

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 1319 Military Spouses  
**SPONSOR(S):** Harrell and others  
**TIED BILLS:** **IDEN./SIM. BILLS:** SB 1228

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Health & Human Services Quality Subcommittee		Holt	Calamas
2) Health Care Appropriations Subcommittee			
3) Health & Human Services Committee			

### SUMMARY ANALYSIS

Currently, the Department of Health (DOH) does not issue temporary licenses to health care practitioners who are spouses of active duty members of the Armed Forces. The bill provides the DOH the authority to issue a temporary license to a healthcare practitioner whose spouse is stationed in Florida on active duty with the Armed Forces. The temporary license is valid for six months from the date of issuance and is not renewable. The healthcare practitioner is required to:

- Submit a completed application;
- Submit a fee;
- Provide proof of marriage to an active duty member of the Armed Forces of the United States assigned to a duty station in Florida;
- Provide proof of a valid license in another state, the District of Columbia, a possession or territory of the United States, or a foreign jurisdiction; and
- Complete state and national criminal history checks.

The bill requires the DOH and provides the the applicable licensing board the authority to review the results of a state and federal criminal history check, based on level 2 screening standards, to determine if the applicant for a temporary license meets the requirements for licensure.

The fiscal impact to the Medical Quality Assurance Trust Fund within the Department of Health is likely to be insignificant, but is indeterminate at this time. There is no fiscal impact to local governments. (See Fiscal Comments.)

The bill provides for an effective date of July 1, 2011.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### **Background**

##### **Health Care Practitioner Licensure**

The Department of Health (DOH), Division of Medical Quality Assurance (MQA) regulates more than 40 health care professions and 37 types of facilities/establishments.<sup>1</sup> MQA evaluates the credentials of all applicants for licensure, issues licenses, analyzes and investigates complaints, inspects facilities, assists in prosecuting practice act violations, combats unlicensed activity, and provides credentials and discipline history about licensees to the public. In Fiscal Year 2009-2010, MQA issued a total of 1,002,920 licensees.<sup>2</sup>

Currently, the DOH does not issue temporary licenses to health care practitioners who are spouses of active duty members of the Armed Forces. All health care practitioners are required to comply with the licensing provisions specified for the health care profession and corresponding practice act<sup>3</sup> that they are seeking to be licensed under. The board (or DOH if there is no board), determines whether DOH should issue a license to practice in Florida.

In Fiscal Year 2009-2010, the average number of days to issue a license was 56.5 days. This is calculated from the date an application is received by the Department to the date the license is issued. However, the 56.5 days includes steps in the process that are outside of the DOH's control:<sup>4</sup>

- Most professions have national licensure exams. For those professions where candidates who are permitted to apply for licensure prior to passing the exam, the length of time it takes to pass the exam impacts the number of days to issue a license.
- Length of time it takes for an applicant to successfully pass a practical licensure exam. Florida currently administers some state practical licensure exams. Those exams are administered a limited number of times per year. The dental exam is administered 3 times per year; the dental hygiene exam is administered 2 times per year; the opticianry exam is administered twice per year; optometry is administered one time per year.
- Some professions are required to have taken certain educational courses, therefore those applicants are required to successfully pass college courses while the application is pending; (See s. 491.005, F.S.).
- For professions which require a criminal background check, delays are often experienced while the applicant obtains and sends in information from law enforcement or the judicial system detailing the disposition of an arrest or conviction.
- Pre-licensure facility inspections.

##### **Criminal Background Screening**

In 1995, the Florida Legislature created standard procedures for the screening of prospective employees where the Legislature had determined it necessary to conduct criminal history background checks to protect vulnerable persons. Currently, there are two different groups of criminal background screenings: statewide (level 1), national (level II). Chapter 435, F.S., outlines the screening standards for Level 1 employment screening and Level 2 employment screening. The Florida Department of Law Enforcement (FDLE) provides criminal history checks to the employer.

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<sup>1</sup> Florida Department of Health, Division of Medical Quality Assurance, Reports and Publications, 2009-2010 Annual Report, available at: <http://www.doh.state.fl.us/mqa/reports.htm> (last viewed March 17, 2011).

<sup>2</sup> *Id.*

<sup>3</sup> "Practice Acts" are in statute for each profession and establish the scope and standards of practice of the profession, and provide grounds for disciplinary action.

<sup>4</sup> Per email correspondence with DOH, Medical Quality Assurance staff, March 17, 2011, on file with Health & Human Services Quality Subcommittee staff.

The provisions of chapter 435, F.S., apply whenever a Level 1 or Level 2 screening for employment is required by law. Screenings can be done following Level 1 or Level 2 standards, depending on what direction is provided in a specific statute.

Level 1 screenings are name-based demographic screenings that must include, but are not limited to, employment history checks and statewide criminal correspondence checks through FDLE. Level 1 screenings may also include local criminal records checks through local law enforcement agencies. Anyone undergoing a Level 1 screening must not have been found guilty of any of many offenses delineated by law.<sup>5</sup>

A Level 2 screening consists of a fingerprint-based search of FDLE and the Federal Bureau of Investigations (FBI) databases for state and national criminal arrest records. Any person undergoing a Level 2 screening must not have been found guilty of any of the offenses for Level 1 or the many offenses delineated by law.<sup>6</sup>

Currently, DOH conducts different levels of background screening for health professions as required by each practice act.<sup>7</sup>

Regulated Provider Type/Licensee Initial Licensure	Current Level of Screening	Cost of screening and who pays the cost (See note)	Rescreening Requirements
Advanced Registered Nurse Practitioner	Statewide/National	\$43.25/Licensee	Renewal - Statewide
Certified Nursing Assistant by Examination in FL > 5 years	Level II	\$43.25/Licensee	None
Certified Nursing Assistant by Examination in FL < 5 years	Level II	\$43.25/Licensee	None
Certified Nursing Assistant by Reciprocity	Level II	\$43.25/Licensee	None
Licensed Practical Nurse by Examination	Statewide	\$24/Licensee	None
Licensed Practical Nurse by Endorsement	Statewide/National	\$43.25/Licensee	None
Registered Nurse by Examination	Statewide	\$24/Licensee	None
Registered Nurse by Endorsement	Statewide/National	\$43.25/Licensee	None
Chiropractic Physician	Statewide/National	\$43.25/Licensee	Renewal - Statewide
Medical Doctor	Statewide/National	\$43.25/Licensee	Renewal - Statewide
Osteopathic Physician	Statewide/National	\$43.25/Licensee	Renewal - Statewide
Orthotists, Prosthetists, Pedorthists, Orthotic Fitters, Orthotic Fitter Assistants, O&P Resident	Statewide/National	\$43.25/Licensee	Renewal - Statewide
Drug Wholesalers/Certified Designated Representative	Statewide/National	\$43.25/Licensee	None
Pharmacy Owner	Statewide/National	\$43.25/Licensee	None
Prescription Department Manager	Statewide/National	\$43.25/Licensee	None
Podiatric Physician	Statewide/National	\$43.25/Licensee	Renewal - Statewide

Source: Department of Health, Division of Medical Quality Assurance<sup>8</sup>

Note : DOH charges \$4.75 administrative processing fee

Many health professions do not require a criminal background screening at the time of initial licensure or licensure renewal. Currently, the following health professions are not subject to a criminal background screening:<sup>9</sup>

<sup>5</sup> See ss. 393.135, 394.4593, 415.111, 782.04, 782.07, 782.071, 782.09, 784.011, 784.021, 784.03, 784.045, 787.01, 787.02, 794.011, 794.041, 798.02, 806.01, 817.563, 825.102, 825.1025, 825.103, 826.04, 827.03, 827.04, 827.05, 827.071, 916.1075 and chapters 796, 800, 812, 847, and 893, F.S.

<sup>6</sup> See ss. 787.04(2), 787.04(3), 790.115(1), 790.115(2)(b), 843.01, 843.025, 843.12, 843.13, 874.05(1), 944.35(3), 944.46, 944.47, 985.701, and 985.711, F.S.

<sup>7</sup> Florida Department of Health, Division of Medical Quality Assurance, Background Screening, Background Screening Matrix, available at: <http://www.doh.state.fl.us/mqa/background.html> (last viewed March 17, 2011).

<sup>8</sup> Florida Department of Health, Division of Medical Quality Assurance, Background Screening, Background Screening Matrix, available at: <http://www.doh.state.fl.us/mqa/background.html> (last viewed March 17, 2011).

<sup>9</sup> Per email correspondence with DOH, Medical Quality Assurance staff, March 17, 2011, on file with Health & Human Services Quality Subcommittee staff.

- Acupuncture
- Anesthesiologist Assistant
- Athletic Training
- Clinical Laboratory Personnel
- Clinical Nurse Specialist
- Clinical Social Work, Marriage and Family Therapy and Mental Health Counseling
- Dentistry/Dental Laboratory
- Dietetics/Nutrition
- Electrolysis/Electrolysis Facility
- Emergency Medical Technician
- Hearing Aid Specialist
- Massage Therapy/Massage Establishment
- Medical Physicist
- Midwifery
- Naturopath
- Nursing Home Administrator
- Office Surgery Registration

According to DOH, the results of a state or national background screening are reviewed by the applicant's respective health profession board and the results are used to decide whether to grant a license. However, this screening process does not meet the definition of a Level II screening as provided in chapter 435, F.S.<sup>10</sup>

### **The Effects of the Bill**

The bill provides the Department of Health (DOH) the authority to issue a temporary license to a healthcare practitioner whose spouse is stationed in Florida on active duty with the Armed Forces. The temporary license is valid for six months from the date of issuance and is not renewable. The healthcare practitioner is required to:

- Submit a completed the application;
- Submit a fee;
- Provide proof of marriage to an active duty member of the Armed Forces of the United States assigned to a duty station in Florida;
- Provide proof of a valid license in another state, the District of Columbia, a possession or territory of the United States, or a foreign jurisdiction;, and
- Complete state and national criminal history checks.

The bill requires the DOH and provides the board the authority to review the results of the state and federal criminal history checks, based on level 2 screening standards, to determine if the applicant for a temporary license meets the requirements for licensure. The bill does not provide for the variability of requirements within each health professions practice act concerning criminal background screening.

The bill requires the applicant for a temporary license to pay the cost for the fingerprint processing, and an application fee.

### **B. SECTION DIRECTORY:**

**Section 1.** Amends s. 456.024, F.S., relating to members and spouses of Armed Forces in good standing with administrative boards or the department.

**Section 2.** Provides an effective date of July 1, 2011.

<sup>10</sup> Florida Department of Health, Division of Medical Quality Assurance, Background Screening, Criminal Background Screening & Exemption, available at: <http://www.doh.state.fl.us/mqa/background.html> (last viewed March 17, 2011).

## **II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

### **A. FISCAL IMPACT ON STATE GOVERNMENT:**

#### **1. Revenues:**

See Fiscal Comments.

#### **2. Expenditures:**

See Fiscal Comments.

### **B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

#### **1. Revenues:**

None.

#### **2. Expenditures:**

None.

### **C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

See Fiscal Comments.

### **D. FISCAL COMMENTS:**

The bill authorizes the DOH to set the application fee for the temporary license and the applicant is required to pay the cost for fingerprint processing. Section 216.0236, F.S., provides that the all costs of providing a regulatory service or regulating a profession or business be borne solely by those who are regulated and the program be self-sufficient.

According to the DOH, there are 14 military bases in Florida, yet the number of out of state military personnel stationed in Florida, the number out of state military personnel with spouses, and the number of spouses that are health care practitioners licensed in other states is unknown. Therefore, the fiscal impact is indeterminate at this time.

## **III. COMMENTS**

### **A. CONSTITUTIONAL ISSUES:**

#### **1. Applicability of Municipality/County Mandates Provision:**

Not applicable. The bill does not appear to: require counties or municipalities to spend funds or take an action requiring the expenditure of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with counties or municipalities.

#### **2. Other:**

None.

### **B. RULE-MAKING AUTHORITY:**

The department does not need additional rule-making authority to implement the provisions of the bill.

### **C. DRAFTING ISSUES OR OTHER COMMENTS:**

None.

#### **IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**