

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

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

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

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BILL: CS/SB 66

INTRODUCER: Health Policy Committee and Senator Cruz

SUBJECT: Student Loans and Scholarship Obligations of Health Care Practitioners

DATE: November 6, 2019

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Rossitto-Van Winkle	Brown	HP	<b>Fav/CS</b>
2.	_____	_____	AED	_____
3.	_____	_____	AP	_____

**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/SB 66 amends s. 456.071(1)(k), F.S., to provide that the failure to repay a state or federal student loan, or the failure to comply with service scholarship obligations, does not constitute a failure to perform a statutory or legal obligation placed upon a licensed health care practitioner, thereby removing such repayment or scholarship obligation failures as grounds for disciplinary action against a health care practitioner.

The bill repeals s. 456.0721, F.S., which authorizes the Department of Health (DOH) to obtain from the U.S. Department of Health and Human Services (now the U.S. Department of Education) information necessary to investigate and prosecute health care practitioners for failing to repay a student loan or comply with scholarship service obligations.

The bill amends s. 456.074(4), F.S., to delete the requirement for the DOH to notify a practitioner whose student loan is in default, of the DOH's intent to suspend his or her license if the practitioner does not provide proof that new payment terms have been agreed upon by all parties to the loan.

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

## II. Present Situation:

### Federal Student Loans Available to Health Care Practitioners

Federal student loan programs were first established in the mid-twentieth century to increase the supply of skilled labor, promote economic and technological development, and provide upward socioeconomic mobility.<sup>1</sup> Federal student loans were first offered in 1958 under the National Defense Education Act to help the United States compete with other countries, especially the Soviet Union with the launch of the satellite *Sputnik*. High school students who showed promise in mathematics, science, engineering, and foreign language, or those who wanted to be teachers, were offered grants, scholarships, and loans.<sup>2</sup> Federal student loans have provided low-cost credit to millions of students, helped increase educational attainment, while holding administrative costs lower than those of the private sector, and generating a profit for the federal government.<sup>3</sup>

### *The Higher Education Act of 1965*

The Higher Education Act of 1965 provided “Educational Opportunity Grants” to colleges recruiting students with considerable financial need. The Guaranteed Student Loan Program (GSLP), also known as the Federal Family Education Loan Program (FFELP), allowed banks and private institutions to provide government subsidized and guaranteed loans to students.<sup>4</sup> The federal government relied on a network of state agencies to administer the program and pursue delinquent borrowers.<sup>5</sup>

By the late 1980s, the government’s losses climbed past \$1 billion a year, and state agencies started experimenting with aggressive collection tactics. Some states garnished wages. Others put liens on borrowers’ cars and houses. Texas and Illinois stopped renewing professional licenses of those with unresolved debts.

The U.S. Department of Education (DOE), currently administers federally guaranteed student loans. The U.S. DOE is the largest provider of student financial aid in the nation. Federal Student Aid is responsible for managing the student financial assistance programs authorized under Title IV of the Higher Education Act of 1965.<sup>6</sup> The Higher Education Act of 1965 was

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<sup>1</sup> Michael Simkovic, *Risk-Based Student Loans*, 70 Wash. & Lee L. Rev. 527 (2013), available at <https://scholarlycommons.law.wlu.edu/wlulr/vol70/iss1/8> (last visited Sept. 17, 2019).

<sup>2</sup> National Defense Education Act of 1958, Pub. L. 85 – 864, 72 Stat. 1580, 20 U.S.C. 401 et seq., available at <https://www.govinfo.gov/content/pkg/STATUTE-72/pdf/STATUTE-72-Pg1580.pdf> (last visited Sept. 20, 2019).

<sup>3</sup> *Supra* note 1.

<sup>4</sup> Higher Education Act of 1965, Part I – General Higher Education Programs, P.L. 89 – 329, 20 U.S.C. 1001 – 1087uu, available at [http://legcounsel.house.gov/Comps/HEA65\\_CMD.pdf](http://legcounsel.house.gov/Comps/HEA65_CMD.pdf) (last visited Sept. 27, 2019).

<sup>5</sup> Silver-Greenberg, Jessica, Cowley, Stacy, Kitroeff, Natalie, *When Unpaid Student Loan Bills Mean You Can No Longer Work*, The New York Times Nov. 18, 2017, available at <https://www.nytimes.com/2017/11/18/business/student-loans-licenses.html?auth=login-email&login=email> (last visited Sept. 26, 2019). See also National Council State Boards of Nursing, *Student Loan Default and State Licensing Board Discipline*, (Mar. 4, 2019), available at <https://www.ncsbn.org/12849.htm>.

<sup>6</sup> Pub. Law No. 89-329, Nov. 8, 1965, 79 Stat. 1219, 20 U.S.C. 1001, available at <https://legcounsel.house.gov/Comps/Higher%20Education%20Act%20Of%201965.pdf> (last visited Sept. 16, 2019). See also The Chronicle of Higher Education, *What You Need to Know About Reauthorization* (September 19, 2013), available at <https://www.chronicle.com/article/What-You-Need-to-Know-About/141697> (last visited Sept. 16, 2019).

reauthorized in 1968, 1972, 1976, 1980, 1986, 1992, 1998, and 2008.<sup>7</sup> These programs provide grants, loans, and work-study funds to students attending college or career school.<sup>8</sup>

The 1966, 1972, and 1992 amendments to the Higher Education Act of 1965 added the following to federal student loan programs:

- The National Association of Financial Aid Administrators was created to monitor financial aid throughout the nation;
- The Basic Educational Opportunity Grant, (later called the Pell Grant), was created to help needy students attend college; and
- The Higher Education Amendments create FAFSA, the Direct Lending program, and unsubsidized Stafford loans.<sup>9</sup>

### ***Health Education Assistance Loan Program***

The Health Education Assistance Loan (HEAL) Program was originally authorized by sections 701-720 of the Public Health Service Act.<sup>10</sup> The HEAL Program was first administered by the Office of Education in the former Department of Health, Education, and Welfare. On May 21, 1980, the HEAL Program was transferred from the Office of Education to the U.S. Department of Health and Human Services (HHS) until July 1, 2014, when Congress transferred the program to the U.S. Department of Education (DOE) pursuant to Division H, title V, section 525 of the Consolidated Appropriations Act, 2014 (Pub. Law No. 113-76) (Consolidated Appropriations Act, 2014). From federal fiscal year (FFY) 1978 through FFY 1998 the HEAL Program insured loans made by participating lenders to eligible graduate students in schools of medicine, osteopathy, dentistry, veterinary medicine, optometry, podiatry, public health, pharmacy, and chiropractic, and in programs in health administration and clinical psychology.<sup>11</sup>

Lenders such as banks, savings and loan associations, credit unions, pension funds, State agencies, HEAL schools, and insurance companies made HEAL loans, which were insured by the Federal Government against loss due to borrowers' death, disability, bankruptcy, and default. The purpose of the program was to ensure the availability of funds for loans to eligible students who need to borrow money to pay for their educational costs.<sup>12</sup>

<sup>7</sup> 20 U.S.C. ch. 28, subchapter IV – Student Assistance, available at: <https://uscode.house.gov/view.xhtml?jsessionid=61648FC4573FD86CC2A1E228D0371AB3?req=granuleid%3AUSC-prelim-title20-chapter28&saved=%7CKHRpdGxIOjIwIHNIY3Rpb246MTEzMyBIZGl0aW9uOnByZWxpbSk%3D%7C%7C%7C0%7Cfalse%7Cprelim&edition=prelim> (last visited Sept. 16, 2019). See also Finaid, *The Smart Student Guide to Financial Aid*, available at: <http://www.finaid.org/educators/reauthorization.phtml> (last visited Sept. 16, 2019).

<sup>8</sup> Kantrowitz, Mark, Savingforcollege.com, *Reauthorization of the Higher Education Act of 1965*, (December 26, 2018) available at <https://www.savingforcollege.com/article/reauthorization-of-the-higher-education-act-of-1965> (last visited Sept. 16, 2019).

<sup>9</sup> Gitlen, Jeff, LendEDU, *A Look Into the History of Student Loans*, (Aug. 15, 2016) available at <https://lendedu.com/blog/history-of-student-loans> (last visited Sept. 20, 2019).

<sup>10</sup> See 42 U.S.C. 292-292y.

<sup>11</sup> Federal Register Vol. 82, No. 219, Department of Education, *Health Education Assistance Loan (HEAL) Program*, Final Rule, Nov. 15, 2017, 34 CFR Part 681, 82 FR 53374 – 53395, available at: <https://www.govinfo.gov/content/pkg/FR-2017-11-15/pdf/2017-24636.pdf> (last visited Sept. 12, 2019). See also National Archives, Federal Register, *Health Education Assistance Loan (HEAL) Program*, available at: <https://www.federalregister.gov/documents/2017/11/15/2017-24636/health-education-assistance-loan-heal-program> (last visited Sept. 12, 2019).

<sup>12</sup> *Id.*

Authorization to fund new HEAL loans to students ended September 30, 1998. Provisions of the HEAL legislation allowing for the refinancing or consolidation of existing HEAL loans expiring September 30, 2004. However, the reporting, notification, and recordkeeping burden associated with refinancing HEAL loans, servicing outstanding loans, and administering and monitoring of the HEAL Program regulations continues.<sup>13</sup> In 2014, the HEAL Program was transferred from the U.S. Department of Health and Human Services (HHS) to the U.S. DOE. To reflect this transfer and to facilitate the servicing of all HEAL loans that are currently held by the U.S. DOE, the Secretary adds the HEAL Program regulations to the U.S. DOE's chapter in the Code of Federal Regulations (CFR).<sup>14</sup>

In 1993, the Student Loan Reform Act amended the Higher Education Act of 1965 to replace the FFELP, under which loans made by private lenders and were guaranteed by the U.S. government, with a Federal Direct Student Loan Program (FDSLP) where the government became direct lender to borrowers.<sup>15</sup>

### **Higher Education Reconciliation Act of 2005**

The 2005 Higher Education Reconciliation Act made many changes to FDSLP student loans, including some of the following:

- Reduced student loan fees from 4% to 1%;
- Allows graduate students to take out PLUS Loans;
- Added a new grant program called Academic Competitiveness Grant Program;
- Increased the income protection allowance;
- Adjusted initial eligibility criteria; and
- Changed the definition of independent student.<sup>16</sup>

### **Student Aid and Fiscal Responsibility Act of 2010**

The Health Care and Education Reconciliation Act of 2010, along with the Patient Protection and Affordable Care Act, were signed into law by President Obama. The Student Aid and Fiscal Responsibility Act (Title II) was a rider to the Health Care and Education Reconciliation Act and included a number of federal student loan program reforms, such as:

- Ending the process of the federal government giving subsidies to private banks to give out federally insured loans; instead, loans were to be administered directly by the U. S. DOE,

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<sup>13</sup> *Supra* note 13. When the HEAL Program was transferred from HHS to the DOE, to reflect this transfer and to facilitate the servicing of HEAL loans that were held by the DOE, the Secretary added the HEAL Program regulations that were part of HHS's regulations (42 CFR part 60) to Title 34 Subpart B Chapter VI Part 681 of the CFR. Consistent with this regulatory action, HHS removed the HEAL Program regulations from its regulations.

<sup>14</sup> The Federal Register, *Health Education Assistance Loan (HEAL) Program*, Nov. 15, 2017, available at: <https://www.federalregister.gov/documents/2017/11/15/2017-24636/health-education-assistance-loan-heal-program> (last visited Sept. 20, 2019).

<sup>15</sup> Congress.gov, *H.R.2055 - Student Loan Reform Act of 1993, 103<sup>rd</sup> Congress (1993-1994)*, available at <https://www.congress.gov/bills/103rd-congress/house-bill/2055> (last visited Sept. 20, 2019).

<sup>16</sup> Analysis of the Higher Education Reconciliation Act of 2005 (S. 1932)(Title VIII of the Deficit Reduction Act of 2005), available at: [https://www.nelnet.net/media/newsletters/schoolnews/HERA\\_BorrowerChanges.pdf](https://www.nelnet.net/media/newsletters/schoolnews/HERA_BorrowerChanges.pdf) (last visited Sept 24, 2019). The Higher Education Reconciliation Act of 2005, which is Title VIII of the Deficit Reduction Act of 2005, was enacted into law February 8, 2006.

- Increasing Pell Grant scholarship awards;
- Allowing newly qualified borrowers starting in 2014, to be able to cap their monthly student loan repayment each month to 10% of their discretionary income, down from 15%;
- Allowing new borrowers after 2014 to be eligible for student loan forgiveness after making timely payments for 20 years, down from 25 years;
- Easing the process for parents to take out federal student loans for their children; and
- Authorizing the spending of several billion dollars to fund schools that served predominantly poor and minority students, as well as increasing community college funding.<sup>17</sup>

The passage of the 2010 federal Health Care and Education Reconciliation Act and the Health Care and Education Reconciliation Act made the FDSLPL the sole government-backed student loan program in the United States. All guaranteed student loans that originated with, and were funded by, private lenders, but guaranteed by the government, were eliminated.<sup>18</sup>

Currently, the U.S. DOE awards more than \$120 billion a year in grants, work-study funds, and low-interest loans to more than 13 million students.<sup>19</sup> The U.S. DOE's federal student loan program is the William D. Ford FDSLPL. Under this program, the U.S. DOE is the lender. There are four types of federal direct loans available:

- Direct Subsidized Loans;<sup>20</sup>
- Direct Unsubsidized Loans;<sup>21</sup>
- Direct PLUS Loans;<sup>22</sup> and
- Direct Consolidation Loans.<sup>23, 24</sup>

As of September 9, 2019, the Federal Reserve reported that there were \$1.606 trillion dollars in outstanding federal student loans owned and secured by the U.S. Government.<sup>25</sup> It is the second largest form of consumer debt, just behind mortgages;<sup>26</sup> and more than 10.9 percent of aggregate

<sup>17</sup> Obamacarefacts.com, *Summary of the Health Care and Education Reconciliation Act of 2010*, (last updated March 2, 2015), available at: <https://obamacarefacts.com/summary-of-the-health-care-and-education-reconciliation-act-of-2010/> (last visited Sept. 17, 2019).

<sup>18</sup> *Id.*

<sup>19</sup> Federal Student Aid, An Office of the U.S. Department of Education, *Aid and Other Resources from the U.S. Federal Government*, available at: <https://studentaid.ed.gov/sa/types> (last visited Sept. 17, 2019).

<sup>20</sup> Direct Subsidized Loans are loans made to eligible undergraduate students who demonstrate financial need to help cover the costs of higher education at a college or career school. Federal Student Aid, An Office of the U.S. Department of Education, *What types of federal student loans are available?* available at: <https://studentaid.ed.gov/sa/types/loans#types> (last visited Sept. 17, 2019).

<sup>21</sup> *Id.* Direct Unsubsidized Loans are loans made to eligible undergraduate, graduate, and professional students, but eligibility is not based on financial need.

<sup>22</sup> *Supra* note 27. Direct PLUS Loans are loans made to graduate or professional students and parents of dependent undergraduate students to help pay for education expenses not covered by other financial aid. Eligibility is not based on financial need, but a credit check is required.

<sup>23</sup> *Supra* note 27. Direct Consolidation Loans allow you to combine all of your eligible federal student loans into a single loan with a single loan servicer.

<sup>24</sup> Federal Student Aid, An Office of the U.S. Department of Education, *Federal Student Loan Programs* (fact sheet), available at: <https://studentaid.ed.gov/sa/sites/default/files/federal-loan-programs.pdf> (last visited Sept. 17, 2019).

<sup>25</sup> Federal Reserve Bank of St. Louis, Federal reserve Economic Data, *Student Loans Owned and Securitized, Outstanding*, available at: <https://fred.stlouisfed.org/series/SLOAS> (last visited Sept. 25, 2019).

<sup>26</sup> LendEDU, Average Student Loan Debt Statistics by School by State 2019, *Student Loan Debt by School By State 2019*, Aug. 8, 2019, available at: <https://lendedu.com/student-loan-debt-by-school-by-state-2019/#FL>, (last visited Sept. 26, 2019).

student loan debt was delinquent for more than 90 days in the first quarter of 2019. However, delinquency rates for student loans are likely to understate the effective delinquency rates because about half of these loans are currently in deferment, in grace periods, or in forbearance and therefore temporarily not in the repayment cycle. This implies that among loans in the repayment cycle, delinquency rates are roughly twice as high.<sup>27</sup> MAXIMUS Federal Services, Inc., is the loan serving agent for federal student loans in default.<sup>28</sup>

## **State Student Loans Available to Health Care Practitioners**

### ***Florida Health Service Corps***

Florida backed health care student loans, and scholarships with service obligation, began in 1992 with the creation of the Florida Health Services Corps (FHSC), to encourage qualified medical professionals to practice in underserved locations where there are shortages of such personnel. The FHSC was developed by the DOH with the FDOE and the State University System. The DOH was to award scholarships to qualified students studying medicine, chiropractic, nursing, or dentistry. The program required a student receiving a scholarship to accept an assignment in a public health care program or work in a specific community located in a medically underserved area upon graduation for one year for each school year of financial assistance, up to a maximum of three years.

The financial penalties for noncompliance with the participation requirements were determined in the same manner as in the NHSC scholarship program.<sup>29</sup> Noncompliance with participation requirements also resulted in ineligibility for professional licensure under chs. 458, 459, 460, 464, 465, and 466, F.S. For a participant unable to complete his or her service obligation for reasons beyond his or her control, such as a disability, the penalty was the actual amount of financial assistance provided to the participant. The financial penalties collected by the DOH were deposited into the FHSC Trust Fund and used to provide additional scholarship and financial assistance.<sup>30, 31</sup>

The FHSC was modeled after the NHSC. It offered loan repayment and scholarships for health professionals in return for service in public health care programs or underserved areas. This program was not funded after 1996 and was repealed in 2012.<sup>32</sup> The Office of Student Financial Assistance (OSFA) within the Florida Department of Education (FDOE) has been the designated

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<sup>27</sup> Federal Reserve Bank of New York, Research and Statistics Group, Center for Microeconomic Data, *Quarterly Report on Household Debt and Credit, 2019: Q1* (released May, 2019), available at: [https://www.newyorkfed.org/medialibrary/interactives/householdcredit/data/pdf/HHDC\\_2019Q1.pdf](https://www.newyorkfed.org/medialibrary/interactives/householdcredit/data/pdf/HHDC_2019Q1.pdf) (last visited Sept. 26, 2019).

<sup>28</sup> Federal Student Aid, An office of the U.S. Department of Education, *How to Repay Your Loans, Understanding Delinquency and Default*, available at: <https://studentaid.ed.gov/sa/repay-loans/default#default-servicer> (last visited Sept. 12, 2019).

<sup>29</sup> The National Health Service Corps (NHSC) Scholarship Program, enacted by Public Law 94- 484 on October 12, 1976, is a program established to bring health care to regions of the country that have critical shortages of health personnel. See The U.S. Department of Health and Human Services, Health Resources & Services Administration, *National Health Services Corps*, available at: <https://bhwh.hrsa.gov/loans-scholarships/nhsc> (last visited Sept. 24, 2019).

<sup>30</sup> Chapter 92-33, s. 111, Laws of Fla.

<sup>31</sup> Section 381.0302, (1992 – 2012), F.S.

<sup>32</sup> Chapter 2012-184, s. 45, Laws of Fla.



guaranty agency for the state of Florida for many years for the Federal Family Education Loans.<sup>33</sup>

In 2002, the Florida Legislature created the Student Loan Program. Section 1009.85, F.S., required the State Board of Education to adopt rules necessary for participation in the guaranteed student loan program, as provided by the Higher Education Act of 1965, as amended. The intent of this legislation was to authorize student loans when Florida, through the FDOE, become an eligible lender under the provisions of the applicable federal laws providing for the guarantee of loans to students and the partial payment of interest on such loans by the United States Government.<sup>34</sup>

In 2002, the Legislature also amended the grounds for disciplinary action against health care practitioners who failed to pay student loans by amending s. 456.072(1)(k), F.S., and created s. 456.074(4), F.S., to enforce it. In amending s. 456.072(1)(k), F.S., and adding s. 456.074(4), F.S., the Legislature made the following specific findings, as of 2002, relating to the state's interest in enacting these regulations:

- The U.S. Department of Health and Human Services reported 9,454 health care practitioners in the nation, and 556 health care practitioners in Florida, had defaulted on educational loan or service scholarship obligations;
- The U.S. Department of Health and Human Services reported that these defaulters cost taxpayers over \$694 million, of which \$45.6 million was attributable to Florida health care practitioners;
- Needy communities lost the services of essential clinicians when practitioners fail to meet their service obligations;
- Defaulters had received the substantial economic benefit of a health practitioner career education at taxpayer expense;
- It was imperative that defaulters be required to honor their service obligations;
- Because health care practitioners are licensed by the states and not the federal government, it was anticipated that state licensure discipline of the defaulters would motivate the defaulters to honor their commitments and deter others from defaulting on their student loans and service obligations;
- Taxpayers should not have to foot the bill for individuals who had reneged on the repayment obligation of a federal or state loan or scholarship which gave them access to a career as a health care practitioner;
- Defaulters had been, or would be, excluded from participating in Medicare and Medicaid programs and therefore unable to practice in many of the neediest and most underserved areas;
- Defaulters would not be practicing as health care practitioners had the programs not been available to help finance their education; and, while it was not possible to “repossess” the education these programs allowed them to obtain, it was possible to “repossess” the results of that education by suspending their ability to practice through suspension of their licenses; and

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<sup>33</sup> The Department of Education, Office of Student Financial Assistance, *FFELP Home*, available at: <http://www.floridastudentfinancialaid.org/FFELP/> (last visited Sept. 17, 2019).

<sup>34</sup> Sections 1009.78 – 1009.88, F.S.

- Florida law at that time provided recourse only for failing to repay certain state student loans through s. 381.0302, F.S., and did not address federal educational loan and service scholarship defaulters.<sup>35</sup>

In 2010, with the passage of the federal Health Care and Education Reconciliation Act and its rider, to the Health Care and Education Reconciliation Act, the FDOE, through the OSFA, stopped guaranteeing student loans with first disbursement dates after July 1, 2010. For student loans that had first disbursements dates before July 1, 2010, the OSFA would continue to provide support for the life of the loans as long as the loans remained in the state's portfolio, and remain the designated guaranty agency for Florida.<sup>36</sup>

### **Health Care Practitioner Regulation**

The DOH is charged with the regulation of health practitioners for the preservation of the health, safety, and welfare of the public. The Division of Medical Quality Assurance (MQA), is responsible for the boards and professions within the DOH.<sup>37</sup> The health care practitioners licensed by the DOH include the following:

- Acupuncturist;<sup>38</sup>
- Allopathic physicians and physician assistants;<sup>39</sup>
- Osteopathic physicians and physician assistants;<sup>40</sup>
- Chiropractic physicians, physician assistants, and registered chiropractic assistants;<sup>41</sup>
- Podiatric physicians;<sup>42</sup>
- Naturopathic physicians;<sup>43</sup>
- Optometrists;<sup>44</sup>
- Advanced practice registered nurses, registered nurses, licensed practical nurses and certified nursing assistant;<sup>45</sup>
- Pharmacists;<sup>46</sup>
- Dentists, dental hygienist and dental laboratories;<sup>47</sup>
- Midwives;<sup>48</sup>
- Speech and language pathologists;<sup>49</sup>
- Audiologists;<sup>50</sup>

<sup>35</sup> Chapter 2002-254, Preamble, Laws of Fla.

<sup>36</sup> The Department of Education, Office of Student Financial Assistance (OSFA), The Federal Family Education Loan Program, *FFELP Home*, available at <http://www.floridastudentfinancialaid.org/FFELP/> (last visited Oct. 21, 2019).

<sup>37</sup> Section 20.43, F.S.

<sup>38</sup> Chapter 457, F.S.

<sup>39</sup> Chapter 458, F.S.

<sup>40</sup> Chapter 459, F.S.

<sup>41</sup> Chapter 460, F.S.

<sup>42</sup> Chapter 461, F.S.

<sup>43</sup> Chapter 462, F.S.

<sup>44</sup> Chapter 463, F.S.

<sup>45</sup> Chapter 464, F.S.

<sup>46</sup> Chapter 465, F.S.

<sup>47</sup> Chapter 466, F.S.

<sup>48</sup> Chapter 467, F.S.

<sup>49</sup> Part I, Ch. 468, F.S.

<sup>50</sup> *Id.*



- Occupational therapists;<sup>51</sup>
- Respiratory therapists;<sup>52</sup>
- Dietitians and nutritionists;<sup>53</sup>
- Athletic trainers;<sup>54</sup>
- Orthotists, prosthetists, and pedorthists;<sup>55</sup>
- Electrologists;<sup>56</sup>
- Massage therapists;<sup>57</sup>
- Clinical laboratory personnel;<sup>58</sup>
- Medical physicists;<sup>59</sup>
- Opticians;<sup>60</sup>
- Hearing aid specialists;<sup>61</sup>
- Physical therapists;<sup>62</sup>
- Psychologists and school psychologists;<sup>63</sup> and
- Clinical social workers, mental health counselors and marriage and family therapists.<sup>64</sup>

Section 456.072, F.S., enumerates at least 41 specific acts that constitute grounds for disciplinary action against all licensed health care practitioners in Florida. Section 456.072(1)(k), F.S., was amended in 2002<sup>65</sup> to provide the following:

For purposes of this section, failing to repay a student loan issued or guaranteed by the state or the Federal Government in accordance with the terms of the loan or failing to comply with service scholarship obligations shall be considered a failure to perform a statutory or legal obligation, and the minimum disciplinary action imposed shall be a suspension of the license until new payment terms are agreed upon or the scholarship obligation is resumed, followed by probation for the duration of the student loan or remaining scholarship obligation period, and a fine equal to 10 percent of the defaulted loan amount. Fines collected shall be deposited into the Medical Quality Assurance Trust Fund.

In this way, the failure to make such repayments or comply with such obligations became grounds for disciplinary action in 2002 because failing to perform a statutory or legal obligation was already grounds for disciplinary action.

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<sup>51</sup> Part III, Chapter 468, F.S.

<sup>52</sup> Part V, Chapter 468, F.S.

<sup>53</sup> Part X, Chapter 468, F.S.

<sup>54</sup> Part XIII, Chapter 468, F.S.

<sup>55</sup> Part XIV, Chapter 468, F.S.

<sup>56</sup> Chapter 478, F.S.

<sup>57</sup> Chapter 480, F.S.

<sup>58</sup> Part II, ch. 483, F.S.

<sup>59</sup> Part III, ch. 483, F.S.

<sup>60</sup> Part I, ch. 484, F.S.

<sup>61</sup> Part II, ch. 484, F.S.

<sup>62</sup> Chapter 486, F.S.

<sup>63</sup> Chapter 490, F.S.

<sup>64</sup> Chapter 491, F.S.

<sup>65</sup> Chapter 2002-254, s. 2, Laws of Fla.

Section 456.0721, F.S., requires the DOH to obtain from the U. S. Department of Health and Human Services (now the U.S. DOE) information necessary to investigate and prosecute health care practitioners for failing to repay a student loan or comply with scholarship service obligations pursuant to s. 456.072(1)(k), F.S. The DOH is further required to obtain from the U.S. Department of Health and Human Services (now U.S. DOE) a list of default health care practitioners each month, along with the information necessary to investigate a complaint. The DOH may obtain evidence to support the investigation and prosecution from any financial institution or educational institution involved in providing the loan or education to a practitioner.

Section 456.0721, F.S., also requires the DOH to report to the Legislature, as part of its annual report, the number of practitioners in default, along with the results of the DOH's investigations and prosecutions, and the amount of fines collected from the practitioners prosecuted for violating s. 456.072(1)(k), F.S. The DOH Annual Reports to the Legislature from state fiscal year 2005-06, (the first year health care practitioners student loan defaults were reported) through 2017-18, show the following data on health care practitioners student loan defaults.

#### **Health Care Providers Student Loan Defaults for Fiscal Years 2005 through 2018**

State Fiscal Year	Reports of Defaults Received	Investigations Complete	Emergency Suspension Orders Issued	Probable Cause Found	No Probable Cause Found	Disciplinary Actions Taken	Amount of Fines Collected
2017-18	850	76	26	21	1	0	\$0
2016-17	1	1	1	1	0	0	\$0
2015-16	0	1	0	0	0	0	\$0
2014-15	1	0	0	0	0	1	\$0
2014-13	1	0	1	1	0	0	\$0
2013-12	2	2	1	1	0	1	\$2,500
2012-11	2	1	0	0	1	0	\$0
2011-10	19	0	0	0	0	2	\$16,216
2010-09	11	2	2	3	0	2	\$7,500
2009-08	13	4	3	4	0	2	\$6,000
2008-07	16	1	0	0	0	2	\$9,190
2007-06	0	3	1	2	5	4	\$29,307
2006-05	13	5	6	4	2	7	\$23,886
<b>TOTAL</b>	<b>929</b>	<b>96</b>	<b>41</b>	<b>16</b>	<b>9</b>	<b>21</b>	<b>\$94,600</b>

Section 456.074(4), F.S., further requires the DOH, upon receipt of information that a Florida-licensed health care practitioner has defaulted on his or her student loan issued or guaranteed by the state or the federal government, to notify the licensee by certified mail that he or she is subject to immediate suspension of his or her professional license unless, within 45 days after the date of mailing, the licensee provides proof of new payment terms between all parties to the loan. If, after 45 days from the date of mailing the certified notice, the licensee has failed to provide proof of new student loan payment terms, the DOH must issue an emergency order suspending the licensee's license.

Sections 456.0635(2)(e) and (3)(e), F.S., also require each board, or the DOH if there is no board, to refuse to admit a candidate to any examination, refuse to issue a license, certificate, or

registration, and refuse to renew a license, certificate or registration, if the candidate or practitioner is currently listed on the United States Department of Health and Human Services Office of Inspector General's List of Excluded Individuals and Entities (LEIE). Section 1128(b)(14) of the Social Security Act and 42 U.S.C. ss. 1320a-7(b)(14), provide that a default on a health education loan or scholarship obligation is permissive grounds for being placed on the LEIE and make such exclusion last until the default or obligation is resolved. Sections 456.0635(2)(e) and (3)(e), F.S., are not permissible, but mandatory, and require the boards, or the DOH, to refuse to issue, or renew, licenses, certificates, or registrations to a person in default on his or her health education loan or scholarship obligation.

### **Other States with Licensure Suspension Laws for Student Loan Defaulters**

Seven states—Alaska, Hawaii, Iowa, Kentucky, Massachusetts, Tennessee, and Texas—have laws requiring all occupational boards to revoke licenses for defaulting on any type of federal or state education loan. Louisiana will revoke a license only if the professional has defaulted on an education loan issued by the state.<sup>66</sup>

Prior to July 1, 2019, Georgia was included in the above group. During the 2019 Georgia Legislative session, the Georgia passed SB 214, which amended the Official Code of Georgia to prohibit a professional licensing board from suspending a person licensed by that board because:

- He or she was a borrower in default under the Georgia Higher Education Loan Program as determined by the Georgia Higher Education Assistance Corporation; or
- He or she had been certified by any entity of the federal government for nonpayment or default or breach of a repayment or service obligation under any federal educational loan, loan repayment, or service conditional scholarship program.<sup>67</sup>

Five states—Arkansas, California, Mississippi, Minnesota and Florida—revoke the licenses only of health care professionals for defaulting on education loans. In Arkansas and Mississippi, the laws are even narrower, applying only to state health care education loans and scholarship agreements. For example, defaulting physicians in Arkansas may have their license suspended for “a period of years equivalent to the number of years that the recipient is obligated to practice medicine in a rural area” if they default on an Arkansas Rural Medical Practice Student Loan.<sup>68</sup>

Two states—Iowa and South Dakota—revoke all state-issued licenses, including driver's licenses and recreational hunting licenses.<sup>69</sup>

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

CS/SB 66 amends s. 456.071(1)(k), F.S., to provide that the failure of a licensed health care practitioner to repay a state or federal student loan, or failure to comply with a service scholarship obligation, does not constitute a failure to perform a statutory or legal obligation.

<sup>66</sup> Wagner, Andrew; National Conference of State Legislatures, *License Suspension for Student Loan Defaulters*, Vol. 26, No. 40, 2018, available at: <http://www.ncsl.org/research/labor-and-employment/license-suspension-for-student-loan-defaulters.aspx> (last visited Sept. 26, 2019).

<sup>67</sup> Section 43-1-29, *Suspension of license for nonpayment of student loans prohibited*, Official Code of Georgia

<sup>68</sup> *Supra* note 74.

<sup>69</sup> *Supra* note 74.

The bill repeals s. 456.0721, F.S., which authorizes the DOH to obtain from the U.S. Department of Health and Human Services (now the U.S. Department of Education) information necessary to investigate and prosecute health care practitioners for failing to repay a student loan or comply with scholarship service obligations.

The bill amends s. 456.074(4), F.S., to delete the requirement for the DOH to notify a practitioner whose student loan is in default, and of the DOH's intent to suspend his or her license if the practitioner does not provide proof that new payment terms have been agreed upon by all parties to the loan.

The bill takes effect July 1, 2020.

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

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

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

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Under CS/SB 66, licensed health care practitioners in Florida would no longer be subject to licensure suspension or revocation for failure to repay student loans or failure to comply with service scholarship obligations and would therefore no longer have to stop practicing their health care profession if such discipline were applied.

**C. Government Sector Impact:**

The bill could reduce the workload of the DOH, MQA, and the boards in prosecuting these cases; and if licenses were not suspended, the practitioners would probably be renewing them and paying licensure fees. The bill could also reduce the DOH revenues from fines for a violation of s. 456.072(1)(k), F.S.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

Sections 456.0635(2)(e) and 456.0635(3)(e), F.S., provide that the DOH must refuse to issue or renew a license to a candidate or applicant if the candidate or licensee is currently listed on the United States Department of Health and Human Services Office of the Inspector General's List of Excluded Individuals and Entities (LEIE). Section 1128(b)(14) of the Social Security Act and 42 U.S.C. ss. 1320a-7(b)(14) provide that a default on a health education loan or scholarship obligation is permissive grounds for being placed on the LEIE and that such exclusion lasts until the default or obligation is resolved. If a candidate or applicant is placed on the LEIE for a default on a loan, the DOH would still be required to deny that person's application for initial or renewed licensure.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 456.072 and 456.074.

This bill repeals section 456.0721 of the Florida Statutes.

**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 on November 5, 2019:**

The CS amends s. 456.074(4), F.S., to delete the requirement for the DOH to notify a practitioner whose student loan is in default, and of the DOH's intent to suspend his or her license if the practitioner does not provide the DOH with proof that new payment terms have been agreed upon by all parties to the loan.

**B. Amendments:**

None.