

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/HB 7031      PCB HQS 19-01      Department of Health  
**SPONSOR(S):** Health & Human Services Committee, Health Quality Subcommittee, Rodriguez, Ana Maria  
**TIED BILLS:**            **IDEN./SIM. BILLS:** CS/SB 188

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Health Quality Subcommittee	14 Y, 0 N	Siples	McElroy
1) Health Care Appropriations Subcommittee	7 Y, 0 N	Mielke	Clark
2) Health & Human Services Committee	17 Y, 0 N, As CS	Siples	Calamas

### SUMMARY ANALYSIS

CS/HB 7031 makes numerous changes to programs under the Department of Health (DOH) and health care professions regulated by Medical Quality Assurance within DOH. The bill:

- Authorizes DOH to adopt rules to implement the Conrad 30 Waiver program;
- Authorizes DOH to request a date of birth on a licensure application;
- Requires physician assistants to report a designated supervising physician or change in such to DOH;
- Repeals a requirement that a Florida-licensed dentist grade the dental licensure examination and that a Florida-licensed dentist or dental hygienist grade the dental hygienist licensure examination;
- Requires dentists and dental hygienists to report adverse incidents to the Board of Dentistry;
- Requires DOH to biennially inspect dental laboratories;
- Repeals the voluntary registration of registered chiropractic assistants;
- Authorizes DOH to issue a single registration to a prosthetist-orthotist;
- Requires an athletic trainer to work within his or her scope of practice and revises licensure requirements;
- Limits massage therapy apprenticeships to those in colonic irrigations, and authorizes the Board of Massage Therapy to take action against a massage therapy establishment under certain circumstances;
- Updates the name of the accreditation body for psychology programs and revises psychology licensure requirements;
- Authorizes the Board of Clinical Social Work, Marriage and Family Therapists, and Mental Health Counseling to approve a one-time exception to the 60-month limit on an internship registration;
- Revises the licensure requirements for Marriage and Family Therapists and Licensed Mental Health Counselors;
- Extends the sunset date for Florida Center for Nursing annual reports on nursing education programs to January 30, 2025;
- Repeals the scheduled sunset of health access dental licenses; and
- Deletes obsolete language and makes technical and conforming changes.

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

The bill provides an effective date of July 1, 2019.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### Present Situation

##### Conrad 30 Waiver Program

Federal law requires a foreign physician pursuing graduate medical education or training in the United States to obtain a J-1 visa. A holder of a J-1 visa is ineligible to apply for an immigrant visa, permanent residence, or certain nonimmigrant statuses unless he or she has resided and been physically present in his or her country of nationality for at least two years after completion of the J-1 visa program.<sup>1</sup> However, the Conrad 30 Waiver program allows such foreign physicians to apply for a waiver of the two-year residency requirement upon the completion of the J-1 visa program. To be eligible for a Conrad 30 Waiver, the foreign physician must:<sup>2</sup>

- Obtain a contract for full-time employment at a health care facility in an area dedicated as a Health Professional Shortage Area, Medically Underserved Area, or Medically Underserved Population;
- Obtain a “no objection” letter from his or her home country if the home government funded his or her exchange program; and
- Agree to begin employment at the health care facility within 90 days of receipt of the waiver, no later than the date his or her J-1 visa expires.

A state may only be issued 30 waivers per year and each state may develop its own applications rules and guidelines. DOH does not currently have statutory authority to develop rules and guidelines for its Conrad 30 program.

Florida has sponsored 30 physicians each year for each of the last 10 years under the program.<sup>3</sup> More than 70 percent, or nearly 450 physicians have remained in practice in Florida since the inception of the Conrad 30 Waiver Program.<sup>4</sup> Currently, Florida approves these waivers on a first come basis.

##### Health Care Professional Licensure

The Division of Medical Quality Assurance (MQA), within the Department of Health (DOH), has general regulatory authority over health care practitioners.<sup>5</sup> MQA works in conjunction with 22 boards and 4 councils to license and regulate 7 types of health care facilities and more than 40 health care

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<sup>1</sup> Department of Homeland Security, U.S. Citizenship and Immigration Services, *Conrad 30 Waiver Program*, (last rev. May 5, 2014), available at <https://www.uscis.gov/working-united-states/students-and-exchange-visitors/conrad-30-waiver-program#Background> (last visited January 21, 2019).

<sup>2</sup> *Id.*

<sup>3</sup> Presentation by Jennifer Johnson, Division Director, Division of Public Health Statistics and Performance Management, Department of Health, before the Health Quality Subcommittee on January 23, 2019, available at <https://www.myfloridahouse.gov/Sections/Documents/loaddoc.aspx?PublicationType=Committees&CommitteeId=3021&Session=2019&DocumentType=Meeting%20Packets&FileName=hqs%201-23-19.pdf> (last visited January 24, 2019).

<sup>4</sup> *Id.*

<sup>5</sup> Pursuant to s. 456.001(4), F.S., health care practitioners are defined to include acupuncturists, physicians, physician assistants, chiropractors, podiatrists, naturopaths, dentists, dental hygienists, optometrists, nurses, nursing assistants, pharmacists, midwives, speech language pathologists, nursing home administrators, occupational therapists, respiratory therapists, dieticians, athletic trainers, orthotists, prosthetists, electrologists, massage therapists, clinical laboratory personnel, medical physicists, dispensers of optical devices or hearing aids, physical therapists, psychologists, social workers, counselors, and psychotherapists, among others.

professions.<sup>6</sup> Each profession is regulated by an individual practice act and by ch. 456, F.S., which provides general regulatory and licensure authority for MQA.

### *General Licensure Requirements*

There are general licensure provisions that apply to all licensure applications, regardless of profession. For example, all applicants for licensure must apply in writing on an application form approved by DOH or electronically on a web-based application form.<sup>7</sup> Additionally, an applicant must provide his or her social security number for identification purposes.<sup>8</sup> However, an applicant is not required to provide his or her date of birth as DOH is not currently authorized to collect this information.

### Board Certification of Physicians

Medical licensure of physicians sets the minimum competency requirements to diagnose and treat patients; it is not specialty specific.<sup>9</sup> Medical specialty certification is a voluntary process that gives a physician a way to develop and demonstrate expertise in a particular specialty or subspecialty.<sup>10</sup>

### *Board Certification and Florida Licensure*

DOH does not license a physician by specialty or subspecialty based upon board certification; however, ch. 458 and ch. 459, F.S., limit which physicians may hold themselves out as board-certified specialists. An allopathic physician licensed under ch. 458, F.S., may not hold himself or herself out as a board-certified specialist unless he or she has received formal recognition as a specialist from a specialty board of the American Board of Medical Specialties (ABMS) or other recognizing agency<sup>11</sup> approved by the allopathic board.<sup>12</sup>

Under Florida law, an allopathic physician may not hold himself or herself out as a board-certified specialist in dermatology unless the recognizing agency, whether authorized in statute or by rule, is triennially reviewed and reauthorized by the allopathic board.<sup>13</sup> Similarly, an osteopathic physician licensed under ch. 459, F.S., may not hold himself or herself out as a board-certified specialist unless he or she has successfully completed the requirements for certification by the AOA or the Accreditation Council on Graduate Medical Education (ACGME) and is certified as a specialist by a certifying agency<sup>14</sup> approved by the board.<sup>15</sup> These limitations on advertising are set out in rule 64B8-11.001, F.A.C. for allopathic physicians and rule 64B15-14.001, F.A.C., for osteopathic physicians.

### Chiropractic Assistants

There are two types of chiropractic assistants: certified and registered.<sup>16</sup> A certified chiropractic assistant is an allied health professional who, under supervision, performs tasks or a combination of tasks traditionally performed by a chiropractic physician.<sup>17</sup> A registered chiropractic assistant is a

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<sup>6</sup> Florida Department of Health, Division of Medical Quality Assurance, *Annual Report and Long-Range Plan, Fiscal Year 2017-2018*, available at <http://www.floridahealth.gov/licensing-and-regulation/reports-and-publications/annual-reports.html> (last visited January 21, 2019).

<sup>7</sup> Section 456.013, F.S. If an applicant does not have a social security number, DOH may issue a unique personal identification number to the applicant.

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

<sup>9</sup> American Board of Family Medicine, *What Does Board-Certified Mean?*, available at <https://www.theabfm.org/diplomate/certified.aspx> (last visited January 21, 2019).

<sup>10</sup> *Id.*

<sup>11</sup> The allopathic board has approved the specialty boards of the ABMS as recognizing agencies. Rule 64B8-11.001(1)(f), F.A.C.

<sup>12</sup> Section 458.3312, F.S.

<sup>13</sup> *Id.*

<sup>14</sup> The osteopathic board has approved the specialty boards of the ABMS and AOA as recognizing agencies. Rule 64B15-14.001(h), F.A.C.

<sup>15</sup> Section 459.0152, F.S.

<sup>16</sup> Sections 460.4165 and 460.4166, F.S.

<sup>17</sup> Rule 64B2-18(5), F.A.C.

professional, multi-skilled person dedicated to assisting in all aspects of chiropractic medical practice under the direct supervision of a chiropractic physician or certified chiropractic assistant.<sup>18</sup>

A registered chiropractic assistant voluntarily registers with the Board of Chiropractic Medicine.<sup>19</sup> There are no educational or eligibility standards set in statute or rule for such registration. However, a person who becomes a registered chiropractic assistant must adhere to ethical and legal standards of professional practice, recognize and respond to emergencies, and demonstrate professional characteristics.<sup>20</sup> A registered chiropractic assistant may:<sup>21</sup>

- Prepare patients for the chiropractic physician's care;
- Take vital signs;
- Observe and report patients' signs and symptoms;
- Administer basic first aid;
- Assist with patient examinations or treatments other than manipulations or adjustments;
- Operate office equipment;
- Collect routine laboratory specimens as directed by the chiropractic physician or certified chiropractic assistant;
- Administer nutritional supplements as directed by the chiropractic physician or certified chiropractic assistant; and
- Perform office procedures under the direct supervision of by the chiropractic physician or certified chiropractic assistant.

There are currently 3,387 registered chiropractic assistants.<sup>22</sup> DOH does not regulate the practice of registered chiropractic assistants.<sup>23</sup>

## Board of Nursing

### *Rulemaking Authority*

The Board of Nursing has authority to adopt rules to implement ch. 464, F.S., which regulates the practice of nursing in this state.<sup>24</sup> The Board of Nursing oversees the licensure and practice of certified nursing assistants, licensed practical nurses, registered nurses, and advanced registered nurse practitioners.

### *Certified Nursing Assistants*

Certified Nursing Assistants (CNAs) provide care and assist individuals with tasks relating to the activities of daily living, such as those associated with personal care, nutrition and hydration, maintaining mobility, toileting, safety and cleaning, end-of-life care, cardiopulmonary resuscitation and emergency care.<sup>25</sup> An applicant for certification as a CNA must complete an approved training program, pass a competency examination, and pass a background screening.<sup>26</sup> A CNA who is certified in another state, is listed on that state's CNA registry,<sup>27</sup> and has not been found to have committed abuse, neglect, or exploitation in that state, is eligible for certification by endorsement in Florida. However, a

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<sup>18</sup> Section 460.4166(1), F.S.

<sup>19</sup> Section 460.4166(3), F.S.

<sup>20</sup> *Supra* note 18.

<sup>21</sup> Section 460.4166, F.S.

<sup>22</sup> E-mail correspondence with DOH dated January 25, 2019, on file with the Health Quality Subcommittee.

<sup>23</sup> Department of Health, *2019 Agency Legislative Bill Analysis for House Bill 7031*, on file with the Health Quality Subcommittee.

<sup>24</sup> Section 464.006, F.S.

<sup>25</sup> Section 464.201(5), F.S.

<sup>26</sup> Section 464.203, F.S. See also Department of Health, Board of Nursing, *Certified Nursing Assistant (CNA) by Examination*, available at <http://floridasnursing.gov/licensing/certified-nursing-assistant-examination/> (last visited January 21, 2019). An applicant who fails the competency examination 3 times, may not take the exam again until he or she completes an approved training program.

<sup>27</sup> A CNA Registry is a listing of CNAs who received certification and maintain an active certification. (Rule 64B9-15.004, F.A.C.)

CNA from a territory of the United States or the District of Columbia, is not eligible for certification by endorsement.

The Board of Nursing may discipline a CNA for two violations:<sup>28</sup>

- Obtaining or attempting to obtain certification or an exemption, or possessing or attempting to possess certification or letter of exemption, by bribery, misrepresentation, deceit, or through an error of the board; or
- Intentionally violating any provision of ch. 464, F.S., the practice act for nursing professions, ch. 456, F.S., the general licensing act, or the rules adopted by the Board of Nursing.

When seeking to discipline a CNA for violating the nurse practice act, the general licensing act, or a rule adopted thereunder, the Board of Nursing must prove that such violation is intentional. Therefore, if the Board of Nursing cannot prove intent or if a CNA acts negligently, the Board of Nursing is unable to discipline the CNA.

### Florida Center for Nursing

The Florida Center for Nursing (center) was created in 2001<sup>29</sup> to address the issues of supply and demand for nursing, including issues of recruitment, retention, and utilization of nurse workforce issues. The center collects and analyzes nursing workforce data, develops and disseminates a strategic plan for nursing, develops and implements reward and recognition activities for nurses, and promotes nursing excellence programs, image building, and recruit into the profession.<sup>30</sup>

In 2009, the Legislature created a statutory framework for approving nursing education programs, which was revised in 2010 and 2014.<sup>31</sup> In 2014, the Legislature directed the center and the Office of Program Policy Analysis and Government Accountability (OPPAGA) to produce an annual report to the Governor and Legislature on nursing education programs until January 2020.<sup>32</sup> In 2017, the report became the sole responsibility of the center.<sup>33</sup>

The annual report includes data and measurements on:<sup>34</sup>

- The number of programs and slots available;
- The number of applications, qualified applicants, and accepted students;
- The number of program graduates;
- Program retention rates;
- Graduate passage rates on the National Council of State Boards of Nursing Licensure Examination;
- The number of graduates who become employed in the state; and
- The programs progress in meeting accreditation requirements.

The report also evaluates the Board of Nursing's implementation of the program approval process and accountability processes.<sup>35</sup>

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<sup>28</sup> Section 464.204, F.S.

<sup>29</sup> Chapter 2001-277, L.O.F., codified at s. 466.0195, F.S.

<sup>30</sup> Id. See also, Florida Center for Nursing, *Our History*, available at <https://www.flcenterfornursing.org/AboutUs/OurHistory.aspx> (last visited March 14, 2019).

<sup>31</sup> Chapters 2009-168, 2010-37, and 2014-92, L.O.F., respectively.

<sup>32</sup> Chapter 2014-92, L.O.F.

<sup>33</sup> Chapter 2017-134, L.O.F.

<sup>34</sup> Section 464.019(10), F.S.

<sup>35</sup> Id.

## Dentistry

### *Examination for Licensure*

Any person wishing to practice dentistry in this state must apply to DOH and meet specified requirements. Section 466.006, F.S., requires dentistry licensure applicants to sit for and pass the following licensure examinations:

- The National Board of Dental Examiners dental examination (NBDE);
- A written examination on Florida laws and rules regulating the practice of dentistry; and
- A practical examination, which is the American Dental Licensing Examination developed by the American Board of Dental Examiners, Inc., and graded by a Florida-licensed dentist employed by DOH for such purpose.<sup>36</sup>

To qualify to take the Florida dental licensure examination, an applicant must be 18 years of age or older, be a graduate of a dental school accredited by the American Dental Association Commission on Dental Accreditation (CODA) or be a student in the final year of a program at an accredited institution, and have successfully completed the NBDE dental examination.<sup>37</sup> If the applicant is not a graduate of a CODA-accredited program, the applicant must demonstrate that he or she holds a degree from an accredited American dental school or has completed two years at a full-time supplemental general dentistry program accredited by CODA.<sup>38</sup> DOH indicates that there is confusion on whether these programs may include specialty or advanced education programs.<sup>39</sup>

Any person wishing to be licensed as a dental hygienist must apply to DOH and meet the following qualifications:<sup>40</sup>

- Be 18 years of age or older;
- Be a graduate of an accredited dental hygiene college or school,<sup>41</sup> and
- Obtain a passing score on the:
  - Dental Hygiene National Board Examination;
  - Dental Hygiene Licensing Examination developed by the American Board of Dental Examiners, Inc., which is graded by a Florida-licensed dentist or dental hygienist employed by DOH for such purpose; and
  - A written examination on Florida laws and rules regulating the practice of dental hygiene.

According to DOH, limiting the grading to Florida-licensed dentists and dental hygienists has created a shortage of dentists and dental hygienists available to grade the examinations.<sup>42</sup>

### *Health Access Dental Licenses*

The health access dental license was established in 2008 to attract out-of-state dentists to practice in underserved health access settings<sup>43</sup> in this state, without supervision.<sup>44</sup> In Fiscal Year 2017-2018, the Board of Dentistry issued 58 health access dental licenses.<sup>45</sup>

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<sup>36</sup> A passing score is valid for 365 days after the date the official examination results are published. A passing score on an examination obtained in another jurisdiction must be completed on or after October 1, 2011.

<sup>37</sup> Section 466.006(2), F.S.

<sup>38</sup> Section 466.006(3), F.S.

<sup>39</sup> *Supra* note 23 at p. 3.

<sup>40</sup> Section 466.007, F.S.

<sup>41</sup> If the school is not accredited, the applicant must have completed a minimum of 4 years of postsecondary dental education and received a dental school diploma, which must be reviewed and approved by the Board of Dentistry.

<sup>42</sup> *Supra* note 23 at p. 4.

<sup>43</sup> Section 466.003(14), F.S., defines "health access setting" as a program or institution operated by the Department of Children and Families, Department of Health, Department of Juvenile Justice, a nonprofit health care center, a Head Start center, a federally-

With this license, a dentist who holds a valid, active license in good state issued by another state, the District of Columbia, or a U.S. territory may practice in a health access setting if the dentist:<sup>46</sup>

- Applies to the Board of Dentistry and pays the appropriate fee;
- Has not been convicted of or pled nolo contendere to, regardless of adjudication, any felony or misdemeanor related to the practice of a health care profession;
- Submits proof of graduation from an accredited dental school;
- Submits documentation that the dentist has completed, or will obtain prior to licensure, continuing education equivalent to Florida's requirement for dentists for the last full reporting biennium;
- Submits proof of successful passage of parts I and II of the National Board of Dental Examiners and a state or regional clinical dental examination approved by the Board of Dentistry;
- Has never had a license revoked in another state, the District of Columbia, or a U.S. territory;
- Has never failed the Florida dental licensing examination, unless the dentist was reexamined and received a license to practice in Florida;
- Has not been reported to the National Practitioner Data Bank, unless the applicant successfully appealed to have his or her name removed from the databank; and
- Submits proof that he or she has been actively engaged in the clinical practice of dentistry providing direct patient care for the five years immediately preceding application, or proof of continuous clinical practice providing direct patient care since graduation if the applicant graduated less than 5 years from his or her application.

Health access dental licenses must be renewed biennially<sup>47</sup>. A licensee must meet the same continuing education requirements as a Florida-licensed dentists.<sup>48</sup> Additionally, a licensee must continue to meet all the requirements met for initial license.<sup>49</sup>

The Board of Dentistry may revoke a health access dental license if the licensee is terminated from employment at the health access setting, practices outside of the health access setting, fails the Florida dental examination, or is found to have violated the Dental Practice Act, other than a minor violation or a citation offense.<sup>50</sup>

The program is scheduled for repeal effective January 1, 2020, unless reenacted by the Legislature.<sup>51</sup>

### *Adverse Incident Reporting*

Dentists and dental hygienists certified by DOH to administer anesthesia must report, in writing, any adverse incident that occurs to the Board of Dentistry within 48 hours by registered mail.<sup>52</sup> An adverse incident in an office setting is defined as any mortality that occurs during or as the result of a dental procedure, or an incident that results in a temporary or permanent physical or mental injury the requires hospitalization or emergency room treatment of a patient as a direct result of the use of general

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qualified health center or a lookalike, a school-based prevention program, a clinic operated by an accredited college of dentistry, or certain accredited dental hygiene program.

<sup>44</sup> Chapter 2008-64, L.O.F., codified at s. 466.0067, F.S.

<sup>45</sup> E-mail correspondence with the Department of Health, dated January 7, 2019, (on file with the Health and Human Services Committee).

<sup>46</sup> Section 466.0067, F.S.

<sup>47</sup> Section 466.00671, F.S.

<sup>48</sup> Id.

<sup>49</sup> Id.

<sup>50</sup> Section 466.00672, F.S.

<sup>51</sup> Section 466.00673, F.S.

<sup>52</sup> Rule 64B5-14.006, F.A.C.

anesthesia,<sup>53</sup> deep sedation,<sup>54</sup> moderate sedation,<sup>55</sup> pediatric moderate sedation,<sup>56</sup> minimal sedation,<sup>57</sup> nitrous oxide,<sup>58</sup> or local anesthesia.<sup>59</sup> The dentist must file a complete written report with the Board of Dentistry within 30 days.<sup>60</sup> Since 2014, 32 adverse incident reports have been filed with DOH and of these, two cases are still under investigation and the remaining cases were closed without discipline.<sup>61</sup>

Allopathic and osteopathic physicians are statutorily required to report adverse incidents in office practice settings.<sup>62</sup> Although required by rule, there is no statutory requirement that dentists or dental hygienists report adverse incidents that occur in the office practice settings.

### *Dental Laboratories*

A dental laboratory is a facility that supplies or manufactures artificial substitutes for natural teeth, or that furnishes, supplies, constructs, reproduces, or repairs a prosthetic denture, bridge, or appliance to be worn in the human mouth or that otherwise holds itself out as a dental laboratory.<sup>63</sup> Dental laboratories must biennially register with DOH, and the owner or at least one employee must complete 18 hours on continuing education each biennium.<sup>64</sup> A dental laboratory must:<sup>65</sup>

- Maintain and make available to DOH a copy of the laboratory's registration;
- Be clean and in good repair;
- Properly dispose of all waste materials at the end of each day in accordance with local restrictions;
- Maintain the original or a copy of a prescription from a dentist for each appliance or artificial restorative oral device authorizing its construction or repair for 4 years;
- Maintain a written policy and procedure manual on sanitation; and
- Have a designated receiving area.

A dental laboratory may not have dental chairs, x-ray machines, or anesthetics, sedatives, or medicinal drugs.<sup>66</sup> A dental laboratory may not solicit or advertise to the general public.<sup>67</sup>

DOH inspects dental laboratories at least once each year, and such inspections may occur with or without notice.<sup>68</sup>

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<sup>53</sup> General anesthesia is a controlled state of unconsciousness, produced by a pharmacologic agent, accompanied by a partial or complete loss of protective reflexes, including inability to independently maintain an airway and respond purposefully to physical stimulation or verbal command. (Rule 64B5-14.001(2), F.A.C.)

<sup>54</sup> Deep sedation is a controlled state of depressed consciousness accompanied by partial loss of protective reflexes, including either or both the inability to continually maintain an airway independently or to respond appropriately to physical stimulation or verbal command, produced by pharmacologic or non-pharmacologic method or combination thereof. (Rule 64B5-14.001(3), F.A.C.)

<sup>55</sup> Moderate sedation is a depressed level of consciousness produced by the administration of pharmacologic substances, that retains the patient's ability to independently and continuously maintain an airway and respond appropriately to physical stimulation and verbal command. (Rule 64B5-14.001(4), F.A.C.)

<sup>56</sup> Pediatric moderate sedation is a depressed level of consciousness produced by the administration of pharmacologic substances, that retains a child patient's ability to independently and continuously maintain an airway and respond appropriately to physical stimulation or verbal command. (Rule 64B5-14.001(5), F.A.C.)

<sup>57</sup> Minimal sedation involves the perioperative use of medication to relieve anxiety before or during a dental procedure and does not produce a depressed level of consciousness and maintains the patient's ability to maintain an airway independently and to respond appropriately to physical and verbal stimulation. (Rule 64B5-14.001(10), F.A.C.)

<sup>58</sup> The use of nitrous oxide produces an altered level of consciousness that retains the patient's ability to independently and continuously maintain an airway and respond appropriately to physical stimulation or verbal command. (Rule 64B5-14.001(6), F.A.C.)

<sup>59</sup> Local anesthesia involves the loss of sensation of pain in a specific area of the body. (Rule 64B5-14.001(7), F.A.C.)

<sup>60</sup> *Supra* note 52.

<sup>61</sup> E-mail correspondence with the Department of Health, dated January 25, 2019 (on file with the Health Quality Subcommittee).

<sup>62</sup> See ss. 458.351 and 459.026, F.S.

<sup>63</sup> Section 466.031, F.S.

<sup>64</sup> Section 466.032, F.S. However, dental laboratories that are located in another state or country that provides services to a Florida-licensed dentist is not required to register with the state and may provide services to a dentist in this state.

<sup>65</sup> Rule 64B27-1.001, F.A.C.

<sup>66</sup> *Id.* Personal prescriptions are permissible.

<sup>67</sup> Section 466.035, F.S.

<sup>68</sup> Rule 64B27-1.001(1), F.S.

## Athletic Trainers

Athletic trainers provide service and care to individuals related to the prevention, recognition, evaluation, management, disposition, treatment, or rehabilitation of a physically active person who sustained an injury, illness, or other condition involving exercise, sport, recreation, or related physical activity.<sup>69</sup> To be licensed as an athletic trainer, an applicant must:<sup>70</sup>

- Hold a bachelor's degree or higher from an accredited athletic training degree program and pass the national examination to be certified by the Board of Certification;<sup>71</sup>
- If graduated before 2004, hold a current certification from the Board of Certification;
- Hold a current certification in both cardiopulmonary resuscitation and the use of an automated external defibrillator at the professional rescue level; and
- Pass a background screening.

Prior to 2004, athletic trainers could obtain training through a Board of Certification internship program to qualify for licensure.<sup>72</sup> Current law does not allow applicants who completed such an internship prior to 2004 to qualify for licensure.

An athletic trainer must renew his or her license biennially. During each biennial renewal period, an athletic trainer must complete at least 24 hours of continuing education, hold a current certification in both cardiopulmonary resuscitation and the use of an automated external defibrillator, and a current certification from the Board of Certification.<sup>73</sup> Although licensees must show current certification from the Board of Certification, there is no statutory requirement that a licensee maintain such certification without lapse and in good standing.

An athletic trainer must practice under the direction of an allopathic, osteopathic, or chiropractic physician,<sup>74</sup> and may provide care such as:<sup>75</sup>

- Injury prevention, recognition, and evaluation;
- First aid and emergency care;
- Injury management and treatment;
- Rehabilitation through the use of safe and appropriate physical rehabilitation practices;
- Conditioning;
- Performance of tests and measurements to prevent, evaluate, and monitor acute and chronic injuries;
- Therapeutic exercises;
- Massage;
- Cryotherapy and thermotherapy;
- Therapy using other agents such as water, electricity, light, or sound; and
- The application of topical prescription medications at the direction of a physician.

The physician must communicate his or her direction through oral or written prescriptions or protocols, and the athletic trainer must provide service or care in the manner dictated by the physician.<sup>76</sup> A licensed athletic trainer may not provide, offer to provide, or represent that he or she is qualified to

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<sup>69</sup> Section 468.701(2), F.S.

<sup>70</sup> Section 468.707, F.S.

<sup>71</sup> The Board of Certification is a not-for-profit credentialing agency to provide a certification program for the entry level athletic training profession. See Board of Certification for the Athletic Trainer, *What is the BOC?*, available at <http://www.bocatc.org/about-us#what-is-the-boc> (last visited January 21, 2019).

<sup>72</sup> *Supra* note 23 at p. 4.

<sup>73</sup> Section 468.711, F.S.

<sup>74</sup> Section 468.713, F.S.

<sup>75</sup> Rule 64B33-4.001, F.A.C.

<sup>76</sup> *Supra* note 74.

provide any care or service that he or she lacks the education, training, or experience to provide, or that he or she is otherwise prohibited by law from providing.<sup>77</sup>

## Orthotists and Prosthetists

The Board of Orthotists and Prosthetists oversees the licensure and regulation of orthotists<sup>78</sup> and prosthetists.<sup>79</sup> A person applying for licensure must first apply to DOH to take the appropriate licensure examination. The board may accept the exam results of a national orthotic or prosthetic, standards organization in lieu of administering the state exam.<sup>80</sup> The board must verify that an applicant for licensure examination meets the following requirements:<sup>81</sup>

- 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.

In addition to the requirements listed above, an applicant must meet the following requirements for each license he or she is seeking:<sup>82</sup>

- 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 internship of one year of qualified experience or a residency program recognized by the board;
- Completion of the mandatory classes;<sup>83</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.

Currently, a person who qualifies to be registered as both an orthotist and a prosthetist must obtain two separate registrations.

## Massage Therapy

### *Massage Establishments*

The "Massage Practice Act" (Act), governs the practice of massage in Florida.<sup>84</sup> A significant portion of the Act is dedicated to regulating massage establishments, which are sites or premises, or portion

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<sup>77</sup> Section 468.701(1), F.S.

<sup>78</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. 468.80(9)-(10), F.S.)

<sup>79</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. 468.80(15)-(16), F.S.)

<sup>80</sup> Section 468.803(4), F.S. The Board has approved the American Board for Certification in Orthotics, Prosthetics, and Pedorthics (ABC) exam for orthotist and prosthetist applicants (r. 64B14-4.001, F.A.C.)

<sup>81</sup> Section 468.803(2), F.S.

<sup>82</sup> Section 468.803(5), F.S. Licenses must be renewed biennially.

<sup>83</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>84</sup> Chapter 480, F.S.

thereof, wherein a massage therapist practices massage.<sup>85</sup> Massage establishments must be licensed by DOH in accordance with rules adopted by Board of Massage Therapy.<sup>86</sup> A massage establishment must.<sup>87</sup>

- Have all individuals with an ownership interest, or for a corporation with more than \$250,000 in assets, the owner, officer, or management pass a background screening;
- Provide proof of property damage and bodily injury liability insurance coverage;
- Comply with local building code requirements;
- Provide a bathroom with at least one toilet and one sink with running water for its clients to use;
- Maintain toilet facilities in the common area of the establishment;
- Have a massage therapist on the premises if a client is in a treatment room for the purpose of receiving massage therapy;
- Maintain certain safety and sanitary requirements; and
- Pass initial and periodic inspections by DOH.

DOH must deny an application for a license or renewal of a license if a person with an ownership interest or is an officer, manager, or owner of a corporation has been convicted or found guilty of, or entered a plea of nolo contendere to a crime related to prostitution or a felony offense related to certain other crimes, such as human trafficking or kidnapping.<sup>88</sup>

The Board of Massage Therapy may revoke or suspend the license of a massage establishment, or deny the subsequent license of a massage establishment:<sup>89</sup>

- Upon proof that a license has been obtained by fraud or misrepresentation; or
- Upon proof that the licenseholder is guilty of proof, fraud, deceit, gross negligence, incompetency, or misconduct in the operation of the licensed establishment.

Although the current law allows the Board of Massage to deny the subsequent licensure of the same establishment, it does not authorize the denial of a subsequent license to the same owner under a new name, even if it is being opened in the same location with the same employees.

### *Massage Therapists*

To be licensed as a massage therapist, an applicant must:<sup>90</sup>

- Be at least 18 years of age or have received a high school diploma or graduate equivalency diploma;
- Complete a course of study at a board-approved massage school or apprentice program;
- Pass an examination; and
- Pass a background screening.

In the 2016-2017 fiscal year, 2,918 individuals were granted licensure by examination, 12 of which qualified for licensure by completing an approved Florida apprenticeship program.<sup>91</sup> Massage therapy education has become more formalized and massage therapists are trained in licensed massage schools. Florida is one of a very small number of states that continue to allow apprenticeship as an

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<sup>85</sup> Section 480.033(7), F.S.

<sup>86</sup> Section 480.043, F.S. Registration requirements do not apply to an allopathic, osteopathic, or chiropractic physician who employs a licensed massage therapist to perform massage on the physician's patients at the physician's practice location.

<sup>87</sup> Id. and r. 64B7-26.003, F.A.C.

<sup>88</sup> Section 480.043(8), F.S.

<sup>89</sup> Section 480.046(3), F.S.

<sup>90</sup> Section 480.041, F.S. DOH must deny an application if the applicant has been convicted or found guilty of, or entered a plea of nolo contendere to a crime related to prostitution or a felony offense related to certain other crimes.

<sup>91</sup> *Supra* note 22.

acceptable course of study for licensure as a massage therapists.<sup>92</sup> Currently, there are 63 active licensed massage apprentices.<sup>93</sup>

### Colonic Irrigation Apprenticeship Programs

A massage therapist, a massage apprentice, or a student in a board-approved massage therapy school may study colonic irrigation<sup>94</sup> under the direct supervision of a sponsor.<sup>95</sup> The sponsor must be licensed to practice massage, authorized to practice colonic irrigation, and have practiced colonic irrigation for at least 3 years.<sup>96</sup> The apprenticeship must be completed within 12 months of commencement<sup>97</sup> and must consist of a minimum of 100 hours of training, including 45 hours of clinical practicum with a minimum of 20 treatments given.<sup>98</sup> There are few schools in Florida that offer a colonic irrigation program so apprenticeships are the primary method of training.

### Psychologists

#### *Licensure Requirements*

The Board of Psychology oversees the licensure and regulation of psychologists.<sup>99</sup> To receive a license to practice psychology, an individual must:<sup>100</sup>

- Meet one of the following educational requirements:
  - Received a doctoral-level psychological education from an accredited school in the United States or Canada and a psychology program within that institution that is accredited from an agency recognized and approved by the U.S. Department of Education;<sup>101</sup>
  - Received the equivalent of a doctoral-level education from a program at a school or university located outside of the United States or Canada, which is officially recognized by the government of the country in which it is located as a program or institution to train students to practice professional psychology;
  - Received and submitted, prior to July 1, 1999, certification of an augmented doctoral-level psychological education from a doctoral-level psychology program accredited by an agency recognized and approved by the U.S. Department of Education; or
  - Received and submitted, prior to August 31, 2001, certification of a doctoral-level program that at the time the applicant was enrolled and graduated maintained a standard of education and training comparable to the standard of training of a doctoral-level psychology program accredited by an agency recognized and approved by the U.S. Department of Education;
- Complete 2 years or 4,000 hours of supervised experience;
- Pass the Examination for Professional Practice in Psychology;<sup>102</sup> and
- Pass an examination on Florida laws and rules.

The American Psychological Association (APA) is recognized by the U.S. Department of Education and the Council for Higher Education Accreditation as the national accrediting authority for professional education and training in psychology.<sup>103</sup> The APA no longer accredits programs in Canada.<sup>104</sup>

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<sup>92</sup> Id.

<sup>93</sup> *Supra* note 23 at p. 5.

<sup>94</sup> Colonic irrigation is a method of hydrotherapy used to cleanse the colon with the aid of a mechanical device and water (s. 480.033(6), F.S.).

<sup>95</sup> Rule 64B7-29.001, F.A.C.

<sup>96</sup> Id.

<sup>97</sup> Rule 64B7-29.007, F.A.C.

<sup>98</sup> Rule 64B7-25.001, F.A.C.

<sup>99</sup> Section 490.004, F.S.

<sup>100</sup> Section 490.005(1), F.S.

<sup>101</sup> Section 490.003(3), F.S., defines doctoral-level education as a Psy.D, an Ed.D., or a Ph.D in psychology.

<sup>102</sup> Rule 64B19-11.001, F.A.C.

An applicant who holds an active, valid license in another state may also qualify for licensure in this state if at the time the license was issued, the requirements were substantially equivalent to or more stringent than those in Florida at that time.<sup>105</sup> Such individuals must have 20 years of experience as a licensed psychologist in any jurisdiction of the U.S. within the 25 years preceding the date of application. DOH indicates that under this standard, a law-to-law comparison is difficult and applicants who may otherwise qualify for licensure may be denied.<sup>106</sup>

### School Psychologists

To be licensed as a school psychologist, an applicant must:<sup>107</sup>

- Hold a doctorate, specialist, or equivalent degree from a program primarily psychological in nature and have completed 60 semester hours or 90 quarter hours of graduate study in an area related to school psychology from a college or university which at the time the applicant was enrolled and graduated was accredited by an accrediting agency recognized and approved by the Commission on Recognition of Postsecondary Accreditation or an institution recognized as a member in good standing with the Association of Universities and Colleges of Canada;
- Have a minimum of 3 years of experience in school psychology, 2 of which must be supervised by a licensed school psychologist or other qualified school psychologist supervisor; and
- Pass the PRAXIS II School Psychology examination.<sup>108</sup>

The Commission on Recognition of Postsecondary Accreditation was dissolved in 1997, and its successor organization is the Council on Higher Education Accreditation.<sup>109</sup> The Association of Universities and Colleges of Canada changed its name to Universities Canada.<sup>110</sup>

### Clinical Social Work, Marriage and Family Therapy, and Mental Health Counseling

#### *Intern Registration*

To be licensed as a clinical social worker, marriage and family therapist, or mental health counselor, an applicant must meet educational requirements, complete at least 2 years of postgraduate or postmaster's clinical practice supervised by a licensed practitioner, and pass a theory and practice examination.<sup>111</sup> During the time in which an applicant is completing the required supervised clinical experience or internship, he or she must register with the DOH as an intern.<sup>112</sup> The supervised clinical experience may be met by providing at least 1,500 hours of face-to-face psychotherapy with clients, which may not be accrued in less than 100 weeks.<sup>113</sup>

An applicant seeking registration as an intern must:<sup>114</sup>

- Submit a completed application form and the nonrefundable fee to the DOH;

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<sup>103</sup> American Psychological Association, *Understanding APA Accreditation*, available at <http://www.apa.org/ed/accreditation/about/index.aspx> (last visited January 21, 2019).

<sup>104</sup> *Supra* note 23 at p. 6.

<sup>105</sup> Section 490.006, F.S.

<sup>106</sup> *Supra* note 23 at p. 6..

<sup>107</sup> Section 490.005(2), F.S.

<sup>108</sup> Department of Health, *School Psychology Licensing*, available at <http://www.floridahealth.gov/licensing-and-regulation/school-psychology/licensing/index.html> (last visited January 21, 2019).

<sup>109</sup> U.S. Department of Education, *Accreditation in the U.S.*, available at <https://www2.ed.gov/admins/finaid/accred/accredus.html> (last visited January 21, 2019).

<sup>110</sup> Universities Canada, *About Us*, available at <https://www.univcan.ca/about-us/> (last visited January 21, 2019).

<sup>111</sup> Section 491.005, F.S. A procedure for licensure by endorsement is provided in s. 491.006, F.S.

<sup>112</sup> Section 491.0045, F.S.

<sup>113</sup> Rule 64B4-2.001, F.A.C.

<sup>114</sup> Section 491.0045(2), F.S.

- Complete education requirements;
- Submit an acceptable supervision plan for meeting the practicum, internship, or field work required for licensure that was not satisfied by graduate studies; and
- Identify a qualified supervisor.

An intern registration expires 60 months after the date of issue and may only be renewed if the candidate has passed the theory and practice examination required for full licensure.<sup>115</sup> DOH has no authority to extend an intern registration beyond the 60 months if there are extenuating circumstances.

### *Marriage and Family Therapists*

Marriage and family therapy incorporates marriage and family therapy, psychotherapy, hypnotherapy, sex therapy, counseling, behavior modification, consultation, client-centered advocacy, crisis intervention, and the provision of needed information and education to clients.<sup>116</sup> An applicant seeking licensure as a mental health counselor must:<sup>117</sup>

- Possess a master's degree from an accredited program;
- Complete 36 semester hours of graduate coursework that includes a minimum of 3 semester hours of graduate-level coursework in:
  - The dynamics of marriage and family systems;
  - Marriage therapy and counseling theory;
  - Family therapy and counseling theory and techniques;
  - Individual human development theories throughout the life cycle;
  - Personality or general counseling theory and techniques;
  - Psychosocial theory; and
  - Substance abuse theory and counseling techniques.
- Complete at least one graduate level course of 3 semester hours in legal, ethical, and professional standards;
- Complete at least one graduate level course of 3 semester hours in diagnosis, appraisal, assessment, and testing for individual or interpersonal disorder or dysfunction;
- Complete at least one graduate level course of 3 semester hours in behavioral research;
- Complete at least one supervised clinical practicum, internship, or field experience in a marriage and family counseling setting, during which the student provided 180 direct client contact hours of marriage and family therapy services;
- Complete two years of post-master's supervised experience under the supervision of a licensed marriage and family therapist with five years of experience or the equivalent who is qualified as a supervisor by board;
- Pass a board-approved examination; and
- Demonstrate knowledge of laws and rules governing the practice.

DOH must verify that an applicant's education matches the specified courses and hours as outlined in statute. However, there are organizations that accredit marriage and family therapy education programs, including the Commission on Accreditation for Marriage and Family Therapy Education and the Council for the Accreditation of Counseling and Related Educational Programs that establish the minimum standards to meet the requirements to practice the profession.<sup>118</sup>

<sup>115</sup> Section 491.0045(6), F.S.

<sup>116</sup> *Id.*

<sup>117</sup> Section 491.005(3), F.S. An individual may qualify for a dual license in marriage and family therapy if he or she passes an examination in marriage and family therapy and has held an active license for at least three years as a psychologist, clinical social worker, mental health counselor, or advanced registered nurse practitioner who is determined by the Board of Nursing to be a specialist in psychiatric mental health (s. 491.0057, F.S.)

<sup>118</sup> See Commission on Accreditation for Marriage and Family Therapy Education, *What Are the Benefits of COAMFTE Accreditation*, available at [https://www.coamfte.org/COAMFTE/Accreditation/About\\_Accreditation.aspx](https://www.coamfte.org/COAMFTE/Accreditation/About_Accreditation.aspx) (last visited January 21, 2019), and Council for the Accreditation of Counseling and Related Educational Programs, *Why Should I Choose an Accredited Program?*, available at <http://www.cacrep.org/value-of-accreditation/why-should-i-choose-an-accredited-program/> (last visited January 21, 2019).

## *Mental Health Counselors*

A mental health counselor is an individual who uses scientific and applied behavioral science theories, methods, and techniques to describe, prevent, and treat undesired behavior and enhance mental health and human development and is based on research and theory in personality, family, group, and organizational dynamics and development, career planning, cultural diversity, human growth and development, human sexuality, normal and abnormal behavior, psychopathology, psychotherapy, and rehabilitation.<sup>119</sup> To qualify for licensure as a mental health counselor, an individual must:<sup>120</sup>

- Have a master's degree from a mental health counseling program accredited by the Council of the Accreditation of Counseling and Related Educational Programs, or a program related to the practice of mental health counseling that includes coursework and a 1,000-hour practicum, internship, or fieldwork of at least 60 semester hours that meet certain requirements;
- Have at least two years of post-master's supervised clinical experience in mental health counseling;
- Pass an examination from the Professional Examination Service for the National Academy of Certified Clinical Mental Health Counselors; and
- Pass an eight-hour course on Florida laws and rules approved by the Board of Clinical Social Work, Marriage and Family Therapy, and Mental Health Counseling.<sup>121</sup>

Currently, an applicant for a mental health counselor license must, by rule, pass the National Clinical Mental Health Counseling Examination. Current law refers to an outdated mental health counseling examination.

### **Effect of Proposed Changes**

CS/HB 7031 makes numerous changes to programs under DOH and professions regulated under the Division of Medical Quality Assurance within DOH.

### General Licensure Requirements

The bill requires the application for licensure to include the applicant's date of birth, in addition to the currently required social security number. This will provide DOH an additional method to verify the identity of an individual applicant.

### Conrad 30 Program

The bill authorizes DOH to adopt rules to implement the Conrad 30 Waiver program in this state. This allows DOH to set guidelines in addition to those required by federal law.

### Dermatology

Currently, dermatology is the only physician specialty that statutorily requires the allopathic board to review and authorize the recognizing agency. The bill repeals the prohibition against a physician holding himself or herself out as a board-certified dermatologist unless the recognizing agency is triennially reviewed and reauthorized by the Board of Medicine.

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<sup>119</sup> Sections 491.003(6) and (9), F.S.

<sup>120</sup> Section 491.005(4), F.S.

<sup>121</sup> Section 491.005(4), F.S., and r. 64B4-3.0035, F.A.C.

## Osteopathic Physician Licensure

To qualify for licensure as an osteopathic physician, an applicant must currently complete a resident internship approved by the Board of Trustees of the American Osteopathic Association or an internship program approved by the osteopathic board. The bill requires that such internship or residency be approved by the American Osteopathic Association or the Accreditation Council for Graduate Medical Education,<sup>122</sup> and repeals the authority of the osteopathic board to approve an internship program.

## Registered Chiropractic Assistants

Currently, registered chiropractic assistants may voluntarily register with DOH. The bill repeals this voluntary registration, thereby eliminating registered chiropractic assistants.

## Nursing

The bill authorizes the Board of Nursing to adopt rules related to the standards of care for CNAs. The bill authorizes CNA applicants who are licensed in other territories of the United States or the District of Columbia to qualify for licensure by endorsement. The bill also authorizes the Board of Nursing to discipline CNAs for any violation of a law or rule regulating CNA practice, repealing the requirement that such violation be intentional.

The bill extends the date of the scheduled sunset of the annual report on nursing education programs produced by the Florida Center for Nursing from January 30, 2020, to January 30, 2025.

## Dentistry

### *Dental Licensure*

Current law requires that a dental licensure applicant who does not attend an accredited dental school must submit proof that he or she completed at least 2 academic years at a full-time supplemental general dentistry program approved by the American Dental Association.<sup>123</sup> The bill clarifies that a supplemental dentistry program does not include an advanced dental education program in a dental specialty.

The bill repeals a requirement that a Florida-licensed dentist grade the American Dental Licensing Examination, and that either a Florida-licensed dentist or dental hygienist grade Dental Hygienist Examination produced by the American Board of Dental Examiners, Inc., for applicants for licensure in this state. Therefore, dentists or dental hygienist licensed in other states may grade such licensure examinations.

### *Health Access Dental Licenses*

The bill repeals the scheduled January 1, 2020 sunset of health access dental licenses.

### *Dental Adverse Incidents*

Dentists and dental hygienists are currently required to submit adverse incidents related to the administration of anesthesia under rules adopted by the Board of Dentistry. The bill statutorily requires a dentist to report an adverse incident that occurs in his or her office to DOH in writing by certified mail and postmarked within 48 hours after the incident occurs. The bill defines an adverse incident as any death that occurs during or as a result of a dental procedure, or a temporary or permanent physical or

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<sup>122</sup> The Accreditation Council for Graduate Medical Education is an independent, not-for-profit, physician-led organization that sets and monitors the professional educational standards essential in preparing physicians to deliver medical care. See Accreditation Council for Graduate Medical Education, *About Us*, available at <http://www.acgme.org/About-Us/Overview> (last visited January 21, 2019).

<sup>123</sup> Section 466.006(3)(b), F.S.

mental injury that requires hospitalization or emergency room treatment as a result of the use of general anesthesia, deep sedation, conscious sedation, pediatric conscious sedation, oral sedation, minimal sedation, nitrous oxide, or local anesthesia.

The bill also requires a dentist to report any death or other adverse incident that occurs in the dentist's outpatient facility to the Board of Dentistry in writing by certified mail within 48 hours of such occurrence. Within 30 days, the dentist must file a complete report with the Board of Dentistry.

The bill requires a certified dental hygienist who holds a certificate to administer local anesthesia to notify the Board of Dentistry in writing by registered mail within 48 hours of an adverse incident that was related to or the result of the administration of local anesthesia. The dental hygienist must file a complete report with the Board of Dentistry within 30 days.

DOH must review each adverse incident report to determine whether the incident involved conduct by a health care practitioner that warrants disciplinary action by the applicable regulatory board. A dentist or dental hygienist who fails to timely and completely report adverse incidents as required is subject to disciplinary action by the Board of Dentistry.

### *Dental Laboratories*

The bill adds a person, firm, or corporation who provides onsite consultations relating to dental appliances during dental procedures to the definition of "dental laboratories." The bill also requires DOH to biennially inspect dental laboratories, rather than annually as currently required by rule.

### Athletic Trainers

The bill requires athletic trainers to work within her or his scope of practice as defined by Board of Athletic Training in rule. The bill adds another route to licensure by authorizing individuals who hold a bachelor's degree, completed a Board of Certification internship, and hold a certification from the Board of Certification to be eligible for licensure.

The bill establishes that a licensed athletic trainer must maintain his or her certification from the Board of Certification in good standing to be eligible for licensure renewal. The bill requires the Board of Athletic Training to establish rules for the supervision of an athletic training student.

### Orthotics and Prosthetics

The bill authorizes the Board of Orthotists and Prosthetists to issue a single registration for prosthetics and orthotics practice. Currently, an individual must hold two separate registrations: one as a prosthetist and one as an orthotist. To qualify for the single registration, an individual must hold a Bachelor of Science degree or higher in orthotics and prosthetics from an accredited college or university. The bill also authorizes the completion of a dual residency program to qualify for registration.

### Massage Therapy

The bill limits apprenticeships to only those in colonic irrigations. A licensed massage therapist must supervise a colonic irrigation apprentice. The bill eliminates a massage therapy apprenticeship as a path to licensure. However, if an individual has been issued a license as a massage therapy apprentice before July 1, 2019, he or she may continue to perform massage therapy until the license expires. A massage therapist apprentice may apply for full licensure upon completion of the apprenticeship and before July 1, 2022.

The bill authorizes the Board of Massage Therapy to designate a national examination for licensure and repeals provisions requiring DOH to develop a licensure examination.

The bill authorizes the Board of Massage Therapy to revoke, suspend, or deny the licensure of a massage establishment that is owned by an individual who previously had a prior establishment license revoked if:

- The license was obtained by fraud or misrepresentation;
- The licensee is proven to be guilty of fraud, deceit, gross negligence, incompetence, or misconduct in the operation of the licensed establishment; or
- The owner of the massage therapy establishment or any person providing massage therapy services at the establishment has had 3 convictions of, or pleas of guilty or nolo contendere to, or dismissals of a criminal action after a successful completion of a pretrial intervention, diversion, or substance abuse program for any misdemeanor or felony, regardless of adjudication, or a crime related to prostitution and related acts that occur at or within the establishment.

DOH may not issue a license to an establishment disciplined under this provision unless there is change of ownership.

### Psychologists

The bill requires psychology programs within educational institutions to be accredited by the American Psychological Association (APA), which is recognized as the national accrediting authority for professional education and training in psychology by the U.S. Department of Education and the Council for Higher Education Accreditation.<sup>124</sup> The bill replaces references to the Commission on Recognition of Postsecondary Accreditation to its successor organization, the Council for Higher Education Accreditation.<sup>125</sup> For applicants for licensure who obtained their education in Canada, the bill authorizes those applicants to demonstrate that they have completed a program comparable to APA-accredited programs.

The bill eliminates a provision that allowed an applicant for licensure by endorsement to hold a license from another state that has licensure standards that are equivalent or more stringent than Florida to qualify for licensure. However, an individual may apply for licensure by endorsement if he or she has a doctoral degree in psychology and has practiced for at least 10 years of the last 25 years, rather than 20 years as required in current law.

The bill repeals obsolete provisions related to applicants for licensure prior to July 1, 1999.

### Licensed Clinical Social Work, Marriage and Family Therapy, and Mental Health Counseling

#### *Intern Registration*

The bill authorizes the Board of Clinical Social Work, Marriage and Family Therapy, and Mental Health Counseling to make a one-time exception to the 60-month limit on an internship registration. Such exceptions may only be granted in an emergency or hardship case, as defined by rule. The bill deletes obsolete language related to biennial renewals of intern registrations.

#### *Marriage and Family Therapists*

The bill requires that an applicant for licensure hold a master's degree with an emphasis in marriage and family therapy from a program accredited by the Commission of Accreditation for Marriage and Family Therapy Education or a Florida university program accredited by the Council for Accreditation of Counseling and Related Educational Programs. An applicant may also qualify for licensure if he or she

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<sup>124</sup> American Psychological Association, *Understanding APA Accreditation*, available at <http://www.apa.org/ed/accreditation/about/index.aspx> (last visited January 21, 2019).

<sup>125</sup> U.S. Department of Education, *Accreditation in the U.S.*, available at <https://www2.ed.gov/admins/finaid/accred/accredus.html> (last visited January 21, 2019).

holds a master's degree in a closely related field and has completed graduated courses approved by the Board of Clinical Social Work, Marriage and Family Therapy, and Mental Health Counseling. The bill eliminates specified coursework and clinical experience required for licensure that is currently enumerated in statute.

To be licensed as a marriage and family therapist, s. 491.005(3), F.S., requires an applicant to complete two years of clinical experience. However, later in the same paragraph, it states the clinical experience required is three years. The bill corrects the scrivener's error in the paragraph.

#### *Licensed Mental Health Counselors*

The bill updates the name of the licensure examination for mental health counseling licensure applicants to the National Clinical Mental Health Counseling Examination administered by the National Board for Certified Counselors or its successors. This will conform the law to current practice.<sup>126</sup> The bill requires educational programs used to qualify for licensure contain coursework related to legal, ethical, and professional standards issues in the practice of mental health counseling, and diagnostic processes.

The bill reduces the number of hours required for the clinical practicum or internship from 1,000 hours to 700 hours to conform the number of hours to the accreditation standards established by the Council for Accreditation of Counseling and Related Educational Programs. The bill requires the clinical practicum or internship to include at least 280 hours of direct client services.

The bill requires that applicants who apply for licensure after July 1, 2025, to hold a master's degree from a program accredited by the Council for Accreditation of Counseling and Related Educational Programs.

#### *Licensure by Endorsement*

The bill repeals educational requirements for applicants for licensure by endorsement. Such applicant qualifies for licensure if he or she holds a valid, active license to practice in another state for 3 of the 5 years preceding the date of application, passes an equivalent licensure examination, and is not under investigation for and has not been found to have committed any act that would constitute a licensure violation in Florida.

The bill clarifies that DOH may deny or impose penalties on the license of a certified master social worker who violates the practice act or ch. 456, F.S., the general regulatory statute by deleting an inaccurate reference to psychologists. This will alleviate confusion regarding the authority of DOH to impose such discipline or deny a license.

The bill makes conforming changes to other statutory provisions.

The bill provides an effective date of July 1, 2019.

#### **B. SECTION DIRECTORY:**

**Section 1:** Amends s. 381.4018, F.S., relating to physician workforce assessment and development.

**Section 2:** Amends s. 456.013, F.S., relating to department; general licensing provisions.

**Section 3:** Amends s. 458.3312, F.S., relating to specialties.

**Section 4:** Amends s. 459.0055, F.S., relating to general licensure requirements.

**Section 5:** Repeals s. 460.4166, F.S., relating to certified chiropractic physician's assistants.

**Section 6:** Amends s. 464.019, F.S., relating to approval of nursing education programs.

**Section 7:** Amends s. 464.202, F.S., relating to duties and powers of the board.

**Section 8:** Amends s. 464.203, F.S., relating to certified nursing assistants; certification requirement.

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<sup>126</sup> *Supra* note 23.

- Section 9:** Amends s. 464.204, F.S., relating to denial, suspension, or revocation of certification; disciplinary actions.
- Section 10:** Amends s. 466.006, F.S., relating to examination of dentists.
- Section 11:** Repeals s. 466.00673, F.S., relating to repeal of a health access dental license.
- Section 12:** Amends s. 466.007, F.S., relating to examination of dental hygienists.
- Section 13:** Amends s. 466.017, F.S., relating to prescription of drugs; anesthesia.
- Section 14:** Amends s. 466.031, F.S., relating to “dental laboratory” defined.
- Section 15:** Amends s. 466.036, F.S., relating to information; periodic inspections; equipment and supplies.
- Section 16:** Amends s. 468.701, F.S., relating to definitions.
- Section 17:** Amends s. 468.707, F.S., relating to licensure requirements.
- Section 18:** Amends s. 468.711, F.S., relating to renewal of license; continuing education.
- Section 19:** Amends s. 468.713, F.S., relating to responsibilities of athletic trainers.
- Section 20:** Amends s. 468.723, F.S., relating to exemptions.
- Section 21:** Amends s. 468.803, F.S., relating to license, registration, and examination requirements.
- Section 22:** Amends s. 480.033, F.S., relating to definitions.
- Section 23:** Amends s. 480.041, F.S., relating to massage therapists; qualifications; licensure; endorsement.
- Section 24:** Repeals s. 480.042, F.S., relating to examinations.
- Section 25:** Amends s. 480.046, F.S., relating to grounds for disciplinary action by the board.
- Section 26:** Amends s. 490.003, F.S., relating to definitions.
- Section 27:** Amends s. 490.005, F.S., relating to licensure by examination.
- Section 28:** Amends s. 490.006, F.S., relating to licensure by endorsement.
- Section 29:** Amends s. 491.0045, F.S., relating to intern registration; requirements.
- Section 30:** Amends s. 491.005, F.S., relating to licensure by examination.
- Section 31:** Amends s. 491.006, F.S., relating to licensure or certification by endorsement.
- Section 32:** Amends s. 491.007, F.S., relating to renewal of license, registration, or certificate.
- Section 33:** Amends s. 491.009, F.S., relating to discipline.
- Section 34:** Amends s. 491.0046, F.S., relating to provisional license; requirements.
- Section 35:** Amends s. 945.42, related to definitions; ss. 945.40-945.49, F.S.
- Section 36:** Provides an effective date of July 1, 2019.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

#### 1. Revenues:

DOH will experience a loss of revenue of biennial registration fees due to the repeal of the registration of chiropractic assistants. However, the loss of revenue will be offset by eliminating the cost of registering chiropractic assistants.

DOH may experience a loss of revenue due to the authorization of a single prosthetist-orthotist registration. It is unknown how many single registrations may be issued but it is estimated the loss of revenue will be insignificant.

#### 2. Expenditures:

The bill will have an insignificant, negative fiscal impact on DOH. The bill authorizes DOH, or the appropriate regulatory board, to adopt rules related to the Conrad 30 Waiver program, standards of care for CNAs, and the supervision of athletic training students. DOH will need to repeal adopted rules related to the deregulation of registered chiropractic assistants and amend rules related to

licensed dental laboratories, massage therapy, and osteopathic medicine. Current resources can absorb these costs.<sup>127</sup>

By changing the inspections of dental laboratories from annual to biennial, DOH will realize cost savings.

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

1. Revenues:

None.

2. Expenditures:

None.

**C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

Individuals who voluntarily registered as chiropractic assistants will no longer have to pay fees associated with such registration.

Individuals who wish to obtain a single prosthetist-orthotist registration may save money because they will no longer have to obtain separate prosthetic and orthotic registrations.

**D. FISCAL COMMENTS:**

None.

**III. COMMENTS**

**A. CONSTITUTIONAL ISSUES:**

1. Applicability of Municipality/County Mandates Provision:

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

2. Other:

None.

**B. RULE-MAKING AUTHORITY:**

The bill provides sufficient rulemaking authority for DOH or the applicable regulatory boards to adopt rules related to the Conrad 30 waiver program, standards of care for CNAs, and the supervision of athletic training students.

**C. DRAFTING ISSUES OR OTHER COMMENTS:**

None.

**IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

On March 14, 2019, the Health and Human Services Committee adopted two amendments and reported the bill favorably as a committee substitute. The amendments:

- Deleted provisions related to continuing education requirements for chiropractic physicians.

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<sup>127</sup> *Supra* note 23.

- Extended the sunset date of the annual nursing education report produced by the Florida Center on Nursing to January 30, 2025.
- Repealed the sunset date for health access dental licenses.

The analysis is drafted to the committee substitute as passed by the Health and Human Services Committee.