

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

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

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Prepared By: The Professional Staff of the Committee on Health Policy

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BILL: SB 1082

INTRODUCER: Senator Latvala

SUBJECT: Evaluation of Students with Impairing Conditions Who are Preparing for Licensure as Health Care Practitioners or Veterinarians

DATE: January 28, 2016

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Rossitto-Van Winkle	Stovall	HP	<b>Pre-meeting</b>
2.	_____	_____	AHS	_____
3.	_____	_____	AP	_____

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**I. Summary:**

SB 1082 creates a Hardship Evaluation Program for enrolled students who are preparing for licensure as health care practitioners or veterinarians and who are referred to an impaired practitioner program but cannot afford the required evaluation. The program will be funded, and the funding capped, by specific legislative appropriation or approved operating budgets in the Department of Health (DOH), Medical Quality Assurance (MQA) trust fund.

**II. Present Situation:**

**Impaired Student Health Care and Student Veterinary Practitioner Treatment Programs**

Section 456.076, F.S., provides resources to assist health care practitioners<sup>1</sup> who are impaired as a result of the misuse or abuse of alcohol, drugs, or a mental or physical condition which could affect the practitioners' ability to practice with skill and safety. For professions that do not have impaired practitioner programs provided for in their practice acts, the DOH designates approved impaired practitioners and programs. There are currently two department-approved treatment programs for impaired practitioners in Florida, the Professionals Resource Network (PRN) and the Intervention Project for Nurses (IPN). These programs also serve as consultants to the DOH.<sup>2</sup>

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<sup>1</sup> Health care practitioners are defined in s. 456.001(4), F.S., to include licensed acupuncturists, physicians, physician assistants, chiropractors, podiatrists, naturopaths, dentists, dental hygienists, optometrists, nurses, nursing assistants, pharmacists, midwives, speech language pathologists, nursing home administrators, occupational therapists, respiratory therapists, dietitians, athletic trainers, orthotists, prosthetists, practitioners of electrolysis, massage therapists, clinical laboratory personnel, medical physicists, dispensers of optical devices or hearing aids, physical therapists, psychologists, social workers, counselors, and psychotherapists, among other professions. These practitioners are regulated by the MQA within the DOH.

<sup>2</sup> See Professionals Resource Network, available at <http://www.flprn.org/> and Intervention Project for Nurses, available at <http://www.ipnfl.org/> (last visited Jan. 14, 2016).

Any information related to treatment of an impaired practitioner is exempt from state public records requirements except when a consultant determines that impairment affects a practitioner's practice, or ability to practice, and constitutes an immediate, serious danger to the public health, safety, or welfare.<sup>3</sup>

A medical school, or another school providing for the education of students enrolled in preparation for licensure as a health care practitioner, or a veterinarian, may contract with the DOH approved program or consultant to provide services to an enrolled student if the student is allegedly impaired as a result of the misuse or abuse of alcohol or drugs, or both, or due to a mental or physical condition.<sup>4</sup> The DOH is not responsible for paying for the care provided by approved treatment providers or a consultant.

The Department of Business and Professional Regulation (DBPR) regulates veterinarians and veterinary students and has no statutory authority under the general provisions in ch.455, F.S., to create its own impaired practitioner program for veterinarians or veterinary students. However, ch. 455, F.S., does provide for disciplinary action against persons who do not fully participate in the program operated by the DOH. Section 455.227(1)(u), F.S., states that, "termination from a treatment program for impaired practitioners as described in s.456.076, F.S., for failure to comply, without good cause, with the terms of the monitoring or treatment contract entered into by the licensee or failing to successfully complete a drug or alcohol treatment program," is grounds for disciplinary action from the DBPR. Further, s. 474.221, F. S., addresses impaired practitioner provisions for veterinarians licensed under ch. 474, and states that they shall be governed by the treatment of impaired practitioners under the provisions of s. 456.076, F.S., which includes veterinary students.

When a student is referred to PRN by his or her school, PRN reviews the intake information obtained from the school and makes a determination about the type of evaluation that is needed. The student is then given a choice of three possible PRN-approved evaluators and is responsible for contacting the chosen evaluator and setting up an appointment. The evaluation itself varies depending on the nature of the concern, but will always include an in-depth interview by the evaluator with the student, review of any relevant medical records, contact with the referral source and other significant collateral sources (treating practitioners, family members, significant other, etc.), and laboratory tests (which can include drug screens of urine, hair and blood; other lab studies as indicated). In many cases, formal psychological testing is also included.<sup>5</sup>

The cost of the evaluation is determined by the evaluator, and can vary from \$300.00 to several thousand dollars depending on the nature of the evaluation, extent of testing required, etc. A straightforward evaluation for a student who has been arrested for driving under the influence with no history of other problems is generally in the \$300.00-800.00 range. An evaluation for a student with an extensive history of mental health issues, substance use and behavioral disturbance including boundary violations, requiring a multidisciplinary team evaluation with complete neuropsychological evaluation, psychiatric evaluation, substance use evaluation, etc., can run \$5,000.00 and up. The evaluation does not include treatment. The evaluator recommends

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<sup>3</sup> Section 456.076(3)(e),(5) and (6), F.S.

<sup>4</sup> Section 456.076(1)(c)2., F. S.

<sup>5</sup> Penelope P. Ziegler, M.D., Medical Director, Professionals Resource Network, Inc., in correspondence to the Department of Health, November 2, 2015, (on file with the Senate Committee on Health Policy).

the type of treatment needed, if any; and PRN then provides options for treatment by PRN-approved treatment providers.<sup>6</sup>

The DOH contract with PRN and IPN specifies the duties and deliverables the PRN and IPN must provide. The Fiscal Year 2015-2016 annual contract amount for PRN is \$1,919,907 and for IPN is \$1,832,601. Currently, PRN has 970 enrollees; IPN has 1,394 enrollees. In 2013 and 2014, PRN evaluated 10 students each year.<sup>7</sup>

### III. Effect of Proposed Changes:

SB 1082 creates s. 456.0765, F.S., to establish a Hardship Evaluation Program to fund mental or physical evaluations for enrolled students demonstrating financial hardship who are preparing for licensure as health care practitioners or veterinarians and who are referred to an impaired practitioner program. The purpose of the legislation is to protect public safety by assisting students who are, or may be, impaired as the result of the misuse or abuse of alcohol or drugs or due to a mental or physical condition that could affect the student's ability to practice with skill and safety when licensed.

Funds will be available each fiscal year as provided by legislative appropriation, or as an approved amendment to the DOH's operating budget. If funds are exhausted in any fiscal year, the program will cease operating until funding again becomes available, resulting in a halt of all student treatment in progress.

In order to qualify for assistance under the program a student must demonstrate, to the satisfaction of the consultant, the following:

- He or she is enrolled in an institution of higher learning in this state for the purpose of preparing for licensure as a health care practitioner or as a veterinarian;
- He or she has been referred to an impaired practitioner program because of an actual, or alleged, impairing condition that is the result of the misuse or abuse of alcohol or drugs or caused by a mental or physical condition that could affect the student's ability to practice with skill and safety when licensed;
- He or she is eligible for participation in the impaired practitioner program to which he or she has been referred;
- Additionally, the student will be required by the consultant to undergo a mental or physical evaluation, or both, and
- Must be unable to afford the cost of the evaluation due to financial hardship.

“Financial hardship” means the student:

- Is unemployed;
- Is receiving federal or state public assistance; or
- Has a monthly income that is at or below 150 percent of the federal income poverty level as published annually by the United States Department of Health and Human Services.

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<sup>6</sup> *Id.*

<sup>7</sup> *Id.*

The federal poverty guidelines for 2015 establish that for a family of one, 150 percent of the federal income poverty guideline is \$17,655 annually, or \$1,471.25 monthly.<sup>8</sup>

The consultant operating the impaired practitioner program has the sole, non-reviewable, responsibility of determining if the student meets the eligibility requirements; and must obtain reasonable documentation of the financial hardship, but is not required to verify the authenticity or veracity of the documents. All records of the hardship program participants are to be redacted for any identifying information; and the DOH is to pay the evaluator's invoice. The bill does not require the submission of supporting documentation to substantiate the services were provided.

The effective date of the bill is July 1, 2016.

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

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

#### **V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Students who might not be able to afford an evaluation may be able to remain in school and become a productive licensed health care practitioner. This not only improves the personal resources of the individual, but may improve access to health care in the long run by expanding the health care workforce.

C. Government Sector Impact:

The DOH reports it will be required to obtain additional budget authority to implement the provisions of this bill; and will experience a recurring increase in costs in the contracted services category to pay invoices remitted by evaluators for evaluations.<sup>9</sup>

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<sup>8</sup> 2015 Federal Poverty Guidelines, available at <https://www.medicaid.gov/medicaid-chip-program-information/by-topics/eligibility/downloads/2015-federal-poverty-level-charts.pdf>, (last visited Jan. 28, 2016).

<sup>9</sup> Florida Dep't of Health, *Senate Bill 1082 Analysis*, p. 4 (on file with the Senate Committee on Health Policy).

Although unknown at this time, the contracted IPN and PRN services and programs may request additional fees to handle this additional workload.

The annual cost to DOH of the evaluations of veterinary students is also indeterminate at this time.

**VI. Technical Deficiencies:**

Section 456.076(2)(c)2., F.S., states, “The department is not responsible for paying for the care provided by approved treatment providers or a consultant.” To avoid incongruous results, it might be advisable to provide an exception for evaluations performed pursuant to s. 457.0765, F.S., evaluations in this paragraph.

**VII. Related Issues:**

Oversight and fiscal accountability of the hardship program might need to be strengthened. Documentation demonstrating financial eligibility for the program is not required to be verified. The consultant’s determination of eligibility is not subject to review under ch. 120, F.S. In addition, once the evaluation services (treatment) are completed the consultant forwards the invoice to DOH for payment. All records of the hardship participant are redacted and the department has no fiscal oversight or auditing responsibilities to ensure services were in fact provided as intended under the program.

**VIII. Statutes Affected:**

This bill creates section 456.0765 of the Florida Statutes:

**IX. Additional Information:**

**A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

**B. Amendments:**

None.