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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.; providing
7 for rules relating to certificates of
8 exemption; amending ss. 246.087, 246.091, F.S.;
9 providing for certain procedures and rules to
10 be adopted relating to licensing requirements;
11 creating s. 246.093, F.S.; requiring certain
12 colleges to obtain permission to operate;
13 amending s. 246.095, F.S.; providing for rules
14 relating to fair consumer practices; providing
15 an effective 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 has authority to
2 adopt rules to 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 has
18 authority to 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 has authority to adopt rules to ensure
31 that licensed colleges meet these standards in ways that are

1 appropriate to achieve the stated intent of s. 246.011,
2 including provisions 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 has
13 authority to adopt rules to ensure that licensed agents meet
14 these 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 has authority to adopt rules to administer this
28 section.

29 (2) A licensed college that ~~which~~ seeks to expand its
30 degrees to be conferred or to add new branches or other
31 locations shall file a supplementary application. The board

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 has authority to
14 adopt rules 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 has authority to adopt rules for the orderly closure of
30 colleges.

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1 Section 5. Section 246.093, Florida Statutes, is
2 created to read:

3 246.093 Permission to operate.--

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

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

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

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

30 Section 6. Section 246.095, Florida Statutes, is
31 amended to read:

1 246.095 Fair consumer practices ~~Disclosure to~~
2 ~~prospective students~~; condition of operation.--

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

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

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

30 (b) That it informs each student accurately about
31 financial assistance and obligations for repayment of loans;

1 that it accurately describes any employment placement services
2 provided and the limitations thereof; and that it does not
3 promise or imply guaranteed placement, market availability, or
4 salary amounts;

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

9 (d) That all advertisements are accurate and not
10 misleading;

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

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

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

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

28 ~~(4)~~~~(3)~~ The board may examine any complaint of
29 nondisclosure to prospective students of colleges under the
30 jurisdiction of the board, and, if the college is found to be
31 routinely handling these matters correctly, the complaint

1 shall be disregarded. Complaints of nondisclosure against
2 accredited colleges shall be forwarded by the board to the
3 college and appropriate accrediting agency with a request that
4 the board be advised of any and all actions taken in response
5 to the complaint.

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

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

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