

By Senator Grant

13-1449-98

1                                   A bill to be entitled  
2           An act relating to the State Board of  
3           Independent Colleges and Universities (RAB);  
4           amending s. 246.081, F.S.; restricting certain  
5           activities of graduates of foreign medical  
6           schools; amending s. 246.085, F.S.; requiring  
7           rules relating to certificates of exemption;  
8           amending ss. 246.087, 246.091, F.S.; requiring  
9           certain procedures and rules to be adopted  
10          relating to licensing requirements; creating s.  
11          246.093, F.S.; requiring certain colleges to  
12          obtain permission to operate; amending s.  
13          246.095, F.S.; requiring rules relating to fair  
14          consumer practices; providing an effective  
15          date.

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

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19           Section 1. Subsections (1) and (2) of section 246.081,  
20 Florida Statutes, are amended and subsection (6) is added to  
21 that section to read:

22           246.081 License, certificate of exemption, or  
23 authorization required; exceptions.--

24           (1) The following colleges are not under the  
25 jurisdiction of the board and are not required to obtain a  
26 license, a certificate of exemption, permission to operate, or  
27 an authorization from the board:

28           (a) Any college provided, operated, and supported by  
29 the State of Florida or its political subdivisions or the  
30 Federal Government.

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1 (b) Any college, school, or course licensed or  
2 approved for establishment and operation under chapter 464,  
3 chapter 466, or chapter 475, or any other chapter of the  
4 Florida Statutes, requiring licensing or approval as defined  
5 in ss. 246.011-246.151.

6 (2) No nonpublic college shall continue operation or  
7 be established within the state, and no students of foreign  
8 medical schools shall engage in clinical clerkships of  
9 Florida, unless such college shall apply for, and obtain from  
10 the board, a license, a certificate of exemption, permission  
11 to operate, or authorization in the manner and form prescribed  
12 by the board. Upon receipt of approved articles of  
13 incorporation from the Department of State that purport to be  
14 for a college as defined in s. 246.021, the newly formed  
15 corporation shall, within 60 days after such approval, make an  
16 application to the board for a license, a certificate of  
17 exemption, or other authorization as required by law. The  
18 approval of articles of incorporation by the Department of  
19 State shall not be deemed to be an approval to engage in the  
20 operation of an institution of higher learning. Such  
21 institution shall not advertise or operate until a license,  
22 certificate of exemption, permission to operate, or  
23 authorization has been obtained from the board. When articles  
24 of incorporation are issued to an institution of higher  
25 learning, the Department of State shall immediately furnish a  
26 copy of the articles of incorporation to the board.

27 (6) A student of a foreign medical school may not  
28 engage in a clinical clerkship in this state unless the  
29 foreign medical school has received a license, in the case of  
30 a core clerkship or an ongoing regular program of clerkships,  
31 or has received individual approval, in the case of an

1 occasional elective clerkship. The board shall adopt rules to  
2 administer this subsection.

3 Section 2. Subsection (4) of section 246.085, Florida  
4 Statutes, is amended to read:

5 246.085 Certificate of exemption.--

6 (4) Each certificate of exemption issued by the board  
7 shall be subject to an annual review by the board to determine  
8 if the college remains eligible for the exemption. Colleges  
9 which have applied for and received exemption under this  
10 section may remain in compliance for exemption by annually  
11 submitting evidence that the college remains in compliance  
12 with the provisions of subsection (1), the information  
13 required by s. 246.041(1)(n), and a current catalog. The  
14 burden of determining compliance shall rest with the board,  
15 and the board may make such further investigation and may  
16 require further evidence, in addition to the information  
17 submitted, as may be necessary in its judgment. The board  
18 shall adopt rules for issuing and annually reviewing  
19 certificates of exemption.

20 Section 3. Section 246.087, Florida Statutes, is  
21 amended to read:

22 246.087 Licensing requirements.--

23 (1) The minimum standards to be evaluated by the board  
24 for the licensing of colleges shall include purpose,  
25 administrative organization, admissions and recruitment,  
26 educational program and curricula, finances, faculty, library,  
27 student personnel services, physical plant and facilities,  
28 publications, and disclosure statements about the status of  
29 the college in relation to professional certification and  
30 licensure. The board shall adopt rules to ensure that licensed  
31 colleges meet these standards in ways that are appropriate to

1 achieve the stated intent of s. 246.011, including provisions  
2 for nontraditional programs and delivery.

3 (2) The minimum standards for the licensing of agents  
4 shall include name, residential and business addresses,  
5 background, training, college to be represented, and  
6 demonstrated knowledge of statutes and rules related to the  
7 authority granted to agents and the limitations imposed upon  
8 such authority. An ~~No~~ employee of a nonpublic college may not  
9 ~~shall~~ solicit prospective students for enrollment in such  
10 college until that employee has completed a training program  
11 containing the information required by the board in rule and  
12 becomes ~~is~~ licensed by the board as an agent. The board shall  
13 adopt rules to ensure that licensed agents meet these  
14 standards and uphold the intent of s. 246.011.

15 Section 4. Section 246.091, Florida Statutes, is  
16 amended to read:

17 246.091 License period and renewal.--

18 (1) Each license issued by the board shall be subject  
19 to an annual review and renewal by the board to determine if  
20 the licensee is in compliance with ss. 246.011-246.151. A  
21 college affected under this act may be granted a temporary or  
22 provisional license. Nothing in ss. 246.011-246.151 shall  
23 prevent the extension of such a temporary or provisional  
24 license provided a good faith effort has been made by the  
25 college and agent. The burden of determining compliance or a  
26 good-faith ~~good-faith~~ effort rests ~~shall rest~~ with the board,  
27 and the board shall adopt rules to administer this section.

28 (2) A licensed college that ~~which~~ seeks to expand its  
29 degrees to be conferred or to add new branches or other  
30 locations shall file a supplementary application. The board  
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1 shall promulgate standards for the approval of additional  
2 degrees and locations.

3 (3) A licensed college shall notify the board at least  
4 30 days prior to a change of ownership or control. If the  
5 board determines that the anticipated effects of the change  
6 are substantive enough that the practical result is to  
7 transform the licensed institution into a different college  
8 entity, a new application for licensure is required for the  
9 same level of licensure currently held by the college. During  
10 the time that the new application is being prepared,  
11 submitted, and evaluated, the board shall not interrupt the  
12 progress of currently enrolled students solely because of the  
13 change of ownership or control. The board shall adopt rules  
14 governing changes of ownership or control.

15 (4)~~(3)~~ A licensed college which seeks to conduct any  
16 diploma program, as defined in s. 246.203, shall apply to the  
17 State Board of Independent Postsecondary Vocational,  
18 Technical, Trade, and Business Schools for licensure for such  
19 program.

20 (5)~~(4)~~ A licensed college, prior to the discontinuance  
21 of operation, shall have the duty to convey all student  
22 records to the board or to another location designated by the  
23 board. At least 60 days prior to closing, the college shall  
24 notify the board of the intention to close and shall submit a  
25 plan for the orderly transfer of students and records. At the  
26 same time, students shall be informed by the college of the  
27 plan to close and of their options for continuing their  
28 programs elsewhere and for the storage of their records. The  
29 board shall adopt rules for the orderly closure of colleges.

30 Section 5. Section 246.093, Florida Statutes, is  
31 created to read:

1           246.093 Permission to operate.--

2           (1) An out-of-state college seeking to have a minimal  
3 presence in this state for the purpose of maintaining a  
4 business office, providing an occasional seminar that carries  
5 college credit, or arranging an occasional clinical clerkship  
6 for a medical student or for the purpose of other operations  
7 not involving a regular, continuous, credit-bearing  
8 educational program in this state must apply to the board for  
9 permission to operate. The board shall adopt rules and fees  
10 for this status.

11           (2) Permission to operate shall be granted for a  
12 specific period of time not to exceed 1 year, and shall be  
13 limited to the activities approved by the board at the time of  
14 application. A new application for permission to operate is  
15 required for additional or different activities or additional  
16 periods of time.

17           (3) Colleges granted permission to operate must  
18 disclose to prospective students the status, the limited  
19 meaning of the status, and the name, address, and telephone  
20 number of the board for further information about the college  
21 or program and must provide the board with copies of this  
22 disclosure. Colleges granted permission to operate must adhere  
23 to applicable fair consumer practices, to be determined by the  
24 board as appropriate in each case to protect consumers in this  
25 state.

26           (4) Permission to operate is subject to denial,  
27 probation, or revocation for cause under s. 246.111.

28           Section 6. Section 246.095, Florida Statutes, is  
29 amended to read:

30           246.095 Fair consumer practices ~~Disclosure to~~  
31 ~~prospective students~~; condition of operation.--

1           (1) Every college which is either licensed by the  
2 board or has been granted a certificate of exemption by the  
3 board and which either directly or indirectly solicits for  
4 enrollment any student shall disclose to each prospective  
5 student a statement of the purpose of such college, its  
6 educational programs and curricula, a description of its  
7 physical facilities, its status regarding licensure, its fee  
8 schedule and policies about retaining student fees if a  
9 student withdraws, and a statement regarding the  
10 transferability of credits to and from other colleges. In  
11 addition, colleges which are required to be licensed by the  
12 board shall disclose to prospective students that additional  
13 information regarding the college may be obtained by  
14 contacting the State Board of Independent Colleges and  
15 Universities, Department of Education, Tallahassee. The  
16 college shall make the required disclosures in writing at  
17 least 1 week prior to enrollment or collection of any tuition  
18 from the prospective student. The required disclosures may be  
19 made in the institution's current catalog.

20           (2) In order to ensure fair and equitable conduct of  
21 business and academic relations between colleges and their  
22 students or potential students, each college shall demonstrate  
23 to the board, as specified in board rules:

24           (a) That it uses a reliable method to assess, before  
25 accepting a student into a program, the student's ability to  
26 complete successfully the course of study for which he or she  
27 has applied;

28           (b) That it informs each student accurately about  
29 financial assistance and obligations for repayment of loans;  
30 that it accurately describes any employment placement services  
31 provided and the limitations thereof; and that it does not

1 promise or imply guaranteed placement, market availability, or  
2 salary amounts;

3 (c) That it provides to prospective and enrolled  
4 students accurate information regarding the relationship of  
5 its programs to state licensure requirements for practicing  
6 related occupations and professions in Florida;

7 (d) That all advertisements are accurate and not  
8 misleading;

9 (e) That it publishes and follows an equitable  
10 prorated refund policy for all students, and that it follows  
11 both the federal refund guidelines for students receiving  
12 federal financial assistance and the minimum refund guidelines  
13 set by board rule;

14 (f) That it follows the requirements of ss. 240.2683  
15 and 240.2684 and federal laws that require annual reporting  
16 with respect to crime statistics and physical plant safety and  
17 make those reports available to the public; and

18 (g) That it publishes and follows procedures for  
19 handling student complaints, disciplinary actions, and  
20 appeals.

21 (3)(2) A license or certificate of exemption shall not  
22 be granted or renewed by the board unless the college seeking  
23 the action provides the board with a sworn statement of  
24 compliance with this section. The board shall prescribe the  
25 manner and form of the statement.

26 (4)(3) The board may examine any complaint of  
27 nondisclosure to prospective students of colleges under the  
28 jurisdiction of the board, and, if the college is found to be  
29 routinely handling these matters correctly, the complaint  
30 shall be disregarded. Complaints of nondisclosure against  
31 accredited colleges shall be forwarded by the board to the



1 college and appropriate accrediting agency with a request that  
2 the board be advised of any and all actions taken in response  
3 to the complaint.

4 (5)~~(4)~~ Refusal to comply with this section is cause  
5 for denial or revocation of a license or a certificate of  
6 exemption under s. 246.111.

7 Section 7. This act shall take effect upon becoming a  
8 law.

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SENATE SUMMARY

Revises rulemaking authority of the State Board of  
Independent Colleges and Universities.