

## HOUSE OF REPRESENTATIVES FINAL BILL ANALYSIS

<b>BILL #:</b>	CS/CS/HB 543	<b>FINAL HOUSE FLOOR ACTION:</b>		
<b>SUBJECT/SHORT TITLE</b>	Regulation of Health Care Practitioners	116	Y's 1	N's
<b>SPONSOR(S):</b>	Health & Human Services Committee; Health Innovation Subcommittee; Pigman and others	<b>GOVERNOR'S ACTION:</b>	Approved	
<b>COMPANION BILLS:</b>	CS/SB 328			

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### SUMMARY ANALYSIS

CS/CS/HB 543 passed the House, as amended, on April 26, 2017. The bill was amended in the Senate on May 4, 2017, and was returned to the House. The House concurred in the Senate amendment, and passed the bill as amended on May 5, 2017.

Since 2009, the Legislature has taken steps to improve quality of nursing education programs in this state. The bill makes additional revisions to the regulation of nursing education programs. The bill authorizes the Board of Nursing (BON) to grant a one-year extension to a nursing education program that is on probation for failure to meet the graduate passage rate, if the program shows progress. The BON retains authority to terminate a program after the two-year probation period. A program on probation must notify its students and applicants of such status and its implications in writing. The bill removes a requirement that a nursing student who does not take the licensure examination within six months of graduation successfully complete a licensure examination preparatory course. The bill prohibits a program that was terminated or closed from reapplying for approval for three years, regardless of whether the program changes its name or a new institution is created by the same owners. It authorizes the BON to adopt rules related to the curriculum of nursing education programs, and to perform an on-site evaluation of a nursing education program applicant. Finally, it eliminates annual reports by the Office of Program Policy Analysis and Government Accountability on the status of nursing education programs, but requires the Florida Center for Nursing to issue the annual reports and include an assessment of the accreditation status for certain nursing programs.

The bill also amends regulation of several professions under Department of Health (DOH) authority. The bill requires an advanced registered nurse practitioner (ARNP) to maintain a copy of his or her protocol at the practice location, rather than submitting it to the BON, and authorizes an ARNP who works with multiple supervising physicians in a group practice to enter into a protocol with one physician. The bill deletes obsolete language related to an educational requirement for ARNPs. The bill also deletes an obsolete reference to a joint committee to establish standards for medical acts performed by an ARNP, that was abolished in 2016.

The bill also authorizes certain pharmacists who complete a mandatory 8-hour course, offered by certain statewide professional associations of physicians and a statewide professional association of pharmacists, to administer injections of antipsychotic medication within a protocol with the prescribing physician. The bill reduces a required medical errors continuing education course for orthotists and prosthetists from 2-hours to 1 hour. Finally, the bill creates a path to licensure for certain students enrolled in physical therapist assistant programs.

The bill has an insignificant, indeterminate negative fiscal impact on DOH, which can be absorbed within existing resources. The bill has no fiscal impact on local governments.

The bill was approved by the Governor on June 23, 2017, ch. 2017-134, L.O.F., and became effective on that date.

**This document does not reflect the intent or official position of the bill sponsor or House of Representatives.**

**STORAGE NAME:** h0543z1.HIS

**DATE:** June 26, 2017

## I. SUBSTANTIVE INFORMATION

### A. EFFECT OF CHANGES:

#### Current Situation

##### Nursing Education Programs

To be licensed as a registered nurse (RN) or a practical nurse (LPN) in this state, an individual must, among other things, graduate from an accredited or a BON-approved nursing program or its equivalent.<sup>1</sup> A registered nurse is authorized to practice professional nursing<sup>2</sup> and an LPN is authorized to practice practical nursing.<sup>3</sup>

Nursing programs in Florida are offered by public school districts, Florida colleges, state universities, private institutions licensed by the Commission for Independent Education, private institutions that are members of the Independent Colleges and Universities of Florida (ICUF), and Pensacola Christian College, which is statutorily authorized by s. 1005.06(1)(e), F.S.<sup>4</sup>

##### *Board-Approved Nursing Education Programs*

To be an approved program, an educational institution must apply to DOH. An application to become an approved program must document compliance with program standards for faculty qualifications, clinical training requirements, written policies for faculty, signed agreements with clinical training sites in the curriculum plan, and curriculum and instruction requirements.<sup>5</sup>

An application deemed complete by the DOH is forwarded to the BON for approval. Within 90 days of receipt of the application by the DOH, the BON must approve the application or notify the applicant of the intent to deny the application. If noticed of the intent to deny, the applicant may request a hearing under chapter 120, F.S.<sup>6</sup>

An approved program's curriculum must consist of at least 50 percent clinical training for an associate's degree RN program or at least 40 percent clinical training for a bachelor's degree RN program.<sup>7</sup> No more than 50 percent of an approved program's clinical training may consist of clinical simulation.<sup>8</sup>

Approved programs must submit an annual report by November 1 of each year to the BON. The report must document application and enrollment, student retention rates, and accreditation status.<sup>9</sup>

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<sup>1</sup> S. 464.008(1)(c), F.S.

<sup>2</sup> The practice of professional nursing means the performance of those acts requiring substantial specialized knowledge, judgment, and nursing skills, including observation, assessment, nursing diagnosis, planning, intervention, and evaluation of care; teaching and counseling of the ill, injured, or infirm; promotion of wellness, maintenance of health, prevention of illness in others; and the administration of medication and treatment as authorized or prescribed. A RN is responsible and accountable for making decisions that are based upon the individual's educational preparation and experience in nursing. (Ss. 464.003(20) and (22), F.S.)

<sup>3</sup> The practice of practical nursing means the performance of selected acts in the care of the ill, injured, or infirm; the promotion of wellness, maintenance of health, and prevention of illness of others under the direction of a registered nurse, a licensed physician, or a licensed dentist. An LPN is responsible and accountable for making decisions that are based upon the individual's educational preparation and experience in nursing (Ss. 464.003(16) and (19), F.S.).

<sup>4</sup> This section of law exempts schools from the Commission for Independent Education's licensure requirements if the institution: had been so exempted prior to 2001; is incorporated in this state; the institution's credits or degrees are accepted for credit by at least three colleges that are fully accredited by an agency recognized by the U.S. Department of Education; the institution was exempt under that category prior to July 1, 1982; and the institution does not enroll any students who receive state or federal financial aid. Only two institutions in Florida, Pensacola Christian College and Landmark Baptist College, are subject to this exemption. Landmark Baptist College does not offer a nursing program.

<sup>5</sup> S. 464.019(1), F.S.

<sup>6</sup> S. 464.019(2), F.S.

<sup>7</sup> S. 464.019(1)(b), F.S.

<sup>8</sup> S. 464.019(1)(c), F.S.

<sup>9</sup> S. 464.019(3), F.S.

The BON must publish on its website for each program its:

- Accreditation status;
- Probationary status;
- Graduate passage rate on the National Council on State Boards of Nursing Licensing Examination (NCLEX) for the most recent two calendar years;
- Student retention rates;
- Annual report summary; and
- Application documentation.<sup>10</sup>

If the nursing education program fails to submit its annual report, the director of the nursing education program must appear before the BON, at its next regularly scheduled meeting, to explain the reason for the delay. If the annual report is not submitted within six months of its due date, the BON must terminate the program.<sup>11</sup>

#### *Accountability Requirements*

An approved program may not have a graduate passage rate for first-time takers who sit for the licensure examination within six months of graduation that is 10 percentage points or more below the national average for two consecutive years.<sup>12</sup> If a program fails to meet the required graduate passage rate, the program is placed on probation by the BON and the program must present a plan for remediation to the BON, which includes specific benchmarks for achieving the required graduate passage rate. If a program on probation does not achieve the required graduate passage rate for any one calendar year during the two calendar years it is on probation, the BON must terminate the program.<sup>13</sup> However, the BON is authorized to extend the probationary status for an additional year if the program demonstrates progress toward the graduate passage rate goal by meeting the majority of the benchmarks established in the remediation plan.<sup>14</sup>

#### *Accredited Nursing Education Programs*

To qualify as an accredited program, a nursing education program must be accredited by a specialized nursing accrediting agency that is nationally recognized by the United States Secretary of Education to accredit nursing education programs.<sup>15</sup> Because accredited programs have to meet stringent criteria to maintain program accreditation, many of the statutory requirements for approved programs are not applicable to accredited programs.<sup>16</sup> However, an accredited program is subject to the accountability requirements. If an accredited program ceases to be accredited, it must, within 10 business days, provide written notice to the BON, its students and applicants, and its clinical training sites.

In 2014, legislation was enacted that required all nursing education programs that prepare students to be RNs to become accredited by July 1, 2019, or within 5 years after the enrollment of the program's first students.<sup>17</sup>

Accredited programs' accreditation status and graduate NCLEX passage rates must be published on the BON website.<sup>18</sup>

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<sup>10</sup> S. 464.019(4), F.S.

<sup>11</sup> S. 464.019(5), F.S.

<sup>12</sup> Id.

<sup>13</sup> Id.

<sup>14</sup> Id.

<sup>15</sup> S. 464.003(1), F.S.

<sup>16</sup> S. 464.019(9), F.S.

<sup>17</sup> Chapter 2014-92, Laws of Fla.

<sup>18</sup> Supra, FN 10.

## *Reform of Nursing Education Programs*

In 2009, the Legislature created a statutory framework for the approval of nursing education programs.<sup>19</sup> Prior to 2009, the BON had the authority to prescribe the process by rule. The new law:

- Established standards for faculty qualifications, clinical training and clinical simulation requirements, and curriculum and instruction requirements;
- Required all nursing education programs to submit an annual report to the BON, including information that the BON must publish on its website;
- Required the BON to place an approved nursing education program on probation if its graduate passage rate fell 10 percent or more below the national average passage rate on the NCLEX for two consecutive years;
- Required the BON to terminate a program if the approved nursing education program's graduates failed to achieve compliance within the next two consecutive years; and
- Required the Florida Center on Nursing and the Office of Program Policy Analysis and Government Accountability (OPPAGA) to monitor the implementation of the new approval process and to annually report to the Governor and the Legislature regarding the approval process, nursing program availability and quality, and the BON's compliance with the law.

In 2010, the Legislature made additional changes to the nursing education program approval process to address implementation issues.<sup>20</sup> These changes included:

- Requiring the BON to approve or deny a nursing education program application within 90 days after receipt of a complete application;
- Specifying that a program may be removed from probation if its graduates attain the required passage rate after one calendar year during the probation period;
- Making the passage rate requirement adopted in 2009 prospective so that it would apply beginning with the 2010 calendar year; and
- Clarifying that the graduate passage rate must be 10 percentage points or more below the national average passage rate on the NCLEX for two consecutive years, rather than 10 percent below the national average passage rate.

In 2014, the Legislature made additional revisions to the requirements for nursing education programs.<sup>21</sup> These revisions included:

- Authorizing the BON to adopt rules for documenting nursing education program accreditation;
- Requiring all nursing education programs that prepare students as RNs to be accredited by a nationally recognized accreditation agency by July 2019, or within 5 years of the date of enrollment of the program's first students;
- Requiring the Florida Center for Nursing and OPPAGA to submit the annual report to the Governor and the Legislature until January 2020;
- Limiting the graduate passage rate requirement to only those students who take the licensure examination for the first time within six months of graduation;
- Requiring an approved program to require any graduate who does not take the licensure examination within six months of graduation to enroll in and successfully complete a licensure examination preparatory course;
- Requiring programs on probation to develop and submit a remediation plan for attaining the required graduate passage rate, including benchmarks; and
- Authorizing the BON to extend a nursing education program's probationary status for one additional year if the program shows adequate progress towards the achieving the graduate passage rate by meeting a majority of the benchmarks established in the remediation plan.

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<sup>19</sup> Chapter 2009-168, Laws of Fla.

<sup>20</sup> Chapter 2010-37, Laws of Fla.

<sup>21</sup> Chapter 2014-92, Laws of Fla.

## Current Status of Nursing Education Programs

Since 2009, the BON has approved 303 new nursing programs. Currently, the total number of nursing education programs is 350,<sup>22</sup> which is down from the 369 open nursing programs in 2015. Overall, there has been a 105 percent increase in the number of nursing education programs since 2009. Of the nursing education programs in this state, 93 are accredited.<sup>23</sup>

In 2015, 127 nursing education programs (or 42 percent) had graduate passage rates that were 10 percent or below the national average rate.<sup>24</sup> The majority of these programs were associate degree programs; however, 27 percent were practical nursing programs and 10 percent were Bachelor of Science in nursing programs. Of the 127 programs that failed to meet the graduate passage rate:

- 14 were placed on probation;
- 11 were terminated by the BON;
- 11 were exempt from being placed on probation because they were accredited;
- 54 were not on probation, but were at risk of being placed on probation if their graduate passage rates continue to be 10 percent or more below the national average for another consecutive year; and
- 37 closed.<sup>25</sup>

According to OPPAGA, the majority of the nursing programs that failed to meet the graduate passage rate requirement were relatively new and unaccredited.<sup>26</sup>

In 2016, there were 42 programs on probation for failing to meet the graduate exam passage rate and 50 nursing education programs closed.<sup>27</sup> Of those 50 closed programs, 37 programs closed voluntarily and 13 programs were terminated by the BON; 22 of these programs were on probation immediately prior to their termination or closure.

### Advanced Registered Nurse Practitioners

Part I of ch. 464, F.S., governs the licensure and regulation of advanced registered nurse practitioners (ARNPs) in Florida. Nurses are licensed by the Department of Health (DOH) and are regulated by the Board of Nursing (BON).<sup>28</sup> As of February 2017, there are 26,691 actively licensed ARNPs in Florida.<sup>29</sup>

In Florida, an ARNP is a licensed nurse who is certified in advanced or specialized nursing practice and may practice as a certified registered nurse anesthetist, a certified nurse midwife, or a nurse practitioner.<sup>30</sup> Advanced or specialized nursing practice includes the performance of advanced-level nursing acts approved by the BON, which by virtue of postbasic specialized education, training, and

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<sup>22</sup> OPPAGA, *Review of Florida's Nursing Education Programs, 2016*, Report No. 17-03 (January 2017), available at <http://www.oppaga.state.fl.us/MonitorDocs/Reports/pdf/1703rpt.pdf> (last visited May 5, 2017). The total number takes into account new approvals, terminations, and closures of nursing education programs that have occurred since 2009.

<sup>23</sup> Id. 40 bachelor's degree programs, 43 associate degree programs, and 10 practical nursing programs are accredited.

<sup>24</sup> OPPAGA, *Approximately 42% of Nursing Programs Had a Licensure Exam Passage Rate Below the Required Legislative Standard in 2015*, Report No. 16-05 (July 2016, rev. March 2017), available at <http://www.oppaga.state.fl.us/MonitorDocs/Reports/pdf/1605rpt.pdf> (last visited May 5, 2017).

<sup>25</sup> Id.

<sup>26</sup> Id.

<sup>27</sup> *Supra*, FN 22.

<sup>28</sup> Pursuant to s. 464.004, F.S., the Board of Nursing is comprised of 13 members appointed by the Governor and confirmed by the Senate who serve 4-year terms. The Board is comprised of three licensed practical nurses who have practiced for at least four years, seven members who are registered nurses who have practiced for at least 4 years; three Florida residents who have never been licensed as nurses, are not connected to the practice of nursing, and have no financial interest in any health care facility, agency, or insurer; and seven members who are registered nurses who have practiced at least four years. Among the seven members who are registered nurses, there must be at least one must be an ARNP, one nurse educator of an approved program, and one nurse executive.

<sup>29</sup> E-mail correspondence with the Department of Health on February 2, 2017 (on file with the staff of the Health Innovation Subcommittee). This number includes all active licenses, including out-of-state practitioners.

<sup>30</sup> S. 464.003(3), F.S.

experience are appropriately performed by an ARNP.<sup>31</sup> In addition to advanced or specialized nursing practices, ARNPs are authorized to practice certain medical acts, as opposed to nursing acts, as authorized within the framework of an established supervisory physician's protocol.<sup>32</sup>

The BON establishes the eligibility criteria for an applicant to be certified as an ARNP and the applicable regulatory standards for ARNP nursing practices.<sup>33</sup> To be certified as an ARNP, the applicant must be licensed as a registered nurse, have a master's degree in a clinical nursing specialty area with preparation in specialized practitioner skills, and submit proof that the applicant holds a current national advanced practice certification from a board-approved nursing specialty board.<sup>34</sup> The nursing specialty board must:

- Attest to the competency of nurses in a clinical specialty area;
- Require nurses to take a written examination prior to certification;
- Require nurses to complete a formal program prior to eligibility for examination;
- Maintain program accreditation or a review mechanism that adheres to criteria which are substantially equivalent to requirements in Florida; and
- Identify standards or scope of practice statements appropriate for each nursing specialty.<sup>35</sup>

An ARNP must enter into a written supervisory protocol with a physician which is filed with the BON biennially with license renewal and within 30 days after entering into a supervisory relationship with a physician or changes to the protocol. Within the framework of the written protocol, an ARNP may:

- Prescribe, dispense, administer, or order any drug;<sup>36</sup>
- Initiate appropriate therapies for certain conditions;
- Perform additional functions as may be determined by board rule;
- Order diagnostic tests and physical and occupational therapy;
- Order any medication for administration to a patient in certain licensed health care facilities;
- Perform certain acts within his or her specialty; and
- Perform medical acts authorized within the framework of an established protocol.<sup>37</sup>

All nurses are required to complete at least 30 hours of continuing education biennially as a condition of license or certificate renewal.<sup>38</sup> As a part of these 30 hours, ARNPs must complete 3 hours of continuing education on the safe and effective prescription of controlled substances, offered by a statewide professional association of physicians in this state accredited to provide educational activities designated for the American Medical Association Physician's Recognition Award Category 1 credit, the American Nurses Credentialing Center, the American Association of Nurse Anesthetists, or the American Association of Nurse Practitioners.

### Pharmacists

Pharmacists are regulated under the Florida Pharmacy Act (act) in ch. 465, F.S. The Board of Pharmacy (board), within the Department of Health (DOH), has the authority to adopt rules to implement the provisions of ch. 465, F.S.<sup>39</sup> A pharmacist is a person who is licensed under the act to

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<sup>31</sup> S. 464.003(2), F.S.

<sup>32</sup> Id.

<sup>33</sup> S. 464.012(2), F.S.

<sup>34</sup> S. 464.012(1), F.S., and Rule 64B9-4.002, F.A.C.

<sup>35</sup> Rule 64B9-4.002(3), F.A.C.

<sup>36</sup> Controlled substances may only be prescribed or dispensed if the ARNP has graduated from a program leading to a master's or doctoral degree in a clinical specialty area with training in specialized practitioner skills.

<sup>37</sup> SS. 464.012(3),(4), and 464.003(2), F.S.

<sup>38</sup> S. 464.013(3), F.S.

<sup>39</sup> SS. 465.004 and 465.005, F.S.

practice the profession of pharmacy.<sup>40</sup> To be licensed as a pharmacist in Florida, a person must:

- Complete an application and remit an examination fee;
- Be at least 18 years of age;
- Have received a degree from an accredited and approved school or college of pharmacy; or be a graduate of a 4-year undergraduate pharmacy program of a school or college of pharmacy located outside the United States, demonstrate proficiency in English, pass the board-approved Foreign Pharmacy Graduate Equivalency Examination, and complete a minimum of 500 hours in a supervised work activity program within Florida under the supervision of a DOH-licensed pharmacist;
- Have completed a board-approved internship; and
- Successfully complete the board-approved examination.<sup>41</sup>

The practice of the profession of pharmacy includes:

- Compounding, dispensing, and consulting concerning contents, therapeutic values, and uses of any medicinal drug;
- Consulting concerning therapeutic values and interactions of patent or proprietary preparations;
- Monitoring a patient's drug therapy and assisting the patient in the management of his or her drug therapy, including the review of the patient's drug therapy and communication with the patient's prescribing health care provider or the provider's agent or other persons specifically authorized by the patient, regarding drug therapy;
- Transmitting information from persons authorized to prescribe medicinal drugs to their patients; and
- Administering immunizations and vaccines to adults.<sup>42</sup>

#### *Continuing Education Requirements*

For each biennial licensure period, a pharmacist must complete 30 hours of continuing education.<sup>43</sup> For the first renewal of licensure, a pharmacist must complete a 1-hour course on Human Immunodeficiency Virus and Acquired Immune Deficiency Syndrome and a 2-hour course on controlled substances.<sup>44</sup> A pharmacist who is certified to provide vaccines or administer epinephrine injections must complete a 3-hour course offered by a statewide professional association of physicians in this state accredited to provide educational activities designated for the American Medical Association Physician's Recognition Award (AMA PRA) Category 1 Credit, on the safe and effective administration of vaccines and epinephrine autoinjection as a part of his or her the continuing education requirements for biennial licensure renewal.

#### Orthotists and Prosthetists

The Board of Orthotists and Prosthetists<sup>45</sup> oversees the licensure and regulation of orthotists<sup>46</sup> and prosthetists.<sup>47</sup> A person applying for licensure must first apply to DOH to take the appropriate licensure

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<sup>40</sup> S. 465.003(10), F.S.

<sup>41</sup> S. 465.007, F.S. The DOH may also issue a license by endorsement to a pharmacist who is licensed in another state upon meeting the applicable requirements set forth in law and rule. See s. 465.0075, F.S.

<sup>42</sup> SS. 465.003(13) and 465.189, F.S. Pharmacists are expressly prohibited from altering a prescriber's directions, diagnosing or treating any disease, initiating drug therapies, or practicing medicine, unless otherwise permitted by law.

<sup>43</sup> S. 465.009(1), F.S.

<sup>44</sup> Rule 64B16-26, F.A.C.

<sup>45</sup> The Board of Orthotists and Prosthetists is composed of seven members appointed by the Governor and confirmed by the Senate. It is composed of two licensed prosthetists, one orthotist, two public members who are prosthetic or orthotic users who have no financial interest in prosthetics or orthotics, one physician, and one member who is licensed as an orthotist, orthotic fitter, or pedorthist.

<sup>46</sup> An orthotist is a health care professional who evaluates, formulates treatment, measures, designs, fabricates, assembles, fits, adjusts, services or provides necessary training to accomplish the fitting of an orthosis or pedorthics. (S. 486.80(9)-(10), F.S)

<sup>47</sup> An orthotist is a health care professional who evaluates, formulates treatment, measures, designs, fabricates, assembles, fits, adjusts, services or provides necessary training to accomplish the fitting of a prosthesis. (S. 486.80(15)-(16), F.S.)

examination. The board may accept the exam results of a national orthotic or prosthetic, standards organization in lieu of administering the state exam.<sup>48,49</sup> The board must verify that an applicant for licensure examination meets the following requirements:

- Has completed the application form and paid all applicable fees;
- Is of good moral character;
- Is 18 years of age or older;
- Has completed the appropriate educational preparation, including practical training requirements; and
- Has successfully completed an appropriate clinical internship in the professional area for which the license is sought.<sup>50</sup>

In addition to the requirements listed above, an applicant must meet the following requirements for each license he or she is seeking:

- A Bachelor of Science degree in Orthotics and Prosthetics from a regionally accredited college or university from an accredited college or university recognized by the Commission on Accreditation of Allied Health Education Programs, or a bachelor's degree with a certificate in orthotics or prosthetics from a program recognized by the Commission on Accreditation of Allied Health Education Programs, or its equivalent;
- An appropriate internship of one year of qualified experience or a residency program recognized by the board;
- Completion of the mandatory classes;<sup>51</sup> and
- Passage of the state orthotic examination or board-approved orthotic examination if applying for an orthotist license, or the state prosthetic examination or board-approved examination if applying for a prosthetist license.<sup>52</sup>

#### *Continuing Education Requirements*

At the time of licensure and for each biennial licensure period, an orthotist or prosthetist must complete several mandatory classes that serve to safeguard the welfare of the public.<sup>53</sup> The mandatory classes include two hours on Florida laws and rules, two hours on the prevention of medical errors, one hour on infection disease control, and a CPR certification course.<sup>54</sup> Orthotists and prosthetists find it difficult to find medical error courses that address the specific needs of their respective professions.

#### Physical Therapist Assistants

A physical therapist assistant (PTA) is an individual who performs patient-related activities, including the use of physical agents, under the direction of a physical therapist.<sup>55</sup> To be licensed as a PTA, an applicant must graduate from a school that provides at least a two-year course of study for the preparation of physical therapy assistants.<sup>56</sup> The course must be recognized by the appropriate accrediting agency recognized by the Commission on Recognition of Postsecondary Accreditation or

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<sup>48</sup> S. 468.803(4), F.S.

<sup>49</sup> The board has approved the American Board for Certification in Orthotics, Prosthetics, and Pedorthics (ABC) exam for orthotist and prosthetist applicants. (Rule 64B14-4.001, F.A.C.)

<sup>50</sup> S. 468.803(2), F.S.

<sup>51</sup> Pursuant to r. 64B14-5.005, F.A.C., mandatory courses include two hours on Florida laws and rules, two hours on the prevention of medical errors, one hour on infection disease control, and a CPR certification course.

<sup>52</sup> S. 468.803(5), F.S. Licenses must be renewed biennially.

<sup>53</sup> S. 468.806(3), F.S.

<sup>54</sup> Rule 64B14-5.005, F.A.C.

<sup>55</sup> S. 486.021, F.S. Patient-related activities performed by a PTA for a board-certified orthopedic physician, psychiatrist, or chiropractor are done so under the general supervision of a physical therapist and does not require onsite supervision. However, such activities performed for podiatrist or dentists must be done under the onsite supervision of the physical therapist.

<sup>56</sup> S. 486.102, F.S.



the United States Department of Education at the time of graduation. An applicant must also pass a board-approved examination to determine his or her fitness to practice.

In 2016, the Legislature repealed a provision that allowed PTA programs to be regionally accredited in an effort to standardize the programs in the state and ensure that graduates of such programs would meet the standards established by Medicare to provide services to its enrollees.<sup>57</sup> However, students enrolled in regionally accredited programs at the time of the repeal, or graduated shortly thereafter, are currently ineligible for licensure.

## **Effect of Proposed Changes**

### **Nursing Education Programs**

For a nursing education program applicant, the bill authorizes the Board of Nursing (BON) to perform an onsite inspection of the nursing education program to document the applicant's compliance with program requirements.

The bill amends the accountability requirements for nursing schools by:

- Including all first-time test takers in the calculation of the graduate passage rate, rather than including only those who are within six months of graduation;
- Eliminating a requirement that an approved program require a graduate who does not take the licensure examination within six months of graduation to complete a licensure examination preparatory course;
- Clarifying that the BON has the authority to extend a nursing education program's probationary status for another calendar year if, during the two calendar years following its placement on probationary status, it fails to achieve the required passage rate but has demonstrated progress toward meeting the graduate passage rate goal;
- Clarifying that the BON retains the authority to terminate a nursing education program if it declines to grant an extension of probationary status or if the program fails to achieve the required graduation passage rate at the end of any such extension;
- Authorizing the BON to terminate a program if the program director fails to appear before the BON to explain the reason for the delay in submitting the required annual report, or if the program fails to submit an annual report within six months after it is due; and
- Requiring a nursing education program, whether accredited or non-accredited, that is on probationary status to disclose the program's status, in a written format, to students and applicants.

The bill exempts accredited schools from the requirement to appear before the BON if they fail to timely submit the annual report.

The bill prohibits a nursing education program that is terminated or closed from seeking program approval under its original name or a new name for at least 3 years after the program is closed or terminated. If a nursing education program fails to meet the accreditation requirements, the program must be terminated and may not apply for reapproval under its original name or a new program name for at least 3 years after the program is terminated. A change in the institutional name or the establishment of a new educational institution having the same owners as a terminated or closed program does not reduce the 3-year waiting period for re-application.

The BON is authorized to adopt rules related to nursing curriculum, including the use of simulation technology and limitations on its use.

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<sup>57</sup> Chapter 2016-230, Laws of Fla.

The bill eliminates the annual reports due to the Governor and the Legislature from OPPAGA related to nursing education programs; however, the Florida Center for Nursing must continue to provide such reports until January 2020. Additionally, the Florida Center for Nursing must include in its annual report an assessment of the compliance of nursing programs that are required to be accredited. The bill repeals a requirement that OPPAGA perform the annual report duties assigned to the Florida Center for Nursing in any fiscal year in which the Florida Center for Nursing does not receive a legislative appropriation.

### Advanced Registered Nurse Practitioners

The bill deletes an obsolete provision of law that permitted a nurse to be certified as an ARNP if he or she completed a formal postbasic educational program of at least one academic year, the primary purpose of which is to prepare a nurse for advanced or specialized practice. Currently, to obtain certification as an ARNP in this state, an applicant must have a master's degree in a nursing clinical specialty area and hold a current national advanced practice certification from a board-approved nursing specialty board.<sup>58</sup> Due to the current graduate education and certification standards, the option to obtain certification as an ARNP by completing an additional postbasic educational program of at least one academic year is no longer in use.<sup>59</sup>

Under the bill, an ARNP would no longer be required to submit a copy of his or her supervisory protocol to the BON; but rather, must keep a copy of the written protocol at the location where he or she practices. The bill authorizes an ARNP who works with multiple physicians within the same group practice to have a single supervisory protocol with one physician within the group practice.

### Pharmacists

The bill authorizes a licensed pharmacist to administer an injection of a long-acting antipsychotic medication<sup>60</sup> approved by the United States Food and Drug Administration. The physician must provide a prescription for each injection administered by a pharmacist. To administer such injection, the pharmacist must:

- Be authorized by and acting within the framework of a protocol with the prescribing physician;
- Practice at a facility that accommodates privacy for nondeltoid injections and conforms with state rules and regulations for the appropriate and safe disposal of medication and medical waste,<sup>61</sup> and
- Complete an 8-hour continuing education course that:
  - Is jointly offered by:
    - A statewide professional association of physicians accredited to provide educational activities designated for the American Medical Association Physician's Recognition Award (AMA PRA) Category 1 Credit or the American Osteopathic Association (AOA) Category 1-A continuing medical education (CME) credit;<sup>62</sup> and
    - A statewide professional association of pharmacists.
  - Includes instruction on the safe and effective administration of behavioral health and antipsychotic medications by injection, including potential allergic reactions.

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<sup>58</sup> The bills provides that the proposed provision is effective after the Nurse Licensure Compact takes effect on December 31, 2018, or upon enactment of the Nurse Licensure Compact into law by 28 states, whichever occurs first.

<sup>59</sup> DOH, *Agency Legislative Bill Analysis for HB 543*, dated January 15, 2017, (on file with the Health and Human Services Committee).

<sup>60</sup> A long-acting injectable antipsychotic medication may be prescribed to treat symptoms of psychosis associated with schizophrenia and schizoaffective disorder and provided once or twice a month. It may be prescribed for individuals who have difficulty remembering to take daily medications or who have a history of discontinuing medication. National Alliance on Mental Illness, *Mental Health Medications*, available at <https://www.nami.org/Learn-More/Treatment/Mental-Health-Medications> (last visited May 5, 2017).

<sup>61</sup> S. 381.0098, F.S., and Rule 64E-16, F.A.C., regulate the disposal of biomedical waste.

<sup>62</sup> The Florida Medical Association and the Florida Osteopathic Medical Association appear to be the only physician associations fitting this description.

The required continuing education course may be offered in a distance learning format and is counted towards the 30 hours of continuing education required for licensure renewal.

### Orthotists and Prosthetists

The bill reduces the required continuing education course on medical errors from two hours to one hour.<sup>63</sup> The course must be approved by the Board of Orthotists and Prosthetists, be specifically developed for the field of orthotics and prosthetics, and include a study of root-cause analysis, error reduction and prevention, patient safety, and medical records.

### Physical Therapist Assistants

In 2016, the Legislature repealed a provision that allowed PTA programs to be regionally accredited and required all PTA programs to be accredited by an accrediting body recognized by the Commission on Recognition of Postsecondary Accreditation or the United States Department of Education. Due to the change in the accreditation requirements for PTA programs, an individual who was enrolled in a program that was regionally accredited at the time of enrollment is currently ineligible to be licensed as a PTA. The bill creates a pathway to licensure for certain individuals affected by the change in law. The bill authorizes DOH to license any applicant who was enrolled in any accredited physical therapist assistant program in this state, including regionally accredited programs, between July 1, 2014, and July 1, 2016, if the applicant graduates by July 1, 2018, and passes, to the satisfaction of the Board of Physical Therapy, an examination to determine his or her fitness to practice.

## **II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

### **A. FISCAL IMPACT ON STATE GOVERNMENT:**

#### 1. Revenues:

None.

#### 2. Expenditures:

DOH may experience a recurring increase in workload associated with conducting optional on-site evaluations of nursing education program applicants. The Board of Nursing anticipates on-site evaluations of applicants to be infrequent and current resources can absorb costs associated with these evaluations.<sup>64</sup>

DOH and the Board of Pharmacy may experience increased costs associated with the regulation of pharmacists authorized to perform injections of antipsychotic medications under the provisions of the bill.

### **B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

#### 1. Revenues:

None.

#### 2. Expenditures:

None.

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<sup>63</sup> S. 456.013(7), F.S., requires health care practitioners licensed by MQA must complete a two-hour course on the prevention of medical errors as a part of the biennial licensure renewal process.

<sup>64</sup> Email from Joe Baker, Board of Nursing Executive Director, on file with Health Care Appropriations Subcommittee staff (3/7/17).

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Nursing students that do not take the licensure exam within six months of graduation may realize cost savings by no longer being subject to a mandatory licensure examination preparatory course.

A nursing education program that is terminated or closed may incur costs or experience economic losses due to the 3-year waiting period imposed by the bill before it may reapply for approval.

Pharmacists who wish to qualify to perform injections of antipsychotic medications will have to pay for an 8-hour continuing education course. Professional associations that meet the qualifications to offer the 8-hour course will experience an increase in revenue for offering such courses. The Florida Medical Association and the Florida Osteopathic Medical Association appear to be the only statewide physician associations meeting the criteria to offer the course. The Florida Medical Association generally charges between \$50 and \$200 per credit hour;<sup>65</sup> therefore, the cost of an 8-hour course will likely range from \$400 to \$1,600.

The reduction from a 2-hour to a 1-hour continuing education course on medical errors for individuals licensed under the Board of Orthotics and Prosthetics may result in a cost savings for affected individuals.

D. FISCAL COMMENTS:

None.

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<sup>65</sup> E-mail correspondence with the Florida Medical Association dated May 12, 2017, (on file with Health Innovation Subcommittee).