

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 Health Policy

BILL: CS/SB 1486

INTRODUCER: Health Policy Committee and Senator Grimsley

SUBJECT: Department of Health

DATE: February 1, 2018

REVISED: _____

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|------------------------|----------------|-----------|---------------|
| 1. | Rossitto-Van Winkle | Stovall | HP | Fav/CS |
| 2. | _____ | _____ | AP | _____ |
| 3. | _____ | _____ | RC | _____ |

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1486 updates numerous provisions relating to healthcare practitioners and facilities regulated by the Department of Health (DOH), Division of Medical Quality Assurance. More specifically, the bill:

- Authorizes rulemaking for the selection of physicians under the Conrad 30 Waiver Program;
- Requires the date-of-birth for health care professional licensure applications;
- Allows active duty spouses expedited licensure for dentistry;
- Repeals the requirement that the Board of Medicine (BOM) conduct a review of organizations that board certify physicians in dermatology;
- Defines a contact classroom hour for chiropractic continuing education (CE) and authorizes 10 hours of online general credit CE;
- Deregulates registered chiropractic assistants;
- Grants rulemaking authority to the Board of Nursing (BON) to establish standards of care, including discipline and standards of care for certified nursing assistants (CNA);
- Recognizes CNA certification in a territory or the District of Columbia for certification in Florida and eliminates the element of intent for violations of practice laws for CNAs;
- Requires an institutional, nuclear, special, or internet pharmacy to pass a DOH on-site inspection before licensure;
- Establishes in statute licensure of in-state sterile compounding pharmacies;
- Removes the requirement for Florida dentists and dental hygienists to grade dental and dental hygienist licensure examinations;
- Requires dentists to report adverse incidents;

- Expands the definition of dental laboratory to include a person who provides onsite consultation during dental procedures;
- Requires dental labs to be inspected at least biennially;
- Restricts an athletic trainer to working within his or her scope of practice;
- Requires athletic trainers to maintain certification in good standing without lapse;
- Requires supervision of athletic training students to be in accordance with board rules rather than an external entity's standards;
- Authorizes a joint (or dual) registration for orthotics and prosthetics residency and provides a licensure pathway for a joint educational program;
- Eliminates the massage therapy apprenticeship program, except for the study of colonic irrigation; clarifies that the massage therapist licensure examination is a national examination approved by the board; and expands circumstances for revocation, or denial of initial licensure, of a massage establishment license;
- Eliminates outdated language, clarifies education accreditation requirements, and streamlines licensure by endorsement requirements for psychology licensure; and
- Clarifies, streamlines, and corrects inconsistencies in provisions regulating the licensure of marriage and family therapy, mental health counseling, and clinical social work; and
- Requires applicants for licensure as a mental health counselor to have a master's degree that is accredited by the CACREP, beginning July 1, 2024.

II. Present Situation:

The Conrad 30 Program

The Conrad 30 Program, authorized by the United States Department of State (USDOS), and the United States Immigration and Customs Enforcement (USCIS), addresses the shortage of qualified doctors in medically underserved areas. The program allows medical doctors holding a J-1 Visa to apply for a waiver of the two-year residence requirement upon completion of the J-1 Visa exchange visitor program under s. 214(l), Immigration Nationality Act (INA).

State public health agencies are authorized to sponsor up to 30 physicians annually to serve in a designated U.S. Department of Health and Human Services (HHS) Health Professional Shortage Area (HPSA), Medically Underserved Area (MUA), or Medically Underserved Population (MUP). The program requires all medical doctors holding J-1 Visas who wish to participate in a Conrad 30 Program to:

- Agree to be employed full-time in H-1B nonimmigrant status at a health care facility located in an area designated by the HHS, as a HPSA, MUA, or MUP;
- Obtain a contract from the health care facility located in an area designated by HHS, as an HPSA, MUA, or MUP;
- Obtain a "no objection" letter from his or her home country if the home government funded his or her exchange program; and
- Agree to begin employment at the health care facility within 90 days of receipt of the waiver, not the date his or her J-1 visa expires.

The DOH has administered the Conrad 30 Waiver Program since 1994. In recent years, the number of applicants has exceeded the maximum number of 30 slots allowed by the program.

The DOH does not have rule-making authority to establish additional criteria for selecting Conrad 30 applicants for sponsorship, thereby limiting the DOH's ability to place qualified physicians in areas of highest need.¹

The DOH General Licensing Authority

The DOH's general licensing provisions, set out in s. 456.013, F.S., require every applicant for licensure to apply to the DOH before sitting for a licensure examination. This requirement was initially imposed when the DOH developed and administered its own examinations. A strict statutory interpretation of this section requires an applicant, even those who have already passed the licensure examination before applying for a license, to take the examination after applying to the DOH for licensure.

Section 456.017, F.S., was amended in 2005, to provide that neither the board nor the DOH could administer a state-developed written examination if a national examination has been certified by the DOH. All Florida developed examinations have ceased. National examinations have been certified, and thus, the requirement for applying to the DOH to take the examination has become obsolete.²

Section 456.031, F.S., also requires all applications for licensure to be submitted to DOH on a form that may be submitted electronically. The provision requires the applicant's social security number (SSN). There is no current statutory requirement that an applicant provide a date of birth, although a birth date is a requirement to fulfill other statutory licensure requirements under ss. 456.039 and 456.0135, F.S, for fingerprinting, and fingerprint retention by the Agency for Health Care Administration (AHCA) and Provider Background Screening Clearinghouse.

According to the DOH, the Joint Administrative Procedures Committee (JAPC) has objected to applications for licensure that contained a data field for the applicant's date of birth, alleging that the DOH has no statutory authority to ask for a date of birth. To ensure accurate matches through the Florida Department of Law Enforcement (FDLE), the Federal Bureau of Investigation (FBI) and the Sex Offender Registry (SOR), the DOH must have available three identifiers: the name, social security number, and date of birth.³

United States Members of the Armed Forces, Spouses, and Florida Licensure

Section 456.024, F.S., relate to members of the United State (U.S.) Armed Forces, their spouses, and licensure in the DOH regulated professions. Among other things, s. 456.024, F.S., grants licensure to the spouse of a person serving on active duty in the U.S. Armed Forces who is a health care practitioner in another state, District of Columbia, U.S. territory, or possession, excluding dentistry, for which licensure in the other state or jurisdiction is not required, if he or she submits to the DOH evidence of training or experience substantially equivalent to the requirements for licensure in Florida, and evidence that he or she has obtained a passing score on the appropriate examination of a national or regional standards organization, if required for

¹ Florida Department of Health, *House Bill 1047 Analysis* (December 19, 2017) (on file with the Senate Committee on Health Policy).

² *Id.*

³ *Id.*

licensure in Florida. Since this section was amended, the DOH has issued 254 expedited licenses to military spouses.⁴

Section 456.024, F.S., also grants the DOH authority to issue a temporary professional license to the spouse of an active duty U.S. Armed Forces member who submits a completed application with proof of the following:

- The applicant is married to an active duty U.S. Armed Forces member, on active duty Florida;
- The applicant is not the subject of disciplinary action;
- A valid license issued by another state, the District of Columbia, a U.S. possession or territory;
- The applicant would otherwise be entitled to full licensure under the appropriate practice act;
- The applicant is eligible to take the appropriate license examination; and
- Fingerprints for a criminal background check.⁵

A temporary license expires 12 months after the date of issuance and is not renewable. The DOH has issued 99 temporary licenses since 2011.⁶

In the case of dentists only, the application for a temporary license requires a dentist to meet all requirements for full licensure,⁷ and the individual must practice under the indirect supervision of a Florida licensed dentist.

According to the DOH, the Board of Dentistry office has determined that to-date, only three temporary dentist licenses have been issued under this section; and many dentists opt to apply for full licensure rather than apply for a temporary license, and meet all of the requirements for full licensure.⁸

Medical Specialists

A physician licensed under ch. 458, F.S., may not hold himself or herself out as a board-certified specialist unless the physician has received formal recognition as a specialist from a specialty board of the American Board of Medical Specialties or other recognizing agency that has been approved by the board. A physician may not hold himself or herself out as a board-certified specialist in dermatology unless the recognizing agency, whether authorized in statute or by rule, is triennially reviewed and reauthorized by the Board of Medicine.

Chiropractic Continuing Education

“Practice of chiropractic medicine” is a non-combative principle and practice consisting of the science, philosophy, and art of the adjustment, manipulation, and treatment of the human body in which vertebral subluxations and other mal-positioned articulations and structures that are interfering with the normal generation, transmission, and expression of nerve impulse between

⁴ *Id.*

⁵ Section 456,024(3)(a), F.S.

⁶ *See supra* note 1.

⁷ *See* ch. 466, F.S.

⁸ *See supra* note 1.

the brain, organs, and tissue cells of the body. . .are adjusted, manipulated, or treated, thus restoring the normal flow of nerve impulse which produces normal function and health using specific chiropractic adjustment or manipulation techniques taught in chiropractic colleges accredited by the Council on Chiropractic Education.⁹

Florida Chiropractic licenses are renewable every two years. The Board of Chiropractic Medicine requires 40 in person CE hours every biennial license renewal, and those hours must include:

- 27 General hours;
- 6 hours -Documentation & Coding;
- 2 hours - Medical Errors;
- 2 hours Ethics;
- 2 hours Florida Laws & Rules; and
- 1 hour Risk Management.

Registered Chiropractic Assistants

Registered Chiropractic Assistants (RCAs) perform duties not directly related to chiropractic patient care under the direct supervision of a chiropractic physician or chiropractic physician's assistant. There are no regulatory provisions associated with the work of an RCA. The registration is voluntary and not required for an individual to assist with patient care management activities, execute administrative and clinical procedures, or perform managerial and supervisory functions in the office.¹⁰ According to the DOH, in fiscal year 2016-2017, there were 3,800 active in-state RCAs.¹¹

Board of Nursing Rulemaking Authority to Establish Standards of Care

The Legislature has granted the BON rulemaking authority in a number of areas:

- To establish guidelines for remedial courses for those who fail the nursing examination three times;¹²
- To administer certification of clinical nurse specialists;¹³
- To administer the certification of advanced registered nurse practitioners, including the appropriate requirements for advanced registered nurse practitioners in the categories of certified registered nurse anesthetists, certified nurse midwives, and nurse practitioners;¹⁴
- To establish a procedure for the biennial renewal of licenses and to prescribe continuing education requirements for renewal of licenses;¹⁵
- To provide application procedures for inactive status, for the biennial renewal of inactive licenses, and for the reactivation of licenses, including applicable fees;¹⁶ and

⁹ Section 460.403(9), F.S.

¹⁰ Section 460.4166, F.S.

¹¹ *Supra* note 1.

¹² Section 464.008, F.S.

¹³ Section 464.0115, F.S.

¹⁴ Section 464.012, F.S.

¹⁵ Section 464.013, F.S.

¹⁶ Section 464.014, F.S.

- To establish disciplinary guidelines.¹⁷

The Legislature did not expressly grant rulemaking authority to the board to promulgate nursing standards of care.¹⁸ The authority to define the scope of practice for nurses is noticeably absent from s. 464.018, F.S.; and s. 456.003(6), F.S., which expressly limits the ability of the DOH boards to modify or contravene the lawful scope of practice of a regulated profession.

From 2003 through 2012, the BON proposed various rules on nursing standards of practice for conscious sedation and unprofessional conduct, which were ultimately withdrawn after the Joint Administrative Procedures Committee (JAPC) asserted objections. In 2012, the BON proposed yet another rule establishing professional guidelines for the administration of conscious sedation and to update the instances of unprofessional conduct. This 2012 version was met with challenges from various associations and JAPC; and was ultimately challenged at DOAH in case number 121545RP. That decision found that the BON lacked the statutory authority to define nursing “scope of practice” in the Nurse Practice Act. That decision was affirmed by the District Court of Appeal, First District, State of Florida in case numbers 1D12-5656, 1D12-5671, and 1D12-5739 (all related to DOAH 12-1545RP).

The Legislature has granted statutory authority to set standards of practice for professions that are authorized to practice independently, including:

- Allopathic and osteopathic physicians;¹⁹
- Podiatric physicians;²⁰
- Pharmacists;²¹
- Psychotherapists;²²
- Clinical social workers;²³
- Dentists;²⁴
- Optometrists;²⁵ and
- Opticians.²⁶

Certified Nursing Assistants

Section 464.201(5), F.S., defines the practice of a certified nursing assistant as providing care and assisting persons with tasks relating to the activities of daily living. Activities of daily living include tasks associated with: personal care; maintaining mobility; nutrition and hydration;

¹⁷ Section 464.018(5), F.S.

¹⁸ See *Florida Medical Association, Inc.; Florida Osteopathic Medical Association; And Florida Podiatric Medical Association vs. Department Of Health, Board Of Nursing*, DOAH Case No. 12-001545 RP, *Summary Final Order*, Nov. 2, 2012; *affirmed per curium, Department of Health, Board of Nursing, Florida Association of Nurse Anesthetists And Florida Nurses Association, v. Florida Medical Association, Inc., Florida Osteopathic Medical Association, Inc., And Florida Podiatric Medical Association*, Case Nos. 1D12-5656, 1D12-5671, 1D12-5739 (Fla. 1st DCA, Feb. 12, 2014).

¹⁹ Sections 458.331(1)(v) and 459.015(1)(z), F.S.

²⁰ Section 461.003, F.S.

²¹ Sections 465.003(13), and 465.0155, F.S.

²² Section 490.003((4), F.S.

²³ Section 491.003, F.S.

²⁴ Section 466.003(3), F.S.

²⁵ Section 463.005(1)(a), F.S.

²⁶ Section 463.002(7), F.S.

toileting and elimination; assistive devices; safety and cleanliness; data gathering; reporting abnormal signs and symptoms; postmortem care; patient socialization and reality orientation; end-of-life care; cardiopulmonary resuscitation and emergency care; patients' rights; documentation of nursing-assistant services; and other tasks that a CNA may perform after training.²⁷

The BON issues certificates to practice as a certified nursing assistant to any person who demonstrates a minimum competency to read and write, successfully passes the required background screening, and demonstrates:

- Successfully completed an approved training program and achieved a minimum score;
- Has achieved a minimum score, on the nursing assistant competency examination, and:
 - Has a high school diploma, or its equivalent; or
 - Is at least 18 years of age.
- Is currently certified in another state and has not been found to have committed abuse, neglect, or exploitation in that state; and
- Has completed the curriculum developed under the Enterprise Florida Jobs and Education Partnership Grant and achieved a minimum score.²⁸

Section 464.204, F.S., related to denial, suspension or revocation of a CNA certification, sets forth the grounds for the BON to discipline a CNA. Two acts constitute grounds for which the board may impose disciplinary sanctions: (a) Obtaining or attempting to obtain certification or an exemption, or possessing or attempting to possess certification or a letter of exemption, by bribery, misrepresentation, deceit, or through an error of the board; and (b) intentionally violating any provision of ch. 464, F.S., ch. 456, F.S., or the rules adopted by the board. When pursuing discipline against a CNA, the DOH must be prepared to prove that the CNA “intentionally” violated the law or rule, which is a difficult bar to meet, especially in cases of proving intent or negligence.

The BON can only approve applications for licensure by endorsement from currently licensed CNAs in other states. If a CNA from a U.S. territory or the District of Columbia wishes to be licensed in Florida, he or she must apply for licensure by examination instead of endorsement.²⁹

Pharmacy Permits

There are currently seven types of pharmacies eligible for various operating permits issued by the DOH:

- Community pharmacy;³⁰
- Institutional pharmacy;³¹

²⁷ Section 464.201, F.S.

²⁸ Section 464.203, F.S.

²⁹ *Id.*

³⁰ The term “community pharmacy” includes every location where medicinal drugs are compounded, dispensed, stored, or sold or where prescriptions are filled or dispensed on an outpatient basis. *See* ss. 465.003(11)(a)1. and 465.018, F.S.

³¹ *See* ss. 465.003(11)(a)2. and 465.019, F.S.

- Nuclear pharmacy;³²
- Special pharmacy;³³
- Internet pharmacy;³⁴
- Non-resident sterile compounding pharmacy;³⁵ and
- Special sterile compounding pharmacy.³⁶

There is currently no statutory language relating to in-state sterile compounding policies and procedures. Regulation exists in the Board of Pharmacy (BOP) rules governing in-state and nonresident pharmacies and outsourcing facilities which prepare sterile compounded drug products.³⁷

The DOH has authority to inspect any community pharmacy,³⁸ hospital, clinic, wholesale establishment, manufacturer, physician's office, or any other place in the state in which drugs and medical supplies are compounded, manufactured, packed, packaged, made, stored, sold, offered for sale, exposed for sale, or kept for sale for the purpose of:

- Determining if any provision of ch. 465, F.S., or any rule is being violated;
- Securing samples or specimens of any drug or medical supply after paying or offering to pay for such sample or specimen; or
- Securing such other evidence as may be needed for prosecution under ch. 465, F.S.³⁹

Currently, s. 465.018, F.S., requires a pharmacy permit applicant to pass an on-site inspection as a prerequisite for the issuance of any initial permit or change of location for a community pharmacy. Physical inspections are conducted and required for all pharmacies licensed by the BOP to ensure that these facilities are operating pursuant to statutory rules and guidelines and meet minimum requirements for safe practice. Other pharmacy facilities which require inspections are: institutional; nuclear; special; and internet. The BOP also has adopted a rule which provides that the passing of an on-site inspection is a prerequisite to the issuance of a new pharmacy permit for community, institutional, nuclear, special, or internet pharmacies, whether based on an initial application, change of ownership, or change of address.⁴⁰

³² The term "nuclear pharmacy" includes every location where radioactive drugs and chemicals within the classification of medicinal drugs are compounded, dispensed, stored, or sold. The term "nuclear pharmacy" does not include hospitals licensed under chapter 395 or the nuclear medicine facilities of such hospitals. *See* ss. 465.003(11)(a)3. and 465.0193, F.S.

³³ The term "special pharmacy" includes every location where medicinal drugs are compounded, dispensed, stored, or sold if such locations are not otherwise defined in this subsection. *See* ss. 465.003(11)(a)4. and 465.0196, F.S.

³⁴ The term "internet pharmacy" includes locations not otherwise licensed or issued a permit under this chapter, within or outside this state, which use the Internet to communicate with or obtain information from consumers in this state and use such communication or information to fill or refill prescriptions or to dispense, distribute, or otherwise engage in the practice of pharmacy in this state. *See* ss. 465.003(11)(a)5. and 465.0197, F.S.

³⁵ The term "nonresident sterile compounding pharmacy" includes a pharmacy that ships, mails, delivers, or dispenses, in any manner, a compounded sterile product into Florida, a nonresident pharmacy registered under s. 465.0156, or an outsourcing facility, must hold a nonresident sterile compounding permit *See* s. 465.0158, F.S.

³⁶ *See* Rules 64B16-2.100 and 64B16-28.802, F.A.C. An outsourcing facility is considered a pharmacy and needs to hold a special sterile compounding permit if it engages in sterile compounding.

³⁷ *See* Rules 64B16-27.700, 64B16-27.797, 64B16-28.100(7), and 64B16-28.802, F.A.C., govern in-state sterile compounding pharmacies and outsourcing facilities; and Rules 64B16-32.007, 64B16-32.009, 64B16-32.011, 64B16-32.013, and 64B16-32.015, F.A.C., governing nonresident sterile compounding pharmacies and outsourcing facilities.

³⁸ *See supra* note 64.

³⁹ Section 465.017, F.S.

⁴⁰ *See* Rule 64B16-28.100(1)(d), F.A.C.

Dentistry, Dental Hygiene and Dental Laboratories

Licensure Examinations for Dentists and Dental Hygienists

Section 466.004, F.S., establishes the Board of Dentistry (BOD) within the DOH to regulate the practice of dentistry and dental hygiene. The requirements for licensure by examination are found in s. 466.006, F.S. The Legislature authorized the BOD to use the American Dental Licensing Examination (ADLEX), developed by the American Board of Dental Examiners, Inc., in lieu of an independent state-developed practical or clinical examination. Section 466.007, F.S., also requires a dental hygiene applicant to pass the American Dental Hygiene Licensing Examination (ADHEX) developed by the American Board of Dental Examiners, Inc.

Sections 466.006(4)(b), and 466.007(4)(b), F.S., require that the ADEX examination for dentists, and the ADHEX examination for hygienists, be graded by Florida licensed dentists, and dentists and hygienists, respectively, and employed by the DOH for this purpose. This language refers to requirements that were necessary when the ADEX and ADHEX examinations was purchased and administered by the DOH. Since the BOD has now certified national examinations for both dentists and hygienists, this requirement is now obsolete.

According to the DOH, by limiting the grading to Florida-only licensed dentists and hygienists, it created a shortage of dentists and hygienists available to grade the examinations; thus, jeopardizing the administration of the ADEX and the ADHEX.⁴¹

Adverse Incident Reporting in the Practice of Dentistry

Currently there is no statutory requirement for dentists or dental hygienists to report adverse incidents or occurrences in office practice settings. The BOM and BOOM have specific statutory authority to require licensees to report adverse incidents in office practice settings.⁴²

The BOD, by rule, defines an “adverse occurrence”; and specifies the requirements for reporting them. The rule specifies that an adverse occurrence in a dental office must be reported to the BOD within 48 hours, followed by a more specific written report within 30 days. These reports are forwarded to the Chair of the Probable Cause Panel to determine if further investigation is necessary. If further investigation is warranted, the report and recommendation are forwarded to the MQA Consumer Services Unit (CSU) for further investigation. All reported mortalities occurring in a dental office are forwarded to the CSU for investigation. The rule does not provide a penalty for failure to report an adverse occurrence.⁴³ According to the DOH, this lack of penalty for failure to report an adverse occurrence may result in the under reporting of the incidents in the dental office practice setting.⁴⁴

⁴¹ *Supra* note 1.

⁴² Sections 458.351 and 459.026, F.S.

⁴³ Rule 64B5-14.006, F.A.C.,

⁴⁴ *See supra* note 78.

Dental Laboratories

Section 466.031, F.S., defines a *dental laboratory* to include any person, firm, or corporation who, for a fee or gratuitously, manufactures artificial substitutes for natural teeth, or who furnishes, supplies, constructs, reproduces or repairs any prosthetic denture, bridge, or appliance to be worn in the human mouth, or who holds itself out as a dental laboratory. The definition specifically excludes a dental laboratory technician who constructs or repairs dental prosthetic appliances in the office of a licensed dentist, for that dentist only, and under her or his supervision and work order.

Section 466.032, F.S., also sets forth the registration and biennial registration renewal for a dental laboratory; and directs the DOH to issue a certificate upon payment of a fee which entitles the holder to operate a dental laboratory for a period of two years. Section 466.032, F.S., also sets forth the requirements for a periodic inspection of dental laboratories for required equipment and supplies, mandates 18 hours of continuing education, biennially, for the dental lab owner or at least one employee which must be programs of learning that contribute directly to the education of the dental technician; and establishes disciplinary guidelines for violations.

According to the DOH, there are 954 dental labs as of June 30, 2017.⁴⁵ Since 2012, there have been six administrative complaints filed in Florida against dental laboratories; of which four resulted in disciplinary cases. In one case the lab refused an inspection; and the other three were either unsanitary conditions, failure to take continuing education for renewal, or record keeping violations. In that same time period, just four citations were issued for minor violations.⁴⁶

Athletic Trainers

An athletic trainer is defined in part XIII of ch. 468, F.S., as a person licensed under this part. An individual who is licensed as an athletic trainer may not provide, offer to provide, or represent that he or she is qualified to provide any care or services that he or she lacks the education, training, or experience to provide, or that he or she is otherwise prohibited by law from providing.

Section 468.073, F.S., establishes the Board of Athletic Trainers within the DOH to regulate the practice of athletic trainers in Florida. Applicants for licensure as an athletic trainer are required to:

⁴⁵ *Supra* note 1.⁴⁶ *Id.*⁴⁷ The Board of Certification, Inc. (BOC) was incorporated in 1989 as a not-for-profit credentialing agency to provide a certification program for the entry level athletic training profession. The BOC establishes both the standards for the practice of athletic training and the continuing education requirements for BOC Certified Athletic Trainers (ATs). The BOC also works with state regulatory agencies to provide credential information, professional conduct guidelines and regulatory standards on certification issues. The BOC also has the only accredited certification program for ATs in the United States and has mutual recognition agreements with Canada and Ireland. *See* Board of Certification for the Athletic Trainer, *Who is the BOC?* available at <http://www.bocac.org/about-us#what-is-the-boc> (last visited Jan. 25, 2018).

⁴⁶ *Id.*⁴⁷ The Board of Certification, Inc. (BOC) was incorporated in 1989 as a not-for-profit credentialing agency to provide a certification program for the entry level athletic training profession. The BOC establishes both the standards for the practice of athletic training and the continuing education requirements for BOC Certified Athletic Trainers (ATs). The BOC also works with state regulatory agencies to provide credential information, professional conduct guidelines and regulatory standards on certification issues. The BOC also has the only accredited certification program for ATs in the United States and has mutual recognition agreements with Canada and Ireland. *See* Board of Certification for the Athletic Trainer, *Who is the BOC?* available at <http://www.bocac.org/about-us#what-is-the-boc> (last visited Jan. 25, 2018).

- Submit to a background screening;
- Have a baccalaureate or higher degree from a college or university in professional athletic training, accredited by the Commission on Accreditation of Athletic Training Education and to have passed the national examination to be certified by the Board of Certification (BOC)⁴⁷ for Athletic Trainers;
- Have a current certification from the BOC, if they graduated before 2004.⁴⁸
- Have current certifications in cardiopulmonary resuscitation (CPR) and the use of an automated external defibrillator (AED).

An athletic trainer must practice under the direction of a physician licensed under chs. 458, 459, or 460, F.S., or otherwise authorized by Florida law to practice medicine. The physician must communicate his or her direction through oral or written prescriptions or protocols for the provision of services and care by the athletic trainer; and the athletic trainer must provide service or care as dictated by the physician.⁴⁹

The Board of Athletic trainers is authorized to adopt rules to implement the provisions of part XIII, ch. 468, F.S. Such rules must include, but are not limited to:

- The allowable scope of practice regarding the use of:
 - Equipment;
 - Procedures; and
 - Medication;
- Mandatory requirements and guidelines for communication between the athletic trainer and a physician, including the reporting to the physician of new or recurring injuries or conditions;
- Licensure requirements;
- Licensure examination;
- Continuing education requirements;
- Fees;
- Records and reports to be filed by licensees;
- Protocols; and
- Any other requirements necessary to regulate the practice of athletic training.⁵⁰

At renewal licensed athletic trainers must demonstrate a current BOC certification; however, there is no requirement for that certification to be held without lapse and in good standing.⁵¹

⁴⁷ The Board of Certification, Inc. (BOC) was incorporated in 1989 as a not-for-profit credentialing agency to provide a certification program for the entry level athletic training profession. The BOC establishes both the standards for the practice of athletic training and the continuing education requirements for BOC Certified Athletic Trainers (ATs). The BOC also works with state regulatory agencies to provide credential information, professional conduct guidelines and regulatory standards on certification issues. The BOC also has the only accredited certification program for ATs in the United States and has mutual recognition agreements with Canada and Ireland. *See* Board of Certification for the Athletic Trainer, *Who is the BOC? available at* <http://www.bocatc.org/about-us#what-is-the-boc> (last visited Jan. 25, 2018).

⁴⁸ Prior to 2004, and the inception of athletic training programs, athletic trainers obtained training through a Board of Certification (BOC) internship program to obtain licensure in Florida. Current law does not allow athletic trainers who obtained training through the BOC internship program to become licensed in Florida.

⁴⁹ Section 468.713, F.S.

⁵⁰ Section 468.705, F.S.

⁵¹ Section 468.711, F.S.

Orthotics, Prosthetics, and Pedorthics

Section 468.801, F.S., establishes the Board of Orthotists and Prosthetists within the DOH to regulate and license the practice of Prosthetist-Orthotist, Prosthetist, Orthotist, Pedorthist, Orthotic Fitter and Orthotic Fitter Assistant in Florida. *Orthotics* means the practice of evaluating, treatment formulating, measuring, designing, fabricating, assembling, fitting, adjusting, servicing, or providing the initial training necessary to accomplish the fitting of an orthosis or pedorthic device.⁵² *Prosthetics* means the practice of evaluating, treatment formulating, measuring, designing, fabricating, assembling, fitting, adjusting, servicing, or providing the initial training necessary to accomplish the fitting of a prosthesis.⁵³ *Pedorthics* means the practice of evaluating, treatment formulating, measuring, designing, fabricating, assembling, fitting, adjusting, servicing, or providing the initial training necessary to accomplish the fitting of a pedorthic device.⁵⁴

Applicants for licensure under part XIV, ch. 468, F.S., must:

- Submit an application and fee, not to exceed \$500,
- Submit fingerprints for background screening;
- Submit the cost of the state and national criminal background checks;
- Be of good moral character;
- Be 18 years of age or older; and
- Have completed the appropriate educational preparation requirements.⁵⁵

Licenses must be granted independently in orthotics, prosthetics, or pedorthics, but a person may be licensed in more than one discipline. A prosthetist-orthotist license may be granted to persons meeting the requirements for both a prosthetist and an orthotist license. Persons seeking to obtain the required orthotics or prosthetics experience in the state must be approved by the board and registered as a resident by the DOH. A registration may be held in both practice fields, but the board may not approve a second registration until at least one year after the issuance of the first registration.⁵⁶ Currently a dual registration is not authorized.

Massage Therapy

Section 480.035, F.S., establishes the Board of Massage Therapy within the DOH to license and regulate the practice of massage therapy in Florida. Individuals seeking an initial massage therapy license in Florida have two options for meeting the educational requirements:

- They may attend an approved program at a massage therapy school, completing 500 hours of classroom training; or
- They can apprentice under a licensed massage therapist for a period of one year. During that year, the sponsor of the massage apprentice is required to file quarterly reports and the apprentice must complete the following course of study:
 - 300 hours of Physiology;

⁵² Section 468.80(9), F.S.

⁵³ Section 468.80(15), F.S.

⁵⁴ Section 468.80(12), F.S.

⁵⁵ Section 468.803, F.S.

⁵⁶ *Id.*

- 300 hours of Anatomy;
- 20 hours of Theory and History of Massage;
- 50 hours of Theory and Practice of Hydro-Therapy;
- 5 hours of Hygiene;
- 25 hours of Statutes and Rules of Massage Practice;
- 50 hours of Introduction to Allied Modalities;
- 700 hours of Practical Massage; and
- 3 hours of Board-approved HIV/AIDS instruction.⁵⁷

Any person may obtain a license to practice as a massage therapist if he or she:

- Submits an application and fee;
- Is at least 18 years of age;
- Has received a high school diploma or high school equivalency diploma;
- Submits to background screening;
- Has completed a course of study at a board-approved massage school or has completed an apprenticeship program that meets standards adopted by the board;
- Has received a passing grade on an examination administered by the DOH.⁵⁸

Rule 64B7-25.001(2), F.A.C., lists five national exams which are approved by the board. The exam currently taken by applicants is the National Examination for State Licensure option administered by the National Certification Board for Therapeutic Massage and Bodywork. The DOH does not offer or administer a specific state licensure exam.⁵⁹ According to the DOH, there are 172 licensed massage schools in Florida, which train 2,076 new licensees by examination licensed in the 2016-2017 fiscal year. Of those, only 15 came through the Florida apprenticeship program.

In addition to massage therapists, the Board of Massage Therapy also licenses apprentices in colonic hydrotherapy.⁶⁰ These individuals are either attending a massage therapy school that does not offer colonics; or are licensed massage therapists who are seeking to add colonic hydrotherapy to their practice. Since there are few schools in the state that offer a colonic hydrotherapy program, apprenticeships are the primary method of training for this service.⁶¹ According to the DOH, there are 87 currently licensed massage apprentices apprenticing for a colonic hydrotherapy upgrade to their license.⁶²

The Board of Massage Therapy also licenses massage establishments and under s. 480.046(3), F.S. The board is authorized to revoke or suspend the license of an establishment upon proof that the license was obtained through fraud or misrepresentation, or upon proof of fraud, deceit, gross negligence, incompetency, or misconduct in the operation of the establishment. The board may deny the subsequent licensure of such an establishment if they reapply using the same business name. However, the board is not authorized to deny the same owner a license under a new name,

⁵⁷ Rule 64B7-29.003, F.A.C.

⁵⁸ Section 480.041, F.S.

⁵⁹ *Id.*

⁶⁰ *Colonic hydrotherapy* is a method of colon irrigation used to cleanse the colon with the aid of a mechanical device and water. See s. 480.033(6), F.S.

⁶¹ Rule 64B7-29.007, F.A.C.

⁶² *Supra* note 1.

or as a different business entity type, even if it is being opened at the same location with the same employees. Additionally, the board has no specific authority to act against a massage establishment's license even if the owner and employees, while onsite, have been convicted of prostitution and related acts.

The Practice of Psychology

Section 490.004, F.S., creates the Board of Psychology within the DOH to license and regulate the practice of psychologists in Florida. The practice of psychology is defined as the observations, description, evaluation, interpretation, and modification of human behavior, by the use of scientific and applied psychological principles, methods, and procedures, for the purpose of describing, preventing, alleviating, or eliminating symptomatic, maladaptive, or undesired behavior and of enhancing interpersonal behavioral health and mental or psychological health.⁶³

Licensure as a psychologist under ch. 490, F.S., requires a doctoral degree in psychology from an educational institution, which at the time the applicant was enrolled and graduated, held institutional accreditation from an approved agency and programmatic accreditation from the American Psychological Association (APA).

Section 490.003(3)(a), F.S., refers to educational requirements in effect prior to July 1, 1999, and are no longer applicable. The outdated language could create confusion among applicants as to the current educational requirements, which are correctly defined in s. 490.003(3)(b), F.S. Section 490.003(3)(b), F.S., generically refers to programs approved and recognized by the U.S. Department of Education. The only accrediting agency recognized by the United States Department of Education to provide programmatic accreditation for doctoral psychology programs is the American Psychological Association (APA).

Section 490.005, F.S., also refers to requirements in effect prior to July 1, 1999, which are no longer applicable to augment a deficient education or show comparability to the current educational requirements. This section also includes an outdated reference to the American Psychological Association accrediting programs in Canada. Currently, a Canadian graduate cannot show comparability to an APA accredited program.

Section 490.005(2)(b)1., F.S., refers to school psychology applicants graduating from a college or university accredited and approved by the Commission on Recognition of Postsecondary Accreditation; however, the correct reference is to the Council for Higher Education Accreditation.

Section 490.006, F.S., related to licensure in Florida as a psychologist by endorsement, requires specific education, and a license in another jurisdiction, provided that when the applicant secured such license or certificate, the requirements were substantially equivalent to or more stringent than those set forth in ch. 490, F.S., at that time; and, if no Florida law existed at that time, then the requirements in the other state must have been substantially equivalent to or more stringent than those set forth in ch. 490, F.S., at the present time. Further, the applicant must have 20 years of experience as a licensed psychologist in any jurisdiction or territory of the United States

⁶³ Section 490.003(4), F.S.

within the 25 years preceding the date of application. Obtaining licensure under the current endorsement standards may be difficult as it requires a law-to-law comparison and applicants who otherwise might qualify for licensure may be denied; or have licensure delayed until they select a different application method.

Clinical Social Work, Marriage and Family Therapy, and Mental Health Counseling

Section 491.004, F.S., creates the Board of Clinical Social Work, Marriage & Family Therapy and Mental Health Counseling within the DOH to ensure that every clinical social worker, marriage and family therapist, and mental health counselor practicing in this state meets minimum requirements for safe practice. The Florida Board of Clinical Social Work, Marriage & Family Therapy and Mental Health Counseling is responsible for licensing, monitoring, disciplining and educating clinical social workers, marriage and family therapists, and mental health counselors to assure competency and safety to practice in Florida.

Section 491.005, F.S., sets out the educational and examination requirements for a clinical social worker, marriage and family therapist, and mental health counselor to obtain a license by examination in Florida. An individual applying for licensure by examination who has satisfied the clinical experience requirements s. 491.005, F.S. or an individual applying for licensure by endorsement pursuant to s. 491.006, F.S., intending to provide clinical social work, marriage and family therapy, or mental health counseling services in Florida, while satisfying coursework or examination requirements for licensure must obtain a provisional license in the profession for which he or she is seeking licensure prior to beginning practice.⁶⁴

An individual who has not satisfied the postgraduate or post-master's level experience requirements of s. 491.005, F.S., must register as an intern in the profession for which he or she is seeking licensure before commencing the post-master's experience requirement. An individual who intends to satisfy part of the required graduate-level practicum, internship, or field experience, outside the academic arena for any profession, must register as an intern in the profession for which he or she is seeking licensure before commencing the practicum, internship, or field experience.⁶⁵

Section 491.0045(6), F.S., specifies the length of time an intern registration for clinical social work, marriage and family therapy and mental health counseling is valid. A footnote to this section, points out that through multiple amendatory acts to s. 491.0045(6), F.S., during the same legislative session, two irreconcilable versions of the section were created, and the editors were thus required to publish both versions of the amended provision.

Section 491.0045(6), F.S., states: "An intern registration issued on or before March 31, 2017, expires March 31, 2022, and may not be renewed or reissued. A registration issued after March 31, 2017, expires 60 months after the date of issuance. No subsequent intern registration may be issued unless the candidate has passed the theory and practice examination described in s. 491.005(1)(d), (3)(d), and (4)(d)." The footnote refers to an April 1 date.

⁶⁴ Section 491.046, F.S.

⁶⁵ Section 491.0045, F.S.

Section 491.005(3)(b), F.S., related licensure by examination for marriage and family therapists, requires:

- A master's degree with major emphasis in marriage and family therapy, or a closely related field;
- Specific coursework in 12 content areas; and
- A practicum, internship or field experience of 180 hours providing direct client contact hours of marriage and family services under the supervision of a licensed marriage and family therapist with at least five years of experience.

According to the DOH, the specific course work requirement must be an exact match and may delay an applicant's licensure.⁶⁶

Section 491.005(3)(c), F.S., contains an inconsistency as it requires both two years, and three years of clinical experience, for a marriage and family therapy licensure applicant. According to the DOH the three years of clinical experience was a technical error and is inconsistent with other statutory requirements. Only two years of clinical experience for a marriage and family therapy applicant is required.⁶⁷

Section 491.005(4), F.S., related licensure by examination for mental health counselors, names the Professional Examination Service for the National Academy of Certified Clinical Mental Health Counselors as the required examination for a mental health counselor. The correct name of the examination required for licensure as a mental health counselor is the National Clinical Mental Health Counseling Examination. The examination was developed, and is administered by, the National Board for Certified Counselors.

Section 491.005(4), F.S., also contains a 300-hour difference between the hours of practicum, internship or field experience required for graduates from a Council for Accreditation of Counseling & Related Educational Programs (CACREP) and non-CACREP graduates. A mental health counselor applicant who graduated from a program not accredited by CACREP is currently required to complete 1,000 hours of practicum, internship, or field experience. An MHC applicant who graduated from a CACREP accredited program is required to meet the CACREP standards to complete 700 hours of practicum/internship.

Section 491.006, F.S., licensure or certification by endorsement, requires an applicant for licensure by endorsement in the practice of clinical social work, marriage and family therapy, or mental health counseling to demonstrate to the board that he or she:

- Has knowledge of the laws and rules governing the practice of clinical social work, marriage and family therapy, and mental health counseling;
- Holds an active valid license to practice, and has actively practiced the profession for which licensure is applied in another state for three of the last five years immediately preceding licensure;
- Meets the education requirements of the ch. 491, F.S., for the profession for which licensure is applied;

⁶⁶ *Supra* note 1.

⁶⁷ *Id.*

- Has passed a substantially equivalent licensing examination in another state, or has passed the licensure examination in this state in the profession for which the applicant seeks licensure;
- Holds a license in good standing;
- Is not under investigation for an act that would constitute a violation of ch. 491, F.S.; and
- Has not been found to have committed any act that would constitute a violation of ch. 491, F.S.

For an applicant for licensure by endorsement under ch. 491, F.S., to satisfy the education requirements of s. 491.005, F.S., specific particular course work, rather than a degree from an accredited school or college, or proof of licensure in another state is required. The endorsement applicant must show proof they completed certain statutorily specified courses, which may not have been available at the time he or she graduated. The current law places barriers to licensure on endorsement applicants by requiring many of them to complete additional courses, often difficult to obtain when the application is a not full-time graduate student, to qualify for licensure in Florida.

Section 491.007(3), F.S., provides for the renewal of a license, registration, or certificate for clinical social workers, marriage and family therapists, and mental health counselors; and gives the Board of Clinical Social Work, Marriage and Family Therapy, and Mental Health Counseling rulemaking authority to prescribe the requirements for renewal of an intern registration. Section 491.0045(6), F.S., now addresses renewal of an intern registration, rulemaking authority is no longer necessary.

Section 491.009, F.S., sets out what acts by a clinical social work, marriage and family therapist, or mental health counselor constitute grounds for discipline, or denial of licensure. However, s. 491.009(2), F.S., incorrectly references psychologists, who are not licensed under ch. 491, F.S.; and does not include the DOH regulated certified master social worker profession.

III. Effect of Proposed Changes:

Section 1: The Conrad 30 Program

The bill amends s. 381.4018, F.S., to require the DOH to adopt rules, following the federal requirements, to implement the Conrad 30 Program to further encourage qualified physicians to relocate to Florida and practice in underserved areas. This rulemaking authority allows the DOH to establish criteria beyond the federal minimum requirements and prioritize applications, thereby placing physicians in areas of highest need. Criteria could include practicing in federally designated underserved areas with the greatest need; practicing primary care; practicing in specific areas of the state, such as rural locations; and serving a higher percent of Medicaid and sliding fee scale patients.

Section 2: The DOH General Licensing Provisions

The bill amends s. 456.013, F.S., to eliminate obsolete language regarding applying to the DOH to take an examination. It also adds the date of birth as a required element on the application, allowing the DOH better confirmation of a criminal background check.

Section 3: United States Members of the Armed Forces, Spouses and Florida Licensure

The bill amends s. 456.024, F.S., to allow a dentist to be eligible for expedited licensure as a health care practitioner in this state if he or she is a health care practitioner in another state, the District of Columbia, a possession or territory of the United States; is the spouse of a person serving on active duty with the United States Armed Forces, meets the standards required in s. 456.024, F.S., and files an application. This is similar to other healthcare professions previously authorized by the Legislature. The bill also eliminates the requirement for a dentist holding a temporary license to practice under the indirect supervision of a dentist licensed under ch. 466, F.S.

Section 4: Medical Specialists

Section 458.3312, F.S., relating to holding oneself out as a medical specialists, repeals the requirement that the Board of Medicine conduct a review of organizations that board certify physicians in dermatology every three years for a physician to hold himself or herself out as board-certified in dermatology.

Section 5: Chiropractic Continuing Education

Section 460.408, F.S., is amended to define a “contact classroom hour” as a presentation in which the persons presenting, and the persons attending, the course are present on site. The bill also authorizes chiropractic physicians to take up to 10 general hours of CE online, if the on line courses are competency based, and use the Sharable Content Objective Reference Model standard, or more stringent standards, as determined by the board.

Section 6: Registered Chiropractic Assistants

The bill repeals s. 460.4166, F.S., and deregulates the Registered Chiropractic Assistants profession as the duties performed are not directly related to patient safety and the registration is voluntary.

Sections 7, 8, 9, and 10: BON Rulemaking Authority and Certified Nursing Assistants

The bill amends ss. 464.006 and 464.202, F.S., related to rulemaking, duties, and powers of the BON, to authorize the BON to create rules detailing standards of care for its licensees, which include: ARNPs; clinical nurse specialists; RNs; LPNs; and CNAs.

The bill authorizes the BON to grant licenses by endorsement for CNA applicants with certifications in U.S. territories or Washington, D.C. This will expedite licensure for CNAs because the applicant would no longer have to apply for licensure by examination.

The bill amends s. 464.204, F.S., to eliminate the element of intent to violate the laws or rules relating to CNAs which will align CNA prosecution with the law for disciplining registered nurses and licensed practical nurses.

Section 11, 12, 13, 14, and 15: Pharmacy Permits

The bill amends ss. 465.019, 465.0193, 465.0196, and 465.0197, F.S., to require institutional, nuclear, special, and internet pharmacies to pass an on-site inspection as a pre-requisite for an initial permit or change of location. This language conforms statutes pertaining to institutional, nuclear, special, and internet pharmacies to make them consistent with the current law pertaining to community pharmacies.

The bill creates s. 465.0195, F.S., to provide statutory requirements for the issuance of sterile compounding permits for in-state patient specific or outsourcing facilities. Currently permitting in-state sterile compounding pharmacies and outsourcing facilities is governed by rule. The new section creates a statutory framework for issuing in-state sterile compounding permits to pharmacies or outsourcing facilities which are similar to existing statutory language for nonresident pharmacies and outsourcing facilities located in s. 465.0158, F.S.

Section 16, 17, 18, 19 and 20: Dentistry, Dental Hygiene and Dental Laboratories

The bill amends ss. 466.006 and 466.007, F.S., to eliminate obsolete requirements that the ADEX be graded by dentists, and the ADHEX examination for dental hygienists, be graded by dentists and dental hygienists licensed in Florida and employed by the DOH for such purpose.

The bill creates s. 466.017, F.S., to require dentists to report adverse incidents to the DOH, which is now only required by board rule. The mandatory reporting of adverse incidents is critical in the board's oversight of the safe use of sedation in the practice of dentistry. This new section requires the reporting of deaths, or any incident that results in the temporary or permanent physical or mental injury that requires hospitalization or emergency room treatment of a dental patient that occurred during or as a result of the use of anesthesia or sedation, and creates grounds for discipline for the failure to report an adverse incident.

The definition of "dental laboratory" in s. 466.031, F.S., is amended to include a person who provides onsite consultation during dental procedures.

Section 466.036, F.S., is amended to require a dental laboratory to be inspected at least biennially.

Sections 21, 22, 23 and 24: Athletic Trainers

The bill amends s. 468.701, F.S., to include within the definition of athletic trainer that he or she must work within the scope of practice as established within rules established by the board. This change limits the potential that an athletic trainer will attend opportunities that are not board approved for safe practice and will incorporate those practices into his or her practice.

This bill amends the licensure requirements for an athletic trainer to create a new licensure pathway for applicants who hold a bachelor's degree and have completed the BOC internship program and hold a current certification from the BOC to become licensed in Florida.

This bill amends in s. 468.711, F.S., relating to license renewal requirements, to require an athletic trainer to maintain his or her BOC certification in good standing without lapse. Licensees will have to demonstrate continuous good standing BOC certification at the time of renewal. This bill gives the Board of Athletic Training rule making authority to further define the supervision between an athletic training student and a licensed athletic trainer, rather than relying on compliance with standards set by an external entity.

Section 25: Orthotics, Prosthetics, and Pedorthics

The bill amends s. 468.803, F.S., to authorize the DOH to issue a joint registration in orthotics and prosthetics as a dual registration rather than requiring separate registrations; and to recognize the dual residency program and educational requirements for dual registration.

Section 26, 27, 28, and 29: Massage Therapy

This bill amends the definition of “apprentice” in s. 480.033(5), F.S., to eliminate the statutory authority for massage therapy apprenticeships, except for apprentices studying colonic hydrotherapy. The bill allows apprentices licensed before the effective date of the bill, July 1, 2018, to maintain their apprentice license until its expiration date, but no later than July 1, 2021, and to qualify for licensure based on that apprenticeship.

In addition, this bill amends s. 480.041, F.S., to specify that the licensure examination is a national examination designated by the Board of Massage Therapy, not an examination administered by the board. The bill repeals s. 480.042, F.S., relating to a massage therapy examination by the board which is obsolete.

The bill amends s. 480.046(3), F.S., to strengthen the grounds for disciplinary action by the board against a licensed massage establishment to include actions by an owner or a repeat offender. The bill adds:

- That an establishment license may also be suspended or revoked, or a subsequent license application denied, if the owner or therapists at the massage establishment have cumulatively committed three or more crimes in any jurisdiction related to prostitution, as defined in s. 796.07, F.S.;
- That an establishment disciplined under s. 480.046(3), F.S., cannot apply for re-licensure unless there is a change of ownership; and
- That the board may deny the license of an establishment if its owner has previously had a license revoked under s. 480.046(3), F.S.

Section 30, 31, 32 and 39: The Practice of Psychology

The bill amends s. 490.003, F.S., to eliminate outdated language in s. 490.003(3)(a), F.S., which specifies educational requirements for licensure as a psychologist in effect prior to July 1, 1999.

The bill amends, and renumbers, s. 490.003(3)(b), F.S., to delete the generic reference to programs accredited by an agency recognized and approved by the U.S. Department of Education, and inserts a specific reference to the American Psychological Association (APA), the only accrediting agency recognized by the U.S. Department of Education to provide

programmatic accreditation for doctoral psychology programs. A specific reference to the APA clarifies current education requirements. It does not impose any new requirements.

The bill amends s. 490.005, F.S., relating to licensure by examination for psychologists. The bill eliminates the specific reference to Canada, which will allow applicants who obtained their education outside the U.S. to demonstrate they have an education comparable to an APA program.

The bill removes outdated language referencing an augmented or comparable doctoral education pathway. The ability of applicants who obtained their degree in the U.S., to augment an insufficient degree or show comparability to an APA accredited program, is no longer available.

The bill eliminates an outdated reference to the school psychology educational accrediting agency, Commission on Recognition of Postsecondary Accreditation; and updates the reference with the successor agency, Council for Higher Education Accreditation.

The bill amends s. 490.006, F.S., related to a psychologist licensure by endorsement, to eliminate the requirement that the licensing provisions of the other state must have been substantially equivalent to, or more stringent than, those of either the law in Florida at the time they obtained their out-of-state license, or the current Florida law. The bill reduces from 20 years of licensed psychology experience, to 10 years of experience, within the 25 years preceding the date of application. By amending these provisions, licensure of qualified applicants will be expedited, making more professionals available to patients sooner.

Sections 33, 34, 35, 36, 37 and 38: Clinical Social Work, Marriage and Family Therapy and Mental Health Counseling

The bill amends s. 491.0045, F.S., to clarify conflicting language passed in the same legislative session, and to allow the board to make a one-time exception for an intern registration after March 31, 2022, for emergency or hardship cases, as defined by board rule, if the candidate has passed the theory and practice examination described in s. 491.055(1)(d), (3)(d) and (4)(d), F.S.

The bill amends s 491.005, F.S., related to licensure by examination for marriage and family therapists, to require:

- A master's degree with major emphasis in marriage and family therapy from a program accredited by the Commission of Accreditation for Marriage and Family Therapy Education (CAMFTE), or
- A master's degree with major emphasis in marriage and family therapy from a Florida university program accredited by the CACREP, or
- The equivalent, as determined by board rule.

The bill eliminates the requirement for marriage and family therapists to complete 12 specific content areas, and 180 practicum hours. This change would simplify the education review process, eliminate the course requirement review, and expedite licensure.

The bill also amends s. 491.005(3)(c), F.S., to correct a technical discrepancy in the number of years of clinical experience required for a marriage and family therapist applicant, from three years to two years.

The bill amends s. 491.005(4), F.S., for mental health counseling applicants, to update the name of the examination to be taken by a mental health counselor applicant. The bill further amends s. 491.005(4)(b)1.c., F.S., to reduce the number of practicum, internship, or field experience hours for those applicants who graduated from a non-CACREP accredited program from 1,000 hours to 700 hours, bringing them in line with graduates from CACREP accredited programs. This promotes regulatory efficiency and makes licensure requirements more balanced between the two programs.

The bill amends s. 491.006, F.S., related to licensure or certification by endorsement for applicants for licensure in clinical social work, marriage and family therapy, or mental health counseling, to remove the requirement for endorsement applicants to meet the same educational requirements required of new applicants, provided the applicant for endorsement meets the requirement to have an active, valid license and have actively practiced the profession in another state for three of the last five years. This change will increase licensure portability for applicants applying by endorsement for licensure as marriage and family therapists in Florida.

The bill amends s. 491.007, F.S., related to renewal of a license, registration, or certificate, to delete obsolete rulemaking authority regarding intern registration renewal.

The bill amends s. 491.009(2), F.S., related to discipline, to delete an inaccurate reference to psychologists, who are licensed under ch. 490, F.S.; and to add the profession of certified master social worker, who are licensed under ch. 491, F.S. The bill also corrects reference to whether it is the board or the DOH with authority to take disciplinary action for certain violations. By adding certified master social worker to this provision, it gives the DOH authority to enter an order denying licensure to a certified master social worker, or imposing discipline against any certified master social worker who is found guilty of violating any provision in ch. 491, F.S.

The bill also makes technical amends to ss. 491.0046, and 945.42, F.S., to conform cross-references.

The bill takes effect July 1, 2018.

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:

The elimination of the requirement for a dentist holding a temporary license to practice under the indirect supervision of a Florida licensed dentist might increase the available dental services in underserved areas.

The changes made to streamline the licensing process will allow healthcare professionals to begin practicing quicker which will also benefit the healthcare market generally.

C. Government Sector Impact:

The elimination of temporary dental licenses and deregulation of chiropractic assistants will free up DOH funds for other regulatory activities.

VI. Technical Deficiencies:

None.

VII. Related Issues:**VIII. None. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 381.4018, 456.013, 456.024, 458.3312, 458.309, 459.005, 463.006, 464.006, 464.202, 464.203, 464.204, 465.019, 465.0193, 465.0196, 465.0197, 466.006, 466.007, 466.036, 468.701, 468.707, 468.711, 468.723, 468.803, 480.033, 480.041, 480.046, 483.824, 490.003, 490.005, 490.006, 491.0045, 491.005, 491.006, 491.007, 491.009, , 491.0046, 945.42.

This bill creates the following sections of the Florida Statutes: 465.0195, 466.017.

This bill repeals the following sections of the Florida Statutes: 460.4166, 480.042.

IX. Additional Information:**A. Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)**CS by Health Policy January 30, 2018:**

The committee substitute:

- Repeals the requirement that the BOM conduct a review organizations that board certify physicians in dermatology;
- Defines “contact classroom hour” for ch, 460, F.S.; authorized chiropractic physicians to take up to 10 hours of general CE online; and deregulates registered chiropractic assistants;
- Removes provisions that sought to create regulatory and rulemaking authority to the BOM and the BOOM to oversee all office surgery centers (OSCs);
- Removes provisions that sought to deregulate laboratory personnel; and
- Removes provisions relating to the timing for submission of an application for examination for licensure as an optometrist; and provisions creating a pathway for licensure by endorsement.

B. Amendments:

None.