

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 1295 Health Care Practitioner Titles and Abbreviations

SPONSOR(S): Healthcare Regulation Subcommittee, Massullo

TIED BILLS: IDEN./SIM. BILLS: SB 1112

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Healthcare Regulation Subcommittee	17 Y, 0 N, As CS	Osborne	McElroy
2) Health & Human Services Committee	19 Y, 0 N	Osborne	Calamas

SUMMARY ANALYSIS

The Division of Medical Quality Assurance (MQA), within the Department of Health (DOH), has general regulatory authority over health care practitioners. The MQA works in conjunction with 22 professional boards and four councils to license and regulate seven types of health care facilities and more than 40 health care professions.

An unlicensed individual may be subject to administrative action or criminal penalties if the individual states or otherwise implies that he or she is a licensed medical professional. This may include the use of certain terms or titles that the public generally associates with a specific medical profession. DOH does not license specialties or sub-specialties based upon board certification, but current law does limit who can hold themselves out as board-certified specialists.

Current law authorizes regulatory boards (or DOH) to discipline health care practitioners for violations related to how they represent their professional identities, including:

- Making misleading, deceptive, or fraudulent representations in or related to the practice of the licensee's profession; or
- Failing to identify through writing or orally to a patient the type of license under which the practitioner is practicing.

CS/HB 1295 further regulates the way in which health care practitioners may represent their professions and educational background. The bill specifies the titles and abbreviations that health care practitioners may use in advertisements, communications, and personal identification. Any unauthorized use of a title, abbreviation, or educational degree qualifies as a misleading, deceptive, or fraudulent representation by the health care practitioner and constitutes grounds for discipline.

The bill requires any advertisement for health care services naming a practitioner to identify the practitioner's profession and educational degree. The bill also requires health care practitioners to wear name tags meeting certain requirements, with exceptions. The bill directs each professional board, or DOH if there is no applicable board, to establish rules determining how practitioners must comply with this requirement.

The bill authorizes DOH or the professional boards, as applicable, to discipline any health care practitioner who violates the provisions of the bill.

The bill has an insignificant, negative fiscal impact on DOH, and no fiscal impact on local governments.

The bill provides an effective date of July 1, 2024.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Health Care Practitioners Licensure and Regulation

The Division of Medical Quality Assurance (MQA), within the Department of Health (DOH), has general regulatory authority over health care practitioners.¹ The MQA works in conjunction with 22 professional boards and four councils to license and regulate seven types of health care facilities and more than 40 health care professions. Every profession is regulated by ch. 456, F.S., which provides general regulatory and licensure authority for the MQA, as well as a profession- or field-specific practice act which outlines requirements and standards that vary by profession and establishes the individual professional boards.

MQA is statutorily responsible for the following professional boards and advisory councils:²

- The Board of Acupuncture, created under ch. 457, F.S.;
- The Board of Athletic Training, created under part XIII of ch. 468, F.S.;
- The Board of Chiropractic Medicine, created under ch. 460, F.S.;
- The Board of Clinical Laboratory Personnel, created under part III of ch. 483, F.S.;
- The Board of Clinical Social Work, Marriage and Family Therapy, and Mental Health Counseling, created under ch. 491, F.S.;
- The Board of Dentistry, created under ch. 466, F.S.;
- The Board of Hearing Aid Specialists, created under part II of ch. 484, F.S.;
- The Board of Massage Therapy, created under ch. 480, F.S.;
- The Board of Medicine, created under ch. 458, F.S.;
- The Board of Nursing, created under part I of ch. 464, F.S.;
- The Board of Nursing Home Administrators, created under part II of ch. 468, F.S.;
- The Board of Occupational Therapy, created under part III of ch. 468, F.S.;
- The Board of Opticianry, created under part I of ch. 484, F.S.;
- The Board of Optometry, created under ch. 463, F.S.;
- The Board of Orthotists and Prosthetists, created under part XIV of ch. 468, F.S.;
- The Board of Osteopathic Medicine, created under ch. 459, F.S.;
- The Board of Pharmacy, created under ch. 465, F.S.;
- The Board of Physical Therapy Practice, created under ch. 486, F.S.;
- The Board of Podiatric Medicine, created under ch. 461, F.S.;
- The Board of Psychology, created under ch. 490, F.S.;
- The Board of Respiratory Care, created under part V of ch. 468, F.S.;
- The Board of Speech-Language Pathology and Audiology, created under part I of ch. 468, F.S.;
- The Dietetics and Nutrition Practice Council, created under part X of ch. 468, F.S.;
- The Electrolysis Council, created under ch. 478, F.S.;
- The Council of Licensed Midwifery, created under ch. 467, F.S.;
- The Council on Physician Assistants, created under chs. 458 and 459, F.S.

¹ 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, orthotists, prosthetists, electrologists, massage therapists, clinical laboratory personnel, medical physicists, dispensers of optical devices or hearing aids, physical therapists, psychologists, social workers, mental health counselors, and psychotherapists, among others.

² Florida Department of Health, Division of Medical Quality Assurance, *Annual Report and Long-Range Plan, Fiscal Year 2022-2022* (2023). Available at <https://www.floridahealth.gov/licensing-and-regulation/reports-and-publications/MQAAnnualReport2022-2023.pdf> (last visited January 26, 2024).

MQA also oversees the following seven health care professions for which there is no profession-specific regulatory board:³

- Certified Master Social Workers, as provided by s. 491.015, F.S.;
- Emergency Medical Technicians, as provided under part III of ch. 401, F.S.;
- Genetic Counselors, as provided under part III of ch. 483, F.S.;
- Medical Physicists, as provided under part II of ch. 483, F.S.;
- Naturopaths, as provided under ch. 462, F.S.;⁴
- Paramedics, as provided under part III of ch. 401, F.S.;
- Radiologic Technologists, as provided under part IV under ch. 468, F.S.; and
- School Psychologists, as provided under ch. 490, F.S.

Except for those professions for which there is no board, DOH and the professional boards have different roles in the regulatory system. Boards act as the governing body of a specified profession; they establish practice standards by rule, pursuant to statutory authority and directives, and determine disciplinary action against practitioners who have violated the practice standards.

DOH receives and investigates complaints against practitioners and facilitates the legal response when necessary. DOH, on behalf of the boards, investigates legally sufficient complaints against practitioners.⁵ Once an investigation is complete, DOH presents the investigatory findings to the boards. DOH recommends a course of action to the appropriate board's probable cause panel⁶ which may include having the file reviewed by an expert, issuing a closing order, or filing an administrative complaint.⁷

The boards determine the course of action and any disciplinary action to take against a practitioner.⁸ For professions that have no board, DOH determines the action and discipline to take against a practitioner and issues the final orders.⁹ DOH is responsible for ensuring that licensees comply with the terms and penalties imposed by the boards.¹⁰ If a case is appealed, DOH defends the board's (or DOH's) final actions before the appropriate appellate court.¹¹

Specialist Board Certification and Florida Licensure

DOH licenses health care practitioners by profession according to the requirements established in statute and rule. DOH does not directly license health care practitioners by specialty or subspecialty; alternatively, current law recognizes the authority of private national specialty boards for granting board certification to practitioners.¹² While DOH does not directly license practitioners by specialty, current law limits which health care practitioners may hold themselves out as board-certified specialists by imposing requirements for specialty designations in individual profession's practice acts.

An allopathic physician (M.D.) 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 ABMS or other

³ *Id.*

⁴ *Id.* There are currently no naturopaths actively licensed to practice in Florida.

⁵ Department of Health, *Investigative Services*. Available at <http://www.floridahealth.gov/licensing-and-regulation/enforcement/admin-complaint-process/isu.html> (last visited January 26, 2024).

⁶ See also, Department of Health, *A Quick Guide to the MQA Disciplinary Process: Probable Cause Panels*. Available at <https://www.floridahealth.gov/licensing-and-regulation/enforcement/admin-complaint-process/documents/a-quick-guide-to-the-mqa-disciplinary-process.pdf> (last visited January 26, 2024).

⁷ Department of Health, *Prosecution Services*. Available at <http://www.floridahealth.gov/licensing-and-regulation/enforcement/admin-complaint-process/psu.html> (last visited January 26, 2024).

⁸ S. 456.072(2), F.S.

⁹ *Id.* Professions which do not have a board include naturopathy, nursing assistants, midwifery, respiratory therapy, dietetics and nutrition, electrolysis, medical physicists, and school psychologists.

¹⁰ *Supra*, note 7.

¹¹ *Id.*

¹² Examples of specialties include dermatology, emergency medicine, ophthalmology, pediatric medicine, certified registered nurse anesthetist, clinical nurse specialist, cardiac nurse, nurse practitioner, endodontics, orthodontics, and pediatric dentistry. Examples of national specialty boards include The American Board of Medical Specialties and The Accreditation Board for Specialty Nursing Certification.

recognizing agency¹³ approved by the Board of Medicine.¹⁴ Similarly, an osteopathic physician (D.O.) 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 agency¹⁵ approved by the Board of Osteopathic Medicine.¹⁶

A dentist may not hold himself or herself out as a specialist, or advertise membership in or specialty recognition by an accrediting organization, unless the dentist has completed a specialty education program approved by the American Dental Association and the Commission on Dental Accreditation and the dentist is:¹⁷

- Eligible for examination by a national specialty board recognized by the American Dental Association; or
- A diplomate of a national specialty board recognized by the American Dental Association.

If a dentist announces or advertises a specialty practice for which there is not an approved accrediting organization, the dentist must clearly state that the specialty is not recognized or that the accrediting organization has not been approved by the American Dental Association or the Florida Board of Dentistry.¹⁸

By rule, the Board of Chiropractic Medicine (BCM) prohibits chiropractors from using deceptive, fraudulent, and misleading advertising. The BCM permits chiropractors to advertise that they have attained Diplomate status in a chiropractic specialty area recognized by the BCM. BCM-recognized specialties include those which are recognized by the Councils of the American Chiropractic Association, the International Chiropractic Association, the International Academy of Clinical Neurology, or the International Chiropractic Pediatric Association.¹⁹

Additionally, an advanced practice registered nurse may not advertise or hold himself or herself out as a specialist for which he or she has not received certification.²⁰

Professional Identity Representation

Section 456.072, F.S., authorizes a professional board or DOH, if there is no board, to discipline a health care practitioner's licensure for a number of offenses, including but not limited to:

- Making misleading, deceptive, or fraudulent representations in or related to the practice of the licensee's profession; or
- Failing to identify through writing or orally to a patient the type of license under which the practitioner is practicing.

Physicians are expressly subject to discipline for advertising a board-certified specialty for which they are not qualified. Using a term designating a medical specialty for which a *non-physician* practitioner has not completed a residency or fellowship program accredited or recognized by the ACGME or the AOA in such specialty is not expressly grounds for discipline under current law.²¹

¹³ The Board of Medicine has approved the specialtyboards of the ABMS as recognizing agencies. See, Rule 64B8-11.001(1)(f), F.A.C.
¹⁴ S. 458.3312, F.S.

¹⁵ The Board of Osteopathic Medicine has approved the specialtyboards of the ABMS and AOA as recognizing agencies. See, Rule 64B15-14.001(h), F.A.C.

¹⁶ S. 459.0152, F.S.

¹⁷ S. 466.0282, F.S. A dentist may also hold himself or herself out as a specialist if the dentist has continuously held himself or herself out as a specialist since December 31, 1964, in a specialty recognized by the American Dental Association.

¹⁸ S. 466.0282(3), F.S.

¹⁹ Rule 64B-15.001(2)(e), F.A.C. Examples of chiropractic specialties include chiropractic acupuncture, chiropractic internist, chiropractic and clinical nutrition, radiology chiropractic, and pediatric chiropractors.

²⁰ S. 464.018(1)(s), F.S.

²¹ Ss. 458.331(1)(ll) and 459.015(1)(nn), F.S.

If the board or DOH finds that a licensee committed a violation, the board or DOH may:²²

- Refuse to certify, or to certify with restrictions, an application for a license;
- Suspend or permanently revoke a license;
- Place a restriction on the licensee's practice or license;
- Impose an administrative fine not to exceed \$10,000 for each count or separate offense; if the violation is for fraud or making a false representation, a fine of \$10,000 must be imposed for each count or separate offense;
- Issue a reprimand or letter of concern;
- Place the licensee on probation;
- Require a corrective action plan;
- Refund fees billed and collected from the patient or third party on behalf of the patient; or
- Require the licensee to undergo remedial education.

Effect of the Bill

Health Care Professional Representation

CS/HB 1295 further regulates the way in which health care practitioners represent their professions.

Professional Designations

The bill specifies the titles and abbreviations that may be used by allopathic and osteopathic physicians, chiropractic physicians, podiatric physicians, dentists, anesthesiologist assistants, and optometrists. Under the bill, health care practitioners, regardless of whether they are specified in the bill, may only identify themselves by the titles and abbreviations authorized by the bill or the practitioner's respective practice act.

Advertisements

Current law authorizes licensure discipline for "deceptive or misleading terms or false representation". The bill expressly makes misrepresentation of a practitioner's educational degree a qualifying offense under this provision. The bill also establishes an extensive list²³ of titles and designations which, when used in an advertisement or in a manner constituting a misleading, deceptive, or fraudulent representation by a person not licensed constitutes the unlicensed practice of medicine or osteopathic medicine.

The bill requires any advertisement for health care services naming a practitioner to identify the practitioner's profession and educational degree as related to the services featured in the advertisement. The advertisement must also include the specific license under which the practitioner is authorized to provide services. These requirements apply to any printed, electronic, or oral statement that:

- Is communicated or disseminated to the general public.
- Is intended to encourage a person to use a practitioner's services or to promote those services or the practitioner in general.
- For commercial purposes, names a practitioner in connection with the practice, profession, or institution in which the practitioner is employed, volunteers, or provides health care services.

²² S. 456.073(1), F.S.

²³ The list includes: Doctor of Medicine, M.D., Doctor of Osteopathy, D.O., Emergency Physician, Family Physician, Interventional Pain Physician, Medical Doctor, Osteopath, Osteopathic Physician, Doctor of Osteopathic Medicine, Surgeon, Neurosurgeon, General Surgeon, Resident Physician, Medical Resident, Medical Intern, Anesthesiologist, Cardiologist, Dermatologist, Endocrinologist, Gastroenterologist, Gynecologist, Hematologist, Hospitalist, Intensivist, Internist, Laryngologist, Nephrologist, Neurologist, Obstetrician, Oncologist, Ophthalmologist, Orthopedic Surgeon, Orthopedist, Otolologist, Otolaryngologist, Pathologist, Pediatrician, Primary Care Physician, Proctologist, Psychiatrist, Radiologist, Rheumatologist, Rhinologist, and Urologist.

- Is prepared, communicated, or disseminated by the practitioner or with their consent.

The bill requires any advertisement by a health care practitioner include the specific license under which they are authorized to provide services, and restricts them to advertising with only the specific titles and abbreviations they are authorized to use under the bill.

The bill permits only allopathic or osteopathic physicians, chiropractic physicians, podiatric physicians, and dentists to use the titles, abbreviations, or medical specialties specified in the bill the bill, such as “dermatologist,” “oncologist,” and “periodontist,” in advertisements.

Non-physician practitioners may identify themselves according to specialties expressly named in their respective practice acts, but only in conjunction with the title of the profession which they are licensed to practice.

License Display

The bill requires health care practitioners to wear a name tag displaying their name and profession when treating or consulting a patient. The practitioner’s profession must be identified on the name tag consistent with the naming conventions specified in the bill. This requirement does not apply to a practitioner providing services in his or her own office if the practitioner prominently displays a copy of his or her license in a conspicuous area of the practice so that it is easily visible to patients.

Discipline

Failure to adhere to the provisions of the bill constitute grounds for discipline. The bill authorizes DOH or the boards, as applicable, to discipline any health care practitioner who violates the preceding requirements. The bill directs each board, or DOH if there is no board, to develop rules determining how practitioners must comply with the requirements of the bill.

The bill provides an effective date of July 1, 2024.

B. SECTION DIRECTORY:

- Section 1:** Creates s. 456.0651, F.S., relating to health care practitioner titles and designations.
Section 2: Amends s. 456.072, F.S., relating to grounds for discipline; penalties; enforcement.
Section 3: Provides an effective date of July 1, 2024.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

DOH may experience a non-recurring increase in workload associated with rulemaking, which can be absorbed within current resources.²⁴ DOH may also experience an increase in workload and costs associated with the enforcement of the provisions of this bill, which can be absorbed within current resources.²⁵

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

²⁴ Department of Health, *Agency Analysis of House Bill 583* (2023). (February 7, 2023).

²⁵ *Id.*

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

To comply with the provisions of the bill, health care practitioners currently practicing under titles that are not expressly authorized by the bill will need to transition to approved titles. Such practitioners will incur the costs associated with rebranding. Acupuncturists, commonly referred to as acupuncture physicians and Doctors of Oriental Medicine, are likely to be impacted by this requirement, as such titles are not expressly authorized under the bill, or in the acupuncture practice act.²⁶

Health care practitioners in violation of the restrictions in this bill may be subject to disciplinary actions and fines.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. The bill does not appear to affect county or municipal governments.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill provides sufficient rulemaking authority to DOH and the relevant regulatory boards to implement the provisions of the bill.

C. DRAFTING ISSUES OR OTHER COMMENTS:

By specifying titles and abbreviations applicable to a specialty or certification, it is unclear if other recognized credentials earned by a health care practitioner may be used. For example, it is unclear if a dentist who has completed advanced training in dental anesthesiology could refer to himself as a dental anesthesiologist.

The DOH analysis of the bill notes that the use of “may” throughout the bill indicates a permissive provision, implying some discretion, which may be difficult to enforce.²⁷

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

On February 1, 2024, the Healthcare Regulation Subcommittee adopted an amendment to HB 1295 and reported the bill favorably as a committee substitute. The amendment removed “physician” from the list of titles protected under the bill.

²⁶ See, Ch. 457, F.S., for the statute regulating acupuncture.

²⁷ *Supra*, note 24.

The analysis is drafted to the bill as amended by the Healthcare Regulation Subcommittee.