

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/CS/CS/HB 1319 Temporary Certificates and Licenses for Certain Health Care Practitioners

SPONSOR(S): Health & Human Services Committee; Health Care Appropriations Subcommittee; Health & Human Services Quality Subcommittee; 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	11 Y, 0 N, As CS	Holt	Calamas
2) Health Care Appropriations Subcommittee	13 Y, 0 N, As CS	Clark	Pridgeon
3) Health & Human Services Committee	17 Y, 0 N, As CS	Batchelor	Gormley

SUMMARY ANALYSIS

Currently, 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 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 if the applicant meets the eligibility requirements for a full license and is qualified to take the licensure examination. The healthcare practitioner is required to meet certain criteria to obtain the 12 month non-renewable, temporary license. The bill requires the applicable board or DOH if there is no board, to deny applications under certain circumstances. The bill requires the applicant for a temporary license to pay the cost for fingerprint processing, and an application fee.

The bill amends s. 458.3312, F.S., removing title protections for board certified dermatologists.

The bill amends provisions relating to dental hygienists. The bill allows dental hygienists to practice in a health care setting without the physical presence or supervision of a dentist, under certain circumstances, and requires dental hygienists who do so to maintain professional malpractice insurance coverage. The bill amends s. 466.003, F.S., to define "school based prevention program," and includes such programs in the definition of "health access setting". The bill amends s. 466.023, F.S., to expand the scope of practice of dental hygienists. The bill allows dental hygienists to apply fluorides, instruct on the oral hygiene of a patient and supervise the oral hygiene of a patient, without the supervision of a dentist.

The bill substantially amends s. 466.006, F.S., relating to the licensure of dentists. The bill replaces the current dental exam, administered through the DOH, with a national exam, the American Dental Licensure Examination (ADLEX). The bill provides that if an individual who is relocating to Florida took the ADLEX exam more than a year ago, he or she must meet additional criteria for licensure, including engaging in the full-time practice of dentistry in the 5 years preceding the date of application to practice dentistry in the state. However, this provision only applies to individuals who took the ADLEX exam after January 1, 2012. Additionally, the bill provides that an individual who is relocating to Florida to practice dentistry must engage in the full-time practice of dentistry within one year of receiving a dental license. The bill requires the Board of Dentistry to develop rules for the full-time dentistry requirements, and recoup costs for verification of full time practice. The bill makes it a third degree felony to use or attempt to use a license that is expired or has been revoked.

The bill amends statutory requirements related to athletic trainers. It defines "Board of Certification" (Board) and requires that members of the Board of Athletic Training be certified by the Board. The bill includes education programs recognized by the Board in qualifying programs for licensure as an athletic trainer. The bill also requires athletic trainers to be certified in the use of automated external defibrillators (AED's), and meet additional continuing education requirements in the use of AED's.

Finally, the bill provides a severability clause.

There is expected to be a positive fiscal impact to the Medical Quality Assurance Trust Fund through increased application fee collections. The fiscal impact to DOH is expected to be insignificant and any impacts can be absorbed within existing departmental resources.

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

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

STORAGE NAME: h1319e.HHSC

DATE: 4/27/2011

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.¹ 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.²

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 act³ 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:⁴

- 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.

Dental Hygienists

Dental Hygienists are regulated by ch. 466, F.S., and by the Board of Dentistry within in DOH. DOH has set out in regulation the licensure requirements for a dental hygienist.⁵ An applicant is required to submit a form, a fee, proof of graduation or expected graduation from a dental hygiene school,

¹ 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).

² *Id.*

³ "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.

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

⁵ Ch. 64B5-2.0135, F.A.C.

photographs of the applicant, proof of CPR certification, disclosure of personal history and proof of completion of the National Board of Dental Hygiene written examination.⁶ If the applicant is a graduate of an unaccredited dental hygienist school, in addition to the previously mentioned requirements, he or she must submit evidence that his or her education is equivalent to that of an accredited school and five statements from people who have direct knowledge of their educational qualifications.⁷ Current law provides that the Board of Dentistry may require any person applying to take the dental hygiene exam to carry medical malpractice insurance, sufficient to cover any incidence of harm to a patient during a clinical examination.⁸ Further, DOH rule⁹ provides that a dentist cover liability actions of a dental hygienist, within his or her medical malpractice insurance.

Dermatologists

Dermatologists are physicians licensed under ch. 458 or 459, F.S., and are regulated by the Board of Medicine or the Board of Osteopathic Medicine. Current law provides that a physician may not identify himself or herself as a dermatologist, unless he or she is licensed by the Board of Medicine or Osteopathic Medicine, and he or she has received formal recognition from an approved specialization board.¹⁰

Athletic Trainers

Athletic Trainers are regulated under part XIII of ch. 468, F.S., the Board of Athletic Training within DOH. Athletic training is the recognition, prevention, and treatment of an injury sustained during an athletic activity which affects the athlete's ability to participate or perform.¹¹ An athletic activity includes the participation in an event that is conducted by an educational institution, a professional athletic organization, or an amateur athletic organization, involving exercises, sports, games, or recreation requiring any of the physical attributes of strength, agility, flexibility, range of motion, speed, and stamina.¹² Between July 1, 2009, and June 30, 2010, DOH received 185 applications from individuals seeking initial licensure as an athletic trainer.¹³

Section 468.703, F.S., creates the Board of Athletic Training, composed of nine members who are Governor appointed and confirmed by the Senate. Five of the members must be licensed athletic trainers, one must be a physician, and two are consumer-residents who are not affiliated with the industry or licensed health-care practice.

Florida Dental Exam

The Florida Board of Dentistry (Board) administers the Florida dental licensure exams. The Board sets the number, dates, and locations of exams. Licensure examinations are given at least twice a year depending on the projected candidate population.¹⁴ Applicants for examination or re-examination must have taken and successfully completed the National Board of Dental Examiner's dental examination and received a National Board Certificate within the past ten 10 years.¹⁵

⁶ *Id.*

⁷ ch. 64B5-2.0144, F.A.C.

⁸ s. 466.0075, F.S.

⁹ ch. 64B5-17.011, F.A.C.

¹⁰ s. 458.3312, F.S., s. 459.0152, F.S.

¹¹ s. 468.701(3) and (5), F.S.

¹² s. 468.701(2), F.S.

¹³ *Id.*

¹⁴ Florida Department of Health, Division of Medical Quality Assurance, Board of Dentistry, Applicant s & Forms, *available at*: http://www.doh.state.fl.us/mqa/dentistry/dn_applications.html (last viewed March 19, 2011).

¹⁵ ch. 64B5-2.013, F.A.C.

Each applicant is required to complete the examinations as provided for in s. 466.006, F.S. The examinations for dentistry consist of: written examination, a practical or clinical examination, and a diagnostic skills examination.¹⁶

The applicant for licensure must successfully complete all three exams within a thirteen month period in order to qualify for licensure.¹⁷ If the candidate fails to successfully complete all three examinations within the allotted timeframe, then the candidate must retake all three of the examinations.¹⁸ Additionally, all examinations are required to be conducted in English.¹⁹

The practical or clinical examination requires the applicant to provide a qualified patient²⁰, who will participate in the examination as the patient.²¹ The practical or clinical examination consists of four parts and the applicant must receive a grade of at least 75 percent on each part:

- Part 1-requires a preparation procedure and a restoration procedure.
- Part 2-requires demonstration of periodontal skills on a patient to include definitive debridement (root planing, deep scaling/removal of subgingival calculus, and removal of plaque, stain and supragingival calculus)
- Part 3-requires demonstration of endodontic skills on specified teeth.
- Part 4-requires demonstration of prosthetics skills to include the preparation for a 3-unit fixed partial denture on a specified model and the preparation of an anterior crown

If an applicant fails to achieve a final grade of 75 percent, or better, on each of the four 4 parts of, the practical or clinical examination, the applicant shall be required to retake only that part(s) that the applicant has failed.²²

There are two fees associated with the licensure examination: \$1,700 to the Board of Dental Examiners for administration of the licensure examination and \$760 to the Department of Health for application fee, exam development and licensure.²³ Additionally, the applicant must supply any live patients and assume all associated costs to ensure the patients are present at the exam. For applicants who have not taken the National Boards within the last 10 years (e.g. a licensed dentist from another state who may have been in practice for 10 years or more), he or she must also retake Part II of the National Boards.

The American Board of Dental Examiners

The American Board of Dental Examiners (ADEX) is a test development board that develops initial licensure exams for dentists and dental hygienists.²⁴ ADEX has 24 state dental boards²⁵ and two testing agencies that currently administer examinations.²⁶ The traditional form of the ADEX exam consists of five examinations:²⁷ restorative, periodontal, prosthodontic, endodontic and a diagnostic skills exam.

¹⁶ A final grade of 75 or better is required to pass the written examination, and the practical or clinical exam requires the applicant to provide a patient who is at least 18 years of age and have a medical history consistent with the parameters prescribed by the board of dentistry. See 64B5-2.013, F.A.C.

¹⁷ s. 466.006(4)(b)3., F.S.

¹⁸ *Id.*

¹⁹ ch. 64B5-2.013, F.A.C.

²⁰ The patient must be at least 18 years of age and have a medical history consistent with the parameters prescribed by the board of dentistry.

²¹ ch. 64B5-2.013, F.A.C.

²² ch. 64B5-2.013, F.A.C.

²³ Florida Department of Health, Division of Medical Quality Assurance, Board of Dentistry, Applicants & Forms, *available at*: http://www.doh.state.fl.us/mqa/dentistry/dn_applications.html (last viewed March 19, 2011).

²⁴ American Board of Dental Examiners, <http://www.adex.com>, (last viewed April 11, 2011).

²⁵ Colorado, Connecticut, District of Columbia, Hawaii, Illinois, Indiana, Iowa, Kentucky, Maine, Maryland, Massachusetts, Michigan, Nevada, New Hampshire, New Jersey, Ohio, Oregon, Pennsylvania, Rhode Island, South Carolina, Wyoming, Vermont West Virginia, Wisconsin.; *available at* <http://www.adex.com> (last viewed April 11, 2011).

²⁶ American Board of Dental Examiners, <http://www.adex.com>, (last viewed April 11, 2011).

²⁷ Northeast Regional Board of Dental Examiners, <http://www.nerb.org> (last viewed April 11, 2011).

The exams are offered at multiple sites, 3 times per year, and a score of 75 or better is required to pass each examination, if an examination is failed, the candidate must reapply and retake all failed examinations together.²⁸

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 levels 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.

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.²⁹

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.³⁰

Currently, DOH conducts different levels of background screening for health professions as required by each practice act.³¹

²⁸ *Id.*

²⁹ 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 ch 796, 800, 812, 847, and 893, F.S.

³⁰ 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.

³¹ 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).

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 Assurance³²

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:³³

- 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

³² *Id.*

³³ Per email correspondence with DOH, Medical Quality Assurance staff, March 17, 2011, on file with Health & Human Services Quality Subcommittee staff.

license. However, this screening process does not meet the definition of a Level II screening as provided in chapter 435, F.S.³⁴

Temporary Certificate for Practice in Areas of Critical Need

A physician is eligible to receive a temporary certificate to practice in an area of critical (certificate) need if:³⁵

- They hold a valid license to practice in any jurisdiction in the United States; or
- They have served as a physician in the United States Armed Forces for at least 10 years and received an honorable discharge from the military; and
- Pays an application fee of \$300.

The State Surgeon General is tasked with determining the areas of critical need.³⁶ Such areas may include a health professional shortage area designated by the United States Department of Health and Human Services.³⁷ The certificate is valid for as long as the State Surgeon General determines that the reason for which it was issued remains a critical need to the state. The Board of Medicine is required to review each certificate holder annually to ensure compliance with the Medical Practice Act.³⁸

Rear Admiral LeRoy Collins, Jr.

Rear Admiral LeRoy Collins, Jr., died July 29, 2010, in Tampa, Florida, at the age of 75. He was a native of Tallahassee and the son of former Florida Governor LeRoy Collins. He graduated from the U.S. Naval Academy in 1956, embarking upon a 34-year military career and retiring as a two-star Rear Admiral in 1990.³⁹ In 2007, Governor Charlie Crist appointed Admiral Collins the executive director of the Florida Department of Veterans' Affairs. Admiral Collins founded the Florida Veterans Foundation, Inc.⁴⁰

Admiral Collins was also instrumental in the growth of electronic payment systems in the United States, starting with the introduction of credit cards in Florida and the Southeast. As the founder and president of the Armed Forces Financial Network, Admiral Collins pioneered the deployment of ATMs and point-of-sale devices in U.S. military installations worldwide, including major U.S. aircraft carriers. He also held several other positions, including founding president of Financial Transaction Systems, Inc. and a senior executive of Telecredit Service Center, Inc.⁴¹

³⁴ 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).

³⁵ s. 458.315(1) and 459.0076, F.S.

³⁶ s. 458.315 (3) and 459.0076(3), F.S.

³⁷ Health Professional Shortage Areas (HPSAs) are defined in §332 of the Public Health Service Act, 42 U.S.C. 254e to include: (1) urban and rural geographic areas, (2) population groups, and (3) facilities with shortages of health professionals. The federal designation as a HPSA documents a shortage of health care providers (primary care, dental or mental health) as well as the existence of barriers to accessing care including lack of public transportation, travel time and distance to the next source of undesignated care and high poverty. To be eligible for designation, a geographic area or a population group (a low income or migrant population) must have a population-to-physician ratio greater than 3,000 to one. *See* Florida Department of Health, Division of Health Access and Tobacco, Office of Health Professional Recruitment, *available at*: <http://www.doh.state.fl.us/workforce/recruit1/shortdesig.html> (last viewed March 24, 2011).

³⁸ s. 458.315 (3) and 459.0076(3), F.S.

³⁹ Collins Center for Public Policy, LeRoy Collins, Jr., Obituary, *available at*: http://www.collinscenter.org/?page=LCJr_ObituaryPage (last viewed March 25, 2011).

⁴⁰ Collins Center for Public Policy, LeRoy Collins, Jr., Trustee Biography, *available at*: <http://www.collinscenter.org/?page=TrusteeBioCollinsJr> (last viewed March 25, 2011).

⁴¹ *Supra*, note 15.

The Effects of the Bill

Temporary Licensure for Health Care Practitioners

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 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 and is not the subject of any disciplinary proceeding;
- Provide proof that they have actively practiced the profession for at least 3 years;
- Provide proof that they would be entitled to full licensure and eligible to take the licensure examination;
- Complete state and national criminal history checks as required by the applicable practice act.

The bill provides that a temporary license is denied if:

- The applicant is the subject of any disciplinary action in any jurisdiction,
- The applicant is ineligible for full licensure;
- The applicant is ineligible to take the applicable licensure examination;
- The applicant is convicted of or pled nolo contendere to any felony or misdemeanor related to the practice of a health care profession;
- The applicant had a health care license revoked or suspended in another jurisdiction
- The applicant has been reported to the National Practitioner Databank; or
- The applicant failed a Florida-administered dental examination.

The bill requires each applicant to submit to a background check with FDLE for state and national clearance. The board or the DOH if there is no board is required to review the results of any criminal background check and approve or deny the application consistent with the requirements of Level 2 screening standards pursuant to s. 435.04, F.S. The bill requires the applicant for a temporary license to pay the cost for the fingerprint processing, and an application fee.

The bill names the temporary certificate for practice in areas of critical need the "Rear Admiral Leroy Collins, Jr., Temporary Certificate for Practice in Areas of Critical Need."

Dentistry

The bill amends s. 466.006, F.S., regarding the examination of dentists. The bill provides that Florida will use the American Dental Licensure Examination (ADLEX) instead of a clinical and practical examination developed by the state. The bill exempts ADLEX from national examination requirements by DOH, pursuant to s. 456.017(1)(a), F.S..

The bill provides that the Board of Dentistry shall develop and adopt rules to implement standards for the content of the exam and grade standards. Examination scores administered outside the state may also be valid for up to one year for the purpose of licensure in Florida. If the examination score is older than one year the applicant must demonstrate all of the following:

- The date exam must be completed after January 1, 2012;
- The applicant graduated from a dental school accredited by the American Dental Association Commission on Dental Accreditation, or any other dental accrediting organization recognized by the U.S. Department of Education. If the applicant did not graduate from an accredited school, the applicant can submit evidence of an equivalent education;
- The applicant currently possesses a valid and active dental license in good standing from another state or territory of the U.S.;

- The applicant has never been reported to the National Practitioner Databank, the Health Care Integrity and Protection Databank, or the American Association of Dental Boards Clearing Houses;
- The applicant has consecutively engaged in a full time practice of dentistry for the last 5 years, or has engaged since the date of initial licensure.
- The applicant has completed the continuing education equivalent to the state's requirement for the last full reporting cycle;
- The applicant has never been convicted of, or pled no contest to any felony or misdemeanor related to the practice of health care;
- The applicant passed a written examination on the laws and rules of the state; and
- Completion of the National Board of Dental Examiners dental examination prior to application.

The bill provides that an individual who is relocating to Florida to practice dentistry must engage in the full-time practice of dentistry within one year of receiving a dental license. The bill provides that failure to engage in the full-time practice of dentistry within one year of receiving a license is a disciplinary violation. The Board of Dentistry must develop rules to determine what evidence constitutes proof of full-time dentistry practice. The Board of Dentistry must also develop rules to recoup costs for verification of full-time practice. If an applicant does not provide acceptable proof of full-time practice of dentistry, the applicant's license to practice dentistry in Florida will be revoked. The Board of Dentistry must then make reasonable attempts within 30 days prior to revoking the license to notify the licensee. Upon notice, the licensee has 10 days to submit required proof of full-time practice of dentistry.

The bill requires the Board of Dentistry to make specific findings of fact and conclusions of law regarding the proof submitted by a licensee allegedly showing that the licensee was engaged in the full-time practice of dentistry for one year after receiving their license. The findings of fact and conclusions of law are a final agency action on the part of the Board of Dentistry. Consequently, a licensee may challenge the final agency action of the Board pursuant to the provisions of chapter 120, F.S.

The bill provides that a person who uses or attempts to use a license that is expired, or has been revoked, commits unlicensed practice of dentistry, which is a felony of the third degree.⁴²

The bill provides a severability clause. If any portion of the act is found to be unconstitutional, the offending provisions of the bill can be stricken. The remaining provisions of the bill retain their full effect.

Dental Hygienists

The bill amends the definition of health access setting to include a school based prevention program and accredited dental hygiene program as places that a dental hygienist may practice. The bill also provides a definition for "school based prevention program" to mean the preventive oral health services that are provided at a school or not for profit, expanding the areas in which a dental hygienist can practice.

The bill expands the current scope of practice for dental hygienists to allow them, without supervision, to:

- apply fluorides;
- instruct on the oral hygiene of a patient;
- supervise the oral hygiene of a patient;
- perform dental charting and measure a record a patients vital signs;
- record a patients case history;
- apply topical fluorides ,varnishes, and dental sealants;
- remove calculus deposits, accretions, and stains from the teeth

When a dental hygienist performs one of the above procedures, the patient must be notified that the visit with the dental hygienist is not a substitute for a comprehensive dental exam. Additionally, a

⁴² A third degree felony is punishable by a fine not to exceed \$5,000 or imprisonment not to exceed 5 years. ss. 775.082, 775.083, F.S.

dentist is required to conduct an oral examination on a patient within 13 months of a dental hygienist removing calculus deposits, accretions, and stains from a patients teeth.

The bill provides that dental hygienists who perform tasks without the supervision of a dentist are required to carry medical malpractice insurance that has minimum limits of \$100,000 per occurrence and \$300,000 in the aggregate.

Dermatologists

The bill removes title protections for board certified dermatologists. The bill eliminates the requirement that a dermatologist who holds himself or herself out as board certified be recognized by a certification agency which is triennially reviewed and authorized by the Board of Medicine.

Athletic Trainers

The bill defines "Board of Certification" to mean the nationally accredited certifying body for athletic trainers. The bill requires that the Board of Athletic Training be certified by the Board and provides that the Board can accredit colleges or universities that issue degrees for athletic trainers. Anyone who has graduated after 2004 must have completed a curriculum from a program that is recognized by the Board of Certification. The bill also provides that current certifications for athletic trainers include certification in the use of AED's and that continuing education requirements also include certifications in the use of AED's.

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. Amends s. 458.315, F.S., relating to the temporary certificate for practice in areas of critical need.

Section 3. Amends s. 458.3312, F.S., relating to specialties.

Section 4. Amends s. 459.0076, F.S., relating to the temporary certificate for practice in areas of critical need.

Section 5. Amends s. 466.003, F.S., relating to definitions.

Section 6. Amends s. 466.0023, F.S., relating to dental hygienists; scope and area of practice.

Section 7. Amends s. 466.0235, F.S., relating to dental charting.

Section 8. Amends s. 466.0024, F.S., relating to delegation of duties; expanded functions. .

Section 9. Reenacts s. 466.00672, F.S., relating to revocation of health access dental license.

Section 10. Amends s. 466.006, F.S., relating examination of dentists.

Section 11. Reenacts s. 466.067, F.S., relating to application for health access dental license.

Section 12. Reenacts s.466.0065, F.S., relating to regional licensure examinations.

Section 13 Reenacts s.466.00671, F.S., relating to renewal of health access dental license.

Section 14: Reenacts s. 466.007, F.S., relating to examination of dental hygienists.

Section 15: Reenacts s. 466.009, F.S., relating to reexamination.

Section 16 Reenacts s. 466.011, F.S., relating to licensure.

Section 17 Amends s. 468.701, F.S., relating to definitions.

Section 18 Amends s. 468.703, F.S., relating to the Board of Athletic Training.

Section 19 Amends s. 468.707, F.S., relating to licensure by examination; requirements.

Section 20 Amends s. 468.711, F.S., relating to renewal of license; continuing education.

Section 21 Provides a severability clause.

Section 22 Provides an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The bill authorizes the DOH to set the application fee for the temporary license. 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, it is unknown how many temporary license applications will be submitted; however the revenue generated will not exceed the cost of issuing the license.

2. Expenditures:

The fiscal impact is indeterminate; however it is expected to be insignificant and can be absorbed within existing departmental resources.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

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.

D. FISCAL COMMENTS:

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.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not Applicable. This bill does not appear to affect county or municipal governments.

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

On March 22, 2011, the Health and Human Services Quality Subcommittee adopted a strike-all amendment and reported the bill favorably as a committee substitute. The amendment:

- Removes provision allowing a licensee from a foreign jurisdiction to be eligible for a temporary license.
- Requires applicants to have actively practiced for at least 3 years
- Adds provisions denying a temporary license if:

- The applicant is the subject of any disciplinary action in any jurisdiction;
- The applicant is ineligible for full licensure;
- The applicant is ineligible to take the applicable licensure examination;
- The applicant is convicted of or pled nolo contendere to any felony or misdemeanor related to the practice of a health care profession;
- The applicant had a health care license revoked or suspended in another jurisdiction
- The applicant has been reported to the National Practitioner Databank; or
- The applicant failed a Florida-administered dental examination.
- Requires applicants to meet the criminal background screening requirements of their applicable practice act, and requires DOH or the board to review of results of and deny or approve the application consistent with requirements of the applicable practice act.
- Gives DOH or the board authority to request the personal appearance of an applicant and deny the application for those who refuse, and deny an applicant who is under investigation or prosecution that would constitute a violation of the applicable practice act.
- Names the temporary certificate for practice in areas of critical need the "Rear Admiral Leroy Collins, Jr., Temporary Certificate for Practice in Areas of Critical Need."

The bill was reported favorably as a Committee Substitute.

On April 8, 2011 the Health Care Appropriations Subcommittee adopted a strike all amendment and an amendment to the strike all amendment.

The strike all amendment;

- Increases the period of validity of a temporary license from 6 months to 1 year;
- Removes the requirement that an applicant for a temporary license must have actively practiced a medical profession for at least 3 years;
- Requires the applicant to submit to a criminal background check through the Florida Department of Law Enforcement (FDLE), for a statewide and national criminal background check;
- Requires that the licensing board or DOH review all background checks according to level 2 screening standards in s. 435.04, F.S., when either issuing or denying a temporary license.
- Requires that an applicant who is issued a temporary license to practice dentistry must practice under the indirect supervision, as defined in s. 466.003, F.S., by a licensed dentist under ch. 466.

The amendment to the amendment;

- Substantially amends s. 466.006, F.S., regarding the examination of dentists. The bill provides that Florida will use the American Dental Licensure Examination (ADLEX) instead of a clinical and practical examination developed by the state. The bill exempts ADLEX from national examination requirements by DOH, pursuant to s. 456.017, F.S.(1)(a);
- Provides that the Board of Dentistry shall develop and adopt rules to implement standards for the content of an exam and grade standards;
- Provides that examination scores administered outside the state may be valid for up to one year for the purpose of licensure. If the examination score is older than one year the applicant must meet certain requirements.
- Provides that an applicant who relocates to Florida must engage in the full time practice of dentistry within one year of receiving a dental license.
- Provides that the Board of Dentistry can develop rules to determine the proof of full time dentistry requirements and recoup costs for verification and provides penalties if an applicant fails to provide proof.
- Provides that a person who uses or attempts to use a license that is expired, or has been revoked commits unlicensed practice of dentistry, which is a felony of the third degree.

This bill was reported favorably as a Committee Substitute. This analysis reflects the Committee Substitute.

On April 25, 2011, the Health and Human Services Committee adopted a strike all amendment and two amendments to the amendment.

As amended, the strike all amendment:

- retains prior Committee Substitute language related to military spouses and the examination of dentists.
- amends s. 466.003, F.S., to define “school based prevention program,” and includes such programs in the “health access setting” definition.
- The bill amends s. 466.023, F.S., relating to dental hygienists, by expanding their scope of practice. The bill allows dental hygienists to apply fluorides, to instruct on the oral hygiene of a patient and to supervise the oral hygiene of a patient, without the supervision of a dentist.
- provides that dental hygienists can practice in a health care setting without the physical presence or supervision of a dentist under certain circumstances and requires dental hygienists to maintain professional malpractice insurance coverage.
- amends s. 458.3312, F.S., removing title protections for board certified dermatologists. The bill eliminates the requirement that a dermatologist who holds himself or herself out as board certified be recognized by a certification agency which is triennially reviewed and authorized by the Board of Medicine.
- amends s. 468.707, F.S., related to athletic trainers. It defines “Board of Certification” (Board) and requires that members of the Board of Athletic Training be certified by the Board
- amends s. 468.711, F.S., requiring that continuing education requirements for athletic trainers include a certificate in the use of AED’s.

The bill was reported favorably as a Committee Substitute. This analysis reflects the Committee Substitute.