The Florida Senate

COMMITTEE MEETING EXPANDED AGENDA

HEALTH REGULATION
Senator Garcia, Chair
Senator Sobel, Vice Chair

MEETING DATE: Tuesday, October 4, 2011
TIME: 10:45 a.m.—12:45 p.m.
PLACE: *Pat Thomas Committee Room,* 412 Knott Building

MEMBERS: Senator Garcia, Chair; Senator Sobel, Vice Chair; Senators Diaz de la Portilla, Fasano, Gaetz, Jones, and Norman

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1		Update on the activities of the Florida Commission on Review of Taxpayer Funded Hospital Districts by the Agency for Health Care Administration	Discussed
2		**Mandatory Review 2012-309** (Open Government Sunset Review of Section 458.3193, F.S., Physician Workforce Surveys) Presentation	Presented
3		**Mandatory Review 2012-310** (Open Government Sunset Review of Section 459.0083, F.S., Osteopathic Physician Workforce Surveys) Presentation	Presented
4		**Interim Project 2012-127** (Review Eligibility of Dentist Licensure in Florida and Other Jurisdictions) Presentation	Presented
		Other Related Meeting Documents	

Commission on Review of Taxpayer Funded Hospital Districts

Status Update

October 4, 2011

Commission Basics

* Established by Executive Order 11-63
* The 9-member Commission has met 6 times and has 5 more meetings scheduled, including a meeting at AHCA today.
* The Commission's report is due to the Governor and the Legislature by January 1, 2012.
* AHCA is providing staff support.

Commission Members

Name	Organization	Location
Dominic M. Calabro, Chair	Florida Tax Watch	Tallahassee
Brad Dinkins	Helping Hands Foundation	Ocala
R. Paul Duncan	UF College of Health Related Professions	Gainesville
The Honorable Matt Hudson	Florida House of Representatives	Naples
Jacob C. Jackson	DCF Regional Counsel for the Southeast	Ft. Lauderdale
Marshall Kelley	Health Management Associates	Tallahassee
J. Scott McCleneghen	City National Bank of Florida	West Palm Beach
Randall McElheney	CoastalMed	Panama City
The Honorable Joe Negron	Florida Senate	Palm City

Major Themes of Executive Order

The commission is generally tasked with examining how taxpayer dollars are used to pay for indigent care throughout Florida.

Specifically, the commission should:

* Define the role of tax funded hospitals: is the original purpose of government owned hospitals applicable to Florida's current healthcare system?
* Should there be any changes to policy regarding the sale or lease of publicly owned hospitals?
* Define charity care: how should tax dollars be used for indigent care?
* Is there a more efficient way of maintaining accountability in the system for taxpayers: both in rate setting and how tax dollars are utilized for indigent care?

Review of the Commission 1st Charge

"Determine, based on objective data, whether costs in government-operated hospitals are higher or lower in comparison to similar non-government-operated hospitals offering similar services, and whether, assuming there is such a cost difference, it results in higher or lower Medicaid, Low Income Pool or other reimbursement, compared to other hospitals that provide care to the poor, and whether spending would be reduced or increased if the hospitals were operated at the same levels of efficiency."

* **Review data for government and non-government operated hospitals and compare costs for similar services and the impact of costs on Medicaid, Low Income Pool and other reimbursement.**

Review of the Commission 2nd Charge

"Determine if there are better or worse outcomes on national measures of quality, such as the CMS Core Measures, in government-operated hospitals compared to non-government operated hospitals."

* **Review health care outcome measures in government and non-government hospitals.**

* **Commission focus on the AHRQ (Agency for Health Care Research and Quality) measures used by the Florida Center for Health Information instead of the CMS measures since The Florida Center focuses on all payers and all ages.**

Review of the Commission 3rd Charge

"Determine if models exist in Florida and other states where local taxing authorities have created innovative programs and access for the poor without operating hospitals and instead have created programs where the funds follow the patient to the hospital or outpatient service closest to their community."

* **Evaluate innovative programs through local tax authorities in Florida and other states that provide alternative to government operated hospitals and allow funds to follow the patient to hospital and community outpatient services.**

Review of the Commission 4th Charge

"Gather data and the various methods of providing access to the poor from each hospital district in Florida to determine the most cost-effective method for providing outpatient and inpatient hospital services to the broadest population possible and recommend the best models to the Governor and Legislature."

* **Make recommendations based on data and research regarding cost-effective methods that provide access to the poor and to provide outpatient and inpatient services to the broadest population possible.**

Review of the Commission 5th Charge

"Determine if the existing governing body model of the various government-operated hospitals optimizes the best governance practices, ensures proper oversight with accountability for the actions of board members, has had any violations of charter or governance rules by board members, has complied with the government-in-the-sunshine laws, and has consistently acted in the best interest of the primary shareholder — the taxpayer."

Evaluate the governing body model of government operated hospitals for:

* **Governance practices**
* **Oversight and accountability of board members – violations of charters or rules**
* **Compliance with sunshine laws**
* **Actions in the best interest of the taxpayers**

Review of the Commission 6th Charge

"Determine if taxpayer-funded hospital districts are using employment models for physicians wherein the physicians are being paid outside the norm for similar non-employed, non-tax subsidized physicians in the geographic area, and whether other forms of compensation, such as medical directorships, are being used, and subsidized by taxpayers, for the purpose of competing with private physicians, and not-for-profit and other community hospitals which enjoy no such tax-subsidy."

* **Evaluate employment models and compensation for physicians.**

Review of the Commission 7th Charge

"Determine the best mechanism for transition of government operated hospitals to more appropriate governance models based on the experience of the many public and government-operated hospitals that have implemented such conversions. Determine, if appropriate to convert government-operated hospitals to difference governance models, what the process should be for such conversion, provided that any such process should optimize the return for the taxpayers on the value of the assets and should be transparent to the public."

* **Evaluate and make recommendations regarding the process for conversion of government operated hospitals if appropriate based on the experience of others, while optimizing taxpayer value and asset transparency.**

Commission Presentations

- Legislative Perspective
  - Representative Hudson
  - Budgetary Impact and Medicaid
- Special Tax District Requirements / Conditions
  - Department of Community Affairs
  - Statutory Authority Chapter 189, Florida Statutes
  - Hospital Districts Represent a Small Segment of the Overall Florida Special Tax Districts
  - No Special Designation or Section for Hospitals Versus Other Special Taxing Authorities
  - Allows the Districts to Retain Significant Local Control and Oversee Own Operations
- Affected Special Tax Districts
  - District Challenges
  - Evolution from Original Established Purpose
- The Public and Other Interested Parties

Data Collection and Analysis

Hospital Financial Data
Payer Information
Detailed Expenses
Salary Information
Patient Days
Designation as Rural, Urban or Teaching Hospital

Medicaid Financial Data
Government Cost
Low Income Pool (LIP)
Diagnostic Regulated Groups (DRG)
Intergovernmental Transfers (IGT)

Services and Utilization
Emergency Room Utilization
Services to Indigent Populations
Uncompensated Care

Medicaid Overview
Program Basics – Floridians Served, Program Costs
Hospital Reimbursement Structure
Medicaid Legislation and Reform Status

Outcome Data
All Payers
All Patients
Mortality
Patient Safety Indicators:
Infection Rates and Complications
Pediatric Quality Indicators
Potentially Preventable
15-Day Readmission Rates

Status

Complex Issues and Evaluation Required

* Extensive Research and Analysis Required
* Agency Resources and District Information

Initial Survey Request – All Districts Responded

* History and Governance
* Innovative Programs
* Access to Health Care For the Poor Without Operating the Hospital
* Programs that Allow Funds to Follow the Patient

Great Diversity Across Districts

* Funding, Services, and the Use of Current Taxing Revenues

Commission Website

* Detailed information about Commission meetings, including audio recordings and all meeting materials, is available by clicking the “Boards and Councils” button on the main AHCA webpage, or at the following website:

http://ahca.myflorida.com/mchq/FCTFH/fctfh.shtml

The Florida Senate

Interim Report 2012-309 *September 2011*

Committee on Health Regulation

OPEN GOVERNMENT SUNSET REVIEW OF SECTION 458.3193, F.S., PHYSICIAN WORKFORCE SURVEYS

Issue Description

Each Florida-licensed allopathic physician is required to furnish specified information to the Department of Health (DOH) in a physician workforce survey in conjunction with the renewal of his or her medical license. Section 458.3193, F.S., creates an exemption from the requirements of the Public Records Law to make all personal identifying information contained in records provided by physicians in response to the physician workforce survey that is held by the DOH confidential and exempt from s. 119.07(1), F.S., and Article I, s. 24 of the State Constitution. This exemption will be repealed on October 2, 2012, unless it is reviewed under the Open Government Sunset Review Act and saved from repeal through reenactment by the Legislature.

Background

Public Records and Meetings

The State of Florida has a long history of providing public access to governmental records. The Florida Legislature enacted the first public records law in 1892.[1] One hundred years later, Floridians adopted an amendment to the State Constitution that raised the statutory right of access to public records to a constitutional level.[2] Article I, s. 24 of the State Constitution, provides that:

> (a) Every person has the right to inspect or copy any public record made or received in connection with the official business of any public body, officer, or employee of the state, or persons acting on their behalf, except with respect to records exempted pursuant to this section or specifically made confidential by this Constitution. This section specifically includes the legislative, executive, and judicial branches of government and each agency or department created thereunder; counties, municipalities, and districts; and each constitutional officer, board, and commission, or entity created pursuant to law or this Constitution.

In addition to the State Constitution, the Public Records Act,[3] which pre-dates the current State Constitution, specifies conditions under which public access must be provided to records of the executive branch and other agencies. Section 119.07(1)(a), F.S., states:

> Every person who has custody of a public record shall permit the record to be inspected and copied by any person desiring to do so, at any reasonable time, under reasonable conditions, and under supervision by the custodian of the public records.

Unless specifically exempted, all agency[4] records are available for public inspection. The term "public record" is broadly defined to mean:

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[1] Section 1390, 1391 Florida Statutes. (Rev. 1892).
[2] Article I, s. 24 of the State Constitution.
[3] Chapter 119, F.S.
[4] The word "agency" is defined in s. 119.011(2), F.S., to mean ". . . any state, county, district, authority, or municipal officer, department, division, board, bureau, commission, or other separate unit of government created or established by law including, for the purposes of this chapter, the Commission on Ethics, the Public Service Commission, and the Office of Public Counsel, and any other public or private agency, person, partnership, corporation, or business entity acting on behalf of any public agency."

> . . .all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business by any agency.[5]

The Florida Supreme Court has interpreted this definition to encompass all materials made or received by an agency in connection with official business, which are used to perpetuate, communicate, or formalize knowledge.[6] All such materials, regardless of whether they are in final form, are open for public inspection unless made exempt.[7]

Article I, s. 24 of the State Constitution also provides that all meetings of any collegial public body of the executive branch of state government or of any collegial public body of a county, municipality, school district, or special district, at which official acts are to be taken or at which public business of such body is to be transacted or discussed, shall be open and noticed to the public and meetings of the Legislature shall be open and noticed as provided in Article III, Section 4(e), except with respect to meetings exempted pursuant to this section or specifically closed by this Constitution. In addition, the Sunshine Law, s. 286.011, F.S., provides that all meetings of any board or commission of any state agency or authority or of any agency or authority of any county, municipal corporation, or political subdivision, except as otherwise provided in the Constitution, at which official acts are to be taken are declared to be public meetings open to the public at all times, and no resolution, rule, or formal action shall be considered binding except as taken or made at such meeting.

Only the Legislature is authorized to create exemptions to open government requirements.[8] An exemption must be created in general law, must state the public necessity justifying it, and must not be broader than necessary to meet that public necessity.[9] A bill enacting an exemption[10] may not contain other substantive provisions, although it may contain multiple exemptions that relate to one subject.[11]

There is a difference between records that the Legislature has made exempt from public inspection and those that are *confidential* and exempt. If the Legislature makes a record confidential and exempt, such information may not be released by an agency to anyone other than to the persons or entities designated in the statute.[12] If a record is simply made exempt from disclosure requirements, an agency is not prohibited from disclosing the record in all circumstances.[13]

The Open Government Sunset Review Act (the Act)[14] provides for the systematic review, through a 5-year cycle ending October 2 of the 5th year following enactment, of an exemption from the Public Records Act or the Sunshine Law. Each year, by June 1, the Division of Statutory Revision of the Office of Legislative Services is required to certify to the President of the Senate and the Speaker of the House of Representatives the language and statutory citation of each exemption scheduled for repeal the following year.

The Act states that an exemption may be created, revised, or maintained only if it serves an identifiable public purpose and if the exemption is no broader than is necessary to meet the public purpose it serves. An identifiable public purpose is served if the exemption meets one of three specified criteria and if the Legislature finds that the purpose is sufficiently compelling to override the strong public policy of open government and cannot be accomplished without the exemption. The three statutory criteria are that the exemption:

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[5] s. 119.011(12), F.S.
[6] *Shevin v. Byron, Harless, Schaffer, Reid and Associates, Inc.*, 379 So.2d 633, 640 (Fla. 1980).
[7] *Wait v. Florida Power & Light Company*, 372 So.2d 420 (Fla. 1979).
[8] Art. I, s. 24(c) of the State Constitution.
[9] *Memorial Hospital-West Volusia v. News-Journal Corporation*, 729 So. 2d 373, 380 (Fla. 1999); *Halifax Hospital Medical Center v. News-Journal Corporation*, 724 So.2d 567 (Fla. 1999).
[10] Under s. 119.15, F.S., an existing exemption may be considered a new exemption if the exemption is expanded to cover additional records.
[11] Art. I, s. 24(c) of the State Constitution.
[12] Attorney General Opinion 85-62.
[13] *Williams v. City of Minneola*, 575 So.2d 683, 687 (Fla. 5th DCA), review denied, 589 So.2d 289 (Fla. 1991).
[14] s. 119.15, F.S.

- Allows the state or its political subdivisions to effectively and efficiently administer a governmental program, which administration would be significantly impaired without the exemption;
- Protects information of a sensitive personal nature concerning individuals, the release of which would be defamatory or cause unwarranted damage to the good name or reputation of such individuals, or would jeopardize their safety; or
- Protects information of a confidential nature concerning entities, including, but not limited to, a formula, pattern, device, combination of devices, or compilation of information that is used to protect or further a business advantage over those who do not know or use it, the disclosure of which would injure the affected entity in the marketplace.[15]

The Act also requires the Legislature to consider the following:

- What specific records or meetings are affected by the exemption?
- Whom does the exemption uniquely affect, as opposed to the general public?
- What is the identifiable public purpose or goal of the exemption?
- Can the information contained in the records or discussed in the meeting be readily obtained by alternative means? If so, how?
- Is the record or meeting protected by another exemption?
- Are there multiple exemptions for the same type of record or meeting that it would be appropriate to merge?

While the standards in the Act may appear to limit the Legislature in the exemption review process, those aspects of the Act that are only statutory, as opposed to constitutional, do not limit the Legislature because one session of the Legislature cannot bind another.16 The Legislature is only limited in its review process by constitutional requirements.

Further, s. 119.15(8), F.S., makes explicit that:

> … notwithstanding s. 778.28 or any other law, neither the state or its political subdivisions nor any other public body shall be made party to any suit in any court or incur any liability for the repeal or revival and reenactment of any exemption under this section. The failure of the Legislature to comply strictly with this section does not invalidate an otherwise valid reenactment.

Physician Licensure

Prior to engaging in the practice of medicine in this state, a physician must be licensed under ch. 458, F.S., The Medical Practice Act.[17] A license issued under the Medical Practice Act must be renewed biennially.[18]

Physician Workforce Planning

The Legislature recognizes that physician workforce planning is an essential component of ensuring that there is an adequate and appropriate supply of well-trained physicians to meet Florida's future health care service needs as the general population and elderly population of the state increase.[19] Physician workforce planning encompasses, among other things, analyzing current workforce data collected through the physician workforce surveys, planning for the availability and capacity of quality medical schools and graduate medical education programs in this state, and incentivizing physicians to practice in needed specialties and underserved areas in a manner that addresses projected needs for physician manpower.

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[15] s. 119.15(6)(b), F.S.
[16] *Straughn v. Camp*, 293 So.2d 689, 694 (Fla. 1974).
[17] s. 458.327(1)(a), F.S., and s. 456.065(1), F.S.
[18] s. 458.319, F.S.
[19] s. 381.4018(2), F.S.

The DOH is charged with developing a state strategic plan and assessing the implementation of the plan. This is to be accomplished by using existing programs under the jurisdiction of the DOH and other state agencies and coordinating governmental and nongovernmental stakeholders and resources.[20] In particular, the DOH shall:

- Monitor, evaluate, and report on the supply and distribution of physicians licensed under the Medical Practice Act and the Osteopathic Medical Practice Act. The DOH must maintain a database to serve as a statewide source of data concerning the physician workforce.
- Develop a model and quantify, on an ongoing basis, the adequacy of the state's current and future physician workforce as reliable data becomes available. This model must take into account demographics, physician practice status, place of education and training, generational changes, population growth, economic indicators, and issues concerning the pipeline into medical education.
- Develop and recommend strategies to determine whether the number of qualified medical school applicants who might become competent, practicing physicians in this state will be sufficient to meet the capacity of the state's medical schools. If appropriate, the DOH might also develop strategies and recommendations and identify best practice programs for grade schools and at the college level to increase this state's potential pool of medical students.
- Develop strategies to ensure that the number of graduates from the state's allopathic and osteopathic medical schools is adequate to meet physician workforce needs, based on the analysis of the physician workforce data.
- Pursue strategies and policies to create, expand, and maintain graduate medical education positions in the state based on the analysis of the physician workforce data.
- Develop strategies to maximize federal and state programs that provide for the use of incentives to attract physicians to this state or retain physicians within the state.
- Coordinate and enhance activities relative to physician workforce needs, undergraduate medical education, graduate medical education, and reentry of retired military and other physicians into the physician workforce provided by the Division of Medical Quality Assurance, area health education center networks and other offices and programs within the DOH.
- Work in conjunction with and act as a coordinating body for government and nongovernmental stakeholders to address matters relating to the state's physician workforce assessment and development for the purpose of ensuring an adequate supply of well-trained physicians to meet the state's future needs.
- Serve as a liaison with other states and federal agencies and programs in order to enhance resources available to the state's physician workforce and medical education continuum.
- Act as a clearinghouse for collecting and disseminating information concerning the physician workforce and medical education continuum in this state.

Physician Workforce Surveys

The requirement for the physician workforce survey was enacted in Chapter 2007-172, L.O.F., and codified in s. 458.3191, F.S., relating to allopathic physicians and s. 459.0081, F.S., relating to osteopathic physicians. Section 458.3191, F.S., requires each Florida-licensed allopathic or osteopathic physician, in conjunction with the renewal of his or her license, to furnish specified information to the DOH in a physician survey. The information required under this statute to be submitted includes but is not limited to:

- Licensee information related to:
  - Frequency and geographic location of practice within the state,
  - Practice setting,
  - Percentage of time spent in direct patient care,
  - Anticipated change to license or practice status, and
  - Areas of specialty or certification; and
- Availability and trends relating to critically needed services including:
  - Obstetric care and services, including incidents of deliveries,
  - Radiological services, particularly performance of mammograms and breast-imaging services,
  - Physician services for hospital emergency departments and trauma centers, including on-call hours, and

[20] s. 381.4018(4), F.S.

- Other critically needed specialty areas, as determined by the DOH.

The information furnished by the physician must include a statement that the information provided is true and accurate to the best of his or her knowledge and the submission does not contain any knowingly false information.[21] The physician workforce survey is available on line and may be viewed at http://www.doh.state.fl.us/mqa/medical/info_Survey.pdf.

The survey must be completed on line if the medical physician renews his or her license on line. Otherwise, the physician must submit a paper copy of the survey with his or her renewal application.[22] The DOH shall issue a non-disciplinary citation to a licensee who fails to complete the survey within 90 days after the renewal of his or her license to practice as a physician. The citation must notify the physician that his or her medical license will not be renewed for any subsequent license renewal unless he or she completes the survey.[23]

Annually, the DOH is required to analyze the results of the physician workforce survey[24] to determine by geographic area and specialty the number of physicians who:

- Perform deliveries of children in Florida.
- Read mammograms and perform breast-imaging-guided procedures in Florida.
- Perform emergency care on an on-call basis for a hospital emergency department.
- Plan to reduce or increase emergency on-call hours in a hospital emergency department.
- Plan to relocate outside the state.
- Practice medicine in Florida.
- Plan to reduce or modify the scope of their practice.

The DOH is required to report its findings to the Governor, the President of the Senate, and the Speaker of the House of Representative by November 1 of each year. Additionally, the annual report must include findings, recommendations, and strategic planning activities as provided in s. 381.4018, F.S., relating to physician workforce assessment and development. The DOH may also include other information requested by the Physician Workforce Advisory Council.[25]

Physician Workforce Advisory Council

In 2010, the Legislature created, within the DOH, the Physician Workforce Advisory Council (the Council)[26] to advise and assist the State Surgeon General and the DOH on matters concerning current and future physician workforce needs in this state. Prior to creation of the Council, the State Surgeon General had created the Healthcare Practitioner Ad Hoc Committee to provide the DOH with expertise and guidance on technical and programmatic areas related to implementing the 2007 Legislation providing for physician workforce assessment and development.[27]

The Council is composed of 19 members appointed by the State Surgeon General.[28] Additional responsibilities of the Council include:

- Reviewing survey materials and the compilation of survey information;
- Annually reviewing the number, location, cost, and reimbursement of graduate medical education programs and positions;
- Providing recommendations to the department regarding the physician workforce survey;
- Assisting the department in preparing the annual report to the Legislature pertaining to the physician workforce;

[21] s. 458.3191(2), F.S.
[22] Rule 64B-9.002, F.A.C.
[23] s. 458.3191, F.S.
[24] s. 458.3192, F.S.
[25] *Id.*
[26] ch. 2010-161, L.O.F., s. 29.
[27] *Infra 32 and 33.*
[28] s. 381.4018(5)(a), F.S., identifies the groups to be represented on the Council.

- Assisting the department in preparing an initial strategic plan, conducting ongoing strategic planning and providing ongoing advice on implementing the recommendations;
- Monitoring and providing recommendations regarding the need for an increased number of primary care or other physician specialties to provide the necessary current and projected health and medical services for the state; and
- Monitoring and making recommendations regarding the status of the needs relating to graduate medical education in this state.

Exemption from the Public Records Law

Section 458.3193, F.S., also enacted in 2007,[29] exempts all personal identifying information contained in records provided by physicians in response to the physician workforce survey required as a condition of license renewal and held by the DOH confidential and exempt from s. 119.07(1), F.S., and Article I, s. 24 of the State Constitution, with certain exceptions.

Information made confidential and exempt shall be disclosed:

- With the express written consent of the individual to whom the information pertains or the individual's legally authorized representative.
- By court order upon a showing of good cause.
- To a research entity, if the entity:
  - Seeks the records or data pursuant to a research protocol approved by the DOH,
  - Maintains the records or data in accordance with the approved protocol, and
  - Enters into a purchase and data-use agreement with the department.

The DOH may deny a request for records or data if the protocol provides for intrusive follow-back contacts, does not plan for the destruction of confidential records after the research is concluded, is administratively burdensome, or does not have scientific merit. The agreement between the DOH and the research entity must restrict the release of information that would identify individuals, limit the use of records or data to the approved research protocol, and prohibit any other use of the records or data.

When enacting the exemption from the public records law, the Legislature found that it is a public necessity that personal identifying information concerning a Florida-licensed allopathic physician who responds to the mandatory physician workforce survey be made confidential and exempt from disclosure. Further, the failure to maintain the confidentiality of such personal identifying information would frustrate and prevent the resolution of important state interests to implement and maintain effective strategies to ensure the availability of physicians in the state. Specific reasons stated in the law include:

- Candid and honest responses to the survey will ensure that timely and accurate information is available for the DOH to review and use in making important policy decisions regarding the use of resources to facilitate the needs of current or projected medically underserved areas in the state.
- Long-term planning, based on the information provided by physicians in the surveys, is essential for improving health care access for Florida residents and enabling the use of strategies for a well-trained supply of physicians.
- Accurate and honest information obtained through the surveys will assist state policy-makers in their decisions to ensure the availability of quality medical schools and graduate medical education and the development of strategies that might provide for physicians to practice in needed specialties and in underserved areas in a manner that addresses projected needs for physician manpower.

Findings and/or Conclusions

Survey / Reporting Process

Responding to the physician workforce survey is required as part of the licensure renewal process for physicians licensed under the Medical Practice Act. As of June 30, 2011, there were 62,610 allopathic physicians licensed

[29] ch. 2007-96, L.O.F. This law is also codified in s. 459.0083, F.S.

under the Medical Practice Act.[30] For licensure renewal, the population of licensed allopathic physicians is divided into two groups, with each group renewing every other year.

The first physician workforce survey mandated by law[31] went live October, 2007 and included one half of the allopathic physicians (25,850) and all osteopathic (4,839) physicians renewing their licenses during that licensure cycle.[32] The results and analysis of that partial survey of the physician workforce were published in the 2008 Florida Physician Workforce Annual Report.

The first report encompassing mandated survey responses for all allopathic and osteopathic physicians renewing licenses is the 2009 Florida Physician Workforce Annual Report.[33] This report combines the 2008 and 2009 mandatory physician workforce surveys responses, consisting of 12 core questions for the half of the allopathic physicians and all of the osteopathic physicians responding in 2008 and 18 core questions for the other half of the allopathic physicians responding in 2009. The 2009 survey instrument also included an expanded list of questions relating to medical specialties.

The most recent Physician Workforce Annual Report published on November 1, 2010, details the survey results from 2009 and 2010. There were 57,750 allopathic and osteopathic physicians eligible for renewal in 2009 and 2010, with 99 percent responding to the survey.[34]

The survey instrument requests the physician's name and license number along with a series of questions addressing different aspects of his or her practice, including specific questions related to specialties, and future plans. Through a series of questions in the survey, coupled with demographic information in the physician's licensure file, the DOH is able to define physician workforce by location and specialty.[35]

As reported in the Physician Workforce Annual Report 2010, of the 57,750 allopathic and osteopathic physicians eligible for renewal in 2009 and 2010, 41,210 were included within the published study results. Excluded are those physicians indicating he or she had not practiced medicine in Florida over the course of the year prior to renewal; failing to provide a valid Florida practice address; indicating participation in a residency, internship, or fellowship program; or having a licensure status disallowing the practice of medicine.

Stakeholder Questionnaire

As a part of the review required under the Open Government Sunset Review Act, Senate professional staff of the Health Regulation Committee sent questionnaires[36] to the DOH, Florida Board of Medicine, Florida Medical Association, and the Council. All responses supported continuing the physician workforce surveys and the Legislature reenacting the public records exemption for the personal identifying information pertaining to the responding physicians that is received in the survey and held by the DOH. One of the entities responding to the questionnaire said, "Physicians are more likely to complete these surveys with full honesty or disclosure if they feel their personal identifying information will be kept confidential."

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[30] Email dated July 22, 2011 from by the Department of Health on file with the Senate Health Regulation Committee.
[31] Prior to the physician workforce survey mandated in s. 458.3191, F.S., a voluntary physician workforce questionnaire had been in place since October, 2006. *See infra 32.*
[32] Florida Department of Health 2008 Florida Physician Workforce Annual Report, published November 1, 2008, at page 13. A copy of the report is on file with the Senate Health Regulation Committee.
[33] Florida Department of Health 2009 Florida Physician Workforce Annual Report, published November 1, 2009 is available at:< http://www.doh.state.fl.us/Workforce/Physicians_Workforce_Annual_Rpt_2009.pdf> (Last visited on July 25, 2011).
[34] Florida Department of Health Physician Workforce Annual Report 2010, published November 1, 2010, at page 9, available at: <http://www.doh.state.fl.us/Workforce/Workforce/Annual_Reports/PhysicianWorkforce_Nov2010.pdf> (Last visited on July 25, 2011).
[35] *Id.*
[36] The questionnaires and responses are on file with the Senate Health Regulation Committee.

None of the entities responding to the stakeholder questionnaire recommended changes to the current exemption. In addition, The First Amendment Foundation is not opposed to reenactment of the exemption in its current form.[37]

Options and/or Recommendations

Senate professional staff recommends that the exemption from the public records requirements for all personal identifying information contained in records provided by Florida-licensed allopathic physicians in response to the physician workforce survey required as a condition of license renewal and held by the DOH as provided in s. 458.3193, F.S., be reenacted by the Legislature. The exemption serves an identifiable public purpose by allowing the state to effectively and efficiently administer and plan for an adequate and appropriate supply of well-trained physicians as the general and elderly population of the state increase. Meaningful and reliable analysis can only occur if physicians respond honestly and fully disclose relevant information concerning their current and planned future activities related to their medical practice. Maintaining the confidentiality of the responses will help ensure the state receives honest and complete responses.

[37] Correspondence from the First Amendment Foundation dated July 18, 2010 to The Honorable Jeremy Ring, Chair, Governmental Oversight and Accountability Committee. A copy of this correspondence is on file with the Senate Health Regulation Committee.

The Florida Senate

Interim Report 2012-310 *September 2011*

Committee on Health Regulation

OPEN GOVERNMENT SUNSET REVIEW OF SECTION 459.0083, F.S., OSTEOPATHIC PHYSICIAN WORKFORCE SURVEYS

Issue Description

Each Florida-licensed osteopathic physician is required to furnish specified information to the Department of Health (DOH) in a physician workforce survey in conjunction with the renewal of his or her medical license. Section 459.0083, F.S., creates an exemption from the requirements of the Public Records Law to make all personal identifying information contained in records provided by physicians in response to the physician workforce survey that is held by the DOH confidential and exempt from s. 119.07(1), F.S., and Article I, s. 24 of the State Constitution. This exemption will be repealed on October 2, 2012, unless it is reviewed under the Open Government Sunset Review Act and saved from repeal through reenactment by the Legislature.

Background

Public Records and Meetings

The State of Florida has a long history of providing public access to governmental records. The Florida Legislature enacted the first public records law in 1892.[1] One hundred years later, Floridians adopted an amendment to the State Constitution that raised the statutory right of access to public records to a constitutional level.[2] Article I, s. 24 of the State Constitution, provides that:

> (a) Every person has the right to inspect or copy any public record made or received in connection with the official business of any public body, officer, or employee of the state, or persons acting on their behalf, except with respect to records exempted pursuant to this section or specifically made confidential by this Constitution. This section specifically includes the legislative, executive, and judicial branches of government and each agency or department created thereunder; counties, municipalities, and districts; and each constitutional officer, board, and commission, or entity created pursuant to law or this Constitution.

In addition to the State Constitution, the Public Records Act,[3] which pre-dates the current State Constitution, specifies conditions under which public access must be provided to records of the executive branch and other agencies. Section 119.07(1)(a), F.S., states:

> Every person who has custody of a public record shall permit the record to be inspected and copied by any person desiring to do so, at any reasonable time, under reasonable conditions, and under supervision by the custodian of the public records.

Unless specifically exempted, all agency[4] records are available for public inspection. The term "public record" is broadly defined to mean:

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[1] Section 1390, 1391 Florida Statutes. (Rev. 1892).
[2] Article I, s. 24 of the State Constitution.
[3] Chapter 119, F.S.
[4] The word "agency" is defined in s. 119.011(2), F.S., to mean ". . . any state, county, district, authority, or municipal officer, department, division, board, bureau, commission, or other separate unit of government created or established by law including, for the purposes of this chapter, the Commission on Ethics, the Public Service Commission, and the Office of Public Counsel, and any other public or private agency, person, partnership, corporation, or business entity acting on behalf of any public agency."

> . . .all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business by any agency.[5]

The Florida Supreme Court has interpreted this definition to encompass all materials made or received by an agency in connection with official business, which are used to perpetuate, communicate, or formalize knowledge.[6] All such materials, regardless of whether they are in final form, are open for public inspection unless made exempt.[7]

Article I, s. 24 of the State Constitution also provides that all meetings of any collegial public body of the executive branch of state government or of any collegial public body of a county, municipality, school district, or special district, at which official acts are to be taken or at which public business of such body is to be transacted or discussed, shall be open and noticed to the public and meetings of the Legislature shall be open and noticed as provided in Article III, Section 4(e), except with respect to meetings exempted pursuant to this section or specifically closed by this Constitution. In addition, the Sunshine Law, s. 286.011, F.S., provides that all meetings of any board or commission of any state agency or authority or of any agency or authority of any county, municipal corporation, or political subdivision, except as otherwise provided in the Constitution, at which official acts are to be taken are declared to be public meetings open to the public at all times, and no resolution, rule, or formal action shall be considered binding except as taken or made at such meeting.

Only the Legislature is authorized to create exemptions to open government requirements.[8] An exemption must be created in general law, must state the public necessity justifying it, and must not be broader than necessary to meet that public necessity.[9] A bill enacting an exemption[10] may not contain other substantive provisions, although it may contain multiple exemptions that relate to one subject.[11]

There is a difference between records that the Legislature has made exempt from public inspection and those that are *confidential* and exempt. If the Legislature makes a record confidential and exempt, such information may not be released by an agency to anyone other than to the persons or entities designated in the statute.[12] If a record is simply made exempt from disclosure requirements, an agency is not prohibited from disclosing the record in all circumstances.[13]

The Open Government Sunset Review Act (the Act)[14] provides for the systematic review, through a 5-year cycle ending October 2 of the 5th year following enactment, of an exemption from the Public Records Act or the Sunshine Law. Each year, by June 1, the Division of Statutory Revision of the Office of Legislative Services is required to certify to the President of the Senate and the Speaker of the House of Representatives the language and statutory citation of each exemption scheduled for repeal the following year.

The Act states that an exemption may be created, revised, or maintained only if it serves an identifiable public purpose and if the exemption is no broader than is necessary to meet the public purpose it serves. An identifiable public purpose is served if the exemption meets one of three specified criteria and if the Legislature finds that the purpose is sufficiently compelling to override the strong public policy of open government and cannot be accomplished without the exemption. The three statutory criteria are that the exemption:

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[5] s. 119.011(12), F.S.
[6] *Shevin v. Byron, Harless, Schaffer, Reid and Associates, Inc.*, 379 So.2d 633, 640 (Fla. 1980).
[7] *Wait v. Florida Power & Light Company*, 372 So.2d 420 (Fla. 1979).
[8] Art. I, s. 24(c) of the State Constitution.
[9] *Memorial Hospital-West Volusia v. News-Journal Corporation*, 729 So. 2d 373, 380 (Fla. 1999); *Halifax Hospital Medical Center v. News-Journal Corporation*, 724 So.2d 567 (Fla. 1999).
[10] Under s. 119.15, F.S., an existing exemption may be considered a new exemption if the exemption is expanded to cover additional records.
[11] Art. I, s. 24(c) of the State Constitution.
[12] Attorney General Opinion 85-62.
[13] *Williams v. City of Minneola*, 575 So.2d 683, 687 (Fla. 5th DCA), review denied, 589 So.2d 289 (Fla. 1991).
[14] s. 119.15, F.S.

- Allows the state or its political subdivisions to effectively and efficiently administer a governmental program, which administration would be significantly impaired without the exemption;
- Protects information of a sensitive personal nature concerning individuals, the release of which would be defamatory or cause unwarranted damage to the good name or reputation of such individuals, or would jeopardize their safety; or
- Protects information of a confidential nature concerning entities, including, but not limited to, a formula, pattern, device, combination of devices, or compilation of information that is used to protect or further a business advantage over those who do not know or use it, the disclosure of which would injure the affected entity in the marketplace.[15]

The Act also requires the Legislature to consider the following:

- What specific records or meetings are affected by the exemption?
- Whom does the exemption uniquely affect, as opposed to the general public?
- What is the identifiable public purpose or goal of the exemption?
- Can the information contained in the records or discussed in the meeting be readily obtained by alternative means? If so, how?
- Is the record or meeting protected by another exemption?
- Are there multiple exemptions for the same type of record or meeting that it would be appropriate to merge?

While the standards in the Act may appear to limit the Legislature in the exemption review process, those aspects of the Act that are only statutory, as opposed to constitutional, do not limit the Legislature because one session of the Legislature cannot bind another.[16] The Legislature is only limited in its review process by constitutional requirements.

Further, s. 119.15(8), F.S., makes explicit that:

> … notwithstanding s. 778.28 or any other law, neither the state or its political subdivisions nor any other public body shall be made party to any suit in any court or incur any liability for the repeal or revival and reenactment of any exemption under this section. The failure of the Legislature to comply strictly with this section does not invalidate an otherwise valid reenactment.

Osteopathic Physician Licensure

Prior to engaging in the practice of osteopathic medicine in this state, an osteopathic physician must be licensed under ch. 459, F.S., The Osteopathic Medical Practice Act.[17] A license issued under the Osteopathic Medical Practice Act must be renewed biennially.[18]

Physician Workforce Planning

The Legislature recognizes that physician workforce planning is an essential component of ensuring that there is an adequate and appropriate supply of well-trained physicians to meet Florida's future health care service needs as the general population and elderly population of the state increase.[19] Physician workforce planning encompasses, among other things, analyzing current workforce data collected through the physician workforce surveys, planning for the availability and capacity of quality medical schools and graduate medical education programs in this state, and incentivizing physicians to practice in needed specialties and underserved areas in a manner that addresses projected needs for physician manpower.

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[15] s. 119.15(6)(b), F.S.
[16] *Straughn v. Camp*, 293 So.2d 689, 694 (Fla. 1974).
[17] s. 459.013(1)(a), F.S., and s. 456.065(1), F.S.
[18] s. 459.008, F.S.
[19] s. 381.4018(2), F.S.

The DOH is charged with developing a state strategic plan and assessing the implementation of the plan. This is to be accomplished by using existing programs under the jurisdiction of the DOH and other state agencies and coordinating governmental and nongovernmental stakeholders and resources.[20] In particular, the DOH shall:

- Monitor, evaluate, and report on the supply and distribution of physicians licensed under the Medical Practice Act and the Osteopathic Medical Practice Act. The DOH must maintain a database to serve as a statewide source of data concerning the physician workforce.
- Develop a model and quantify, on an ongoing basis, the adequacy of the state's current and future physician workforce as reliable data becomes available. This model must take into account demographics, physician practice status, place of education and training, generational changes, population growth, economic indicators, and issues concerning the pipeline into medical education.
- Develop and recommend strategies to determine whether the number of qualified medical school applicants who might become competent, practicing physicians in this state will be sufficient to meet the capacity of the state's medical schools. If appropriate, the DOH might also develop strategies and recommendations and identify best practice programs for grade schools and at the college level to increase this state's potential pool of medical students.
- Develop strategies to ensure that the number of graduates from the state's allopathic and osteopathic medical schools is adequate to meet physician workforce needs, based on the analysis of the physician workforce data.
- Pursue strategies and policies to create, expand, and maintain graduate medical education positions in the state based on the analysis of the physician workforce data.
- Develop strategies to maximize federal and state programs that provide for the use of incentives to attract physicians to this state or retain physicians within the state.
- Coordinate and enhance activities relative to physician workforce needs, undergraduate medical education, graduate medical education, and reentry of retired military and other physicians into the physician workforce provided by the Division of Medical Quality Assurance, area health education center networks and other offices and programs within the DOH.
- Work in conjunction with and act as a coordinating body for government and nongovernmental stakeholders to address matters relating to the state's physician workforce assessment and development for the purpose of ensuring an adequate supply of well-trained physicians to meet the state's future needs.
- Serve as a liaison with other states and federal agencies and programs in order to enhance resources available to the state's physician workforce and medical education continuum.
- Act as a clearinghouse for collecting and disseminating information concerning the physician workforce and medical education continuum in this state.

Physician Workforce Surveys

The requirement for the physician workforce survey was enacted in Chapter 2007-172, L.O.F., and codified in s. 458.3191, F.S., relating to allopathic physicians and s. 459.0081, F.S., relating to osteopathic physicians. Sections 458.3191 and 459.0081, F.S., require each Florida-licensed allopathic or osteopathic physician, in conjunction with the renewal of his or her license, to furnish specified information to the DOH in a physician survey. The information required under this statute to be submitted includes but is not limited to:

- Licensee information related to:
  - Frequency and geographic location of practice within the state,
  - Practice setting,
  - Percentage of time spent in direct patient care,
  - Anticipated change to license or practice status, and
  - Areas of specialty or certification; and
- Availability and trends relating to critically needed services including:
  - Obstetric care and services, including incidents of deliveries,
  - Radiological services, particularly performance of mammograms and breast-imaging services,
  - Physician services for hospital emergency departments and trauma centers, including on-call hours, and

[20] s. 381.4018(4), F.S.

- Other critically needed specialty areas, as determined by the DOH.

Information furnished by the osteopathic physician must include a statement that the information provided is true and accurate to the best of his or her knowledge and the submission does not contain any knowingly false information.[21] The physician workforce survey is available on line and may be viewed at http://www.doh.state.fl.us/mqa/medical/info_Survey.pdf.

The DOH shall issue a non-disciplinary citation to a licensee who fails to complete the survey within 90 days after the renewal of his or her license to practice as an osteopathic physician. The citation must notify the physician that his or her osteopathic medical license will not be renewed for any subsequent license renewal unless he or she completes the survey.[22]

Annually, the DOH is required to analyze the results of the physician workforce survey[23] to determine by geographic area and specialty the number of physicians who:

- Perform deliveries of children in Florida.
- Read mammograms and perform breast-imaging-guided procedures in Florida.
- Perform emergency care on an on-call basis for a hospital emergency department.
- Plan to reduce or increase emergency on-call hours in a hospital emergency department.
- Plan to relocate outside the state.
- Practice medicine in Florida.
- Plan to reduce or modify the scope of their practice.

The DOH is required to report its findings to the Governor, the President of the Senate, and the Speaker of the House of Representative by November 1 of each year. Additionally, the annual report must include findings, recommendations, and strategic planning activities as provided in s. 381.4018, F.S., relating to physician workforce assessment and development. The DOH may also include other information requested by the Physician Workforce Advisory Council.[24]

Physician Workforce Advisory Council

In 2010, the Legislature created, within the DOH, the Physician Workforce Advisory Council (the Council)[25] to advise and assist the State Surgeon General and the DOH on matters concerning current and future physician workforce needs in this state. Prior to creation of the Council, the State Surgeon General had created the Healthcare Practitioner Ad Hoc Committee to provide the DOH with expertise and guidance on technical and programmatic areas related to implementing the 2007 Legislation providing for physician workforce assessment and development.[26]

The Council is composed of 19 members appointed by the State Surgeon General.[27] Additional responsibilities of the Council include:

- Reviewing survey materials and the compilation of survey information;
- Annually reviewing the number, location, cost, and reimbursement of graduate medical education programs and positions;
- Providing recommendations to the department regarding the physician workforce survey;
- Assisting the department in preparing the annual report to the Legislature pertaining to the physician workforce;
- Assisting the department in preparing an initial strategic plan, conducting ongoing strategic planning and providing ongoing advice on implementing the recommendations;

[21] s. 459.0081(2), F.S.
[22] s. 459.0081(3), F.S.
[23] s. 459.0082, F.S.
[24] *Id.*
[25] ch. 2010-161, L.O.F., s. 29.
[26] *Infra 31 and 32.*
[27] s. 381.4018(5)(a), F.S., identifies the groups to be represented on the Council.

- Monitoring and providing recommendations regarding the need for an increased number of primary care or other physician specialties to provide the necessary current and projected health and medical services for the state; and
- Monitoring and making recommendations regarding the status of the needs relating to graduate medical education in this state.

Exemption from the Public Records Law

Section 459.0083, F.S., also enacted in 2007,[28] exempts all personal identifying information contained in records provided by physicians in response to the physician workforce survey required as a condition of license renewal and held by the DOH confidential and exempt from s. 119.07(1), F.S., and Article I, s. 24 of the State Constitution, with certain exceptions.

Information made confidential and exempt shall be disclosed:

- With the express written consent of the individual to whom the information pertains or the individual's legally authorized representative.
- By court order upon a showing of good cause.
- To a research entity, if the entity:
  - Seeks the records or data pursuant to a research protocol approved by the DOH,
  - Maintains the records or data in accordance with the approved protocol, and
  - Enters into a purchase and data-use agreement with the department.

The DOH may deny a request for records or data if the protocol provides for intrusive follow-back contacts, does not plan for the destruction of confidential records after the research is concluded, is administratively burdensome, or does not have scientific merit. The agreement between the DOH and the research entity must restrict the release of information that would identify individuals, limit the use of records or data to the approved research protocol, and prohibit any other use of the records or data.

When enacting the exemption from the public records law, the Legislature found that it is a public necessity that personal identifying information concerning a Florida-licensed physician who responds to the mandatory physician workforce survey be made confidential and exempt from disclosure. Further, the failure to maintain the confidentiality of such personal identifying information would frustrate and prevent the resolution of important state interests to implement and maintain effective strategies to ensure the availability of physicians in the state. Specific reasons stated in the law include:

- Candid and honest responses to the survey will ensure that timely and accurate information is available for the DOH to review and use in making important policy decisions regarding the use of resources to facilitate the needs of current or projected medically underserved areas in the state.
- Long-term planning, based on the information provided by physicians in the surveys, is essential for improving health care access for Florida residents and enabling the use of strategies for a well-trained supply of physicians.
- Accurate and honest information obtained through the surveys will assist state policy-makers in their decisions to ensure the availability of quality medical schools and graduate medical education and the development of strategies that might provide for physicians to practice in needed specialties and in underserved areas in a manner that addresses projected needs for physician manpower.

Findings and/or Conclusions

Survey / Reporting Process

Responding to the physician workforce survey is required as part of the licensure renewal process for physicians licensed under the Osteopathic Medical Practice Act. As of June 30, 2011, there were 6,070 osteopathic

[28] ch. 2007-96, L.O.F. This law is also codified in s. 458.3193, F.S.

physicians licensed under the Osteopathic Medical Practice Act.[29] Osteopathic physicians must renew their license to practice osteopathic medicine every 2 years. Current licenses will expire on March 31, 2012.

The first physician workforce survey mandated by law[30] went live October 2007 and included one half of the allopathic physicians (25,850) and all osteopathic (4,839) physicians renewing their licenses during that licensure cycle.[31] The results and analysis of that partial survey of the physician workforce were published in the 2008 Florida Physician Workforce Annual Report.

The first report encompassing mandated survey responses for all allopathic and osteopathic physicians renewing licenses is the 2009 Florida Physician Workforce Annual Report.[32] This report combines the 2008 and 2009 mandatory physician workforce surveys responses, consisting of 12 core questions for the half of the allopathic physicians and all of the osteopathic physicians responding in 2008 and 18 core questions for the other half of the allopathic physicians responding in 2009. The 2009 survey instrument also included an expanded list of questions relating to medical specialties.

The most recent Florida Physician Workforce Annual Report published on November 1, 2010, details the survey results from 2009 and 2010. There were 57,750 allopathic and osteopathic physicians eligible for renewal in 2009 and 2010, with 99 percent responding to the survey.[33]

The survey instrument requests the physician's name and license number along with a series of questions addressing different aspects of his or her practice, including specific questions related to specialties, and future plans. Through a series of questions in the survey, coupled with demographic information in the physician's licensure file, the DOH is able to define physician workforce by location and specialty.[34]

As reported in the 2010 Florida Physician Workforce Annual Report, of the 57,750 allopathic and osteopathic physicians eligible for renewal in 2009 and 2010, 41,210 were included within the published study results. Excluded are those physicians indicating he or she had not practiced medicine in Florida over the course of the year prior to renewal; failing to provide a valid Florida practice address; indicating participation in a residency, internship, or fellowship program; or having a licensure status disallowing the practice of medicine.

Stakeholder Questionnaire

As a part of the review required under the Open Government Sunset Review Act, Senate professional staff of the Health Regulation Committee sent questionnaires[35] to the DOH, the Florida Board of Osteopathic Medicine, the Florida Osteopathic Medical Association, and the Council. All responses supported continuing the physician workforce surveys and the Legislature reenacting the public records exemption in s. 459.0083, F.S., for the personal identifying information pertaining to the responding physicians that is received in the survey and held by the DOH.

None of the entities responding to the stakeholder questionnaire recommended changes to the current exemption. In addition, The First Amendment Foundation is not opposed to reenactment of the exemption in its current form.[36]

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[29] Email dated July 22, 2011 from by the Department of Health on file with the Senate Health Regulation Committee.
[30] Prior to the physician workforce survey mandated in s. 458.3191, F.S., and s. 459.0081, F.S., a voluntary physician workforce questionnaire had been in place since October, 2006. *See infra 31*.
[31] Florida Department of Health 2008 Florida Physician Workforce Annual Report, published November 1, 2008, at page 13. A copy of the report is on file with the Senate Health Regulation Committee.
[32] Florida Department of Health 2009 Florida Physician Workforce Annual Report, published November 1, 2009 is available at:< http://www.doh.state.fl.us/Workforce/Physicians_Workforce_Annual_Rpt_2009.pdf> (Last visited on July 25, 2011).
[33] Florida Department of Health Physician Workforce Annual Report 2010, published November 1, 2010, at page 9, available at: <http://www.doh.state.fl.us/Workforce/Workforce/Annual_Reports/PhysicianWorkforce_Nov2010.pdf> (Last visited on July 25, 2011).
[34] *Id*.
[35] The questionnaires and responses are on file with the Senate Health Regulation Committee.
[36] Correspondence from the First Amendment Foundation dated July 18, 2010 to The Honorable Jeremy Ring, Chair,

Options and/or Recommendations

Senate professional staff recommends that the exemption from the public records requirements for all personal identifying information contained in records provided by Florida-licensed allopathic and osteopathic physicians in response to the physician workforce survey required as a condition of license renewal and held by the DOH as provided in s. 459.0083, F.S., be reenacted by the Legislature. The exemption serves an identifiable public purpose by allowing the state to effectively and efficiently administer and plan for an adequate and appropriate supply of well-trained physicians as the general and elderly population of the state increase. Meaningful and reliable analysis can only occur if physicians respond honestly and fully disclose relevant information concerning their current and planned future activities related to their medical practice. Maintaining the confidentiality of the responses will help ensure the state receives honest and complete responses.

The Florida Senate

Interim Report 2012-127 *September 2011*

Committee on Health Regulation

REVIEW ELIGIBILITY OF DENTIST LICENSURE IN FLORIDA AND OTHER JURISDICTIONS

Issue Description

Nationally, the pool of dentists to serve a growing population of Americans is shrinking. State boards of dentistry, licensure statutes, and rules can affect the population of eligible dental providers available in a state and some states have amended licensure regulations to attract dentists. Examples of some of these common practices are: allowing foreign dental school graduates who complete U.S. dental residencies to meet eligibility requirements for licensure; conveying reciprocity or licensure by credentials; granting special licenses; or providing incentives (e.g., limiting liability) for dentists who work in public health/safety net clinics.

Florida is one of four states and the U.S. Virgin Islands that does not grant an unrestricted dental license by credentials (grant reciprocity). The dental licensure requirements in Florida impose additional educational requirements on certain foreign-trained dentists, notwithstanding an active license to practice dentistry in another state.

Senate professional staff reviewed the requirements for obtaining a license to practice dentistry in Florida, including licensure for foreign-trained dentists; compared those provisions to other states' licensing provisions; examined relevant literature; and interviewed agency staff and stakeholders to determine whether there is a need or a benefit to our residents to make it more accessible for foreign-trained dentists and dentists licensed in other states to practice in Florida.

Background

Florida Licensure Requirements

If a person desires to practice dentistry in Florida, he or she must obtain a license to practice dentistry issued under ch. 466, F.S., relating to Dentistry, Dental Hygiene, and Dental Laboratories (the Dental Act). The Dental Act requires each applicant to submit an application and fees, meet certain education requirements in order to take the dental licensure examination, and successfully complete the dental licensure examination requirements.

Education Requirements

In Florida, in order to apply to take the required dental licensure examinations, the applicant must be 18 years of age or older and must have graduated from, or is in his or her final year at, a dental school accredited by the American Dental Association Commission on Dental Accreditation (CODA)[1] or any other dental accrediting entity[2] recognized by the U.S. Department of Education.[3] By reciprocal agreement, programs that are accredited by the Commission on Dental Accreditation of Canada are recognized by the CODA.[4]

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[1] The CODA, established in 1975, is nationally recognized by the U.S. Department of Education to accredit dental and dental-related education programs conducted at the post-secondary level. The CODA functions independently and autonomously in matters of developing and approving accreditation standards, making accreditation decisions on educational programs and developing and approving procedures that are used in the accreditation process. The American Dental Association, *Dental Education: Schools & Programs*, available at: http://www.ada.org/117.aspx (Last visited July 15, 2011).

[2] Accreditation is a non-governmental, voluntary peer review process by which educational institutions or programs may be granted public recognition for compliance with accepted standards of quality and performance. Specialized accrediting agencies exist to assess and verify educational quality in particular professions or occupations to ensure that individuals will

Under Florida law, if an applicant is a graduate of a dental college or school not accredited by CODA or of a dental college or school not approved by the board (e.g. foreign-trained dentist), the applicant is not entitled to take the examinations until he or she completes additional educational requirements. The applicant must complete a program of study at an accredited American dental school and must demonstrate receipt of a Doctor of Dental Surgery degree (D.D.S.) or Doctor of Dental Medicine degree (D.M.D.) from that school, or must complete a 2-year supplemental dental education program at an accredited dental school and receive a dental diploma, degree, or certificate as evidence of program completion.[5]

In the U.S., there are currently 56 accredited dental schools. At present, Florida has two accredited dental schools—one public and one private—that produced 182 graduates in 2003.[6] The schools are the University of Florida College of Dentistry (UFCD) and Nova Southeastern University College of Dental Medicine (Nova).[7] The Lake Erie College of Osteopathic Medicine plans on opening a School of Dental Medicine at the Bradenton campus in 2012. The program has received initial CODA accreditation.[8] Recently, the University of Central Florida, Florida Atlantic University, and Florida A&M University have expressed an interest in establishing their own dental educational programs.[9]

Additionally, there are 3 accredited pediatric dental residency programs in Florida that produce 14 graduates each year—Nova (6 graduates), UFCD (5 graduates), and Miami Children's Hospital (3 graduates).[10]

Florida Educational Programs for Internationally Educated Dentists

Florida's two accredited dental schools have International Dentist Programs (IDPs), which are programs that offer qualified graduates of foreign dental programs the opportunity to earn a dental degree recognized in the U.S.[11]

The UFCD offers two programs for dental graduates from foreign countries: 1) a 2-year Advanced Education in General Dentistry (AEGD) program which awards a certificate and 2) a 4-year D.M.D. program for internationally-educated dentists.

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be qualified to enter those disciplines. A specialized accrediting agency recognizes the course of instruction which comprises a unique set of skills and knowledge, develops the accreditation standards by which the educational programs are evaluated, conducts evaluation of programs, and publishes a list of accredited programs that meet the national accreditation standards. Accreditation standards are developed in consultation with those affected by the standards. Commission on Dental Accreditation, *Accreditation Standards for Dental Education Programs*, available at: http://www.ada.org/sections/educationAndCareers/pdfs/predoc.pdf (Last visited on July 15, 2011).

[3] Section 466.006(2), F.S. *See also* ch. 2011-95, L.O.F.

[4] American Dental Association, *International Licensure Frequently Asked Questions*, available at: http://www.ada.org/1628.aspx (Last visited on August 2, 2011).

[5] Section 466.006(3), F.S. and rule 64B5-2.0146, F.A.C. Rule 64B5-2.0146(2)(a), F.A.C., requires the supplemental dental education program to be a full-time, matriculated, American Dental Association recognized dental specialty education program accredited by the CODA or a CODA accredited supplemental general dentistry program, which provides didactic and clinical education to the level of an accredited D.D.S. or D.M.D. program, either of which have a duration of at least two consecutive academic years at the sponsoring institution.

[6] Florida Department of Health, *Health Practitioner Oral Healthcare Workforce Ad Hoc Committee Report* (February 2009), available at: http://www.doh.state.fl.us/Family/dental/OralHealthcareWorkforce/index.html (Last visited on July 18, 2011).

[7] America Dental Association, *Dental Education Program Search*, available at: http://www.ada.org/267.aspx (Last visited on July 19, 2011).

[8] Lake Erie College of Osteopathic Medicine, School of Dental Medicine, available at: http://lecom.edu/school-dental-medicine.php (Last visited on July 19, 2011).

[9] Wilmath, Kim, St. Petersburg Times, *Florida universities float new dental schools, but are they needed?*, July 10, 2011, available at: http://dentus-dental.com/dental-service/florida-universities-float-new-dental-schools-but-are-they-needed/ (Last visited on July 27, 2011).

[10] *Supra* note 6.

[11] American Dental Association, *Supplemental Programs for International Dentists*, July 2009, available at: http://www.ada.org/sections/professionalResources/pdfs/licensure_supplemental_prgms_intl.pdf (Last visited on July 20, 2011). At least 14 other states offer supplemental educational programs for foreign-trained dentists.

AEGD Program

A class of 12 students enrolls once yearly in May and selected applicants will be invited to a 2-day interview process. Minimum admission requirements are: proof of U.S. citizenship or a permanent resident visa; a 4-year dental degree from a foreign country, which must be translated and certified by Educational Credential Evaluators in a Course-by-Course evaluation report with a grade point average (GPA); Test of English as a Foreign Language (TOEFL) examination with a minimum score of 213 (computer-based), 80 (internet-based), or 550 (paper-based); two letters of recommendation; a 300-500 word personal statement including the applicant's clinical experience, personal activities and future professional goals; and successful completion of the National Board Dental Examinations Part I and Part II within 7 years of application to the AEGD program. Preference in admission is given to residents of Florida. Estimated tuition and fees per semester is $18,004.[12]

D.M.D. Program

Applications to the 4-year D.M.D. program are available through the Centralized Application for Advanced Placement for International Dentists (CAAPID). Students in this program complete the entire D.M.D. program and are awarded a D.M.D. degree. Up to two international dentists may enroll in this program each fall and the application deadline is December 1 annually. Minimum admission requirements are a dental degree from a foreign country, which must be translated and certified by Educational Credential Evaluators in a Course-by-Course evaluation report with a GPA; TOEFL examination with a minimum score of 80 (internet-based); two letters of recommendation; a 300-500 word personal statement including the applicant's clinical experience, personal activities and future professional goals; and successful completion of the National Board Dental Examinations Part I. Preference in admission is given to residents of the state of Florida. Tuition and fees for this program are the same as the regular University of Florida, College of Dentistry tuition and fees, which is $30,936 annually for Florida residents and $57,416 annually for non-residents.[13]

The International Dental Graduate Program (IDG) at Nova is a 3-year program designed to enable qualified graduates from non-U.S. dental schools to earn a D.M.D. degree in the United States. Nova selects students based on academic records, letters of evaluation, a computer generated score of 80 in the TOEFL, a suggested minimum score of 85 on part 1 of the National Board Dental Examination, a translated GPA of the American equivalent of a 3.0, a clinical case presentation, and a psychomotor bench test.[14] The admission process is highly selective, and the applicant must submit materials to Nova Southeastern University Enrollment Processing Services (EPS), no later than February 15th. In order to qualify, the applicant must have received prior to matriculation in this International Dental Graduate Program, a D.M.D., D.D.S. degree, or their documented equivalent from a non-U.S. dental school. Tuition for 2011–2012 is $53,850 for both in-state and out-of-state students and additional fees are required of all students.[15]

Certification of Foreign Educational Institutions

Section 466.008, F.S., authorizes foreign educational institutions to apply for certification from the DOH as an institution that is reasonably comparable to that of similar accredited institutions in the United States and adequately prepares students for the practice of dentistry.[16] Dentists who have been trained at, and graduated

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[12] University of Florida, College of Dentistry, Admissions, *Advanced Education in General Dentistry*, available at: http://www.dental.ufl.edu/Offices/Admissions/Grad/programs_Advanced_Education_General_Dentistry_Hialeah.php (Last visited on July 25, 2011).

[13] University of Florida, College of Dentistry, *Four-Year DMD Program*, available at: http://www.dental.ufl.edu/Offices/Admissions/IEDP/four_year_dmd_program.php (Last visited on July 25, 2011). *See also* University of Florida, College of Dentistry, Admissions, *Cost of Attendance*, available at: http://www.dental.ufl.edu/Offices/Admissions/DMD/cost_attendance.php (Last visited on July 25, 2011).

[14] The applicant must pay a $2,500 fee to take the psychomotor bench test. Nova Southeastern University, College of Dental Medicine, *International Program: Admission Requirements*, available at: http://dental.nova.edu/international/index.html (Last visited on July 25, 2011). The psychomotor bench test may consist of a wax carving examination, typodont tooth preparation and restoration in amalgam, and typodont tooth preparation for a full metal crown. Psychomotor tests assess hand-eye coordination, precision, and aiming skills.

[15] Nova Southeastern University, College of Dental Medicine, *International Program: Tuition and Fees*, available at: http://dental.nova.edu/international/tuition.html (Last visited on July 25, 2011).

[16] Section 466.008(4), F.S.

from, these certified institutions are not subject to the additional education requirements under s. 466.006, F.S. However, to date, no foreign educational institution has applied for or received such certification by the DOH.[17]

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.[18] Applicants for examination or re-examination must have taken and successfully completed the National Board of Dental Examiner's dental examination (National Boards).[19]

Each applicant is required to complete the examinations as provided for in s. 466.006, F.S. The examinations for dentistry consist of:

- A written examination on the state's laws and rules regulating the practice of dentistry;[20]
- A practical or clinical examination,[21] consisting of four parts:
  - 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; and
- A diagnostic skills examination.[22,23]

If an applicant fails to achieve a final grade of 75 percent or better on each of the four parts of the practical or clinical examination, the applicant is required to retake only that part that the applicant has failed.[24]

The applicant for licensure must successfully complete all three exams within a 13-month period in order to qualify for licensure. If the candidate fails to successfully complete all three examinations within the allotted timeframe, then the candidate must retake all three of the examinations. Additionally, all examinations are required to be conducted in English.[25]

There are two fees associated with the licensure examination—$1,845 to the testing service North East Regional Board of Dental Examiners, Inc. (NERB) for the national exam fee and $650 to the Department of Health for the application, exam, and licensure fees.[26] 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.

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[17] Information received during professional staff's interview with a DOH representative on July 20, 2011.
[18] Florida Department of Health, Division of Medical Quality Assurance, Board of Dentistry, *Application Deadlines and Exam Dates*, available at: http://www.doh.state.fl.us/mqa/dentistry/dn_applications.html (Last visited on July 22, 2011).
[19] Rule 64B5-2.013, F.A.C.
[20] A final grade of 75 or better is required to pass the written examination. *See* rule 64B5-2.013(2)(b), F.A.C.
[21] The practical or clinical exam requires the applicant to provide a patient who is at least 18 years of age and whose medical history is consistent with that prescribed by the board in order for patients to qualify as a patient for the examination. *See* rule 64B5-2.013(3)(a), F.A.C. *But see* ch. 2011-95, L.O.F., effective October 1, 2011, which requires the practical or clinical examination to be the American Dental Licensing Examination (ADLEX).
[22] The Diagnostic Skills Examination is an objective type of examination, where the applicant must demonstrate the ability to diagnose conditions within the human oral cavity and its adjacent tissues and structures from photographs, slides, radiographs, or models. *See* rule 64B5-2.013(4)(a), F.A.C.
[23] *But see* s. 9, ch. 2011-95, L.O.F., effective October 1, 2011, which provides that the required diagnostic skills examination is to be included within the ADLEX.
[24] Rule 64B5-2.013(3)(g), F.A.C. *But see* s. 466.009(2), F.S.
[25] Rule 64B5-2.013, F.A.C.
[26] Florida Department of Health, Division of Medical Quality Assurance, Board of Dentistry, *License Fees*, available at: http://www.doh.state.fl.us/mqa/dentistry/dn_fees.html (Last visited on July 22, 2011).

In the 2011 general legislative session, the Legislature enacted HB 1319 (ch. 2011-95, L.O.F.), which substantially reformed the practical and clinical dental examination requirements in Florida to make licensure in Florida more accessible for those who have taken the American Dental Licensing Examination (ADLEX) outside of Florida. The legislative intent behind this change was to improve access to dental care for underserved citizens of Florida and further the economic development goals of Florida. The new law is effective October 1, 2011, and authorizes an applicant for licensure to submit his or her passing scores on the ADLEX administered in a jurisdiction other than Florida in order to satisfy the practical or clinical examination and diagnostic skills requirements in Florida. The applicant must have completed the examination after October 1, 2011. If the applicant's ADLEX results were published more than 365 days prior to the application for licensure, then the applicant must satisfy numerous additional criteria in order for the DOH to recognize the examination results. In addition, a dentist that used an ADLEX score from another jurisdiction to obtain licensure in Florida must, to maintain such licensure, be engaged in the full-time practice of dentistry inside the geographic boundaries of Florida within 1 year of being licensed in Florida.[27]

Reciprocity of Dental Licensure

Dental boards in 46 states plus the District of Columbia and Puerto Rico grant licenses to dentists, currently licensed and in active, continuous practice for a specified period of time (typically 5 years) in another jurisdiction, without further theoretical and clinical examination. The license recognition system, often referred to as licensure by credentials, may also be referred to as licensure by reciprocity, endorsement, or criteria.[28]

In granting licensure by credentials, the board of dentistry makes a determination that the applicant is currently licensed in a state that has equivalent licensure standards. Technically, licensure by reciprocity refers to a situation in which a jurisdiction has statutory authority to grant licensure recognition only to licensees of states that grant similar recognition to licensees from the receiving jurisdiction. Jurisdictions that have reciprocity agreements between state dental boards are indicated by an asterisk (*). The dental boards in the following jurisdictions will grant license recognition to dentists:[29]

- Alabama
- Alaska
- Arkansas
- Arizona
- California
- Colorado
- Connecticut
- District of Columbia*
- Georgia[31]
- Idaho
- Illinois
- Indiana
- Iowa
- Kansas
- Kentucky
- Louisiana
- Maine
- Maryland[30]
- Massachusetts*
- Michigan
- Minnesota
- Mississippi*
- Missouri
- Montana
- Nebraska
- New Hampshire
- New Jersey*
- New Mexico
- New York
- North Carolina[32]
- North Dakota
- Ohio
- Oregon,
- Oklahoma
- Pennsylvania*
- Puerto Rico
- Rhode Island
- South Carolina
- South Dakota
- Tennessee
- Texas
- Utah
- Vermont
- Virginia
- Washington
- West Virginia
- Wisconsin
- Wyoming

[27] *See* ch. 2011-95, L.O.F., available at: http://laws.flrules.org/files/Ch_2011-095.pdf (Last visited on July 27, 2011).
[28] American Dental Association and American Student Dental Association, *Dental Boards and Licensure: Information for the New Graduate*, October 2007, available at: http://www.modental.org/docs/professionals/students/adahandbooknewgrad.pdf (Last visited on July 28, 2011).
[29] *Id.*
[30] Maryland requires applicants for licensure by credentials to successfully complete the Northeast Regional Examining Board's Dental Simulated Clinical Exercise (DSCE).
[31] Georgia requires credentialed dentists to establish active practices within a certain time period.
[32] North Carolina requires credentialed dentists to establish active practices within a certain time period.

Four states and the U.S. Virgin Islands do not currently grant licensure by credentials: Delaware, Florida, Hawaii, and Nevada. However, in 2004 Hawaii enacted a community service license law which allows dentists with proper credentials to come to Hawaii to work in federally qualified health centers, native Hawaiian health centers, and post-secondary dental training programs only. Nevada passed a licensure by credential law in 2001 that sunset at the end of June 2006. Nevada will only issue a license after the applicant for dental or dental hygiene licensure passes the Nevada clinical board exam or has passed the Western Regional Examining Board (WREB) exam within the past 5 years.[33]

The American Dental Association (ADA) House of Delegates strongly supports freedom of movement through licensure by credentials. A 2002 resolution amended the ADA Guidelines for Licensure to eliminate the requirement for a minimum of 5 years in practice in order to be eligible for licensure by credentials, simply stating that a dentist should be in active practice or dental education immediately prior to applying for licensure by credentials.[34]

Other States Licensing Requirements for Foreign-Trained Dentists

State boards of dentistry, licensure statutes, and rules can affect the population of eligible dental providers available in a state and some states have amended licensure regulations to attract dentists. Examples of some of these common practices are: allowing foreign dental school graduates who complete U.S. dental residencies to meet eligibility requirements for licensure; conveying reciprocity or licensure by credentials; granting special licenses; or providing incentives (e.g., limiting liability) for dentists who work in public health/safety net clinics.[35]

Minnesota, Connecticut, Arkansas, Mississippi, and California have developed programs to utilize foreign-trained dentists as dentists and dental hygienists in facilities that care for special needs patients and public health settings.[36]

Below is a table of states and U.S. territories with their corresponding educational requirements for licensure of foreign-trained dentists.[37]

Table 1

State	Requires 2 years of pre-doctoral education that results in a D.D.S. or D.M.D. degree	Requires 2 years of post-doctoral education	Accepts 12-month advanced education program (AEGD, GPR) in general dentistry	Accepts 2 years of pre-or post-doctoral education	Requires graduation from an accredited program with a D.D.S. or D.M.D. degree
Alabama	X				
Alaska					X
Arizona					X
Arkansas					X
California	X				
Colorado					X
Connecticut	X				
Delaware					X

[33] *Supra* note 28.
[34] *Id*.
[35] *Supra* note 6.
[36] *Id*.
[37] These state educational requirements are current as of July 2009. Many of these states have additional education requirements. A more detailed list of the state education requirements is available at: http://www.ada.org/sections/educationAndCareers/pdfs/licensure_state_requirements_intl.pdf (Last visited on July 26, 2011).

District of Columbia					**X**
Florida	**X**				
Georgia	**X**				
Hawaii					**X**
Idaho					**X**
Illinois	**X**			**X**	
Indiana					**X**
Iowa	**X**				
Kansas					**X**
Kentucky		**X**			
Louisiana		**X**			
Maine					**X**
Massachusetts					
Maryland		**X** **(pediatric dentistry only)**			**X**
Michigan	**X**			**X**	
Minnesota					
Mississippi		**X**			
Missouri	**X**				
Montana					**X**
Nebraska					**X**
Nevada					**X**
New Hampshire	**X**				
New Jersey	**X**				
New Mexico					**X**
New York	**X**				
North Carolina	**X**				
North Dakota					**X**
Ohio	**X**				
Oklahoma					**X**
Oregon	**X**			**X**	
Pennsylvania	**X**				
Puerto Rico	**X**				
Rhode Island					**X**
South Carolina					**X**
South Dakota	**X**				
Tennessee		**X**			
Texas					
Utah					**X**
Vermont	**X**				
Virginia	**X**		**X**	**X**	

Virgin Islands					**X**
Washington	**X**			**X**	
West Virginia					**X**
Wisconsin			**X**	**X**	
Wyoming					**X**

*This table has been adapted from information provided by the American Dental Association.

In 1997, California enacted a law (Assembly Bill 1116) that provided the California dental board with the authority to determine whether unaccredited international dental programs are equivalent to similar accredited institutions in the U.S. The law enabled the dental board to approve dental education programs outside the U.S.[38]

Following enactment of California's law, the Universidad De La Salle Bajio in the city of Leon, Mexico, applied to California's board of dentistry for approval of its 5-year predoctoral dental education program. The California board of dentistry granted provisional approval to Universidad De La Salle in August 2002 after the first site visit. Following its second site visit, De La Salle's 5-year pre-doctoral dental education program received full certification in November 2004. The College of Dental Surgery in Manipal, India, was also evaluated for board approval. Students who are admitted to the De La Salle's California-approved track program are required to sign a disclaimer stating that they know this program is not CODA-approved. They are also informed that they will only qualify to get a license to practice in California once all licensure requirements for the state of California are met.[39]

The Universidad De La Salle also applied for approval from California's board of dentistry for its 2-year international program in 2006. The 2-year program allows foreign-trained dentists to complete a 2-year program similar to those offered by most states requiring 2 years of additional education prior to licensure in their states. However, under this program, the students could only seek licensure in California. The cost of Universidad De La Salle's International Dental Studies Program is $21,000 per semester, which totals $84,000 in tuition for the 2-year program.[40]

State Loan Forgiveness Programs

Several states offer loan forgiveness incentives in order to recruit dentists and entice dentists to serve underserved populations. Below is a table[41] of states that have loan forgiveness programs at the state level (there are also several federal government loan forgiveness programs). These states often require a dentist to commit to serve a certain amount of time in a designated area or a percentage of a designated population in the state before a specified amount of the dentist's loan is paid.

Table 2

States Requiring Practice in Health Professional Shortage Areas or Other Designated Areas to Qualify for Student Loan Forgiveness Programs	Time Commitment	Amount of Loan Forgiveness
Alabama	2-year contract	Up to $35,000 per year of service

[38] American Dental Association, *ADA News: International dental program in Mexico raises questions*, available at: http://www.ada.org/news/1901.aspx (Last visited on July 20, 2011).
[39] *Id.*
[40] American Dental Association, *ADA News: Costs of De La Salle vs. other IDPs in California*, available at: http://www.ada.org/news/1899.aspx (Last visited on July 22, 2011).
[41] Information included in the table is adapted from information provided from the American Dental Association, *Dental Student Loan Repayment Programs & Resources*, March 2011, available at: http://www.ada.org/sections/educationAndCareers/pdfs/loan_repayment.pdf (Last visited on August 2, 2011).

Alaska	2 years	Up to $35,000 per year of service
Arizona	Minimum of 2 years	Award varies based upon the type of provider and priority ranking of the service site
Arkansas	Minimum of 2 years	$60,000 for a two-year contract
California	Minimum of 2 years and maximum of 4 years	Maximum award is $120,000 for 4 years of service
Colorado	2 years	Up to $70,000 for 2 years of service (One-half of the award must come from the community in which the provider practices)
Connecticut	Minimum of 2 years	Up to $45,000 for 2 years of service
District of Columbia	Minimum of 2 years with an option to serve 2 additional years	Maximum award is $120,000 for 4 years of service
Delaware	Minimum of 2 years and maximum of 3 years (contractual agreement)	Up to $70,000 for a 2-year commitment or up to $105,000 for a 3-year commitment
Illinois	Maximum of 4 years (Two 2-year grants allowed)	Up to $25,000 per year of service
Indiana	2 years	$40,000 for 2 years of service
Iowa	2 years	Up to $30,000 per year.
Kansas	Minimum of 2 years	Up to $30,000 per year
Kentucky	2 years	Up to $35,000 per year
Louisiana	Minimum of 2 years and maximum of 3 years	Up to $13,333 per year for a 2-year commitment or up to $20,000 per year for a 3-year commitment
Michigan	2-year contract	Up to $25,000 per year
Maine	2-year contract or more depending on adequate funding and continued area designation	$25,000
Maryland	Minimum of 2 years and maximum of 4 years	Up to $99,000 over a 3-year period
Massachusetts	2-year contract	Up to $25,000 per year with a maximum award of $50,000 for a 2-year contract
Minnesota	Minimum of 3 years and maximum of 4 years	Up to $25,000 per year, not to exceed $100,000 over a 4-year period
Nebraska	One year for each year of student loans	Up to $40,000 per year
Nevada	2 years	Each application is evaluated individually and awards are made based upon the funding available during the program's funding cycle
New Hampshire	3-year contract (full-time service) or 2-year contract (part-time service)	$75,000 for a minimum service obligation of 36 months with an opportunity of an extension for an additional 24 months at $40,000
New Jersey	Minimum of 2 years and maximum of 4 years	Up to $21,600 for first full year, up to $31,200 for second full year, up to $33,600 for third full year, and up to $33,600 for the fourth full year of service
North Carolina	4 years	Up to $70,000 for a 4-year commitment

North Dakota	4 years	Up to $80,000 for a 4-year commitment
Ohio	2-year contract	Up to $25,000 per year
Oklahoma	Minimum of 2 years and maximum of 5 years	Up to $25,000 per year
Pennsylvania	Minimum of 3 years and maximum of 4 years	Up to $64,000 for 3 or 4 years of service.
Rhode Island	2 years	Up to $35,000 per year of service
South Dakota	Minimum of 2 years	
Texas	12 consecutive months. A match program is available for 24 month commitments.	Up to $10,000 for 12 consecutive months of service
Vermont	Minimum 1 year service commitment	Up to $20,000 per year
Virginia	1-year contract	The loan repayment award is equivalent to 1 year of in-state tuition and mandatory fees at Virginia Commonwealth University School of Dentistry for the year that the loan was acquired.
Washington	Minimum of 3 years	Up to $25,000 per year of service
West Virginia	Minimum of 2 years and maximum of 4 years	$40,000 for a 2-year commitment and up to $25 per each additional year
Wisconsin	3 years	Up to $50,000 over a 3 year period
Wyoming	Minimum of 3 years	Up to $30,000 per year

*This table has been adapted from information provided by the American Dental Association.

Florida, Georgia, Hawaii, New York, Oregon, South Carolina, Tennessee, and Utah participate in the National Health Service Corps (NHSC) Loan Repayment Program.[42] The NHSC Loan Repayment Program offers fully trained primary care physicians, family nurse practitioners, certified nurse midwives, physician assistants, dentists, dental hygienists, and certain mental health clinicians $60,000 to repay student loans in exchange for 2 years serving in a community-based site in a high-need Health Professional Shortage Area[43] (HPSA) that has applied to and been approved by the NHSC as a service site. After completing their 2 years of service, loan repayors may apply for additional years of support. The loan repayment program recruits both clinicians just completing training and seasoned professionals to meet the immediate need for care throughout the U.S.[44]

New Mexico not only participates in the NHSC Loan Repayment Program, but it also offers a $5,000 tax credit to dentists licensed in New Mexico and practicing in rural or underserved areas.[45]

Section 381.0302, F.S., establishing the Florida Health Services Corps (FHSC), authorizes dental scholarships for students who agree to accept an assignment in a public health care program or work specifically in a medically underserved area. If assigned to an underserved area, the dentist must treat Medicaid patients and other patients with low incomes. The FHSC program authorizes loan repayment assistance for certain allopathic and osteopathic

[42] American Dental Association, *Dental Student Loan Repayment Programs & Resources*, March 2011, available at: http://www.ada.org/sections/educationAndCareers/pdfs/loan_repayment.pdf (Last visited on August 2, 2011).
[43] Health Professional Shortage Areas (HPSAs) are designated by the federal Health Resources and Services Administration (HRSA) as having shortages of primary medical care, dental or mental health providers and may be geographic (a county or service area), demographic (low income population) or institutional (comprehensive health center, federally qualified health center or other public facility). U.S. Department of Health & Human Services, Health Resources and Services Administration, *Find Shortage Areas: HPSA by State & County*, available at: http://hpsafind.hrsa.gov/ (Last visited on August 2, 2011).
[44] U.S. Department of Health & Human Services, National Health Service Corps, *About the NHSC: Loan Repayment*, available at: http://nhsc.bhpr.hrsa.gov/about/ (Last visited on August 2, 2011).
[45] *Supra* note 42.

physicians. During the 2007 Legislative Session, bills passed to add dentists to the loan repayment program and appropriate $700,000 for the dental student loan repayment program, with proviso language to implement marketing strategies at both dental schools. However, the Governor vetoed the bill including these provisions and the appropriations.[46]

Florida Recruitment Initiatives

Since 2008, the Florida Legislature has made efforts to recruit dentists from other states. In 2008, the Legislature established the health access license in order to attract out-of-state dentists to practice in underserved health access settings[47] in Florida.[48] With this license, a dentist actively licensed in good standing in another state, the District of Columbia, or a U.S. territory, is authorized to practice dentistry in Florida in a health access setting if the dentist:

- Files a Board-approved application and pays the applicable fees,
- Has not been convicted or pled nolo contendre to, regardless of adjudication, any felony or misdemeanor related to the practice of a health care profession,
- Submits proof of graduation from a dental school accredited by the CODA,
- Submits documentation that the dentist has completed, or will obtain prior to licensure, a continuing education equivalent to Florida's requirement for dentists for the last full reporting biennium before applying for a health access license,
- Submits proof of her or his successful completion of parts I and II of the National Boards and a state or regional clinical dental license examination that the Board has determined effectively measures the applicant's ability to practice safely,
- Has never had a license revoked from another state, the District of Columbia, or a U.S. territory,
- Has never failed an exam under s. 466.006, F.S., unless the applicant was reexamined and received a license to practice in Florida,
- Has not been reported to the National Practitioner Data Bank,[49] unless the applicant successfully appealed to have his or her name removed from the data bank, and
- Submits proof that he or she has been engaged in the active, clinical practice of dentistry providing direct patient care for 5 years immediately preceding the date of application, or proof of continuous clinical practice providing direct patient care since graduation if the applicant graduated less than 5 years from his or her application.

According to staff at the DOH, 7 dental health access licenses were granted in FY 2008-09, while 10 were granted in FY 2009-10, and 15 were granted in FY 2010-11.

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[46] *See* CS/SB 1116 (2007), available at: http://archive.flsenate.gov/session/index.cfm?Mode=Bills&SubMenu=1&BI_Mode=ViewBillInfo&BillNum=1116 (Last visited on August 3, 2011). *See also* SB 2800 (2007) codified as ch. 2007-72, L.O.F., pg. 122, available at: http://laws.flrules.org/files/Ch_2007-072.pdf (Last visited on August 3, 2011).

[47] A "health access setting" is defined under s. 466.003(14), F.S., as programs and institutions of the Department of Children and Family Services, the Department of Health, the Department of Juvenile Justice, nonprofit community health centers, Head Start centers, federally qualified health centers (FQHCs), FQHC look-alikes as defined by federal law, and clinics operated by accredited colleges of dentistry in this state if such community service programs and institutions immediately report to the Board of Dentistry certain violations or other practice act or standard of care violations related to the actions or inactions of a dentist, dental hygienist, or dental assistant engaged in the delivery of dental care in such settings.

[48] *See* ch. 2008-64, L.O.F., codified in s. 466.0067, F.S.

[49] The National Practitioner Data Bank (NPDB) was established by Title IV of Public Law 99-660, the Health Care Quality Improvement Act of 1986, as amended (Title IV). Final regulations governing the NPDB are codified at 45 CFR Part 60. In 1987 Congress passed Public Law 100-93, Section 5 of the Medicare and Medicaid Patient and Program Protection Act of 1987 (Section 1921 of the Social Security Act), authorizing the Government to collect information concerning sanctions taken by State licensing authorities against all health care practitioners and entities. Congress later amended Section 1921 with the Omnibus Budget Reconciliation Act of 1990, Public Law 101-508, to add "any negative action or finding by such authority, organization, or entity regarding the practitioner or entity." Responsibility for NPDB implementation resides with the Bureau of Health Professions, Health Resources and Services Administration, U.S. Department of Health and Human Services. U.S. Department of Health and Human Services, Health Resources and Services Administration, *the Data Bank, About Us*, available at: http://www.npdb-hipdb.hrsa.gov/topNavigation/aboutUs.jsp (Last visited on August 8, 2011).

Additionally, in the 2011 general legislative session, the Legislature enacted ch. 2011-95, L.O.F., to make licensure in Florida more accessible for those who have taken the ADLEX outside of Florida. The legislative intent behind this change was to improve access to dental care for underserved citizens of Florida and further the economic development goals of Florida. The new law is effective October 1, 2011.[50]

Findings and/or Conclusions

The Dental Workforce

Nationally, the pool of dentists to serve a growing population of Americans is shrinking. The ADA found that 6,000 dentists retire each year in the U.S., while there are only 4,000 dental school graduates each year to replace them. The projected shortage of dentists is even greater in rural America. Of the approximately 150,000 general dentists in practice in the U.S., only 14 percent practice in rural areas, 7.7 percent in large rural areas, 3.7 percent in small rural areas, and 2.2 percent in isolated rural areas. In 2003, there were 2,235 federally designated dental supply shortage areas, 74 percent of which were located in non-metropolitan areas. In contrast, dental hygiene is predicted to be one of the top ten fastest growing health care professions over the next decade, growing by a projected 43 percent between 2006 and 2020.[51]

Conversely, in Florida, the workforce projections for dentists through 2050 indicate that new dentists entering the profession more than offset attrition associated with retirement, assuming current entry levels into the field are sustained.[52] In fact, only an estimated 926 dentists, roughly 10 percent of Florida's currently practicing dental workforce, plan to retire within the next 5 years. In addition, 97 percent of dentists in general practice and those having specializations are currently accepting new patients, indicating that supply is meeting the demand for services. However, similar to the national trend, most dentists in Florida are concentrated in the more populous areas of the state, while rural areas, especially the central Panhandle counties and interior counties of south Florida, have a noticeable dearth of dentists. Though, it should be noted that 85 percent of Florida's residents live in counties with the best resident-to-dentist ratios.[53]

Not only is there a shortage of dentists in rural areas, but only a small portion of dentists in Florida practice in dental public health (1.4 percent), where most Medicaid patients are treated. Most dentists, 74.1 percent, practice in general dentistry.[54] Additionally, there is a lack of available dental specialists[55] in many central Panhandle counties of Florida, thereby requiring those who require the services of a specialist to sometimes travel considerable distances.

Consequently, the Florida residents who are underserved are those in a rural setting or those who are limited to seeking dental care from dentists that provide public health services.

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[50] *Surpa* note 27.

[51] National Rural Health Association, *Issue Paper: Recruitment and Retention of a Quality Health Workforce in Rural Areas*, November 2006. A copy of this report is on file with the Senate Health Regulation Committee.

[52] However, the continued growth of Florida's population and a potential increase in the need for dental services is not factored into the analysis of supply and demand. The ratio of Florida residents to dentists is about 2,016 to one, including dentists that practice less than full-time.

[53] Florida Department of Health, *Report on the 2009-2010 Workforce Survey of Dentists*, March 2011, available at: http://www.doh.state.fl.us/Family/dental/OralHealthcareWorkforce/2009_2010_Workforce_Survey_Dentists_Report.pdf (Last visited on July 25, 2011). Note: In 2009, the DOH developed this workforce survey for dentists. The survey was administered on a voluntary basis in conjunction with biennial renewal of dental licenses and 89 percent of dentists with an active Florida license responded to the survey.

[54] *Id*.

[55] Types of specialists include: Orthodontics and dentofacial orthopedics, oral and maxillofacial surgery, periodontics, endodontics, pediatric dentistry, and prosthodontics.

Barriers to Dental Treatment

The demographics and geographic distribution of the dental workforce are not the only influences on the treatment of Florida residents. Many different barriers may block access to oral healthcare, including lack of knowledge or motivation, phobias, poverty, language or cultural differences, or disabilities.

Poverty

According to the 2008 Behavioral Risk Factor Surveillance System (BRFSS) Data Report, annual household income has a strong relationship to the percent of adults who visited a dentist in the past year. Among those adults living in households with annual incomes below $25,000, about half saw a dentist in the past year. In contrast, nearly 80 percent of adults with household incomes above $50,000 visited a dentist.[56] In Florida, roughly a third of the population falls within 200 percent of the Federal Poverty Level, which equates to over six million people.[57]

Among the nearly 9,400 active dentists in Florida, only about 1,500 (16 percent) are enrolled as Medicaid providers and several hundred of these enrolled providers are not actively treating Medicaid patients. According to the results of the DOH's 2009-2010 dental workforce survey, more than 1,200 respondents (15.3 percent) reported having a Medicaid provider number. Among 7,359 respondents, who practice in private office settings, only 957 (13 percent) had a Medicaid provider number. In contrast, approximately 66 percent of respondents who practice in "safety net" settings[58] reported having a Medicaid provider number. Although safety net respondents represent less than 5 percent of all respondents practicing in Florida, they account for more than 18 percent of all respondents with a Medicaid provider number. During fiscal year 2009-10, a total of 2.1 million children were eligible for Medicaid services in Florida, but less than 21 percent received a dental service paid by Medicaid. More than half of the dentists that responded to the DOH dental workforce survey (56 percent) cited low compensation rates[59] for Medicaid services as the reason for not accepting Medicaid.[60]

Disabilities

Persons with special needs, including physical disabilities, developmental disabilities, or mental impairments, may find it difficult to find the appropriate place for dental services as they may need special accommodations. Accommodations potentially include physical modifications of service sites, alternate services hours, use of specific equipment or procedures, and specialized training for dentists. Although there is no data to suggest whether the special needs population is underserved, it is apparent that more special needs patients are treated in public health or "safety net settings" than in private practice settings. Among the respondents to the DOH's 2009-2010 dental workforce survey who treated at least one special needs patient within the past year, safety net dentists treated an average of 40 special needs patients whereas private office dentists treated an average of 21.[61]

Language or Cultural Differences

The population of Florida comprises a number of ethnic and nationality minorities, the largest of which is Hispanic. Hispanics in Florida total more than four million, slightly less than 22 percent of the state's population. Nearly 70 percent of Florida's Hispanics live in five counties: Miami-Dade (38.7 percent), Broward (10.6 percent), Orange (7.4 percent), Hillsborough (7.0 percent), and Palm Beach (5.7 percent). These counties contain large Hispanic communities where Spanish is the language of daily communication. The availability of a Spanish-speaking dentist in these areas may facilitate access to care. Currently, only Orange and Hillsborough

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[56] *See* Behavioral Risk Factor Surveillance System (BRFSS), *Oral* Health, June 2009 Report, available at: http://www.doh.state.fl.us/disease_ctrl/epi/brfss/Oral_health.pdf (Last visited on July 25, 2011).
[57] *Supra* note 52.
[58] Safety net settings include programs and institutions of the Department of Children and Family Services, the DOH, the Department of Juvenile Justice, nonprofit community health centers, Head Start centers, federally qualified health centers (FQHCs), FQHC look-alikes as defined by federal law, and clinics operated by accredited colleges of dentistry. Florida Public Health Institute, *Florida Oral Health-Informing Policy*, available at: http://www.floridaoralhealth.com/workforce (Last visited on August 1, 2011).
[59] Other reasons for not accepting Medicaid include excessive paperwork and burdensome billing requirements.
[60] *Supra* note 52.
[61] *Id.*

counties have a higher ratio of Hispanic-residents-per-Hispanic-dentist compared to the statewide median of dentists-to-residents ratio, meaning less availability of care from a Spanish speaking dentist in these two counties.[62]

Reciprocity of Dental Licensure

Because Florida is one out of four states that does not offer some form of reciprocity for dental licensure, Florida may be at a disadvantage when recruiting licensed dentists from other states or jurisdictions. Florida did improve its recruitment strategy by enacting HB 1319 (ch. 2011-95, L.O.F.), which substantially reformed the practical and clinical dental examination requirements in Florida to make licensure in Florida more accessible for those who have taken the American Dental Licensing Examination (ADLEX) outside of Florida. However, this new law is still a far cry from the reciprocity or recognition of licensure granted in other states.

Loan Forgiveness Programs

Florida is one out of eight states that does not have an operational state-funded loan forgiveness program. Because other states currently have loan assistance or loan forgiveness programs, those states may have an advantage in recruiting dentists to serve low-income populations or in rural locations. It may be advantageous for Florida to either fund its current loan repayment assistance program under s. 381.0302, F.S., or develop and implement a new loan forgiveness program for dentists in order to be competitive with other states' recruiting practices.

Florida's Licensure Requirements for Foreign-Trained Dentists

Foreign-trained dentists are not precluded from seeking licensure in Florida. However, they must receive additional education under s. 466.006(3), F.S. Despite this additional education requirement, foreign-trained dentists have obtained licensure in Florida. According to the results of the DOH's 2009-2010 dental workforce survey, 12.2 percent of the survey respondents graduated from a foreign dental school or program. The top five countries of training, in descending frequency, included: Colombia, Cuba, India, Canada, and Mexico.[63]

As demonstrated in Table 1, Florida's licensure requirements for foreign-trained dentists are comparable with licensure requirements in many other states.

Although Florida law allows foreign educational institutions to seek certification under s. 466.008, F.S., in order for the graduates of these institutions to avoid additional educational requirements to receive a dental license in Florida, no foreign educational institution has sought such certification. According to a staff person at the DOH, the lack of interest in the certification program is probably due to the expense associated with contracting with consultants to survey and evaluate foreign dental schools. In addition, applicants seeking certification must pay a registration fee not to exceed $1,000 and additional costs up to $40,000 that the DOH expects to incur for conducting the certification survey.[64]

Options and/or Recommendations

There is not a state-wide shortage of dentists in Florida and therefore there is no general need to recruit foreign-trained dentists or dentists from other states or jurisdictions. However, despite efforts by the Legislature to incentivize dentists to practice in rural areas and serve low-income individuals, a shortage in these areas is projected to continue. If the Legislature is interested in pursuing additional measures to increase the dental workforce in Florida, particularly to practice in rural areas or in public health settings and provide services to underserved populations, Senate professional staff recommends the following options:

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[62] *Id.*
[63] *Id.*
[64] *Supra* note 17. *See also* s. 466.008(6), F.S.

Dentists Licensed in Other States or Jurisdictions:

- **Authorize Licensure by Credentials or Reciprocity**

  Florida may become more competitive in its recruitment of dentists if the Board was authorized to determine which states have substantially similar licensing standards, including education and examination requirements, and the Board sought reciprocity agreements for licensure with these state dental boards. Licensure by credentials or reciprocity could also require the dentist to have been engaged in active practice for a period of time immediately prior to applying for licensure in Florida.

- **Expand the Health Access Dental Licensing Program**

  Authorize a dentist to obtain licensure through the health access dental licensing program if the dentist agrees to serve a certain percentage of Medicaid recipients or participate in the provider network of managed care entities participating in the Medicaid program.

- **Offer Loan Forgiveness or Other Loan Incentives**

  - Additionally, Florida may become more competitive in its recruitment of dentists in rural areas and may enhance Florida's dental care for underserved populations if it offers a loan forgiveness program. The program could require dentists seeking loan assistance to serve in a rural area (the Panhandle or central, south Florida) and require dentists to serve a certain percentage of Medicaid recipients or participate in the provider network of managed care entities participating in the Medicaid program for a particular period of time. Considering the current lack of state resources, it may be beneficial to limit the number of dentists that may apply to the loan forgiveness program and target resources to areas with the most need for general dentists or specialists.

  - Furthermore, Florida could offer state-guaranteed low-interest loans, subject to available state funding, to dentists wishing to establish their own practice. Because dentists often have large student loans and, therefore, are not in a financial position to open their own practice, it may encourage more dentists to set up their practice in an underserved area, if the state would offer state-guaranteed low-interest loans for either a 10 or 15-year period for the purchase of a dental office and dental equipment. The dentists could be required to practice in the underserved area and serve a certain percentage of Medicaid recipients or participate in the provider network of managed care entities participating in the Medicaid program for the life of the loan. After completion of the loan payment, the dentist would become the owner of the facility and equipment without further obligation.

Foreign-Trained Dentists:

If the Legislature chooses to make licensure in Florida more accessible for foreign-trained dentists, it may be beneficial to couple the relaxation of the additional educational requirements with mandatory rural and public health practice, Medicaid participation, or practice in predominately Hispanic or other ethnic communities. Incentives could be provided in the following manner:

- **Incentivize Rural and Public Health Practice or Medicaid Participation**

  - Authorize foreign-trained dentists to complete a 2-year internship under the supervision of a Florida-licensed dentist in a public health setting, in a rural area, serve a certain percentage of Medicaid recipients, or participate in the provider network of managed care entities participating in the Medicaid program for a particular period of time in lieu of the education requirement. The dentist would remain subject to all other Florida licensure requirements. At the completion of the 2-year internship, the dentist would be eligible for full dental licensure. This would help expand dental services in underserved areas and ensure the dentist receives Florida-specific training while avoiding the delay and expense of a 2-year educational program.

  - Authorize foreign-trained dentists who have been licensed in good standing in another jurisdiction within the United States and actively practicing in that jurisdiction for a certain length of time to obtain a limited license for 2 years. The dentist would be required to complete all Florida licensure requirements except the additional educational requirement and would be required to practice in a rural area, serve a certain percentage of Medicaid recipients, or participate in the provider network of managed care entities participating in the Medicaid program. After the 2 years, if there are no complaints or disciplinary actions against the dentist, then he or she would be eligible for full dental licensure.

- Provide tuition-assistance to those foreign-trained dentists subject to the additional educational requirements if they agree to practice in a rural area, serve an underserved population, serve a certain percentage of Medicaid recipients, or participate in the provider network of managed care entities participating in the Medicaid program for a specified amount of time after licensure.

- **Encourage and Incentivize Hispanic Dentists to Practice in Florida**

  Because Florida has over 4 million Hispanics, it may be beneficial to specifically encourage and incentivize foreign-trained Hispanic dentists to practice in Florida in Hispanic-centered communities. This may be accomplished by:

  - Authorizing foreign-trained, Hispanic dentists or Spanish-speaking dentists who are licensed in good standing in the United States and actively practicing in that jurisdiction to complete a 2-year internship in an Hispanic-centered community in lieu of the additional education requirements under Florida law. However, the dentist would still be subject to all other Florida licensure requirements.

  - Certifying select Hispanic dental colleges that offer an educational program reasonably comparable to that of similar accredited institutions in the United States and that adequately prepares its students to practice dentistry in order for those students to be exempt from the additional educational requirements under Florida law. Part of the certification agreement could be for the curriculum to encourage students post-graduation to serve in a Hispanic-centered community for a certain length of time. To reduce the costs of the certification procedure, the state could utilize as much technology as possible to survey certain aspects of the educational program, such as the curriculum and facilities, or rely on certifications performed by other states.

Interim Report 2012-127: Review Eligibility of Dentist Licensure in Florida and Other Jurisdictions

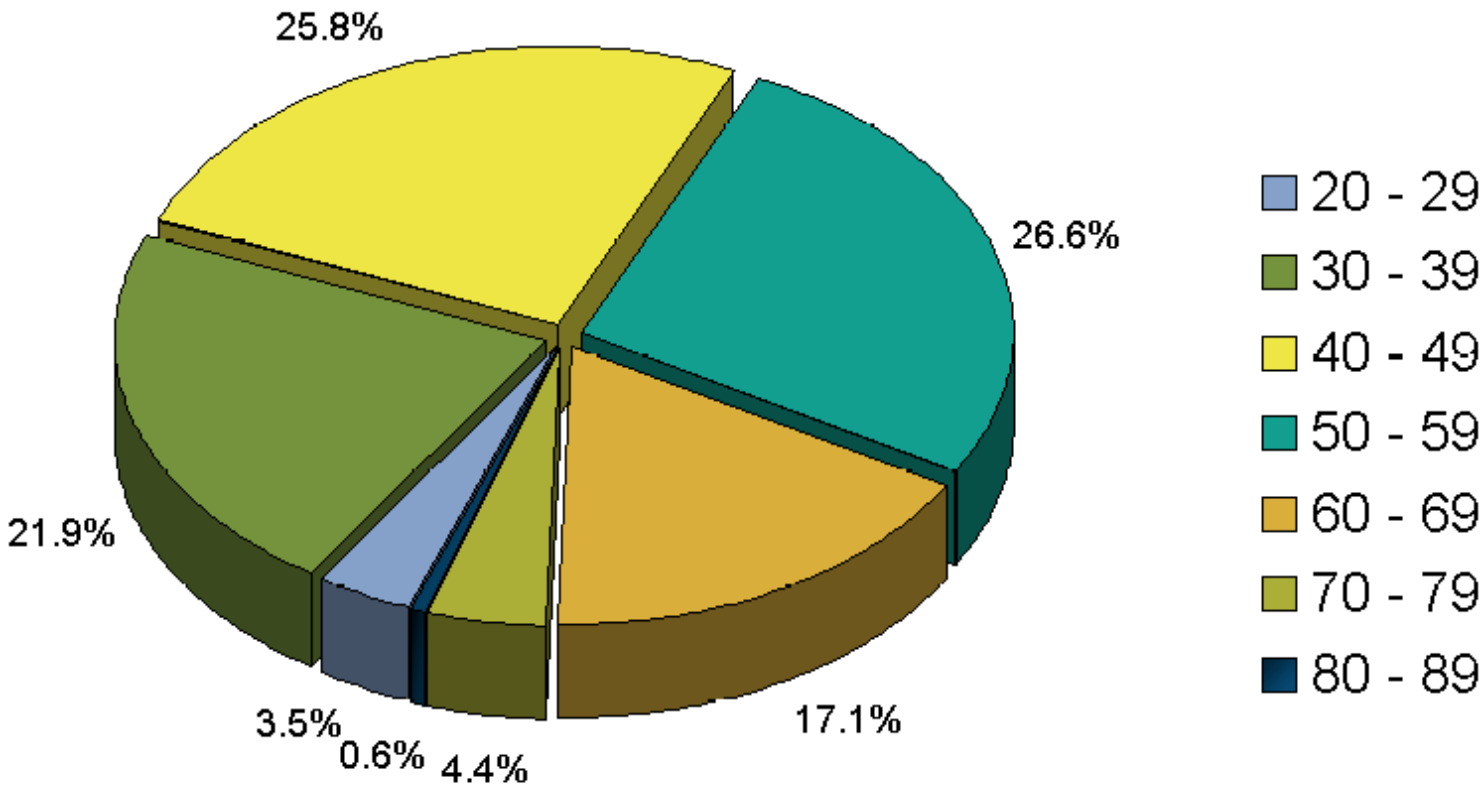
The Florida Senate

Committee on Health Regulation

Workforce Adequacy

- Nationally, the dental pool is shrinking
  - 6,000 retire annually / 4,000 graduates
- Florida projects that new dentists entering the profession will exceed attrition from retirement through 2050
  - ~ 10 percent of active dental practitioners plan to retire within the next 5 years (n=926)

Figure 1.1. Age Distribution of Respondents Practicing in Florida



Source: Workforce Dental Survey, 2009-10

* Percentages follow the order of the legend in a clockwise direction.

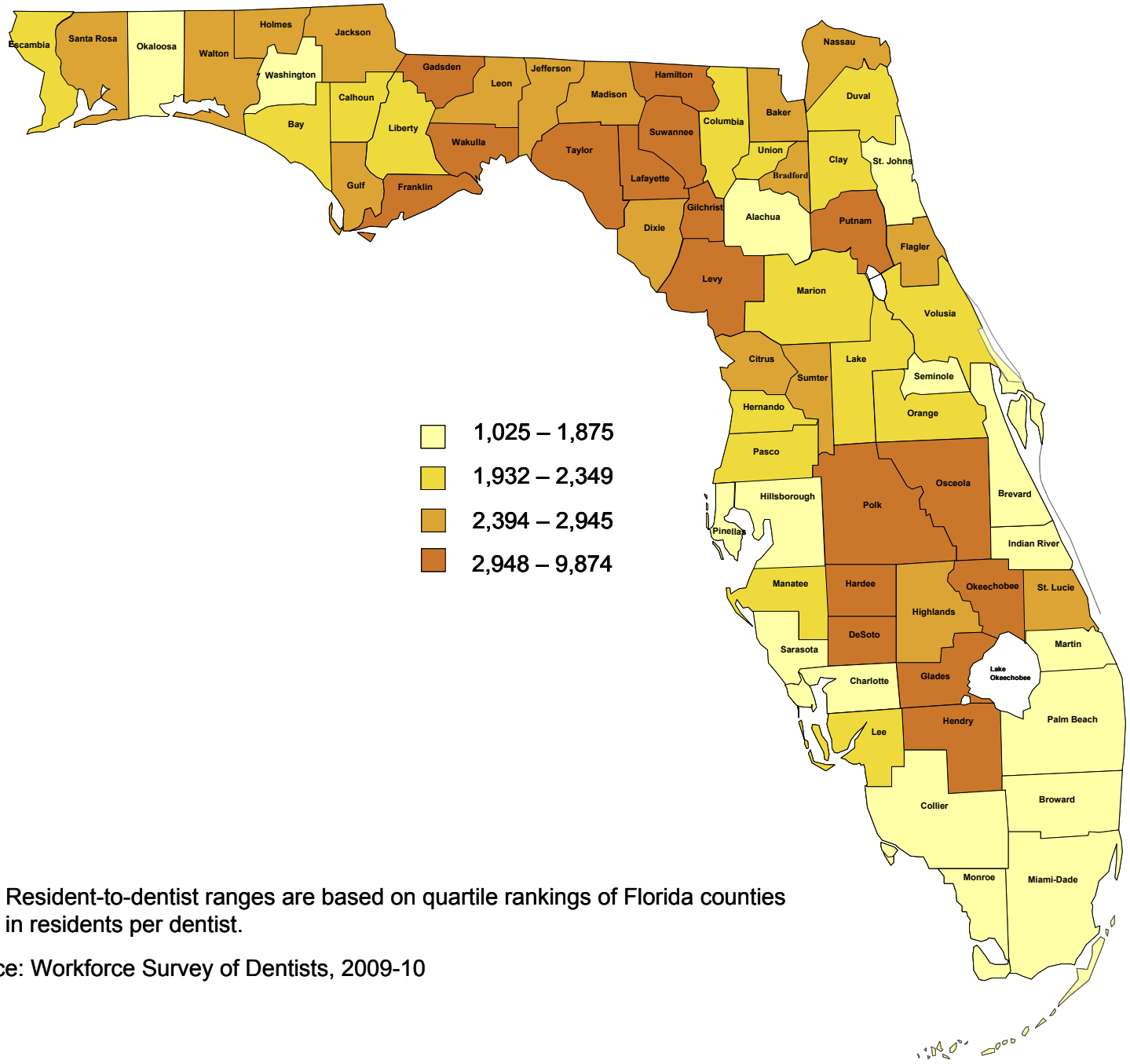
Workforce Adequacy

- ~ 97% of respondents are accepting new patients
- 2 active accredited dental schools + 1 new accredited dental school
- UCF and FAMU are currently presenting proposals to the Board of Governors for dental programs and UF is proposing to expand their dental educational program

Workforce Adequacy – Rural Areas

- Projected shortage of dentists in rural areas both nationally and in Florida
  - Only 14 % of the 150,000 general dentists in practice in the U.S. practice in rural areas
  - Most dentists in Florida are concentrated in the more populous areas of the state.

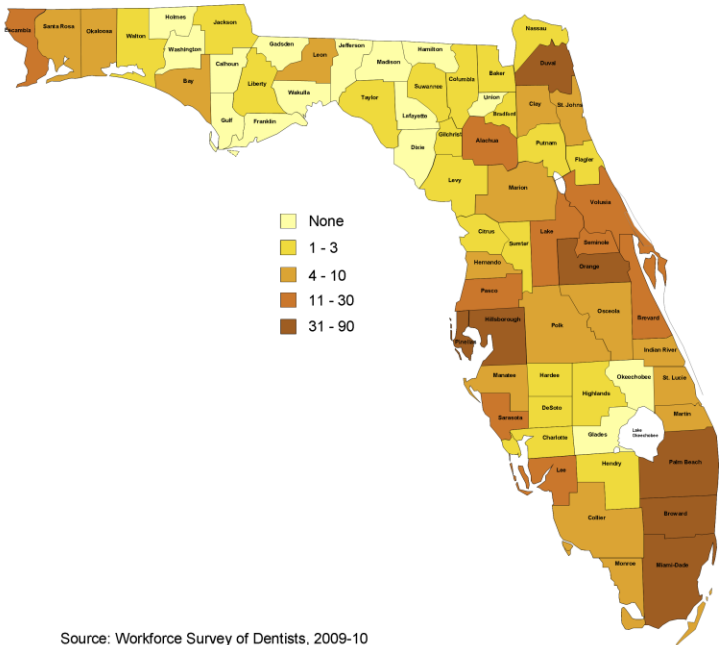
Figure 6a.1. Florida Counties by Resident-to-Dentist Ranges



Note: Resident-to-dentist ranges are based on quartile rankings of Florida counties in residents per dentist.

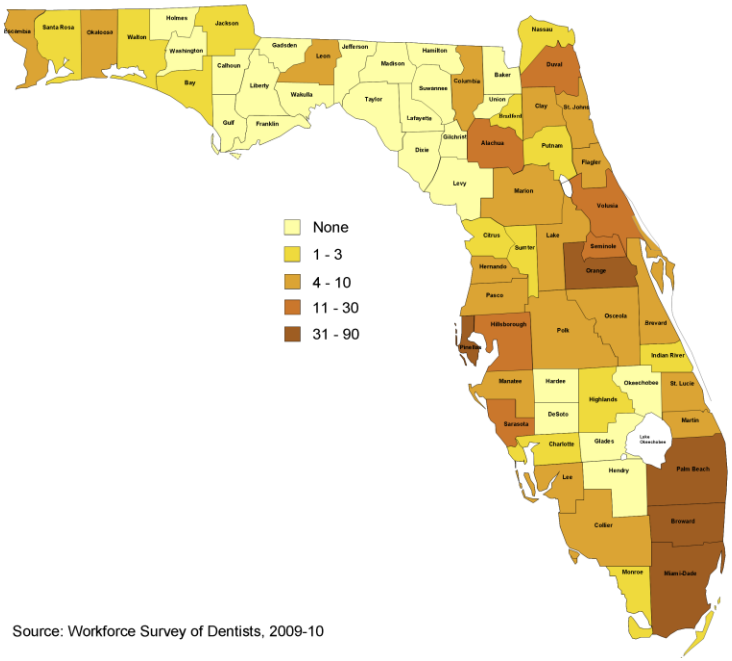
Source: Workforce Survey of Dentists, 2009-10

Figure 3a.1. Number of Practicing Specialists by County: Orthodontics and Dentofacial Orthopedics



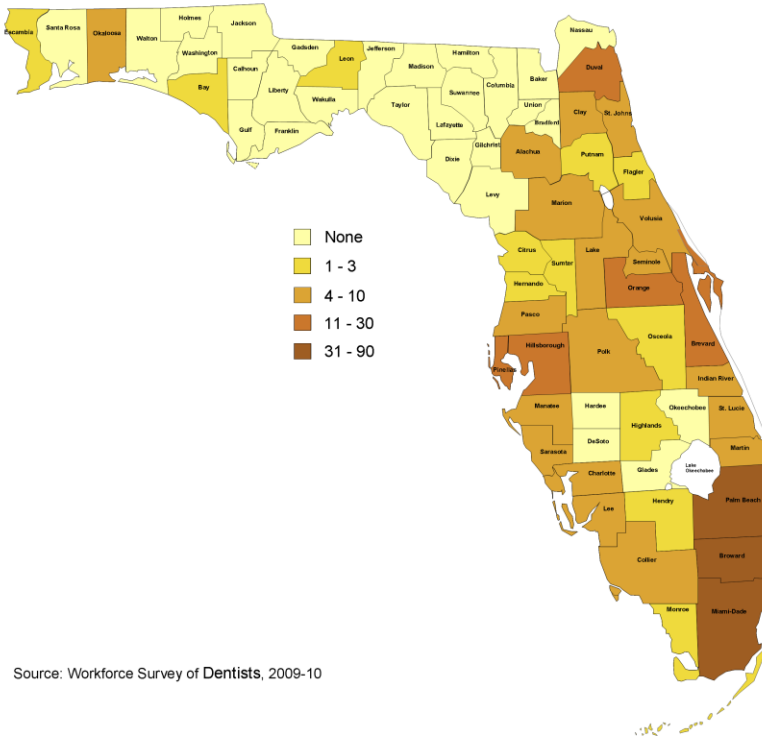
Source: Workforce Survey of Dentists, 2009-10

Figure 3a.2. Number of Practicing Specialists by County: Oral and Maxillofacial Surgery



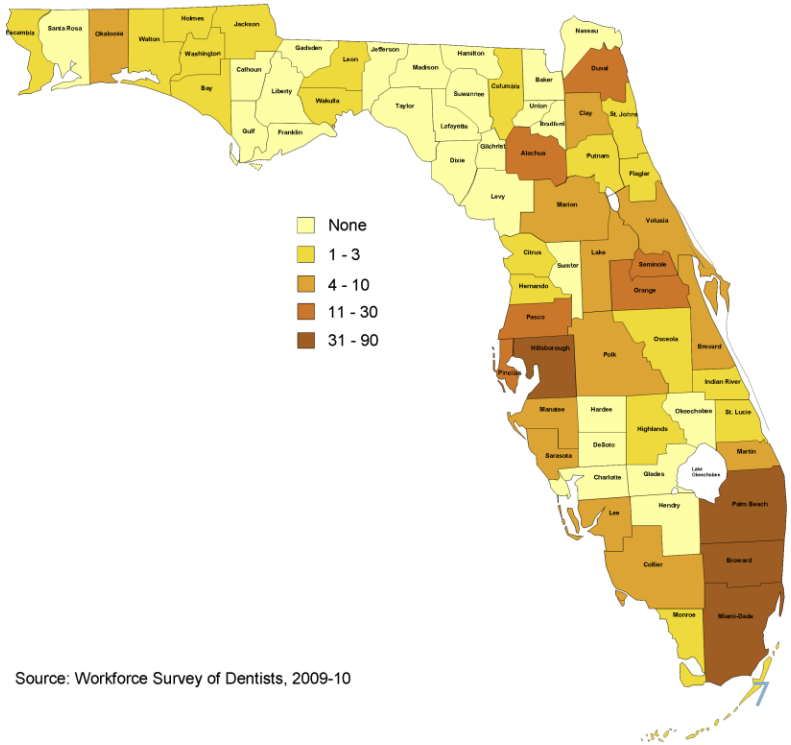
Source: Workforce Survey of Dentists, 2009-10

Figure 3a.3. Number of Practicing Specialists by County: Periodontics



Source: Workforce Survey of Dentists, 2009-10

Figure 3a.5. Number of Practicing Specialists by County: Pediatric Dentistry



Source: Workforce Survey of Dentists, 2009-10

Access to Oral Health Care

- Factors influencing access to oral health care
  - Proximity
  - Poverty
  - Disabilities
  - Language or cultural differences

Licensure/Examination Requirements

- 18 years of age or older
- Graduate or final-year student of a dental school accredited by CODA or other accrediting entity recognized by the U.S. DOE or complete a 2-year supplemental dental education program at an accredited dental school
- Meet conditions of Track 1 or Track 2

Licensure/Examination Requirements

- Track 1 - Passed the National Boards

- Track 2 - Has an active health access license in Florida and clinical practice experience providing direct patient care as follows:
  - 5,000 hrs/4 yrs in a health access setting;
  - retired veteran dentist with active duty service of 3,000 hrs/3 yrs; or
  - 3,000 hrs/3 yrs in a health access setting and provided a portion of salaried time teach health profession students in a public education setting

  No major discipline by the Board

  No professional liability claims or actions filed with OIR

  No felony or misdemeanor convictions related to the practice of a health care profession.

Eligible to sit for the ADLEX

Licensure/Examination Requirements

- Pass the ADLEX
- Pass a written exam on Florida's dentistry laws and rules

Foreign-trained Dentists

- Complete a dental education program at a dental school with a recognized accreditation and receive a D.D.S. or D.M.D.

or

- 2-year supplemental dental education program at an accredited dental school and receive a dental diploma, degree, or certificate.

State	Requires 2 years of pre-doctoral education that results in a D.D.S. or D.M.D. degree	Requires 2 years of post-doctoral education	Accepts 12-month advanced education program (AEGD, GPR) in general dentistry	Accepts 2 years of pre-or post-doctoral education
Alabama	X			
Alaska				
Arizona				
Arkansas				
California	X			
Colorado				
Connecticut	X			
Delaware				
District of Columbia				
Florida	X			
Georgia	X			
Hawaii				
Idaho				
Illinois	X			X
Indiana				
Iowa	X			
Kansas				
Kentucky		X		
Louisiana		X		
Maine				
Massachusetts				
Maryland		X (pediatric dentistry only)		
Michigan	X			X
Minnesota				
Mississippi		X		

State	Requires 2 years of pre-doctoral education that results in a D.D.S. or D.M.D. degree	Requires 2 years of post-doctoral education	Accepts 12-month advanced education program (AEGD, GPR) in general dentistry	Accepts 2 years of pre-or post-doctoral education
Missouri	X			
Montana				
Nebraska				
Nevada				
New Hampshire	X			
New Jersey	X			
New Mexico				
New York	X			
North Carolina	X			
North Dakota				
Ohio	X			
Oklahoma				
Oregon	X			X
Pennsylvania	X			
Puerto Rico	X			
Rhode Island				
South Carolina				
South Dakota	X			
Tennessee		X		
Texas				
Utah				
Vermont	X			
Virginia	X		X	X
Virgin Islands				
Washington	X			X
West Virginia				
Wisconsin			X	X
Wyoming				

Florida Recruitment Initiatives

- s. 381.0302, F.S. – Florida Health Services Corp
- 2008 – Health Access License
- 2011 – ADLEX

Options

- Authorize licensure by credentials or reciprocity
- Expand the Health Access Dental Licensing Program
- Offer Loan Forgiveness / Loan Incentives
- Authorize foreign-trained dentists to serve internship in lieu of additional education requirements

CourtSmart Tag Report

Room: KN 412 **Case:** **Type:**
Caption: Senate Health Regulation **Judge:**

Started: 10/4/2011 10:49:29 AM
Ends: 10/4/2011 11:53:14 AM Length: 01:03:46

10:49:31 AM Opening Remarks
10:50:14 AM Tab 1: Update on Florida Commission on the Review of Taxpayer Funded Hospital Districts, Molly McKinstry
11:00:11 AM Senator Jones with question
11:00:30 AM Molly to answer
11:00:41 AM Senator Jones with follow-up
11:00:52 AM Senator Gaetz with question re: data collected.
11:01:18 AM Molly to answer
11:01:38 AM Senator Gaetz with follow-up
11:02:23 AM Molly to answer
11:02:32 AM Senator Gaetz with final question re: compensation amounts
11:03:10 AM Molly to answer
11:03:18 AM Senator Gaetz with follow-up question.
11:04:53 AM Molly to answer
11:04:57 AM Senator Sobel with question.
11:05:03 AM Molly to answer
11:05:21 AM Sobel with follow-up re: executive order
11:05:43 AM Senator Garcia to intervene with follow-up
11:06:46 AM Molly to answer
11:07:12 AM Senator Garcia with comments
11:07:45 AM Molly to comment
11:07:56 AM Senator Garcia
11:08:18 AM Molly
11:08:23 AM Senator Sobel
11:08:51 AM Molly McKinstry
11:09:16 AM Senator Sobel when will commission be final
11:09:33 AM Molly McKinstry
11:09:38 AM Senator Norman with comment and questions - what are we trying to accomplish
11:10:36 AM Molly McKinstry to answer
11:10:57 AM Senator Norman with follow-up
11:11:19 AM Senator Garcia
11:12:37 AM Senator Diaz de la Portilla with question re: models we're looking at
11:13:20 AM Molly McKinstry
11:13:25 AM Senator Diaz de la Portilla with follow up
11:13:45 AM Molly McKinstry
11:14:03 AM Senator Diaz de la Portilla
11:14:13 AM Molly with answer
11:14:24 AM Senator Diaz de la Portilla
11:14:53 AM Molly to answer
11:15:13 AM Senator Gaetz with answers to Sobel and Norman
11:17:42 AM Senator Norman with comment
11:18:23 AM Senator Fasano with follow-up to Norman's question
11:18:46 AM Molly to answer
11:19:00 AM Tab 2 & 3: OGSRs 2012-309 and 2012-310 interim reports
11:19:54 AM Elizabeth Davlantes to present
11:22:59 AM Tab 4: Review Eligibility of Dentist Licensure in Florida and other Jurisdictions
11:23:49 AM Sandra Stovall to present
11:35:44 AM Senator Gaetz with question.
11:36:10 AM Sandra Stovall
11:36:20 AM Senator Gaetz
11:36:48 AM Sandra to answer
11:37:29 AM Senator Gaetz to follow-up

11:38:30 AM	Sandra Stovall
11:39:42 AM	Senator Gaetz with follow-up w/final question
11:40:43 AM	Sandra
11:41:07 AM	Senator Jones with question re: Board of Dentistry
11:41:37 AM	Sandra
11:41:58 AM	Senator Garcia w/ comment
11:42:31 AM	Senator Sobel w/comment
11:44:00 AM	Senator Garcia w/comment
11:44:11 AM	Sue Foster, DOH, Executive Director, Board of Dentistry
11:45:10 AM	Senator Jones w/question
11:45:16 AM	Sue Foster w/answer
11:46:49 AM	Senator Sobel w/question
11:47:10 AM	Sue Foster w/answer
11:48:05 AM	Senator Sobel w/follow-up question.
11:48:45 AM	Sue Foster w/answer
11:48:59 AM	Senator Sobel
11:49:15 AM	Senator Garcia to intervene w/answer
11:50:09 AM	Senator Fasano
11:50:31 AM	Sue Foster to answer
11:50:56 AM	Senator Gaetz w/comments
11:51:54 AM	Senator Garcia w/comments
11:52:19 AM	Cesar Sabates, DDS, Florida Dental Association
11:53:01 AM	Meeting adjourned

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

10/04/2011
Meeting Date

Tab 1-Presenter
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic: Florida Commission on Review of Taxpayer Funded Hospital Districts

Name: Molly McKinstry

Job Title: Deputy Secretary for AHCA

Address: _____
Street

_____
City *State* *Zip*

Phone: _____

E-mail: _____

Speaking: ☐ For ☐ Against ☑ Information

Representing: Agency for Health Care Administration

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☑ Yes ☐ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

For officially noticed committee meetings, pursuant to s. 11.061, *Florida Statutes,* state, state university, or community college employees are required to file the first copy of this form with the Committee, unless appearance has been requested by the Chair as a witness or for informational purposes.

If designated employee:

Time: from _____ to _____

This form is part of the public record for this meeting.

S-001 (08/24/11)

THE FLORIDA SENATE

COMMITTEE APPEARANCE RECORD

(Submit to Committee Chair or Administrative Assistant)

10/4/11
Date

Tab 3
Bill Number

Barcode

Name Anthony Juscevitch

Phone 245-4162

Address 4052 Bald Cypress Way Bin C06
Street

E-mail

Tallahassee FL 32399
City State Zip

Job Title Executive Dir.

Speaking: ☐ For ☐ Against ☒ Information

Appearing at request of Chair ☐

Subject Physician Workforce Survey

Representing Board of Osteopathic Medicine

Lobbyist registered with Legislature: ☐ Yes ☒ No

Pursuant to s. 11.061, *Florida Statutes*, state, state university, or community college employees are required to file the first copy of this form with the Committee, unless appearance has been requested by the Chair as a witness or for informational purposes.

If designated employee: Time: from _____ ___ .m. to _____ ___ .m.

S-001 (04/14/10)

THE FLORIDA SENATE

COMMITTEE APPEARANCE RECORD

(Submit to Committee Chair or Administrative Assistant)

Date: Oct 4, 2011

Bill Number: Tab 4

Barcode:

Name: Sue Foster

Phone: 245-4460

Address: 4052 Bald Cypress Way / Dept. of Health
Street

Tallahassee, FL 32399
City, State, Zip

E-mail: sue_foster@doh.state.fl.us

Job Title: Executive Director

Speaking: ☐ For ☐ Against ☒ Information

Appearing at request of Chair ☐

Subject:

Representing: Executive Director, Board of Dentistry

Lobbyist registered with Legislature: ☐ Yes ☒ No

Pursuant to s. 11.061, *Florida Statutes*, state, state university, or community college employees are required to file the first copy of this form with the Committee, unless appearance has been requested by the Chair as a witness or for informational purposes.

If designated employee: Time: from ____ ___.m. to ____ ___.m.

S-001 (04/14/10)

THE FLORIDA SENATE

COMMITTEE APPEARANCE RECORD

(Submit to Committee Chair or Administrative Assistant)

10/4/11
Date

Tab 4
Bill Number

Barcode

Name Cesar R. Sabates DDS

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Job Title President - Florida Dental Association

Speaking: ☐ For ☐ Against ☒ Information

Appearing at request of Chair ☐

Subject Interim report on dental licensure

Representing Florida Dental Association

Lobbyist registered with Legislature: ☐ Yes ☒ No

Pursuant to s. 11.061, *Florida Statutes*, state, state university, or community college employees are required to file the first copy of this form with the Committee, unless appearance has been requested by the Chair as a witness or for informational purposes.

If designated employee: Time: from_____ ___ .m. to _____ ___ .m.

S-001 (04/14/10)