

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 847 Temporary Certificates for Visiting Physicians

SPONSOR(S): Health Quality Subcommittee; Peters

TIED BILLS: **IDEN./SIM. BILLS:** SB 1302

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Health Quality Subcommittee	12 Y, 0 N, As CS	McElroy	O'Callaghan
2) Health & Human Services Committee	17 Y, 0 N	McElroy	Calamas

SUMMARY ANALYSIS

Currently, s. 458.3137, F.S., authorizes the issuance of temporary medical certificates only to visiting plastic surgeons who are participating in certain plastic surgery training programs and plastic surgery educational symposiums. This bill amends the scope of the statute and extends eligibility for the issuance of temporary medical certificates to visiting physicians who are participating in medical or surgical training programs and educational symposiums. The bill also expands the duration of the temporary certificates from 3 days to 5 days. The bill expands the number of temporary certificates that may be issued from 6 per year to 12 per single symposium or single training program.

The bill also authorizes a sponsoring organization to forgo the current requirement of posting a surety bond of at least \$250,000 to cover any malpractice judgments by providing proof that a foreign, visiting physician is covered under a teaching hospital's or a medical school's medical malpractice insurance.

The bill appears to have an indeterminate positive fiscal impact on state government.

The bill does not appear to have a fiscal impact on local government.

The bill provides an effective date of July 1, 2013.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Physician Shortage

There is currently a physician workforce shortage in the United States.¹ This shortage is predicted to continue into the foreseeable future and will likely worsen in light of recent healthcare reforms.² Specifically, as more individuals qualify for healthcare benefits there will necessarily be a greater need for more physicians to provide these services. As the physician shortage worsens, states will likely seek physicians from neighboring states to improve their situation.

Florida is not immune to the national problem and is facing an imminent physician shortage itself.³ Of Florida's 44,804 physicians, 5,810 (12.97%) will retire in the next five years and 11,650 (27%) are over 60 years old.⁴ Additionally, 1,767 (3.94%) intend to move their practice to another state within the next five years.⁵ Of the physicians stating where they intended to relocate, 85 were relocating to Georgia, 130 to North Carolina and 153 to Texas.⁶

License to Practice Medicine

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: being at least 21 years of age; being of good moral character; not having committed any act or offenses in Florida or another jurisdiction which would constitute the basis for disciplining a Florida-licensed physician; meeting specified educational requirements, including residency; and successfully passing a national medical licensing 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 is requested by the dean of an accredited medical school or the medical director of a 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. From 2007 to present there have been 11(10 were issued in 2012-2013) temporary certificates issued under this provision.⁷ No applications for temporary medical certificates were denied during this time period.⁸

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 training under the direct supervision of a physician employed by or under contract with an approved cancer center for a period of no more than 1 year. To be issued a temporary certificate the visiting physician must: pay an application fee; be a graduate of an accredited medical school; hold a valid unencumbered license to practice medicine in another country; have not completed any act in Florida

¹ Center for Workforce Studies Association of American Medical Colleges, *Recent Studies and Reports on Physician Shortages in the US*, October 2012. www.doh.state.fl.us/.../Articles/PhysicianShortages_AAMC_5-2011.pdf (last viewed on March 16, 2013).

² Id.

³ Id.

⁴ Florida Department of Health, *Physician Workforce Annual Report 2012*.

www.doh.state.fl.us/.../PhysicianWorkforceAnnualReport2012.pdf (last viewed on March 16, 2013).

⁵ Id.

⁶ Id.

⁷ Excel spreadsheet on the issuance of temporary medical certificates, provided by the Department of Health and on file with the Health and Human Services Committee staff, March 16, 2013.

⁸ Id.

or any other jurisdiction that would constitute the basis for disciplining a physician under s. 456.072 (general regulatory provisions) or s. 458.331, F.S., (medical practice act); meet the financial responsibility requirements for Florida-licensed physicians; and have been accepted for a course of training by a cancer center approved by the Florida Board of Medicine. The temporary certificate allows the recipient to practice for the duration of the course of training at the approved cancer center so long as the duration of the course does not exceed 1 year. A visiting physician who holds 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 at each approved cancer center. From 2007 to present there have been 2 temporary certificates issued under this provision.⁹ No applications for temporary medical certificates were denied during this time period.¹⁰

Section 458.3137, F.S., authorizes the issuance of a temporary certificate, without examination, for visiting physicians to obtain limited medical privileges for instructional purposes in conjunction with certain plastic surgery training programs and plastic surgery educational symposiums. The temporary certificates are valid for no more than three days and no more than 6 may be issued in any given year. From 2007 to present there have been 9 temporary certificates issued under this provision.¹¹ No applications for temporary medical certificates were denied during this time period.¹²

Effect of Proposed Changes

This bill amends s. 458.3137, F.S., to provide for the issuance of a temporary certificate, without examination, for visiting physicians to obtain limited medical practice privileges for instructional purposes in conjunction with medical and surgical training programs and educational symposiums. Currently, s. 458.3137, F.S., authorizes the issuance of temporary medical certificates only to visiting plastic surgeons who are participating in certain plastic surgery training programs and plastic surgery educational symposiums.

The bill provides that an applicant may be issued a temporary certificate if he or she is invited either by:

- A medical or surgical program that is affiliated with a medical school within this state that is accredited by the Accreditation Council for Graduate Medical Education, the American Osteopathic Association, or that is part of a teaching hospital as defined in s. 408.07, F.S.; or
- Any medical or surgical society in conjunction with one of the aforementioned medical schools or teaching hospitals.

The physician must meet all of the following requirements:

- 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 and unencumbered license to practice medicine in another state or country;
- Is a recognized expert in a specific area of plastic surgery or other field of medicine or surgery as demonstrated by peer-review publications, invited lectureships, and academic affiliations;
- Has completed an application form adopted by the Board of Medicine and pays a nonrefundable application fee not to exceed \$300;
- Has not committed an act in this or any other jurisdiction that would constitute a basis for disciplining a physician under s. 456.072, F.S., or s. 458.331, F.S.;
- Meets the financial responsibility requirements of s. 458.320(1) or (2), F.S.; and
- Is applying only in connection with a symposium.

⁹ Id.

¹⁰ Id.

¹¹ Id.

¹² Id.

No more than 12 temporary certificates for any single symposium or single training program may be issued under this provision. This is an expansion of the statute which currently limits temporary certificates to 6 per calendar year.

A temporary certificate issued under this section is valid for up to 5 days. This is an expansion of the statute which currently limits a temporary certificate's duration to no more than 3 days.

The statute currently requires the sponsoring organization to obtain a surety bond or line of credit of at least \$250,000 to ensure payment for any malpractice judgments for a foreign physician. This bill allows teaching hospitals and medical schools to provide documentation that the foreign physician is covered by their respective medical malpractice insurance in lieu of obtaining the bond or line of credit.

B. SECTION DIRECTORY:

Section 1: Amends s. 458.3137, F.S., relating to temporary certificates for visiting physicians to obtain medical privileges for instructional purposes in conjunction with certain plastic surgery training programs and plastic surgery educational symposiums.

Section 2: Provides an effective date of July 1, 2013.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

Indeterminate.

However, there is a \$300 application fee and a limit of no more than 12 temporary certificates to be issued for any one symposium or training program. Thus, it appears that revenue will be generated.

2. Expenditures:

Indeterminate.

The Department of Health 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.¹³

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

There does not appear to be any fiscal impact on the revenues of local governments.

2. Expenditures:

There does not appear to be any fiscal impact on the expenditures of local governments.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Indeterminate.

Under certain circumstances, the organization sponsoring the educational symposium or training program must either obtain a surety bond, certificate of deposit, or guaranteed letter of credit in an amount not less than \$250,000. The exact cost for this expense cannot be determined at this time.

¹³ Florida Department of Health, *SB 1302 Bill Analysis* (Mar. 5, 2013) (on file with House of Rep., Health Quality Subcommittee staff) (SB 1302 is similar to HB 847).

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. The exact benefit of additional symposiums cannot be determined at this time.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to affect county or municipal governments.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

The bill authorizes the issuance of temporary certificates for 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.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On March 19, 2013, the Health Quality Subcommittee adopted a strike-all amendment to HB 847. The amendment:

- Clarifies that temporary certificates may be issued for medical or surgical procedure training programs affiliated with accredited medical schools, as well as for educational symposiums.
- Authorizes the issuance of 12 temporary certificates for any single training program, as well as for any single educational symposium.
- Authorizes a sponsoring organization to forgo the requirement of obtaining a surety bond or line of credit of at least \$250,000 by providing proof that the foreign, visiting physician is covered under a teaching hospital's or a medical school's medical malpractice insurance.
- Makes technical changes to improve readability.

The analysis is drafted to the committee substitute as passed by the Health Quality Subcommittee.