

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 exempting Board of Medicine licensees from certain
17 continuing education requirements applicable to other
18 health professions; amending s. 456.025, F.S.;
19 deleting fee for issuance of wall certificates for
20 various health profession licenses; authorizing the
21 boards or the department to adopt rules waiving
22 certain fees for a specified period in certain
23 circumstances; amending s. 456.033, F.S.; exempting
24 Board of Medicine licensees from certain continuing
25 education requirements relating to instruction on HIV
26 and AIDS; amending s. 456.068, F.S.; requiring the

27 Department of Health to establish a toll-free
28 telephone number for public reporting of certain
29 complaints; amending s. 458.319, F.S.; providing
30 continuing medical education requirements for Board of
31 Medicine licensees; authorizing the board to adopt
32 rules; amending s. 464.203, F.S.; revising certified
33 nursing assistant inservice training requirements;
34 repealing s. 464.2085, F.S., relating to the creation,
35 membership, and duties of the Council on Certified
36 Nursing Assistants; amending s. 466.032, F.S.;;
37 deleting a requirement that the department provide
38 certain notice to a dental laboratory operator who
39 fails to renew her or his registration; amending s.
40 467.009, F.S.; revising the organization that must
41 accredit certain midwifery programs; repealing s.
42 468.1735, F.S., relating to provisional licenses for
43 nursing home administrators; amending ss. 468.503 and
44 468.505, F.S.; revising the organization with whom an
45 individual must be registered to be a registered
46 dietitian; revising a definition; amending ss. 480.033
47 and 480.041, F.S.; deleting provisions relating to
48 massage therapy apprentices and apprenticeship
49 programs; deleting a definition and revising licensure
50 requirements for massage therapists, to conform;
51 amending s. 480.042, F.S.; revising requirements for
52 conducting massage therapist licensing examinations

53 and maintaining examination records; amending s.
 54 480.044, F.S.; deleting fee for massage therapy
 55 apprentices; amending s. 823.05, F.S.; conforming a
 56 cross-reference; providing an effective date.

57
 58 Be It Enacted by the Legislature of the State of Florida:

59
 60 Section 1. Paragraphs (j) and (k) of subsection (4) of
 61 section 322.142, Florida Statutes, are amended, and paragraph
 62 (l) is added to that subsection, to read:

63 322.142 Color photographic or digital imaged licenses.—

64 (4) The department may maintain a film negative or print
 65 file. The department shall maintain a record of the digital
 66 image and signature of the licensees, together with other data
 67 required by the department for identification and retrieval.
 68 Reproductions from the file or digital record are exempt from
 69 the provisions of s. 119.07(1) and shall be made and issued
 70 only:

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

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

78 1. A justice or judge of this state;

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

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

87 (1) To the Department of Health, pursuant to an
88 interagency agreement to access digital images to verify the
89 identity of an individual during an investigation under chapter
90 456, and for the reproduction of licenses issued by the
91 Department of Health.

92 Section 2. Paragraph (e) of subsection (4) of section
93 395.3025, Florida Statutes, is amended to read:

94 395.3025 Patient and personnel records; copies;
95 examination.—

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

100 (e) The department agency upon subpoena issued pursuant to
101 s. 456.071, ~~but~~ The records obtained ~~thereby~~ must be used
102 solely for the purpose of the department agency and the
103 appropriate professional board in its investigation,
104 prosecution, and appeal of disciplinary proceedings. If the

105 department ~~agency~~ requests copies of the records, the facility
106 shall charge a fee pursuant to this section ~~no more than its~~
107 ~~actual copying costs, including reasonable staff time.~~ The
108 department and the appropriate professional board must maintain
109 the confidentiality of patient records obtained under this
110 paragraph pursuant to s. 456.057. A licensee who is the subject
111 of a department investigation may inspect or receive a copy of a
112 patient record connected with the investigation if the licensee
113 agrees in writing to maintain the confidentiality of the patient
114 record pursuant to s. 456.057 ~~must be sealed and must not be~~
115 ~~available to the public pursuant to s. 119.07(1) or any other~~
116 ~~statute providing access to records, nor may they be available~~
117 ~~to the public as part of the record of investigation for and~~
118 ~~prosecution in disciplinary proceedings made available to the~~
119 ~~public by the agency or the appropriate regulatory board.~~
120 ~~However, the agency must make available, upon written request by~~
121 ~~a practitioner against whom probable cause has been found, any~~
122 ~~such records that form the basis of the determination of~~
123 ~~probable cause.~~

124 Section 3. Subsections (2), (6), and (7) of section
125 456.013, Florida Statutes, are amended to read:

126 456.013 Department; general licensing provisions.—

127 (2) Before the issuance of a ~~any~~ license, the department
128 shall charge an initial license fee as determined by the
129 applicable board or, if there is no board, by rule of the
130 department. Upon receipt of the appropriate license fee, the

131 department shall issue a license to a ~~any~~ person certified by
 132 the appropriate board, or its designee, as having met the
 133 licensure requirements imposed by law or rule. ~~The license shall~~
 134 ~~consist of a wallet-size identification card and a wall card~~
 135 ~~measuring 6 1/2 inches by 5 inches.~~ The licensee shall surrender
 136 the license to the department ~~the wallet-size identification~~
 137 ~~card and the wall card~~ if the ~~licensee's~~ license was ~~is~~ issued
 138 in error or is revoked.

139 (6) As a condition of renewal of a license, ~~the Board of~~
 140 ~~Medicine,~~ the Board of Osteopathic Medicine, the Board of
 141 Chiropractic Medicine, and the Board of Podiatric Medicine shall
 142 ~~each~~ require their respective licensees ~~which they respectively~~
 143 ~~regulate~~ to periodically demonstrate their professional
 144 competency by completing at least 40 hours of continuing
 145 education every 2 years. The boards may require by rule that up
 146 to 1 hour of the required 40 or more hours be in the area of
 147 risk management or cost containment. This provision does ~~shall~~
 148 ~~not be construed to~~ limit the number of hours that a licensee
 149 may obtain in risk management or cost containment to be credited
 150 toward satisfying the 40 or more required hours. This provision
 151 does ~~shall not be construed to~~ require the boards to impose any
 152 requirement on licensees except for the completion of at least
 153 40 hours of continuing education every 2 years. Each of the ~~such~~
 154 boards shall determine whether any specific continuing education
 155 requirements not otherwise mandated by law will ~~shall~~ be
 156 mandated and shall approve criteria for, and the content of, ~~any~~

157 continuing education mandated by such board. Notwithstanding any
158 other provision of law, the board, or the department when there
159 is no board, may approve by rule alternative methods of
160 obtaining continuing education credits in risk management. The
161 alternative methods may include attending a board meeting at
162 which another licensee is disciplined, serving as a volunteer
163 expert witness for the department in a disciplinary case, or
164 serving as a member of a probable cause panel following the
165 expiration of a board member's term. Other boards within the
166 Division of Medical Quality Assurance, or the department if
167 there is no board, may adopt rules granting continuing education
168 hours in risk management for attending a board meeting at which
169 another licensee is disciplined, for serving as a volunteer
170 expert witness for the department in a disciplinary case, or for
171 serving as a member of a probable cause panel following the
172 expiration of a board member's term.

173 (7) The boards, except the Board of Medicine, or the
174 department when there is no board, shall require the completion
175 of a 2-hour course relating to prevention of medical errors as
176 part of the licensure and renewal process. The 2-hour course
177 shall count towards the total number of continuing education
178 hours required for the profession. The course shall be approved
179 by the board or department, as appropriate, and shall include a
180 study of root-cause analysis, error reduction and prevention,
181 and patient safety. In addition, the course approved by ~~the~~
182 ~~Board of Medicine and~~ the Board of Osteopathic Medicine shall

183 include information relating to the five most misdiagnosed
184 conditions during the previous biennium, as determined by the
185 board. If the course is being offered by a facility licensed
186 pursuant to chapter 395 for its employees, the board may approve
187 up to 1 hour of the 2-hour course to be specifically related to
188 error reduction and prevention methods used in that facility.

189 Section 4. Subsections (5) through (11) of section
190 456.025, Florida Statutes, are renumbered as subsections (4)
191 through (10), respectively, and present subsections (4) and (6)
192 are amended to read:

193 456.025 Fees; receipts; disposition.—

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

200 (5)(6) If the cash balance of the trust fund at the end of
201 any fiscal year exceeds the total appropriation provided for the
202 regulation of the health care professions in the prior fiscal
203 year, the boards, in consultation with the department, may lower
204 the license renewal fees. When the department determines, based
205 on long-range estimates of revenue, that a profession's trust
206 fund balance exceeds the amount required to cover necessary
207 functions, each board, or the department when there is no board,
208 may adopt rules to implement the waiver of initial application

209 fees, initial licensure fees, unlicensed activity fees, or
 210 renewal fees for that profession. The waiver of renewal fees may
 211 not exceed 2 years.

212 Section 5. Section 456.033, Florida Statutes, is amended
 213 to read:

214 456.033 Requirement for instruction for certain licensees
 215 on HIV and AIDS.—The following requirements apply to each person
 216 licensed or certified under chapter 457; ~~chapter 458~~; chapter
 217 459; chapter 460; chapter 461; chapter 463; part I of chapter
 218 464; chapter 465; chapter 466; part II, part III, part V, or
 219 part X of chapter 468; or chapter 486:

220 (1) Each person shall be required by the appropriate board
 221 to complete no later than upon first renewal a continuing
 222 educational course, approved by the board, on human
 223 immunodeficiency virus and acquired immune deficiency syndrome
 224 as part of biennial relicensure or recertification. The course
 225 shall consist of education on the modes of transmission,
 226 infection control procedures, clinical management, and
 227 prevention of human immunodeficiency virus and acquired immune
 228 deficiency syndrome. Such course shall include information on
 229 current Florida law on acquired immune deficiency syndrome and
 230 its impact on testing, confidentiality of test results,
 231 treatment of patients, and any protocols and procedures
 232 applicable to human immunodeficiency virus counseling and
 233 testing, reporting, the offering of HIV testing to pregnant
 234 women, and partner notification issues pursuant to ss. 381.004

235 and 384.25.

236 (2) Each person shall submit confirmation of having
 237 completed the course required under subsection (1), on a form as
 238 provided by the board, when submitting fees for first renewal.

239 (3) The board shall have the authority to approve
 240 additional equivalent courses that may be used to satisfy the
 241 requirements in subsection (1). Each licensing board that
 242 requires a licensee to complete an educational course pursuant
 243 to this section may count the hours required for completion of
 244 the course included in the total continuing educational
 245 requirements as required by law.

246 (4) Any person holding two or more licenses subject to the
 247 provisions of this section shall be permitted to show proof of
 248 having taken one board-approved course on human immunodeficiency
 249 virus and acquired immune deficiency syndrome, for purposes of
 250 relicensure or recertification for additional licenses.

251 (5) Failure to comply with the above requirements shall
 252 constitute grounds for disciplinary action under each respective
 253 licensing chapter and s. 456.072(1)(e). In addition to
 254 discipline by the board, the licensee shall be required to
 255 complete the course.

256 Section 6. Section 456.068, Florida Statutes, is amended
 257 to read:

258 456.068 Toll-free telephone number for reporting of
 259 complaints.—The Department of Health ~~Agency for Health Care~~
 260 ~~Administration~~ shall establish a toll-free telephone number for

261 public reporting of complaints relating to medical treatment or
 262 services provided by health care professionals.

263 Section 7. Subsections (2), (3), and (4) of section
 264 458.319, Florida Statutes, are renumbered as subsections (3),
 265 (4), and (5), respectively, and a new subsection (2) is added to
 266 that section to read:

267 458.319 Renewal of license.—

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

272 (a) Provide that continuing medical education approved by
 273 the American Medical Association satisfies some or all of the
 274 continuing medical education requirements.

275 (b) Mandate specific continuing medical education
 276 requirements.

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

279 1. Attendance at a board meeting at which another licensee
 280 is disciplined;

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

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

285 (d) Provide that up to 25 percent of the required
 286 continuing medical education hours may be fulfilled through pro

287 bono services to the indigent, underserved populations, or
 288 patients in critical need areas in the state where the licensee
 289 practices.

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

293 2. The standard for determining indigency shall be that
 294 recognized by the federal poverty guidelines and shall be less
 295 than 150 percent of the federal poverty level.

296 (e) Provide that a portion of the continuing medical
 297 education hours may be fulfilled by performing research in
 298 critical need areas or by training for advanced professional
 299 certification.

300 (f) Adopt rules to define underserved and critical need
 301 areas.

302 Section 8. Subsection (7) of section 464.203, Florida
 303 Statutes, is amended to read:

304 464.203 Certified nursing assistants; certification
 305 requirement.—

306 (7) A certified nursing assistant shall complete 24 ~~12~~
 307 hours of inservice training during each biennium ~~calendar year~~.
 308 The certified nursing assistant is ~~shall be~~ responsible for
 309 maintaining documentation demonstrating compliance with these
 310 provisions. ~~The Council on Certified Nursing Assistants, in~~
 311 ~~accordance with s. 464.2085(2)(b), shall propose rules to~~
 312 ~~implement this subsection.~~

313 Section 9. Section 464.2085, Florida Statutes, is
 314 repealed.

315 Section 10. Subsection (2) of section 466.032, Florida
 316 Statutes, is amended to read:

317 466.032 Registration.—

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

324 Section 11. Subsection (8) of section 467.009, Florida
 325 Statutes, is amended to read:

326 467.009 Midwifery programs; education and training
 327 requirements.—

328 (8) Nonpublic educational institutions that conduct
 329 approved midwifery programs shall be accredited by a member of
 330 the Council on Higher Education Accreditation ~~Commission on~~
 331 ~~Recognition of Postsecondary Accreditation~~ and shall be licensed
 332 by the Commission for Independent Education.

333 Section 12. Section 468.1735, Florida Statutes, is
 334 repealed.

335 Section 13. Subsection (11) of section 468.503, Florida
 336 Statutes, is amended to read:

337 468.503 Definitions.—As used in this part:

338 (11) "Registered dietitian" means an individual registered

339 with the accrediting body of the Academy of Nutrition and
 340 Dietetics Commission on Dietetic Registration, ~~the accrediting~~
 341 ~~body of the American Dietetic Association.~~

342 Section 14. Subsection (4) of section 468.505, Florida
 343 Statutes, is amended to read:

344 468.505 Exemptions; exceptions.—

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

350 Section 15. Subsection (5) of section 480.033, Florida
 351 Statutes, is amended to read:

352 480.033 Definitions.—As used in this act:

353 ~~(5) "Apprentice" means a person approved by the board to~~
 354 ~~study massage under the instruction of a licensed massage~~
 355 ~~therapist.~~

356 Section 16. Subsections (1) and (4) of section 480.041,
 357 Florida Statutes, are amended to read:

358 480.041 Massage therapists; qualifications; licensure;
 359 endorsement.—

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

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

364 (b) Has completed a course of study at a board-approved

365 | ~~massage school or has completed an apprenticeship program that~~
 366 | ~~meets standards adopted by the board; and~~

367 | (c) Has received a passing grade on an examination
 368 | administered by the department.

369 | (4) The board shall adopt rules:

370 | (a) ~~Establishing a minimum training program for~~
 371 | ~~apprentices.~~

372 | ~~(b)~~ Providing for educational standards, examination, and
 373 | certification for the practice of colonic irrigation, as defined
 374 | in s. 480.033 ~~480.033(6)~~, by massage therapists.

375 | (b) ~~(e)~~ Specifying licensing procedures for practitioners
 376 | desiring to be licensed in this state who hold an active license
 377 | and have practiced in any other state, territory, or
 378 | jurisdiction of the United States or any foreign national
 379 | jurisdiction which has licensing standards substantially similar
 380 | to, equivalent to, or more stringent than the standards of this
 381 | state.

382 | Section 17. Subsection (5) of section 480.042, Florida
 383 | Statutes, is amended to read:

384 | 480.042 Examinations.—

385 | (5) ~~All licensing examinations shall be conducted in such~~
 386 | ~~manner that the applicant shall be known to the department by~~
 387 | ~~number until her or his examination is completed and the proper~~
 388 | ~~grade determined.~~ An accurate record of each examination shall
 389 | be maintained, shall be made, and that record, together with all
 390 | examination papers, ~~shall be filed with the State Surgeon~~

HB 819

2014

391 ~~General and~~ shall be kept by the testing entities for reference
392 and inspection for a period of not less than 2 years immediately
393 following the examination.

394 Section 18. Paragraph (h) of subsection (1) of section
395 480.044, Florida Statutes, is amended to read:

396 480.044 Fees; disposition.—

397 (1) The board shall set fees according to the following
398 schedule:

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

400 Section 19. Subsection (3) of section 823.05, Florida
401 Statutes, is amended to read:

402 823.05 Places and groups engaged in criminal gang-related
403 activity declared a nuisance; massage establishments engaged in
404 prohibited activity; may be abated and enjoined.—

405 (3) A massage establishment as defined in s. 480.033
406 ~~480.033(7)~~ that operates in violation of s. 480.0475 or s.
407 480.0535(2) is declared a nuisance and may be abated or enjoined
408 as provided in ss. 60.05 and 60.06.

409 Section 20. This act shall take effect July 1, 2014.