

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 Appropriations Subcommittee on Health and Human Services

BILL: SB 1082

INTRODUCER: Senator Latvala

SUBJECT: Evaluation of Students with Impairing Conditions Who are Preparing for Licensure as Health Care Practitioners or Veterinarians

DATE: February 16, 2016 REVISED: _____

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|---------------------|----------------|-----------|-----------------------------|
| 1. | Rossitto-Van Winkle | Stovall | HP | Favorable |
| 2. | Brown | Pigott | AHS | Recommend: Favorable |
| 3. | | | AP | |

I. Summary:

SB 1082 creates a hardship evaluation program for enrolled students who are preparing for licensure as health care practitioners or veterinarians and who are referred to an impaired practitioner program but cannot afford the required evaluation.

The bill has an indeterminate fiscal impact and provides that funding for the program will be made available each fiscal year from the Department of Health’s (DOH) Medical Quality Assurance Trust Fund as provided by legislative appropriation or through a budget amendment to the DOH operating budget.

The bill has an effective date of July 1, 2016.

II. Present Situation:

Impaired Student Health Care and Student Veterinary Practitioner Treatment Programs

Section 456.076, F.S., provides resources to assist a health care practitioner¹ who is impaired as a result of the misuse or abuse of alcohol, drugs, or a mental or physical condition which could affect the practitioner’s ability to practice with skill and safety. For professions that do not have

¹ Health care practitioners are defined in s. 456.001(4), F.S., to include licensed acupuncturists, physicians, physician assistants, chiropractors, podiatrists, naturopaths, dentists, dental hygienists, optometrists, nurses, nursing assistants, pharmacists, midwives, speech language pathologists, nursing home administrators, occupational therapists, respiratory therapists, dietitians, athletic trainers, orthotists, prosthetists, practitioners of electrolysis, massage therapists, clinical laboratory personnel, medical physicists, dispensers of optical devices or hearing aids, physical therapists, psychologists, social workers, counselors, and psychotherapists, among other professions. These practitioners are regulated by the MQA within the DOH.

impaired practitioner programs provided for in their practice acts, the DOH designates approved impaired practitioners and programs. There are currently two DOH-approved treatment programs for impaired practitioners in Florida – the Professionals Resource Network (PRN) and the Intervention Project for Nurses (IPN). These programs also serve as consultants to the DOH.² Any information related to treatment of an impaired practitioner is exempt from state public records requirements except when a consultant determines that impairment affects a practitioner’s practice, or ability to practice, and constitutes an immediate, serious danger to the public health, safety, or welfare.³

A medical school, or another school providing for the education of students enrolled in preparation for licensure as a health care practitioner or a veterinarian, may contract with the DOH-approved program or consultant to provide services to an enrolled student if the student is allegedly impaired as a result of the misuse or abuse of alcohol or drugs, or both, or due to a mental or physical condition.⁴ The DOH is not responsible for paying for the care provided by approved treatment providers or a consultant.

The Department of Business and Professional Regulation (DBPR) regulates veterinarians and veterinary students and has no statutory authority under the general provisions in ch.455, F.S., to create its own impaired practitioner program for veterinarians or veterinary students. However, ch. 455, F.S., does provide for disciplinary action against persons who do not fully participate in the program operated by the DOH. Section 455.227(1)(u), F.S., states that, “termination from a treatment program for impaired practitioners as described in s.456.076, F.S., for failure to comply, without good cause, with the terms of the monitoring or treatment contract entered into by the licensee or failing to successfully complete a drug or alcohol treatment program” is grounds for disciplinary action from the DBPR. Further, s. 474.221, F. S., addresses impaired practitioner provisions for veterinarians licensed under ch. 474, and states that they are governed by s. 456.076, F.S., which includes veterinary students.

When a student is referred to the PRN by his or her school, the PRN reviews the intake information obtained from the school and makes a determination about the type of evaluation that is needed. The student is then given a choice of three possible PRN-approved evaluators and is responsible for contacting the chosen evaluator and setting up an appointment. The evaluation itself varies depending on the nature of the concern, but will always include an in-depth interview by the evaluator with the student, review of any relevant medical records, contact with the referral source and other significant collateral sources (treating practitioners, family members, significant other, etc.), and laboratory tests (which can include drug screens of urine, hair and blood; other lab studies as indicated). In many cases, formal psychological testing is also included.⁵

The cost of the evaluation is determined by the evaluator and can vary from \$300 to several thousand dollars depending on the nature of the evaluation, extent of testing required, etc. A

² See Professionals Resource Network, available at <http://www.flprn.org/> and Intervention Project for Nurses, available at <http://www.ipnfl.org/> (last visited Jan. 14, 2016).

³ Section 456.076(3)(e),(5) and (6), F.S.

⁴ Section 456.076(1)(c)2., F. S.

⁵ Penelope P. Ziegler, M.D., Medical Director, Professionals Resource Network, Inc., in correspondence to the Department of Health, November 2, 2015, (on file with the Senate Committee on Health Policy).

straightforward evaluation for a student who has been arrested for driving under the influence with no history of other problems is generally in the \$300-to-\$800 range. An evaluation for a student with an extensive history of mental health issues, substance use and behavioral disturbance might cost \$5,000 or more. The evaluation does not include treatment. The evaluator recommends the type of treatment needed, if any, and the PRN then provides options for treatment by PRN-approved treatment providers.⁶

The DOH contracts with the PRN, and the IPN specifies the duties and deliverables the PRN and the IPN must provide. The Fiscal Year 2015-2016 annual contract amounts for the PRN and the IPN are \$1,919,907 and \$1,832,601, respectively. Currently, the PRN has 970 enrollees and the IPN has 1,394 enrollees. In 2013 and 2014, the PRN evaluated 10 students each year.⁷

III. Effect of Proposed Changes:

The bill creates s. 456.0765, F.S., to establish a hardship evaluation program to fund mental or physical evaluations for enrolled students demonstrating financial hardship who are preparing for licensure as health care practitioners or veterinarians and who are referred to an impaired practitioner program. The purpose of the legislation is to protect public safety by assisting students who are, or may be, impaired as the result of the misuse or abuse of alcohol or drugs or due to a mental or physical condition that could affect the student's ability to practice with skill and safety when licensed. The bill provides that the hardship evaluation program is a collaboration between the DOH and consultants retained by the DOH to operate the impaired practitioner program.

In order to qualify for assistance under the program, a student must demonstrate, to the satisfaction of the applicable consultant, that he or she:

- Is enrolled in an institution of higher learning in this state for the purpose of preparing for licensure as a health care practitioner or as a veterinarian;
- Has been referred to an impaired practitioner program because of an actual, or alleged, impairing condition that is the result of the misuse or abuse of alcohol or drugs or caused by a mental or physical condition that could affect the student's ability to practice with skill and safety when licensed;
- Is eligible for participation in the impaired practitioner program to which he or she has been referred; and
- Is unable to afford the cost of the evaluation due to financial hardship.

Additionally, the student will be required by the consultant to undergo a mental or physical evaluation, or both.

Under the bill, "financial hardship" means the student:

- Is unemployed;
- Is receiving federal or state public assistance; or
- Has a monthly income that is at or below 150 percent of the federal income poverty level as published annually by the U.S. Department of Health and Human Services.

⁶ *Id.*

⁷ *Id.*

The federal poverty guidelines for 2015 establish that for a family of one, 150 percent of the federal income poverty guideline is \$17,655 annually or \$1,471.25 monthly.⁸

The consultant operating the impaired practitioner program has the sole, non-reviewable, responsibility of determining if the student meets the eligibility requirements and must obtain reasonable documentation of the financial hardship, but is not required to verify the authenticity or veracity of the documents. All records of the hardship program participants are to be redacted for any identifying information and the DOH is to pay the evaluator's invoice. The bill does not require the submission of supporting documentation to substantiate the services were provided.

The bill provides that funding for the program will be made available each fiscal year from the DOH's Medical Quality Assurance Trust Fund as provided by legislative appropriation or through a budget amendment to the DOH operating budget. If funds are exhausted in any fiscal year, the program must cease operating until funding becomes available.

The effective date of the bill is July 1, 2016.

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:

None.

B. Private Sector Impact:

Under SB 1082, students who might not be able to afford an evaluation may be able to remain in school and become licensed health care practitioners or veterinarians.

⁸ 2015 Federal Poverty Guidelines, available at <https://www.medicaid.gov/medicaid-chip-program-information/by-topics/eligibility/downloads/2015-federal-poverty-level-charts.pdf>, (last visited Jan. 28, 2016).

C. Government Sector Impact:

The number of individuals who are: (1) graduating students seeking to become licensed health care practitioners; (2) impaired; and (3) qualified for the program's financial assistance, is indeterminate. The DOH estimates that if everyone meeting the first two criteria were also financially eligible, the maximum cost would be roughly \$660,000 per year, not including veterinary students.⁹

Health care practitioner license fees are the main source of revenue for the DOH Medical Quality Assurance Trust Fund. The trust fund's revenue varies from year to year. The trust fund's total revenue for the 2014-2015 fiscal year was approximately \$68.8 million, and the trust fund had a \$19.2 million balance at the end of the fiscal year. Under the bill, the DOH would need spending authority by legislative appropriation or via a budget amendment in order to fund the program's implementation.

VI. Technical Deficiencies:

None.

VII. Related Issues:

The DOH reports that the bill calls for students to be enrolled in "an institution of higher learning" in order to be eligible for the program. This term is not defined. Training for students preparing for licensure as health care practitioners is varied and takes place in many venues. Without a definition of "an institution of higher learning," it will be difficult to determine whether or not a student would qualify for the hardship evaluation program.

VIII. Statutes Affected:

This bill creates section 456.0765 of the Florida Statutes.

IX. Additional Information:**A. Committee Substitute – Statement of 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.

⁹ Department of Health, *2016 Agency Legislative Bill Analysis, SB 1082*, Jan. 13, 2016. On file with the Senate Appropriations Subcommittee on Health and Human Services.