

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 991 Keep Our Graduates Working Act  
**SPONSOR(S):** Duran  
**TIED BILLS:** IDEN./SIM. **BILLS:** SB 1090

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Business & Professions Subcommittee	13 Y, 1 N	Brackett	Anstead
2) Appropriations Committee			
3) Health & Human Services Committee			

### SUMMARY ANALYSIS

Currently, an estimated 41.5 million Americans owe more than \$1.2 trillion in outstanding federal loan debt. This is more than triple the \$340 billion in student loans owed by Americans in 2001. With this increase in student loan debt, there has been an increase in the number of people who are failing to pay their student loans. Beginning in the 1990s, at the urging of the U.S. Department of Education, states, including Florida, began adopting licensing suspension laws to deter licensed professionals from defaulting on their student loans.

Currently, the Florida Department of Health (DOH) is authorized to discipline a healthcare practitioner's license for failing to repay a government-backed student loan or failing to comply with a service scholarship. If DOH determines a healthcare practitioner has defaulted on a student or service scholarship, DOH at a minimum must:

- Suspend the practitioner's license until he or she agrees to new payment terms or resumes the scholarship obligation;
- Place the licensee on probation for the duration of the student loan or scholarship obligation period; and
- Impose a fine equal to 10 percent of the defaulted loan amount.

Every month, DOH must obtain a list from the United States Department of Health and Human Services (USHHS) of the healthcare practitioners in Florida who have defaulted on their student loans. Upon learning that a healthcare practitioner has defaulted on a government backed student loan guaranteed, DOH must notify the practitioner that he or she has 45 days to provide DOH with proof of a new repayment plan or DOH will issue an emergency order suspending the practitioner's license. DOH may proceed with disciplinary action against the practitioner regardless if he or she provides proof of entering a new repayment plan.

The bill:

- Prohibits a state authority, including DOH, from suspending or revoking a healthcare practitioner's license solely on the basis of the practitioner defaulting on his or her government backed student loans, being delinquent on a payment of his or her student loans, or defaulting on the requirements of a work conditional scholarship;
- Repeals the requirement that upon learning a healthcare practitioner has defaulted on a student loan, DOH must notify the practitioner that he or she has 45 days to provide DOH with proof of a new repayment plan or DOH will issue an emergency order suspending the practitioner's license; and
- Repeals the requirement that DOH must obtain a monthly list from the USHHS of the healthcare practitioners who have defaulted on their student loans.

The bill has an unknown fiscal impact on state government. The bill is not expected to have a fiscal impact on local government.

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

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### Current Situation

###### *Student Loans*

Student loans are funds that are lent to students or parents to pay for higher education. Student loans may come from private sources such as banks or other financial institutions, or from a state or the federal government.<sup>1</sup>

The Office of Student Financial Assistance (OSFA) within the Florida Department of Education (DOE) is responsible for administering state and federally funded programs and serves as the guarantor agency for certain federally backed student loans.<sup>2</sup>

###### *Increase in Defaults on Student Loans*

Currently, an estimated 41.5 million Americans owe more than \$1.2 trillion in outstanding federal loan debt. This is more than triple the \$340 billion in student loan debt owed by Americans in 2001.<sup>3</sup> With this increase in student loan debt owed by Americans, there has been an increase in the number of people who are defaulting on or failing to pay their student loans. In 2018, 41,013 borrowers who attended Florida schools had defaulted on their federal student loans. Such students attended institutions ranging from universities to trade schools.<sup>4</sup>

###### *Professional Licenses*

An occupational or professional license is a form of regulation that requires individuals who want to perform certain types of work, such as contractors and cosmetologists, to obtain permission from the government to perform the work.<sup>5</sup> Generally, an individual obtains permission from the government to perform a certain type of work by demonstrating that they have the designated knowledge, skills, and abilities to perform the work by meeting pre-determined criteria established by the government, such as work experience and exams. If the individual successfully completes the pre-determined criteria the government issues the individual a license, which allows them to perform the work.<sup>6</sup>

Approximately one-quarter of U.S. workers require a license to practice their profession, while the number of licensed workers is higher in Florida, with an estimated 28.7 percent of the workforce being licensed by the state.<sup>7</sup>

---

<sup>1</sup> Libby Nelson, *Everything you need to know about student debt*, Vox, <https://www.vox.com/2014/10/1/18088762/student-debt> (last visited Mar. 20, 2019).

<sup>2</sup> Office of Student Financial Assistance, *Mission Statement*, [http://www.floridastudentfinancialaid.org/FFELP/mission\\_statement/mission\\_statement\\_052606.html](http://www.floridastudentfinancialaid.org/FFELP/mission_statement/mission_statement_052606.html) (last visited on Mar. 22, 2019).

<sup>3</sup> Laura Feiveson, Alvaro Mezza, and Kamila Sommer, *Student Loan Debt and Aggregate Consumption Growth*, Board of Governors of the Federal Reserve System, (February 21, 2018), <https://www.federalreserve.gov/econres/notes/feds-notes/student-loan-debt-and-aggregate-consumption-growth-20180221.htm> (last visited on Mar. 20, 2019).

<sup>4</sup> Florida Business Daily, *41,013 borrowers in default on student loans after attending Florida schools*, May 17, 2018, <https://flbusinessdaily.com/stories/511416784-41-013-borrowers-in-default-on-student-loans-after-attending-florida-schools> (last visited Mar. 21, 2019).

<sup>5</sup> The White House, *Occupational Licensing: A Framework for Policymakers*, 6 (July 2015) [https://obamawhitehouse.archives.gov/sites/default/files/docs/licensing\\_report\\_final\\_nonembargo.pdf](https://obamawhitehouse.archives.gov/sites/default/files/docs/licensing_report_final_nonembargo.pdf) (last visited on Feb. 8, 2019).

<sup>6</sup> Bureau of Labor Statistics, *Frequently asked questions about data on certifications and licenses*, <https://www.bls.gov/cps/certifications-and-licenses-faqs.htm>, (last visited on Feb. 10, 2019).

<sup>7</sup> White House *supra* note 1 at 3.

## *Disciplining Professional Licenses for Defaulting on Student Loans*

In the 1990s, as a result of a rising number of students defaulting on their federally backed student loans, the federal government urged state legislators to send a message to students, postsecondary institutions, and lenders that high levels of default of federally backed student loans would not be tolerated. The federal government recommended that states take the following steps to curb student loan default:

- Enact a state tax-refund offset program;
- Enact a wage garnishment program;
- Deny professional licenses to defaulters until they take steps towards repayment;
- Screen potential applicants for state jobs to prevent the hiring of loan defaulters who have not entered into repayment agreements; and
- Ensure that information available to state agencies such as the Department of Motor Vehicles, the tax department, and the unemployment commission is available to the state's guarantee agency.<sup>8</sup>

As a result, states, including Florida, began adopting some form of licensing suspension laws for defaulting on student loans. In 2002, a law was passed allowing the Florida Department of Health (DOH) to discipline a healthcare practitioner's license for defaulting on a government-backed student loan. The Legislature adopted the law based on the United States Department of Health and Human Services (USHHS) report that there were 9,454 healthcare practitioners in the nation who defaulted on their student loans with 556 of them being in Florida. The borrowers defaulting on their loans were costing taxpayers over \$694 million, of which \$45.6 million was attributable to Florida healthcare practitioners.<sup>9</sup>

In 2010, about half of the states had some form of licensing suspension laws. Since then there has been a trend to reduce or eliminate licensing suspension laws. Currently, there are at least 15 states, including Florida, that have still have some form of licensing suspension laws.<sup>10</sup>

Proponents of licensing suspension laws argue that:

- The threat of losing a professional license is powerful tool to ensure borrowers stay current on their student loans and as a result these laws reduce the number borrowers who default on their student loans;
- It is in the taxpayers' interest to ensure borrowers are repaying their government backed student loans because the state or federal government foots the bill if borrowers default; and
- Licensing suspension laws do not require people who have defaulted on their student loans to repay their loans to prevent their licenses from being suspended. The laws only require people who have defaulted to enter into a repayment plan to avoid having their license suspended.<sup>11</sup>

Opponents of licensing suspension laws argue that states are using their licensing authority as a punitive debt collection tool. Opponents argue that the purpose of licensing laws is to protect the health and safety of the public, not to operate as defacto debt collectors.<sup>12</sup>

---

<sup>8</sup> Mary Farrell, *Reducing Student Loan Defaults: A Plan for Action*, Department of Education at 63 (March 21, 1991) <https://files.eric.ed.gov/fulltext/ED323879.pdf> (last visited Mar. 20, 2019).

<sup>9</sup> Ch. 2002-254, Laws of Fla.

<sup>10</sup> Andrew Wagner, *Licensing Suspension for Student Loan Forgiveness*, NCSL (Oct. 1, 2018) <http://www.ncsl.org/research/labor-and-employment/license-suspension-for-student-loan-defaulters.aspx> (last visited Mar. 22, 2019).

<sup>11</sup> *Id.* Jessica Silver-Greenberg, Stacey Cowley, & Natalie Kitroeff, *When Unpaid Student Loan Bills Mean You Can No Longer Work*, The New York Times (Nov. 18, 2017) [https://www.nytimes.com/2017/11/18/business/student-loans-licenses.html?\\_r=0](https://www.nytimes.com/2017/11/18/business/student-loans-licenses.html?_r=0) (last visited on Mar. 22, 2019).

<sup>12</sup> *Id.*

## *Federal Attempts to Prohibit State Licensing Suspension Laws*

There have been attempts at the national level to prohibit state licensing suspension laws. Bills were introduced in Congress in 2018 that prohibited states from disciplining or denying state issued licenses for defaulting on government back student loans.<sup>13</sup> Additionally, Sen. Marco Rubio recently introduced a bill that prohibits states from suspending, revoking, fining, or denying approval or renewal of state issued licenses, including professional licenses, for defaulting on a government backed student loan.<sup>14</sup>

## *DOH Licensing Suspension Laws*

Section 1009.95, F.S., provides that DOE is directed to exert every lawful and reasonable effort to collect all delinquent unpaid and uncanceled student loans.

According to OSFA, DOH is authorized to discipline a healthcare practitioner's license for defaulting on a student loan.<sup>15</sup> Section 456.072, F.S. provides that DOH may discipline a healthcare practitioner for failing to perform any statutory or legal obligation placed upon a healthcare practitioner. Section 456.072, F.S., also states that DOH may discipline a healthcare practitioner's license for failing to repay a government-backed student loan or failing to comply with a service scholarship. If DOH determines a healthcare practitioner has defaulted on his or her student loans or service scholarship at a minimum DOH must:

- Suspend the practitioner's license until he or she agrees to new payment terms or resumes the scholarship obligation;
- Place the licensee on probation for the duration of the student loan or scholarship obligation period; and
- Impose a fine equal to 10 percent of the defaulted loan amount.

Every month, DOH must obtain a list from the United States Department of Health and Human Services (USHHS) of the healthcare practitioners in Florida who have defaulted on their student loans. USHHS currently publishes a list of every healthcare practitioner in the country who defaults on a Health Education Assistance Loans (HEAL).<sup>16</sup>

Upon learning that a healthcare practitioner has defaulted on a government backed student loan, DOH must notify the practitioner that he or she has 45 days to provide DOH with proof of a new repayment plan or DOH will issue an emergency order suspending the practitioner's license. DOH may proceed with disciplinary action against the practitioner regardless if he or she provides proof of entering a new repayment plan.<sup>17</sup>

The Division of Medical Quality Assurance (MQA) within the DOH, is responsible for the licensing and regulation of healthcare practitioners for the preservation of the health, safety, and welfare of the public. The MQA works in conjunction with 22 boards and four councils to license and regulate seven types of health care facilities and more than 200 license types in over 40 health care professions. Each profession is regulated by an individual practice act and by ch. 456, F.S., which provides general

---

<sup>13</sup> Protecting JOBS Act, S.3065, 115<sup>th</sup> Congress (2017-2018); Protecting JOBS Act, H.R.6156 115<sup>th</sup> Congress (2017-2018).

<sup>14</sup> Protecting JOBS Act, S.609, 116<sup>th</sup> Congress (2019-2020); Protecting JOBS Act, H.R.6156 115<sup>th</sup> Congress (2017-2018).

<sup>15</sup> Email from Bethany Swanson, Legislative Affairs, Department of Education, Fwd: HB 991 Keep Our Graduates Working Act (Mar. 20, 2019).

<sup>16</sup> HEAL loans were federally insured loans made to eligible graduate students in schools of medicine, osteopathy, dentistry, veterinary medicine, optometry, podiatry, public health, pharmacy, chiropractic, or in programs in health administration and clinical psychology. The program was discontinued in 1998. Federal Student Aid, *Health Education Assistance Loan (HEAL) Program*, <https://ifap.ed.gov/HEALInfo/attachments/AboutHEALProgram.pdf> (last visited Mar. 20, 2019).

<sup>17</sup> S. 456.074(4), F.S.

regulatory and licensure authority for the MQA. The MQA currently licenses and regulates the following healthcare practitioners:<sup>18</sup>

911 Safety Telecommunicator	Emergency allergy treatment	Paramedic
Acupuncture	Emergency medical technician	Pedorthist
Advanced practice registered nurse	Hearing Aid specialist	Pharmacist
Anesthesiologist assistant	Licensed practical nurse	Pharmacy technician
Athletic trainer	Marriage and family therapist	Physical therapist
Audiologist	Massage therapist	Physical therapist assistant
Body piercer/operator	Medical doctor	Podiatric assistant
Chiropractic physician assistant	Medical physicist	Prosthetist
Environmental professional	Mental health counselor	Psychologist
Master social work	Microblading	Radiologic technologist
Nursing assistant	Midwifery	Registered Chiropractic assistant
Podiatric X-ray assistant	Nursing Home administrator	Registered nurse
Respiratory therapist	Occupational therapist	Registered respiratory therapist
Chiropractic physician	Occupational therapist assistant	School psychologist
Clinical laboratory personnel	Optician	Septic tank contractor
Clinical social worker	Optometrist	Speech-language pathologist
Dental hygienist	Orthotic fitter	Tattoo artist
Dentist	Orthotic fitter assistant	Orthotist
Dietitian/Nutritionist	Electrologist	Osteopathic assistant

During the 2017-2018 Fiscal Year, DOH handled 381 cases against healthcare practitioners for defaulting on student loans. For the 2018-2019 Fiscal Year, DOH has handled 528 cases so far.<sup>19</sup>

Case Status	2017-18 FY	2018-19 FY
Mediated	170	55
Prosecuted	39	143
Resolved by the licensee entering into a payment plan	110	301
Licenses disciplined by DOH, including suspension, fine, revocation, relinquishment, or probation	16	4
Cases closed because the licensee is deceased or the license is null & void	46	25
<b>Total</b>	<b>381</b>	<b>528</b>

<sup>18</sup> S. 456.001(4), F.S; Florida Department of Health, Division of Medical Quality Assurance, *Annual Report and Long-Range Plan, Fiscal Year 2017-2018*, 3, [http://www.floridahealth.gov/licensing-and-regulation/reports-and-publications/\\_documents/annual-report-1718.pdf](http://www.floridahealth.gov/licensing-and-regulation/reports-and-publications/_documents/annual-report-1718.pdf) (last visited on Mar. 22, 2019).

<sup>19</sup> Gary Landry, Office of Legislative Planning, Department of Health, Student Loan case information (Mar. 7, 2019).

### *Department of Business and Professional Regulation*

The Department of Business and Professional Regulation (DBPR), through several divisions, regulates and licenses various businesses and professionals in Florida. DBPR has authority over the following professional boards and programs:

- Board of Architecture and Interior Design,
- Board of Auctioneers,
- Barbers' Board,
- Building Code Administrators and Inspectors Board,
- Construction Industry Licensing Board,
- Board of Cosmetology,
- Electrical Contractors' Licensing Board,
- Board of Employee Leasing Companies,
- Board of Landscape Architecture,
- Board of Pilot Commissioners,
- Board of Professional Geologists.
- Board of Veterinary Medicine,
- Home inspection services licensing program;
- Mold-related services licensing program,
- Florida Board of Professional Engineers.
- Board of Accountancy,
- Florida Real Estate Commission, and
- Florida Real Estate Appraisal Board.<sup>20</sup>

DBPR licenses and regulates each of the above professions in accordance with that profession's practice act, and ch. 455, F.S., which provides general regulatory and licensure authority for DBPR.

Section 455.227, F.S., provides that DBPR may discipline a licensee for failing to perform any statutory or legal obligation placed upon a licensee. However, 455.227, F.S., does not specifically state that DBPR may discipline a licensee for defaulting on a student loan or failing to comply with a service scholarship. According to DBPR, they have never disciplined a licensee for defaulting on a student loan or failing to comply with a service scholarship.<sup>21</sup>

### *Department of Agriculture and Consumer Services*

In addition to regulating agriculture in Florida, the Department of Agriculture and Consumer Services (DACS) also protects consumers from unfair and deceptive business practices and provides consumer information.<sup>22</sup> DACS achieves this, in part, through licensing and registering various professionals, including:

- Professional Surveyors and Mappers;
- Private Investigative, Private Security, and Repossession Services;
- Health Studios;
- Telemarketing Services;
- Intrastate Movers and Brokers;
- Sellers of Liquefied Petroleum Gas;
- Pawnbroking;
- Motor Vehicle Repair Shops; and
- Sellers of Travel.

---

<sup>20</sup> S. 20.165, F.S.

<sup>21</sup> Susan Dattres, Office of Legislative Affairs, Department of Business and Professional Regulation, RE: Student loans (Mar. 19, 2019).

<sup>22</sup> S. 20.14(2), F.S.

DACS licenses and regulates each of the above professionals in accordance with that profession's practice act. According to DACS, they do not have authority to discipline a licensee for defaulting on student loans.<sup>23</sup>

### *Department of Financial Services*

The Department of Financial Services (DFS) is the state agency responsible for regulation and licensure of professions related to insurance, fire safety, and funeral and cemetery services.<sup>24</sup>

According to DFS, they do not consider the status of student loans when issuing or regulating licenses, and do not believe they have statutory authority to deny or discipline a license for defaulting on a government issued student loan.<sup>25</sup>

### **Effect of the Bill**

The bill provides definitions for the following terms:

- "Default" means the failure to repay a student loan according to the terms agreed to in the promissory note.
- "Delinquency" means the failure to make a student loan payment when it is due.
- "License" means any professional license, certificate, registration, or permit granted by the applicable state authority.
- "State authority" means any department, board, or agency with the authority to grant a license to any person in this state.
- "Student loan" means a federal-guaranteed or state-guaranteed loan for the purposes of postsecondary education.
- "Work-conditional scholarship" means an award of financial aid for a student to further his or her education which imposes an obligation on the student to complete certain work-related requirements to receive or to continue receiving the scholarship."

The bill:

- Prohibits a state authority from suspending or revoking a license it has issued solely on the basis of the licensee defaulting on his or her student loans, being delinquent on a payment of his or her student loans, or being in default on the satisfaction requirements of his or her work-conditional scholarship;
- Repeals the specific provision allowing DOH to discipline a healthcare practitioner for failing to repay a government-backed student loan or comply with a service scholarship;
- Repeals the requirement that upon DOH learning a healthcare practitioner has defaulted on a student loan, DOH must notify the practitioner that he or she has 45 days to provide DOH with proof of a new repayment planned or DOH will issue an emergency order suspending the practitioner's license; and
- repeals the requirement that DOH must obtain a monthly list from the USHHS of the healthcare practitioners who have defaulted on their student loans.

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

## **B. SECTION DIRECTORY:**

Section 1. Creates s. 1009.951, F.S., prohibiting the state from disciplining a person's professional license in certain situations.

---

<sup>23</sup> Florida Department of Agriculture and Consumer Services, Agency Analysis of 2019 House Bill 991, p. 1 (Mar. 7, 2019).

<sup>24</sup> Chs. 497, 626, 633, and 648, F.S.

<sup>25</sup> Email from Greg Thomas, Director of Insurance Agent & Agency Services, Department of Financial Services, Student Loan Default and DFS Agent and Agency Licensing, (Mar. 18, 2019).

- Section 2. Amends s. 456.072, F.S., prohibiting DOH from disciplining a healthcare practitioner's license in certain situations.
- Section 3. Amends s. 456.074, F.S., amending DOH's ability to immediately suspend a healthcare practitioner's license in certain situations.
- Section 4. Amends s. 1009.95, F.S., amending the DOE's ability to collect unpaid student loans.
- Section 5. Repeals s. 456.0721, F.S.
- Section 6. Provides an effective date of July 1, 2019.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:  
See Fiscal Comments.
2. Expenditures:  
See Fiscal Comments.

### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:  
None.
2. Expenditures:  
None.

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

Healthcare practitioners will no longer be subject to discipline for defaulting on their student loans or work service scholarships.

### D. FISCAL COMMENTS:

According to DOH, they will experience a recurring decrease in revenue due to the loss of the mandated 10% fine imposed on student loan default cases. However, DOH will experience a recurring reduction in workload and cost due to fewer investigations and prosecutions. Additionally, the Compliance Management Unit will no longer have to track licensees on probation due to discipline imposed by a board.<sup>26</sup>

## III. COMMENTS

### A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:  
None.

---

<sup>26</sup> Department of Health, Agency Analysis of 2019 House Bill 991, p. 4 (Mar. 21, 2019).  
**STORAGE NAME:** h0991a.BPS  
**DATE:** 3/26/2019



2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

#### **IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**