

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.)

Prepared By: The Professional Staff of the Committee on Regulated Industries

BILL: SB 562

INTRODUCER: Senator Cruz

SUBJECT: Military Occupational Licensure

DATE: January 24, 2022

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Lloyd</u>	<u>Caldwell</u>	<u>MS</u>	Favorable
2.	<u>Kraemer</u>	<u>Imhof</u>	<u>RI</u>	Pre-meeting
3.	_____	_____	<u>AP</u>	_____

I. Summary:

SB 562 requires the Departments of Business and Professional Regulation (DBPR) and Health (DOH) to expedite the processing of professional and occupational licenses for the spouse of an active duty member of the Armed Forces and to waive application and renewal fees for those same licenses under certain circumstances. The DBPR and the DOH must also issue a temporary professional license which is valid while the applications are under review once specified application information has been verified.

SB 562 will have an indeterminate negative fiscal impact on the DBPR and the DOH as fewer licensure application fees will be collected. Additionally, while modifications will be required to the licensing systems that currently process applications, according to the DBPR and the DOH, systems modifications may be absorbed through existing technology resources.¹

The effective date of the bill is July 1, 2022.

II. Present Situation:

More than 1.5 million veterans reside in Florida, the third highest veteran population in the nation behind California and Texas.² To encourage more members of the military to make Florida their place of permanent residency, Florida offers employment and career opportunities through expedited professional licensing processes and initial and renewal fee waivers for active duty, veterans, and spouses.

¹ See Department of Business and Professional Regulation, *2022 Agency Legislative Bill Analysis for SB 562*, at p. 5 (Oct. 19, 2021) (on file with the Senate Committee on Regulated Industries) and Department of Health, *2022 Agency Legislative Bill Analysis for SB 562*, at p. 5 (Dec. 14, 2021) (on file with the Senate Committee on Regulated Industries).

² Florida Department of Veterans Affairs, *Florida Veteran Population 2020* (citing *United States Department of Veterans Affairs, September 30, 2020*) at <https://floridavets.org/wp-content/uploads/2021/07/Florida-Veteran-Population.pdf> (last visited Jan. 19, 2022).

The Department of Business and Professional Regulation

The Department of Business and Professional Regulation (DBPR) through several divisions, regulates and licenses various businesses and professions in Florida.³ The Division of Professions is responsible for the licensing of over 490,000 professionals⁴ and has authority over the following boards and programs:

- Board of Architecture and Design;
- Board of Auctioneers;
- Barbers' Board;
- Building Code Administrators and Inspectors Board;
- Board of Cosmetology;
- Electrical Contractors' Licensing Board;
- Board of Employees Leasing Companies;
- Board of Landscape Architecture;
- Board of Pilot Commissioners;
- Board of Professional Geologists;
- Board of Veterinary Medicine;
- Home Inspection Services Licensing programs;
- Mold related services licensing programs;
- Florida Board of Professional Engineers;
- Board of Accountancy;
- Florida Real Estate Commission; and
- Florida Real Estate Appraisal Board.⁵

The DBPR regulates each of these professions in accordance with their respective practice acts, and each of the professionals must generally hold an appropriate license to act as or hold themselves out as a professional in the respective field. Applicants for licensure for each profession must meet specified statutory requirements, including minimum education or experience requirements, and must pay all applicable licensing fees. Licensees who wish to renew their licenses must pay a license renewal fee⁶ and may also be subject to continuing education requirements⁷ and other conditions of the various practice acts.

Any member of the United States Armed Forces who is in good standing with any of the professional boards listed in s. 20.165, F.S., and was entitled to practice his or her profession in the state, remains in good standing while on active duty without registering, paying dues or fees, or performing any other action while on active duty and for two years after discharge from active duty.⁸ However, if that active member is engaged in his or her profession while on active duty in the private sector for profit and for up to two years following discharge from active duty, the

³ Section 20.165, F.S.

⁴ Department of Business and Professional Regulation, *Division of Professions*, <http://www.myfloridalicense.com/DBPR/division-of-professions/#1500650855771-cf8874e2-e2d1> (last visited Jan. 19, 2022).

⁵ Section 20.165, F.S.

⁶ Section 455.203, F.S.

⁷ Section 455.2123, F.S.

⁸ Section 455.02(1), F.S.

member is required to complete all of the license renewal requirements except for the payment of the license renewal fee which is waived.⁹

Current law also provides for a two-year waiver of the licensure renewal fee and maintenance of a licensee's good standing with his or her professional board by the DBPR when the spouse is married to a member on active duty and because of that status, the spouse has been away from the state. This two-year waiver licensure renewal fee option and the ability to continue the license in good standing is also available to the surviving spouse of a member who, at the time of the service member's death, was on active duty.¹⁰ To trigger the surviving spouse provision, the spouse's death must have occurred within the past two years.¹¹

Current law requires the DBPR to issue a professional license to an applicant who meets and provides proof of the following requirements:

- Is an active member of the Armed Forces of the United States currently or is or was married to someone while he or she was an active member and that member was honorably discharged;
- Holds a valid professional license issued from another state, a United States territory or possession, the District of Columbia, or a foreign jurisdiction;
- Is in compliance with insurance and bonding requirements for the license; and;
- Has submitted a complete set of fingerprints for a statewide criminal background check to the Florida Department of Law Enforcement and to the Federal Bureau of Investigation for a national criminal background check for a Level 2 background check.¹²

The applicant is responsible for the costs associated with the fingerprint screening.¹³

Florida Veterans Application for Licensure Online Response System (VALOR)

Veterans or the spouse of an active duty military veteran who seek to work as a health care professional may currently be eligible for expedited licensure processing through the Division of Medical Quality Assurance (DMQA) which has general regulatory authority over health care practitioners in Florida.¹⁴ The average time to issue a license to a health care professional in Florida in 2020 was 50 days.¹⁵

⁹ Section 455.02(1), F.S.

¹⁰ Section 455.02(2), F.S.

¹¹ Section 455.02(2), F.S.

¹² Section 455.02(3)(a)-(c), F.S.

¹³ Section 455.02(3)(a)4.b., F.S.

¹⁴ Pursuant to s. 456.001(4), F.S., health care practitioners are defined to include acupuncturists, physicians, physician assistants, chiropractors, podiatrists, naturopaths, dentists, dental hygienists, optometrists, nurses, nursing assistants, pharmacists, midwives, speech language pathologists, nursing home administrators, occupational therapists, respiratory therapists, dieticians, athletic trainers, midwives, orthotics, prosthetics, 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.

¹⁵ Florida Department of Health, *Division of Medical Quality Assurance Strategic Plan (2016-2021 Extension)* http://www.floridahealth.gov/licensing-and-regulation/reports-and-publications/_documents/DMQA-2016-2021-Strategic-Plan.pdf, p. 4, (last visited Jan. 19, 2022).

The DMQA within Florida's DOH works with 22 regulatory boards and four councils to license and regulate 10 types of health care facilities and more than 400 licenses in over 40 health care professions.¹⁶ Each profession is regulated by an individual practice act and by ch. 456, F.S., which provides general regulatory and licensure authority for the DMQA.

Honorably discharged veterans and their spouses seeking licensure through one of these health care professions are offered the opportunity to apply through an expedited online process and currently receive a waiver of most licensing fees. Known as the Florida Veterans Application for Licensure Online Response (VALOR) process, a veteran or his or her spouse must apply for one of the healthcare practitioner licenses within six months before or after his or her or his or her spouse's honorable discharge from the United States Armed Forces to qualify for this expedited process.¹⁷

During Fiscal Year 2020-2021, 352 new military veterans and spouses were licensed through VALOR, a 7.65 percent increase over the prior fiscal year.¹⁸ These additional licensees joined a total of 2,392 licensed military health care practitioners in the state for 2020-2021 with the majority of those licensees issued in nursing (607 licensees), followed by massage therapists (168 licensees), and emergency medical technicians and licensed practical nurses (160 licensees each).¹⁹

Temporary Certificate for Active Duty Military Health Care Practitioners

For active duty military who are also health care practitioners, Florida offers a temporary certificate for those who practice pursuant to a military platform²⁰ and who hold an active, unencumbered, medical license in a United States jurisdiction or serve as a military health care practitioner in a profession for which licensure is not required to practice in the United States Armed Forces.²¹ To qualify for a temporary certificate, an active duty member must:

- Hold a valid license as a health care professional in another state, the District of Columbia, or any possession or territory of the United States; and
- Hold a license that is valid for six months, but is renewable with proof of continuing military orders for active duty assignment and evidence of continuation as a military platform participant.²²

¹⁶ Florida Department of Health, *Annual Report and Long Range Plan*, p. 6, <http://www.floridahealth.gov/licensing-and-regulation/reports-and-publications/index.html> (last visited Jan. 19, 2022).

¹⁷ Florida Department of Health, *Licensing for Military Members and Spouses*, at <https://flhealthsource.gov/valor/#Home> (last visited Jan. 19, 2022).

¹⁸ Florida Department of Health, *Florida Veteran Health Heroes (November 2021)*, p. 11, see <https://flhealthsource.gov/valor/#Home> (last visited Jan. 19, 2022).

¹⁹ Florida Department of Health, *Annual Report and Long Range Plan*, Table 1-Summary of Licensed Practitioners, pp. 16-22, <http://www.floridahealth.gov/licensing-and-regulation/reports-and-publications/index.html> (last visited Jan 19, 2022).

²⁰ A military platform, defined in s. 456.0141(1)(b), F.S., is a military training agreement with a non-military health care provider that allows active-duty health care practitioners the opportunity to treat patients admitted to non-military facilities while also allowing them to develop and maintain the technical skills necessary to meet present and future health care needs of the United States Armed Forces.

²¹ Florida Department of Health, *Licensing for Military Members and Spouses* at <https://flhealthsource.gov/valor/#ActiveDuty> (last visited Jan. 20, 2022).

²² See <https://flhealthsource.gov/wp-content/uploads/2021/12/FDOH-temp-cert-active-duty-mil.pdf> (last visited Jan. 20, 2022).

Military Veteran and Spouse Fee Waivers

Applying through the VALOR licensing system can also provide veterans and their spouses a 60 month window of opportunity to apply for the additional waiver of renewal licensing application fees, unlicensed activity fees, and renewal fees after an honorable discharge from active duty.²³ Any examination fees related to the license or practice act and background screening fees through the Florida Department of Law Enforcement (FDLE) are not waived.²⁴

As the spouse of an active duty military member²⁵ or a military veteran, the spouse could be eligible for a waiver of the initial application fees and licensure fees.²⁶ To qualify currently for the fee waivers, the veteran or the veteran's spouse's application must be submitted within a 60 month submission window meaning the application must be submitted within 60 months after his or her spouse's honorable discharge from any branch of the United States Armed Forces. The current fee waiver provision includes waiver of the initial application fee, the initial licensure fee, and the initial unlicensed activity fee.

The spouse must pay the examination fee and any background screening fees that may be required. Examination fees vary by practice type²⁷ and the current fee from FDLE varies from \$24 (state fee only) to \$37.25 (state and federal).²⁸

Other Opportunities for Military Spouses

Temporary Licensure for Military Spouses

The active duty member's spouse may be eligible to receive a temporary license. A temporary license allows the spouse to work as a health care professional while the spouse is assigned to a duty station in Florida.²⁹ A temporary license is valid only for one year³⁰ and is subject to both a state and national background check at the applicant's expense.³¹

A temporary license may be awarded if the spouse submits:

- A completed application;
- The required application fee;
- Proof of marriage to a member of the United States Armed Forces who is on active duty;

²³ See s. 456.024(3)(b), F.S. and Florida Department of Health, *Licensing for Military Members and Spouses*, at <https://flhealthsource.gov/valor/#MilitarySpouses> (last visited Jan. 20, 2022).

²⁴ *Id.*

²⁵ Active duty, full time member of the United States military is defined at 10 U.S.C. § 101 (d)(1), and includes the United States Army, Navy, Air Force, Marine Corps, Space Force, and Coast Guard.

²⁶ Section 456.024(4), F.S.

²⁷ For example, the initial application fee for licensure as a medical doctor by examination is \$200.00 for residents and \$350.00 for non-residents; however, the application includes fees for unlicensed activities (\$5.00), NICA Participating Fees (\$5,000) or non-Participating NICA fees (\$250.00) and an optional dispensing fee (\$100.00), for a potential total maximum application fee of \$5,075 for a physician. See Florida Board of Medicine, *Medical Doctor Application for Licensure*, <https://flboardofmedicine.gov/apps/medical-doctor-app.pdf> (last visited Jan. 20, 2022).

²⁸ Florida Department of Law Enforcement, http://www.fdle.state.fl.us/Criminal-History-Records/Documents/Criminal-History-Fee-Chart_January2019.aspx (last visited Jan. 20, 2022).

²⁹ Section 456.024(4)(a), F.S.

³⁰ Section 456.024(4)(f), F.S.

³¹ Section 456.024(4)(b) and (d), F.S.

- Proof that the applicant holds a valid license for the profession issued by another state, the District of Columbia, or a possession or territory of the United States, and is not the subject of any disciplinary proceeding in any jurisdiction in which the applicant holds a license to practice a profession regulated by ch. 456, F.S.;
- Proof that the applicant's spouse is assigned to a duty station in this state pursuant to a member's official active duty military orders; and
- Proof that the applicant would be otherwise entitled to full licensure under the appropriate practice act, and is eligible to take the respective licensure examination as required in Florida.³²

Current law allows for an applicant to be found ineligible for a temporary license if the applicant has:

- Been convicted of or pled nolo contendere to, regardless of adjudication, any felony or misdemeanor related to the practice of a health care profession;
- Had a health care license revoked or suspended from another state or jurisdiction of the United States, the District of Columbia, or a United States territory;
- Been reported to the National Practitioner Data Bank, unless the applicant has successfully appealed to have name removed; and
- Previously failed the Florida examination required to receive a license to practice the profession for which the applicant seeks a license.³³

III. Effect of Proposed Changes:

Section 1 amends s. 455.02, F.S.; relating to licensure of certain Armed Forces members and their spouses or surviving spouses, to require the DBPR, the applicable board, or program to expedite applications submitted by a spouse of an active duty member of the Armed Forces of the United States.

While the application processes, the DBPR would be required to issue a temporary professional license to the applicant after validation of the application information. The temporary license would be valid for the duration of the application review process.

The information to be validated includes:

- Confirmation that the applicant is married to or was married to a member of the Armed Forces of the United States during any period of active duty;
- That the applicant holds a valid license from any other state, the District of Columbia, any possession or territory of the United States, or any foreign jurisdiction; and,
- That the applicant, when required by the practice act, has complied with any insurance or bonding requirements.

Section 2 amends s. 456.024, F.S., relating to Armed Forces members in good standing with the DOH or administrative boards, to require the DOH or the administrative boards of the DOH to issue a professional license to the spouse of an active duty member of the Armed Forces rather

³² Section 456.024(4)(a), F.S.

³³ Section 456.024(4)(h), F.S.

than a temporary license when the applicant has submitted all of the required components for a completed application. The bill also deletes the application licensure fee.

An applicant who receives a license under this subsection is permitted to renew the license, without limitation, under the applicant's applicable licensure practice act which includes the continuing education requirements.

The bill requires the administrative boards of the DOH or the DOH if there is not a board, to expedite the processing of applications from spouses of active duty members of the Armed Forces. While processing, the bill directs the administrative board of the DOH or the DOH to issue a temporary license to an applicant once specified information on the application has been verified as accurate.³⁴ The 12-month time limit on temporary licenses is eliminated.

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 identified.

³⁴ The information to be verified for issuance of a temporary license is: 1) A completed application on a form prepared and furnished by the DOH in accordance with board rules; 2) Proof that the applicant is married to a member of the Armed forces of the United States who is on Active Duty; 3) Proof that the applicant holds a valid license for that profession from another state, the District of Columbia, or a possession or territory of the United States, and is not the subject of any disciplinary hearing in any jurisdiction where the applicant seeks to practice a profession regulated by chapter 456; and is not the subject of any disciplinary hearing where the applicant holds a license to practice a health care profession; 4) Proof that the applicant's spouse is assigned to a duty station in this state pursuant to the member's official active duty military orders; 5) Proof that the applicant would otherwise be entitled to full licensure under the appropriate practice act, and is eligible to take the respective licensure examination as required in Florida. *See* s. 456.024(4)(a), F.S.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

Waiver of fees for certain populations reduces the total amount of funds that may ultimately be received by the trust funds administered by the professional boards. These administered funds are used to review applicants, and then manage and regulate the licensees of the respective professions under each of the professional and health care licensing boards. By statute, the DBPR is authorized to establish fees which do not exceed the fee caps for individual professions on an annualized basis as authorized by law.³⁵ By rule, the DBPR must have a positive cash balance in each of its trust funds at the end of each fiscal year based on the DBPR's projections of revenue and expenditures of that profession's board for the next 24-month period.³⁶ Fees for the professions regulated within the DOH are established by the individual boards and must be sufficient to ensure that all costs to regulate the profession are covered by the licensees and licensure applicants, are sufficient to maintain a cash balance, and are also reasonable.³⁷

The bill waives application fees for certain types of professional licenses and fees currently collected by the DBPR and for health care professional fee licenses by the DOH and the administrative boards under the DMQA. The fee waiver result will have an unknown fiscal impact on the total fees that may be collected in the future by the DBPR and the DOH.³⁸ In Fiscal Year 2020-2021, 352 military veterans and spouses used the currently available exemptions across a range of health care professional licensure fees.³⁹ Neither the DBPR nor the DOH has stated that additional fee waivers would endanger existing trust fund balances in the upcoming or near future fiscal years.

The DBPR also states that modifications, which can be accomplished through use of existing resources, will need to be made to its licensing operations systems to identify a military spouse on an application so that an application can be expedited for review and a temporary license issued.⁴⁰

B. Private Sector Impact:

Military veterans and their spouses will have additional opportunities to access professional licenses and health care professional licenses in Florida through expedited means and may be able to assist with filling critical employment needs, especially in high need employment areas or occupational fields. Waiver of licensure fees can serve as an incentive to attract those veterans who have been honorably discharged in Florida to

³⁵ See Section 455.203, F.S.

³⁶ See Fla. Admin. Code R. 61-5.002 (1995).

³⁷ See s. 456.025(1), F.S.

³⁸ See Department of Business and Professional Regulation, *2022 Agency Legislative Bill Analysis for SB 562*, at p. 3 (Oct. 19, 2021) (on file with the Committee on Military and Veterans Affairs, Space, and Domestic Security) and Department of Health, *2022 Agency Legislative Bill Analysis for SB 562*, at p. 4 (Dec. 14, 2021) (on file with the Senate Committee on Regulated Industries).

³⁹ *Id.*

⁴⁰ See Department of Business and Professional Regulation, *2022 Agency Legislative Bill Analysis for SB 562*, at p. 5 (Oct. 19, 2021) (on file with the Senate Committee on Regulated Industries).

remain in Florida or to choose Florida as their permanent residence. Private sector employers may benefit from a deeper pool of employees as a result of these changes and by the fact that these employees may have access to temporary licensure while awaiting the completion of the licensure process.

C. Government Sector Impact:

Government employers may see a similar impact as private sector employers as applications can be expedited for additional groups of professionals in the DBPR and DOH licensing systems. Waiver of these fees may bring more qualified veterans and their spouses to Florida for employment and help fill gaps in high need areas and occupations in the government sector. Filling employment gaps in the government sector can address efficiency and productivity in government while also ensuring that military personnel who have been honorably discharged and their spouses find gainful employment upon separation from the military.

VI. Technical Deficiencies:

The bill requires that applications for military spouses be expedited; however, the term “expedited” is not defined or explained.

VII. Related Issues:

To the extent that any profession would require an individual to also obtain a national certification or examination, this bill does not waive any fees or renewal costs related to national certifications or licensures.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 455.02 and 456.024.

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.