

By the Committee on Health Policy; and Senator Grimsley

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1 A bill to be entitled
2 An act relating to the Department of Health; amending
3 s. 322.142, F.S.; authorizing the Department of
4 Highway Safety and Motor Vehicles to provide
5 reproductions of specified records to the Department
6 of Health under certain circumstances; amending s.
7 395.3025, F.S.; clarifying duties of the Department of
8 Health to maintain the confidentiality of patient
9 records that it obtains under subpoena pursuant to an
10 investigation; authorizing licensees under
11 investigation to inspect or receive copies of patient
12 records connected with the investigation, subject to
13 certain conditions; amending s. 456.013, F.S.;
14 deleting requirements for the physical size of
15 licenses issued for various health professions;
16 amending s. 456.025, F.S.; deleting a fee provision
17 for the issuance of wall certificates for various
18 health profession licenses; authorizing the boards or
19 the department to adopt rules waiving certain fees for
20 a specified period in certain circumstances; amending
21 s. 458.319, F.S.; providing continuing medical
22 education requirements for Board of Medicine
23 licensees; authorizing the board to adopt rules;
24 amending s. 458.3485, F.S.; deleting language relating
25 to the certification and registration of medical
26 assistants; amending s. 464.203, F.S.; revising
27 certified nursing assistant inservice training
28 requirements; repealing s. 464.2085, F.S., relating to
29 the creation, membership, and duties of the Council on

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30 Certified Nursing Assistants; amending s. 466.032,
31 F.S.; deleting a requirement that the department
32 provide certain notice to a dental laboratory operator
33 who fails to renew her or his registration; amending
34 s. 467.009, F.S.; updating the name of the
35 organization that accredits certain midwifery
36 programs; amending s. 468.1665, F.S.; increasing the
37 number of members of the Board of Nursing Home
38 Administrators who must be licensed nursing home
39 administrators and decreasing the number of members
40 who must be health care practitioners; amending s.
41 468.1695, F.S.; revising the qualifications of
42 applicants who may sit for the licensed nursing home
43 administrator examination to include an applicant with
44 a master's degree in certain subjects; repealing s.
45 468.1735, F.S., relating to provisional licenses for
46 nursing home administrators; amending ss. 468.503 and
47 468.505, F.S.; revising the organization with whom an
48 individual must be registered to be a registered
49 dietitian; revising a definition; amending ss. 480.033
50 and 480.041, F.S.; deleting provisions relating to
51 massage therapy apprentices and apprenticeship
52 programs; deleting a definition and revising licensure
53 requirements for massage therapists, to conform;
54 amending s. 480.042, F.S.; revising requirements for
55 conducting massage therapist licensing examinations
56 and maintaining examination records; amending s.
57 480.044, F.S.; deleting a fee for massage therapy
58 apprentices; amending s. 486.031, F.S.; revising

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59 provisions relating to the recognition of physical
60 therapy programs and educational credentials from
61 foreign countries to meet requirements for licensing
62 as a physical therapist; amending s. 823.05, F.S.;
63 conforming a cross-reference; providing an effective
64 date.

65
66 Be It Enacted by the Legislature of the State of Florida:

67
68 Section 1. Subsection (4) of section 322.142, Florida
69 Statutes, is amended to read:

70 322.142 Color photographic or digital imaged licenses.—

71 (4) The department may maintain a film negative or print
72 file. The department shall maintain a record of the digital
73 image and signature of the licensees, together with other data
74 required by the department for identification and retrieval.
75 Reproductions from the file or digital record are exempt from
76 the provisions of s. 119.07(1) and shall be made and issued
77 only:

78 (a) For departmental administrative purposes;

79 (b) For the issuance of duplicate licenses;

80 (c) In response to law enforcement agency requests;

81 (d) To the Department of Business and Professional
82 Regulation pursuant to an interagency agreement for the purpose
83 of accessing digital images for reproduction of licenses issued
84 by the Department of Business and Professional Regulation;

85 (e) To the Department of State pursuant to an interagency
86 agreement to facilitate determinations of eligibility of voter
87 registration applicants and registered voters in accordance with

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88 ss. 98.045 and 98.075;

89 (f) To the Department of Revenue pursuant to an interagency
90 agreement for use in establishing paternity and establishing,
91 modifying, or enforcing support obligations in Title IV-D cases;

92 (g) To the Department of Children and Families pursuant to
93 an interagency agreement to conduct protective investigations
94 under part III of chapter 39 and chapter 415;

95 (h) To the Department of Children and Families pursuant to
96 an interagency agreement specifying the number of employees in
97 each of that department's regions to be granted access to the
98 records for use as verification of identity to expedite the
99 determination of eligibility for public assistance and for use
100 in public assistance fraud investigations;

101 (i) To the Department of Financial Services pursuant to an
102 interagency agreement to facilitate the location of owners of
103 unclaimed property, the validation of unclaimed property claims,
104 and the identification of fraudulent or false claims;

105 (j) To district medical examiners pursuant to an
106 interagency agreement for the purpose of identifying a deceased
107 individual, determining cause of death, and notifying next of
108 kin of any investigations, including autopsies and other
109 laboratory examinations, authorized in s. 406.11; ~~or~~

110 (k) To the following persons for the purpose of identifying
111 a person as part of the official work of a court:

112 1. A justice or judge of this state;

113 2. An employee of the state courts system who works in a
114 position that is designated in writing for access by the Chief
115 Justice of the Supreme Court or a chief judge of a district or
116 circuit court, or by his or her designee; or

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117 3. A government employee who performs functions on behalf
118 of the state courts system in a position that is designated in
119 writing for access by the Chief Justice or a chief judge, or by
120 his or her designee; or

121 (1) To the Department of Health, pursuant to an interagency
122 agreement to access digital images to verify the identity of an
123 individual during an investigation under chapter 456, and for
124 the reproduction of licenses issued by the Department of Health.

125 Section 2. Paragraph (e) of subsection (4) of section
126 395.3025, Florida Statutes, is amended to read:

127 395.3025 Patient and personnel records; copies;
128 examination.—

129 (4) Patient records are confidential and may ~~must~~ not be
130 disclosed without the consent of the patient or his or her legal
131 representative, but appropriate disclosure may be made without
132 such consent to:

133 (e) The department ~~agency~~ upon subpoena issued pursuant to
134 s. 456.071, ~~but~~ The records obtained ~~thereby~~ must be used
135 solely for the purpose of the department ~~agency~~ and the
136 appropriate professional board in its investigation,
137 prosecution, and appeal of disciplinary proceedings. If the
138 department ~~agency~~ requests copies of the records, the facility
139 shall charge a fee pursuant to this section ~~no more than its~~
140 ~~actual copying costs, including reasonable staff time.~~ The
141 department and the appropriate professional board must maintain
142 the confidentiality of patient records obtained under this
143 paragraph pursuant to s. 456.057. A licensee who is the subject
144 of a department investigation may inspect or receive a copy of a
145 patient record connected with the investigation if the licensee

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146 agrees in writing to maintain the confidentiality of the patient
147 record pursuant to s. 456.057 ~~must be sealed and must not be~~
148 ~~available to the public pursuant to s. 119.07(1) or any other~~
149 ~~statute providing access to records, nor may they be available~~
150 ~~to the public as part of the record of investigation for and~~
151 ~~prosecution in disciplinary proceedings made available to the~~
152 ~~public by the agency or the appropriate regulatory board.~~
153 ~~However, the agency must make available, upon written request by~~
154 ~~a practitioner against whom probable cause has been found, any~~
155 ~~such records that form the basis of the determination of~~
156 ~~probable cause.~~

157 Section 3. Subsection (2) of section 456.013, Florida
158 Statutes, is amended to read:

159 456.013 Department; general licensing provisions.—

160 (2) Before the issuance of a any license, the department
161 shall charge an initial license fee as determined by the
162 applicable board or, if there is no board, by rule of the
163 department. Upon receipt of the appropriate license fee, the
164 department shall issue a license to a any person certified by
165 the appropriate board, or its designee, as having met the
166 licensure requirements imposed by law or rule. ~~The license shall~~
167 ~~consist of a wallet-size identification card and a wall card~~
168 ~~measuring 6 1/2 inches by 5 inches.~~ The licensee shall surrender
169 the license to the department ~~the wallet-size identification~~
170 ~~card and the wall card~~ if the licensee's license was ~~is~~ issued
171 in error or is revoked.

172 Section 4. Present subsections (5) through (11) of section
173 456.025, Florida Statutes, are redesignated as subsections (4)
174 through (10), respectively, and present subsections (4) and (6)

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175 are amended to read:

176 456.025 Fees; receipts; disposition.—

177 ~~(4) Each board, or the department if there is no board, may~~
178 ~~charge a fee not to exceed \$25, as determined by rule, for the~~
179 ~~issuance of a wall certificate pursuant to s. 456.013(2)~~
180 ~~requested by a licensee who was licensed prior to July 1, 1998,~~
181 ~~or for the issuance of a duplicate wall certificate requested by~~
182 ~~any licensee.~~

183 (5)(6) If the cash balance of the trust fund at the end of
184 any fiscal year exceeds the total appropriation provided for the
185 regulation of the health care professions in the prior fiscal
186 year, the boards, in consultation with the department, may lower
187 the license renewal fees. When the department determines, based
188 on long-range estimates of revenue, that a profession's trust
189 fund balance exceeds the amount required to cover necessary
190 functions, each board, or the department when there is no board,
191 may adopt rules to implement the waiver of initial application
192 fees, initial licensure fees, unlicensed activity fees, or
193 renewal fees for that profession. The waiver of renewal fees may
194 not exceed 2 years.

195 Section 5. Subsections (2) through (4) of section 458.319,
196 Florida Statutes, are redesignated as subsections (3) through
197 (5), respectively, and a new subsection (2) is added to that
198 section, to read:

199 458.319 Renewal of license.—

200 (2) Each licensee shall demonstrate his or her professional
201 competency by completing at least 40 hours of continuing medical
202 education every 2 years. The board, by rule, may:

203 (a) Provide that continuing medical education approved by

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204 the American Medical Association satisfies some or all of the
205 continuing medical education requirements.

206 (b) Mandate specific continuing medical education
207 requirements.

208 (c) Approve alternative methods for obtaining continuing
209 medical education credits, including, but not limited to:

210 1. Attendance at a board meeting at which another licensee
211 is disciplined;

212 2. Service as a volunteer expert witness for the department
213 in a disciplinary proceeding; or

214 3. Service as a member of a probable cause panel following
215 expiration of a board member's term.

216 (d) Provide that up to 25 percent of the required
217 continuing medical education hours may be fulfilled through pro
218 bono services to the indigent, underserved populations, or
219 patients in critical need areas in the state where the licensee
220 practices.

221 1. The board shall require that any pro bono service be
222 approved in advance to receive credit for continuing medical
223 education under this paragraph.

224 2. The standard for determining indigency is that
225 recognized by the federal poverty guidelines and must be less
226 than 150 percent of the federal poverty level.

227 (e) Provide that a portion of the continuing medical
228 education hours may be fulfilled by performing research in
229 critical need areas or by training for advanced professional
230 certification.

231 (f) Adopt rules to define underserved and critical need
232 areas.

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233 Section 6. Subsection (3) of section 458.3485, Florida
234 Statutes, is amended to read:

235 458.3485 Medical assistant.-

236 ~~(3) CERTIFICATION. Medical assistants may be certified by~~
237 ~~the American Association of Medical Assistants or as a~~
238 ~~Registered Medical Assistant by the American Medical~~
239 ~~Technologists.~~

240 Section 7. Subsection (7) of section 464.203, Florida
241 Statutes, is amended to read:

242 464.203 Certified nursing assistants; certification
243 requirement.-

244 (7) A certified nursing assistant shall complete 24 ~~12~~
245 hours of inservice training during each biennium ~~calendar year~~.
246 The certified nursing assistant shall maintain ~~be responsible~~
247 ~~for maintaining~~ documentation demonstrating compliance with
248 these provisions. ~~The Council on Certified Nursing Assistants,~~
249 ~~in accordance with s. 464.2085(2) (b), shall propose rules to~~
250 ~~implement this subsection.~~

251 Section 8. Section 464.2085, Florida Statutes, is repealed.

252 Section 9. Subsection (2) of section 466.032, Florida
253 Statutes, is amended to read:

254 466.032 Registration.-

255 ~~(2) Upon the failure of any dental laboratory operator to~~
256 ~~comply with subsection (1), the department shall notify her or~~
257 ~~him by registered mail, within 1 month after the registration~~
258 ~~renewal date, return receipt requested, at her or his last known~~
259 ~~address, of such failure and inform her or him of the provisions~~
260 ~~of subsections (3) and (4).~~

261 Section 10. Subsection (8) of section 467.009, Florida

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262 Statutes, is amended to read:

263 467.009 Midwifery programs; education and training
264 requirements.—

265 (8) Nonpublic educational institutions that conduct
266 approved midwifery programs shall be accredited by a member of
267 the Council for Higher Education ~~Commission on Recognition of~~
268 ~~Postsecondary~~ Accreditation and shall be licensed by the
269 Commission for Independent Education.

270 Section 11. Subsection (2) of section 468.1665, Florida
271 Statutes, is amended to read:

272 468.1665 Board of Nursing Home Administrators; membership;
273 appointment; terms.—

274 (2) Four ~~Three~~ members of the board must be licensed
275 nursing home administrators. One member ~~Two members~~ of the board
276 must be a health care practitioner ~~practitioners~~. The remaining
277 two members of the board must be laypersons who are not, and
278 have never been, nursing home administrators or members of any
279 health care profession or occupation. At least one member of the
280 board must be 60 years of age or older.

281 Section 12. Subsection (2) of section 468.1695, Florida
282 Statutes, is amended to read:

283 468.1695 Licensure by examination.—

284 (2) The department shall examine each applicant who the
285 board certifies has completed the application form and remitted
286 an examination fee set by the board not to exceed \$250 and who:

287 (a)1. Holds a baccalaureate or master's degree from an
288 accredited college or university and majored in health care
289 administration, health services administration, or an equivalent
290 major, or has credit for at least 60 semester hours in subjects,

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291 as prescribed by rule of the board, which prepare the applicant
292 for total management of a nursing home; and

293 2. Has fulfilled the requirements of a college-affiliated
294 or university-affiliated internship in nursing home
295 administration or of a 1,000-hour nursing home administrator-in-
296 training program prescribed by the board; or

297 (b)1. Holds a baccalaureate degree from an accredited
298 college or university; and

299 2.a. Has fulfilled the requirements of a 2,000-hour nursing
300 home administrator-in-training program prescribed by the board;
301 or

302 b. Has 1 year of management experience allowing for the
303 application of executive duties and skills, including the
304 staffing, budgeting, and directing of resident care, dietary,
305 and bookkeeping departments within a skilled nursing facility,
306 hospital, hospice, assisted living facility with a minimum of 60
307 licensed beds, or geriatric residential treatment program and,
308 if such experience is not in a skilled nursing facility, has
309 fulfilled the requirements of a 1,000-hour nursing home
310 administrator-in-training program prescribed by the board.

311 Section 13. Section 468.1735, Florida Statutes, is
312 repealed.

313 Section 14. Subsection (11) of section 468.503, Florida
314 Statutes, is amended to read:

315 468.503 Definitions.—As used in this part:

316 (11) "Registered dietitian" means an individual registered
317 with the accrediting body of the Academy of Nutrition and
318 Dietetics Commission on Dietetic Registration, the accrediting
319 body of the American Dietetic Association.

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320 Section 15. Subsection (4) of section 468.505, Florida
321 Statutes, is amended to read:

322 468.505 Exemptions; exceptions.—

323 (4) Notwithstanding any other provision of this part, an
324 individual registered by the accrediting body of the Academy of
325 Nutrition and Dietetics ~~Commission on Dietetic Registration of~~
326 ~~the American Dietetic Association~~ has the right to use the title
327 "Registered Dietitian" and the designation "R.D."

328 Section 16. Subsection (5) of section 480.033, Florida
329 Statutes, is amended to read:

330 480.033 Definitions.—As used in this act:

331 ~~(5) "Apprentice" means a person approved by the board to~~
332 ~~study massage under the instruction of a licensed massage~~
333 ~~therapist.~~

334 Section 17. Subsections (1) and (4) of section 480.041,
335 Florida Statutes, are amended to read:

336 480.041 Massage therapists; qualifications; licensure;
337 endorsement.—

338 (1) A ~~Any~~ person is qualified for licensure as a massage
339 therapist under this act who:

340 (a) Is at least 18 years of age or has received a high
341 school diploma or graduate equivalency diploma;

342 (b) Has completed a course of study at a board-approved
343 massage school ~~or has completed an apprenticeship program that~~
344 ~~meets standards adopted by the board; and~~

345 (c) Has received a passing grade on an examination
346 administered by the department.

347 (4) The board shall adopt rules:

348 (a) ~~Establishing a minimum training program for~~

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349 apprentices.

350 ~~(b)~~ Providing for educational standards, examination, and
351 certification for the practice of colonic irrigation, as defined
352 in s. 480.033~~(6)~~, by massage therapists.

353 (b)~~(e)~~ Specifying licensing procedures for practitioners
354 desiring to be licensed in this state who hold an active license
355 and have practiced in any other state, territory, or
356 jurisdiction of the United States or any foreign national
357 jurisdiction which has licensing standards substantially similar
358 to, equivalent to, or more stringent than the standards of this
359 state.

360 Section 18. Subsection (5) of section 480.042, Florida
361 Statutes, is amended to read:

362 480.042 Examinations.—

363 ~~(5) All licensing examinations shall be conducted in such~~
364 ~~manner that the applicant shall be known to the department by~~
365 ~~number until her or his examination is completed and the proper~~
366 ~~grade determined.~~ An accurate record of each examination shall
367 be maintained, ~~made~~, and that record, together with all
368 examination papers, ~~shall be filed with the State Surgeon~~
369 ~~General~~ and shall be kept by the testing entities for reference
370 and inspection for a period of not less than 2 years immediately
371 following the examination.

372 Section 19. Paragraph (h) of subsection (1) of section
373 480.044, Florida Statutes, is amended to read:

374 480.044 Fees; disposition.—

375 (1) The board shall set fees according to the following
376 schedule:

377 ~~(h) Fee for apprentice: not to exceed \$100.~~

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378 Section 20. Subsection (3) of section 486.031, Florida
379 Statutes, is amended to read:

380 486.031 Physical therapist; licensing requirements.—To be
381 eligible for licensing as a physical therapist, an applicant
382 must:

383 (3) (a) Have been graduated from a school of physical
384 therapy which has been approved for the educational preparation
385 of physical therapists by the appropriate accrediting agency
386 recognized by the Commission on Recognition of Postsecondary
387 Accreditation or the United States Department of Education at
388 the time of her or his graduation and have passed, to the
389 satisfaction of the board, the American Registry Examination
390 before ~~prior to~~ 1971 or a national examination approved by the
391 board to determine her or his fitness for practice as a physical
392 therapist as hereinafter provided;

393 (b) Have received a diploma from a program in physical
394 therapy in a foreign country and have educational credentials
395 deemed equivalent to those required for the educational
396 preparation of physical therapists in this country, as
397 recognized by the board or by an appropriate agency ~~as~~
398 identified by the board, and have passed to the satisfaction of
399 the board an examination to determine her or his fitness for
400 practice as a physical therapist ~~as hereinafter provided~~; or

401 (c) Be entitled to licensure without examination as
402 provided in s. 486.081.

403 Section 21. Subsection (3) of section 823.05, Florida
404 Statutes, is amended to read:

405 823.05 Places and groups engaged in criminal gang-related
406 activity declared a nuisance; massage establishments engaged in

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407 prohibited activity; may be abated and enjoined.-

408 (3) A massage establishment as defined in s. 480.033~~(7)~~
409 that operates in violation of s. 480.0475 or s. 480.0535(2) is
410 declared a nuisance and may be abated or enjoined as provided in
411 ss. 60.05 and 60.06.

412 Section 22. This act shall take effect July 1, 2014.