

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 409 Health Care Licensing Requirements

SPONSOR(S): Pigman

TIED BILLS: **IDEN./SIM. BILLS:** SB 780

| REFERENCE | ACTION | ANALYST | STAFF DIRECTOR or BUDGET/POLICY CHIEF |
|--|-----------|---------|--|
| 1) Health Quality Subcommittee | 14 Y, 0 N | Siples | McElroy |
| 2) Health Care Appropriations Subcommittee | 11 Y, 0 N | Mielke | Clark |
| 3) Health & Human Services Committee | 15 Y, 0 N | Siples | Calamas |

SUMMARY ANALYSIS

Florida is home to one of the largest veteran populations in the United States. The United States Veterans Affairs (VA) provides health care services to veterans through a large health care system of hospitals and clinics throughout the state. To work at a VA health care facility, a health care practitioner must hold an active license to practice his or her healthcare profession from any state in the nation. However, if a VA health care practitioner wants to provide health care services to a veteran in a setting outside of a VA health care facility in this state, he or she must hold the appropriate Florida health care practitioner license.

HB 409 requires the Department of Health (DOH) to exempt certain VA physicians from licensure requirements. To qualify for the exemption, a VA physician must submit to DOH:

- Proof that he or she holds an active, unencumbered license to practice medicine from another state or territory of the United States;
- Proof of current employment with the VA; and
- An attestation that he or she will only provide medical services to veterans in Florida-licensed hospitals and that such services are pursuant to his or her employment with the VA.

DOH must notify the physician within 15 business of receipt of the documentation that the physician is exempt from Florida licensure requirements.

The bill has an insignificant, negative fiscal impact on DOH, which current resources are sufficient to absorb. The bill has no fiscal impact on local governments.

The bill provides an effective date of July 1, 2020.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Physician Licensure in Florida

Allopathic Physicians

Chapter 458, F.S., governs licensure and regulation of the practice of medicine by the Florida Board of Medicine (allopathic board) in conjunction with the Department of Health (DOH). The chapter imposes requirements for licensure examination and licensure by endorsement.

An individual seeking to be licensed by examination as an allopathic physician must, among other things:¹

- Complete 2 years of post-secondary education which includes, at a minimum, courses in fields such as anatomy, biology, and chemistry prior to entering medical school;
- Not have committed an act or offense that would constitute a basis for disciplining a physician under Florida law;
- Meet one of the following medical education and postgraduate training requirements:
 - Graduate from an allopathic medical school recognized and approved by an accrediting agency recognized by the U.S. Office of Education or recognized by an appropriate governmental body of a U.S. territorial jurisdiction, and have completed at least one year of approved residency training;
 - Graduate from an allopathic foreign medical school registered with the World Health Organization and certified pursuant to statute as meeting the standards required to accredit U.S. medical schools, and have completed at least one year of approved residency training; or
 - Graduate from an allopathic foreign medical school that has not been certified pursuant to statute; have an active, valid certificate issued by the Educational Commission for Foreign Medical Graduates (ECFMG),² have passed that commission's examination; and have completed an approved residency or fellowship of at least 2 years in one specialty area; and
- Obtain a passing score on:
 - The United States Medical Licensing Examination (USMLE);
 - A combination of the USMLE, the examination of the Federation of State Medical Boards of the United States, Inc. (FLEX), or the examination of the National Board of Medical Examiners up to the year 2000; or
 - The Special Purpose Examination of the Federation of State Medical Boards of the United States (SPEX), if the applicant was licensed on the basis of a state board examination, is currently licensed in at least one other jurisdiction of the United States or Canada, and has practiced for a period of at least 10 years; and
- Successfully complete a background screening.

An individual who holds an active license to practice medicine in another jurisdiction may seek licensure by endorsement to practice medicine in Florida.³ The applicant must meet the same requirements for licensure by examination. To qualify for licensure by endorsement, the applicant must also submit evidence of the licensed active practice of medicine in another jurisdiction for at least two of

¹ Section 458.311(1), F.S.

² A graduate of a foreign medical school does not need to present an ECFMG certification or pass its exam if the graduate received his or bachelor's degree from an accredited U.S. college or university, studied at a medical school recognized by the World Health Organization, and has completed all but the internship or social service requirements, has passed parts I and II of the National Board Medical Examiners licensing examination or the ECFMG equivalent examination. Section 458.311, F.S.

³ Section 458.313, F.S.

the preceding four years, or evidence of successful completion of either a board-approved postgraduate training program within two years preceding filing of an application or a board-approved clinical competency examination within the year preceding the filing of an application for licensure.

If the allopathic board determines that an applicant has failed to meet the requirements for licensure by endorsement, it may:⁴

- Refuse to certify the application for licensure to DOH;
- Certify the application for licensure to DOH with restrictions on the scope of practice of the licensee; or
- Certify the application for licensure to DOH place the physician on probation for a period of time and subject the physician to such conditions as the allopathic board may specify, including, but not limited to, requiring the physician to submit to treatment, attend continuing education courses, submit to reexamination, or work under the supervision of another physician.

Osteopathic Physicians

Chapter 459, F.S., provides for the licensure and regulation of the practice of medicine by the Florida Board of Osteopathic Medicine (osteopathic board) in conjunction with DOH. The chapter imposes requirements for licensure.

An individual seeking to be licensed as an osteopathic physician must, among other things:⁵

- Have completed at least three years of preprofessional postsecondary education;
- Has not committed an act or offense that would constitute a basis for disciplining a physician under Florida law, unless the osteopathic board determines that such act does not adversely affect the applicant's ability and fitness to practice osteopathic medicine.
- Graduate from a medical college recognized and approved by the American Osteopathic Association;
- Successfully complete a resident internship of at least 12 months in a hospital approved by the Board of Trustees of the American Osteopathic Association or any other internship approved by the osteopathic board; and
- Obtain a passing score, as established by rule of the osteopathic board, on the examination conducted by the National Board of Osteopathic Medical Examiners or other examination approved by the osteopathic board, no more than five years prior to applying for licensure;⁶ and
- Successfully complete a background screening.

If an applicant for a license to practice osteopathic medicine is licensed in another state, the applicant must have actively practiced osteopathic medicine within the two years prior to applying for licensure in this state. If it has been more than two years since the applicant actively practiced osteopathic medicine, the osteopathic board may:⁷

- Deny the application;
- Issue a license reasonable restrictions or conditions, which may include, but is not limited to, a requirement that the applicant practice under the supervision of a physician approved by the osteopathic board; or
- Issue a license upon receipt of documentation confirming the applicant has met any conditions of the osteopathic board, which may include, but is not limited to, completing continuing education or undergoing an assessment of skills and training.

Unlicensed Practice of a Health Care Profession

⁴ Section 458.313(7), F.S.

⁵ Section 459.0055(1), F.S.

⁶ However, if an applicant has been actively licensed in another state, the initial licensure in the other state must have occurred no more than five years after the applicant obtained the passing score on the licensure examination.

⁷ Section 459.0055(2), F.S.

An individual must meet minimum education and training requirements to become licensed and practice a health care profession.⁸ Licensure is available by examination or, in many instances, by endorsement if the practitioner is licensed in another jurisdiction. Florida law prohibits an individual from practicing a regulated health care profession without a license.

An unlicensed individual providing healthcare services is subject to administrative and criminal penalties. DOH may issue a cease and desist letter to such a person and impose, by citation, an administrative penalty of up to \$5,000 per offense.⁹ DOH may also seek a civil penalty of up to \$5,000 for each offense through the circuit court in addition to, or in lieu of, the administrative penalty.¹⁰

An individual practicing, attempting to practice, or offering to practice a health care profession without an active, valid Florida license is subject to criminal penalties:¹¹

- A first degree misdemeanor punishable by up to one year imprisonment and a fine of up to \$1,000 if the license has been inactive or delinquent for any period of time up to 12 months, with a minimum sentence of 30 days imprisonment and a \$500 fine.
- A third degree felony punishable by up to five years imprisonment and a fine of up to \$5,000 if the license has been inactive or delinquent for a period of time exceeding 12 months, with a minimum sentence of 30 days imprisonment and a \$500 fine.
- A third degree felony punishable by up to five years imprisonment and a fine of up to \$5,000, with a minimum mandatory sentence of one year imprisonment and a \$1,000 fine.
- A second degree felony punishable by up to 15 years imprisonment and a fine of up to \$15,000 if such practice results in serious bodily injury, with a minimum mandatory sentence of one year imprisonment and a \$1,000 fine.

These penalties are in addition to any administrative and civil penalties incurred by the unlicensed individual.

U.S. Department of Veteran Affairs Practitioners

The Veterans Health Administration within the United States Department of Veterans Affairs (VA) operates the nation's largest integrated health care systems, providing care at 1,255 health care facilities.¹² The system is divided into 21 integrated service networks.¹³ Each service network is comprised of medical centers or hospitals, which oversees the clinics in its region. Florida is a part of the Sunshine Health Network, which is comprised of eight medical centers and nearly 60 community clinics, and has the fourth largest veteran population in the U.S.¹⁴ The VA Sunshine Health Network employs 31,028, including 3,139 physicians and 6,600 nurses, and in Fiscal Year 2018, treated more than 620,000 veterans.¹⁵

⁸ Section 456.065(1), F.S.

⁹ Section 456.065, F.S. Each day that the unlicensed practice continues after issuance of a notice to cease and desist constitutes a separate offense

¹⁰ Section 456.065(2)(c), F.S.

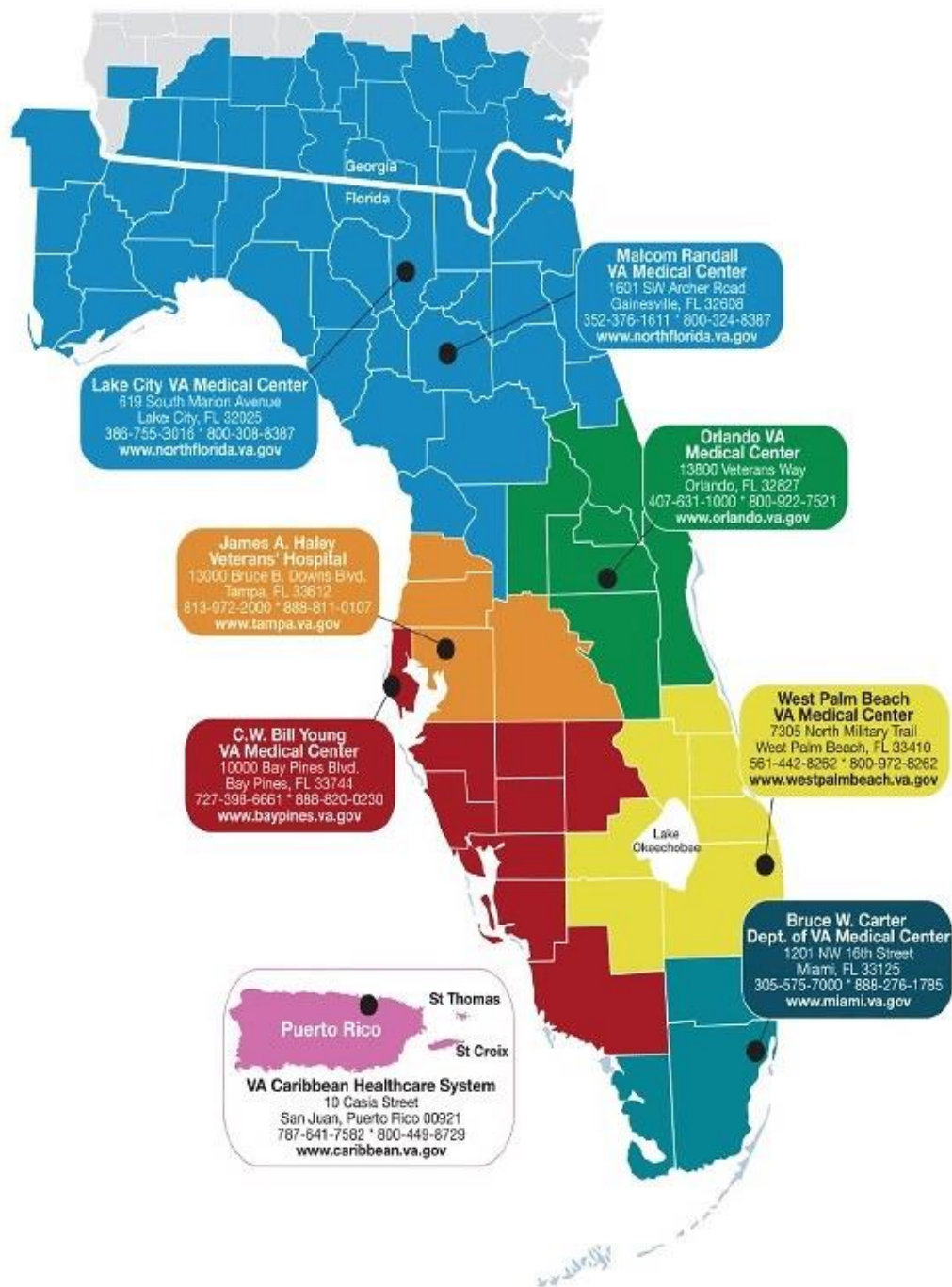
¹¹ Section 456.065(2)(d), F.S.

¹² U.S. Department of Veterans Affairs, *Veterans Health Administration*, available at <https://www.va.gov/health/> (last visited January 25, 2020).

¹³ U.S. Department of Veterans Affairs, *Locations*, available at <https://www.va.gov/directory/guide/map.asp> (last visited January 25, 2020).

¹⁴ U.S. Department of Veterans Affairs, Veterans Health Administration, VA Sunshine Healthcare Network (VISN 8), *2018 Annual Report*, available at https://www.visn8.va.gov/VISN8/news/documents/V-508CLEAN_VISN8_2018AnnualReport.pdf (last visited January 25, 2020).

¹⁵ Id at p. 4.



The health care practitioners practicing in VA facilities in Florida are not required to be licensed in Florida. The VA requires that a health care practitioner have an active, unrestricted license to practice from any state to practice at any one of its facilities nationwide.¹⁶ A VA health care practitioner may treat any veteran in a VA facility located in Florida, regardless of the state of licensure. However, a VA health care practitioner may not provide medical services to one of his or her veteran patients outside the VA facility unless he or she holds a Florida license. If the health care practitioner is not licensed in Florida and provides such services, the health care practitioner could be prosecuted for the unlicensed practice of a health care practitioner.

Effect of Proposed Changes

¹⁶ U.S. Department of Veterans Affairs, *Physicians at VA*, available at <https://www.vacareers.va.gov/Careers/Physicians/#live-work-anywhere> (last visited January 25, 2020).

HB 409 requires DOH to exempt a VA physician from Florida licensure requirements if the VA physician:

- Holds an active, unencumbered license to practice medicine in another state, the District of Columbia, or a possession, commonwealth, or territory of the United States;
- Is currently employed with the VA;
- Attests that he or she will only provide medical services to veterans at Florida-licensed hospitals pursuant to his or her employment with the VA.

DOH must notify the physician that he or she is exempt from licensure within 15 business days of receiving documentation that a VA physician meets the requirements for an exemption. An exempt physician remains subject to prosecution for the unlicensed practice of a health care profession if the physician treats a patient who is not a veteran.

The bill authorizes DOH to adopt rules to implement its provisions.

The bill provides an effective date of July 1, 2020.

B. SECTION DIRECTORY:

Section 1: Creates s. 456.0231, F.S., relating to exemption of health care license requirements for the treatment of veterans.

Section 2: Provides an effective date of July 1, 2020.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

DOH may experience a decrease in licensure revenue if a physician who works for the VA and is licensed in another state, the District of Columbia, or a possession, commonwealth, or territory of the United States is currently obtaining a Florida license to treat Florida veterans in licensed hospitals.

2. Expenditures:

DOH will incur insignificant costs relating to rulemaking and reviewing documentation submitted by physicians seeking exemption from licensure, which current resources are adequate to absorb.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

A physician who works for the VA and is licensed in another state will no longer have to pay the fees associated with obtaining a Florida license to treat Florida veterans in licensed hospitals.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to affect county or municipal governments.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

DOH has sufficient rule-making authority to implement the bill.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES