

1                                   A bill to be entitled  
2           An act relating to the practice of medicine;  
3           amending s. 458.307, F.S.; revising membership  
4           requirements of the Board of Medicine;  
5           providing for the appointment of additional  
6           members; providing applicability to current  
7           members; providing the beginning date for the  
8           term of additional members; membership and  
9           replacement of unqualified members; amending s.  
10          458.311, F.S.; providing an option for  
11          applicants for physician licensure to complete  
12          an externship; authorizing the Department of  
13          Health to develop procedures relating to  
14          completion of the externship; requiring board  
15          approval of externships; authorizing the board  
16          to adopt rules to implement externship  
17          requirements, including fees to cover costs;  
18          revising the requirement of the department to  
19          impose conditions, limitations, or restrictions  
20          on a license; amending ss. 458.313, 458.316,  
21          458.3165, 458.317, and 458.347, F.S.;  
22          correcting cross references; amending s.  
23          458.331, F.S.; providing a requirement for a  
24          probable cause panel considering disciplinary  
25          action against a physician assistant; providing  
26          an exception; providing practitioners a defense  
27          to alleged violations; amending s. 459.015,  
28          F.S.; providing a requirement for a probable  
29          cause panel considering disciplinary action  
30          against a physician assistant; providing an  
31          exception; providing an effective date.

1 Be It Enacted by the Legislature of the State of Florida:

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3 Section 1. Subsections (1) and (2) of section 458.307,  
4 Florida Statutes, are amended to read:

5 458.307 Board of Medicine.--

6 (1) There is created within the department the Board  
7 of Medicine, composed of 17 ~~15~~ members appointed by the  
8 Governor and confirmed by the Senate.

9 (2) Twelve members of the board must be licensed  
10 physicians in good standing in this state who are residents of  
11 the state and who have been engaged in the active practice or  
12 teaching of medicine in this state with a full and  
13 unrestricted medical license for at least 5 ~~4~~ years  
14 immediately preceding their appointment. One of the physicians  
15 must be on the full-time faculty of a medical school in this  
16 state, and one of the physicians must be in private practice  
17 and on the full-time staff of a statutory teaching hospital in  
18 this state as defined in s. 408.07. At least one of the  
19 physicians must be a graduate of a foreign medical school. The  
20 remaining five ~~three~~ members must be residents of the state  
21 who have lived in the state for at least 5 years immediately  
22 preceding their appointments, have never been licensed as a  
23 health care practitioner under chapter 456 or the applicable  
24 practice act, and do not have a substantial personal,  
25 business, professional, or pecuniary connection with a  
26 licensed health care practitioner or with a medical education  
27 or health care facility, except as patients or potential  
28 patients are not, and never have been, licensed health care  
29 ~~practitioners~~. One member must be a health care risk manager  
30 licensed under s. 395.10974. At least one member of the board  
31 must be 60 years of age or older. The requirements of this

1 subsection shall be a continuing condition of membership on  
2 the board. Any member who ceases to meet the requirements of  
3 this subsection shall be removed from the board, and a new  
4 qualified member shall be appointed to fill the vacancy for  
5 the remainder of that member's term.

6 Section 2. The requirements of section 458.307,  
7 Florida Statutes, as amended by this act, shall apply to  
8 appointments made on or after the effective date of this act  
9 and shall not be construed to end the term of any member of  
10 the Board of Medicine holding that appointment on the  
11 effective date of this act. The term of the additional members  
12 required to be appointed under section 458.307, Florida  
13 Statutes, as amended by this act, shall begin November 1,  
14 2005.

15 Section 3. Subsections (2) through (8) of section  
16 458.311, Florida Statutes, are renumbered as subsections (3)  
17 through (9), respectively, present subsections (5) and (7) are  
18 amended, and a new subsection (2) is added to said section, to  
19 read:

20 458.311 Licensure by examination; requirements;  
21 fees.--

22 (2) Notwithstanding sub-subparagraphs (1)(f)1.c.,  
23 (1)(f)2.c., and (1)(f)3.c. and paragraph (3)(d), except for  
24 passing part II of the National Board of Medical Examiners  
25 examination or the Educational Commission for Foreign Medical  
26 Graduates examination equivalent as referred to in paragraph  
27 (3)(d), the department may develop procedures for an applicant  
28 for licensure as a physician pursuant to this chapter to meet  
29 postgraduate training requirements by completion of a 2-year  
30 externship at a nonstatutory teaching hospital licensed in  
31 this state. The training provided in the externship shall be

1 substantially similar, as defined by board rule, to the  
2 training provided in an approved residency as provided in  
3 sub-subparagraph (1)(f)1.c., sub-subparagraph (1)(f)2.c., or  
4 sub-subparagraph (1)(f)3.c. In order for the externship to  
5 meet the requirements of this subsection, it must be approved  
6 by the board prior to the applicant entering into the  
7 externship. The applicant shall not be licensed pursuant to  
8 this subsection unless the board finds that the applicant has  
9 successfully completed the externship. The board may adopt  
10 rules to implement this subsection, including the  
11 implementation of fees to cover costs.

12 ~~(6)(5)~~ The board may not certify to the department for  
13 licensure any applicant who is under investigation in another  
14 jurisdiction for an offense which would constitute a violation  
15 of this chapter until such investigation is completed. Upon  
16 completion of the investigation, the provisions of s. 458.331  
17 shall apply. Furthermore, the department may not issue an  
18 unrestricted license to any individual who has committed any  
19 act or offense in any jurisdiction which would constitute the  
20 basis for disciplining a physician pursuant to s. 458.331.  
21 When the board finds that an individual has committed an act  
22 or offense in any jurisdiction which would constitute the  
23 basis for disciplining a physician pursuant to s. 458.331,  
24 then the board may enter an order imposing one or more of the  
25 terms set forth in subsection~~(9)(8)~~.

26 ~~(8)(7)~~ Upon certification by the board, the department  
27 shall impose conditions, limitations, or restrictions on a  
28 license if the applicant is on probation in another  
29 jurisdiction for an act which would constitute a violation of  
30 this chapter or if the externship requirement provided in  
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1 subsection (2) was complied with at a nonstatutory teaching  
2 hospital.

3 Section 4. Paragraph (a) of subsection (1) of section  
4 458.313, Florida Statutes, is amended to read:

5 458.313 Licensure by endorsement; requirements;  
6 fees.--

7 (1) The department shall issue a license by  
8 endorsement to any applicant who, upon applying to the  
9 department on forms furnished by the department and remitting  
10 a fee set by the board not to exceed \$500, the board  
11 certifies:

12 (a) Has met the qualifications for licensure in s.  
13 458.311(1)(b)-(g) or in s. 458.311(1)(b)-(e) and (g) and  
14 (4)~~(3)~~;

15 Section 5. Subsection (1) of section 458.316, Florida  
16 Statutes, is amended to read:

17 458.316 Public health certificate.--

18 (1) Any person desiring to obtain a public health  
19 certificate shall submit an application fee not to exceed \$300  
20 and shall demonstrate to the board that he or she is a  
21 graduate of an accredited medical school and holds a master of  
22 public health degree or is board eligible or certified in  
23 public health or preventive medicine, or is licensed to  
24 practice medicine without restriction in another jurisdiction  
25 in the United States and holds a master of public health  
26 degree or is board eligible or certified in public health or  
27 preventive medicine, and shall meet the requirements in s.  
28 458.311(1)(a)-(g) and (6)~~(5)~~.

29 Section 6. Section 458.3165, Florida Statutes, is  
30 amended to read:

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1           458.3165 Public psychiatry certificate.--The board  
2 shall issue a public psychiatry certificate to an individual  
3 who remits an application fee not to exceed \$300, as set by  
4 the board, who is a board-certified psychiatrist, who is  
5 licensed to practice medicine without restriction in another  
6 state, and who meets the requirements in s. 458.311(1)(a)-(g)  
7 and (6)~~(5)~~. A recipient of a public psychiatry certificate may  
8 use the certificate to work at any public mental health  
9 facility or program funded in part or entirely by state funds.

10           (1) Such certificate shall:

11           (a) Authorize the holder to practice only in a public  
12 mental health facility or program funded in part or entirely  
13 by state funds.

14           (b) Be issued and renewable biennially if the  
15 secretary of the Department of Health and the chair of the  
16 department of psychiatry at one of the public medical schools  
17 or the chair of the department of psychiatry at the accredited  
18 medical school at the University of Miami recommend in writing  
19 that the certificate be issued or renewed.

20           (c) Automatically expire if the holder's relationship  
21 with a public mental health facility or program expires.

22           (d) Not be issued to a person who has been adjudged  
23 unqualified or guilty of any of the prohibited acts in this  
24 chapter.

25           (2) The board may take disciplinary action against a  
26 certificateholder for noncompliance with any part of this  
27 section or for any reason for which a regular licensee may be  
28 subject to discipline.

29           Section 7. Paragraph (a) of subsection (1) of section  
30 458.317, Florida Statutes, is amended to read:

31           458.317 Limited licenses.--

1           (1)(a) Any person desiring to obtain a limited license  
2 shall:

3           1. Submit to the board, with an application and fee  
4 not to exceed \$300, an affidavit stating that he or she has  
5 been licensed to practice medicine in any jurisdiction in the  
6 United States for at least 10 years and intends to practice  
7 only pursuant to the restrictions of a limited license granted  
8 pursuant to this section. However, a physician who is not  
9 fully retired in all jurisdictions may use a limited license  
10 only for noncompensated practice. If the person applying for a  
11 limited license submits a notarized statement from the  
12 employing agency or institution stating that he or she will  
13 not receive compensation for any service involving the  
14 practice of medicine, the application fee and all licensure  
15 fees shall be waived. However, any person who receives a  
16 waiver of fees for a limited license shall pay such fees if  
17 the person receives compensation for the practice of medicine.

18           2. Meet the requirements in s. 458.311(1)(b)-(g) and  
19 ~~(6)-(5)~~. If the applicant graduated from medical school prior  
20 to 1946, the board or its appropriate committee may accept  
21 military medical training or medical experience as a  
22 substitute for the approved 1-year residency requirement in s.  
23 458.311(1)(f).

24  
25 Nothing herein limits in any way any policy by the board,  
26 otherwise authorized by law, to grant licenses to physicians  
27 duly licensed in other states under conditions less  
28 restrictive than the requirements of this section.  
29 Notwithstanding the other provisions of this section, the  
30 board may refuse to authorize a physician otherwise qualified  
31 to practice in the employ of any agency or institution

1 otherwise qualified if the agency or institution has caused or  
2 permitted violations of the provisions of this chapter which  
3 it knew or should have known were occurring.

4 Section 8. Subsection (2) of section 458.331, Florida  
5 Statutes, is amended, and subsection (11) is added to said  
6 section, to read:

7 458.331 Grounds for disciplinary action; action by the  
8 board and department.--

9 (2) The board may enter an order denying licensure or  
10 imposing any of the penalties in s. 456.072(2) against any  
11 applicant for licensure or licensee who is found guilty of  
12 violating any provision of subsection (1) of this section or  
13 who is found guilty of violating any provision of s.  
14 456.072(1). A probable cause panel considering disciplinary  
15 action against a physician assistant pursuant to s. 456.073  
16 shall include a licensed physician assistant designated by the  
17 Council on Physician Assistants, unless a physician assistant  
18 is not available. In determining what action is appropriate,  
19 the board must first consider what sanctions are necessary to  
20 protect the public or to compensate the patient. Only after  
21 those sanctions have been imposed may the disciplining  
22 authority consider and include in the order requirements  
23 designed to rehabilitate the physician. All costs associated  
24 with compliance with orders issued under this subsection are  
25 the obligation of the physician.

26 (11) Notwithstanding any law to the contrary, a  
27 practitioner licensed under this chapter has a defense to an  
28 alleged violation, by the preponderance of the evidence, that  
29 the practitioner relied in good faith on the representations  
30 made to the practitioner by a drug manufacturer or its  
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1 representatives and that the practitioner had no intent to  
2 violate the law.

3 Section 9. Paragraph (b) of subsection (7) of section  
4 458.347, Florida Statutes, is amended to read:

5 458.347 Physician assistants.--

6 (7) PHYSICIAN ASSISTANT LICENSURE.--

7 (b)1. Notwithstanding subparagraph (a)2. and  
8 sub-subparagraph (a)3.a., the department shall examine each  
9 applicant who the Board of Medicine certifies:

10 a. Has completed the application form and remitted a  
11 nonrefundable application fee not to exceed \$500 and an  
12 examination fee not to exceed \$300, plus the actual cost to  
13 the department to provide the examination. The examination fee  
14 is refundable if the applicant is found to be ineligible to  
15 take the examination. The department shall not require the  
16 applicant to pass a separate practical component of the  
17 examination. For examinations given after July 1, 1998,  
18 competencies measured through practical examinations shall be  
19 incorporated into the written examination through a  
20 multiple-choice format. The department shall translate the  
21 examination into the native language of any applicant who  
22 requests and agrees to pay all costs of such translation,  
23 provided that the translation request is filed with the board  
24 office no later than 9 months before the scheduled examination  
25 and the applicant remits translation fees as specified by the  
26 department no later than 6 months before the scheduled  
27 examination, and provided that the applicant demonstrates to  
28 the department the ability to communicate orally in basic  
29 English. If the applicant is unable to pay translation costs,  
30 the applicant may take the next available examination in  
31 English if the applicant submits a request in writing by the

1 application deadline and if the applicant is otherwise  
2 eligible under this section. To demonstrate the ability to  
3 communicate orally in basic English, a passing score or grade  
4 is required, as determined by the department or organization  
5 that developed it, on the test for spoken English (TSE) by the  
6 Educational Testing Service (ETS), the test of English as a  
7 foreign language (TOEFL) by ETS, a high school or college  
8 level English course, or the English examination for  
9 citizenship, Bureau of Citizenship and Immigration Services. A  
10 notarized copy of an Educational Commission for Foreign  
11 Medical Graduates (ECFMG) certificate may also be used to  
12 demonstrate the ability to communicate in basic English; and  
13       b.(I) Is an unlicensed physician who graduated from a  
14 foreign medical school listed with the World Health  
15 Organization who has not previously taken and failed the  
16 examination of the National Commission on Certification of  
17 Physician Assistants and who has been certified by the Board  
18 of Medicine as having met the requirements for licensure as a  
19 medical doctor by examination as set forth in s. 458.311(1),  
20 ~~(4)(3), (5)(4), and (6)(5)~~ , with the exception that the  
21 applicant is not required to have completed an approved  
22 residency of at least 1 year and the applicant is not required  
23 to have passed the licensing examination specified under s.  
24 458.311 or hold a valid, active certificate issued by the  
25 Educational Commission for Foreign Medical Graduates; was  
26 eligible and made initial application for certification as a  
27 physician assistant in this state between July 1, 1990, and  
28 June 30, 1991; and was a resident of this state on July 1,  
29 1990, or was licensed or certified in any state in the United  
30 States as a physician assistant on July 1, 1990; or  
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1           (II) Completed all coursework requirements of the  
2 Master of Medical Science Physician Assistant Program offered  
3 through the Florida College of Physician's Assistants prior to  
4 its closure in August of 1996. Prior to taking the  
5 examination, such applicant must successfully complete any  
6 clinical rotations that were not completed under such program  
7 prior to its termination and any additional clinical rotations  
8 with an appropriate physician assistant preceptor, not to  
9 exceed 6 months, that are determined necessary by the council.  
10 The boards shall determine, based on recommendations from the  
11 council, the facilities under which such incomplete or  
12 additional clinical rotations may be completed and shall also  
13 determine what constitutes successful completion thereof,  
14 provided such requirements are comparable to those established  
15 by accredited physician assistant programs. This  
16 sub-sub-subparagraph is repealed July 1, 2001.

17           2. The department may grant temporary licensure to an  
18 applicant who meets the requirements of subparagraph 1.  
19 Between meetings of the council, the department may grant  
20 temporary licensure to practice based on the completion of all  
21 temporary licensure requirements. All such administratively  
22 issued licenses shall be reviewed and acted on at the next  
23 regular meeting of the council. A temporary license expires 30  
24 days after receipt and notice of scores to the licenseholder  
25 from the first available examination specified in subparagraph  
26 1. following licensure by the department. An applicant who  
27 fails the proficiency examination is no longer temporarily  
28 licensed, but may apply for a one-time extension of temporary  
29 licensure after reapplying for the next available examination.  
30 Extended licensure shall expire upon failure of the  
31 licenseholder to sit for the next available examination or

1 upon receipt and notice of scores to the licenseholder from  
2 such examination.

3           3. Notwithstanding any other provision of law, the  
4 examination specified pursuant to subparagraph 1. shall be  
5 administered by the department only five times. Applicants  
6 certified by the board for examination shall receive at least  
7 6 months' notice of eligibility prior to the administration of  
8 the initial examination. Subsequent examinations shall be  
9 administered at 1-year intervals following the reporting of  
10 the scores of the first and subsequent examinations. For the  
11 purposes of this paragraph, the department may develop,  
12 contract for the development of, purchase, or approve an  
13 examination that adequately measures an applicant's ability to  
14 practice with reasonable skill and safety. The minimum passing  
15 score on the examination shall be established by the  
16 department, with the advice of the board. Those applicants  
17 failing to pass that examination or any subsequent examination  
18 shall receive notice of the administration of the next  
19 examination with the notice of scores following such  
20 examination. Any applicant who passes the examination and  
21 meets the requirements of this section shall be licensed as a  
22 physician assistant with all rights defined thereby.

23           Section 10. Subsection (2) of section 459.015, Florida  
24 Statutes, is amended to read:

25           459.015 Grounds for disciplinary action; action by the  
26 board and department.--

27           (2) The board may enter an order denying licensure or  
28 imposing any of the penalties in s. 456.072(2) against any  
29 applicant for licensure or licensee who is found guilty of  
30 violating any provision of subsection (1) of this section or  
31 who is found guilty of violating any provision of s.

1 456.072(1). A probable cause panel considering disciplinary  
2 action against a physician assistant pursuant to s. 456.073  
3 shall include a licensed physician assistant designated by the  
4 Council on Physician Assistants, unless a physician assistant  
5 is not available. In determining what action is appropriate,  
6 the board must first consider what sanctions are necessary to  
7 protect the public or to compensate the patient. Only after  
8 those sanctions have been imposed may the disciplining  
9 authority consider and include in the order requirements  
10 designed to rehabilitate the physician. All costs associated  
11 with compliance with orders issued under this subsection are  
12 the obligation of the physician.

13           Section 11. This act shall take effect upon becoming a  
14 law.

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