

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/CS/HB 1565 Department of Health

**SPONSOR(S):** Health & Human Services Committee, Professions & Public Health Subcommittee, Drake

**TIED BILLS:** **IDEN./SIM. BILLS:** SB 1568

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Professions & Public Health Subcommittee	18 Y, 0 N, As CS	Morris	McElroy
2) Health & Human Services Committee	21 Y, 0 N, As CS	Morris	Calamas

### SUMMARY ANALYSIS

CS/CS/HB 1565 makes numerous changes to programs under the Department of Health (DOH) and health care professions regulated by the Division of Medical Quality Assurance (MQA) within DOH.

DOH administers the Targeted Outreach for Pregnant Women Act (TOPWA) Program which supports high risk pregnant women to prevent health issues for themselves and their newborns. The bill updates the TOPWA to account for current medication options, information on HIV, and mental health issues that may lead to a pregnancy being high risk.

MQA regulates health care practitioners in this state. MQA works in conjunction with 22 boards and 4 councils to license and regulate 7 types of health facilities and 40 health care professions. Each profession is regulated by an individual practice act and by ch. 456, F.S., which provides general regulatory authority and licensure authority for MQA. The bill:

- Updates institutional accreditation references for chiropractic medicine, clinical laboratory personnel, and mental clinical social workers and marriage and family therapists;
- Authorizes DOH to deny a nursing application or discipline a nurse licensed under ch. 464, F.S. under certain circumstances;
- Removes obsolete references to DOH-issued licensure examinations for clinical social workers and marriage and family therapists;
- Revises education, training, and temporary certification requirement for midwives;
- Removes obsolete form and fee requirements for fingerprinting of orthotists and prosthetists;
- Revises educational requirements for psychologists applying for licensure by endorsement; and
- Allows DOH to continue to issue licenses to marriage and family therapy graduates until July 1, 2026, while such programs seek accreditation.

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

The bill provides an effective date of July 1, 2021.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### **Targeted Outreach for Pregnant Women**

###### Current Situation

The Targeted Outreach for Pregnant Women Act (TOPWA) supports targeted outreach programs that aim to prevent vertical HIV transmission and other health issues by linking high-risk pregnant women with services that can help them have healthier pregnancies and deliveries and can aid them in ensuring their newborn gets a healthy start.<sup>1</sup> TOPWA programs aim to provide outreach and linkage services to pregnant women who may not seek proper prenatal care, who suffer from substance-use disorders, or who are living with HIV or are at increased risk for HIV acquisition.

In 2019, there were seven funded TOPWA programs in Florida. TOPWA programs provided services to 7,703 women from January 2016 to July 2020. Black women represented 48 percent of enrollees, Hispanic women represented 39 percent, and white women represented 10 percent. Women living with HIV made up just under 10 percent of TOPW enrollments.<sup>2</sup>

If a pregnant woman tests positive for HIV, medical interventions like antiretroviral (ARV) medication and delivery by caesarian section can greatly reduce her risk of transmitting the virus to her baby during childbirth. Prevention methods, like avoiding breastfeeding, can reduce her risk of transmitting the virus to her child post childbirth. Providing ARV medication to the newborn also decreases the chances of seroconversion in the event of an HIV-exposed birth. DOH has developed a program, Baby Rexpress, which provides a six-week course of ARV medication to HIV-exposed newborns at no cost to the mother. In 2019, this program filled 304 prescriptions to 264 HIV-exposed newborns.<sup>3</sup>

Many of the women targeted by TOPWA programs would not otherwise receive prenatal care or know their HIV status. In 2019, there were 453 HIV-exposed births in Florida. TOPWA programs aim to engage women into care who very likely do not already have knowledge of or access to these interventions. Without these types of interventions, a mother's chances of transmitting HIV to her newborn can be up to 45 percent. With these interventions, the chances of transmission are less than 2 percent.<sup>4</sup>

There were no known perinatal HIV transmissions in the program 2019; however, DOH does not have a definitive status on roughly 25 percent of the 453 HIV-exposed births.<sup>5</sup>

###### Effect of Proposed Changes – Targeted Outreach for Pregnant Women

The bill adds pregnant women who are suffering from mental health problems to the list of outreach targets. It also includes mental health services as a linkage option.

The bill revises the duties of DOH's administration of the TOPWA and the information and services DOH provides to the women it serves. The bill requires DOH to encourage high-risk pregnant women to be tested for other sexually transmitted diseases, in addition to HIV, as specified by rule. The bill requires DOH to give pregnant women who have HIV information on the need for ARV medication for their newborn, their medication options, and how to access medication after hospital discharge. The bill removes a reference to a specific type of ARV medication DOH may provide information on and

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<sup>1</sup> Department of Health, *Targeted Outreach for Pregnant Women Act*, <http://stlucie.floridahealth.gov/programs-and-services/infectious-disease-services/hiv-aids/topwa.html> (last visited March 20, 2021).

<sup>2</sup> E-mail from Andrew Love, Legislative Affairs Director, Department of Health, Bill Analyses, Jan. 28, 2021 (on file with Health and Human Services Committee staff).

<sup>3</sup> Id.

<sup>4</sup> Id.

<sup>5</sup> Id.

incorporates more general information on ARV medications, allowing for additional options. The bill requires DOH to educate pregnant women who have HIV on the importance of engaging in and continuing HIV care. Lastly, the bill requires DOH to conduct additional follow up for HIV-exposed newborns to ensure final HIV status is known and necessary linkages to care are made.

## **Institutional Accreditation**

### Current Situation

Accreditation is the recognition from an accrediting agency that an institution maintains a certain level of educational standards. Institutional accreditation normally applies to an entire institution and indicates that each entity of a school contributes to the achievement of the school's objectives. This does not necessarily mean that all parts of the school have the same quality level of education.<sup>6</sup>

Accrediting agencies issue accreditations.<sup>7</sup> Institutions or programs that request an agency's evaluation and that meet an agency's criteria are then accredited by that agency.<sup>8</sup> Accrediting agencies are organizations made up of educational professionals that:<sup>9</sup>

- Establish the operating standards for educational or professional institutions and programs;
- Determine if a school meets those standards; and
- Publically announce their findings through the issuance of accreditations.

While the United States Department of Education (DOE) does not issue accreditations, it does hold agencies accountable by ensuring that such agencies enforce their accreditation standards effectively. As part of DOE oversight, the Secretary of Education is required by law to publish a list of nationally recognized accrediting agencies that the Secretary determines to be reliable authorities as to the quality of education or training provided by the institutions of higher education and the higher education programs they accredit.<sup>10</sup>

The DOE issued finalized regulations in the Federal Register in October 2019 relating to institutional accrediting agencies.<sup>11</sup> DOE issued a letter of guidance on February 26, 2020, specifying that final regulations omit references to "regional" and "national" accreditation.<sup>12</sup> The letter specifies, "[b]ecause the Department holds all accrediting agencies to the same standards, distinctions between regional and national accrediting agencies are unfounded." Provisions implemented in 34 C.F.R. § 602.32(d), relating to the recognition of accrediting agencies, became effective January 1, 2021.

However, the education requirements in current Florida law distinguish regional from institutional accrediting agencies for chiropractic medicine, clinical laboratory directors, and orthotists and prosthetists, which does not align with the federal guidance.

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<sup>6</sup> U.S. Department of Homeland Security – Study in the States, *The Basics of School Accreditation*, <https://studyinthestates.dhs.gov/the-basics-of-school-accreditation> (last visited March 20, 2021).

<sup>7</sup> Id. See also U.S. Department of Education, *Database of Accredited Postsecondary Institutions and Programs*, <https://ope.ed.gov/dapip/#/home> (last visited March 20, 2021).

<sup>8</sup> U.S. Department of Education, *Database of Accredited Postsecondary Institutions and Programs*, <https://ope.ed.gov/dapip/#/home> (last visited March 20, 2021).

<sup>9</sup> *Supra*, note 6.

<sup>10</sup> *Supra*, note 8.

<sup>11</sup> 84 C.F.R. § 58834 (2020). The new regulations delayed implementation of changes to DOE staff's review of accrediting agency applications for initial or renewal of recognition under 34 C.F.R. § 602.32(d) until January 1, 2021. The new regulations also delayed implementation of changes to DOE staff's process for responding to accrediting agency applications and allowing agency responses within 180 days under 34 C.F.R. § 602.32(h) until July 1, 2021.

<sup>12</sup> U.S. Department of Education, Re: Final Accreditation and State Authorization Regulations (February 26, 2021) <https://sacscoc.org/app/uploads/2020/03/State-Authorization-Letter-w-Diane-Signature-2.26.19.pdf> (last visited March 20, 2021).

## Effect of Proposed Changes – Institutional Accreditation

The bill removes all references to “regional” accreditation in the practice acts for chiropractic medicine, clinical laboratory directors, orthotists and prosthetists, clinical social workers, and marriage and family therapists. The bill replaces the references with “institutional” accreditation throughout.

### **Nursing**

#### Current Situation

The Board of Nursing (Board) within DOH, oversees the licensure and regulation of certified nursing assistants (CAN), licensed practical nurses (LPN), registered nurses (RN), and advanced practice registered nurses (APRN). The Board has the authority to adopt rules to implement ch. 464, F.S., which regulates the practice of nursing in this state.<sup>13</sup> Additionally, the Board is responsible for administratively disciplining a CNA, LPN, RN, and APRN who commits an act prohibited under s. 464.018 or s. 456.072, F.S.

Current law specifies that being found guilty of any offense prohibited by s. 435.04, F.S., or an act of domestic violence, regardless of adjudication, or entering a plea of nolo contendere or guilty to, is ground for denial of a nursing license application or disciplinary action against a nursing licensee.<sup>14</sup> However, entering a guilty plea, or pleading nolo contendere, to these crimes is only grounds for licensure denial if there is a conviction. Other practice acts authorize license denial and discipline for pleading guilty or nolo contendere regardless of adjudication.<sup>15</sup>

#### Effect of Proposed Changes – Nursing

The bill moves “regardless of adjudication” after “or entered a plea of nolo contendere or guilty to” which allows DOH to deny a nursing licensure application or discipline a licensed CNA, LPN, RN, or APRN who is found guilty of, or pleads guilty or no contest to an offense prohibited in ch. 435, F.S., or domestic violence under s. 741.28, F.S.

### **Midwifery**

#### Current Situation

Chapter 467, F.S., is the practice act for midwifery (Act). DOH licenses and regulates the practice of midwifery in this state. Midwifery is the practice of supervising a normal labor and childbirth, with the informed consent of the parent, advising the parents as to the progress of childbirth, and rendering prenatal and postpartal care.<sup>16</sup> The Council of Licensed Midwifery assists and advises DOH on midwifery, including the development of rules relating to regulatory requirements. These regulations include training requirements, the licensure examination, responsibilities of midwives, emergency care plans, and reports and records to be filed by licensed midwives.<sup>17</sup>

#### *Licensure*

An individual must graduate from an approved midwifery program and pass a licensure examination to be eligible for licensure as a midwife.<sup>18</sup> A licensed midwife must submit a general emergency care plan to DOH, which addresses consultation with other health care providers, emergency transfer protocols, and access to neonatal intensive care units and obstetrical units or other patient care areas with his or

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<sup>13</sup> Section 464.006, F.S.

<sup>14</sup> Section 464.018(1)(e), F.S.

<sup>15</sup> Examples of other practice acts include allopathic physicians under in s. 458.331(1)(c), F.S., osteopathic physicians in s. 459.015(1)(c), F.S., pharmacists in s. 465.016(1)(f), F.S., and dentists and dental hygienists in s. 466.028(1)(c), F.S.

<sup>16</sup> Section 467.003(8), F.S.

<sup>17</sup> Section 467.004, F.S.

<sup>18</sup> Section 467.011, F.S. Section 467.0125, F.S. DOH no longer administers licensure examinations.

her application for licensure and licensure renewal.<sup>19</sup> A licensed midwife must also submit proof of professional liability coverage of at least \$100,000, with an annual aggregate of at least \$300,000.<sup>20</sup>

DOH may issue a license by endorsement for midwifery applicants who:<sup>21</sup>

- Holds a valid certificate or diploma from a foreign institution of medicine or from midwifery program in another state provided the requirements for licensure or certification in another country or another state are equivalent to or exceed that which is required for licensing in Florida; or
- Holds a valid certificate or license to practice midwifery in another state provided the requirements for licensure or certification in another state are equivalent to or exceed that which is required for licensing in Florida; and
- Has completed a 4-month prelicensure course conducted by an approved program; and
- Has successfully passed the licensed midwifery examination.

#### *Areas of Critical Need*

DOH may also issue a temporary certificate to a midwife who qualifies for licensure by endorsement to practice in areas of critical need.<sup>22</sup> Currently, a temporary certificate issued to practice in areas of critical need valid as long as an area for which it's issued remains an area of critical need, but not longer than two years, and the certificate is not renewable.<sup>23</sup> Currently, if the area in which a midwife is practicing ceases to be an area of critical need, DOH must immediately initiate disciplinary action to revoke his or her temporary certificate.<sup>24</sup>

#### *Midwifery Students*

The Act uses the terms “applicant” and “student midwife” interchangeably. It also sets standards for admission, education, and clinical training in the context of student requirements, which, according to DOH, may cause confusion.<sup>25</sup> As an example, current law requires a student midwife to have a high school diploma or the equivalent to enroll in an education program, but the act does not clearly state that a high school diploma is a requirement for licensure.<sup>26</sup>

According to DOH, the use of the undefined term “student midwife” has led to unlicensed persons attempting to work with clients and complete clinical requirements without enrolling in or being educated by an approved midwifery program, as well as midwives attempting to serve as preceptors who are not affiliated with an approved midwifery program.<sup>27</sup>

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<sup>19</sup> Section 467.017, F.S.

<sup>20</sup> Rule 64B24-7.013, F.A.C. An applicant does not have to submit proof of professional liability insurance if the applicant practices exclusively as an officer, employee, or agent of the federal government, practices only in conjunction with teaching duties at an approved midwifery school that provides such coverage on the applicant's behalf, or who does not practice midwifery in this state and provides proof of such.

<sup>21</sup> Section 467.0125(1), F.S.

<sup>22</sup> Section 467.0125(2), F.S.

<sup>23</sup> Id.

<sup>24</sup> Department of Health, Agency Analysis of 2021 House Bill 1565 (March 12, 2021).

<sup>25</sup> *Supra*, note 2.

<sup>26</sup> Section 467.009, F.S. *See also Supra*, note 24.

<sup>27</sup> *Supra*, note 2. In general, health care practitioners do not start seeing clients in a clinical setting until they have completed prerequisite portions of a course of study and are near the end of their educational program.

## *Midwifery Education Programs*

Any accredited or state-licensed institution of higher learning may provide midwifery education and training. Midwifery education programs may apply to DOH to obtain approved program status.<sup>28</sup> Approval may be obtained if a program meets requirements for accreditation, faculty, curriculum, and clinical training.<sup>29</sup> Current law requires nonpublic educational institutions be accredited by the Commission on Recognition of Postsecondary Accreditation (CRPA) in order to be approved as a midwifery program.<sup>30</sup> However, CRPA has been succeeded by the Council for Higher Education Accreditation, which is not recognized in current law.<sup>31</sup>

Currently, the Act does not address midwifery programs which are seeking accreditation and are provisionally approved while awaiting their first graduating class.

Current law allows DOH to place a midwifery educational program on probationary status if it no longer meets required standards; if the program fails to correct these conditions, DOH may rescind its approval.<sup>32</sup> However, statutes provide no guidance regarding notification to the program or length of time a school may remain in probationary status. Additionally, the circumstances under which DOH may rescind the approval of a midwifery education program under the Act is unclear as it does not provide a definitive timeline for a non-compliant program to come back into compliance before DOH may rescind its approval. Current law allows a non-compliant program to correct itself “within a specified period of time”<sup>33</sup>; however no timeline is provided in statute or rule.

### Effect of Proposed Changes – Midwifery

The bill makes numerous changes to the midwifery practice act.

#### *Licensure*

The bill prohibits endorsement without a license or certification in another state, territory or jurisdiction and creates a pathway to licensure by examination for applicants who have completed education equivalent to or exceeds that which is required for licensing in Florida in a state, territory, or jurisdiction that does not license midwives. These revisions do not change what is actually required to qualify for a midwifery license, but instead help applicants better understand those requirements.<sup>34</sup>

The bill allows midwifery programs to be provisionally approved for five years. This change conforms to the five-year period that such programs can be provisionally licensed by the U.S. Department of Education’s Commission for Independent Education when seeking accreditation status. DOH will be able to give provisional approval to a new program who has meet all requirements except for showing their students have an 80% passage rate on the national exam. Programs provisionally approved will have five years to demonstrate the required exam approval rate after they are preliminary approved. This time period allows completion of the three-year education program for at least one cohort of students, and for those students to take the exam before the Department tries to determine the passing rate.<sup>35</sup>

The bill removes obsolete references to the DOH-issued exam for midwifery licensure as DOH no longer administers licensure examinations.

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<sup>28</sup> Section 467.205, F.S.

<sup>29</sup> Rule 64B24-4.002, F.A.C.

<sup>30</sup> Section 467.009(8), F.S.

<sup>31</sup> *Supra*, note 24.

<sup>32</sup> Section 467.205, F.S.

<sup>33</sup> *Id.*

<sup>34</sup> *Supra*, note 2.

<sup>35</sup> *Id.*

## *Areas of Critical Need*

When a practice area is no longer designated as an area of critical need, the bill requires a certified midwife who practices in an area of critical need to relinquish his or her certificate within 30 days, or move his or her practice to another area of critical need, rather than being immediately subject to disciplinary action. Only if the midwife holding the temporary certificate fails to act within those thirty days will DOH initiate disciplinary action to revoke the certificate.<sup>36</sup>

## *Midwifery Students*

The bill prohibits a preceptor from supervising a midwifery student unless the student has been enrolled in an approved midwifery program. This means that an individual cannot begin their clinical practice before enrolling in an approved midwifery program and will explicitly conform midwifery training with the requirements of other medical professions, with students having to complete the majority of their classroom training before working with patients in a clinical setting.

## *Midwifery Education Programs*

The bill updates the accreditation requirement for private educational institutions by replacing the defunct Commission on Recognition of Postsecondary Accreditation with the Council for Higher Education Accreditation or provisional licensing by the Commission for Independent Education. The bill also allows DOH to approve midwifery programs at private educational institutions which are accredited by an agency recognized and approved by the U.S. Department of Education.

The bill authorizes DOH to grant provisional approval of a new midwifery education program which is seeking accreditation for up to 5 years.

Lastly, the bill authorizes DOH to place a midwifery program on probationary status for up to 3 years if such program fails to maintain the requirements of an approved program or has lost accreditation. If a program in probationary status fails to come into compliance with the requirements of an approved program or does not regain its accreditation, DOH may rescind the program's approval.

## **Orthotists and Prosthetists**

### Current Situation

The Board of Orthotists and Prosthetists oversees licensure and regulation of orthotists<sup>37</sup> and prosthetists.<sup>38</sup> A person applying for licensure must first apply to DOH to take the appropriate licensure examination. The board may accept the exam results of a national orthotic or prosthetic, standards organization in lieu of administering the state exam.<sup>39</sup> The board must verify that an applicant for licensure examination meets the following requirements:<sup>40</sup>

- Has completed the application form and paid all applicable fees;
- Is of good moral character;
- Is 18 years of age or older;
- Has completed the appropriate educational preparation, including practical training requirements; and
- Has successfully completed an appropriate clinical internship in the professional area for which the license is sought.

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<sup>36</sup> *Supra*, note 24.

<sup>37</sup> An orthotist is a health care professional who evaluates, formulates treatment, measures, designs, fabricates, assembles, fits, adjusts, services, or provides necessary training to accomplish the fitting of an orthosis or a pedorthic device (s. 468.80(9)-(10), F.S.)

<sup>38</sup> A prosthetist is a health care professional who evaluates, formulates treatment, measures, designs, fabricates, assembles, fits, adjusts, services, or provides necessary training to accomplish the fitting of a prosthesis (s. 468.80(15)-(16), F.S.)

<sup>39</sup> Section 468.803(4), F.S. The Board has approved the American Board for Certification in Orthotics, Prosthetics, and Pedorthics (ABC) exam for orthotist and prosthetist applicants (r. 64B14-4.001, F.A.C.)

<sup>40</sup> Section 468.803(2), F.S.

## *Background Screening*

Chapter 435, F.S., establishes standard procedures and requirements for criminal history background screening of prospective employees. There are two levels of background screening: level 1 and level 2. Level 1 screening includes, at a minimum, employment history checks and statewide criminal correspondence checks through the Florida Department of Law Enforcement (FDLE) and a check of the Dru Sjodin National Sex Offender Public Website,<sup>41</sup> and may include criminal records checks through local law enforcement agencies. A level 2 background screening includes, but, is not limited to, fingerprinting for statewide criminal history records checks through FDLE and national criminal history checks through the Federal Bureau of Investigation (FBI), and may include local criminal records checks through local law enforcement agencies.<sup>42</sup>

Every person required by law to be screened pursuant to ch. 435, F.S., must submit a complete set of information necessary to conduct a screening to his or her employer.<sup>43</sup> Such information for a level 2 screening includes fingerprints, which are taken by a vendor that submits them electronically to FDLE.<sup>44</sup>

Section 456.0135, F.S., requires certain health care practitioners to undergo a Level 2 background screening as a part of the licensure process. The appropriate regulatory board reviews the background screening results of an applicant or licensee to determine if there is a disqualifying offense. Every health care practitioner required by law to be screened pursuant to chs. 456 and 435, F.S., must submit a complete set of information necessary to conduct a screening to his or her employer.<sup>45</sup> Such information for a level 2 screening includes fingerprints, which are taken by a vendor that submits them electronically to FDLE.<sup>46</sup> The employer or employee is responsible for paying the costs of screening.<sup>47</sup>

The orthotist and prosthetist practice act contains obsolete references to forms and fees required by DOH for background screening,<sup>48</sup> which are no longer used now that background screening is completed electronically.

### Effect of Proposed Changes – Orthotists and Prosthetists

The bill removes obsolete references to form and fee requirements for background screening of orthotists, prosthetists, and pedorthists which are no longer collected by DOH.

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<sup>41</sup> The Dru Sjodin National Sex Offender Public Website is a U.S. government website that links public state, territorial, and tribal sex offender registries in one national search site. The website is available at <https://www.nsopw.gov/> (last visited March 20, 2021).

<sup>42</sup> Section 435.04, F.S.

<sup>43</sup> Section 435.05(1)(a), F.S.

<sup>44</sup> Sections 435.03(1) and 435.04(1)(a), F.S.

<sup>45</sup> Section 435.05(1)(a), F.S.

<sup>46</sup> Sections 435.03(1) and 435.04(1)(a), F.S.

<sup>47</sup> Section 435.08, F.S. The fee for a state background check is \$24.00, a federal check is \$13.25, and a check for both state and federal is \$37.25. See Florida Department of Law Enforcement, Criminal History Record Check Fee Schedule (Effective January 1, 2019), available at [http://www.fdle.state.fl.us/Criminal-History-Records/Documents/Criminal-History-Fee-Chart\\_January2019.aspx](http://www.fdle.state.fl.us/Criminal-History-Records/Documents/Criminal-History-Fee-Chart_January2019.aspx) (last visited March 20, 2021).

<sup>48</sup> Section 468.803, F.S.



## Psychologists

### Current Situation

The Board of Psychology oversees the licensure and regulation of psychologists.<sup>49</sup> To receive a license to practice psychology, an individual must:<sup>50</sup>

- Meet one of the following educational requirements:
  - Received a doctoral-level psychological education from an institution that had institutional accreditation from an agency recognized by the United States Department of Education or was recognized as a member in good standing with the Association of Universities and Colleges of Canada, and had programmatic accreditation from the American Psychological Association (APA);<sup>51</sup> or
  - Received the equivalent of a doctoral-level education from a program at a school or university located outside of the United States, which is officially recognized by the government of the country in which it is located as a program or institution to train students to practice professional psychology.
- Complete 2 years or 4,000 hours of supervised experience;
- Pass the Examination for Professional Practice in Psychology;<sup>52</sup> and
- Pass an examination on Florida laws and rules.

Applicants for licensure by endorsement must:<sup>53</sup>

- Be a diplomate in good standing with the American Board of Professional Psychology;
- Hold a doctoral degree in psychology with at least 10 years of experience as a licensed psychologist in any jurisdiction or territory of the U.S. within the 25 years preceding the date of application.

The APA is recognized by the U.S. Department of Education and the Council for Higher Education Accreditation as the national accrediting authority for professional education and training in psychology.<sup>54</sup> To be licensed as a psychologist in this state, an applicant with a Doctoral degree must have received that degree from a program accredited by the APA. Lack of APA accreditation is grounds for licensure denial under the licensure by endorsement method.<sup>55</sup>

### Effect of Proposed Changes – Psychologists

The bill allows a psychologist applying by endorsement to obtain a license regardless of whether the doctoral program was APA accredited. This will allow applicants who did not graduate from an APA accredited program to be licensed by endorsement while maintaining the needed accreditation and educational standards for licensure by examination.<sup>56</sup>

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<sup>49</sup> Section 490.004, F.S.

<sup>50</sup> Section 490.005(1), F.S.

<sup>51</sup> Section 490.003(3), F.S., defines doctoral-level education as a Psy.D, an Ed.D., or a Ph.D in psychology.

<sup>52</sup> Rule 64B19-11.001, F.A.C.

<sup>53</sup> Section 490.006, F.S.

<sup>54</sup> American Psychological Association, *Understanding APA Accreditation*, <http://www.apa.org/ed/accreditation/about/index.aspx> (last visited March 20, 2021).

<sup>55</sup> *Supra*, note 24

<sup>56</sup> *Id.*

## Marriage and Family Therapy and Mental Health Counseling

### Current Situation

#### *Marriage and Family Therapists*

Marriage and family therapy incorporates marriage and family therapy, psychotherapy, hypnotherapy, sex therapy, counseling, behavior modification, consultation, client-centered advocacy, crisis intervention, and the provision of needed information and education to clients.<sup>57</sup> Legislation in 2020 established accreditation requirements for marriage and family therapy education programs: an applicant seeking licensure as a mental health counselor to possess a master's degree from an a program accredited by the Commission on Accreditation for Marriage and Family Therapy Education or from a Florida university program accredited by the Council for Accreditation of Counseling and Related Educational Programs and board-approved graduate courses.<sup>58</sup> However, a window of time was not granted for programs to apply for and obtain such accreditation, creating confusion over whether students who graduate on or after July 1, 2020, from such programs may be licensed.<sup>59</sup>

#### *Mental Health Counselors*

A mental health counselor is an individual who uses scientific and applied behavioral science theories, methods, and techniques to describe, prevent, and treat undesired behavior and enhance mental health and human development and is based on research and theory in personality, family, group, and organizational dynamics and development, career planning, cultural diversity, human growth and development, human sexuality, normal and abnormal behavior, psychopathology, psychotherapy, and rehabilitation.<sup>60</sup>

To qualify for licensure as a mental health counselor, an individual must, among other requirements, pass an examination from the National Clinical Mental Health Counseling Examination.<sup>61</sup> Current law requires applicants to pass an exam administered by DOH.<sup>62</sup> However, DOH no longer administers licensure examinations.

### Effect of Proposed Changes – Clinical Social Work, Marriage and Family Therapy, and Mental Health Counseling

#### *Marriage and Family Therapists*

The bill allows DOH to continue to license marriage and family therapy students or graduates who have graduated from an unaccredited program until July 1, 2026. This will eliminate a barrier to licensure for such students.<sup>63</sup>

#### *Mental Health Counselors*

The bill removes obsolete references to DOH-issued licensure examinations for mental health counselors, as mental health counselors are required to pass a national examination, not one issued by DOH.

Finally, the bill makes various conforming changes.

The bill provides an effective date of July 1, 2021.

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<sup>57</sup> Id.

<sup>58</sup> Section 491.005, F.S. (2020).

<sup>59</sup> *Supra*, note 2.

<sup>60</sup> Sections 491.003(6) and (9), F.S.

<sup>61</sup> Rule 64B4-3.003, F.A.C.

<sup>62</sup> Section 491.005(3)(d), F.S.

<sup>63</sup> *Supra*, note 24.

**B. SECTION DIRECTORY:**

- Section 1** Amends s. 381.0045, F.S., relating to targeted outreach for pregnant women.
- Section 2** Amends s. 460.406, F.S., relating to licensure by examination.
- Section 3** Amends s. 464.018, F.S., relating to disciplinary actions.
- Section 4** Amends s. 467.003, F.S., relating to definitions.
- Section 5** Amends s. 467.009, F.S., relating to midwifery programs; education and training requirements.
- Section 6** Amends s. 467.011, F.S., relating to licensure by examination.
- Section 7** Amends s. 467.0125, F.S., relating to licensure by endorsement.
- Section 8** Amends s. 467.205, F.S., relating to approval of midwifery programs.
- Section 9** Amends s. 468.803, F.S., relating to license, registration, and examination requirements.
- Section 10** Amends s. 483.824, F.S., relating to qualifications of clinical laboratory director.
- Section 11** Amends s. 490.003, F.S., relating to definitions.
- Section 12** Amends s. 490.005, F.S., relating to licensure by examination.
- Section 13** Amends s. 490.0051, F.S., relating to provisional licensure; requirements.
- Section 14** Amends s. 491.005, F.S., relating to licensure by examination.
- Section 15** Provides an effective date of July 1, 2021.

**II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

**A. FISCAL IMPACT ON STATE GOVERNMENT:**

1. Revenues:

None.

2. Expenditures:

DOH may experience an increase in workload to conduct rulemaking and updating online application websites to implement the provisions of the bill, the impact of which can be absorbed within current resources.<sup>64</sup>

**B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

1. Revenues:

None.

2. Expenditures:

None.

**C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

None.

**D. FISCAL COMMENTS:**

None.

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<sup>64</sup> *Supra*, note 56.

### **III. COMMENTS**

#### **A. CONSTITUTIONAL ISSUES:**

##### **1. Applicability of Municipality/County Mandates Provision:**

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

##### **2. Other:**

None.

#### **B. RULE-MAKING AUTHORITY:**

DOH has sufficient rulemaking authority to implement the bill.

#### **C. DRAFTING ISSUES OR OTHER COMMENTS:**

None.

### **IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

On March 24, 2021, the Health and Human Services Committee adopted an amendment and reported the bill favorably as a committee substitute. The amendment authorizes DOH to approve midwifery programs at private institutors which demonstrate accreditation by an agency approved by the U.S. Department of Education.

This analysis is drafted to the committee substitute as passed by the Health and Human Services Committee.