

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 7079 PCB HQS 19-04 Registration Fees
SPONSOR(S): Health Quality Subcommittee, Plasencia
TIED BILLS: CS/HB 821 **IDEN./SIM. BILLS:**

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	9 Y, 0 N	Mielke	Clark
2) Health & Human Services Committee	17 Y, 1 N	Siples	Calamas

SUMMARY ANALYSIS

CS/HB 821 authorizes the Department of Health (DOH) to register advanced practice registered nurses (APRNs), who meet certain criteria, to engage in independent practice, enabling the APRN to perform advanced or specialized nursing acts without a supervisory protocol or supervision by a physician. Currently, APRNs may only practice pursuant to a written protocol with a licensed physician.

HB 7079, which is linked to HB 821, authorizes DOH to charge a registration fee not to exceed \$100 for APRNs seeking to engage in independent practice. The bill also authorizes a biennial renewal fee not to exceed \$50.

The bill will have an indeterminate positive fiscal impact on DOH.

The bill will be effective on the same date that CS/HB 821 or similar legislation takes effect.

This 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:

Current 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.¹ 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:²

- 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.³

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.⁴

Health Practitioner Licensure Fees

The Division of Medical Quality Assurance (MQA), within the Department of Health (DOH), has general regulatory authority over health care practitioners.⁵ 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.⁶ 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.⁷ Regulatory boards, in consultation with DOH, must set renewal fees by rule that must be:⁸

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

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

² Fla. Const. art. VII, s. 19(d).

³ Fla. Const. art. VII, s. 19(e).

⁴ Fla. Const. art. VII s. 19(c).

⁵ 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.

⁶ 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 January 7, 2019).

⁷ Section 456.025(1), F.S.

⁸ *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 Advanced Practice Registered Nurse to Practice Independently

Under current law, advanced practice registered nurses (APRNs) in Florida must practice under a supervising protocol with a physician and only to the extent that a written protocol allows. HB 821 authorizes APRNs who meet certain criteria to practice advanced or specialized nursing without physician supervision or a protocol.

Currently, APRNs must pay an initial licensure fee of \$110 and a renewal fee of \$50.⁹ Current fee collections may be inadequate to cover the additional regulatory requirements for APRNs who opt to practice without physician supervision or a protocol. CS/HB 821 requires such APRNs to register with the Board of Nursing.

Effect of Proposed Legislation

HB 7079, which is linked to CS/HB 821, authorizes the Board of Nursing to establish a registration fee of up to \$100 and a biennial registration renewal fee of up to \$50 for APRNs who meet the criteria to practice without physician supervision or a protocol.

The bill becomes effective on the same date as CS/HB 821 or similar legislation.

B. SECTION DIRECTORY:

- Section 1:** Amends s. 464.0123, F.S., relating to advanced practice registered nurses; creating a fee.
Section 2: Provides an effective date of July 1, 2019, which is contingent upon the passage of CS/HB 821 or similar legislation.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

APRN applicants for registration to practice independently must pay an initial registration fee of up to \$100 and a biennial registration renewal fee of up to \$50. The total amount of revenue DOH will receive from such fees is indeterminate because the number of APRNs who will choose to register is not predictable.

2. Expenditures:

DOH and the Board of Nursing will incur costs associated with the regulation of registrants. However, the registration fees will be sufficient to cover the cost of regulation.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

⁹ Rule 64B9-7.001, F.A.C.
STORAGE NAME: h7079c.HHS
DATE: 4/10/2019

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

APRN applicants for registration to practice without a supervisory protocol will have to pay an application fee and a biennial registration renewal fee. The bill authorizes the Board of Nursing to set the application and biennial renewal fees, but they may not exceed \$100 and \$50, respectively.

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 state fee.

B. RULE-MAKING AUTHORITY:

The Board of Nursing has sufficient rule-making authority to implement the bill.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES