

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 7067 PCB HQS 19-03 Registration Fees

**SPONSOR(S):** Health Quality Subcommittee, Yarborough

**TIED BILLS:** HB 23 **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Health Quality Subcommittee	12 Y, 0 N	Siples	McElroy
1) Ways & Means Committee	13 Y, 2 N	Aldridge	Langston
2) Health & Human Services Committee	13 Y, 3 N	Siples	Calamas

### SUMMARY ANALYSIS

The bill, which is linked to HB 23, requires the Department of Health (DOH) or the applicable regulatory board to charge a \$150 registration fee for out-of-state health care professionals seeking to provide health care services using telehealth to Florida residents. The bill also creates a biennial registration renewal fee of \$150 for those providers.

The bill will have an indeterminate fiscal impact on DOH.

The bill will be effective on the same date that HB 23 or similar legislation takes effect.

**The bill authorizes a new state fee, requiring a two-thirds vote of the membership of the House. See Section III.A.2. of the analysis.**

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### Present Situation

##### Legislation Imposing or Raising State Fees or Taxes

The Florida Constitution provides that no state tax or fee may be imposed, authorized, or raised by the Legislature except through legislation approved by two-thirds of the membership of each house of the Legislature.<sup>1</sup> For purposes of this requirement, a “fee” is any charge or payment required by law, including any fee or charge for services and fees or costs for licenses and to “raise” a fee or tax means to:<sup>2</sup>

- Increase or authorize an increase in the rate of a state tax or fee imposed on a percentage or per mill basis;
- Increase or authorize an increase in the amount of a state tax or fee imposed on a flat or fixed amount basis; or
- Decrease or eliminate a state tax or fee exemption or credit.

A bill that imposes, authorizes, or raises any state fee or tax may only contain the fee or tax provision(s) and may not contain any other subject.<sup>3</sup>

The constitutional provision does not authorize any state tax or fee to be imposed if it is otherwise prohibited by the constitution and does not apply to any tax or fee authorized or imposed by a county, municipality, school board, or special district.<sup>4</sup>

##### Licensure Fees

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

Under current law, the costs of regulation of health care practitioners must be borne by the licensees and licensure applicants.<sup>7</sup> Regulatory boards, in consultation with DOH, must set renewal fees, by rule that must be:<sup>8</sup>

- Based on revenue projections prepared using generally accepted accounting practices;
- Adequate to cover all expenses relating to that board;

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<sup>1</sup> Fla. Const. art. VII, s. 19(a)-(b). The amendment appeared on the 2018 ballot as Amendment 5.

<sup>2</sup> Fla. Const. art. VII, s. 19(d).

<sup>3</sup> Fla. Const. art. VII, s. 19(e).

<sup>4</sup> Fla. Const. art. VII s. 19(c).

<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.

<sup>6</sup> Florida Department of Health, Division of Medical Quality Assurance, *Annual Report and Long-Range Plan, Fiscal Year 2017-2018* 3, available at <http://www.floridahealth.gov/licensing-and-regulation/reports-and-publications/documents/annual-report-1718.pdf> (last visited March 11, 2019).

<sup>7</sup> Section 456.025(1), F.S.

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

- Reasonable, fair, and not serve as a barrier to licensure;
- Be based on potential earnings from working under the scope of the license;
- Similar to fees imposed on similar licensure types; and
- No more than 10 percent greater than the actual cost to regulate that profession for the previous biennium.

### Registration of an Out-of-State Telehealth Provider

Florida does not currently have a statutory structure for the delivery of health care services through telehealth. Some regulatory boards and the Medicaid program have adopted rules for the provision of health care services through telehealth. However, an out-of-state health care professional must be licensed in the state of Florida in order to provide services through telehealth.

HB 23 authorizes DOH or the applicable regulatory board to register out-of-state health care providers, who meet certain criteria, to provide health care services to Florida residents.

### Effect of Proposed Legislation

The bill, which is linked to HB 23, requires DOH or the applicable regulatory board to assess a registration fee of \$150 and a biennial registration renewal fee of \$150 for out-of-state telehealth providers.

The bill becomes effective on the same date as HB 23 or similar legislation if such legislation is adopted during this legislative session or an extension thereof.

#### B. SECTION DIRECTORY:

**Section 1:** Amends s. 456.47, F.S., relating to registration of out-of-state telehealth providers.

**Section 2:** Provides an effective date contingent on the passage of HB 23 or similar legislation.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

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

##### 1. Revenues:

The impact on state revenues is positive, but indeterminate as it is not known how many out-of-state health care providers may register to provide telehealth services to Florida residents.

##### 2. Expenditures:

None.

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

##### 1. Revenues:

None.

##### 2. Expenditures:

None.

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

The bill requires DOH or the applicable regulatory board to assess a registration fee of \$150 and a biennial registration renewal fee of \$150 for out-of-state telehealth providers. .

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:

Article VII, s. 19 of the Florida Constitution requires the imposition, authorization, or raising of a state tax or fee be contained in a separate bill that contains no other subject and be approved by two-thirds of the membership of each house of the Legislature. As such, the bill appears to implicate Art. VII, S. 19 of the Florida Constitution because the bill authorizes a new state fee.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

**IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**