

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: The Professional Staff of the Committee on Rules

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BILL: CS/CS/SB 500

INTRODUCER: Rules Committee; Health Policy Committee; and Senator Harrell

SUBJECT: Prohibited Acts by Health Care Practitioners

DATE: March 4, 2020

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Rossitto-Van Winkle	Brown	HP	<b>Fav/CS</b>
2.	Howard	Kynoch	AP	<b>Favorable</b>
3.	Rossitto-Van Winkle	Phelps	RC	<b>Fav/CS</b>

**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/CS/SB 500 amends s. 456.072(1)(a), F.S., which provides grounds for discipline applicable to all licensed health care practitioners. The bill prohibits a licensed health care practitioner from using the terms “anesthesiologist” or “dermatologist” unless he or she is licensed as a physician under ch. 458 or 459, F.S., or a dentist under ch. 466, F.S. The bill adds, as grounds for discipline, the making of misleading, deceptive, or fraudulent representations related to a practitioner’s specialty designation.

The bill authorizes the Department of Health (DOH) to issue an emergency cease and desist order and take disciplinary action against offending practitioners and gives the DOH rulemaking authority.

The bill also amends s. 456.072(1)(t), F.S., and provides for disciplinary action for a licensed health care provider’s failure to identify his or her type of specialty designation, if any, under which a practitioner is practicing.

The bill has an insignificant fiscal impact on the DOH that can be absorbed within existing resources.

The bill takes effect upon becoming a law.

## II. Present Situation:

### The Department of Health

The Legislature created the Department of Health (DOH) to protect and promote the health of all residents and visitors in the state.<sup>1</sup> The DOH is charged with the regulation of health practitioners for the preservation of the health, safety, and welfare of the public. The Division of Medical Quality Assurance (MQA) is responsible for the boards<sup>2</sup> and professions within the DOH.<sup>3</sup> The health care practitioners licensed by the DOH include the following:

- Acupuncturist;<sup>4</sup>
- Allopathic physicians and physician assistants;<sup>5</sup>
- Osteopathic physicians and physician assistants;<sup>6</sup>
- Chiropractic physicians, physician assistants, and registered chiropractic assistants;<sup>7</sup>
- Podiatric physicians;<sup>8</sup>
- Naturopathic physicians;<sup>9</sup>
- Optometrists;<sup>10</sup>
- Advanced practice registered nurses, registered nurses, licensed practical nurses and certified nursing assistant;<sup>11</sup>
- Pharmacists;<sup>12</sup>
- Dentists, dental hygienist and dental laboratories;<sup>13</sup>
- Midwives;<sup>14</sup>
- Speech and language pathologists;<sup>15</sup>
- Audiologists;<sup>16</sup>
- Occupational therapists;<sup>17</sup>
- Respiratory therapists;<sup>18</sup>
- Dietitians and nutritionists;<sup>19</sup>
- Athletic trainers;<sup>20</sup>

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<sup>1</sup> Section 20.43, F.S.

<sup>2</sup> Under s. 456.001(1), F.S., “board” is defined as any board, commission, or other statutorily created entity, to the extent such entity is authorized to exercise regulatory or rulemaking functions within the department or, in some cases, within the department MQA.

<sup>3</sup> Section 20.43, F.S.

<sup>4</sup> Chapter 457, F.S.

<sup>5</sup> Chapter 458, F.S.

<sup>6</sup> Chapter 459, F.S.

<sup>7</sup> Chapter 460, F.S.

<sup>8</sup> Chapter 461, F.S.

<sup>9</sup> Chapter 462, F.S.

<sup>10</sup> Chapter 463, F.S.

<sup>11</sup> Chapter 464, F.S.

<sup>12</sup> Chapter 465, F.S.

<sup>13</sup> Chapter 466, F.S.

<sup>14</sup> Chapter 467, F.S.

<sup>15</sup> Part I, Chapter 468, F.S.

<sup>16</sup> *Id.*

<sup>17</sup> Part III, Chapter 468, F.S.

<sup>18</sup> Part V, Chapter 468, F.S.

<sup>19</sup> Part X, Chapter 468, F.S.

<sup>20</sup> Part XIII, Chapter 468, F.S.

- Orthotists, prosthetists, and pedorthists;<sup>21</sup>
- Electrologists;<sup>22</sup>
- Massage therapists;<sup>23</sup>
- Clinical laboratory personnel;<sup>24</sup>
- Medical physicists;<sup>25</sup>
- Opticians;<sup>26</sup>
- Hearing aid specialists;<sup>27</sup>
- Physical therapists;<sup>28</sup>
- Psychologists and school psychologists;<sup>29</sup> and
- Clinical social workers, mental health counselors and marriage and family therapists.<sup>30</sup>

For each profession under the jurisdiction of the DOH, the DOH appoints the board executive director, subject to board approval.<sup>31</sup> The duties conferred on the boards do not include the enlargement, modification, or contravention of the scope of practice of a profession regulated by each board, unless expressly and specifically granted by statute, but the boards may take disciplinary action against a licensee or issue a declaratory statement.<sup>32</sup> Each board member is appointed by the Governor and accountable to the Governor for the proper performance of his or her duties as a member of a board.<sup>33</sup>

#### ***Board of Medicine (BOM)***

The BOM was established to ensure that every physician practicing in this state meets minimum requirements for safe practice. The practice of medicine is a privilege granted by the state. The BOM, through efficient and dedicated organization, is directed to license, monitor, discipline, educate, and, when appropriate, rehabilitate physicians and other practitioners to assure their fitness and competence.<sup>34</sup>

#### ***Board of Osteopathic Medicine (BOOM)***

The BOOM was legislatively established to ensure that every osteopathic physician practicing in this state meets minimum requirements for safe practice. The BOOM is responsible for licensing, monitoring, disciplining, and educating osteopathic physicians to assure competency and safety to practice in Florida.<sup>35</sup>

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<sup>21</sup> Part XIV, Chapter 468, F.S.

<sup>22</sup> Chapter 478, F.S.

<sup>23</sup> Chapter 480, F.S.

<sup>24</sup> Part II, Chapter 483, F.S.

<sup>25</sup> Part III, Chapter 483, F.S.

<sup>26</sup> Part I, Chapter 484, F.S.

<sup>27</sup> Part II, Chapter 484, F.S.

<sup>28</sup> Chapter 486, F.S.

<sup>29</sup> Chapter 490, F.S.

<sup>30</sup> Chapter 491, F.S.

<sup>31</sup> Section 456.004, F.S.

<sup>32</sup> Section 456.003(6), F.S.

<sup>33</sup> Section 456.008, F.S.

<sup>34</sup> The Department of Health, *Board of Medicine*, available at <https://flboardofmedicine.gov/> (last visited Jan. 7, 2020).

<sup>35</sup> The Department of Health, *Board of Osteopathic Medicine*, available at <https://floridasosteopathicmedicine.gov/> (last visited Jan. 7, 2020).

### ***Board of Dentistry (BOD)***

The BOD was established to ensure that every dentist and dental hygienist practicing in this state meets minimum requirements for safe practice. The practice of the profession is a privilege granted by the state. The BOD is responsible for licensure, monitoring and ensuring the safe practice of dentists and dental hygienists.<sup>36</sup>

### **Health Care Practitioner Regulation**

Section 456.072, F.S., sets out grounds for discipline that are applicable to all licensed health care practitioners, in addition to the grounds set out in each practice act, and includes:

- Making misleading, deceptive, or fraudulent representations in or related to the practice of the licensee's profession;
- Intentionally violating any board or DOH rule;
- Being convicted or found guilty of, or entering a plea of guilty or nolo contendere to, regardless of adjudication, and failing to report the violation within 30 days, including a crime:
  - Relating to practice, or ability to practice, a profession;
  - Relating to Medicaid fraud; and
  - Relating to health care fraud.
- Using a Class III or Class IV laser device without having complied with registration rules for the devices;
- Failing to comply with the continuing education (CE) requirements for:
  - HIV/AIDS;
  - Domestic violence.
- Having a license revoked, suspended, or acted against, including denial, or by relinquishment, stipulation, consent order, or settlement, in any jurisdiction;
- Having been found civilly liable for knowingly filing a false report or complaint with the DOH against another licensee;
- Attempting to obtain, or renewing a license by bribery, fraudulent misrepresentation, or through the DOH error;
- Failing to report to the DOH any person who the licensee knows is in violation of ch. 456, F.S., or the chapter and rules regulating the practitioner;
- Aiding, assisting, procuring, employing, or advising a person to practice a profession without a license;
- Failing to perform a statutory or legal obligation;
- Knowingly making or filing a false report;
- Making deceptive, untrue, or fraudulent representations in the licensee's practice;
- Exercising undue influence on the patient for financial gain;
- Knowingly practicing beyond his or her scope of practice or is not competent to perform;
- Delegating professional responsibilities to person licensee knows is not qualified to perform;
- Violating a lawful order of the DOH or a board, or failing to comply a DOH subpoena;
- Improperly interfering with an investigation, inspection, or disciplinary proceeding;

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<sup>36</sup> The Department of Health, *Board of Dentistry*, available at <https://floridasdentistry.gov/> (last visited Jan. 10, 2020).

- Failing to identify in writing, or wearing a name tag, or orally telling a patient the type of license the practitioner has, including in advertisements;
- Failing to provide patients information about their rights and how to file a complaint;
- Engaging or attempting to engage in sexual misconduct;
- Failing to comply with the requirements for profiling and credentialing;
- Failing to report within 30 days that the licensee has been convicted or found guilty of, or entered a plea of nolo contendere to, regardless of adjudication, a crime in any jurisdiction;
- Using information from police reports, newspapers, other publications, or through a radio or television, for commercial purposes or solicitation;
- Being unable to practice with reasonable skill and safety because of illness or use of alcohol, drugs, narcotics, chemicals, or as a result of a mental or physical condition;
- Testing positive for any illegal drug on any pre-employment or employer-ordered screening when the practitioner does not have a prescription;
- Performing or attempting to perform health care services on the wrong patient, wrong-site, or an unauthorized procedure or medically unnecessary procedure;
- Leaving a foreign body in a patient;
- Violating any provision of ch. 456, applicable practice act, or rules;
- Intentionally submitting a Personal Injury Protection (PIP) claim, that has been “upcoded”;
- Intentionally submitting a PIP claim for services not rendered;
- Engaging in a pattern of practice when prescribing medicinal drugs or controlled substances which demonstrates a lack of reasonable skill or safety to patients;
- Being terminated from an impaired practitioner program for failing to comply;
- Failure to comply with controlled substance prescribing requirements;
- Intentionally entering any information concerning firearm ownership into the patient’s medical record; and
- Willfully failing to authorize emergency care or services with such frequency as to indicate a general business practice.

### ***Board of Nursing (BON)***

The BON licenses, monitors, disciplines, educates, and, when appropriate, rehabilitates its licensees to assure their fitness and competence in providing health care services for the people of Florida. The sole legislative purpose in enacting the Nurse Practice Act is to ensure that every nurse practicing in Florida meets minimum requirements for safe practice. It is the intent of the Legislature that nurses who fall below minimum competency or who otherwise present a danger to the public shall be prohibited from practicing in Florida.<sup>37</sup>

Section 464.015, F.S., clearly specifies the permissible nursing titles a person may use that holds a valid nursing license in this state, or a multistate license, as follows:

- Licensed Practical Nurse - L.P.N.;
- Registered Nurse - R.N.;
- Clinical Nurse Specialist - C.N.S.;
- Certified Registered Nurse Anesthetist - C.R.N.A. or nurse anesthetist;
- Certified Nurse Midwife - C.N.M. or nurse midwife; and

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<sup>37</sup> The Department of Health, *Board of Nursing*, available at <https://floridasnursing.gov/> (last visited Jan. 7, 2020).

- Advanced Practice Registered Nurse - A.P.R.N.

A person may not practice or advertise as a registered nurse, licensed practical nurse, clinical nurse specialist, certified registered nurse anesthetist, certified nurse midwife, certified nurse practitioner, or advanced practice registered nurse, or use the abbreviation R.N., L.P.N., C.N.S., C.R.N.A., C.N.M., C.N.P., or A.P.R.N., or take any other action that would lead the public to believe that person was authorized by law to practice professional nursing, if the person is not licensed as such, and to do so is a first degree misdemeanor.<sup>38</sup>

On August 8, 2019, at the general BON meeting, the BON considered requests for declaratory statements.<sup>39</sup> The second request for a declaratory statement was made by John P. McDonough, A.P.R.N., C.R.N.A., license number 3344982.<sup>40</sup>

McDonough's Petition for Declaratory Statement acknowledged that the type of Florida nursing license he holds is as a *A.P.R.N.*, and that he is a certified registered nurse anesthetist (C.R.N.A.), but requested that he be permitted to use the phrase "nurse anesthesiologist" as a descriptor for him or his practice, and that the BON not subject him to discipline under ss. 456.072 and 464.018, F.S.,<sup>41</sup> based on the following grounds:

- A New Hampshire Board of Nursing's Position Statement that the nomenclature, *Nurse Anesthesiologist* and *Certified Registered Nurse Anesthesiologist*, are not title changes or an expansion of scope of practice, but are optional, accurate descriptors;<sup>42</sup> and
- Florida law grants no title protection to the words *anesthesiologist* or *anesthetist*.<sup>43</sup>

The Florida Association of Nurse Anesthetists (FANA) and the Florida Medical Association, Inc. (FMA), Florida Society of Anesthesiologists, Inc. (FSA), and Florida Osteopathic Medical

<sup>38</sup> Section 464.015, F.S.

<sup>39</sup> Section 120.565, F.S. Provides that, "[a]ny substantially affected person may seek a declaratory statement regarding an agency's opinion as to the applicability of a statutory provision as it applies to the petitioner's particular set of circumstances. The agency must give notice of the filing of a petition in the Florida Administrative Register, provide copies of the petition to the board, and issue a declaratory statement or deny the petition within 90 days after the filing. The declaratory statement or denial of the petition is then noticed in the next Florida Administrative Register, and disposition of a petition is a final agency action."

<sup>40</sup> The Florida Board of Nursing, Meeting Minutes, Disciplinary Hearings & General Business, Section I. Other, E. *Declaratory Statements*, No. 2, Aug. 8, 2019, p. 9, available at <https://www10.doh.state.fl.us/pub/bon/Board%20Meetings/August%207-9%202019/Minutes/August%202019%20Full%20Board%20Minutes.pdf> pp. 32-33 (last visited Jan. 3, 2020).

<sup>41</sup> *Petition for Declaratory Statement Before the Board of Nursing, In re: John P. McDonough, A.P.R.N., C.R.N.A., Ed.D.*, filed at the Department of Health, July 10, 2019, (on file with the Senate Committee on Health Policy).

<sup>42</sup> New Hampshire Board of Nursing, *Petition Statement Regarding the use of Nurse Anesthesiologist as a communication tool and Optional [D]escriptor for Certified Registered Nurse Anesthetists (CRNAs)*, Nov. 20, 2018, available at <https://www.oplc.nh.gov/nursing/documents/nh-bon-nurse-anesthesiologist.pdf> (last visited Nov. 6, 2019).

<sup>43</sup> *Id.*

Association, Inc. (FOMA), filed timely and legally sufficient<sup>44</sup> motions to intervene<sup>45</sup> pursuant to Florida Administrative Code Rule 28-106.205.<sup>46</sup> The FANA's petition<sup>47</sup> was in support of petitioner's Declaratory Statement while the motion filed jointly by the FMA, FSA, and FOMA was in opposition.

The FMA, FSA, and FOMA argued they were entitled to participate in the proceedings, on behalf of their members, as the substantial interests of their members, some 32,300, would be adversely affected by the proceeding.<sup>48, 49</sup> Specifically, the FMA, FSA and FOMA argued that the substantial interests of their respective members would be adversely affected by the issuance of a Declaratory Statement that petitioner could use the term "nurse anesthesiologist," without violating ss. 456.072 and 464.018, F.S., on the grounds that:

- A substantial number of their members use the term "anesthesiologist" with the intent and understanding that patients, and potential patients, would recognize the term to refer to them as physicians licensed under Chapters 458 or 459, F.S., not "nurse anesthetists";
- Sections 458.3475(1)(a) and 459.023(1)(a), F.S., both define the term "anesthesiologist" as a licensed allopathic or osteopathic physician and do not include in those definitions a "nurse anesthetist;"
- The Merriam-Webster Dictionary defines an "anesthesiologist" as a "physician specializing in anesthesiology," not as a nurse specializing in anesthesia; and
- The Legislature clearly intended a distinction between the titles to be used by physicians practicing anesthesiology and nurses delivering anesthesia, to avoid confusion, as s. 464.015(6), F.S., specifically states that:
  - Only persons who hold valid certificates to practice as certified registered nurse anesthetists in this state may use the title "Certified Registered Nurse Anesthetist" and the abbreviations "C.R.N.A." or "nurse anesthetist;" and
  - Petitioner is licensed as a "registered nurse anesthetist" under s. 464.012(1)(a), F.S., and the term "nurse anesthesiologist" is not found in statute.

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<sup>44</sup> Fla. Adm. Code R. 28-105.0027(2) and 28.106.205(2) (2019), both of which state that to be legally sufficient, a motion to intervene in a proceeding on a petition for a declaratory statement must contain the following information: (a) The name, address, the e-mail address, and facsimile number, if any, of the intervenor; if the intervenor is not represented by an attorney or qualified representative;(b) The name, address, e-mail address, telephone number, and any facsimile number of the intervenor's attorney or qualified representative, if any; (c) Allegations sufficient to demonstrate that the intervenor is entitled to participate in the proceeding as a matter of constitutional or statutory right or pursuant to agency rule, or *that the substantial interests of the intervenor are subject to determination or will be affected by the declaratory statement*; (d) The signature of the intervenor or intervenor's attorney or qualified representative; and (e) The date.

<sup>45</sup> The Florida Medical Association, Inc., Florida Society of Anesthesiologists, Inc., and Florida Osteopathic Medical Association, Inc., *Motion to Intervene In Florida Board of Nursing's Consideration of the Petition for Declaratory Statement in Opposition of Petitioner John P. McDonough, A.P.R.N., C.R.N.A., Ed.D.*, filed at the Department of Health, Aug. 1, 2019, (available in the Office of Senate Health Policy Committee).

<sup>46</sup> Fla. Adm. Code. R. 28-106.205 (2019), in pertinent part, provides, "Persons other than the original parties to a pending proceeding whose substantial interest will be affected by the proceeding and who desire to become parties may move the presiding officer for leave to intervene."

<sup>47</sup> *Florida Association of Nurse Anesthetists Motion to Intervene*, filed at the Department of Health, July 31, 2019, (on file with the Senate Committee on Health Policy).

<sup>48</sup> *Supra* note 47.

<sup>49</sup> *See also Florida Home Builders Association, et al., Petitioners, v. Department of Labor And Employment Security, Respondent*, 412 S.2d 351 (Fla. 1982), holding that a trade association does have standing under section 120.56(1) to challenge the validity of an agency ruling on behalf of its members when that association fairly represents members who have been substantially affected by the ruling.

At the hearing, the attorney for the BON advised the BON that, “[t]he first thing the Board need[ed] to do [was] determine whether or not the organizations that [had] filed petitions to intervene have standing in order to participate in the discussion of the Declaratory Statement”<sup>50</sup> and that:

“Basically in order to make a determination of whether an organization has standing, they have to show that the members of their organization would have an actual injury in fact, or suffer an immediate harm of some sort of immediacy were the Board to issue this particular Declaratory Statement, and then the Board also has to make a determination of whether the nature of the injury would be within the zone of interest that the statute is addressing.”<sup>51</sup>

However, the above special injury standard,<sup>52</sup> provided by board counsel to the BON to apply to determine the organizations’ standing to intervene, based on their members’ substantial interests being affected by the declaratory statement, was held inapplicable to trade associations in *Florida Home Builders Ass’n. v. Department of Labor and Employment Security*, 412 So.2d 351 (Fla. 1982). The Florida Supreme Court, in *Florida Home Builders, Ass’n.*, held that a trade or professional association is able to challenge an agency action on behalf of its members, even though each member could individually challenge the agency action, if the organization could demonstrate that:

- A substantial number of the association members, though not necessarily a majority, would be “substantially affected” by the challenged action;
- The subject matter of the challenged action is within the association’s scope of interest and activity; and
- The relief requested is appropriate for the association’s members.<sup>53</sup>

Thus, the FANA’s motion to intervene was granted, based on the application of an incorrect standard, without the BON making the findings required by *Florida Home Builders, Ass’n*. The motion to intervene filed by the FMA, FSA, and FOMA was denied, also based on the application of an incorrect standard, on the grounds that:

- Their members are regulated by the Board of Medicine, not the Board of Nursing;
- Nursing disciplinary guidelines were being discussed;
- Their members licenses and discipline would not be affected by an interpretation of nursing discipline;<sup>54</sup>and
- Their members are not regulated by the Nurse Practice Act.

A motion was made to approve McDonough’s Petition for Declaratory Statement, and it passed unanimously. Accordingly, McDonough may now use of the term “nurse anesthesiologist” as a descriptor, and such use is not grounds for discipline against his nursing license. However, while

<sup>50</sup> Record at p. 3, ll. 13-17. Declaratory Statement, Dr. John P. McDonough, Before the Board of Nurses, State of Florida, Department of Health, Sanibel Harbor Marriott. (on file with the Senate Committee on Health Policy).

<sup>51</sup> *Id.* p. 3-4, ll. 22- 25, 1-6.

<sup>52</sup> *United States Steel Corp. v. Save Sand Key, Inc.*, 303 So.2d 9 (Fla. 1974).

<sup>53</sup> *Florida Home Builders Ass’n. v. Department of Labor and Employment Security*, 412 So.2d 351 (Fla. 1982), pp. 353-354.

<sup>54</sup> Record at p. 7, ll. 1-13. Declaratory Statement, Dr. John P. McDonough, Before the Board of Nurses, State of Florida, Department of Health, Sanibel Harbor Marriott. (on file with the Senate Committee on Health Policy).



s. 120.565, F.S., provides that any person may seek a declaratory statement regarding the potential impact of a statute, rule or agency opinion on a petitioner's particular situation, approval or denial of the petition only applies to the petitioner. It is not a method of obtaining a policy statement from a board of general applicability.<sup>55</sup>

News media have reported that the BON's Declaratory Statement in favor of McDonough has created significant concern for patient safety and the potential for confusion in the use of the moniker "anesthesiologist" among Florida's medical professionals.<sup>56, 57, 58</sup>

### III. Effect of Proposed Changes:

CS/CS/SB 500 amends s. 456.072, F.S., which specifies grounds for discipline, applicable to all licensed health care practitioners. The bill amends s. 456.072(1)(a) to prohibit a licensed health care practitioner from using the terms "anesthesiologist" or "dermatologist" unless he or she is licensed as a physician under ch. 458 or 459, F.S., or a dentist under ch. 466, F.S. The bill adds, as grounds for professional discipline the making of misleading, deceptive, or fraudulent representations related to a practitioner's specialty designation. The bill also amends s. 456.072, (1)(t), F.S., and adds, as grounds for professional discipline, the making of misleading, deceptive, or fraudulent representations related to a practitioner's specialty designation and the failure to identify to a patient the type of specialty designation under which a practitioner is practicing.

If the DOH finds that a licensed health care practitioner is utilizing has violated s. 456.072(1)(a), F.S., by using the terms "anesthesiologist" or "dermatologist" without the practitioner being licensed as a physician under chs. 458 or 459, F.S., or a dentist, licensed under ch. 466, F.S.; or has made misleading, deceptive, or fraudulent representations related to a practitioner's specialty designation, the DOH must issue to the practitioner an emergency order to cease and desist and send the order to the practitioner by certified mail and email, or to any other mailing address or email address by which the DOH believes the person may be reached.

If the practitioner does not immediately cease and desist his or her actions upon receipt of the emergency cease and desist order, the DOH must enter an order imposing one or more of the following penalties until the practitioner complies:

- A citation and a daily fine.
- A reprimand or a letter of concern.
- Suspension of license.

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<sup>55</sup> Florida Department of Health, Board of Nursing, *What is a Declaratory Statement?*, available at <https://floridasnursing.gov/help-center/what-is-a-declaratory-statement/> (last visited Dec. 13, 2019).

<sup>56</sup> Christine Sexton, The News Service of Florida, "Nursing Board Signs Off On 'Anesthesiologist' Title," August 16, 2019, The Gainesville Sun, available at: <https://www.gainesville.com/news/20190816/nursing-board-signs-off-on-anesthesiologist-title> (last visited Dec. 13, 2019).

<sup>57</sup> Christine Sexton, The News Service of Florida, "Florida Lawmaker Takes Aim At Health Care Titles," October 10, 2019, Health News Florida, available at <https://health.wusf.usf.edu/post/florida-lawmaker-takes-aim-health-care-titles> (last visited Dec. 13, 2019).

<sup>58</sup> Christine Section, The News Service of Florida, "What's In A Name? Health Panel Seeks Clarity on Health Care Providers," November 14, 2019, available at <https://health.wusf.usf.edu/post/what-s-name-health-panel-seeks-clarity-health-care-providers> (last visited Dec. 13, 2019).

The bill authorizes the DOH to make rules to implement the bill.

The bill takes effect upon becoming a law.

**IV. Constitutional Issues:**

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

**V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The Department of Health may experience a workload increase associated with additional complaints and non-recurring costs associated with rule-making; however, these costs can be absorbed within existing resources.<sup>59</sup>

**VI. Technical Deficiencies:**

None.

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<sup>59</sup> Department of Health fiscal analysis (December 18, 2020) (on file with the Senate Appropriations Subcommittee on Health and Human Services).

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill amends section 456.072 of the Florida Statutes.

**IX. Additional Information:**

- A. **Committee Substitute – Statement of Substantial Changes:**  
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

**CS/CS by Rules on March 2, 2020:**

The CS:

- Eliminates the creation of s. 456.0465, F.S.;
- Amends s. 456.072(1)(a) and (t), F.S., to make the use of the terms “anesthesiologist” or “dermatologist” prohibited, and grounds for professional discipline, unless the practitioner is licensed as a physician under chs. 458 or 459, F.S., or as a dentist under ch. 466, F.S.; and
- Adds as grounds for professional discipline, the making of misleading, deceptive, or fraudulent representations related to a practitioner’s specialty designation and the failure to identify to a patient the type of specialty designation under which a practitioner is practicing.

**CS by Health Policy on January 14, 2020:**

The CS creates s. 456.0465, F.S., and:

- Changes the focus of the bill from “a person” to “a licensed health care practitioner”;
- Removes the requirement that the Department of Health (DOH) prove that the offending party “knowingly” misused one of the listed monikers;
- Eliminates the specific definitions for “anesthesiologist”;
- Creates exceptions for the use of the monikers “doctor of chiropractic” and “chiropractic physician” and for those chiropractic titles associated with achieving diplomate or fellow status;
- Creates exceptions for the titles used by dentists who has achieved diplomate or board certification status;
- Enumerates specific penalties for the violation of the bill’s provisions; and
- Grants the DOH rule making authority.

- B. **Amendments:**

None.