amends s. 458.3137, Florida Statutes.

## II. Present Situation:

Chapter 458, F.S., provides for the regulation of the practice of medicine by the Board of Medicine. Any person who wishes to practice as a medical physician must be licensed and meet specified criteria which include<sup>1</sup>:

- Being at least 21 years of age;
- Being of good moral character;
- Not having committed any act or offense in this or any other jurisdiction which would constitute the basis for disciplining a physician pursuant to s. 458.331, F.S.;
- Completion of the equivalent of 2 academic years of pre-professional, postsecondary education with certain minimum courses prior to entering medical school;
- Meeting certain medical education and post graduate training requirements;
- Submitting fingerprints and a background check to the Department of Health (DOH); and, Obtaining a passing score on a specified medical licensure examination.

Section 458.3145(6), F.S., provides requirements for a distinguished scholar to be issued a temporary medical faculty certificate to teach for a time-limited period at a medical school or teaching hospital. The certificate may be issued to a physician who has been requested by the dean of an accredited medical school or the medical director of a statutory teaching hospital within the state to practice only within that facility or its affiliated clinical facilities. The certificate-holder must demonstrate financial responsibility by either having medical malpractice insurance, holding an escrow account or a letter of credit in the specified amounts required by s. 458.320, F.S., or be exempt from the financial responsibility requirements as an officer, employee, or agent of the federal or state government.

Section 458.3135, F.S., provides a mechanism for the issuance of temporary certificates to visiting international physicians who may practice in board-approved cancer centers. Such visiting physicians are under training under the direct supervision of a physician or under contract with an approved cancer center for a period of no more than 1 year. To be issued a temporary certificate without an examination, the visiting international physician must be an individual who:

- Is a graduate of an accredited medical school or its equivalent, or is a graduate of a foreign medical school listed with the World Health Organization;
- Holds a valid, unencumbered license to practice medicine in another country;
- Has completed the application form and remitted the nonrefundable fee;
- Meets the financial responsibility requirements of s. 458.320, F.S.; and
- Has been accepted for a course of training by a cancer center approved by the Board of Medicine.

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<sup>1</sup> See s. 458.311, F.S.

A recipient of a temporary certificate is exempt from the practitioner profiling requirements, but all other provisions of ch. 456 or ch. 458, F.S. apply. The maximum number of temporary certificates that may be issued by the board may not exceed 10 per each cancer center.

### **Grounds for Physician Discipline**

Chapter 456, F.S., contains the general regulatory provisions for health care professions and occupations under the Division of Medical Quality Assurance in the DOH. Section 456.072, F.S., specifies 40 acts that constitute grounds for which disciplinary actions may be taken against a health care practitioner. The various disciplinary actions that may be taken are also specified in this section. Section 458.331, F.S., identifies 43 acts that constitute grounds for which disciplinary actions may be taken against a medical physician.

### **Financial Responsibility**

Section 458.320, F.S., requires Florida-licensed allopathic physicians to maintain professional liability insurance or other financial responsibility to cover potential claims for medical malpractice as a condition of licensure, with specified exemptions. Under s. 458.320(2), F.S., physicians who perform surgeries in a certain setting or have hospital privileges must maintain professional liability insurance or other financial responsibility to cover an amount not less than \$250,000 per claim. Physicians without hospital privileges, under s. 458.320(1), F.S., must carry sufficient insurance or other financial responsibility in coverage amounts of not less than \$100,000 per claim. Physicians who do not carry professional liability insurance must provide notice to their patients. A physician is said to be “going bare” when that physician has elected not to carry professional liability insurance. Physicians who go bare must either provide notice by posting a sign which is prominently displayed in the reception area and clearly noticeable by all parties or provide a written statement to each patient. Under s. 458.320(5), F.S., such sign or statement must specifically state:

Under Florida law, physicians are generally required to carry medical malpractice insurance or otherwise demonstrate financial responsibility to cover potential claims for medical malpractice. However, certain part-time physicians who meet state requirements are exempt from the financial responsibility law. YOUR DOCTOR MEETS THESE REQUIREMENTS AND HAS DECIDED NOT TO CARRY MEDICAL MALPRACTICE INSURANCE. This notice is provided pursuant to Florida law.

Florida-licensed osteopathic physicians have similar financial responsibility requirements under s. 459.0085, F.S. With specified exceptions, the DOH must suspend on an emergency basis, any licensed allopathic or osteopathic physician who fails to satisfy a medical malpractice claim against him or her within specified time frames.<sup>2</sup>

### **III. Effect of Proposed Changes:**

This bill modifies the conditions under which a temporary certificate for visiting physicians for instructional purposes may be granted. The bill expands the type of training programs eligible for temporary certificates to include other medical and surgical training programs, not just plastic surgery educational symposiums. The bill provides an expanded list of acceptable affiliations

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<sup>2</sup> ss. 458.320(8) and 459.0085(9), F.S.

that the training programs may be associated with, including the following: a medical or surgical training program associated with a medical school in this state that is accredited by the American Council for Graduate Medical Education, the American Osteopathic Association, or one that is part of a teaching hospital as defined in s. 408.07, F.S. The bill expands the types of symposiums a physician could be invited to by providing that a physician could be invited to an event cosponsored by the American Society of Plastic Surgeons, the Plastic Surgery Educational Foundation, the American Society for Aesthetic Plastic Surgery, or any other medical or surgical society in conjunction with a medical school or teaching hospital. Currently, only symposiums related to plastic surgery are covered under the temporary certificates.

The bill authorizes the temporary certificate without examination for educational purposes to help teach plastic surgery or other medical and surgical procedures in training programs affiliated with medical schools that are accredited by the Accreditation Council for Graduate Medical Education or the American Osteopathic Association or that is part of a teaching hospital, or to residents of a state medical school, or if part of an educational symposium held by a state medical school or teaching hospital. This modification expands the type of procedures and the accrediting organizations for the educational symposiums covered under the temporary certificates.

The bill modifies the requirement that the individual be an expert in plastic surgery or another field of medicine or surgery to conform to other changes in the statute. The individual physician seeking the temporary certificate must also be applying in connection with one of the training programs covered by this section of law.

The bill authorizes the DOH to issue up to 12 temporary certificates for a single educational symposium. Each temporary certificate is valid for up to 5 days. Current law limits the DOH to issuing 6 certificates per year with each certificate valid for no more than 3 days per year. Certificates expire 1 year after issuance.

The bill modifies the requirements for proof of financial responsibility for medical malpractice for physicians holding a temporary certificate by providing as an additional option for physicians not licensed in this country proof that the physician is covered under a teaching hospital's or a medical school's medical malpractice insurance. The amount of the bond, certificate of deposit, or guaranteed letter of credit continues to be at least \$250,000.

#### **IV. Constitutional Issues:**

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

**V. Fiscal Impact Statement:****A. Tax/Fee Issues:**

Applicants for the temporary certificate to practice medicine to help teach plastic surgery, other medical or surgical training programs in conjunction with a nationally sponsored educational symposium will be required to pay an application fee of no more than \$300.

**B. Private Sector Impact:**

By expanding the temporary certificates to other medical and surgical training programs, additional educational symposiums may choose Florida as their location for their next conference.

**C. Government Sector Impact:**

The DOH implemented the original bill in 2003. While this bill expands the number of certificates that could be issued per year, the DOH's fiscal analysis indicates that impact is indeterminate as the number of applications that could be received is unknown.<sup>2</sup>

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

The bill includes training programs affiliated with a medical school that is accredited by the American Osteopathic Association; however, only ch. 458, F.S., related to the allopathic medical act is included in the bill. Additionally, references to disciplinary action and financial responsibility only include ch. 458, F.S. Osteopathic physicians are specifically regulated under ch. 459, F.S.

**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:**

**Barcode 516098 by Health Policy on March 14, 2013:** The amendment authorizes medical schools to provide medical malpractice insurance for visiting foreign physicians who are seeking a temporary certificate.