

**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.)

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Prepared By: The Professional Staff of the Committee on Appropriations

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**BILL:** PCS/CS/SB 918 (857014)

**INTRODUCER:** Appropriations Committee (Recommended by Appropriations Subcommittee on Health and Human Services); Health Policy Committee; and Senator Richter

**SUBJECT:** Licensure of Health Care Professionals

**DATE:** February 24, 2016

**REVISED:** \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Rossitto-Van Winkle</u>	<u>Stovall</u>	<u>HP</u>	<u>Fav/CS</u>
2.	<u>Brown/Rossitto-Van Winkle</u>	<u>Pigott</u>	<u>AHS</u>	<u>Recommend: Fav/CS</u>
3.	<u>Brown</u>	<u>Kynoch</u>	<u>AP</u>	<u>Pre-meeting</u>

**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

PCS/CS/SB 918 authorizes the Department of Health (DOH) to waive fees and issue health care licenses to active duty U.S. military personnel who are within six months of an honorable discharge and to waive fees and issue licenses to active duty military spouses under certain circumstances. The bill authorizes the DOH to issue certificates to military trained emergency medical technicians (EMTs) and paramedics under certain circumstances; and authorizes the issuance of temporary certificates to active duty military licensed in another state and practicing in Florida pursuant to a military platform. The bill also eliminates the requirement that a military spouse who has been issued a temporary dental license may practice only under the supervision of a Florida dentist.

The bill exempts a chiropractic physician from regulation in Florida when he or she holds an active license in another jurisdiction and is performing chiropractic procedures or demonstrating equipment or supplies for educational purposes at a board-approved continuing education program.

The bill also updates various provisions regulating health care professions to reflect current operations and to improve operational efficiencies, including:

- Conforming Florida Statute to reflect implementation of the integrated electronic continuing education (CE) tracking system regarding the licensure and renewal process;

- Authorizing the DOH to contract with a third party to serve as the custodian of medical records in the event of a practitioner's death, incapacitation, or abandonment of records;
- Modifying procedures for handling professions that have been operating with cash deficits and which are at the statutory fee cap;
- Deleting the requirement for pre-licensure courses relating to HIV/AIDS and medical errors for certain professions;
- Eliminating a loophole pertaining to the licensure and license renewal of certain felons, persons convicted of Medicaid fraud, or other excluded individuals;
- Eliminating the requirement for annual inspections of dispensing practitioners' facilities;<sup>1</sup>
- Repealing the Council on Certified Nursing Assistants and the Advisory Council of Medical Physicists; and
- Providing for a one-year temporary license for medical physicists.

Additionally, the bill mandates more stringent reporting requirements for the James and Esther King Biomedical Research Program, the William G. "Bill" Bankhead, Jr., David Coley Cancer Research Program, the Ed and Ethel Moore Alzheimer's Disease Research Program within the DOH, and entities that receive a specific appropriation for biomedical research and related functions.

Unspent, but obligated, general revenue funds that are appropriated to the Ed and Ethel Moore Alzheimer's Disease Research Program are authorized to be carried forward on June 30 of each fiscal year for up to five years after the effective date of the original appropriation.

The bill is expected to result in cost savings of approximately \$630,000 in recurring funds within the DOH Medical Quality Assurance Trust Fund.

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

## II. Present Situation:

### Health Care Practitioner Licensure

The Department of Health (DOH) is responsible for the regulation of health practitioners and health care facilities in Florida for the preservation of the health, safety, and welfare of the public. The Division of Medical Quality Assurance (MQA), working in conjunction with 22 boards and six councils, licenses and regulates seven types of health care facilities and more than 200 license types in over 40 health care professions.<sup>2</sup> Any person desiring to be a licensed health care professional in Florida must apply to the DOH in writing.<sup>3</sup> Most health care professions are regulated by a board or council in conjunction with the DOH and all professions have different requirements for initial licensure and licensure renewal.<sup>4</sup>

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<sup>1</sup> Under s. 465.0276, F.S., a person may not dispense medicinal drugs unless licensed as a pharmacist or otherwise authorized under ch. 465, F.S., to do so, except that a practitioner authorized by law to prescribe drugs may dispense such drugs to her or his patients in the regular course of her or his practice in compliance with s. 465.0276, F.S.

<sup>2</sup> Florida Dep't of Health, Medical Quality Assurance, *Annual Report and Long Range Plan, 2014-2015*, p.6, available at: <http://www.floridahealth.gov/licensing-and-regulation/reports-and-publications/documents/annual-report-1415.pdf>

<sup>3</sup> Section 456.013, F.S.

<sup>4</sup> See chs. 401, 456-468, 478, 480, 483, 484, 486, 490, and 491, F.S.

## Initial Licensure Requirements

### *Military Health Care Practitioner Licensure under Chapter 456, F.S.*

Section 456.024, F.S., provides that any member of the U.S. Armed Forces who has served as a health care practitioner on active duty in the military, reserves, National Guard, or in the United States Public Health Service, is also eligible for licensure in Florida. The DOH is required to waive fees and issue these individuals a license if they submit a completed application and proof of the following:

- An honorable discharge within six months before or after the date of submission of the application;<sup>5</sup>
- An active, unencumbered license issued by another state, the District of Columbia, or a U.S. possession or territory, with no disciplinary action taken in the five years preceding the date of submission of the application;
- An affidavit that he or she is not, at the time of submission, the subject of a disciplinary proceeding in a jurisdiction in which he or she holds a license or by the United States Department of Defense for reasons related to the practice of the profession for which he or she is applying;
- Documentation of actively practicing his or her profession for the three years preceding the date of submission of the application; and
- Fingerprints for a background screening, if required for the profession for which he or she is applying.<sup>6</sup>

Florida offers an expedited licensure process to facilitate veterans seeking licensure in a health care profession in Florida through its Veterans Application for Licensure Online Response system (VALOR).<sup>7</sup> In order to qualify, a veteran must apply for the license within six months before, or six months after, he or she is honorably discharged from the Armed Forces. Under the VALOR system, there is no application fee, licensure fee, or unlicensed activity fee.<sup>8</sup>

A board, or the DOH if there is no board, may also issue a temporary health care professional license to the spouse of an active duty member of the Armed Forces upon submission of an application form and fees. The applicant must hold a valid license for the profession issued by another state, the District of Columbia, or a possession or territory of the United States and may not be the subject of any disciplinary proceeding in any jurisdiction relating to the practice of a regulated health care profession in Florida. A spouse who is issued a temporary professional license to practice as a dentist under this authority may practice only under the supervision of a Florida dentist.

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<sup>5</sup> A form DD-214 or an NGB-22 is required as proof of honorable discharge. Department of Health, *Veterans*, <http://www.floridahealth.gov/licensing-and-regulation/armed-forces/veterans/index.html> (last visited Dec. 15, 2015).

<sup>6</sup> *Id.* The Military Veteran Fee Waiver Request Form, also must be submitted with the application for licensure to receive waiver of fees and is available on the DOH website.

<sup>7</sup> Florida Dep't of Health, *Veterans*, <http://www.floridahealth.gov/licensing-and-regulation/armed-forces/veterans/index.html>, (last visited Dec. 15, 2015).

<sup>8</sup> *Id.*

## **Emergency Medical Technicians (EMTs) and Paramedics Certification under Chapter 401, F.S.**

EMTs and paramedics in Florida are certified by the DOH under ch. 401, F.S. Frequently, EMTs and paramedics work closely with police and firefighters during an emergency situation. EMTs and paramedics take care of sick or injured patients in an emergency medical setting.<sup>9</sup> Any person seeking certification in Florida as an EMT or paramedic who was trained out of state must provide proof of the following:

- A current EMT or paramedic certification or registration based upon successful completion of a training program approved by the DOH as equivalent to the most recent EMT-Basic or EMT-Paramedic National Standard Curriculum or the National EMS Education Standards of the United States Department of Transportation;
- A current certificate in cardiopulmonary resuscitation or advanced cardiac life support, and
- Successful completion of the certification examination within two years.

### ***HIV and AIDS Course Requirements***

Section 381.0034(3), F.S. and s. 468.1201, F.S., require prospective licensees for midwifery, radiology technology, laboratory technicians, medical physicists, speech-language pathology, and audiology, as a condition of initial licensure, to complete an approved course on HIV and AIDS. An applicant who has not completed the required HIV and AIDS course at the time of initial licensure will, upon submission of an affidavit showing good cause, be allowed six months to complete this requirement.

### ***Medical Errors Course Requirements***

Section 456.013(7), F.S., requires that every practitioner regulated by DOH complete a DOH approved two-hour course relating to the prevention of medical errors as part of the licensure and renewal process. The two-hour course counts toward the total number of continuing education (CE) credits required for the profession.

## **Licensure Renewal Requirements**

### ***CE Tracking***

Under s. 456.025(7), F.S., the DOH is required to utilize an electronic continuing education (CE) tracking system for each new biennial renewal cycle, and all approved CE providers must submit information on course attendance to the DOH for this system. The initial CE tracking system was not linked to the DOH license renewal system, so in order for a practitioner to renew his or her license, he or she certified that the required CEs had been completed. The DOH is currently deploying an integrated CE tracking system for all professions. Several practice acts still reference the submission of sworn affidavits, audits for compliance, and other methods for proof of completion of CE requirements.<sup>10</sup>

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<sup>9</sup> U.S. Bureau of Labor Statistics, EMTs and Paramedics, <http://www.bls.gov/ooh/Healthcare/EMTs-and-paramedics.htm#tab-2> (last visited January 28, 2016).

<sup>10</sup> See Florida Department of Health, *Senate Bill 918 Analysis*, p. 6, (Nov. 20, 2015) (on file with the Senate Committee on Health Policy).

***Felons, Medicaid Fraud, and Excluded Individuals***

Section 456.0635(2), F.S., provides that a board or the DOH, if there is no board, must refuse to admit a candidate to any examination, and refuse to issue a license, certificate, or registration, to any applicant if the candidate, applicant, or principal, officer, agent, managing employee, or affiliated person of an applicant:

- Has been convicted of, or entered a plea of guilty or nolo contendere to, regardless of adjudication, certain specified felonies;
- Has been terminated for cause from any Medicaid program; or
- Is listed on the U.S. Department of Health and Human Services' List of Excluded Individuals and Entities.

Section 456.0635(2), F.S., provides a tiered timeframe for these individuals to apply for a license, certificate, or registration, depending on the degree and age of the violation. There is a general exception for candidates or applicants for initial licensure or certification who were enrolled in an educational or training program on or before July 1, 2009, and who applied for licensure after July 1, 2012.

According to the DOH, recently, when the department refused to renew licenses based on the provisions of s. 456.0635(3), F.S., the licensees have immediately reapplied under the exception in s. 456.0635(2), F.S., and were granted a license. By taking advantage of the exception, licensees who were convicted of, or entered a plea of guilty or nolo contendere to, regardless of adjudication, certain specified felonies; or were terminated for cause from the Florida Medicaid or any other state's Medicaid program; or are currently listed on the United States Department of Health and Human Services' List of Excluded Individuals and Entities, have been able to regain a license to practice. When the next renewal cycle ends, those licensees will once again be denied renewal based on s. 456.0635(3), F.S., but the applicants can again reapply for licensure under the exception in s. 456.0635(2), F.S.<sup>11</sup>

***Continuing Education Reporting for Renewal***

Section 463.007, F.S., authorizes the DOH to periodically require an optometrist to demonstrate his or her professional competence, as a condition of licensure renewal, by completing up to 30 CE hours in the two years preceding renewal. For certified optometrists, the 30 hours of CE must include six or more hours of approved transcript-quality coursework in ocular and systemic pharmacology and the diagnosis, treatment, and management of ocular and systemic conditions and diseases.

Section 464.203, F.S., requires a certified nursing assistant (CNA) to complete 12 CE hours of in-service training every year.

Sections 457.107(3), 458.347(4)(e)3., 466.0135(3), 466.014, 466.032(5), 484.047(2), and 486.109(4), F.S., require acupuncturists, physician assistants, dentists, dental hygienists, dental laboratories, hearing aid specialists, and physical therapists to provide an affidavit or written statement attesting to the completion of the required CEs for his or her biennial renewal period.

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<sup>11</sup> *Id* at p. 7.

The DOH is authorized to request that a licensee, with or without cause, produce documentation of his or her completed CEs reported for the biennial renewal period.

**Licensure Regulation Costs**

Section 456.025, F.S., sets forth the legislative intent that all costs of regulating health care professions must be borne solely by licensees and license applicants and that no profession is to operate with a negative cash flow balance. Fees are set by the board, or the DOH where there is no board, and are required to be reasonable while not creating a barrier to licensure. Fees are to be based on potential earnings of licensees, must be similar to similarly licensed professions, and must not be more than 10 percent higher than the actual cost of regulating the profession the previous biennium. All funds collected by the DOH from fees, fines, or costs awarded to the department by a court must be paid into the Medical Quality Assurance Trust Fund. The DOH may not expend funds from one profession to pay for the expenses incurred by another profession, except that the Board of Nursing is responsible for the costs incurred in regulating certified nursing assistants.

The DOH may adopt rules for advancing funds to professions operating with a negative cash balance. However, it may not advance funds to one profession for more than two consecutive years and must charge interest at the current rate earned on trust funds used by the DOH to implement ch. 456, F.S. Interest earned by the trust fund must be allocated to the professions in accordance with its respective investment. Each board or the DOH, by rule, may also assess a one-time fee to each active and inactive licensee in an amount necessary to eliminate a cash deficit in the profession or, if there is no deficit, to maintain the financial integrity of the profession. Not more than one such assessment may be made in any four-year period.

The DOH has provided the following recap of professions that have faced negative cash balances.<sup>12</sup> The boards have imposed four one-time assessments in the past 10 years as follows:

- Electrolysis: FY 2005-2006, \$1,306;
- Nursing Home Administrators: FY 2005-2006, \$200;
- Dentistry: FY 2007-2008, \$250; and
- Midwifery: FY 2008-2009, \$250.

Three professions operate in a chronic deficit. Each is at its statutory fee cap and, according to the DOH, the midwifery and electrology professions do not have a large enough licensure base to generate adequate revenue to cover expenditures. These professions and the deficit amount under which they operate are:

	Cash Balance	Renewal Fee	Statutory Fee Cap	Total Licensees
Dentistry	\$ (2,144,333)	\$ 300	\$ 300	14,285
Electrology	\$ ( 638,545)	\$ 100	\$ 100	1,591
Midwifery	\$ ( 900,115)	\$ 500	\$ 500	206

If the boards or the DOH were to impose a one-time assessment, the amounts needed to eliminate the deficits and result in solvency though Fiscal Year 2019-2020 would be:

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<sup>12</sup> *Id.* at p. 5.

- Dentistry: \$450 per active/inactive licensee;
- Electrology: \$900 per active/inactive licensee; and
- Midwifery: \$5,500 per active/inactive licensee.

Section 456.025, F.S., allows the boards, or the DOH if there is no board, to collect up to \$250 from CE providers seeking approval or renewal of individual courses. The fees are required to be used to review the proposed courses and for implementation of the electronic CE tracking system which is integrated with the licensure and renewal systems.

Section 456.025, F.S., also requires the chairpersons of the boards and councils to meet annually to review the long-range policy plan and current and proposed fee schedules. The chairpersons are required to make recommendations for any necessary statutory changes relating to fees and fee caps which must be compiled by the DOH and included in its annual report to the Legislature.

### **Ownership and Control of Patient Records**

Section 456.057(20), F.S., provides that the board or the DOH may appoint a medical records custodian for patient records in the event of the death or incapacitation of a practitioner or when patient records have been abandoned. The custodian is required to comply with all requirements of s. 456.057, F.S. The DOH reports that 10 or more times per year, most frequently upon the death or incarceration of a practitioner, patient records are abandoned and patients cannot access their own records. The DOH attempts to secure the abandoned records but does not have the manpower or storage capacity to assume control.<sup>13</sup>

### **Dispensing Practitioner Facility Inspections**

Section 465.0276(3), F.S., requires the DOH to inspect any facility where a dispensing practitioner dispenses medicinal drugs in the same manner, and with the same frequency, as it inspects pharmacies to determine whether the practitioner is in compliance with all applicable statutes and rules. The DOH currently inspects pharmacies upon opening, annually, when they change locations, and when changing ownership.<sup>14</sup> The DOH inspects a dispensing practitioner's practice location(s) prior to the registration being added to the practitioner's license and annually thereafter.<sup>15</sup>

Dispensing practitioners can dispense any prescription medication in their office, except Schedule II and III controlled substances. This prohibition against dispensing controlled substances does not apply to:

- The dispensing of complimentary packages of medicinal drugs which are labeled as a drug sample or complimentary drug to the practitioner's own patients in the regular course of her or his practice without the payment of a fee or remuneration of any kind, whether direct or indirect;
- The dispensing of controlled substances in the health care system of the Department of Corrections;

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<sup>13</sup> *Supra* note 20.

<sup>14</sup> Florida Dep't of Health, *Inspection Programs – Who We Inspect* <http://www.floridahealth.gov/licensing-and-regulation/enforcement/inspection-program/index.html>, (last visited Dec. 23, 2015).

<sup>15</sup> *Id.*

- In connection with a surgical procedure, and then no more than a 14-day supply;
- In an approved clinical trial;
- In a medication-assisted opiate treatment facility licensed under s. 397.427, F.S.; or
- In a hospice facility licensed under part IV of chapter 400.<sup>16</sup>

During the last two fiscal years, the DOH conducted 15,062 dispensing practitioner inspections with a passing rate of 99 percent.<sup>17</sup>

### **Council on Certified Nursing Assistants**

Section 464.2085, F.S., creates the council on certified nursing assistants (CNA) within the DOH, under the board of nursing. The council consists of two members who are registered nurses, one member who is a licensed practical nurse, and two CNAs who are appointed by the State Surgeon General. The duties of the council are to make recommendations to the DOH and the board on:

- Policies and procedures for the certification of nursing assistants;
- Rules regulating the education, training, and certification process for nursing assistants; and
- Concerns and problems of certified nursing assistants to improve safety in the practice.

Historically, the council met every two months in conjunction with board of nursing meetings at an estimated cost of \$40,000 per year. The council's last face-to-face meeting was in 2013. Beginning in 2014, the council met by telephone conference call only on an as-needed basis. Both the board of nursing and the council have supported abolishment of the council since 2014.<sup>18</sup>

### **Advisory Council of Medical Physicists**

The Advisory Council of Medical Physicists (advisory council) was created in 1997 in s. 483.901(3), F.S., to advise the DOH in regulating the practice of medical physics. The nine-member advisory council is charged with recommending rules to administer the regulation of the practice of medical physics, recommending practice standards, and developing and recommending CE requirements for licensed medical physicists.

According to the DOH, the advisory council fulfilled its statutory role and last met in December 1998. The State Surgeon General appointed new members in 2015 and the advisory council will meet for the first time in 17 years at an estimated cost of \$3,535 per meeting. The DOH advises that an Advisory Council on Radiation Protection includes medical physicists as council members, and that group may be used for guidance on matters of practice and public safety pertaining to the practice of medical physics.<sup>19</sup>

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<sup>16</sup> See s. 465.0276(1)(b), F.S.

<sup>17</sup> *Supra note 20*, at p.8. The restrictions on dispensing controlled substances listed in Schedule II or Schedule III was enacted in 2011. See, ch. 2011-141, s. 15, Laws of Florida.

<sup>18</sup> *Supra note 20*, at p.8.

<sup>19</sup> *Supra note 20*, at p. 9.



## Research Programs

The James and Esther King Biomedical Research Program, administered by the DOH Biomedical Research Advisory Council, is funded by the proceeds of the Lawton Chiles Endowment Fund.<sup>20</sup> The purpose of the program is to provide an annual and perpetual source of funding to support research on health care problems of Floridians in the areas of tobacco-related cancer, cardiovascular disease, stroke, and pulmonary disease.

The William G. “Bill” Bankhead, Jr., and David Coley Cancer Research Program, is also administered by the DOH Biomedical Research Advisory Council and funded pursuant to s. 215.5602(12), F.S. The purpose of the program is to advance progress towards cures for cancer.

Every year the council is required to submit a progress report on the programs it administers to the Governor, State Surgeon General, President of the Senate, and Speaker of the House of Representatives which must include:

- A list of current research projects;
- A list of recipients of grants or fellowships;
- A list of peer reviewed publications in journals from research projects;
- The state ranking and total amount of biomedical research funding currently flowing into the state from the National Institutes of Health;
- New grants awarded;
- Description of the progress made towards program goals; and
- Recommendations to further the mission of the programs.

Starting in the 2011-2012 fiscal year, \$25 million of the funds deposited into the Health Care Trust Fund<sup>21</sup> were reserved for research on tobacco-related, or cancer-related, illnesses and were transferred to the Biomedical Research Trust Fund. Five million dollars of those funds were required to be appropriated to the James and Esther King Biomedical Research Program; and \$5 million to the William G. “Bill” Bankhead, Jr., and David Coley Cancer Research Program.<sup>22</sup>

Beginning in 2014, any entity performing cancer research and receiving funds without statutory reporting requirements is required to submit an annual progress report to the President of the Senate and the Speaker of the House of Representatives on the use of those funds. The report must include:

- A description of the general use of the funds;
- A description of research funded by the programs;
- A description of any fixed costs for a particular project, the need for the project, how the project would be utilized, and a timeline for the project; and
- A description of any federal or private grants or donations generated as a result of the appropriation or activities.

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<sup>20</sup> See s. 215.5601, F.S.

<sup>21</sup> See ss. 210.011(9) and 210.276(7), F.S.

<sup>22</sup> See s. 381.922, F.S.

The Ed and Ethel Moore Alzheimer's Disease Research Program is a research program within the DOH created to fund research leading to prevention or a cure for Alzheimer's disease. It is administered by the DOH Alzheimer's Disease Research Grant Advisory Board.<sup>23</sup> Its funding is subject to legislative appropriation. The board is required to submit a yearly progress report on the programs under its purview to the Governor, President of the Senate, Speaker of the House of Representatives, and State Surgeon General by February 15. The report must include:

- A list of current research projects;
- A list of recipients of grants or fellowships;
- A list of peer reviewed publications in journals from research projects;
- The state ranking and total amount of Alzheimer's disease research funding currently flowing into the state from the National Institutes of Health;
- New grants awarded under the program;
- Description of the progress made towards program goals; and
- Recommendations to further the mission of the programs.

### III. Effect of Proposed Changes:

This bill updates various sections of law relating to the regulation of health care practitioners and research programs within the DOH.

#### **Initial Licensure Requirements**

##### *Military Health Care Practitioners*<sup>24</sup>

The bill amends s. 456.024, F.S., to delete provisions relating to temporary licenses for military spouses and delineates that the following military personnel and military-connected persons are eligible for health care practitioner licenses in Florida:

- A person who serves, or has served, in the U.S. Armed Forces, Reserves or National Guard;
- A person who serves, or has served, on active duty as a health care practitioner<sup>25</sup> in the U.S. Armed Forces as a health care practitioner in the U.S. Public Health Service; or
- A health care practitioner in another state or U.S. jurisdiction whose spouse serves on active duty in the U.S. Armed Forces.

The bill authorizes the Department of Health (DOH) to waive fees and issue licenses to a person who:

- Submits a complete application form;
- Is a member of the military and submits proof that he or she will receive an honorable discharge either six months before, or six months after the date of the application; , and
  - Holds an active, unencumbered license in another state or U.S. Jurisdiction with no disciplinary action in the preceding five years;

<sup>23</sup> The activities of the board are exempt from chapter 120. Section 381.82(5), F.S.

<sup>24</sup> See section 7 of the bill.

<sup>25</sup> The bill defines the term "health care practitioner" as those defined in 456.001, F.S. and Part IV of Ch. 468.

- Is a military health care practitioner in a profession that does not require licensure in another state or U.S. jurisdiction,<sup>26</sup> if the applicant submits to the DOH evidence of military training or experience equivalent to that required in Florida and evidence of a passing score on a regional or national standards organization exam, if one is required in Florida; or
- Is a health care practitioner in a profession that does not require licensure in other states, if the applicant can provide evidence to the DOH of training or experience equivalent to that required in Florida and evidence of a passing score on a regional or national standards organization exam, if one is required in Florida; and
- Attests that he or she is not under licensure disciplinary preceding anywhere;
- Actively practiced the profession for which licensure is sought for three years preceding the date of the application; and
- Submits a set of fingerprints for a background screening.

The bill eliminates the requirement that a military spouse who has been issued a temporary dental license may practice only under the supervision of a Florida dentist.

The bill also makes military-trained EMTs or paramedics eligible for certification in Florida under ch. 401, F.S.,<sup>27</sup> if they provide proof of:

- A current EMT or paramedic certification or registration that is considered by the DOH to be nationally recognized;
- Successful completion of a DOH-approved training program as equivalent to the most recent EMT-Basic or EMT-Paramedic National Standard Curriculum or the National EMS Education Standards of the United States Department of Transportation; and
- A current certificate of successful course completion in cardiopulmonary resuscitation or advanced cardiac life support.

The bill creates s.456.0241, F.S.,<sup>28</sup> which authorizes the DOH to issue temporary certificates to active duty military health care practitioners to practice, if the applicant meets all of the following requirements:

- Submits proof that he or she will be practicing pursuant to a military platform<sup>29</sup>;
- Submits a complete application and fee;
- Provides proof of:
  - Having a valid and unencumbered license to practice as a health care professional in another state or U.S. jurisdiction; or

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<sup>26</sup> Professions not licensed in all states: Respiratory therapists (and assistants), Clinical Laboratory Personnel, Medical Physicists, Opticians, Athletics trainers, Electrologists, Nursing home administrators, Midwives, Orthotists (and assistants), Prosthetists (and assistants), Pedorthotists (and assistants), Orthotic fitters (and assistants), Certified chiropractic physician assistants, Pharmacy Technicians.

<sup>27</sup> See section 5 of the bill.

<sup>28</sup> See section 8 of the bill.

<sup>29</sup> Section 456.0241, F.S., defines a “Military platform” as a military training agreement with a non-military health care provider which is designed to develop and support medical, surgical, or other health care treatment opportunities in the nonmilitary health care provider setting so that military health care practitioners may develop and maintain technical proficiency to meet the present and future health care needs of the United States Armed Forces. Such agreements may include training affiliation agreements and external resource sharing agreements.

- Being a military health care practitioner in a profession for which licensure in a state or jurisdiction is not required for practice in the United States Armed Services; and Provides evidence of military training and experience substantially equivalent to the requirements for licensure in this state to practice in that profession;
- Attests that he or she is not subject to any disciplinary proceeding where he or she holds a license or by the United States Department of Defense;
- Has been determined to be competent in the profession for which he or she is applying for a temporary certificate; and
- Submits a set of fingerprints for a background if required by the profession for which he or she is applying for a temporary certificate.

The temporary certificates expires six months after issuance but may be renewed upon proof of the certificate holder receiving continuing orders in this state and that he or she continues to be a military platform participant. All provision of ch. 456, F.S., apply to these licensees except the practitioner profile requirements of ss. 456.039-456.046, F.S.

### ***Chiropractic Physicians***<sup>30</sup>

The bill amends s.460.402, F.S, to exempt a chiropractic physician from regulation under ch. 460, F.S., regulation when he or she holds an active license in another jurisdiction and is performing chiropractic procedures or demonstrating equipment or supplies for educational purposes at a board-approved continuing education program.

### ***Temporary Licensure for Medical Physicists***

The bill amends s. 483.901, F.S., to allow the DOH to issue a temporary license for no more than one year upon proof that the physicist has completed a residency program and payment of a fee set forth by rule. The DOH may adopt by rule requirements for temporary licensure and renewal of temporary licenses.

### ***HIV and AIDS Course Requirement - Deleted***<sup>31</sup>

The bill amends s. 381.0034, F.S., and repeals s. 468.1201, F.S., to delete the requirement that applicants under part IV of ch. 468, F.S., (radiological personnel), medical physicists under ch.483, F.S., speech and language pathology practitioners, and audiology practitioners, must complete courses in HIV and AIDS before their license may be initially issued. According to the DOH, this will accelerate the initial licensure process and reduce costs to licensees.<sup>32</sup>

### ***Medical Errors Course Requirement - Deleted***<sup>33</sup>

The bill amends s. 456.013(7), F.S., to delete the requirement that health care practitioners take two hours of continuing education (CE) in medical errors before a license may be issued but keeps that requirement for biennial renewal. The bill clarifies that the two course hours count toward the total required CE hours for renewal and are not in addition to the required hours.

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<sup>30</sup> See Section 16 of the bill

<sup>31</sup> See sections 1 and 18 of the bill.

<sup>32</sup> *Supra note 20* at pp. 9 and 12.

<sup>33</sup> See section 2 of the bill.

## **Licensure Renewal Requirements**

### ***CE Tracking***<sup>34</sup>

The bill moves the requirement that DOH must establish an electronic CE tracking system which integrates tracking licensee CEs with the DOH licensure and renewal process from s. 456.025, F.S., to a newly created s. 456.0361, F.S. The bill prohibits the DOH from renewing licenses unless the licensee's CE requirements are complete, authorizes the imposition of additional penalties under the applicable practice act for the failure to comply with CE requirements, and authorizes the DOH to adopt rules to implement this section. This codifies in statute DOH's new CE tracking system and allows for uniformity in handling CEs across the various professions.

Accordingly, the bill amends ss. 457.107(3), 458.347(4)(e)3, 459.022(4)(e)3., 466.0135(3), 466.014, 466.032(5), 484.047(2), and 486.109(4), F.S., to simplify and conform the license renewal process for acupuncturists, physician assistants, dentists, dental hygienists, dental laboratories, hearing aid specialists, and physical therapists by eliminating the requirement of an affidavit or written statement attesting to the completion of the required CEs for the biennial renewal period, and by eliminating the DOH's authority to request a licensee, with or without cause, to produce documentation of his or her completed CEs for the biennial renewal period.<sup>35</sup>

Similarly, the bill amends s. 463.007, F.S., to clarify and conform the CE requirements of an optometrist as a condition of license renewal and amends s. 464.203, F.S., to require CNAs to complete 24 CE hours of in-service training every biennium, rather than requiring hours annually. This change matches the two-year renewal cycle.<sup>36</sup>

### ***Felons, Medicaid Fraud, and Excluded Individuals***<sup>37</sup>

The bill amends s. 456.0635(2), F.S., to delete the exception to the requirement that a board or the DOH must deny the initial licensure of candidates or applicants who were convicted of, or entered a plea of guilty or nolo contendere to, regardless of adjudication, certain specified felonies primarily relating to health care fraud; have been terminated for cause from a Medicaid program; or who are listed on the U.S. Department of Health and Human Services' List of Excluded Individuals and Entities. The exception currently applies to candidates or applicants for initial licensure or certification who were enrolled in an educational or training program on or before July 1, 2009, and who applied for licensure after July 1, 2012. Under the bill, these individuals are unable to re-apply unless their sentence, and any probation, is scheduled to end within the time frame set out in s. 256.0635(2), F.S. Similar grounds exist for denial of a license renewal under s. 456.0635(3), F.S.

### **Licensure Regulation Costs**<sup>38</sup>

The bill amends s. 456.025, F.S., to include a method to address professions which operate in a chronic deficit and which have reached their statutory fee cap. The bill:

<sup>34</sup> See sections 4 and 5 of the bill.

<sup>35</sup> See sections 8, 9, 14, 15, 16, 19 and 20 of the bill.

<sup>36</sup> See sections 10 and 11 of the bill.

<sup>37</sup> See section 7 of the bill.

<sup>38</sup> See section 4 of the bill.

- Deletes the requirement for the DOH to increase license fees if the cap has not been reached;
- Deletes the requirement to include recommendations for increases to fee caps in the annual report;
- Deletes rule authority to authorize advances to the profession's account with interest;
- Deletes the prohibition on using funds from one profession for operating another profession;
- Allows the DOH to waive the deficit profession's allocated indirect administrative and operational costs until the profession has a positive cash balance; and
- Allows cash in the unlicensed activity account of the profession whose indirect costs have been waived to be transferred to the operating account up to the amount of the deficit.

According to the DOH, as of June 30, 2014, three of 34 professions regulated under ch. 456, F.S. were in a chronic cash flow deficit and at their statutory fee cap. These three professions are dentistry, electrolysis, and midwifery. The total amount of the deficit was \$3,682,993.<sup>39</sup>

The bill deletes the requirement that the chairpersons of the boards and councils meet annually to review the long-range policy plan and current and proposed fee schedules and recommend statutory changes relating to fees and fee caps for compilation by the DOH for inclusion in its annual report to the Legislature.

#### **Council on Certified Nursing Assistants (CNA)<sup>40</sup>**

The bill repeals s. 464.2085, F.S., which created the Council on Certified Nursing Assistants within the DOH under the Board of Nursing. Under the bill, the Board of Nursing will assume responsibility for all matters relating to CNAs.<sup>41</sup>

#### **Advisory Council of Medical Physicists<sup>42</sup>**

The bill repeals the advisory council in s. 483.901(3), F.S.

#### **Ownership and Control of Patient Records<sup>43</sup>**

The bill amends s. 456.057(20), F.S., to require DOH approval of all board-appointed medical records custodians for the patient medical records of a practitioner who has died, become incapacitated, or abandoned his or her records. The bill further authorizes the DOH to contract with a third party to function as the medical records custodian in these instances and designates the vendor the "records owner" under the same disclosure and confidentiality requirements imposed on licensees.

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<sup>39</sup> *Supra note 20* at p.10.

<sup>40</sup> See section 12 of the bill.

<sup>41</sup> *Supra note 20* at p.11.

<sup>42</sup> See section 18 of the bill.

<sup>43</sup> See section 6 of bill.

### **Dispensing Practitioner Facility Inspections<sup>44</sup>**

The bill amends s.465.0276, F.S., to eliminate any required DOH inspection of the facilities of dispensing practitioners. Dispensing practitioners will still be required to register with their appropriate boards<sup>45</sup> but there will no longer be any statutory mandate for the DOH to inspect those facilities within specified timeframes. The DOH may inspect dispensing practitioner locations at such times as it determines necessary as a random, unannounced inspection or during the course of an investigation.<sup>46</sup> The DOH indicates that due to the restrictions on dispensing controlled substances in Schedules II or III, the frequency and manner in which inspections are conducted may no longer be necessary.<sup>47</sup>

### **James and Esther King Biomedical Research Program, William G. “Bill” Bankhead, Jr., and David Coley Cancer Research Program and Ed and Ethel Moore Alzheimer’s Disease Research Program<sup>48</sup>**

The bill amends s. 215.5602(10), F.S., and adds identical language as a new subsection 6 to s. 381.922, F.S., to require more stringent annual reporting requirements for the DOH Biomedical Research Advisory Council which administers both the James and Esther King Biomedical Research Program for research on tobacco-related cancer, cardiovascular disease, stroke, and pulmonary disease, and the William G. “Bill” Bankhead, Jr., and David Coley Cancer Research Program. Specifically, the bill requires the reports for each program to include:

- For each research project supported by grants or fellowships awarded under the program:
  - A summary of the research project and results;
  - The status of the research, including estimated date of completion;
  - The amount of the grant awarded and the estimated or actual cost of the project;
  - A list of the principal investigators;
  - The title, citation, and summary of findings in a peer-reviewed journal publications from the research;
  - The source and amount of any federal, state, or local government grants or donations or private grants or donations generated as a result of the research project;
  - The status of any patent generated from the research and an economic analysis of the impact of the patent; and
  - A list of the postsecondary educational institutions involved in the research, with a description of each postsecondary educational institution’s involvement; and the number of students receiving training or performing research in the project.
- The state ranking and amount of biomedical research funding coming into the state from the National Institutes of Health;
- A description of the progress towards the program’s goals; and
- Recommendations to further the mission of the programs.

<sup>44</sup> See section 13 of the bill.

<sup>45</sup> Section 465.0276(2)(a), F.S.

<sup>46</sup> See s. 456.069, F.S.

<sup>47</sup> See Florida Dep’t of Health, *Senate Bill 918 Agency Analysis*, pp. 11-12, (Nov. 20, 2015) (on file with the Senate Committee on Health Policy).

<sup>48</sup> See sections. 1, 3 and 4 of the bill.

The bill also amends s. 215.5602(12), F.S., to require more stringent annual reporting requirements for research entities currently without statutory reporting requirements, like the Ed and Ethel Moore Alzheimer's Disease Research Program. The bill requires their annual report to include:

- A describe the general use of the funds;
- A summary of research, funded, and:
  - The status of the research, including whether the research has concluded;
  - The results or expected results; and
  - The names of the principal investigators;
  - The title, citation, and summary of findings in a peer-reviewed journal publication from the research;
  - The status of a patent, if any, generated from the research and an economic analysis of the impact of the resulting patent;
  - The list of the postsecondary educational institutions involved in the research, a description of each postsecondary educational institution's involvement in the research; and the number of students receiving training or performing research.

The bill authorizes the balance of any appropriation from the General Revenue Fund for the Ed and Ethel Moore Alzheimer's Disease Research Program which is not disbursed but which is obligated by June 30 of the fiscal year in which the funds are appropriate to be carried forward for up to five years after the effective date of the original appropriation.

#### **Technical Revisions and Effective Date**

The bill makes technical and conforming changes and reenacts s. 921.022, F.S.

The bill is effective 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:**

PCS/CS/SB 918 will reduce the costs associated with initial applications for licensure, and renewals, as practitioners will not incur the costs of taking additional specific courses, or for obtaining notarized affidavits before initial licensure or renewal. Section 12 of the bill will prevent practitioners who are prohibited from renewing their licenses by s. 456.0635(3), F.S., from becoming licensed pursuant to s.456.0635(2), F.S.

**C. Government Sector Impact:**

The bill:

- May require the DOH to incur costs related to maintaining the security and distribution of medical records for practitioners who have left practice. The DOH estimates a recurring cost of approximately \$4,020 for which current spending authority is reported to be adequate to absorb.
- Eliminates the CNA Council, which will result in a cost savings to the DOH of approximately \$40,000 per fiscal year due to the elimination of costs associated with face-to-face meetings.
- Eliminates the DOH's costs associated with the annual routine inspection of dispensing practitioners' facilities. The DOH reports that based on Fiscal Year 2014-2015 data, the total cost to complete these mandatory inspections was \$597,707.
- Eliminates the Advisory Council of Medical Physicists which will result in a cost avoidance for reactivating the advisory council.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

Section 20 of the bill eliminates the DOH's routine inspection of dispensing practitioners' facilities. Although speculative, this lack of routine oversight could result in a public health and safety risk to patients due to issues relating to cleanliness, improper storage and labeling of medications, use of counterfeit medication, etc. However, dispensing practitioners may experience less disruption in routine practice due to fewer inspections.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 215.5602, 381.0034, 381.82, 381.922, 456.013, 456.024, 456.025, 456.0361, 456.057, 456.0635, 457.107, 458.347, 459.022, 460.402, 463.007, 464.203, 465.0276, 466.0135, 466.014, 466.032, 483.901, 484.047, 486.109, 499.028, and 921.0022.

This bill creates section 456.0241 of the Florida Statutes.

This bill repeals the following sections of the Florida Statutes: 464.2085 and 468.1201.

**IX. Additional Information:**

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

**Recommended CS/CS by Appropriations Subcommittee on Health and Human Services on January 26, 2016:**

The committee substitute:

- Changes the short title of the bill from “An act relating to licensure of health care professionals” to “An act relating to the Department of Health;”
- Mandates more stringent reporting requirements for the James and Esther King Biomedical Research Program, the William G. “Bill” Bankhead, Jr., David Coley Cancer Research Program, the Ed and Ethel Moore Alzheimer’s Disease Research Program, within the Department of Health (DOH), and entities that receive a specific appropriation for biomedical research and related functions;
- Authorizes the DOH to issue certificates to military trained emergency medical technicians (EMTs) and paramedics under certain circumstances and authorizes the issuance of temporary certificates to active duty military licensed in another state and practicing in Florida pursuant to a military platform;
- Exempts a chiropractic physician from regulation in Florida when he or she holds an active license in another jurisdiction and is performing chiropractic procedures or demonstrating equipment or supplies for educational purposes at a board-approved continuing education program; and
- Allows unspent, but obligated, general revenue that is appropriated to the Ed and Ethel Moore Alzheimer’s Disease Research Program to be carried forward on June 30 of each fiscal year for up to five years after the effective date of the original appropriation.

**CS by Health Policy on January 11, 2016:**

The committee substitute recognizes a passing score for examinations approved by a regional, in addition to a national, standards organization for both the military and spousal exceptions from licensure in another state and provides a technical clarification pertaining to the description of the spouse’s practice in health care.

The committee substitute also deletes sections pertaining to the Impaired Practitioner program.

- B. **Amendments:**

None.