

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/CS/HB 713 Department of Health

**SPONSOR(S):** Health Care Appropriations Subcommittee, Health Quality Subcommittee, Rodriguez, A. M.

**TIED BILLS:** **IDEN./SIM. BILLS:** CS/SB 230

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Health Quality Subcommittee	11 Y, 0 N, As CS	Siples	McElroy
2) Health Care Appropriations Subcommittee	10 Y, 0 N, As CS	Mielke	Clark
3) Health & Human Services Committee			

### SUMMARY ANALYSIS

CS/CS/HB 713 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 establish patient care networks to plan for the care of individuals with the human immunodeficiency virus (HIV), rather than only those diagnosed with acquired immune deficiency syndrome (AIDS);
- Authorizes DOH to adopt rules to implement the Conrad 30 Waiver program;
- Revises DOH's rulemaking authority relating to the minimum standards for ground ambulances;
- Authorizes DOH to request a date of birth on a licensure application;
- Authorizes DOH to issue a temporary license that expires 60 days after issuance, rather than 30 days, to certain applicants who have not yet been issued a social security number;
- Repeals a requirement that DOH discipline a healthcare practitioner's license for failing to repay a student loan;
- Authorizes DOH to issue medical faculty certificates to certain full-time faculty members of Nova Southeastern University and Lake Erie College of Osteopathic Medicine;
- Repeals a requirement that the Board of Medicine triennially review board certification organizations for dermatology;
- Revises the requirements for osteopathic internships and residencies to include those accredited by the Accreditation Council for Graduate Medical Education ;
- 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 requires licensure applicants to pass a national licensure examination designated by the Board of Massage Therapy;
- 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 to January 30, 2025;
- Revives and reenacts health access dental licenses and makes the reenactments retroactive to January 1, 2020; and
- Deletes obsolete language and makes technical and conforming changes.

The bill has an insignificant, positive fiscal impact and an insignificant, negative fiscal impact on the DOH, which current resources are adequate to absorb. The bill has no fiscal impact on local governments.

The bill provides an effective date of July 1, 2020.

**This document does not reflect the intent or official position of the bill sponsor or House of Representatives.**

**STORAGE NAME:** h0713c.HCA

**DATE:** 1/29/2020

# FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

### A. EFFECT OF PROPOSED CHANGES:

#### Present Situation

##### HIV/AIDS

Human Immunodeficiency Virus (HIV) is an immune system debilitating virus that can lead to fatal acquired immunodeficiency syndrome (AIDS). HIV affects specific cells of the immune system and over time the virus can destroy enough of these cells that the body can no longer fight off infection and disease.<sup>1</sup> HIV is transmitted by sexual contact, sharing needles to inject drugs, and by a mother to her baby during pregnancy, birth, or breastfeeding.<sup>2</sup> There is no cure for HIV but it can be controlled with proper medical care, including antiretroviral therapy (ART). If taken properly, ART can dramatically prolong the lives of people infected with HIV, keep them healthy, and greatly lower the chance of infecting others.<sup>3</sup> However, untreated HIV is almost always fatal.<sup>4</sup>

There are three stages of HIV through which an infected person may typically progress:<sup>5</sup>

- Stage 1: Acute HIV infection. Within two to four weeks after infection with HIV, an individual may experience a flu-like illness.
- Stage 2: Clinical latency. HIV is still active but reproduces at a very low level. Those who are taking ART may remain at this stage for several decades.
- Stage 3: AIDS. This is the most severe phase of HIV infection. Opportunistic infections or cancers take advantage of a very weak immune system and signal that the person has AIDS. Without treatment, a person with AIDS typically survives about three years.

##### *AIDS and HIV in Florida*

The Department of Health (DOH) has identified the reduction in the transmission of HIV as one of its priority goals. It has adopted a comprehensive plan to prevent HIV transmission and strengthen patient care activities to reduce the risk of further transmission of HIV from those diagnosed and living with HIV. The plan includes:<sup>6</sup>

- Implementing routine HIV and sexually transmitted infections (STIs) screening in health care settings and priority testing in non-health care settings;
- Providing rapid access to treatment and ensuring retention in care;
- Improving and promoting access to antiretroviral pre-exposure prophylaxis and non-occupational post-exposure prophylaxis; and
- Increasing HIV awareness and community response through outreach, engagement, and messaging.

There has been an overall decrease in the number of newly diagnosed cases of HIV infection in the last 10 years. However, in the last five years, the number of newly diagnosed cases has increased.

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<sup>1</sup> Centers for Disease Control and Prevention, *About HIV/AIDS*, (last rev. Aug. 14, 2019), available at: <https://www.cdc.gov/hiv/basics/whatishiv.html> (last visited November 22, 2019).

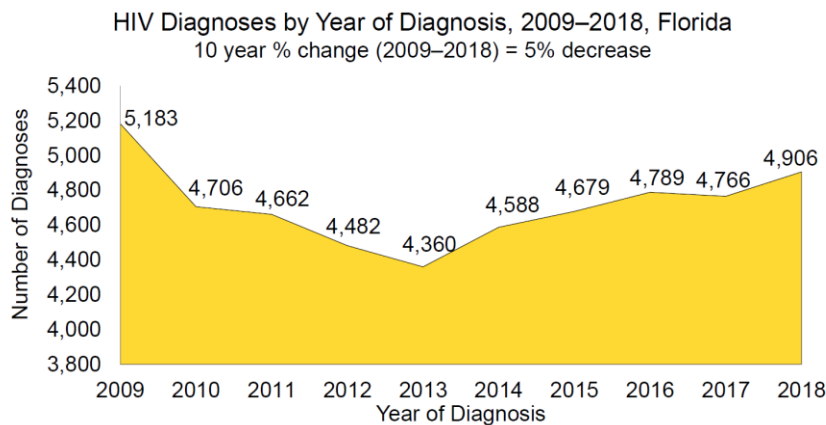
<sup>2</sup> Id.

<sup>3</sup> Id.

<sup>4</sup> Id.

<sup>5</sup> Id.

<sup>6</sup> Department of Health, *HIV/AIDS*, available at <http://www.floridahealth.gov/diseases-and-conditions/aids/> (last visited December 6, 2019).



Approximately, 1,918 individuals in Florida have AIDS.<sup>7</sup> This number has steadily declined in the last 20 years, with 4,646 AIDS cases in the state in 1999.<sup>8</sup> With advances in the treatment of HIV with ART, the number of individuals living with HIV has increased. In 2018, there were 119,661 individuals living with HIV in this state.<sup>9</sup> In the U.S., approximately 15 percent of individuals who have HIV are unaware that they are infected.<sup>10</sup> DOH estimated in 2017, that more than 18,000 Floridians were unaware of their HIV infection.<sup>11</sup>

### *Patient Care Networks*

Current law authorizes DOH to establish patient care networks for individuals with AIDS in those areas of the state where the number of cases of AIDS and other HIV infections justifies the establishment of such networks.<sup>12</sup> The patient care networks must plan for the care and treatment of individuals with AIDS and AIDS-related conditions in a cost-effective and dignified manner, which emphasizes outpatient and home care.<sup>13</sup> In establishing the networks, DOH must take into account the natural trade areas and centers of medical excellence in treating AIDS, as well as federal, state, and other funds. The patient care networks have been established in the following geographic areas:<sup>14</sup>

- South Florida, consisting of Dade and Monroe counties;
- Palm Beach County;
- East central Florida, consisting of Orange, Osceola, Seminole, and Brevard counties;
- West central Florida, consisting of Hillsborough, Polk, Pinellas, and Pasco counties; and
- Northeast Florida, consisting of Duval, St. Johns, Nassau, Baker, Clay, and Flagler counties.

Each network must annually make recommendations regarding patient care needs to DOH.<sup>15</sup>

### 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

<sup>7</sup> Department of Health, Florida Health Charts, *AIDS Cases*, available at <http://www.flhealthcharts.com/ChartsReports/rdPage.aspx?rdReport=HIVAIDS.DataViewer&cid=0141> (last visited November 22, 2019).

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

<sup>9</sup> Department of Health, Florida Health Charts, *Persons Living with HIV*, available at <http://www.flhealthcharts.com/ChartsReports/rdPage.aspx?rdReport=HIVAIDS.DataViewer&cid=9866> (last visited November 22, 2019).

<sup>10</sup> HIV.gov, *Ending the HIV Epidemic: HIV in America*, (last rev. June 27, 2019), available at <https://www.hiv.gov/federal-response/ending-the-hiv-epidemic/hiv-in-america> (last visited November 22, 2019).

<sup>11</sup> Department of Health, *2017 Florida HIV Surveillance Summary*, (Nov. 2018), available at [http://www.floridahealth.gov/diseases-and-conditions/aids/surveillance/\\_documents/fact-sheet/HIV\\_Surveillance\\_Trifold.pdf](http://www.floridahealth.gov/diseases-and-conditions/aids/surveillance/_documents/fact-sheet/HIV_Surveillance_Trifold.pdf) (last visited November 22, 2019).

<sup>12</sup> Section 381.0042, F.S.

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

<sup>14</sup> Rule 64D-2.001, F.A.C.

<sup>15</sup> *Supra* note 12.

his or her country of nationality for at least two years after completion of the J-1 visa program.<sup>16</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>17</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 sponsor 30 physicians for waivers per year and each state may develop its own application 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>18</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>19</sup> Currently, Florida approves these waivers on a first-come basis.

### Emergency Medical Transportation Services

The Legislature recognized the need for the uniform and systematic provision of emergency medical services to save lives and reduce disability associated with illness and injury.<sup>20</sup> In 1973, the Florida Legislature passed and enacted what is known today as the Raymond H. Alexander, M.D., Emergency Medical Transportation Services Act (Act).<sup>21</sup> The Act establishes the licensing and operational requirements for emergency medical services.

The Act creates the Emergency Medical Services Advisory Council (Council)<sup>22</sup> to act as an advisory body to the emergency medical services within DOH.<sup>23</sup> The Council’s duties include, among other things:<sup>24</sup>

- Identifying and making recommendations to the DOH regarding the appropriateness of suggested changes to statutes and administrative rules;
- Acting as a clearinghouse for information specific to changes in the provision of medical services and trauma care;
- Providing technical support to the DOH in the areas of emergency medical services and trauma systems design, required medical and rescue equipment, required drugs and dosages, medical treatment protocols and emergency medical services personnel education and training requirements;
- Providing a forum for discussing significant issues facing the emergency medical services and trauma care communities;

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<sup>16</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 November 22, 2019).

<sup>17</sup> *Id.*

<sup>18</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 November 22, 2019).

<sup>19</sup> *Id.*

<sup>20</sup> Section 401.211, F.S.

<sup>21</sup> Department of Health, *Emergency Medical Services System*, available at <http://www.floridahealth.gov/licensing-and-regulation/ems-system/index.html> (last visited December 11, 2019). The Act is codified at ss. 401.2101 – 401.465, F.S.

<sup>22</sup> Section 401.245(2), F.S. The Council consists of 15 members appointed by the State Surgeon General, except that state agency representatives are appointed by the respective agency heads. Members are typically appointed for four year terms, with the chair being designated by the State Surgeon General and Secretary of Health. Additional members include six ex officio representatives appointed by various other state agency heads.

<sup>23</sup> Section 401.245(1), F.S.

<sup>24</sup> *Id.*

- Assisting the DOH in setting program priorities; and
- Providing feedback to the DOH on the administration and performance of the emergency medical services program.

### *Licensure*

Current law requires providers of basic or advanced life support transportation services to be licensed by the DOH in their respective fields.<sup>25</sup> Basic life support (BLS) service refers to any emergency medical service that uses only basic life support techniques.<sup>26</sup> BLS includes basic non-invasive interventions to reduce morbidity and mortality associated with out-of-hospital medical and traumatic emergencies.<sup>27</sup> The services provided may include stabilization and maintenance of airway and breathing, pharmacological interventions, trauma care, and transportation to an appropriate medical facility.<sup>28</sup>

Advanced life support (ALS) service refers to any emergency medical or non-transport service that uses advanced life support techniques.<sup>29</sup> ALS includes the assessment or treatment of a person by a qualified individual, such as a paramedic, who is trained in the use of techniques such as the administration of drugs or intravenous fluid, endotracheal intubation, telemetry, cardiac monitoring, and cardiac defibrillation.<sup>30</sup>

To be licensed as a BLS or ALS service, an applicant must comply with the following requirements:

- The ambulances, equipment, vehicles, personnel, communications systems, staffing patterns, and services of the applicant meet the statutory requirement and administrative rules for either a BLS service or an ALS service, whichever is applicable;
- Have adequate insurance coverage or certificate of self-insurance for claims arising out of injury to or death of persons and damage to the property of others resulting from any cause for which the owner of such business or service would be liable; and
- A Certificate of Public Convenience and Necessity from each county in which the applicant will operate.<sup>31</sup>

DOH must establish rules for ground ambulance or vehicle design and construction that is at least equal to those recommended by the United States General Services Administration.<sup>32</sup> The federal guideline went into effect in 1974 and was for use by federal agencies and federal grant recipients purchasing ambulances.<sup>33</sup> This federal standard was to be discontinued in 2016, however, it was recently updated in July 2019.<sup>34</sup> Many states use the federal recommendations as there were no standards for ambulance design.<sup>35</sup> In recent years, however, at least two other organizations have created standards: the Commission on Accreditation of Ambulance Services and the National Fire Protection Association.<sup>36</sup> In addition to the general licensure requirement, DOH provides a list of the equipment and supplies with which each BLS vehicle must be equipped and maintained and the equipment and medication with which each ALS vehicle must be equipped and maintained by rule.<sup>37</sup> Current law requires the list of equipment and supplies established by DOH in rule, be at least as comprehensive as those listed in the most current

<sup>25</sup> Section 401.25(1), F.S.

<sup>26</sup> Section 401.23(8), F.S.

<sup>27</sup> Section 401.23(7), F.S., and U.S. Department of Transportation, National Highway Safety Administration, *National EMS Scope of Practice Model 23-24*, available at [www.nhtsa.gov/people/injury/ems/pub/emtbnscc.pdf](http://www.nhtsa.gov/people/injury/ems/pub/emtbnscc.pdf) (last visited December 11, 2019).

<sup>28</sup> *Id.*

<sup>29</sup> Section 401.23(2), F.S.

<sup>30</sup> Section 401.23(1), F.S.

<sup>31</sup> Section 401.25(2), F.S.

<sup>32</sup> Section 401.35, F.S.

<sup>33</sup> Richard Huff, NREMT-B, *Competing Ambulance Safety Standards Await State Adoption*, 40 J EMER. MED. SERV. (Jan. 26, 2015), available at <https://www.jems.com/2015/01/26/competing-ambulance-safety-standards-await-state-adoption/> (last visited December 11, 2019).

<sup>34</sup> *Id.*, and SafeAmbulances.org, Ground Ambulance Standards and EMS Safety Resource, *General Services Administration*, available at <https://www.safeambulances.org/organizations/gsa/> (last visited December 11, 2019).

<sup>35</sup> *Id.*

<sup>36</sup> *Supra* note 33.

<sup>37</sup> Rule 64J-1.002(4) F.A.C. (Basic Life Support Service License – Ground); Rule 64J-1.003(7), F.A.C. (Advanced Life Support Service License – Ground).

edition of the American College of Surgeons, Committee on Trauma, list of essential equipment for ambulances.<sup>38</sup> The American College of Surgeons developed this list more than 40 years ago, and in 2000, it jointly produced a list of standardized ambulance equipment with the American College of Emergency Physicians. Since that time, the joint document has been updated and has included participation by the National Association of EMS Physicians, Federal Emergency Medical Services for Children Stakeholder Group, National Association of State EMS Officials, Emergency Nurses Association, and endorsed by the American Academy of Pediatrics.<sup>39</sup>

## 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>40</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 professions.<sup>41</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>42</sup> Additionally, an applicant must provide his or her social security number for identification purposes.<sup>43</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.

If, at the time of application, an applicant has not been issued a social security number because he or she is not a U.S. citizen or resident, DOH may process the application using a unique personal identification number.<sup>44</sup> If the applicant is eligible for a license, the applicable board, or DOH when there is no board, may issue a temporary license to the applicant.<sup>45</sup> The temporary license is only valid for 30 days unless the applicant submits a social security number. On average, it takes about two weeks to receive a social security number once all required documentation is submitted to the U.S. Social Security Administration.<sup>46</sup> If the Social Security Administration is unable to immediately verify immigration documents with the U.S. Citizenship and Immigration Services, it may take an additional two weeks to issue the social security number.<sup>47</sup>

## Health Care Licensure and Student Loans

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<sup>38</sup> Section 401.35, F.S.

<sup>39</sup> American Academy of Pediatrics, American College of Emergency Physicians, American College of Surgeons Committee on Trauma, Emergency Medical Services for Children, Emergency Nurses Association, National Association of EMS Physicians & National Association of State EMS Officials, *Equipment for Ground Ambulances*, PREHOSPITAL EMERGENCY CARE, 18:1, 92-97, (Oct. 2013), available at <https://www.tandfonline.com/doi/pdf/10.3109/10903127.2013.851312> (last visited December 11, 2019).

<sup>40</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, dietitians, 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>41</sup> Florida Department of Health, Division of Medical Quality Assurance, *Annual Report and Long-Range Plan, Fiscal Year 2018-2019*, available at <http://www.floridahealth.gov/licensing-and-regulation/reports-and-publications/documents/annual-report-1819.pdf> (last visited November 22, 2019).

<sup>42</sup> Section 456.013, F.S.

<sup>43</sup> Id.

<sup>44</sup> Id.

<sup>45</sup> Id.

<sup>46</sup> U.S. Social Security Administration, *Apply for your Social Security Number While Applying for Your Work Permit*, available at <https://www.ssa.gov/ssnvisa/ebe.html> (last visited November 25, 2019).

<sup>47</sup> Id.

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>48</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>49</sup> The DOE is directed to exert every lawful and reasonable effort to collect all delinquent unpaid and uncanceled student loans.<sup>50</sup>

### *Increase in Defaults on Student Loans*

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>51</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. For most federal loans, default generally occurs when a payment has not been made for 270 days.<sup>52</sup> In 2018, 41,013 borrowers who attended Florida schools had defaulted on their federal student loans used to attend institutions ranging from universities to trade schools.<sup>53</sup>

### *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, post-secondary institutions, and lenders that high levels of default would not be tolerated. The federal government recommended that states take the following steps to curb student loan default:<sup>54</sup>

- 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.

As a result, many states, including Florida, began adopting various forms of disciplinary licensing laws for defaulting on government-backed student loans. By 2010, about half of the states had some form of disciplinary licensing laws for defaulting on government-backed student loans. Since then, based on shifting concerns, there has been a trend to reduce or eliminate such laws. Currently, approximately 15 states, including Florida, still have some form of such laws.<sup>55</sup>

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

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<sup>48</sup> Consumer Financial Protection Bureau, *Student Loans: Choosing a loan that's right for you*, <https://www.consumerfinance.gov/paying-for-college/choose-a-student-loan/#o1> (last visited Dec. 4, 2019).

<sup>49</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 Nov. 26, 2019).

<sup>50</sup> S. 1009.95, F.S.

<sup>51</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 Nov. 26, 2019).

<sup>52</sup> United States Department of Education, Federal Student Aid, *Glossary, Default*, [https://studentaid.ed.gov/sa/glossary#letter\\_d](https://studentaid.ed.gov/sa/glossary#letter_d) (last visited Nov. 26, 2019).

<sup>53</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 Nov. 26, 2019).

<sup>54</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 Nov. 26, 2019).

<sup>55</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 Nov. 26, 2019).

Recently, there have been attempts at the national level to prohibit state disciplinary licensing laws for defaulting on government-backed student loans. Bills were introduced in the United States Congress in 2018 and 2019 that would prohibit states from disciplining or denying state-issued licenses for defaulting on government-backed student loans.<sup>56</sup>

### *DOH Disciplinary Laws*

Section 456.072(1)(k), F.S., authorizes DOH to discipline a health care practitioner for failing to perform any statutory or legal obligation placed upon a health care practitioner, which specifically includes failing to repay a government-backed student loan or comply with a service scholarship obligation. If DOH finds that a health care practitioner has defaulted on his or her student loans or failed to comply with a service scholarship, at a minimum, DOH must:

- Suspend the practitioner’s license until he or she agrees to new loan repayment terms or resumes the scholarship obligation;
- Place the practitioner 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 USHHS of Florida-licensed health care practitioners who have defaulted on government-backed student loans.<sup>57</sup> Upon learning that a health care practitioner has defaulted on such 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 such practitioner will be subject to an emergency order suspending the practitioner’s license. Also, DOH may proceed with additional disciplinary action against the practitioner, regardless if he or she provides proof of entering a new repayment plan.<sup>58</sup>

During the 2017-2018 Fiscal Year, DOH handled 247 cases against health care practitioners for defaulting on student loans, and during the 2018-2019 Fiscal Year, DOH handled 722 cases.<sup>59</sup>

<b>Case Status</b>	<b>2017-18 FY</b>	<b>2018-19 FY</b>
Mediated	88	332
Dismissed	27	75
Discipline Imposed	23	36
No Probable Cause Found	9	41
Licensee is No Longer Licensed	54	55
Licensee is Deceased	3	2
Still Open	43	160
Complaint Withdrawn by DOE	0	21
<b>Total</b>	<b>247</b>	<b>722</b>

### Medical Faculty Certificates

The Board of Medicine may issue a medical faculty certificate to a qualified physician to practice in conjunction with a full-time faculty appointment at one of the following accredited medical school and its affiliated clinical facilities or teaching hospitals:<sup>60</sup>

- University of Florida;
- University of Miami;
- University of South Florida;

<sup>56</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); Protecting JOBS Act, S.609, 116<sup>th</sup> Congress (2019-2020).

<sup>57</sup> Section 456.0721, F.S.

<sup>58</sup> Section 456.074(4), F.S.

<sup>59</sup> E-mail correspondence with Gary Landry, Office of Legislative Planning, Department of Health, dated Oct. 30, 2019, on file with the Health Quality Subcommittee.

<sup>60</sup> Section 458.3145, F.S.



- Florida State University;
- Florida International University;
- University of Central Florida;
- Mayo Clinic College of Medicine and Science in Jacksonville, Florida;
- Florida Atlantic University; or
- Johns Hopkins All Children's Hospital in St. Petersburg, Florida

Although the applicant does not have to sit for and successfully pass a national examination, the applicant must meet specified statutory criteria for the medical faculty certificate.

There is no limit on the number of initial certificates a medical school or teaching institution may receive. However, the number of medical faculty certificates that may be renewed by each medical school or teaching institution is statutorily limited.<sup>61</sup> All medical schools, except the Mayo Clinic College of Medicine in Jacksonville, Florida, are limited to 30 renewed medical faculty certificates. The Mayo Clinic College of Medicine is limited to 10 renewed medical faculty certificates. The H. Lee Moffitt Cancer Center and Research Institute is also permitted to have up to 30 renewed faculty certificates.<sup>62</sup>

An annual review of each medical faculty certificate recipient is made by the dean of the certificate recipient's accredited 4-year medical school and reported to the BOM within the DOH on an annual basis.<sup>63</sup> Currently, there are 62 physicians holding a medical faculty certificate.<sup>64</sup>

### Board Certification of Physicians

Medical licensure of physicians sets the minimum competency requirements to diagnose and treat patients; it is not specialty specific.<sup>65</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>66</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>67</sup> approved by the allopathic board.<sup>68</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>69</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 American Osteopathic Association (AOA) or the Accreditation Council on Graduate Medical Education (ACGME) and is certified as a specialist by a certifying agency<sup>70</sup> approved by the board.<sup>71</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.

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<sup>61</sup> Section 458.3145(4), F.S.

<sup>62</sup> *Id.*

<sup>63</sup> Section 458.3145(5), F.S.

<sup>64</sup> *Supra* note 41.

<sup>65</sup> American Board of Physician Specialties, *Not All Physicians are Board Certified in the Specialties They Practice*, available at <https://www.abpsus.org/physician-board-certified-specialties> (last visited November 25, 2019).

<sup>66</sup> *Id.*

<sup>67</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>68</sup> Section 458.3312, F.S.

<sup>69</sup> *Id.*

<sup>70</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>71</sup> Section 459.0152, F.S.

## Osteopathic Residencies

Following graduation from an AOA-approved medical school, osteopathic physicians (DOs) must complete an approved 12-month internship.<sup>72</sup> Interns rotate through hospital departments, including internal medicine, family practice, and surgery. They may then choose to complete a residency program in a specialty area, which requires two to six years of additional training.<sup>73</sup>

Florida law requires DOs to complete an AOA-approved residency for licensure.<sup>74</sup> However, the Board of Osteopathic Medicine will accept a residency accredited by the ACGME<sup>75</sup> for licensure if the applicant demonstrates good cause, such as:<sup>76</sup>

- Personal limitation created by a documented physical or medical disability;
- Unique documented opportunity otherwise unavailable that meets a practice area of critical need;
- Documented legal restriction which requires the physical presence in a particular state or local area;
- Documented unusual or exceptional family circumstances which limit training opportunities;
- The previous program met all AOA requirements, but due to documented circumstances beyond the control of the applicant, was discontinued;
- Documented inability to relocate to another geographic area with undue hardship; or
- Documented inability to obtain an AOA internship.

### *Single Graduate Medical Education Accreditation System*

In 2014, the ACGME, AOA, and American Association of Colleges of Osteopathic Medicine entered into a Memorandum of Understanding to transition to a single accreditation system for graduate medical education (GME).<sup>77</sup> Under this agreement, graduates of all allopathic and osteopathic medical schools complete residencies or fellowships in ACGME-accredited programs.<sup>78</sup> On July 1, 2015, the AOA and the ACGME began transitioning to a single GME accreditation system.<sup>79</sup>

The parties to this agreement indicate that a single accreditation system will:<sup>80</sup>

- Establish and maintain consistent evaluation and accountability for the competency of resident physicians across all accredited GME programs;
- Eliminate duplication in GME accreditation;
- Achieve efficiencies and cost savings for institutions that sponsor both AOA-accredited and ACGME-accredited programs; and
- Ensure all residency and fellowship applicants are eligible to enter all accredited programs in the nation and can transfer from one accredited program to another without repeating training or causing a sponsoring institution to lose Medicare funding.

The AOA will cease accrediting GME programs on June 30, 2020.<sup>81</sup> The single accreditation system requires all training programs to be ACGME-accredited by that date. If a program is solely AOA-

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<sup>72</sup> Florida Osteopathic Medical Association, *Osteopathic Education*, available at <https://www.foma.org/osteopathic-education.html> (last visited November 25, 2019).

<sup>73</sup> Id.

<sup>74</sup> Section 459.055(1)(l), F.S.

<sup>75</sup> The Accreditation Council for Graduate Medical Education sets the standards for U.S. graduate medical education (residency and fellowship) programs and accredits such programs based on compliance with these standards. In 2017-2018, there were 830 ACGME-accredited institutions sponsoring more than 11,000 residency and fellowship programs. See Accreditation Council for Graduate Medical Education, *What We Do*, available at <https://www.acgme.org/What-We-Do/Overview> (last visited November 25, 2019).

<sup>76</sup> Rule 64B15-16, F.A.C.

<sup>77</sup> American Association of Colleges of Osteopathic Medicine, *Single GME Accreditation System*, available at <https://www.aacom.org/news-and-events/single-gme-accreditation-system> (last visited November 25, 2019).

<sup>78</sup> Accreditation Council for Graduate Medical Education, *Single GME Accreditation System*, available at <https://www.acgme.org/What-We-Do/Accreditation/Single-GME-Accreditation-System> (last visited November 25, 2019).

<sup>79</sup> Id.

<sup>80</sup> Accreditation Council for Graduate Medical Education, *Frequently Asked Questions: Single Accreditation System*, available at <https://www.acgme.org/Portals/0/PDFs/Nasca-Community/FAQs.pdf> (last visited November 25, 2019).

<sup>81</sup> American Osteopathic Association, *Single GME Resident FAQs*, available at <https://osteopathic.org/residents/resident-resources/residents-single-gme/single-gme-resident-faqs/> (last visited November 25, 2019).

accredited, the program must apply for ACGME accreditation or stop accepting trainees by June 30, 2020.<sup>82</sup> However, the terms of the agreement allow the AOA to extend a program's accreditation if the program has made a good faith effort to obtain ACGME accreditation but has not transitioned to ACGME accreditation by June 30, 2020.<sup>83</sup>

### Chiropractic Assistants

There are two types of chiropractic assistants: certified and registered.<sup>84</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>85</sup> A registered chiropractic assistant is a 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>86</sup>

A registered chiropractic assistant voluntarily registers with the Board of Chiropractic Medicine.<sup>87</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>88</sup> A registered chiropractic assistant may:<sup>89</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 3,991 registered chiropractic assistants.<sup>90</sup> DOH does not regulate the practice of registered chiropractic assistants.

### Board of Nursing

#### *Rulemaking Authority*

The Board of Nursing has the authority to adopt rules to implement ch. 464, F.S., which regulates the practice of nursing in this state.<sup>91</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>92</sup> An

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<sup>82</sup> Id.

<sup>83</sup> Id.

<sup>84</sup> Sections 460.4165 and 460.4166, F.S.

<sup>85</sup> Rule 64B2-18(5), F.A.C.

<sup>86</sup> Section 460.4166(1), F.S.

<sup>87</sup> Section 460.4166(3), F.S.

<sup>88</sup> *Supra* note 86.

<sup>89</sup> Section 460.4166, F.S.

<sup>90</sup> *Supra* note 41.

<sup>91</sup> Section 464.006, F.S.

<sup>92</sup> Section 464.201(5), F.S.

applicant for certification as a CNA must complete an approved training program, pass a competency examination, and pass a background screening.<sup>93</sup> A CNA who is certified in another state, is listed on that state's CNA registry<sup>94</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 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>95</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>96</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>97</sup>

In 2009, the Legislature created a statutory framework for approving nursing education programs, which was revised in 2010 and 2014.<sup>98</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>99</sup> In 2017, the report became the sole responsibility of the center.<sup>100</sup>

The annual report includes data and measurements on:<sup>101</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.

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<sup>93</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 November 25, 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>94</sup> A CNA Registry is a listing of CNAs who received certification and maintain an active certification. (Rule 64B9-15.004, F.A.C.)

<sup>95</sup> Section 464.204, F.S.

<sup>96</sup> Chapter 2001-277, L.O.F., codified at s. 466.0195, F.S.

<sup>97</sup> Id. See also, Florida Center for Nursing, *Our History*, available at <https://www.flcenterfornursing.org/AboutUs/OurHistory.aspx> (last visited December 2, 2019).

<sup>98</sup> Chapters 2009-168, 2010-37, and 2014-92, L.O.F., respectively.

<sup>99</sup> Chapter 2014-92, L.O.F.

<sup>100</sup> Chapter 2017-134, L.O.F.

<sup>101</sup> Section 464.019(10), F.S.

The report also evaluates the Board of Nursing's implementation of the program approval process and accountability processes.<sup>102</sup>

## 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>103</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>104</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>105</sup> DOH indicates that there is confusion on whether these programs may include specialty or advanced education programs.<sup>106</sup>

Any person wishing to be licensed as a dental hygienist must apply to DOH and meet the following qualifications:<sup>107</sup>

- Be 18 years of age or older;
- Be a graduate of an accredited dental hygiene college or school;<sup>108</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>109</sup>

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<sup>102</sup> Id.

<sup>103</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>104</sup> Section 466.006(2), F.S.

<sup>105</sup> Section 466.006(3), F.S.

<sup>106</sup> Department of Health, *2020 Agency Legislative Analysis for SB 230*, on file with the Health Quality Subcommittee. SB 230 is substantively similar to HB 713.

<sup>107</sup> Section 466.007, F.S.

<sup>108</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>109</sup> *Supra* note 106, at p. 4.

## *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>110</sup> in this state, without supervision.<sup>111</sup> In Fiscal Year 2018-2019, the Board of Dentistry issued 50 health access dental licenses.<sup>112</sup>

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>113</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>114</sup>. A licensee must meet the same continuing education requirements as a Florida-licensed dentists.<sup>115</sup> Additionally, a licensee must continue to meet all the requirements met for initial license.<sup>116</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>117</sup>

The program is scheduled for repeal effective January 1, 2020, unless reenacted by the Legislature.<sup>118</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>119</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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<sup>110</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-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>111</sup> Chapter 2008-64, L.O.F., codified at s. 466.0067, F.S.

<sup>112</sup> *Supra* note 41.

<sup>113</sup> Section 466.0067, F.S.

<sup>114</sup> Section 466.00671, F.S.

<sup>115</sup> *Id.*

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

<sup>117</sup> Section 466.00672, F.S.

<sup>118</sup> Section 466.00673, F.S.

<sup>119</sup> Rule 64B5-14.006, F.A.C.

anesthesia,<sup>120</sup> deep sedation,<sup>121</sup> moderate sedation,<sup>122</sup> pediatric moderate sedation,<sup>123</sup> minimal sedation,<sup>124</sup> nitrous oxide,<sup>125</sup> or local anesthesia.<sup>126</sup> The dentist must file a complete written report with the Board of Dentistry within 30 days.<sup>127</sup>

Allopathic and osteopathic physicians are statutorily required to report adverse incidents in office practice settings.<sup>128</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>129</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>130</sup> A dental laboratory must:<sup>131</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>132</sup> A dental laboratory may not solicit or advertise to the general public.<sup>133</sup>

DOH inspects dental laboratories at least once each year, and such inspections may occur with or without notice.<sup>134</sup>

### 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

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<sup>120</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>121</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>122</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>123</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>124</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>125</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>126</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>127</sup> *Supra* note 119.

<sup>128</sup> See ss. 458.351 and 459.026, F.S.

<sup>129</sup> Section 466.031, F.S.

<sup>130</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>131</sup> Rule 64B27-1.001, F.A.C.

<sup>132</sup> *Id.* Personal prescriptions are permissible.

<sup>133</sup> Section 466.035, F.S.

<sup>134</sup> Rule 64B27-1.001(1), F.S.

injury, illness, or other condition involving exercise, sport, recreation, or related physical activity.<sup>135</sup> To be licensed as an athletic trainer, an applicant must:<sup>136</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>137</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>138</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>139</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>140</sup> and may provide care such as:<sup>141</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>142</sup> A licensed athletic trainer may not provide, offer to provide, or represent that he or she is qualified to 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>143</sup>

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<sup>135</sup> Section 468.701(2), F.S.

<sup>136</sup> Section 468.707, F.S.

<sup>137</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 December 2, 2019).

<sup>138</sup> *Supra* note 106, at p. 4.

<sup>139</sup> Section 468.711, F.S.

<sup>140</sup> Section 468.713, F.S.

<sup>141</sup> Rule 64B33-4.001, F.A.C.

<sup>142</sup> *Supra* note 140.

<sup>143</sup> Section 468.701(1), F.S.



## Orthotists and Prosthetists

The Board of Orthotists and Prosthetists oversees the licensure and regulation of orthotists<sup>144</sup> and prosthetists.<sup>145</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>146</sup> The board must verify that an applicant for licensure examination meets the following requirements:<sup>147</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>148</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>149</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 Therapists*

To be licensed as a massage therapist, an applicant must:<sup>150</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 a board-approved examination;<sup>151</sup> and

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<sup>144</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>145</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>146</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>147</sup> Section 468.803(2), F.S.

<sup>148</sup> Section 468.803(5), F.S. Licenses must be renewed biennially.

<sup>149</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>150</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>151</sup> In r. 64B27-25.001(3), F.A.C., the Board of Massage Therapy has approved the following national licensure examinations: Massage and Bodywork Licensing Examination administered by the Federation of State Massage Therapy Boards, National Certification Board for Therapeutic Massage and Bodywork Examination, National Certification Examination for Therapeutic Massage, National Exam for State

- Pass a background screening.

In the 2017-2018 fiscal year, 3,380 individuals were granted licensure, 13 of which qualified for licensure by completing an approved Florida apprenticeship program.<sup>152</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 acceptable course of study for licensure as a massage therapist.<sup>153</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>154</sup> under the direct supervision of a sponsor.<sup>155</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>156</sup> The apprenticeship must be completed within 12 months of commencement<sup>157</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>158</sup> Few schools in Florida offer a colonic irrigation program so apprenticeships are the primary method of training. There are 21 individuals certified to complete an apprenticeship in colonic irrigation.<sup>159</sup>

## Psychologists

### *Licensure Requirements*

The Board of Psychology oversees the licensure and regulation of psychologists.<sup>160</sup> To receive a license to practice psychology, an individual must:<sup>161</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>162</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>163</sup> and

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Licensure option administered by the National Certification Board for Therapeutic Massage and Bodywork, and for colonic irrigation, The National Board for Colon Hydrotherapy Examination.

<sup>152</sup> *Supra* note 106.

<sup>153</sup> Department of Health, *2019 Agency Legislative Analysis for HB 7031*, on file with the Health Quality Subcommittee.

<sup>154</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>155</sup> Rule 64B7-29.001, F.A.C.

<sup>156</sup> *Id.*

<sup>157</sup> Rule 64B7-29.007, F.A.C.

<sup>158</sup> Rule 64B7-25.001, F.A.C.

<sup>159</sup> *Supra* note 106.

<sup>160</sup> Section 490.004, F.S.

<sup>161</sup> Section 490.005(1), F.S.

<sup>162</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>163</sup> Rule 64B19-11.001, F.A.C.

- 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>164</sup> The APA no longer accredits programs in Canada.<sup>165</sup>

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>166</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>167</sup>

### *School Psychologists*

To be licensed as a school psychologist, an applicant must:<sup>168</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>169</sup>

The Commission on Recognition of Postsecondary Accreditation was dissolved in 1997, and its successor organization is the Council on Higher Education Accreditation.<sup>170</sup> The Association of Universities and Colleges of Canada changed its name to Universities Canada.<sup>171</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>172</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>173</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>174</sup>

<sup>164</sup> American Psychological Association, *Understanding APA Accreditation*, available at <http://www.apa.org/ed/accreditation/about/index.aspx> (last visited December 2, 2019).

<sup>165</sup> *Supra* note 106 at p. 5.

<sup>166</sup> Section 490.006, F.S.

<sup>167</sup> *Supra* note 106 at p. 5.

<sup>168</sup> Section 490.005(2), F.S.

<sup>169</sup> Department of Health, *School Psychology Licensing*, available at <http://www.floridahealth.gov/licensing-and-regulation/school-psychology/licensing/index.html> (last visited December 2, 2019).

<sup>170</sup> U.S. Department of Education, *Accreditation in the U.S.*, available at <https://www2.ed.gov/admins/finaid/accred/accredus.html> (last visited December 2, 2019).

<sup>171</sup> Universities Canada, *About Us*, available at <https://www.univcan.ca/about-us/> (last visited December 2, 2019).

<sup>172</sup> Section 491.005, F.S. A procedure for licensure by endorsement is provided in s. 491.006, F.S.

<sup>173</sup> Section 491.0045, F.S.

<sup>174</sup> Rule 64B4-2.001, F.A.C.

An applicant seeking registration as an intern must:<sup>175</sup>

- Submit a completed application form and the nonrefundable fee to the DOH;
- 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>176</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>177</sup> An applicant seeking licensure as a mental health counselor must:<sup>178</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 a qualified supervisor as determined by the 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>179</sup>

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<sup>175</sup> Section 491.0045(2), F.S.

<sup>176</sup> Section 491.0045(6), F.S.

<sup>177</sup> Id.

<sup>178</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>179</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 December 2, 2019), and Council for

## *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>180</sup> To qualify for licensure as a mental health counselor, an individual must:<sup>181</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>182</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/CS/HB 713 makes numerous changes to programs under DOH and professions regulated under the Division of Medical Quality Assurance within DOH.

### **HIV/AIDS**

The bill expands DOH's authority to establish patient care centers for individuals who carry HIV rather than limiting patient care centers to those who have been diagnosed with AIDS. The inclusion of HIV providers into the network has a planning focus, not a service delivery focus. That planning, with this change, is more inclusive of persons living with HIV.<sup>183</sup>

### **Emergency Medical Transportation Services**

The bill repeals a requirement that DOH rules on ground ambulance be at least as comprehensive as the standards published by the American College of Surgeons. DOH may use any standard it deems appropriate to develop the list of required equipment for licensed ground ambulances. The bill also repeals the requirement that DOH's rules on ambulance or vehicle design be at least equal to those recommended by the U.S. General Services Administration and requires that the rules be based on national standards recognized by DOH.

### **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. The bill also directs DOH to

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the Accreditation of Counseling and Related Educational Programs, *About CACREP*, available at <https://www.cacrep.org/about-cacrep/> (last visited December 2, 2019).

<sup>180</sup> Sections 491.003(6) and (9), F.S.

<sup>181</sup> Section 491.005(4), F.S.

<sup>182</sup> Section 491.005(4), F.S., and r. 64B4-3.0035, F.A.C.

<sup>183</sup> Email correspondence with Ty Gentle, Office of Budget and Revenue Management, Department of Health, dated Jan. 21, 2020, on file with the Health Care Appropriations Subcommittee.

develop strategies to maximize federal and state resources to recruit physicians to practice in medically underserved and rural areas in the state.

### 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.

The bill also authorizes DOH to issue a temporary license to an eligible applicant, who has accepted a position with an accredited residency, internship, or fellowship program in Florida and who has submitted an application for registration for such position under s. 458.345, F.S., or s. 459.021, F.S., which expires 60 days, rather than 30 days, after issuance unless the applicant obtains and submits a social security number to DOH.

### Student Loans

The bill expressly states that failing to repay a government-backed student loan does not constitute grounds for licensure discipline and repeals the requirement that DOH must issue an emergency order suspending a health care practitioner's license for a student loan default absent timely proof of a new repayment plan. DOH no longer has to obtain a monthly list from the USHHS of the Florida health care practitioners who have defaulted on their student loans. The bill also repeals DOH's authority to discipline a health care practitioner for failing to comply with a scholarship obligation and the associated mandatory disciplinary action.

### Medical Faculty Certificates

The bill expands the current medical faculty certificate eligibility by allowing a medical faculty certificate to be issued without examination to an individual who has been offered and accepted a full-time faculty appointment to teach at Nova Southeastern University and Lake Erie College of Osteopathic Medicine. The Board of Medicine may issue up to 30 medical faculty certificates to each of the institutions.

### 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.

### 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, 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 disciplinary procedures and the standards of practice 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>184</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 revives, reenacts, and repeals the scheduled January 1, 2020 sunset of health access dental licenses. The bill makes these changes apply retroactively to January 1, 2020.

### *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 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 authorizes an employee or independent contractor of a dental laboratory to engage in onsite consultations with a dentist during a dental procedure if such person is acting as an agent of the dental

laboratory. 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 the 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 authorizes 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. For purposes of resident registration, DOH may recognize a dual certificate in prosthetics and orthotics for an applicant who holds a bachelor's degree from a regionally accredited college or university. The bill also authorizes the completion of a dual residency program to qualify for the licensure examination.

### Massage Therapy

The bill limits apprenticeships to only those in colonic irrigations. A licensed massage therapist practicing colonic irrigation 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, 2020, 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, 2023.

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.

### 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>185</sup> The bill replaces references to the Commission on Recognition of Postsecondary Accreditation to its successor organization, the Council for Higher Education Accreditation.<sup>186</sup> For applicants for licensure who obtained their education in Canada, the bill requires those applicants to demonstrate that they have completed a program comparable to APA-accredited programs.

The bill repeals 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.

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<sup>185</sup> American Psychological Association, *Understanding APA Accreditation*, available at <http://www.apa.org/ed/accreditation/about/index.aspx> (last visited January 21, 2019).

<sup>186</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).



## 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 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 to clarify that two years of clinical experience is required for licensure.

### *Licensed Mental Health Counselors*

The bill updates the name of the organization that administers the licensure examination for mental health counseling licensure applicants to the National Board for Certified Counselors or its successor. This will conform the law to current practice.<sup>187</sup> The bill revises the content areas that must be included in educational programs used to qualify for licensure to include substance abuse; 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.

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<sup>187</sup> *Supra* note 106.

The bill deletes obsolete language and makes other technical and conforming changes.

The bill provides an effective date of July 1, 2020.

B. SECTION DIRECTORY:

- Section 1:** Amends s. 381.0042, F.S., relating to patient care for persons with HIV infection.
- Section 2:** Amends s. 381.4018, F.S., relating to physician workforce assessment and development.
- Section 3:** Amends s. 401.35, F.S., relating to rules.
- Section 4:** Amends s. 456.013, F.S., relating to department; general licensing provisions.
- Section 5:** Amends s. 456.072, F.S., relating to grounds for discipline; penalties; enforcement.
- Section 6:** Repeals s. 456.0721, F.S., relating to practitioners in default on student loans or scholarship obligations; investigation; report.
- Section 7:** Amends s. 456.074, F.S., relating to certain health care practitioners; immediate suspension of license.
- Section 8:** Amends s. 458.3145, F.S., relating to medical faculty certificate.
- Section 9:** Amends s. 458.3312, F.S., relating to specialties.
- Section 10:** Amends s. 459.0055, F.S., relating to general licensure requirements.
- Section 11:** Repeals s. 460.4166, F.S., relating to certified chiropractic physician's assistants.
- Section 12:** Amends s. 464.019, F.S., relating to approval of nursing education programs.
- Section 13:** Amends s. 464.202, F.S., relating to duties and powers of the board.
- Section 14:** Amends s. 464.203, F.S., relating to certified nursing assistants; certification requirement.
- Section 15:** Amends s. 464.204, F.S., relating to denial, suspension, or revocation of certification; disciplinary actions.
- Section 16:** Amends s. 466.006, F.S., relating to examination of dentists.
- Section 17:** Amends s. 466.0067, F.S., relating to application for health access dental license.
- Section 18:** Amends s. 466.00671, F.S., relating to renewal of the health access dental license.
- Section 19:** Amends s. 466.00672, F.S., relating to revocation of health access dental licenses.
- Section 20:** Makes the amendments and reenactments relating to health access dental licenses retroactive to January 1, 2020.
- Section 21:** Amends s. 466.007, F.S., relating to examination of dental hygienists.
- Section 22:** Amends s. 466.017, F.S., relating to prescription of drugs; anesthesia.
- Section 23:** Amends s. 466.031, F.S., relating to "dental laboratory" defined.
- Section 24:** Amends s. 466.036, F.S., relating to information; periodic inspections; equipment and supplies.
- Section 25:** Amends s. 468.701, F.S., relating to definitions.
- Section 26:** Amends s. 468.707, F.S., relating to licensure requirements.
- Section 27:** Amends s. 468.711, F.S., relating to renewal of license; continuing education.
- Section 28:** Amends s. 468.713, F.S., relating to responsibilities of athletic trainers.
- Section 29:** Amends s. 468.723, F.S., relating to exemptions.
- Section 30:** Amends s. 468.803, F.S., relating to license, registration, and examination requirements.
- Section 31:** Amends s. 480.033, F.S., relating to definitions.
- Section 32:** Amends s. 480.041, F.S., relating to massage therapists; qualifications; licensure; endorsement.
- Section 33:** Repeals s. 480.042, F.S., relating to examinations.
- Section 34:** Amends s. 490.003, F.S., relating to definitions.
- Section 35:** Amends s. 490.005, F.S., relating to licensure by examination.
- Section 36:** Amends s. 490.006, F.S., relating to licensure by endorsement.
- Section 37:** Amends s. 491.0045, F.S., relating to intern registration; requirements.
- Section 38:** Amends s. 491.005, F.S., relating to licensure by examination.
- Section 39:** Amends s. 491.006, F.S., relating to licensure or certification by endorsement.
- Section 40:** Amends s. 491.007, F.S., relating to renewal of license, registration, or certificate.
- Section 41:** Amends s. 491.009, F.S., relating to discipline.
- Section 42:** Amends s. 491.0046, F.S., relating to provisional license; requirements.
- Section 43:** Amends s. 945.42, related to definitions; ss. 945.40-945.49, F.S.
- Section 44:** Provides an effective date of July 1, 2020.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

#### 1. Revenues:

DOH will experience a recurring decrease in revenue due to the loss of the 10% fine imposed on student loan default cases. In Fiscal Year 2018-2019 DOH received \$461 in fine revenue.<sup>188</sup>

DOH will experience a loss of revenue from biennial registration fees due to the deregulation of registered chiropractic assistants. The estimated biennial loss of revenue is approximately \$166,125.<sup>189</sup> 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 related to various rulemaking provisions. The bill authorizes DOH, or the appropriate regulatory board, to adopt or amend rules related to emergency medical transportation services, Conrad 30 Waiver program, general licensure requirements, medical faculty certificates, dermatology, osteopathic physician licensure, disciplinary guidelines and standards of practice for CNAs, dental licensure, athletic trainer licensure and supervision, massage therapy, psychology, licensed clinical social work, marriage and family therapy, and mental health counseling. Additionally, DOH will need to repeal adopted rules related to the deregulation of registered chiropractic assistants. Current resources are adequate to absorb these costs.

DOH may experience an increase in workload related to reviewing and investigating dental adverse incidents for disciplinary action. It is unknown how many adverse incidents may be reported, however, current resources are estimated to be adequate to absorb these costs.

DOH will experience a reduction in workload and costs due to the repeal of DOH's authority to discipline a health care practitioner for failing to repay government-backed student loans, changing the inspections of dental laboratories from annual to biennial, repealing the registration of chiropractic assistants, and reviewing and determining whether an applicant for osteopathic medicine licensure has demonstrated good cause completing an ACGME-accredited residency instead of an AOA-approved residency.

DOH will also incur costs associated with making minor changes to its LEIDS licensure system to reflect changes made in the bill, which current resources are adequate to absorb.<sup>190</sup>

### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

#### 1. Revenues:

None.

#### 2. Expenditures:

None.

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<sup>188</sup> Email correspondence with Daniel Leon, Office of Legislative Planning, Department of Health, dated Jan. 22, 2020, on file with the Health Care Appropriations Subcommittee

<sup>189</sup> *Supra* note 106.

<sup>190</sup> *Id.*

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.

3. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill provides sufficient rulemaking authority for DOH or the applicable regulatory boards to adopt rules.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

### IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On December 11, 2019, the Health Quality Subcommittee adopted two amendments and reported the bill favorably as a committee substitute. The amendments:

- Revised DOH rulemaking authority relating to the minimum standards for ground ambulance and vehicle equipment, supplies, design, and construction;
- Removed references to particular association standards and recommendations that DOH must consider when developing rules for ground ambulances and vehicles;
- Required DOH to adopt rules based on national standards for ambulance and vehicle design and construction;
- Repealed a requirement that DOH discipline a licensee for failing to repay a student loan;
- Repealed a requirement that DOH obtain a monthly list from the U.S. Department of Health and Human Services of health care practitioners who have defaulted on their student loans; and
- Repealed a requirement that DOH issue an emergency order suspending the license of a health care practitioner who defaults on a student loan unless the licensee timely submits proof of a payment plan.

On January 28, 2020, the Health Care Appropriations Subcommittee adopted two amendments and reported the bill favorably as a committee substitute. The amendments:

- Removed the section of the bill related to radiation machine inspections and inspection fees.
- Made retroactive the sections of the bill related to the health access dental licenses to January 1, 2020.

The analysis is drafted to the committee substitute as passed by the Health Care Appropriations Subcommittee.