

06/14/83  
UPDATED -6/10/83

BILL SUMMARY

COMMITTEE ON REGULATORY REFORM

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Relating to Professional Regulation

Other Committees of Reference:

Subcommittee: \_\_\_\_\_

Committee: \_\_\_\_\_

I. SUMMARY AND PURPOSE

This bill is an omnibus bill containing the Department of Professional Regulation's legislative package. The various proposals within the bill originated with the Department of Professional Regulation or with the professional boards within the Department. The bill amends 25 chapters of the Florida Statutes; all of which directly relate to professional regulation.

II. CURRENT LAW AND EFFECT OF CHANGES

A. Current Law

Section 1. Changes the name of the Division of Administrative Services to Division of Examination Services.

Changes the name of the Board of Land Surveyors to the Board of Professional Land Surveyors.

Section 2. The purpose of this section is to amend procedures whereby a party who is up for discipline before a DPR board may allege interest or bias by board members, thus forcing disqualification of the members. Such a situation occurred with the dental board and could happen to other boards.

The proposal would affect all state agency proceedings, not just DPR board actions.

The proposal would require the filing of suggestion within a “reasonable time” prior to the proceedings, and would authorize the Administration Commission (Cabinet) to adopt rules of procedure. There is a change of wording from “shall” to “may,” the effects of which would not be clarified until rules are adopted.

Sections 3, 4, and 6. These sections change the composition of the Board of Pilot Commissioners for rulemaking decisions. The Board is composed of ten members:

- 5 harbor pilots
- 2 non-pilots actively engaged in maritime shipping
- 3 non-pilots actively engaged in maritime shipping

For rate making decisions the board shall be comprised of the following:

- 1 harbor pilot member
- 1 board member actively involved in their professional or business capacity in maritime or marine shipping; and
- 3 board members not involved or monetarily interested in the piloting profession or in the maritime industry or marine shipping.

Section 5. Requires rulemaking regarding procedures for verifying the amount of pilotage at each port.

Section 7. Requires DPR to cause to be performed peer review of chiropractors.

Section 8. Provides for the automatic creation of a vacancy when a board member fails to attend three consecutive meetings or 50% of a board’s meetings. Exempts telephone conference calls from consideration by boards as “other business of the board.”

Section 9. Authorizes DPR to charge a licensure fee for licenses being initially licensed.

Currently, fees are assessed for application and examination, but these revenues do not in all cases cover the costs of regulating initial licensees. Various DPR boards have attempted to charge initial licensure fees, but it has been ruled that they have no statutory authority to do so.

Section 10. Contains technical name change.

Allows the department to provide candidate names when contracting for national examinations.

Section 11. Provides for peer review by a committee of the appropriateness, quality, utilization and cost of health care and health services provided to a patient. Chiropractors only.

Section 12. Provides that each DPR board may, in the alternative of filing a formal complaint, send a letter of guidance after a finding of probable cause.

Deletes notice requirements for probable cause panel meetings. Such meetings are not open to the public.

Section 13. Adds an additional ground of discipline - using certain laser devices without complying with the appropriate rules.

Section 14. Authorizes the Department to obtain patient records from naturopaths, just as it does for other medical professionals.

Section 15. Provides that only graduates from an allopathic school or college may take the licensure examination and authorizes the Board of Medical Examiners to waive certain educational requirements instead of the Department.

Section 16. Clarifies that a physician is not required to report another physician if he verifies that the individual is in an approved treatment program.

Section 17. Provides for the creation of an Impaired Professionals Advisory Committee and establishes the duties and responsibilities of the committee. In addition, the Board of Medical Examiners is authorized to establish rules relating to the Committee and its functions.

Section 18. Requires nursing homes ambulatory surgical centers or their staff to report to DPR disciplinary actions taken against physicians just as hospitals and hospital staff must report violations.

Sections 19, 20 and 21. These sections amend the osteopathic practice act by providing for the following:

Authorizing an osteopath to practice in Florida in conjunction with teaching duties at an accredited school;

Authorizing the Department to compel a mental or physical examination when investigating alcohol or drug abuse by an osteopath;

Would require the waiver of any objection to the admissibility of medical report. The statute is rewritten to conform to language in the medical practice act.

Section 22. Extends the waiver provision from 1979 to 1990, the grandfather provision which allows graduates of unapproved chiropractic colleges to establish eligibility for licensure in Florida.

Section 23. Would require physicians to keep X-rays in addition to other medical records. There is no similar provision for doctors.

Section 24. Requires podiatrists applying for licensure or renewal of licensure to indicate whether or not they accept Medicare assignment reimbursement and requires the department to share that information with the Department of HRS district offices.

Section 25. Raises the cap for naturopathy biennial license renewal from \$50 to \$100.

Section 26. Rewrites naturopathic disciplinary section to conform with medical practice act.

Section 27. Technical change to correct incorrect statute reference.

Section 28. Authorizes DPR to compel a mental or physical examination when investigating alcohol or drug abuse by a nurse. Requires that nurse pay for the examination. Requires that nurses report another nurse suspected of alcohol or drug abuse, but if abuser is in an approved treatment program then he only needs to report to the consultant.

Section 29. Authorizes Board of Nursing to appoint a licensee to serve on Impaired Professionals Advisory Committee; requires the Department to retain consultants approved by the board and provides some specific duties of the department.

Sections 30, 32, 33, 34 and 35. Defines and provides for permitting of radiopharmacies, special pharmacies and consulting pharmacists.

Provides for discipline of pharmacists violating the Federal Drug Abuse Act.

Section 31. Provides alternative method of qualifying for licensure examination for graduates of schools or colleges of pharmacy located outside the U.S. and authorizes fees to cover administrative costs.

Section 36. Provides for flexibility in the discipline of pharmacy permittees.

Section 37. Reduces the size of the Board of Nursing Home Administrators from 11 to 7 -change expected to save \$5,000.

Section 38. Eliminates the presumption that state or regional examinations for licensure as a nursing home administrator are substantially equivalent to Florida examination requirements.

Section 39. Authorizes a statute of limitations for certain violations by nursing home administrators.

Sections 40, 41, 42, 43, 44, 45, 46 and 47. These sections relate to acupuncture and provide for the following:

- expanded definitions
- creates a Board of Acupuncture
- adds training criteria for certification
- authorizes use of oriental nomenclature during testing upon request of applicants
- removes cap on certification and renewal fees and allows cap to be established by Board
- grandfathers in persons with certain types of training
- allows unsuccessful applicants on August 1982 examination and those who applied for March 1983 examination to take licensing examination two more times

Sections 48 and 49. Restricts the use of the title "registered engineer" to engineers licensed pursuant to Chapter 471 and revises the conditions under which certain contractors need not be registered as a registered engineer.

Sections 50, 51 and 53. Changes the name of the Board of Land Surveyors to the Board of Professional Land Surveyors.

Provides for discipline of land surveyors for violations of Florida Statutes, or rules of the Board.

Section 52. Alters the qualifications for licensure as a land surveyor as follows:

- graduate from approved course of study with four years experience

- graduate from a four year program, other than land surveying and have six years experience

- no change to alternative (c)

- be a high school graduate with eight years experience

In addition, persons with specified experience in the military may be authorized to take the state licensure examination for land surveying and requires the Board to establish rules providing for review and approval of military schools, apprenticeship programs offered by the military.

Section 54. Expands the Board of Accountancy from 7 to 9 members by adding two professional members.

Section 55. Clarifies the inactive status provisions relating to accountants; defines permanently retired and authorizes board to extend the four-year period which a license may be inactive under certain circumstances.

Sections 56, 57 and 58. Provides that the vaccination of animals against diseases communicable to humans must be performed by a veterinarian.

Repeals provisions for a temporary permit, and adds language to allow practice of veterinary medicine under direct supervision while awaiting examination results.

Section 59. Allows refund or partial refund of real estate application fees.

Section 60. Prohibits the licensure of applicants who have unlawfully acted as real estate brokers or salesman in the year prior to application.

Raises the number of classroom hours required to be a real estate salesman from 51 to 63 hours, and the hours required to be a broker from 48 to 72 hours.

Section 61. Amends s. 475.175, F.S., and clarifies the procedure and requirements individuals must meet in order to be eligible to take the real estate license examination.

Section 62. Requires real estate applicants to take real estate examinations within one year of application and to request initial licensure within six months of passage of the examination.

Section 63. Technical change to clarify language.

Section 64. Requires branch real estate offices to be managed by an on-site broker.

Section 65. Adds permit holders (real estate schools) to disciplinary provisions of Chapter 475.

Provides that a plea of nolo contendere shall be considered a conviction for the purposes of discipline by real estate commission.

Requires real estate licensees to notify DPR of any felony conviction.

Section 66. Requires real estate school instructors to pass an examination.

Rewrites grandfather clause for real estate school instructors.

Section 67. Allows for a claim to be honored, despite lack of notice, if the commission determines the claim is valid.

Section 68. Raises cap on allowable payments from real estate recovery fund.

Section 69. Creates s. 476.158, F.S., requiring the licensure of barbering instructors and includes provisions relating to license renewal and inactive licenses.

Section 70. Deletes language relating to renewal of license of retired barbers. In all other practice acts a person is either active or inactive.

Section 71. Provides that a barber's assistant may not apply hair tonics.

Section 72. Requires each barber shop to display its barber shop registration certificate.

Section 73. Creates an exception and allows barber services to be performed in locations other than registered barber shops under certain circumstances.

Section 74. Provides for exemption from cosmetology licensure for medical professionals, nurses, barbers, and employees of certain public institutions.

Section 75. Increases the minimum hours required before one may take the licensure examination.

Section 76. Clarifies the continuing education requirements for cosmetologists.

Section 77. Provides flexibility to the Board of Cosmetology regarding examinations. Currently, a practical examination is statutorily required; this proposal would permit all the Board to choose what types of examinations will be offered.

Section 78. Rewrites the disciplinary section in the cosmetology practice act to reflect similar language in other practice acts.

Section 79. Provides for disciplinary proceedings against continuing education providers.

Section 80. Rewrites penalty section of cosmetology practice act to conform with other practice acts.

Section 81. Creates an exception and allows cosmetology services to be performed in locations other than licensed salon under certain circumstances.

Section 82. Would allow for colonic irrigation by massage licensees. It is currently unclear as to whether "Hydrotherapy" includes colonic irrigation.

Section 83. Deletes mandatory continuing education requirements and adds language to allow the Board of Massage to include prescribed continuing education by rule.

Section 84. Deletes financial responsibility and insurance coverage requirements for massage establishments.

Section 85. Provides for flexibility in disciplinary proceedings relating to masseurs.

Section 86. Raises fee cap for application and examination as an architect from \$200 to \$300 and biennial renewal fee cap from \$100 to \$200.

Section 87. Raises the fee cap for application and examination as a landscape architect from \$200 to \$250.

Section 88. Requires that applicants for licensure as a landscape architect must pass a test on Florida plant materials. The requirement would primarily affect applicants from out-of-state applying for licensure by endorsement.

Section 89. Changes the educational requirement for licensure of opticians. An A.A. or A.S. degree in opticianry would meet the altered requirements. At present a two year course is required, but also 1,000 hours per year is required.

Section 90. Deletes definition section which currently has the effect of limiting opticians to filling prescriptions of in-state physicians.

Section 91. Provides for flexibility in the discipline of physical therapists.

Section 92. Alters contractor certification regulation to clarify that a contractor may only practice the particular type of contracting which is covered in the certificate.

Section 93. Requires that registration or certification number of each contractor appear in all advertising and also requires local building departments to verify that a DPR construction license is verified before issuing a building permit.

Section 94. Technical change in disciplinary language.

Section 95. Clarifies definition relating to electrical contracting (technical).

Section 96. Raises the following fee caps for electrical contractors:

- examination and certification from \$150 to \$200
- initial application for registration from \$20 to \$75
- certification renewal from \$150 to \$200 registration renewal from \$20 to \$75

Section 97. Abandonment of a contracted project is added as grounds for which an electrical contractor may be disciplined.

Section 98. Deletes unclear grandfathering language relating to licensure in psychology.

Alters licensure requirements to marriage and family therapists, mental health counselors, clinical social workers, and school psychologists.

Section 99. Exempts certain persons from licensure requirements, if the individual is an employee of a public or private educational institution.

Section 100. Requires the department to conduct a study dealing with the licensure of foreign-speaking Florida speaking residents and to examine the need for the regulation of legal in-court interpreters.

Section 101. Requires persons using lasers in the practice of the healing arts to comply with the rules governing registration of such devices with the Department of Health and Rehabilitative Services.

Section 102. Requires boards to develop rules exempting spouses of members of Armed Forces of the U.S. from license renewal provisions in certain cases.

Sections 103-123. Revise and update provisions relating to inactive status for all professions and reduces the period of time for inactive licensure status from 10 to 4 years.

Section 124. Repeals certain provisions for practice acts which relate to inactive status and which are no longer necessary.

Section 125. Provides for repeal and review of all sections added to chapters 476, 477, and 480, F.S., on October 1, 1985.

Section 126. Provides for repeal and review of all sections added to chapters 458, 459, 461, 464, and 465 and certain sections of 468, F.S., on October 1, 1986.

Section 127. Provides effective dates.

III. FISCAL DATA

See the attached sheets for summary of the fiscal impact of the various sections of this bill.

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CH/kc

LEGISLATIVE BILL ANALYSIS  
DPR PACKAGE  
JUNE 10, 1983

Nursing Home Administrators

Reduces size of Board from 11 to 7. This will reduce travel and per diem paid to four Board Members at a savings of approximately \$10,000 per year.

Naturopathy

This Board has only 64 licensees. Increase in renewal license fee from \$50 to \$100 will defray the costs of operating this Board which is currently operating at a deficit.

Inactive Status

Currently there are 292,223 registrants carried on our records in the Inactive Status without any cost to that registrant. This will allow the files to be purged on a routine basis thereby reducing the costs involved in maintaining records. An inactive status fee will defray costs of maintaining records.

Initial License Fees

This is to increase board operating funds. Currently licensees may operate up to two years without ever paying a license fee. This will help defray expenses in the regulation of the professions. Unable to anticipate additional revenue at this time.

Study Committees

It is estimated it will cost \$40,000 to study procedures used to qualify foreign-speaking Florida residents to practice professions and the need for the regulation of legal and court interpreters. Each study committee is estimated to cost \$20,000.

LEGISLATIVE BILL ANALYSIS  
 DPR PACKAGE  
 JUNE 10, 1983

FISCAL IMPACT

Accountancy - Two additional Board Members to Board of Accountancy.

Compensation (10 Meetings) \$1,000

Travel (10 Meetings) 3,000

Total \$4,000

Pharmacy - Provides for the issuance of certain permits, provides for the issuance of consultant pharmacist licenses.

Other Personal Services (OPS) is requested in the amount of 928 hours at an hourly rate of \$4.00. Experience has indicated OPS assistance to begin the "start-up" operations to handle the telephone inquires, correspondence, research and review of the new law.

OTHER PERSONAL SERVICES \$3,712

Real Estate - \$50, 000 additional funds would be paid out from the Real Estate Recovery Fund based on the increase in limits.

\$50,000

The following will be increased revenue for the department with impact on the candidate.

Architecture: Examination Fee	\$100	x			
Candidates	1,000		=		\$100,000

Landscape Architecture:					
Examination Fee	\$100	x			
Candidates	200		=		\$ 20,000

Electrical Contracting:					
Certification-Examination Fee	\$50	x			
Candidates	240		=		\$ 12,000

Registration-Examination Fee	\$55	x			
Candidates	400		=		\$ 22,000

LEGISLATIVE BILL ANALYSIS  
DPR PACKAGE  
JUNE 10, 1983

FISCAL IMPACT

Analysis Impaired Professionals Advisory Committee addresses Medical Doctors only:

OTHER PERSONAL SERVICES

Board Member Compensation:

Committee Meetings	\$	225
National Meetings		133
Educational Meetings		<u>255</u>
Total Board Member Compensation	\$	583
Consultant		<u>24,000</u>
TOTAL - OTHER PERSONAL SERVICES		<u>\$24,583</u>

EXPENSES

Travel - Board Members, Advisory Committee & Staff		\$16,667
Travel - Consultant		2,500
Travel - Speakers Bureau		10,000
Continuation of Identification and Referral Systems Study		7,333
Rental of Meeting Rooms		150
Other Materials & Supplies		<u>417</u>
TOTAL - EXPENSES		<u>\$37,067</u>

TOTAL - OTHER PERSONAL SERVICES & EXPENSES \$61,650

Feasibility Study \$ 5,650

\$67,300

LEGISLATIVE BILL ANALYSIS  
DPR PACKAGE  
JUNE 10, 1983

FISCAL IMPACT

Analysis Impaired Professionals Advisory Committee addresses Nurses only:

OTHER PERSONAL SERVICES

Board Member Compensation:

Committee Meetings	\$	225
National Meetings		133
Educational Meetings		<u>255</u>
Total Board Member Compensation	\$	583
Consultant		<u>24,000</u>
TOTAL - OTHER PERSONAL SERVICES		<u>\$24,583</u>

EXPENSES

Travel - Board Members, Advisory Committee & Staff		\$16,667
Travel - Consultant		2,500
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Other Materials & Supplies		<u>417</u>
TOTAL - EXPENSES		<u>\$37,067</u>

TOTAL - OTHER PERSONAL SERVICES & EXPENSES \$61,650

Feasibility Study \$ 5,650

\$67,300

LEGISLATIVE BILL ANALYSIS  
DPR PACKAGE  
JUNE 10, 1983

ACUPUNCTURE

I. FISCAL IMPACT – EXPENDITURES

It is anticipated that the board office staff would be comprised of one (1) Executive Director and one (1) Secretary IV to handle the day to day operations of the board. Based on this, the following salaries and benefits, expenses, and operating capital outlay would be required. The operating capital outlay is a nonrecurring expense.

SALARIES & BENEFITS:	\$ 23,116
EXPENSES:	3,723
OPERATING CAPITAL OUTLAY:	<u>3,070</u>
	\$ 34,909

Other Personal Services (OPS) is requested in the amount of 928 hours at an hourly rate of \$4.00. Experience has indicated OPS assistance to begin the “start-up” operations of the regulation of a new profession within the Department to handle the telephone inquiries, correspondence, research and review of the new law prior to board staff being employed.

OTHER PERSONAL SERVICES:	\$ 3,712
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An estimated \$5,000 would be requested for travel performed by the Executive Director of the Board and the five (5) Board Members to attend meetings, hearings, and other activities which would be required.

EXPENSES –TRAVEL	\$ 30,000
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Based on the formula currently in existence for computation of Department Overhead Expenses, it is anticipated that \$3,285 would be required to cover these expenses.

ADMINISTRATIVE OVERHEAD COSTS	\$ 3,285
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Based on an estimated 500 candidates per year to be examined, the following estimated costs have been computed for the Division of Administrative Services.

EXAMINATION	\$ 65,132
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Based on approximately 500 licenses, the following estimated costs have been computed for the Division of Regulation.

COMPLAINT / INVESTIGATIVE/ LEGAL SERVICES	<u>\$ 24,956</u>
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Recap of First Year Expenditures:

TOTAL	<u>\$161,994</u>
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LEGISLATIVE BILL ANALYSIS  
DPR PACKAGE  
JUNE 10, 1983

ACUPUNCTURE -Continued

II. FISCAL IMPACT – REVENUE

Based on estimated 500 licensees at current fees charged by Department, the estimated first year Revenue has been calculated as follows:

APPLICATION FEE:	\$ 100,000
EXAMINATION FEE:	100,000
LICENSE FEE:	<u>100,000</u>
TOTAL	<u>\$ 300,000</u>

The current deficient is projected to be \$124,642 at the end of this fiscal year.

SUMMARY

Projected Cash Balance June 30, 1983	\$(124,642)
Revenue Anticipated (1 <sup>st</sup> Year)	300,000
Expenditures Anticipated (1 <sup>st</sup> Year)	<u>(161,994)</u>
Deficient 1 <sup>st</sup> Year	<u>\$(13,364)</u>