

# SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

BILL: CS/SB 2078

SPONSOR: Health, Aging, and Long-Term Care Committee and Senator Villalobos

SUBJECT: Medical Practice

DATE: April 8, 2003

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Munroe</u>	<u>Wilson</u>	<u>HC</u>	<u>Favorable/CS</u>
2.	_____	_____	_____	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

## I. Summary:

The bill authorizes issuance of a temporary certificate to practice medicine to visiting physicians who meet certain requirements, for educational purposes to help teach plastic surgery residents of a Florida medical school in conjunction with a nationally sponsored educational symposium. The certificate is valid for no more than 3 days per year and such certificate expires one year after issuance. The Department of Health may not issue more than six temporary certificates per calendar year. The physician must meet requirements specified in the bill to get the temporary certificate, including specified financial responsibility requirements for malpractice. A physician applying for the temporary certificate is exempt from the practitioner profiling requirements, but all other regulatory provisions under ch. 456 and 458, F.S., apply.

If a physician is a graduate of a foreign medical school and holds a valid and unencumbered license to practice medicine in another country but is not licensed to practice medicine in another state within the United States, the educational symposium must pay for any medical judgments incurred by that physician by obtaining a surety bond, letter of credit, or certificate of deposit in an amount not less than \$250,000.

This bill creates section 458.3137, Florida Statutes.

## II. Present Situation:

### License to Practice Medicine

Chapter 458, F.S., provides for the regulation of the practice of Medicine by the Board of Medicine. Any person who wishes to practice as a medical physician must be licensed and meet specified criteria which include: being at least 21 years of age; being of good moral character; not having committed any act or offenses in Florida or another jurisdiction which would

constitute the basis for disciplining a Florida-licensed physician; meeting specified educational requirements, including residency; and successfully passing a national medical licensing examination.

Section 458.3145(6), F.S., provides requirements for a distinguished scholar to be issued a temporary medical faculty certificate to teach for a time-limited period at a medical school or teaching hospital. The certificate may be issued to a physician who is requested by the dean of an accredited medical school or the medical director of a teaching hospital within the state to practice only within that facility or its affiliated clinical facilities. The certificateholder must demonstrate financial responsibility by either having medical malpractice insurance, holding an escrow account or a letter of credit in the specified amounts required by s. 458.320, F.S., or be exempt from the financial responsibility requirements as an officer, employee, or agent of the federal or state government.

Section 458.3135, F.S., provides a mechanism for the issuance of temporary certificates to visiting physicians who may practice in board-approved cancer centers. Such visiting physicians are under training under the direct supervision of a physician employed by or under contract with an approved cancer center for a period of no more than 1 year. To be issued a temporary certificate the visiting physician must: complete an application and pay a fee; be a graduate of an accredited medical school; hold a valid unencumbered license to practice medicine in another country; have not completed any act in Florida or any other jurisdiction that would constitute the basis for disciplining a physician under s. 456.072 ( general regulatory provisions) or s. 458.331, F.S., (medical practice act); meet the financial responsibility requirements for Florida-licensed physicians; and have been accepted for a course of training by a cancer center approved by the Florida Board of Medicine. The temporary certificate allows the recipient to practice for the duration of the course of training at the approved cancer center so long as the duration of the course does not exceed 1 year. A visiting physician who holds a temporary certificate is exempt from the practitioner profiling requirements, but all other provisions of ch. 456 or ch. 458, F.S., apply. The maximum number of temporary certificates that may be issued by the board may not exceed 10 at each approved cancer center.

### **Grounds for Physician Discipline**

Chapter 456, F.S., contains the general regulatory provisions for health care professions and occupations under the Division of Medical Quality Assurance in the Department of Health. Section 456.072, F.S., specifies 29 acts that constitute grounds for which disciplinary actions may be taken against a health care practitioner. The various disciplinary actions that may be taken are also specified in this section. Section 458.331, F.S., specifies 40 acts that constitute grounds for which disciplinary actions may be taken against a medical physician.

### **Financial Responsibility**

Section 458.320, F.S., requires Florida-licensed allopathic physicians to maintain professional liability insurance or other specified financial responsibility to cover potential claims for medical malpractice as a condition of licensure, with specified exemptions. Under 458.320(2), F.S., physicians who have hospital privileges must maintain professional liability insurance or other financial responsibility to cover an amount not less than \$250,000 per claim. Physicians without

hospital privileges, under s. 458.320(1), F.S., must carry sufficient insurance or other financial responsibility in coverage amounts of not less than \$100,000 per claim. Physicians who do not carry professional liability insurance must provide notice to their patients. A physician is said to be “going bare” when that physician has elected not to carry professional liability insurance. Physicians who go bare must either provide notice by posting a sign which is prominently displayed in the reception area and clearly noticeable by all parties or provide a written statement to each patient. Such sign or statement must state:

“Under Florida law, physicians are generally required to carry medical malpractice insurance or otherwise demonstrate financial responsibility to cover potential claims for medical malpractice. YOUR DOCTOR HAS DECIDED NOT TO CARRY MEDICAL MALPRACTICE INSURANCE. This is permitted under Florida law subject to certain conditions. Florida imposes penalties against noninsured physicians who fail to satisfy adverse judgments arising from claims of medical malpractice. This notice is provided pursuant to Florida law.”

With specified exceptions, the Department of Health must suspend on an emergency basis, any licensed allopathic or osteopathic physician who fails to satisfy a medical malpractice claim against him or her within specified time frames.

### **III. Effect of Proposed Changes:**

The bill creates s. 458.3137, F.S., to authorize the issuance of a temporary certificate to practice medicine with limited privileges, without examination, solely for purposes of providing educational training in plastic surgery to plastic surgery residents of a Florida medical school in conjunction with a nationally sponsored educational symposium. A physician who has been invited by both 1) a plastic surgery training program affiliated with a Florida medical school accredited by the Accreditation Council for Graduate Medical Education, and 2) an educational symposium cosponsored by the American Society of Plastic Surgeons, the Plastic Surgery Educational Foundation, or the American Society for Aesthetic Plastic Surgery to provide training in plastic surgery may be issued a temporary certificate to practice medicine, if the physician meets the following requirements:

- Is a graduate of an accredited medical school or its equivalent or is a graduate of a foreign medical school listed with the World Health Organization;
- Holds a valid and unencumbered license to practice medicine in another state or country;
- Is a recognized expert in a specific area of plastic surgery as demonstrated by peer-review publications, invited lectureships, and academic affiliations;
- Has completed an application form adopted by the Board of Medicine and pays a nonrefundable application fee not to exceed \$300;
- Has not committed an act in this or any other jurisdiction that would constitute a basis for disciplining a physician under s. 456.072, F.S., or s. 458.331, F.S.;
- Meets the financial responsibility requirements of s. 458.320(1) or (2), F.S.; and
- Is applying only in connection with both an approved plastic surgery training program affiliated with a Florida medical school and an educational symposium sponsored by specified organizations.

If a physician is a graduate of a foreign medical school and holds a valid and unencumbered license to practice medicine in another country but is not licensed to practice medicine in another state within the United States, the educational symposium must pay for any medical judgments incurred by that physician by obtaining a surety bond, letter credit, or certificate of deposit in an amount not less than \$250,000. The temporary certificate is valid for no more than 3 days per year and such certificate expires one year after issuance. The Department of Health may not issue more than six temporary certificates per calendar year. A physician applying for the temporary certificate is exempt from the practitioner profiling requirements but all other regulatory provisions under chs. 456 and 458, F.S., apply.

The bill will take effect upon becoming a law.

#### **IV. Constitutional Issues:**

##### **A. Municipality/County Mandates Restrictions:**

The provisions of this bill have no impact on municipalities and the counties under the requirements of Article VII, Section 18 of the Florida Constitution.

##### **B. Public Records/Open Meetings Issues:**

The provisions of this bill have no impact on public records or open meetings issues under the requirements of Art. I, s. 24(a) and (b) of the Florida Constitution.

##### **C. Trust Funds Restrictions:**

The provisions of this bill have no impact on the trust fund restrictions under the requirements of Article III, Subsection 19(f) of the Florida Constitution.

#### **V. Economic Impact and Fiscal Note:**

##### **A. Tax/Fee Issues:**

Applicants for the temporary certificate to practice medicine to help teach plastic surgery residents of a Florida medical school in conjunction with a nationally sponsored educational symposium will be required to pay an application fee of no more than \$300.

##### **B. Private Sector Impact:**

None.

##### **C. Government Sector Impact:**

The Department of Health will incur some costs to implement the bill's requirements for screening of applicants, issuing the temporary certificate, and the adoption of rules. The department reports that the additional workload for application development, certificate issuance and renewal or disciplinary functions cannot be determined.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Amendments:**

None.

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This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.

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