

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. CS/CS/HB 819 (2014)

Amendment No.

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED _____ (Y/N)
ADOPTED AS AMENDED _____ (Y/N)
ADOPTED W/O OBJECTION _____ (Y/N)
FAILED TO ADOPT _____ (Y/N)
WITHDRAWN _____ (Y/N)
OTHER

1 Committee/Subcommittee hearing bill: Health & Human Services
2 Committee

3 Representative Pigman offered the following:
4

5 **Amendment (with title amendment)**

6 Remove everything after the enacting clause and insert:

7 Section 1. Paragraphs (j) and (k) of subsection (4) of
8 section 322.142, Florida Statutes, are amended, and paragraph
9 (l) is added to that subsection, to read:

10 322.142 Color photographic or digital imaged licenses.—

11 (4) The department may maintain a film negative or print
12 file. The department shall maintain a record of the digital
13 image and signature of the licensees, together with other data
14 required by the department for identification and retrieval.
15 Reproductions from the file or digital record are exempt from
16 the provisions of s. 119.07(1) and shall be made and issued
17 only:

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

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

25 1. A justice or judge of this state;

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

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

34 (l) To the Department of Health, pursuant to an
35 interagency agreement to access digital images to verify the
36 identity of an individual during an investigation under chapter
37 456, and for the reproduction of licenses issued by the
38 Department of Health.

39 Section 2. Subsection (1), paragraphs (a), (b), (g), and
40 (h) of subsection (2), and paragraph (d) of subsection (4) of
41 section 381.004, Florida Statutes, are amended, and subsection
42 (1) of that section is reordered, to read:

43 381.004 HIV testing.—

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44 (1) DEFINITIONS.—As used in this section:

45 (a) "Health care setting" means a setting devoted to both
46 the diagnosis and care of persons, such as county health
47 department clinics, hospital emergency departments, urgent care
48 clinics, substance abuse treatment clinics, primary care
49 settings, community clinics, mobile medical clinics, and
50 correctional health care facilities.

51 (b) ~~(a)~~ "HIV test" means a test ordered after July 6, 1988,
52 to determine the presence of the antibody or antigen to human
53 immunodeficiency virus or the presence of human immunodeficiency
54 virus infection.

55 (c) ~~(b)~~ "HIV test result" means a laboratory report of a
56 human immunodeficiency virus test result entered into a medical
57 record on or after July 6, 1988, or any report or notation in a
58 medical record of a laboratory report of a human
59 immunodeficiency virus test. ~~As used in this section,~~ The term
60 ~~"HIV test result"~~ does not include test results reported to a
61 health care provider by a patient.

62 (d) "Nonhealth care setting" means a site that conducts
63 HIV testing for the sole purpose of identifying HIV infection.
64 Such setting does not provide medical treatment but may include
65 community-based organizations, outreach settings, county health
66 department HIV testing programs, and mobile vans.

67 (f) ~~(e)~~ "Significant exposure" means:

68 1. Exposure to blood or body fluids through needlestick,
69 instruments, or sharps;

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70 2. Exposure of mucous membranes to visible blood or body
71 fluids, to which universal precautions apply according to the
72 National Centers for Disease Control and Prevention, including,
73 without limitations, the following body fluids:

74 a. Blood.

75 b. Semen.

76 c. Vaginal secretions.

77 d. Cerebrospinal ~~Cerebro-spinal~~ fluid (CSF).

78 e. Synovial fluid.

79 f. Pleural fluid.

80 g. Peritoneal fluid.

81 h. Pericardial fluid.

82 i. Amniotic fluid.

83 j. Laboratory specimens that contain HIV (e.g., suspensions
84 of concentrated virus); or

85 3. Exposure of skin to visible blood or body fluids,
86 especially when the exposed skin is chapped, abraded, or
87 afflicted with dermatitis or the contact is prolonged or
88 involving an extensive area.

89 (e) ~~(d)~~ "Preliminary HIV test" means an antibody or
90 antibody-antigen screening test, such as the ~~enzyme-linked~~
91 immunosorbent assays (IA), or a rapid test approved by the
92 United States Food and Drug Administration ~~(ELISAs) or the~~
93 ~~Single-Use Diagnostic System (SUDS).~~

94 (g) ~~(e)~~ "Test subject" or "subject of the test" means the
95 person upon whom an HIV test is performed, or the person who has

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96 legal authority to make health care decisions for the test
97 subject.

98 (2) HUMAN IMMUNODEFICIENCY VIRUS TESTING; INFORMED
99 CONSENT; RESULTS; COUNSELING; CONFIDENTIALITY.—

100 (a) Before performing an HIV test:

101 1. In a health care setting, the person to be tested shall
102 be provided information about the test, and shall be notified
103 that the test is planned, that he or she has the right to
104 decline the test, and that he or she has the right to
105 confidential treatment of information identifying the subject of
106 the test and of the results of the test as provided by the law.

107 If the person to be tested declines the test, such decision
108 shall be documented in the medical record. No person in this
109 state shall order a test designed to identify the human
110 immunodeficiency virus, or its antigen or antibody, without
111 first obtaining the informed consent of the person upon whom the
112 test is being performed, except as specified in paragraph (h).
113 Informed consent shall be preceded by an explanation of the
114 right to confidential treatment of information identifying the
115 subject of the test and the results of the test to the extent
116 provided by law. Information shall also be provided on the fact
117 that a positive HIV test result will be reported to the county
118 health department with sufficient information to identify the
119 test subject and on the availability and location of sites at
120 which anonymous testing is performed. As required in paragraph
121 (3)(c), each county health department shall maintain a list of

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122 ~~sites at which anonymous testing is performed, including the~~
123 ~~locations, phone numbers, and hours of operation of the sites.~~
124 ~~Consent need not be in writing provided there is documentation~~
125 ~~in the medical record that the test has been explained and the~~
126 ~~consent has been obtained.~~

127 2. In a nonhealth care setting, a provider shall obtain
128 the informed consent of the person upon whom the test is being
129 performed. Informed consent shall be preceded by an explanation
130 of the right to confidential treatment of information
131 identifying the subject of the test and the results of the test
132 as provided by law.

133
134 The test subject shall also be informed that a positive HIV test
135 result will be reported to the county health department with
136 sufficient information to identify the test subject and on the
137 availability and location of sites at which anonymous testing is
138 performed. As required in paragraph (3) (c), each county health
139 department shall maintain a list of sites at which anonymous
140 testing is performed, including the locations, telephone
141 numbers, and hours of operation of the sites.

142 (b) Except as provided in paragraph (h), informed consent
143 must be obtained from a legal guardian or other person
144 authorized by law if ~~when~~ the person:

145 1. Is not competent, is incapacitated, or is otherwise
146 unable to make an informed judgment; or

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147 2. Has not reached the age of majority, except as provided
148 in s. 384.30.

149 (g) Human immunodeficiency virus test results contained in
150 the medical records of a hospital licensed under chapter 395 may
151 be released in accordance with s. 395.3025 without being subject
152 to ~~the requirements of~~ subparagraph (e)2., subparagraph (e)9.,
153 or paragraph (f) ~~if, provided~~ the hospital has notified the
154 patient of the limited confidentiality protections afforded HIV
155 test results contained in hospital medical records ~~obtained~~
156 ~~written informed consent for the HIV test in accordance with~~
157 ~~provisions of this section.~~

158 (h) Notwithstanding ~~the provisions of~~ paragraph (a),
159 informed consent is not required:

160 1. When testing for sexually transmissible diseases is
161 required by state or federal law, or by rule including the
162 following situations:

163 a. HIV testing pursuant to s. 796.08 of persons convicted
164 of prostitution or of procuring another to commit prostitution.

165 b. HIV testing of inmates pursuant to s. 945.355 before
166 ~~prior to their~~ release from prison by reason of parole,
167 accumulation of gain-time credits, or expiration of sentence.

168 c. Testing for HIV by a medical examiner in accordance
169 with s. 406.11.

170 d. HIV testing of pregnant women pursuant to s. 384.31.

171 2. Those exceptions provided for blood, plasma, organs,
172 skin, semen, or other human tissue pursuant to s. 381.0041.

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173 3. For the performance of an HIV-related test by licensed
174 medical personnel in bona fide medical emergencies if ~~when~~ the
175 test results are necessary for medical diagnostic purposes to
176 provide appropriate emergency care or treatment to the person
177 being tested and the patient is unable to consent, as supported
178 by documentation in the medical record. Notification of test
179 results in accordance with paragraph (c) is required.

180 4. For the performance of an HIV-related test by licensed
181 medical personnel for medical diagnosis of acute illness where,
182 in the opinion of the attending physician, providing
183 notification ~~obtaining informed consent~~ would be detrimental to
184 the patient, as supported by documentation in the medical
185 record, and the test results are necessary for medical
186 diagnostic purposes to provide appropriate care or treatment to
187 the person being tested. Notification of test results in
188 accordance with paragraph (c) is required if it would not be
189 detrimental to the patient. This subparagraph does not authorize
190 the routine testing of patients for HIV infection without
191 notification ~~informed consent~~.

192 5. If ~~When~~ HIV testing is performed as part of an autopsy
193 for which consent was obtained pursuant to s. 872.04.

194 6. For the performance of an HIV test upon a defendant
195 pursuant to the victim's request in a prosecution for any type
196 of sexual battery where a blood sample is taken from the
197 defendant voluntarily, pursuant to court order for any purpose,
198 or pursuant to ~~the provisions of~~ s. 775.0877, s. 951.27, or s.

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199 960.003; however, the results of an ~~any~~ HIV test performed shall
200 be disclosed solely to the victim and the defendant, except as
201 provided in ss. 775.0877, 951.27, and 960.003.

202 7. If ~~When~~ an HIV test is mandated by court order.

203 8. For epidemiological research pursuant to s. 381.0031,
204 for research consistent with institutional review boards created
205 by 45 C.F.R. part 46, or for the performance of an HIV-related
206 test for the purpose of research, if the testing is performed in
207 a manner by which the identity of the test subject is not known
208 and may not be retrieved by the researcher.

209 9. If ~~When~~ human tissue is collected lawfully without the
210 consent of the donor for corneal removal as authorized by s.
211 765.5185 or enucleation of the eyes as authorized by s. 765.519.

212 10. For the performance of an HIV test upon an individual
213 who comes into contact with medical personnel in such a way that
214 a significant exposure has occurred during the course of
215 employment or within the scope of practice and where a blood
216 sample is available which ~~that~~ was taken from that individual
217 voluntarily by medical personnel for other purposes. The term
218 "medical personnel" includes a licensed or certified health care
219 professional; an employee of a health care professional or
220 health care facility; employees of a laboratory licensed under
221 chapter 483; personnel of a blood bank or plasma center; a
222 medical student or other student who is receiving training as a
223 health care professional at a health care facility; and a

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224 paramedic or emergency medical technician certified by the
225 department to perform life-support procedures under s. 401.23.

226 a. Before performing ~~Prior to performance of~~ an HIV test
227 on a voluntarily obtained blood sample, the individual from whom
228 the blood was obtained shall be requested to consent to the
229 performance of the test and to the release of the results. If
230 consent cannot be obtained within the time necessary to perform
231 the HIV test and begin prophylactic treatment of the exposed
232 medical personnel, all information concerning the performance of
233 an HIV test and any HIV test result shall be documented only in
234 the medical personnel's record unless the individual gives
235 written consent to entering this information on the individual's
236 medical record.

237 b. Reasonable attempts to locate the individual and to
238 obtain consent shall be made, and all attempts must be
239 documented. If the individual cannot be found or is incapable of
240 providing consent, an HIV test may be conducted on the available
241 blood sample. If the individual does not voluntarily consent to
242 the performance of an HIV test, the individual shall be informed
243 that an HIV test will be performed, and counseling shall be
244 furnished as provided in this section. However, HIV testing
245 shall be conducted only after appropriate medical personnel
246 under the supervision of a licensed physician documents, in the
247 medical record of the medical personnel, that there has been a
248 significant exposure and that, in accordance with the written
249 protocols based on the National Centers for Disease Control and

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250 Prevention guidelines on HIV postexposure prophylaxis and in the
251 physician's medical judgment, the information is medically
252 necessary to determine the course of treatment for the medical
253 personnel.

254 c. Costs of an ~~any~~ HIV test of a blood sample performed
255 with or without the consent of the individual, as provided in
256 this subparagraph, shall be borne by the medical personnel or
257 the employer of the medical personnel. However, costs of testing
258 or treatment not directly related to the initial HIV tests or
259 costs of subsequent testing or treatment may not be borne by the
260 medical personnel or the employer of the medical personnel.

261 d. In order to use ~~utilize~~ the provisions of this
262 subparagraph, the medical personnel must ~~either~~ be tested for
263 HIV pursuant to this section or provide the results of an HIV
264 test taken within 6 months before ~~prior to~~ the significant
265 exposure if such test results are negative.

266 e. A person who receives the results of an HIV test
267 pursuant to this subparagraph shall maintain the confidentiality
268 of the information received and of the persons tested. Such
269 confidential information is exempt from s. 119.07(1).

270 f. If the source of the exposure will not voluntarily
271 submit to HIV testing and a blood sample is not available, the
272 medical personnel or the employer of such person acting on
273 behalf of the employee may seek a court order directing the
274 source of the exposure to submit to HIV testing. A sworn
275 statement by a physician licensed under chapter 458 or chapter

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276 459 that a significant exposure has occurred and that, in the
277 physician's medical judgment, testing is medically necessary to
278 determine the course of treatment constitutes probable cause for
279 the issuance of an order by the court. The results of the test
280 shall be released to the source of the exposure and to the
281 person who experienced the exposure.

282 11. For the performance of an HIV test upon an individual
283 who comes into contact with medical personnel in such a way that
284 a significant exposure has occurred during the course of
285 employment or within the scope of practice of the medical
286 personnel while the medical personnel provides emergency medical
287 treatment to the individual; or notwithstanding s. 384.287, an
288 individual who comes into contact with nonmedical personnel in
289 such a way that a significant exposure has occurred while the
290 nonmedical personnel provides emergency medical assistance
291 during a medical emergency. For the purposes of this
292 subparagraph, a medical emergency means an emergency medical
293 condition outside of a hospital or health care facility that
294 provides physician care. The test may be performed only during
295 the course of treatment for the medical emergency.

296 a. An individual who is capable of providing consent shall
297 be requested to consent to an HIV test before ~~prior to the~~
298 testing. If consent cannot be obtained within the time necessary
299 to perform the HIV test and begin prophylactic treatment of the
300 exposed medical personnel and nonmedical personnel, all
301 information concerning the performance of an HIV test and its

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302 result, shall be documented only in the medical personnel's or
303 nonmedical personnel's record unless the individual gives
304 written consent to entering this information in ~~on~~ the
305 individual's medical record.

306 b. HIV testing shall be conducted only after appropriate
307 medical personnel under the supervision of a licensed physician
308 documents, in the medical record of the medical personnel or
309 nonmedical personnel, that there has been a significant exposure
310 and that, in accordance with the written protocols based on the
311 National Centers for Disease Control and Prevention guidelines
312 on HIV postexposure prophylaxis and in the physician's medical
313 judgment, the information is medically necessary to determine
314 the course of treatment for the medical personnel or nonmedical
315 personnel.

316 c. Costs of any HIV test performed with or without the
317 consent of the individual, as provided in this subparagraph,
318 shall be borne by the medical personnel or the employer of the
319 medical personnel or nonmedical personnel. However, costs of
320 testing or treatment not directly related to the initial HIV
321 tests or costs of subsequent testing or treatment may not be
322 borne by the medical personnel or the employer of the medical
323 personnel or nonmedical personnel.

324 d. In order to use ~~utilize~~ the provisions of this
325 subparagraph, the medical personnel or nonmedical personnel
326 shall be tested for HIV pursuant to this section or shall
327 provide the results of an HIV test taken within 6 months before

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328 ~~prior to~~ the significant exposure if such test results are
329 negative.

330 e. A person who receives the results of an HIV test
331 pursuant to this subparagraph shall maintain the confidentiality
332 of the information received and of the persons tested. Such
333 confidential information is exempt from s. 119.07(1).

334 f. If the source of the exposure will not voluntarily
335 submit to HIV testing and a blood sample was not obtained during
336 treatment for the medical emergency, the medical personnel, the
337 employer of the medical personnel acting on behalf of the
338 employee, or the nonmedical personnel may seek a court order
339 directing the source of the exposure to submit to HIV testing. A
340 sworn statement by a physician licensed under chapter 458 or
341 chapter 459 that a significant exposure has occurred and that,
342 in the physician's medical judgment, testing is medically
343 necessary to determine the course of treatment constitutes
344 probable cause for the issuance of an order by the court. The
345 results of the test shall be released to the source of the
346 exposure and to the person who experienced the exposure.

347 12. For the performance of an HIV test by the medical
348 examiner or attending physician upon an individual who expired
349 or could not be resuscitated while receiving emergency medical
350 assistance or care and who was the source of a significant
351 exposure to medical or nonmedical personnel providing such
352 assistance or care.

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353 a. HIV testing may be conducted only after appropriate
354 medical personnel under the supervision of a licensed physician
355 documents in the medical record of the medical personnel or
356 nonmedical personnel that there has been a significant exposure
357 and that, in accordance with the written protocols based on the
358 National Centers for Disease Control and Prevention guidelines
359 on HIV postexposure prophylaxis and in the physician's medical
360 judgment, the information is medically necessary to determine
361 the course of treatment for the medical personnel or nonmedical
362 personnel.

363 b. Costs of an ~~any~~ HIV test performed under this
364 subparagraph may not be charged to the deceased or to the family
365 of the deceased person.

366 c. For ~~the provisions of~~ this subparagraph to be
367 applicable, the medical personnel or nonmedical personnel must
368 be tested for HIV under this section or must provide the results
369 of an HIV test taken within 6 months before the significant
370 exposure if such test results are negative.

371 d. A person who receives the results of an HIV test
372 pursuant to this subparagraph shall comply with paragraph (e).

373 13. For the performance of an HIV-related test medically
374 indicated by licensed medical personnel for medical diagnosis of
375 a hospitalized infant as necessary to provide appropriate care
376 and treatment of the infant if ~~when~~, after a reasonable attempt,
377 a parent cannot be contacted to provide consent. The medical
378 records of the infant must ~~shall~~ reflect the reason consent of

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379 the parent was not initially obtained. Test results shall be
380 provided to the parent when the parent is located.

381 14. For the performance of HIV testing conducted to
382 monitor the clinical progress of a patient previously diagnosed
383 to be HIV positive.

384 15. For the performance of repeated HIV testing conducted
385 to monitor possible conversion from a significant exposure.

386 (4) HUMAN IMMUNODEFICIENCY VIRUS TESTING REQUIREMENTS;
387 REGISTRATION WITH THE DEPARTMENT OF HEALTH; EXEMPTIONS FROM
388 REGISTRATION.—No county health department and no other person in
389 this state shall conduct or hold themselves out to the public as
390 conducting a testing program for acquired immune deficiency
391 syndrome or human immunodeficiency virus status without first
392 registering with the Department of Health, reregistering each
393 year, complying with all other applicable provisions of state
394 law, and meeting the following requirements:

395 (d) A program in a health care setting shall meet the
396 notification criteria contained in subparagraph (2) (a)1. A
397 program in a nonhealth care setting shall meet all informed
398 consent criteria contained in subparagraph (2) (a)2. ~~The program~~
399 ~~must meet all the informed consent criteria contained in~~
400 ~~subsection (2).~~

401 Section 3. Paragraph (e) of subsection (4) of section
402 395.3025, Florida Statutes, is amended to read:

403 395.3025 Patient and personnel records; copies;
404 examination.—

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

409 (e) The department agency upon subpoena issued pursuant to
410 s. 456.071., ~~but~~ The records obtained ~~thereby~~ must be used
411 solely for the purpose of the department agency and the
412 appropriate professional board in its investigation,
413 prosecution, and appeal of disciplinary proceedings. If the
414 department agency requests copies of the records, the facility
415 shall charge a fee pursuant to this section ~~no more than its~~
416 ~~actual copying costs, including reasonable staff time.~~ The
417 department and the appropriate professional board must maintain
418 the confidentiality of patient records obtained under this
419 paragraph pursuant to s. 456.057. A licensee who is the subject
420 of a department investigation may inspect or receive a copy of a
421 patient record connected with the investigation if the licensee
422 agrees in writing to maintain the confidentiality of the patient
423 record pursuant to s. 456.057 ~~must be sealed and must not be~~
424 ~~available to the public pursuant to s. 119.07(1) or any other~~
425 ~~statute providing access to records, nor may they be available~~
426 ~~to the public as part of the record of investigation for and~~
427 ~~prosecution in disciplinary proceedings made available to the~~
428 ~~public by the agency or the appropriate regulatory board.~~
429 ~~However, the agency must make available, upon written request by~~
430 ~~a practitioner against whom probable cause has been found, any~~

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431 ~~such records that form the basis of the determination of~~
432 ~~probable cause.~~

433 Section 4. Subsection (2) of section 456.013, Florida
434 Statutes, is amended to read:

435 456.013 Department; general licensing provisions.—

436 (2) Before the issuance of a any license, the department
437 shall charge an initial license fee as determined by the
438 applicable board or, if there is no board, by rule of the
439 department. Upon receipt of the appropriate license fee, the
440 department shall issue a license to a any person certified by
441 the appropriate board, or its designee, as having met the
442 licensure requirements imposed by law or rule. ~~The license shall~~
443 ~~consist of a wallet-size identification card and a wall card~~
444 ~~measuring 6 1/2 inches by 5 inches.~~ The licensee shall surrender
445 the license to the department ~~the wallet-size identification~~
446 ~~card and the wall card~~ if the licensee's license was ~~is~~ issued
447 in error or is revoked.

448 Section 5. Subsections (5) through (11) of section
449 456.025, Florida Statutes, are renumbered as subsections (4)
450 through (10), respectively, and present subsections (4) and (6)
451 are amended to read:

452 456.025 Fees; receipts; disposition.—

453 ~~(4) Each board, or the department if there is no board,~~
454 ~~may charge a fee not to exceed \$25, as determined by rule, for~~
455 ~~the issuance of a wall certificate pursuant to s. 456.013(2)~~
456 ~~requested by a licensee who was licensed prior to July 1, 1998,~~

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457 ~~or for the issuance of a duplicate wall certificate requested by~~
458 ~~any licensee.~~

459 (5)~~(6)~~ If the cash balance of the trust fund at the end of
460 any fiscal year exceeds the total appropriation provided for the
461 regulation of the health care professions in the prior fiscal
462 year, the boards, in consultation with the department, may lower
463 the license renewal fees. When the department determines, based
464 on long-range estimates of revenue, that a profession's trust
465 fund balance exceeds the amount required to cover necessary
466 functions, each board, or the department when there is no board,
467 may adopt rules to implement the waiver of initial application
468 fees, initial licensure fees, unlicensed activity fees, or
469 renewal fees for that profession. The waiver of renewal fees may
470 not exceed 2 years.

471 Section 6. Subsection (2) of section 456.032, Florida
472 Statutes, is amended to read:

473 456.032 Hepatitis B or HIV carriers.—

474 (2) Any person licensed by the department and any other
475 person employed by a health care facility who contracts a blood-
476 borne infection shall have a rebuttable presumption that the
477 illness was contracted in the course and scope of his or her
478 employment, provided that the person, as soon as practicable,
479 reports to the person's supervisor or the facility's risk
480 manager any significant exposure, as that term is defined in s.
481 381.004(1)(f) ~~381.004(1)(e)~~, to blood or body fluids. The
482 employer may test the blood or body fluid to determine if it is

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483 infected with the same disease contracted by the employee. The
484 employer may rebut the presumption by the preponderance of the
485 evidence. Except as expressly provided in this subsection, there
486 shall be no presumption that a blood-borne infection is a job-
487 related injury or illness.

488 Section 7. Subsection (17) of section 456.057, Florida
489 Statutes, is amended to read:

490 456.057 Ownership and control of patient records; report
491 or copies of records to be furnished; disclosure of
492 information.—

493 (17) A health care practitioner or records owner
494 furnishing copies of reports or records or making the reports or
495 records available for digital scanning pursuant to this section
496 shall charge no more than the actual cost of copying, including
497 reasonable staff time, or the amount specified in administrative
498 rule by the appropriate board, or the department when there is
499 no board. The rates charged for reproduction of written or typed
500 medical records must be the same regardless of format or medium.

501 Section 8. Subsections (2), (3), and (4) of section
502 458.319, Florida Statutes, are renumbered as subsections (3),
503 (4), and (5), respectively, and a new subsection (2) is added to
504 that section to read:

505 458.319 Renewal of license.—

506 (2) Each licensee shall demonstrate his or her
507 professional competency by completing at least 40 hours of

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508 continuing medical education every 2 years. The board, by rule,
509 may:

510 (a) Provide that continuing medical education approved by
511 the American Medical Association satisfies some or all of the
512 continuing medical education requirements.

513 (b) Mandate specific continuing medical education
514 requirements.

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

517 1. Attendance at a board meeting at which another licensee
518 is disciplined;

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

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

523 Section 9. Subsection (3) of section 458.3485, Florida
524 Statutes, is amended to read:

525 458.3485 Medical assistant.—

526 ~~(3) CERTIFICATION. Medical assistants may be certified by~~
527 ~~the American Association of Medical Assistants or as a~~
528 ~~Registered Medical Assistant by the American Medical~~
529 ~~Technologists.~~

530 Section 10. Subsection (7) of section 464.203, Florida
531 Statutes, is amended to read:

532 464.203 Certified nursing assistants; certification
533 requirement.—

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534 (7) A certified nursing assistant shall complete 24 ~~12~~
535 hours of inservice training every 2 years ~~during each calendar~~
536 ~~year~~. The certified nursing assistant is ~~shall be~~ responsible
537 for maintaining documentation demonstrating compliance with
538 these provisions. ~~The Council on Certified Nursing Assistants,~~
539 ~~in accordance with s. 464.2085(2)(b), shall propose rules to~~
540 ~~implement this subsection.~~

541 Section 11. Section 464.2085, Florida Statutes, is
542 repealed.

543 Section 12. Subsection (2) of section 466.032, Florida
544 Statutes, is amended to read:

545 466.032 Registration.—

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

552 Section 13. Subsection (8) of section 467.009, Florida
553 Statutes, is amended to read:

554 467.009 Midwifery programs; education and training
555 requirements.—

556 (8) Nonpublic educational institutions that conduct
557 approved midwifery programs shall be accredited by a member of
558 the Council of ~~on~~ Higher Education Accreditation ~~Commission on~~

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559 ~~Recognition of Postsecondary Accreditation~~ and shall be licensed
560 by the Commission for Independent Education.

561 Section 14. Subsection (2) of section 468.1665, Florida
562 Statutes, is amended to read:

563 468.1665 Board of Nursing Home Administrators; membership;
564 appointment; terms.—

565 (2) Four ~~Three~~ members of the board must be licensed
566 nursing home administrators. One member ~~Two members~~ of the board
567 must be a health care practitioner ~~practitioners~~. The remaining
568 two members of the board must be laypersons who are not, and
569 have never been, nursing home administrators or members of any
570 health care profession or occupation. At least one member of the
571 board must be 60 years of age or older.

572 Section 15. Subsection (2) of section 468.1695, Florida
573 Statutes, is amended to read:

574 468.1695 Licensure by examination.—

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

578 (a)1. Holds a baccalaureate or master's degree from an
579 accredited college or university and majored in health care
580 administration, health services administration, or an equivalent
581 major, or has credit for at least 60 semester hours in subjects,
582 as prescribed by rule of the board, which prepare the applicant
583 for total management of a nursing home; and

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584 2. Has fulfilled the requirements of a college-affiliated
585 or university-affiliated internship in nursing home
586 administration or of a 1,000-hour nursing home administrator-in-
587 training program prescribed by the board; or

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

590 2.a. Has fulfilled the requirements of a 2,000-hour
591 nursing home administrator-in-training program prescribed by the
592 board; or

593 b. Has 1 year of management experience allowing for the
594 application of executive duties and skills, including the
595 staffing, budgeting, and directing of resident care, dietary,
596 and bookkeeping departments within a skilled nursing facility,
597 hospital, hospice, assisted living facility with a minimum of 60
598 licensed beds, or geriatric residential treatment program and,
599 if such experience is not in a skilled nursing facility, has
600 fulfilled the requirements of a 1,000-hour nursing home
601 administrator-in-training program prescribed by the board.

602 Section 16. Section 468.1735, Florida Statutes, is
603 repealed.

604 Section 17. Subsection (11) of section 468.503, Florida
605 Statutes, is amended to read:

606 468.503 Definitions.—As used in this part:

607 (11) "Registered dietitian" means an individual registered
608 with the accrediting body of the Academy of Nutrition and

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609 ~~Dietetics Commission on Dietetic Registration, the accrediting~~
610 ~~body of the American Dietetic Association.~~

611 Section 18. Subsection (4) of section 468.505, Florida
612 Statutes, is amended to read:

613 468.505 Exemptions; exceptions.—

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

619 Section 19. Subsection (5) of section 480.033, Florida
620 Statutes, is amended to read:

621 480.033 Definitions.—As used in this act:

622 ~~(5) "Apprentice" means a person approved by the board to~~
623 ~~study massage under the instruction of a licensed massage~~
624 ~~therapist.~~

625 Section 20. Subsections (1) and (4) of section 480.041,
626 Florida Statutes, are amended to read:

627 480.041 Massage therapists; qualifications; licensure;
628 endorsement.—

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

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

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

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

638 (4) The board shall adopt rules:

639 (a) ~~Establishing a minimum training program for~~
640 ~~apprentices.~~

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

644 ~~(b)(e)~~ Specifying licensing procedures for practitioners
645 desiring to be licensed in this state who hold an active license
646 and have practiced in any other state, territory, or
647 jurisdiction of the United States or any foreign national
648 jurisdiction which has licensing standards substantially similar
649 to, equivalent to, or more stringent than the standards of this
650 state.

651 Section 21. Subsection (5) of section 480.042, Florida
652 Statutes, is amended to read:

653 480.042 Examinations.—

654 (5) ~~All licensing examinations shall be conducted in such~~
655 ~~manner that the applicant shall be known to the department by~~
656 ~~number until her or his examination is completed and the proper~~
657 ~~grade determined.~~ An accurate record of each examination shall
658 be maintained, ~~shall be made,~~ and that record, together with all

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659 examination papers, ~~shall be filed with the State Surgeon~~
660 ~~General and~~ shall be kept by the testing entities for reference
661 and inspection for a period of not less than 2 years immediately
662 following the examination.

663 Section 22. Paragraph (h) of subsection (1) of section
664 480.044, Florida Statutes, is amended to read:

665 480.044 Fees; disposition.—

666 (1) The board shall set fees according to the following
667 schedule:

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

669 Section 23. Subsection (4) of section 766.1115, Florida
670 Statutes, is amended to read:

671 766.1115 Health care providers; creation of agency
672 relationship with governmental contractors.—

673 (4) CONTRACT REQUIREMENTS.—A health care provider that
674 executes a contract with a governmental contractor to deliver
675 health care services on or after April 17, 1992, as an agent of
676 the governmental contractor is an agent for purposes of s.
677 768.28(9), while acting within the scope of duties under the
678 contract, if the contract complies with the requirements of this
679 section and regardless of whether the individual treated is
680 later found to be ineligible. A health care provider shall
681 continue to be an agent for purposes of s. 768.28(9) for 30 days
682 after a determination of ineligibility to allow for treatment
683 until the individual transitions to treatment by another health
684 care provider. A health care provider under contract with the

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685 state may not be named as a defendant in any action arising out
686 of medical care or treatment provided on or after April 17,
687 1992, under contracts entered into under this section. The
688 contract must provide that:

689 (a) The right of dismissal or termination of any health
690 care provider delivering services under the contract is retained
691 by the governmental contractor.

692 (b) The governmental contractor has access to the patient
693 records of any health care provider delivering services under
694 the contract.

695 (c) Adverse incidents and information on treatment
696 outcomes must be reported by any health care provider to the
697 governmental contractor if the incidents and information pertain
698 to a patient treated under the contract. The health care
699 provider shall submit the reports required by s. 395.0197. If an
700 incident involves a professional licensed by the Department of
701 Health or a facility licensed by the Agency for Health Care
702 Administration, the governmental contractor shall submit such
703 incident reports to the appropriate department or agency, which
704 shall review each incident and determine whether it involves
705 conduct by the licensee that is subject to disciplinary action.
706 All patient medical records and any identifying information
707 contained in adverse incident reports and treatment outcomes
708 which are obtained by governmental entities under this paragraph
709 are confidential and exempt from the provisions of s. 119.07(1)
710 and s. 24(a), Art. I of the State Constitution.

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711 (d) Patient selection and initial referral must be made by
712 the governmental contractor or the provider. Patients may not be
713 transferred to the provider based on a violation of the
714 antidumping provisions of the Omnibus Budget Reconciliation Act
715 of 1989, the Omnibus Budget Reconciliation Act of 1990, or
716 chapter 395.

717 (e) If emergency care is required, the patient need not be
718 referred before receiving treatment, but must be referred within
719 48 hours after treatment is commenced or within 48 hours after
720 the patient has the mental capacity to consent to treatment,
721 whichever occurs later.

722 (f) The provider is subject to supervision and regular
723 inspection by the governmental contractor.

724
725 A governmental contractor that is also a health care provider is
726 not required to enter into a contract under this section with
727 respect to the health care services delivered by its employees.

728 Section 24. Subsection (3) of section 823.05, Florida
729 Statutes, is amended to read:

730 823.05 Places and groups engaged in criminal gang-related
731 activity declared a nuisance; massage establishments engaged in
732 prohibited activity; may be abated and enjoined.—

733 (3) A massage establishment as defined in s. 480.033
734 ~~480.033(7)~~ that operates in violation of s. 480.0475 or s.
735 480.0535(2) is declared a nuisance and may be abated or enjoined
736 as provided in ss. 60.05 and 60.06.

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737 Section 25. This act shall take effect July 1, 2014.
738

739 -----

740 **T I T L E A M E N D M E N T**

741 Remove everything before the enacting clause and insert:

742 A bill to be entitled

743 An act relating to the Department of Health; amending
744 s. 322.142, F.S.; authorizing the Department of
745 Highway Safety and Motor Vehicles to provide
746 reproductions of specified records to the Department
747 of Health under certain circumstances; amending s.
748 381.004, F.S.; revising and providing definitions;
749 specifying the notification and consent procedures for
750 performing an HIV test in a health care setting and a
751 nonhealth care setting; amending s. 395.3025, F.S.;
752 clarifying duties of the Department of Health to
753 maintain the confidentiality of patient records that
754 it obtains under subpoena pursuant to an
755 investigation; authorizing licensees under
756 investigation to inspect or receive copies of patient
757 records connected with the investigation, subject to
758 certain conditions; amending s. 456.013, F.S.;
759 deleting requirements for the physical size of
760 licenses issued for various health professions;
761 amending s. 456.025, F.S.; deleting fee for issuance
762 of wall certificates for various health profession

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. CS/CS/HB 819 (2014)

Amendment No.

763 licenses; authorizing the boards or the department to
764 adopt rules waiving certain fees for a specified
765 period in certain circumstances; amending s. 456.032,
766 F.S.; conforming a cross-reference; amending s.
767 456.057, F.S.; providing a requirement for rates
768 charged for reproduction of certain records; amending
769 s. 458.319, F.S.; providing continuing medical
770 education requirements for Board of Medicine
771 licensees; authorizing the board to adopt rules;
772 amending s. 458.3485, F.S.; deleting a provision
773 authorizing medical assistants to be certified by
774 certain entities; amending s. 464.203, F.S.; revising
775 certified nursing assistant inservice training
776 requirements; repealing s. 464.2085, F.S., relating to
777 the creation, membership, and duties of the Council on
778 Certified Nursing Assistants; amending s. 466.032,
779 F.S.; deleting a requirement that the department
780 provide certain notice to a dental laboratory operator
781 who fails to renew her or his registration; amending
782 s. 467.009, F.S.; revising the organization that must
783 accredit certain midwifery programs; amending s.
784 468.1665, F.S.; revising membership of the Board of
785 Nursing Home Administrators; amending s. 468.1695,
786 F.S.; revising an educational requirement for an
787 applicant to be eligible to take the nursing home
788 administrator licensure examination; repealing s.

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COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. CS/CS/HB 819 (2014)

Amendment No.

789 468.1735, F.S., relating to provisional licenses for
790 nursing home administrators; amending ss. 468.503 and
791 468.505, F.S.; revising the organization with whom an
792 individual must be registered to be a registered
793 dietitian; revising a definition; amending ss. 480.033
794 and 480.041, F.S.; deleting provisions relating to
795 massage therapy apprentices and apprenticeship
796 programs; deleting a definition and revising licensure
797 requirements for massage therapists, to conform;
798 amending s. 480.042, F.S.; revising requirements for
799 conducting massage therapist licensing examinations
800 and maintaining examination records; amending s.
801 480.044, F.S.; deleting fee for massage therapy
802 apprentices; amending s. 766.1115, F.S.; requiring a
803 health care provider to continue to be an agent for a
804 specified period after determination of ineligibility;
805 amending s. 823.05, F.S.; conforming a cross-
806 reference; providing an effective date.

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