

STORAGE NAME: h1527.hcl

DATE: April 14, 1999

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
HEALTH CARE LICENSING & REGULATION
ANALYSIS**

BILL #: HB 1527

RELATING TO: Regulation of Health Professions/Continuing Education

SPONSOR(S): Representative Boyd

COMPANION BILL(S): SB 2432 (s)

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:

- (1) HEALTH CARE LICENSING & REGULATION
 - (2) GOVERNMENTAL RULES & REGULATIONS
 - (3) HEALTH & HUMAN SERVICES APPROPRIATIONS
 - (4)
 - (5)
-

I. SUMMARY:

HB 1527 authorizes the Department of Health, if there is no regulatory board, to adopt rules to establish the criteria for continuing education courses required for renewal of a license.

In addition, the bill provides that a licensee failing to satisfy continuing education requirements shall be subject to a citation, assessment of a fine, and imposition of additional hours of continuing education.

According to the Department of Health, there is an undetermined fiscal impact upon state government and the private sector. There is no fiscal impact on local government.

The bill provides an effective date of July 1, 1999.

II. SUBSTANTIVE ANALYSIS:

A. PRESENT SITUATION:

Chapter 455, Part II, Florida Statutes, is the administrative chapter to all medical health care practitioners contained in the Division of Medical Quality Assurance (MQA) within the Department of Health. Currently, there are 37 health care professions regulated by MQA with 19 regulatory boards, 7 councils, the Health Care Services Pool, and 6 additional professions under the jurisdiction of the department. However, in multiple sections of chapter 455, F.S., it is unclear as to the department's authority to act if a profession is not under the jurisdiction of a board.

Additionally, each regulatory board has the authority to establish the requisite continuing education requirements for license renewal and the disciplinary action for noncompliance. The councils under the department may recommend such standards, but the department has final rule-making authority. The current discretionary authority provides that each board may have different standards and boards may choose to issue citations, fines, and/or other disciplinary action against professionals that do not satisfy the continuing education requirements as prescribed. For instance, the Board of Nursing does not cite such individuals but may issue a reprimand for those nurses that fail to satisfy continuing education requirements. Such reprimands from the Board of Nursing are published and posted on the National Practitioner Database.

The Department of Health represents that over the past year, most boards have authorized by rule the use of citation for licensees who do not meet continuing education requirements in an effort to remove the workload from the regular prosecutorial process. In addition, most boards currently issue a citation and require the licensee to make-up those hours he or she was not able to document for the biennium. The existing authority to issue citations is contained in section 455.617, F.S. According to the Department of Health, making continuing education violations a cited offense has reduced the workload to not only the boards, but the prosecutorial staff as well.

B. EFFECT OF PROPOSED CHANGES:

The bill provides that for professions not under the jurisdiction of a specific board, the Department of Health will establish the criteria for continuing education courses required for licensure renewal.

The bill also provides specific penalties for the violation of continuing education requirements. If a licensee does not fulfill the requisite continuing education requirements established by the regulatory board or department, a citation will be issued and a fine up to \$250 will be assessed as a condition for licensure renewal.

Additionally, the board or the department, as applicable, may require the licensee to take an additional hour of continuing education for each hour not completed or completed late.

C. APPLICATION OF PRINCIPLES:

1. Less Government:

a. Does the bill create, increase or reduce, either directly or indirectly:

(1) any authority to make rules or adjudicate disputes?

Yes. This bill provides that the Department of Health will have the authority to adopt rules regarding the continuing education requirements for certain professions it regulates.

(2) any new responsibilities, obligations or work for other governmental or private organizations or individuals?

No.

(3) any entitlement to a government service or benefit?

No.

b. If an agency or program is eliminated or reduced:

(1) what responsibilities, costs and powers are passed on to another program, agency, level of government, or private entity?

N/A

(2) what is the cost of such responsibility at the new level/agency?

N/A

(3) how is the new agency accountable to the people governed?

N/A

2. Lower Taxes:

a. Does the bill increase anyone's taxes?

No.

b. Does the bill require or authorize an increase in any fees?

The bill provides that the department or regulatory board may impose a fine up to \$250 for licensees who fail to meet continuing education requirements. Only those licensees who do not complete the required training are subject to this fine.

c. Does the bill reduce total taxes, both rates and revenues?

No.

d. Does the bill reduce total fees, both rates and revenues?

No.

e. Does the bill authorize any fee or tax increase by any local government?

No.

3. Personal Responsibility:

a. Does the bill reduce or eliminate an entitlement to government services or subsidy?

No.

b. Do the beneficiaries of the legislation directly pay any portion of the cost of implementation and operation?

N/A

4. Individual Freedom:

- a. Does the bill increase the allowable options of individuals or private organizations/associations to conduct their own affairs?

No.

- b. Does the bill prohibit, or create new government interference with, any presently lawful activity?

No.

5. Family Empowerment:

- a. If the bill purports to provide services to families or children:

- (1) Who evaluates the family's needs?

N/A

- (2) Who makes the decisions?

N/A

- (3) Are private alternatives permitted?

N/A

- (4) Are families required to participate in a program?

N/A

- (5) Are families penalized for not participating in a program?

N/A

- b. Does the bill directly affect the legal rights and obligations between family members?

No.

- c. If the bill creates or changes a program providing services to families or children, in which of the following does the bill vest control of the program, either through direct participation or appointment authority:

- (1) parents and guardians?

N/A

- (2) service providers?

N/A

- (3) government employees/agencies?

N/A

STORAGE NAME: h1527.hcl

DATE: April 14, 1999

PAGE 5

D. STATUTE(S) AFFECTED:

Amends ss. 455.564 and 455.624, F.S.

E. SECTION-BY-SECTION ANALYSIS:

Section 1. Amends s. 455.564, F.S., to provide that if there is no regulatory board, the Department of Health has the authority to adopt rules and establish the criteria for continuing education courses required for license renewal.

Section 2. Amends s. 455.624, F.S., to provide penalties for violation of continuing education requirements. Specifically, if the licensee fails to satisfy continuing education requirements established by the board or department, a citation will be issued and a fine not to exceed \$250 will be assessed. Additionally, the board or department may require a licensee to take an additional hour of continuing education for each hour not completed or completed late.

Section 3. Provides an effective date of July 1, 1999.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

See Fiscal Comments.

2. Recurring Effects:

See Fiscal Comments.

3. Long Run Effects Other Than Normal Growth:

None.

4. Total Revenues and Expenditures:

See Fiscal Comments.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

None.

2. Recurring Effects:

None.

3. Long Run Effects Other Than Normal Growth:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

Unknown.

2. Direct Private Sector Benefits:

Unknown.

3. Effects on Competition, Private Enterprise and Employment Markets:

None.

D. FISCAL COMMENTS:

According to the Department of Health, it is difficult to forecast the fiscal impact of this bill. The department is concerned about the loss of income from assessing the costs of investigative complaints involving continuing education violations if this bill mandating citations was enacted without referencing existing procedures in s. 455.617, F.S. The department indicates that most boards are already issuing citations and fines are being imposed for continuing education violations. The Agency for Health Care Administration advises its only fiscal impact would be in increased postage costs since citations are mailed by certified mail, restricted delivery.

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill does not reduce the authority that municipalities or counties have to raise revenues in the aggregate.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the authority that municipalities or counties have to raise revenues in the aggregate.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

This bill does not reduce the percentage of a state tax shared with counties or municipalities.

V. COMMENTS:

The Department of Health notes that the bill does not reference s. 455.617, F.S., which addresses procedures for enforcing or disputing citations. Without acknowledgment of this provision, the licensee does not have the option to dispute a citation and proceed through the established administrative disciplinary process.

The department also identifies that the imposition of a \$250 fine for noncompliant licensees may not have a significant impact on certain professionals, such as physicians, osteopathic physicians, chiropractic physicians, podiatric physicians, optometrists, dentists, or pharmacists. For many in these professions, it may be cheaper to pay the fine than register for continuing education courses. However, the bill provides an additional hour of continuing education for each hour not completed, or completed late.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

None.

STORAGE NAME: h1527.hcl

DATE: April 14, 1999

PAGE 7

VII. SIGNATURES:

COMMITTEE ON HEALTH CARE LICENSING & REGULATION:

Prepared by:

Staff Director:

C. Marielle Harvey

Lucretia Shaw Collins