

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.)

Prepared By: The Professional Staff of the Committee on Rules

BILL: CS/CS/SB 496

INTRODUCER: Education Committee; Health Policy Committee and Senators Brandes and Passidomo

SUBJECT: Medical Faculty and Medical Assistant Certification

DATE: April 24, 2017

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Rossitto-Van Winkle	Stovall	HP	Fav/CS
2.	Bouck	Graf	ED	Fav/CS
3.	Rossitto-Van Winkle	Phelps	RC	Pre-meeting

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 496 expands the criteria under which the Department of Health (DOH) may issue a medical faculty certificate to include a medical physician who has been offered, and accepted, a full time faculty position at a specialty-licensed children's hospital, affiliated with any accredited medical school, and its affiliated clinics. Current law authorizes a medical faculty certificate to be issued to a non-Florida licensed physician to practice in conjunction with his or her faculty position at an accredited medical school in Florida and its affiliated clinical facilities or teaching hospitals. The bill corrects the name of the Mayo Clinic College of Medicine and Science in Jacksonville, Florida, and adds the Johns Hopkins All Children's Hospital (All Children's Hospital), in St. Petersburg, Florida, to the list of programs of medicine for which a medical faculty certificate may be issued to a full time faculty appointee.

The bill authorizes the DOH to process an application for a temporary certificate for a visiting physician for the limited purpose of the physician providing educational training for medical residents up to five days in a year, using a unique personal identification number if the physician does not have a social security number, but otherwise meets the credentialing criteria.

The bill requires a medical assistant to obtain a certificate from a certification program accredited by the National Commission for Certifying Agencies to be credentialed as a certified medical assistant.

The bill has an effective date of July 1, 2017.

II. Present Situation:

Medical Faculty Certificates

To become a licensed medical doctor in Florida an individual generally has two paths to licensure: licensure by examination,¹ or licensure by endorsement.² However, s. 458.3145, F.S., provides another limited path to practice in Florida by teaching in a program of medicine. Under s. 458.3145, F.S., the DOH is authorized to issue a medical faculty certificate to a qualified medical physician to practice in conjunction with his or her full time faculty position at a medical school, if the physician has been offered, and accepted, a full time faculty appointment to teach at the following programs in medical schools with campuses in Florida:

- University of Florida;
- University of Miami;
- University of South Florida;
- Florida State University;
- Florida International University;
- University of Central Florida;
- Mayo Medical School at the Mayo Clinic in Jacksonville, Florida; or
- The Florida Atlantic University.^{3,4}

A medical faculty certificate authorizes the holder to practice medicine only in conjunction with his or her faculty position at an accredited medical school, and its affiliated clinical facilities or teaching hospitals that are registered with the Board of Medicine as sites at which certificate holders will be practicing. The medical faculty certificate is valid until the earlier of termination of the physician's relationship with the medical school, or after a period of 24 months. The

¹ See s. 458.311, F.S., and Florida Board of Medicine, *Medical Doctor - Unrestricted*, available at <http://flboardofmedicine.gov/licensing/medical-doctor-unrestricted> (last visited March 31, 2017). Medical licensure by examination is the most frequent method of obtaining a Florida medical license. Licensure by examination requires an applicant, who has passed all parts of a national medical examination (NBME, FLEX, or USMLE), and does not hold a valid medical license in any state, to among other things, meet certain educational and training requirements, demonstrate competency in English if instruction at the medical school was not in English, have completed an approved residency program, and pass certain background screening requirements.

² See s. 458.313, F.S., and Board of Medicine, *Medical Doctor - Unrestricted*, available at <http://flboardofmedicine.gov/licensing/medical-doctor-unrestricted>, (last visited March 31, 2017). Medical licensure by endorsement requirements include, among other things, be a graduate from a qualifying medical school, completed certain residency requirements, have passed a qualifying examination, and is licensed in another jurisdiction to practice medicine.

³ Section 458.3145(1)(i), F.S.

⁴ Section 458.3145(1), F.S., also requires applicants for a *medical faculty certificate* to meet the following additional requirements: 1) Be a graduate of an accredited medical school or its equivalent, or a foreign medical school listed with the World Health Organization; 2) Hold a valid, current license to practice medicine in another jurisdiction; 4) Have completed the application and paid a fee; 5) Have completed an approved residency or fellowship of at least one year or has received training which has been determined by the board to be equivalent to the one-year residency requirement; 6) Are at least 21 years of age; 7) Are of good moral character; 8) Have not committed any act in this or any other jurisdiction which would constitute the basis for disciplinary action; and 9) For those applicants who graduated after October 1, 1992, to have completed before entering medical school, the equivalent of two academic years of pre-professional, postsecondary education, which includes courses in anatomy, biology, and chemistry.⁴

certificate is renewable, and may be extended for two years, if the physician provides a certification from the dean of the medical school that the physician is a distinguished medical scholar and an outstanding practicing physician. The maximum number of extended medical faculty certificate holders is limited to 30 persons per each medical school, with the exception of the Mayo medical school located at the Mayo Clinic in Jacksonville, Florida, which is limited to 10 certificate holders.⁵

A physician holding an unrestricted Florida medical license is not required to obtain a medical faculty certificate to hold a medical faculty teaching position. Additionally, an individual may teach at any Florida medical school, without a Florida medical license or medical faculty certificate, if offered a position, including the medical schools listed in s. 458.3145, F.S., if the person does not practice medicine. Practicing medicine in Florida is defined as the diagnosis, treatment, operation, or prescription for any human disease, pain, injury, deformity, or other physical or mental condition.⁶

As of the date of this analysis, there are 52 physicians holding medical faculty certificates in Florida, with 12 of those residing out-of-state.⁷

Florida Medical Schools and Graduate Medical Education Programs

Medical education programs in the U.S. are approved and recognized by the U.S. Office of Education. The U.S. Office of Education does not accredit medical educational programs; medical education programs are accredited by the Liaison Committee on Medical Education (LCME) and the World Foundation for Medical Education (WFME). LCME accreditation is a voluntary, peer-reviewed process of quality assurance that determines whether a U.S. or Canadian medical education program meets established standards.⁸

Florida has eight LCME accredited allopathic medical schools operating within its borders and they are all listed in s. 458.3145, F.S.

To obtain an unrestricted Florida allopathic medical license a medical school graduate must do, among other things, at least a one year of residency.⁹ The Accreditation Council for Graduate Medical Education (ACGME) sets the standards for U.S. graduate medical education programs (internships, residencies and fellowships) and the institutions that sponsor them. ACGME accreditation provides assurance that a Sponsoring Institution or program meets the quality standards (Institutional and Program Requirements) of the specialty or subspecialty practice(s) for which it prepares its graduates. ACGME accreditation is overseen by a Review Committee made up of volunteer specialty experts from the field that set accreditation standards and provide

⁵ Section 458.3145, F.S.

⁶ Section 458.305(1)(d), F.S.

⁷ Florida Dep't of Health, Division of Medical Quality Assurance, *Annual Report and Long Range Plan Fiscal Year 2015-2016*, p. 10, available at <http://www.floridahealth.gov/licensing-and-regulation/reports-and-publications/documents/annual-report-1516.pdf>, (last visited March 31, 2017).

⁸ See U.S. Department of Education, *Overview of Accreditation in the United States* (last modified March 8, 2017) available at <https://www2.ed.gov/admins/finaid/accred/accreditation.html>, (last visited March 31, 2017).

⁹ See footnote 1.

peer evaluation of Sponsoring Institutions and specialty and subspecialty residency and fellowship programs.¹⁰

A graduate of a U.S. or Canadian medical school, approved and recognized by the U.S. Office of Education, who obtains an internship, residency or house physician¹¹ position in a Florida ACGME approved program, and does not hold a current, active Florida medical license, will begin their graduate medical education as an unlicensed physician.¹² These unlicensed physicians must register with the DOH,¹³ and after one year of residency may apply for an unrestricted Florida medical license.¹⁴ During this first year these unlicensed physicians work under a Florida licensed supervising physician or a physician holding a medical faculty certificate who also holds a full time faculty position with a Florida medical school.¹⁵

According to the ACGME, during the 2016-2017 academic year, Florida had 4,186 total medical residents, in 195 medical and surgical residency programs, in 52 sponsoring institutions.¹⁶ Eleven of the 195 ACGME accredited residency programs provided 479 approved pediatric residencies, which included 36 at All Children's Hospital.¹⁷ Nine of the 11 ACGME accredited pediatric residency programs in Florida are affiliated with Class II Specialty Hospitals for Children, which includes All Children's Hospital.¹⁸

All Children's Hospital is not a Florida campus for Johns Hopkins School of Medicine, but a Florida non-profit hospital corporation that is 100 percent owned by The Johns Hopkins Health System Corporation,¹⁹ a private, multinational non-profit corporation incorporated in Maryland. All Children's Hospital operates a pediatric residency program as a joint venture with Johns Hopkins Medicine (JHM). It is the only JHM affiliated hospital outside of the Baltimore/

¹⁰ Accreditation Council for Graduate Medical Education, *What We Do*, available at <http://www.acgme.org/What-We-Do/Overview> (last visited March 31, 2017).

¹¹ A house physician is a person who holds a degree as a medical doctor, or its equivalent, but who does not have and has never had a license to practice medicine in Florida and is employed and paid by a hospital. Chapter 64B8-6.006 (F.A.C.).

¹² An unlicensed physician is a person holding a degree as a medical doctor or its equivalent, but not licensed by the Board of Medicine. For the purpose of administering this rule chapter, such unlicensed physicians shall embrace and include resident physicians, assistant resident physicians, house physicians, interns, or fellows in fellowship training which leads to subspecialty board certification or in fellowship training in a teaching hospital in this state as defined in s. 408.07(45) or s. 395.805(2), F.S., as these terms are hereinafter defined. See s. 458.345, F.S., and Chapter 64B8-6 (F.A.C.).

¹³ Section 458.345, F.S.

¹⁴ Section 458.311 and 458.313, F.S.

¹⁵ Section 458.3145, F.S.

¹⁶ Graduate Medical Education Totals by State, Academic Year 2016-2017, available at <https://apps.acgme.org/ads/Public/Reports/ReportRun?ReportId=13&CurrentYear=2016&AcademicYearId=2016>, (last visited Mar. 2, 2017).

¹⁷ Accreditation Council for Graduate Medical Education, Advanced Program Search, *Florida, Pediatrics*, available at <https://apps.acgme.org/ads/Public/Programs/Search?stateId=10&specialtyId=65&city=> (last visited Mar. 2, 2017).

¹⁸ The two ACGME accredited pediatric residencies, not children's hospitals are Broward Health Medical Center, Ft. Lauderdale, and Sacred Heart Hospital, Pensacola. Florida Agency for Healthcare Administration, Florida Health Finder, *Facility Locator* <http://www.floridahealthfinder.gov/facilitylocator/ListFacilities.aspx> (last visited Mar. 2, 2017).

¹⁹ The Johns Hopkins Health System Corporation was created in 1986 by the Johns Hopkins Hospital board of trustees to serve as the parent corporation for its six hospitals. In 1997 Johns Hopkins Medicine (JHM) was created through a joint venture between The Johns Hopkins Health System Corporation and The Johns Hopkins University. JHM is an \$8 billion integrated global health care system. See Johns Hopkins Medicine, *About Johns Hopkins Medicine*, available at <http://www.hopkinsmedicine.org/about/index.html>, and *Governance and Leadership*, available at <http://www.hopkinsmedicine.org/about/governance> (last visited Feb. 7, 2017).

Washington D.C. metro area.²⁰ JHM and All Children's Hospital received approval from the ACGME to establish a pediatric residency program at All Children's Hospital July 1, 2013, and the first class of resident physicians entered the program in July 2014.²¹

Temporary Certificates for Visiting Physicians

The DOH is authorized to issue temporary certificates to physicians who are not licensed in Florida for limited privileges for educational purposes, to help teach plastic surgery or other medical or surgical procedures to residents; or residents who are part of a training program at a teaching hospital. Temporary certificates may also be issued to out-of-state and foreign physicians for educational purposes to educate residents within this state in conjunction with a nationally sponsored educational symposium or an educational symposium held by a state medical school or teaching hospital.²²

The DOH grants temporary certificates to physicians for up to five days per year. Each certificate expires one year after issuance and the DOH may not issue more than 12 temporary certificates for a single educational symposium.

The organization sponsoring the educational symposium must pay for any medical judgments incurred by a physician receiving a certificate pursuant to this law if the physician is not licensed to practice medicine in the U.S. The sponsoring organization may demonstrate its ability to meet this requirement by obtaining a surety bond, establishing a certificate of deposit or a guaranteed letter of credit, or providing proof that the physician is covered under a teaching hospital's or medical school's medical malpractice insurance. The amount of the bond, certificate of deposit, or guaranteed letter of credit must be at least \$250,000.

Applicants for a temporary medical certificate must meet all of the following:

- Be a graduate of an LCME accredited medical school, or its equivalent, or a graduate of a foreign medical school listed with the World Health Organization;
- Hold a valid, unencumbered license to practice medicine in another state or country;

²⁰ Johns Hopkins Medicine, News and Publications, *All Children's Hospital Announces New Pediatric Residency Program*, (July 31, 2012) available at http://www.hopkinsmedicine.org/news/media/releases/all_childrens_hospital_announces_new_pediatic_residency_program, (last visited Feb. 7, 2017). The JHM system offers patient care at the following six hospitals and other medical facilities:

- The Johns Hopkins Hospital, Baltimore, MD (including Brady Urological Institute, Johns Hopkins Children's Center, Kimmel Comprehensive Cancer Center and Wilmer Eye Institute);
- Johns Hopkins Bayview Medical Center, Inc., Baltimore, MD;
- Howard County General Hospital, Columbia, MD;
- Sibley Memorial Hospital, D.C.;
- Suburban Hospital, Bethesda, MD;
- The Johns Hopkins All Children's Hospital in St. Petersburg, FL;
- Johns Hopkins Community Physicians, MD and D.C.;
- The Johns Hopkins Home Care Group, MD and D.C.;
- Johns Hopkins Medicine International; and
- The Johns Hopkins University School of Medicine, Baltimore, MD.

See Johns Hopkins Medicine, *Patient Care Locations* http://www.hopkinsmedicine.org/patient_care/hospital_locations.html, (last visited March 31, 2017).

²¹ See footnote 22.

²² Section 458.3137, F.S.

- Be a recognized expert in a specific area of plastic surgery or another field of medicine or surgery, as demonstrated by peer-reviewed publications, invited lectureships, and academic affiliations;
- Have completed an application form adopted by the board and remitted an application fee;
- Have not committed an act in this or any other jurisdiction that would constitute a basis for disciplining a physician; and
- Meet the financial responsibility requirements.

Medical Assistants

A medical assistant is a professional, multi-skilled person that assists in all aspects of a medical practice under the direct supervision and responsibility of a physician.²³ There are no formal educational requirements for becoming a medical assistant in most states, including Florida.²⁴ However, medical assistant education programs are available from community colleges, vocational schools, technical schools, and universities and usually take about one year to complete.²⁵ Florida is third in the United States in the number of medical assistants employed, with 50,550.²⁶

A medical assistant assists with patient care management, executes administrative and clinical procedures, and often performs managerial and supervisory functions. In Florida, a medical assistant may perform the following duties under the direct supervision of a physician:²⁷

- Clinical procedures, including:
 - Performing aseptic procedures;
 - Taking vital signs;
 - Preparing patients for physician care;
 - Performing venipunctures and nonintravenous injections; and
 - Observing and reporting patients' signs and symptoms;
- Administering basic first aid;
- Assisting with patient examinations or treatments;
- Operating office medical equipment;
- Collecting routine laboratory specimens as directed by the physician;
- Administering medication as directed by the physician;
- Performing basic laboratory procedures;
- Performing office procedures including general administrative duties required by the physician; and
- Performing dialysis procedures, including home dialysis.

Medical assistants are not required to be licensed, certified, or registered to practice in Florida.²⁸

²³ Section 458.3485(1), F.S.

²⁴ United States Department of Labor, *Occupational Outlook Handbook: Medical Assistants*, (Dec. 17, 2015), available at <https://www.bls.gov/ooh/healthcare/medical-assistants.htm#tab-4> (last visited April 4, 2017).

²⁵ *Id.*

²⁶ United States Department of Labor, Bureau Labor Statistics, *Occupational Employment and Wages, May 2016*, <https://www.bls.gov/oes/current/oes319092.htm#st>, last visited April 4, 2017.

²⁷ Section 458.3485(2), F.S.

²⁸ Florida Department of Health, *Licensing and Regulation*, <http://www.floridahealth.gov/licensing-and-regulation/index.html> (last visited April 4, 2017).

The Agency for Health Care Administration is required to prescribe minimum qualifications for multiphasic health testing center²⁹ (center) personnel.³⁰ A center may employ as a medical assistant a person who has at least one of the following qualifications:³¹

- Prior experience of not less than 6 months as a medical assistant in the office of a licensed medical doctor or osteopathic physician or in a hospital, an ambulatory surgical center, a home health agency, or a health maintenance organization.
- Certification and registration by the American Medical Technologists Association or other similar professional association approved by the agency.
- Prior employment as a medical assistant in a licensed center for at least 6 consecutive months at some time during the preceding 2 years.

III. Effect of Proposed Changes:

CS/CS/SB 496 expands the criteria under which the DOH may issue medical faculty certificates to practice medicine in Florida to include out-of-state licensed physicians who have been offered, and accepted, a full time faculty position at a specialty-licensed children's hospital affiliated with any accredited medical school, and its affiliated clinics or teaching hospitals. A medical faculty certificate, issued by DOH under current s. 458.3145, F.S., authorizes the holder to practice only in conjunction with his or her medical school faculty position at its affiliated clinics and teaching hospitals in the state.

The bill corrects the name of the Mayo Clinic College of Medicine and Science in Jacksonville, Florida, and adds to the list of Florida medical schools, a Florida hospital, Johns Hopkin All Children's Hospital in St. Petersburg, Florida, which is currently not a Florida medical school, or affiliated with a Florida medical school, but a specialty children's teaching hospital affiliated with an out-of-state accredited medical school. This bill would allow a physician to practice medicine in Florida at that hospital, without obtaining a Florida medical license, if the physician meets the criteria of s. 458.3145(1)(a)-(h), F.S., and has been offered, and accepted, a full time faculty appointment at All Children's Hospital in St. Petersburg, Florida.

The bill applies the cap of 30 medical faculty certificates that may be extended at each institution to All Children's Hospital.

The bill authorizes the DOH to process applications for temporary certificates under s. 458.3137, F.S., for visiting foreign physicians, who are recognized experts in their field, to enable them to provide educational opportunities to the state's medical residents even though the physician does not have a social security number but otherwise meets the credentialing criteria. The bill also authorizes a teaching hospital to directly sponsor the visiting physician without going through a medical school to extend the invitation and submit the application or supporting documentation to the DOH. This will improve efficiencies for the teaching hospital and medical school.

²⁹ A multiphasic health testing center is a fixed or mobile facility where specimens are taken from the human body for delivery to registered clinical laboratories for analysis and where certain measurements such as height and weight determinations, blood pressure determinations, limited audio and visual tests, and electrocardiograms are made. Section 483.288, F.S.

³⁰ Section 483.291(7), F.S.

³¹ *Id.*

The bill also includes provisions related to medical assistants. Specifically, the bill:

- Requires that a medical assistant, in order to earn a credential as a certified medical assistant, must obtain certification from a certification program accredited by the National Commission for Certifying Agencies (NCCA).
- Revises qualifications for employment as a medical assistant in a multiphasic health testing center to authorize such center to employ a medical assistant who has a certificate from a certification program accredited by the NCCA and approved by the Agency for Health Care Administration (AHCA). Additionally, the bill deletes the certification and registration by the American Medical Technologists Association or other similar professional association approved by AHCA as a way to meet the minimum qualifications for medical assistants to work at a multiphasic health testing center.

The effective date of the bill is July 1, 2017.

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:

All Children's Hospital may be able to enhance its medical faculty by enabling non-Florida licensed physicians, who are equally qualified to both teach and practice medicine in conjunction with a faculty position.

C. Government Sector Impact:

CS/CS/SB 496 may increase the number of medical faculty certificates and temporary certificates applied for in the state and may create an additional, although minimal, expense for the DOH.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. None. Statutes Affected:

CS/CS/SB 496 substantially amends the following sections of the Florida Statutes: 456.013, 458.3137, 458.3145, 458.3485, and 483.291.

IX. Additional Information:

- A. **Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS/CS by Education on April 4, 2017:

The committee substitute:

- Corrects the name of the Mayo Clinic College of Medicine and Science in Jacksonville, Florida.
- Adds provisions relating to medical assistants. Specifically, the committee substitute:
 - Requires that a medical assistant, in order to earn a credential as a certified medical assistant, must obtain certification from a certification program accredited by the National Commission for Certifying Agencies (NCCA).
 - Revises qualifications for employment as a medical assistant in a multiphasic health testing center to authorize such center to employ a medical assistant who has a certificate from a certification program accredited by the NCCA and approved by the Agency for Health Care Administration.

CS by Health Policy on March 14, 2017:

The CS authorizes the DOH to process applications for temporary certificates for visiting foreign physicians, to enable them to provide educational opportunities to the state's medical residents even though they do not have a social security number but otherwise meet the credentialing criteria. It also authorizes teaching hospitals to sponsor the visiting physician directly, without going through the medical school.

- B. **Amendments:**

None.