

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

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

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Prepared By: The Professional Staff of the Committee on Health Policy

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BILL: SB 780

INTRODUCER: Senator Gainer

SUBJECT: Health Care Licensure Requirements

DATE: February 16, 2021

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Brown</u>	<u>Brown</u>	<u>HP</u>	<u>Pre-meeting</u>
2.	_____	_____	<u>MS</u>	_____
3.	_____	_____	<u>RC</u>	_____

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**I. Summary:**

SB 780 creates s. 456.0231, F.S., to require the Department of Health (DOH) to grant physicians, as defined under the bill, who are employees of the U.S. Department of Veterans Affairs (VA) an exemption from Florida’s physician licensure requirements if such physicians submit proof of out-of-state licensure, proof of VA employment, and an attestation that they will only treat veterans in Florida-licensed hospitals or pursuant to their employment with the VA.

The bill provides an effective date of July 1, 2021.

**II. Present Situation:**

**Regulation of Health Care Practitioners in Florida**

The DOH is responsible for the regulation of health care practitioners and certain health care facilities in Florida for the preservation of the health, safety, and welfare of the public. The Division of Medical Quality Assurance (MQA), working in conjunction with 22 boards<sup>1</sup> and four councils, licenses and regulates seven types of health care facilities, and more than 200 license types, in more than 40 health care professions.<sup>2</sup> Any person desiring to be a licensed health care professional in Florida must apply to the MQA in writing.<sup>3</sup> Most health care professions are regulated by a board or council in conjunction with the DOH, and all professions have different requirements for initial licensure and licensure renewal.<sup>4</sup>

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

<sup>2</sup> Florida Department of Health, Medical Quality Assurance, *Annual Report and Long Range Plan, 2019-2020*, available at <http://www.floridahealth.gov/licensing-and-regulation/reports-and-publications/documents/2019-2020-annual-report.pdf> (last visited Feb. 3, 2021).

<sup>3</sup> Section 456.013, F.S.

<sup>4</sup> See chs. 401, 456-468, 478, 480, 483, 484, 486, 490, and 491, F.S.

### *Licensing of Florida Physicians*

Statutes regulating the practices of medicine and osteopathic medicine fall under chapters 458 and 459, F.S., respectively. The practice acts for both professions establish the regulatory boards, a variety of licenses, the application process with eligibility requirements, and financial responsibilities for the practicing physicians. The respective board for each practice has the authority to establish, by rule, standards of practice and standards of care for particular settings.<sup>5</sup> Such standards may include education and training, medication including anesthetics, assistance of and delegation to other personnel, sterilization, performance of complex or multiple procedures, records, informed consent, and policy and procedures manuals.<sup>6</sup>

The current licensure application fee for a medical doctor<sup>7</sup> is \$350 and is non-refundable. Applications must be completed within one year. If a license is approved, the initial license fee is \$355. The entire process may take from two to six months from the time the application is received.<sup>8</sup>

For osteopathic physicians, the current application fee is a non-refundable \$200, and if approved, the initial licensure fee is \$305.<sup>9</sup> Applications must be completed within one year. The entire process may take from two to six months from the time the application is received. If an applicant is licensed in another state, the applicant may seek Florida licensure by requesting the Board of Osteopathic Medicine (BOOM) to “endorse” the exam scores of the others state’s licensing exam. The applicant must demonstrate that the out-of-state license was issued based on those exam scores. The applicant must also show that the exam was substantially similar to any exam that Florida allows for licensure.<sup>10</sup>

The general requirements for licensure under both practice acts are very similar with the obvious differences found in the educational backgrounds of the applicants. However, the practice acts are not identical in their licensure offerings as shown in the table below. Where the practice acts share the most similarities are the qualifications for licensure. Both the Board of Medicine (BOM) and the BOOM require their respective applicants to:

- Complete an application form as designated by the appropriate regulatory board.
- Be at least 21 years of age.
- Be of good moral character.
- Have completed at least two years (medical) or three years (osteopathic) of pre-professional post-secondary education.
- Have not previously committed any act that would constitute a violation of this chapter or lead to regulatory discipline.

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<sup>5</sup> Sections 458.331(1)(v) and 459.015(1)(z), F.S.

<sup>6</sup> *Id.*

<sup>7</sup> Medical doctors are also known as allopathic physicians.

<sup>8</sup> Florida Board of Medicine, *Medical Doctor Unrestricted – Process*, available at <https://flboardofmedicine.gov/licensing/medical-doctor-unrestricted> (last visited Feb. 3, 2021).

<sup>9</sup> Florida Board of Osteopathic Medicine, *Osteopathic Medicine Full Licensure - Fees*, available at <https://floridasosteopathicmedicine.gov/licensing/osteopathic-medicine-full-licensure/#tab-fees> (last visited Feb. 3, 2021).

<sup>10</sup> Florida Board of Osteopathic Medicine, *Osteopathic Medicine Full Licensure – Requirements*, available at <https://floridasosteopathicmedicine.gov/licensing/osteopathic-medicine-full-licensure> (last visited Feb. 3, 2021).

- Have not had an application for a license to practice medicine or osteopathic medicine denied or a license revoked, suspended or otherwise acted upon in another jurisdiction by another licensing authority.
- Submit a set of fingerprints to the DOH for a criminal background check.
- Demonstrate that he or she is a graduate of a medical college recognized and approved by the applicant’s respective professional association.
- Demonstrate that she or he has successfully completed a resident internship (osteopathic medicine) or supervised clinical training (medical) of not less than 12 months in a hospital approved for this purpose by the applicant’s respective professional association.
- Demonstrate that he or she has obtained a passing score, as established by the applicant’s appropriate regulatory board, on all parts of the designated professional examination conducted by the regulatory board’s approved medical examiners no more than five years before making application to this state; or, if holding a valid active license in another state, that the initial licensure in the other state occurred no more than five years after the applicant obtained a passing score on the required examination.<sup>11</sup>

<b>Statutory References for Practice Acts – Licensure of Medical Doctors and Osteopathic Physicians: Chapters 458 and 459, F.S.</b>		
<b>Issue</b>	<b>Medical Doctors</b>	<b>Osteopathic Physicians</b>
Regulatory Board	Board of Medicine s. 458.307, F.S.	Board of Osteopathic Medicine s. 459.004, F.S.
Rulemaking Authority	s. 458.309., F.S.	s. 459.005, F.S.
General Requirements for Licensure	s. 458.311, F.S.	s. 459.0055, F.S.
Licensure Types:		
<i>Restricted License</i>	s. 458.310, F.S.	No provision
<i>Restricted License Certain foreign physicians</i>	s. 458.3115, F.S.	No provision
<i>Licensure by Endorsement</i>	s. 458.313, F.S.	No provision
<i>Temporary Certificate (Approved Cancer Centers)</i>	s. 458.3135, F.S.	No provision
<i>Temporary Certificate (Training Programs)</i>	s. 458.3137, F.S.	No provision
<i>Medical Faculty Certificate</i>	s. 458.3145, F.S.	s. 459.0077, F.S.
<i>Temporary Certificate Areas of Critical Need</i>	s. 458.315, F.S.	s. 459.0076, F.S.
<i>Temporary Certificate Areas of Critical Need – Active Duty Military &amp; Veterans</i>	s. 458.3151, F.S.	s. 459.00761, F.S.
<i>Public Health Certificate</i>	s. 458.316, F.S.	No provision
<i>Public Psychiatry Certificate</i>	s. 458.3165, F.S.	No provision

<sup>11</sup> See ss. 458.311, F.S. and 459.0055, F.S.

<b>Statutory References for Practice Acts – Licensure of Medical Doctors and Osteopathic Physicians: Chapters 458 and 459, F.S.</b>		
<b>Issue</b>	<b>Medical Doctors</b>	<b>Osteopathic Physicians</b>
<i>Limited Licenses</i>	s. 458.317, F.S.	s. 459.0075, F.S.
<i>Expert Witness</i>	s. 458.3175, F.S.	s. 459.0066, F.S.
License Renewal	s. 458.319, F.S. \$500/max/biennial renewal	s. 459.008, F.S.
Financial Responsibility <i>Condition of Licensure</i>	s. 458.320, F.S.	s. 459.0085, F.S.
Penalty for Violations	s. 458.327, F.S.	s. 459.013, F.S.

To practice medicine as an allopathic physician<sup>12</sup> in Florida, an individual must become a licensed medical doctor through licensure by examination<sup>13</sup> or licensure by endorsement.<sup>14</sup> Florida does not automatically recognize another state's medical license or provide licensure reciprocity. Licensure by endorsement requires the medical physician to meet one of the following requirements:

- Be a graduate of an allopathic United States medical school recognized and approved by the United States Department of Education and completed at least one year of residency training;
- Be a graduate of an allopathic international medical school and have a valid Educational Commission for Foreign Medical Graduates (ECFMG) certificate and completed an approved residency of at least two years in one specialty area; or
- Be a graduate who has completed the formal requirements of an international medical school except the internship or social service requirements, passed parts I and II of the National Board of Medical Examiners (NBME) or ECFMG equivalent examination, and completed an academic year of supervised clinical training (5<sup>th</sup> pathway) and completed an approved residency of at least two years in one specialty area.
- And both of the following:
  - Passed all parts of a national examination (the NBME; the Federation Licensing Examination offered by the Federation of State Medical Boards of the United States, Inc.; or the United States Medical Licensing Exam); and
  - Be licensed in another jurisdiction and actively practiced medicine in another jurisdiction for at least two of the immediately preceding four years; or passed a board-approved clinical competency examination within the year preceding filing of the application or; successfully completed a board approved postgraduate training program within two years preceding filing of the application.<sup>15</sup>

### ***Financial Responsibility***

As a condition of licensure, all Florida-licensed allopathic physicians are required to maintain professional liability insurance or other financial responsibility to cover potential claims for medical malpractice as a condition of licensure, with specified exemptions.<sup>16</sup> Physicians who

<sup>12</sup> *Supra*, note 7.

<sup>13</sup> Section 458.311, F.S.

<sup>14</sup> Section 458.313, F.S.

<sup>15</sup> Florida Board of Medicine, *Medical Doctor-Unrestricted; Licensure by Endorsement*, available at <https://flboardofmedicine.gov/licensing/medical-doctor-unrestricted> (last visited Feb. 3, 2021).

<sup>16</sup> Section 458.320, F.S.

perform surgeries in a certain setting or have hospital privileges must maintain professional liability insurance or other financial responsibility to cover an amount not less than \$250,000 per claim.<sup>17</sup> Physicians without hospital privileges must carry sufficient insurance or other financial responsibility in coverage amounts of not less than \$100,000 per claim.<sup>18</sup> Certain physicians who are exempt from the requirement to carry professional liability insurance or other financial responsibility must provide notice to their patients.<sup>19</sup>

Florida-licensed osteopathic physicians have similar financial responsibility requirements as allopathic physicians.<sup>20</sup> With specified exceptions, the DOH must suspend, on an emergency basis, any licensed allopathic or osteopathic physician who fails to satisfy a medical malpractice claim against him or her within specified time frames.<sup>21</sup>

### ***Disciplinary Process: Fines and Sanctions***

Chapter 456, F.S., contains the general regulatory provisions for health care professions and occupations under the MQA. Section 456.072, F.S., specifies 40 acts that constitute grounds for which disciplinary actions may be taken against a health care practitioner. Section 458.331, F.S., identifies 43 acts that constitute grounds for which disciplinary actions may be taken against a medical physician, and s. 459.015, F.S., identifies those acts which are specific to an osteopathic physician. Some parts of the review process are public and some are confidential.<sup>22</sup>

Complaints and allegations are received by the MQA unit for determination of legal sufficiency and investigation. A determination of legal sufficiency is made if the ultimate facts show that a violation has occurred.<sup>23</sup> The complainant is notified by letter as to the whether the complaint will be investigated and if any additional information is needed. Complaints that involve an immediate threat to public safety are given the highest priority.

The DOH is responsible for reviewing each report to determine if discipline against the provider is warranted.<sup>24</sup> Authorization for the discipline of allopathic and osteopathic physicians can be found in state law and administrative rule.<sup>25</sup> If held liable for one of the offenses, the fines and sanctions by category and by offense are based on whether the offense is the physician's first, second, or third offense.<sup>26</sup> The boards may issue a written notice of noncompliance for the first

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<sup>17</sup> Section 458.320(2), F.S.

<sup>18</sup> Section 458.320(1), F.S.

<sup>19</sup> Section 458.320(5)(f) and (g), F.S.

<sup>20</sup> Section 459.0085, F.S.

<sup>21</sup> Sections 458.320(8) and 459.0085(9), F.S.

<sup>22</sup> Florida Department of Health, Division of Medical Quality Assurance, *Enforcement Process*, available at <http://www.floridahealth.gov/licensing-and-regulation/enforcement/documents/enforcement-process-chart.pdf> (last updated Nov. 2019) (last visited Feb. 3, 2021).

<sup>23</sup> Florida Department of Health, *Consumer Services – Administrative Complaint Process*, available at <http://www.floridahealth.gov/licensing-and-regulation/enforcement/admin-complaint-process/consumer-services.html> (last visited Feb. 3, 2021).

<sup>24</sup> See ss. 458.351(5) and 459.026(5), F.S.

<sup>25</sup> See ss. 458.307 and 459.004, F.S., for the regulatory boards, and Florida Admin. Code R. ss. 64B8-8 and 64B15-19, for administrative rules relating to disciplinary procedures.

<sup>26</sup> *Id.*

occurrence of a single minor violation.<sup>27</sup> The amount of fines assessed can vary depending on the severity of the situation, such as improper use of a substance to concealment of a material fact. A penalty may come in the form of a reprimand, a licensure suspension, or revocation followed by some designated period of probation if there is an opportunity for licensure reinstatement. Other sanctions may include supplemental continuing education requirements, which require proof of completion before the license can be reinstated.

### ***Disciplinary Process: Emergency Procedures***

When a third report of a professional liability claim has been submitted within a five-year period against a licensed physician, the DOH is required to initiate an emergency investigation and the BOM or BOOM must conduct an emergency probable cause hearing to determine if the physician should be disciplined for committing medical malpractice, gross medical malpractice, or repeated medical malpractice.<sup>28</sup>

### ***Disciplinary Process: Physician's Consent***

During an investigation of a complaint, every Florida-licensed physician is deemed to have given his or her consent to:<sup>29</sup>

- The rendering of a handwriting sample to an agent of the DOH and waiver of any objections to its use as evidence;
- Waiver of confidentiality and authorizing the preparation and release of medical reports, including symptoms, diagnosis, treatment prescribed, relevant history, and progress, pertaining to his or her mental or physical condition; and
- Waiver of any objection to the admissibility of the reports as constituting privileged communications.

The DOH may issue subpoenas *duces tecum*, requiring the names and addresses of some or all of the patients of a licensed physician against whom a complaint has been filed pursuant to s. 456.073, F.S.<sup>30</sup>

### ***Itemized Patient Billing***

All licensed allopathic and osteopathic physicians are required, upon request, to provide to a patient an itemized statement of the specific services rendered and the charge for each service.<sup>31</sup>

### ***Florida Background Checks***

Effective January 1, 2013, all applicants for initial physician licensure must undergo a Level 2 background screening<sup>32</sup> and use a Livescan provider<sup>33</sup> to submit a set of fingerprints to the Florida Department of Law Enforcement (FDLE) for the purpose of conducting a search for any Florida and national criminal history records that may pertain to applicant. The results of the

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<sup>27</sup> Fla. Admin. Code R. ss. 64B8-8.011 and 64B15-19.0065. A minor violation is deemed to not endanger the public health, safety, and welfare and does not demonstrate a serious inability to practice.

<sup>28</sup> See ss. 458.3311 and 459.0151, F.S.

<sup>29</sup> See ss. 458.339 and 459.017, F.S.

<sup>30</sup> See ss. 458.343 and 459.019, F.S.

<sup>31</sup> See ss. 458.323 and 459.012, F.S.

<sup>32</sup> Sections 435.04 and 458.311(1)(g), F.S.

<sup>33</sup> Section 435.12, F.S.

search are returned to the Care Provider Background Screening Clearinghouse and made available to the DOH for consideration during the licensure process. The fingerprints submitted by the applicant are retained by FDLE and the Clearinghouse. All costs for conducting a criminal history background screening are borne by the applicant.<sup>34</sup>

Applicants for physician licensure can use any FDLE-approved Livescan provider to submit their fingerprints. The applicant is fully responsible for selecting the service provider and ensuring the results are reported to the DOH. An applicant must use a DOH form available on its website and provide it to the Livescan provider.<sup>35</sup>

A physician licensed in Florida must undergo a Level 2 background screening every five years. Effective January 1, 2019, the fee to retain fingerprints within the Clearinghouse is \$43.25, plus minimal service fee. Once fingerprints have been retained by the Clearinghouse, they are valid for five years. Clearinghouse renewals can only be requested within a specific timeframe based on the retained print expiration date.

### **National Practitioner Data Bank**

Congress established the National Practitioner Data Bank (NPDB) in 1986. The NPDB is an Internet-based repository of reports on medical malpractice payments and certain adverse actions related to health care practitioners, providers, and suppliers. It is designed, in part, to prevent practitioners from moving from state to state without disclosure or discovery of previous damaging behavior.<sup>36</sup> The U.S. Department of Health and Human Services is responsible for administering the NPDB.

Federal regulations authorize eligible entities to report to or query the NPDB. Eligible entities are responsible for complying with all reporting or querying requirements that apply to them. Eligible entities include medical malpractice payers, hospitals and other health care entities, professional societies, health plans, peer review organizations, private accreditation organizations, quality improvement organizations, and certain federal and state agencies, including state licensing authorities such as the DOH.<sup>37</sup> The DOH is required to report to, and authorized to query, the NPDB.<sup>38</sup>

### **VA Practitioners in Florida**

Under federal law, health care practitioners who practice in VA facilities in Florida are not required to be licensed in Florida. In order for a practitioner to practice at any VA facility, the

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<sup>34</sup> Florida Board of Medicine, *Board of Medicine, Medical Doctor – Licensure Requirements*, available at <https://flboardofmedicine.gov/licensing/medical-doctor-unrestricted> (last visited Feb. 5, 2021).

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

<sup>36</sup> National Practitioner Data Bank, *About Us*, available at <https://www.npdb.hrsa.gov/topNavigation/aboutUs.jsp> (last visited Feb. 5, 2021).

<sup>37</sup> National Practitioner Data Bank, *The NPDB Guidebook*, available at <https://www.npdb.hrsa.gov/guidebook/APreface.jsp> (last visited Feb. 5, 2021).

<sup>38</sup> National Practitioner Data Bank, *What is an Eligible Entity?*, available at <https://www.npdb.hrsa.gov/guidebook/BWhatIsAnEligibleEntity.jsp> (last visited Feb. 5, 2021).

VA requires the practitioner to have an active, unrestricted license from any state.<sup>39</sup> Thus, a VA health care practitioner may treat any veteran in a VA facility located in Florida, regardless of the state of licensure. However, a VA practitioner may not provide medical services in Florida to any patient – veteran or otherwise – outside of a VA facility unless he or she holds a Florida license. If a VA practitioner is not licensed in Florida and provides such services outside a VA facility, the practitioner could be prosecuted for the unlicensed practice of a health care practitioner.

### ***VA Background Checks***

All VA employees are subject to an evaluation, which is supposed to include a background investigation process, for the purpose of determining their suitability for work. The NPDB is one information source the VA is supposed to use for the determination of whether health care practitioners applying for VA employment have been disciplined by a state licensing board or a health care facility.

The level of the VA's investigation into a prospective health care worker's background is determined by the sensitivity of the position in question, which is then rated as low, moderate, or high risk. At a minimum, VA employees should receive a Tier 1 investigation to verify that the individual is suitable for employment. Most medical facility staff, including physicians, nurses, pharmacists, and laboratory technicians, are required to receive this type of investigation.<sup>40</sup>

### ***VA Inspector General Report***

In March 2018, the VA Office of Inspector General published the findings of an investigation conducted to evaluate controls over the adjudication of background investigations at VA medical facilities for the five-year period ending September 30, 2016. The report included the following:<sup>41</sup>

- The VA did not provide effective governance of the personnel suitability program necessary to ensure that background investigation requirements were met at medical facilities nationwide;
- While background investigations were required for most medical facility staff, about 6,200 employees who were working at the facilities did not have a background investigation initiated, including health care practitioners who were employed to provide direct patient care to veterans;<sup>42</sup>
- VA adjudicators had not been reviewing background investigations timely, and suitability program staff were not maintaining official personnel records as required;
- The VA office responsible for evaluating compliance with personnel suitability program requirements, including the background investigation process, lacked sufficient staff to conduct regular oversight;
- The VA personnel suitability program was allowed to operate unmonitored and without assurance that background investigations were properly initiated and adjudicated; and

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<sup>39</sup> U.S. Department of Veterans Affairs, *Navigating the Hiring Process*, available at <https://www.vacareers.va.gov/ApplicationProcess/NavigatingHiringProcess> (last visited Feb. 5, 2021).

<sup>40</sup> VA Office of Inspector General, *Veterans Health Administration, Audit of Personnel Suitability Program*, p. 1, available at <https://www.va.gov/oig/pubs/VAOIG-17-00753-78.pdf> (last visited Feb. 5, 2021).

<sup>41</sup> *Id.* pp. i-ii

<sup>42</sup> *Id.* p. 4



- The VA could not reliably attest to the suitability of its largest workforce, thereby exposing veterans and employees to individuals who have not been properly vetted.

### ***U.S. Government Accountability Office Report***

In February 2019, the U.S. Government Accountability Office (GAO)<sup>43</sup> published a report on the VA entitled, “Greater Focus on Credentialing Needed to Prevent Disqualified Providers from Delivering Patient Care.” The GAO’s investigation examined several aspects of the VA’s credentialing process, including how officials at VA medical facilities responded to adverse-action information received through the NPDB and how VA medical facilities adhered to policies regarding practitioners with adverse actions.<sup>44</sup> The GAO discovered that:

- In some cases, health care providers had adverse actions reported in the NPDB but VA medical facilities determined they could be hired anyway;
- VA medical facilities overlooked or were unaware of the disqualifying adverse-action information in the NPDB and, in such cases, the VA inappropriately hired health care providers;
- VA medical facilities did not consistently adhere to policies regarding health care providers with adverse actions, and some facility officials were not aware of VA employment policies;
- Officials in at least five VA medical facilities who were involved in verifying providers’ credentials and hiring them were unaware of the policy regarding hiring a provider whose license had been revoked or surrendered for professional misconduct, incompetence, or the delivery of substandard care. As a result, those five facilities hired or retained health care providers who were ineligible.

The GAO further reported that VA medical facilities provide mandatory, one-time training for certain VA staff but not for staff responsible for credentialing.

### **III. Effect of Proposed Changes:**

SB 780 creates s. 456.0231, F.S., requiring the DOH to grant physicians who are employees of the VA an exemption from Florida’s physician licensure requirements if such physicians meet certain criteria and furnish specified documentation to the DOH.

The bill defines “physician” as a person who holds an active, unencumbered license to practice allopathic medicine or osteopathic medicine issued by another state; the District of Columbia; or a possession, commonwealth, or territory of the United States.

To be exempt under the bill from Florida licensure requirements pertaining to medical doctors under ch. 458, F.S., or osteopathic physicians under ch. 459, F.S., a VA physician must submit the following to the DOH:

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<sup>43</sup> The Government Accountability Office (previously called the Government Accounting Office) is an arm of the U.S. Congress and is responsible for determining whether the funds appropriated by Congress are spent for the purposes provided by Congress. The GAO conducts audits and investigations at the behest of congressional leadership. The GAO also evaluates federal programs and activities and provides analysis, options, and recommendations to assist Congress make oversight, policy, and funding decisions.

<sup>44</sup> U.S. Government Accountability Office, “Greater Focus on Credentialing Needed to Prevent Disqualified Providers from Delivering Patient Care,” (Feb. 28, 2019) available at <https://www.gao.gov/products/GAO-19-6> (last visited Feb. 5, 2021).

- Proof that he or she holds an active, unencumbered license to practice allopathic medicine or osteopathic medicine issued by another state; the District of Columbia; or a possession, commonwealth, or territory of the United States;
- Proof of current employment with the VA; and
- An attestation that he or she will only provide medical services:
  - To veterans.
  - Pursuant to his or her employment with the VA.
  - In Florida-licensed hospitals.

The bill requires the DOH to notify a physician within 15 business days after receipt of his or her proof and attestation as described above, that the physician is exempt.

The bill authorizes the DOH to adopt rules to administer the bill's provisions.

The bill provides an effective date of July 1, 2021.

#### **IV. Constitutional Issues:**

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

#### **V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Hospitals will incur costs under the bill if VA-employed physicians who are exempt from Florida licensure provide medical treatment to veterans in those hospitals.

**C. Government Sector Impact:**

The bill may increase the workload on DOH staff due to the need to process the exemptions required under the bill.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

The bill requires the DOH to issue an exemption to a physician who submits the specified documentation. However, the bill provides no guidance regarding what is required of the physician to maintain the exemption, and it provides no monitoring or reporting mechanisms for the DOH to know what happens after an exemption is issued. To wit:

- The bill contains no provision for an exemption to expire, and exempt physicians are not required under the bill to notify the DOH about the status of their qualifications at any point after an exemption is issued.
- The bill provides no authority for the DOH to deny, suspend, or revoke an exemption for any reason.
- The DOH must issue an exemption based on the submission of documentation regarding a physician's point-in-time status and an attestation, which the bill does not require to be notarized. However, the bill does not make the exemption contingent on the continuation of VA employment, the maintenance of an active, unencumbered, out-of-state license as a physician, or the physician's faithfulness to the terms of the attestation.
- The bill does not require an exempt physician to notify the DOH regarding the hospital or hospitals in which he or she is treating veterans under the exemption.

Individuals exempt from the licensure requirements of chs. 458 and 459, F.S., will also be exempt from the BOM and BOOM standards of practice. The BOM and BOOM have authority to investigate and discipline Florida-licensed physicians only. Under the bill, the boards will have no authority or jurisdiction to discipline exempt physicians. If such physicians fail to meet Florida's standards of practice or cause patient harm in a Florida hospital, the state might not have the authority to impose discipline or prevent them from continuing to practice in those venues, and it is unknown if the state or territory where they have an active license would have jurisdiction.

A physician may have a license in multiple states. Under the bill, as long as a physician has an active, unencumbered license in any one state or territory, he or she would be able to treat veterans in Florida hospitals, even if there were extensive disciplinary actions in other states where he or she is licensed. Checking previous disciplinary actions in other states is part of Florida's licensing process, which will not apply under the bill.

There are also a wide range of statutory and regulatory requirements throughout the Florida Statutes that apply only to physicians licensed under Florida law. Examples include provisions on kickbacks, required disclosures to patients, reporting of adverse incidents, and other reporting requirements. Physicians exempted under the bill will not be subject to any of those provisions.

Physicians exempted under the bill will not have their criminal backgrounds checked by the DOH and will not be fingerprinted for those background checks, which would normally occur before a physician is allowed to practice in the state outside of a VA facility. Therefore, a physician exempted under the bill who has committed a Florida-licensure disqualifying criminal offense may still be able to practice in Florida hospitals under the bill.

As mentioned in Section V of this analysis, if veterans receive medical treatment in a Florida hospital under the bill, the hospital will incur ancillary costs. Presumably the VA will pay for the physician's services by virtue of his or her VA employment, but it is unclear whether hospitals will be reimbursed by the VA for ancillary costs relating to such treatment in their facilities.

**VIII. Statutes Affected:**

This bill creates section 456.0231 of the Florida Statutes.

**IX. Additional Information:**

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

None.

- B. **Amendments:**

None.