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Amendment No. \_\_\_\_ (for drafter's use only)

	<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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Representative(s) Brown and Ogles offered the following:

**Amendment (with title amendment)**

Remove from the bill: Everything after the enacting clause  
and insert in lieu thereof:

Section 1. Subsections (3) and (4) of section 11.62,  
Florida Statutes, are amended to read:

11.62 Legislative review of proposed regulation of  
unregulated functions.--

(3) In determining whether to regulate a profession or  
occupation, the Legislature shall consider the following  
factors:

(a) Whether the unregulated practice of the profession  
or occupation will substantially harm or endanger the public  
health, safety, or welfare, and whether the potential for harm  
is recognizable and not remote;

(b) Whether the practice of the profession or  
occupation requires specialized skill or training, and whether  
that skill or training is readily measurable or quantifiable  
so that examination or training requirements would reasonably

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1 assure initial and continuing professional or occupational  
2 ability;

3 (c) Whether the regulation will have an unreasonable  
4 effect on job creation or job retention in the state or will  
5 place unreasonable restrictions on the ability of individuals  
6 who seek to practice or who are practicing a given profession  
7 or occupation to find employment;

8 (d)(c) Whether the public is or can be effectively  
9 protected by other means; and

10 (e)(d) Whether the overall cost-effectiveness and  
11 economic impact of the proposed regulation, including the  
12 indirect costs to consumers, will be favorable.

13 (4) The proponents of legislation that provides for  
14 the regulation of a profession or occupation not already  
15 expressly subject to state regulation shall provide, upon  
16 request, the following information in writing to the state  
17 agency that is proposed to have jurisdiction over the  
18 regulation and to the legislative committees to which the  
19 legislation is referred:

20 (a) The number of individuals or businesses that would  
21 be subject to the regulation;

22 (b) The name of each association that represents  
23 members of the profession or occupation, together with a copy  
24 of its codes of ethics or conduct;

25 (c) Documentation of the nature and extent of the harm  
26 to the public caused by the unregulated practice of the  
27 profession or occupation, including a description of any  
28 complaints that have been lodged against persons who have  
29 practiced the profession or occupation in this state during  
30 the preceding 3 years;

31 (d) A list of states that regulate the profession or

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1 occupation, and the dates of enactment of each law providing  
2 for such regulation and a copy of each law;

3 (e) A list and description of state and federal laws  
4 that have been enacted to protect the public with respect to  
5 the profession or occupation and a statement of the reasons  
6 why these laws have not proven adequate to protect the public;

7 (f) A description of the voluntary efforts made by  
8 members of the profession or occupation to protect the public  
9 and a statement of the reasons why these efforts are not  
10 adequate to protect the public;

11 (g) A copy of any federal legislation mandating  
12 regulation;

13 (h) An explanation of the reasons why other types of  
14 less restrictive regulation would not effectively protect the  
15 public;

16 (i) The cost, availability, and appropriateness of  
17 training and examination requirements;

18 ~~(j)(i)~~ The cost of regulation, including the indirect  
19 cost to consumers, and the method proposed to finance the  
20 regulation;

21 (k) The cost imposed on applicants or practitioners or  
22 on employers of applicants or practitioners as a result of the  
23 regulation;

24 ~~(l)(j)~~ The details of any previous efforts in this  
25 state to implement regulation of the profession or occupation;  
26 and

27 ~~(m)(k)~~ Any other information the agency or the  
28 committee considers relevant to the analysis of the proposed  
29 legislation.

30 Section 2. Subsection (4) of section 455.201, Florida  
31 Statutes, is amended to read:

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1           455.201 Professions and occupations regulated by  
 2 department; legislative intent; requirements.--  
 3           (4)(a) Neither the department nor any board may ~~No~~  
 4 ~~board, nor the department, shall~~ create unreasonably  
 5 restrictive and extraordinary standards that deter qualified  
 6 persons from entering the various professions. Neither the  
 7 department nor any board may ~~No board, nor the department,~~  
 8 ~~shall~~ take any action that ~~which~~ tends to create or maintain  
 9 an economic condition that unreasonably restricts competition,  
 10 except as specifically provided by law.

11           (b) Neither the department nor any board may create a  
 12 regulation that has an unreasonable effect on job creation or  
 13 job retention in the state or that places unreasonable  
 14 restrictions on the ability of individuals who seek to  
 15 practice or who are practicing a given profession or  
 16 occupation to find employment.

17           (c) The Legislature shall evaluate proposals to  
 18 increase regulation of already regulated professions or  
 19 occupations to determine their effect on job creation or  
 20 retention and employment opportunities.

21           Section 3. Subsection (4) of section 455.517, Florida  
 22 Statutes, is amended to read:

23           455.517 Professions and occupations regulated by  
 24 department; legislative intent; requirements.--

25           (4)(a) Neither the department nor any board may ~~No~~  
 26 ~~board, nor the department, shall~~ create unreasonably  
 27 restrictive and extraordinary standards that deter qualified  
 28 persons from entering the various professions. Neither the  
 29 department nor any board may ~~No board, nor the department,~~  
 30 ~~shall~~ take any action that ~~which~~ tends to create or maintain  
 31 an economic condition that unreasonably restricts competition,

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1 except as specifically provided by law.

2 (b) Neither the department nor any board may create a  
3 regulation that has an unreasonable effect on job creation or  
4 job retention in the state or that places unreasonable  
5 restrictions on the ability of individuals who seek to  
6 practice or who are practicing a profession or occupation to  
7 find employment.

8 (c) The Legislature shall evaluate proposals to  
9 increase the regulation of regulated professions or  
10 occupations to determine the effect of increased regulation on  
11 job creation or retention and employment opportunities.

12 Section 4. Section 455.2035, Florida Statutes, is  
13 created to read:

14 455.2035 Rulemaking authority for professions not  
15 under a board.--The department may adopt rules pursuant to ss.  
16 120.54 and 120.536(1) to implement the regulatory requirements  
17 of any profession within the department's jurisdiction which  
18 does not have a statutorily authorized regulatory board.

19 Section 5. Section 455.2123, Florida Statutes, is  
20 created to read:

21 455.2123 Continuing education.--A board, or the  
22 department when there is no board, may provide by rule that  
23 distance learning may be used to satisfy continuing education  
24 requirements.

25 Section 6. Section 455.2124, Florida Statutes, is  
26 created to read:

27 455.2124 Proration of continuing education.--A board,  
28 or the department when there is no board, may:

29 (1) Prorate continuing education for new licensees by  
30 requiring half of the required continuing education for any  
31 applicant who becomes licensed with more than half the renewal

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1 period remaining and no continuing education for any applicant  
2 who becomes licensed with half or less than half of the  
3 renewal period remaining; or

4 (2) Require no continuing education until the first  
5 full renewal cycle of the licensee.

6  
7 These options shall also apply when continuing education is  
8 first required or the number of hours required is increased by  
9 law or the board, or the department when there is no board.

10 Section 7. Subsection (10) is added to section  
11 455.213, Florida Statutes, 1998 Supplement, to read:

12 455.213 General licensing provisions.--

13 (10) For any profession requiring fingerprints as part  
14 of the registration, certification, or licensure process or  
15 for any profession requiring a criminal history record check  
16 to determine good moral character, a fingerprint card  
17 containing the fingerprints of the applicant must accompany  
18 all applications for registration, certification, or  
19 licensure. The fingerprint card shall be forwarded to the  
20 Division of Criminal Justice Information Systems within the  
21 Department of Law Enforcement for purposes of processing the  
22 fingerprint card to determine if the applicant has a criminal  
23 history record. The fingerprint card shall also be forwarded  
24 to the Federal Bureau of Investigation for purposes of  
25 processing the fingerprint card to determine if the applicant  
26 has a criminal history record. The information obtained by the  
27 processing of the fingerprint card by the Florida Department  
28 of Law Enforcement and the Federal Bureau of Investigation  
29 shall be sent to the department for the purpose of determining  
30 if the applicant is statutorily qualified for registration,  
31 certification, or licensure.

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1 Section 8. Paragraph (e) of subsection (2) of section  
2 468.453, Florida Statutes, 1998 Supplement, is amended to  
3 read:

4 468.453 Licensure required; qualifications;  
5 examination; bond.--

6 (2) A person shall be licensed as an athlete agent if  
7 the applicant:

8 (e) ~~Has provided sufficient information which must be~~  
9 ~~submitted to by the department a fingerprint card for a~~  
10 ~~criminal history records check through the Federal Bureau of~~  
11 ~~investigation. The fingerprint card shall be forwarded to the~~  
12 ~~Division of Criminal Justice Information Systems within the~~  
13 ~~Department of Law Enforcement for purposes of processing the~~  
14 ~~fingerprint card to determine if the applicant has a criminal~~  
15 ~~history record. The fingerprint card shall also be forwarded~~  
16 ~~to the Federal Bureau of Investigation for purposes of~~  
17 ~~processing the fingerprint card to determine if the applicant~~  
18 ~~has a criminal history record. The information obtained by the~~  
19 ~~processing of the fingerprint card by the Florida Department~~  
20 ~~of Law Enforcement and the Federal Bureau of Investigation~~  
21 ~~shall be sent to the department for the purpose of determining~~  
22 ~~if the applicant is statutorily qualified for licensure.~~

23 Section 9. Paragraph (a) of subsection (1) of section  
24 475.175, Florida Statutes, is amended to read:

25 475.175 Examinations.--

26 (1) A person shall be entitled to take the license  
27 examination to practice in this state if the person:

28 (a) Submits to the department the appropriate  
29 notarized application and fee, two photographs of herself or  
30 himself taken within the preceding year, and a fingerprint  
31 card. The fingerprint card shall be forwarded to the Division

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1 of Criminal Justice Information Systems within the Department  
2 of Law Enforcement for purposes of processing the fingerprint  
3 card to determine if the applicant has a criminal history  
4 record. The fingerprint card shall also be forwarded to the  
5 Federal Bureau of Investigation for purposes of processing the  
6 fingerprint card to determine if the applicant has a criminal  
7 history record. The information obtained by the processing of  
8 the fingerprint card by the Florida Department of Law  
9 Enforcement and the Federal Bureau of Investigation shall be  
10 sent to the department for the purpose of determining if the  
11 applicant is statutorily qualified for examination.  
12 ~~fingerprints for processing through appropriate law~~  
13 ~~enforcement agencies; and~~

14 Section 10. Subsection (3) of section 475.615, Florida  
15 Statutes, 1998 Supplement, is amended to read:

16 475.615 Qualifications for registration, licensure, or  
17 certification.--

18 (3) Appropriate fees, as set forth in the rules of the  
19 board pursuant to s. 475.6147, and a fingerprint card  
20 ~~fingerprints for processing through appropriate law~~  
21 ~~enforcement agencies~~ must accompany all applications for  
22 registration, ~~licensure, and certification,~~ or licensure. The  
23 fingerprint card shall be forwarded to the Division of  
24 Criminal Justice Information Systems within the Department of  
25 Law Enforcement for purposes of processing the fingerprint  
26 card to determine if the applicant has a criminal history  
27 record. The fingerprint card shall also be forwarded to the  
28 Federal Bureau of Investigation for purposes of processing the  
29 fingerprint card to determine if the applicant has a criminal  
30 history record. The information obtained by the processing of  
31 the fingerprint card by the Florida Department of Law



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1 Enforcement and the Federal Bureau of Investigation shall be  
2 sent to the department for the purpose of determining if the  
3 applicant is statutorily qualified for registration,  
4 certification, or licensure.

5 Section 11. Section 455.2255, Florida Statutes, is  
6 created to read:

7 455.2255 Classification of disciplinary actions.--

8 (1) A licensee may petition the department to review a  
9 disciplinary incident to determine whether the specific  
10 violation meets the standard of a minor violation as set forth  
11 in s. 455.225(3). If the circumstances of the violation meet  
12 that standard and 2 years have passed since the issuance of a  
13 final order imposing discipline, the department shall  
14 reclassify that violation as inactive if the licensee has not  
15 been disciplined for any subsequent minor violation of the  
16 same nature. After the department has reclassified the  
17 violation as inactive, it is no longer considered to be part  
18 of the licensee's disciplinary record, and the licensee may  
19 lawfully deny or fail to acknowledge the incident as a  
20 disciplinary action.

21 (2) The department may establish a schedule  
22 classifying violations according to the severity of the  
23 violation. After the expiration of set periods of time, the  
24 department may provide for such disciplinary records to become  
25 inactive, according to their classification. After the  
26 disciplinary record has become inactive, the department may  
27 clear the violation from the disciplinary record and the  
28 subject person or business may lawfully deny or fail to  
29 acknowledge such disciplinary actions. The department may  
30 adopt rules to implement this subsection.

31 (3) Notwithstanding s. 455.017, this section applies

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1 to the disciplinary records of all persons or businesses  
2 licensed by the department.

3 Section 12. Subsection (3) of section 455.227, Florida  
4 Statutes, is amended to read:

5 455.227 Grounds for discipline; penalties;  
6 enforcement.--

7 (3)(a) In addition to any other discipline imposed  
8 pursuant to this section or discipline imposed for a violation  
9 of any practice act, the board, or the department when there  
10 is no board, may assess costs related to the investigation and  
11 prosecution of the case excluding costs associated with an  
12 attorney's time.

13 (b) In any case where the board or the department  
14 imposes a fine or assessment and the fine or assessment is not  
15 paid within a reasonable time, such reasonable time to be  
16 prescribed in the rules of the board, or the department when  
17 there is no board, or in the order assessing such fines or  
18 costs, the department or the Department of Legal Affairs may  
19 contract for the collection of, or bring a civil action to  
20 recover, the fine or assessment.

21 (c) The department shall not issue or renew a license  
22 to any person against whom or business against which the board  
23 has assessed a fine, interest, or costs associated with  
24 investigation and prosecution until the person or business has  
25 paid in full such fine, interest, or costs associated with  
26 investigation and prosecution or until the person or business  
27 complies with or satisfies all terms and conditions of the  
28 final order.

29 Section 13. Paragraph (k) of subsection (2) of section  
30 455.557, Florida Statutes, is amended to read:

31 455.557 Standardized credentialing for health care

1 practitioners.--

2 (2) DEFINITIONS.--As used in this section, the term:

3 (k) "Health care practitioner" means any person  
4 licensed, or, for credentialing purposes only, any person  
5 applying for licensure, under chapter 458, chapter 459,  
6 chapter 460, or chapter 461 or any person licensed or applying  
7 for licensure under a chapter subsequently made subject to  
8 this section by the department with the approval of the  
9 applicable board, except a person registered or applying for  
10 registration pursuant to ss. 458.345 or 459.021.

11 Section 14. Subsection (6) of section 455.564, Florida  
12 Statutes, 1998 Supplement, is amended to read:

13 455.564 Department; general licensing provisions.--

14 (6) As a condition of renewal of a license, the Board  
15 of Medicine, the Board of Osteopathic Medicine, the Board of  
16 Chiropractic Medicine, and the Board of Podiatric Medicine  
17 shall each require licensees which they respectively regulate  
18 to periodically demonstrate their professional competency by  
19 completing at least 40 hours of continuing education every 2  
20 ~~years, which may include up to 1 hour of risk management or~~  
21 ~~cost containment and up to 2 hours of other topics related to~~  
22 ~~the applicable medical specialty, if required by board rule.~~  
23 The boards may require by rule that up to 1 hour of the  
24 required 40 or more hours be in the area of risk management or  
25 cost containment. This provision shall not be construed to  
26 limit the number of hours that a licensee may obtain in risk  
27 management or cost containment to be credited toward  
28 satisfying the 40 or more required hours. This provision shall  
29 not be construed to require the boards to impose any  
30 requirement on licensees except for the completion of at least  
31 40 hours of continuing education every 2 years.Each of such

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1 boards shall determine whether any specific continuing  
2 education ~~course~~ requirements not otherwise mandated by law  
3 shall be mandated and shall approve criteria for, and the  
4 content of, any continuing education ~~course~~ mandated by such  
5 board. Notwithstanding any other provision of law, the board,  
6 or the department when there is no board, may approve by rule  
7 alternative methods of obtaining continuing education credits  
8 in risk management. The alternative methods may include  
9 attending a board meeting at which another ~~a~~ licensee is  
10 disciplined, serving as a volunteer expert witness for the  
11 department in a disciplinary case, or serving as a member of a  
12 probable cause panel following the expiration of a board  
13 member's term. Other boards within the Division of Medical  
14 Quality Assurance, or the department if there is no board, may  
15 adopt rules granting continuing education hours in risk  
16 management for attending a board meeting at which another  
17 licensee is disciplined, for serving as a volunteer expert  
18 witness for the department in a disciplinary case, or for  
19 serving as a member of a probable cause panel following the  
20 expiration of a board member's term.

21 Section 15. Subsection (1) of section 455.565, Florida  
22 Statutes, 1998 Supplement, is amended to read:

23 455.565 Designated health care professionals;  
24 information required for licensure.--

25 (1) Each person who applies for initial licensure as a  
26 physician under chapter 458, chapter 459, chapter 460, or  
27 chapter 461, except a person applying for registration  
28 pursuant to ss. 458.345 and 459.021 must, at the time of  
29 application, and each physician who applies for license  
30 renewal under chapter 458, chapter 459, chapter 460, or  
31 chapter 461, except a person registered pursuant to ss.

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1 458.345 and 459.021 must, in conjunction with the renewal of  
2 such license and under procedures adopted by the Department of  
3 Health, and in addition to any other information that may be  
4 required from the applicant, furnish the following information  
5 to the Department of Health:

6 (a)1. The name of each medical school that the  
7 applicant has attended, with the dates of attendance and the  
8 date of graduation, and a description of all graduate medical  
9 education completed by the applicant, excluding any coursework  
10 taken to satisfy medical licensure continuing education  
11 requirements.

12 2. The name of each hospital at which the applicant  
13 has privileges.

14 3. The address at which the applicant will primarily  
15 conduct his or her practice.

16 4. Any certification that the applicant has received  
17 from a specialty board that is recognized by the board to  
18 which the applicant is applying.

19 5. The year that the applicant began practicing  
20 medicine.

21 6. Any appointment to the faculty of a medical school  
22 which the applicant currently holds and an indication as to  
23 whether the applicant has had the responsibility for graduate  
24 medical education within the most recent 10 years.

25 7. A description of any criminal offense of which the  
26 applicant has been found guilty, regardless of whether  
27 adjudication of guilt was withheld, or to which the applicant  
28 has pled guilty or nolo contendere. A criminal offense  
29 committed in another jurisdiction which would have been a  
30 felony or misdemeanor if committed in this state must be  
31 reported. If the applicant indicates that a criminal offense

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1 is under appeal and submits a copy of the notice for appeal of  
2 that criminal offense, the department must state that the  
3 criminal offense is under appeal if the criminal offense is  
4 reported in the applicant's profile. If the applicant  
5 indicates to the department that a criminal offense is under  
6 appeal, the applicant must, upon disposition of the appeal,  
7 submit to the department a copy of the final written order of  
8 disposition.

9           8. A description of any final disciplinary action  
10 taken within the previous 10 years against the applicant by  
11 the agency regulating the profession that the applicant is or  
12 has been licensed to practice, whether in this state or in any  
13 other jurisdiction, by a specialty board that is recognized by  
14 the American Board of Medical Specialities, the American  
15 Osteopathic Association, or a similar national organization,  
16 or by a licensed hospital, health maintenance organization,  
17 prepaid health clinic, ambulatory surgical center, or nursing  
18 home. Disciplinary action includes resignation from or  
19 nonrenewal of medical staff membership or the restriction of  
20 privileges at a licensed hospital, health maintenance  
21 organization, prepaid health clinic, ambulatory surgical  
22 center, or nursing home taken in lieu of or in settlement of a  
23 pending disciplinary case related to competence or character.  
24 If the applicant indicates that the disciplinary action is  
25 under appeal and submits a copy of the document initiating an  
26 appeal of the disciplinary action, the department must state  
27 that the disciplinary action is under appeal if the  
28 disciplinary action is reported in the applicant's profile.

29           (b) In addition to the information required under  
30 paragraph (a), each applicant who seeks licensure under  
31 chapter 458, chapter 459, or chapter 461, and who has

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1 practiced previously in this state or in another jurisdiction  
 2 or a foreign country must provide the information required of  
 3 licensees under those chapters pursuant to s. 455.697. An  
 4 applicant for licensure under chapter 460 who has practiced  
 5 previously in this state or in another jurisdiction or a  
 6 foreign country must provide the same information as is  
 7 required of licensees under chapter 458, pursuant to s.  
 8 455.697.

9 Section 16. Section 455.601, Florida Statutes is  
 10 amended to read:

11 455.601 Hepatitis B or human immunodeficiency  
 12 carriers.--

13 (1) The department and each appropriate board within  
 14 the Division of Medical Quality Assurance shall have the  
 15 authority to establish procedures to handle, counsel, and  
 16 provide other services to health care professionals within  
 17 their respective boards who are infected with hepatitis B or  
 18 the human immunodeficiency virus.

19 (2) Any person licensed by the department and any  
 20 other person employed by a health care facility who contracts  
 21 a blood-borne infection shall have a rebuttable presumption  
 22 that the illness was contracted in the course and scope of his  
 23 or her employment, provided that the person, as soon as  
 24 practicable, reports to the person's supervisor or the  
 25 facility's risk manager any significant exposure, as that term  
 26 is defined in s. 381.004(2)(c), to blood or body fluids. The  
 27 employer may test the blood or body fluid to determine if it  
 28 is infected with the same disease contracted by the employee.  
 29 The employer may rebut the presumption by the perponderance of  
 30 the evidence. Except as expressly provided in this  
 31 subsection, there shall be no presumption that a blood-borne

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1 infection is a job-related injury or illness.

2 Section 17. Subsections (4) and (6) of section  
3 477.013, Florida Statutes, 1998 Supplement, are amended, and  
4 subsections (12) and (13) are added to that section, to read:

5 477.013 Definitions.--As used in this chapter:

6 (4) "Cosmetology" means the mechanical or chemical  
7 treatment of the head, face, and scalp for aesthetic rather  
8 than medical purposes, including, but not limited to, hair  
9 shampooing, hair cutting, hair arranging, hair coloring,  
10 permanent waving, and hair relaxing,~~hair removing pedicuring,~~  
11 ~~and manicuring,~~for compensation. This term also includes  
12 performing hair removal, including wax treatments, manicures,  
13 pedicures, and skin-care services.

14 (6) "Specialty" means the practice of one or more of  
15 the following:

16 (a) Manicuring, or the cutting, polishing, tinting,  
17 coloring, cleansing, adding, or extending of the nails, and  
18 massaging of the hands. This term includes any procedure or  
19 process for the affixing of artificial nails, except those  
20 nails which may be applied solely by use of a simple adhesive.

21 (b) Pedicuring, or the shaping, polishing, tinting, or  
22 cleansing of the nails of the feet, and massaging or  
23 beautifying of the feet.

24 (c) Facials, or the massaging or treating of the face  
25 or scalp with oils, creams, lotions, or other preparations,  
26 and skin care services.

27 (12) "Body wrapping" means a treatment program that  
28 uses herbal wraps for the purposes of weight loss and of  
29 cleansing and beautifying the skin of the body, but does not  
30 include:

31 (a) The application of oils, lotions, or other fluids



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1 to the body, except fluids contained in presoaked materials  
2 used in the wraps; or

3 (b) Manipulation of the body's superficial tissue,  
4 other than that arising from compression emanating from the  
5 wrap materials.

6 (13) "Skin care services" means the treatment of the  
7 skin of the body, other than the head, face, and scalp, by the  
8 use of a sponge, brush, cloth, or similar device to apply or  
9 remove a chemical preparation or other substance, except that  
10 chemical peels may be removed by peeling an applied  
11 preparation from the skin by hand. Skin care services must be  
12 performed by a licensed cosmetologist or facial specialist  
13 within a licensed cosmetology or specialty salon, and such  
14 services may not involve massage, as defined in s. 480.033(3),  
15 through manipulation of the superficial tissue.

16 Section 18. Section 477.0132, Florida Statutes, 1998  
17 Supplement, is amended to read:

18 477.0132 Hair braiding, ~~and~~ hair wrapping, and body  
19 wrapping registration.--

20 (1)(a) Persons whose occupation or practice is  
21 confined solely to hair braiding must register with the  
22 department, pay the applicable registration fee, and take a  
23 two-day 16-hour course. The course shall be board approved and  
24 consist of 5 hours of HIV/AIDS and other communicable  
25 diseases, 5 hours of sanitation and sterilization, 4 hours of  
26 disorders and diseases of the scalp, and 2 hours of studies  
27 regarding laws affecting hair braiding.

28 (b) Persons whose occupation or practice is confined  
29 solely to hair wrapping must register with the department, pay  
30 the applicable registration fee, and take a one-day 6-hour  
31 course. The course shall be board approved and consist of

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1 education in HIV/AIDS and other communicable diseases,  
2 sanitation and sterilization, disorders and diseases of the  
3 scalp, and studies regarding laws affecting hair wrapping.  
4 (c) Unless otherwise licensed or exempted from  
5 licensure under this chapter, any person whose occupation or  
6 practice is body wrapping must register with the department,  
7 pay the applicable registration fee, and take a two-day  
8 12-hour course. The course shall be board approved and consist  
9 of education in HIV/AIDS and other communicable diseases,  
10 sanitation and sterilization, disorders and diseases of the  
11 skin, and studies regarding laws affecting body wrapping.

12 (2) Hair braiding,~~and~~ hair wrapping, and body  
13 wrapping are not required to be practiced in a cosmetology  
14 salon or specialty salon. When hair braiding,~~or~~ hair  
15 wrapping, or body wrapping is practiced outside a cosmetology  
16 salon or specialty salon, disposable implements must be used  
17 or all implements must be sanitized in a disinfectant approved  
18 for hospital use or approved by the federal Environmental  
19 Protection Agency.

20 (3) Pending issuance of registration, a person is  
21 eligible to practice hair braiding,~~or~~ hair wrapping, or body  
22 wrapping upon submission of a registration application that  
23 includes proof of successful completion of the education  
24 requirements and payment of the applicable fees required by  
25 this chapter.

26 Section 19. Paragraph (c) of subsection (7) of section  
27 477.019, Florida Statutes, 1998 Supplement, is amended to  
28 read:

29 477.019 Cosmetologists; qualifications; licensure;  
30 supervised practice; license renewal; endorsement; continuing  
31 education.--

1 (7)

2 (c) Any person whose occupation or practice is  
3 confined solely to hair braiding, ~~or~~ hair wrapping, or body  
4 wrapping is exempt from the continuing education requirements  
5 of this subsection.

6 Section 20. Paragraph (f) of subsection (1) of section  
7 477.026, Florida Statutes, 1998 Supplement, is amended to  
8 read:

9 477.026 Fees; disposition.--

10 (1) The board shall set fees according to the  
11 following schedule:

12 (f) For hair braiders, ~~and~~ hair wrappers, and body  
13 wrappers, fees for registration shall not exceed \$25.

14 Section 21. Paragraph (g) is added to subsection (1)  
15 of section 477.0265, Florida Statutes, to read:

16 477.0265 Prohibited acts.--

17 (1) It is unlawful for any person to:

18 (g) Advertise or imply that skin care services or body  
19 wrapping, as performed under this chapter, have any  
20 relationship to the practice of massage therapy as defined in  
21 s. 480.033(3), except those practices or activities defined in  
22 s. 477.013.

23 Section 22. Paragraph (a) of subsection (1) of section  
24 477.029, Florida Statutes, 1998 Supplement, is amended to  
25 read:

26 477.029 Penalty.--

27 (1) It is unlawful for any person to:

28 (a) Hold himself or herself out as a cosmetologist,  
29 specialist, hair wrapper, ~~or~~ hair braider, or body wrapper  
30 unless duly licensed or registered, or otherwise authorized,  
31 as provided in this chapter.

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Amendment No. \_\_\_\_ (for drafter's use only)

1 Section 23. Subsection (2) of section 455.209, Florida  
2 Statutes, 1998 Supplement, is amended to read:

3 455.209 Accountability and liability of board  
4 members.--

5 (2) Each board member and each former board member  
6 serving on a probable cause panel shall be exempt from civil  
7 liability for any act or omission when acting in the member's  
8 official capacity, and the department, ~~or the Department of~~  
9 ~~Legal Affairs~~ shall defend any such member in any action  
10 against any board or member of a board arising from any such  
11 act or omission. In addition, the department ~~or the Department~~  
12 ~~of Legal Affairs~~ may defend the member's company or business  
13 in any action against the company or business if the  
14 department ~~or the Department of Legal Affairs~~ determines that  
15 the actions from which the suit arises are actions taken by  
16 the member in the member's official capacity and were not  
17 beyond the member's statutory authority. In providing such  
18 defense, the department ~~or the Department of Legal Affairs~~ may  
19 employ or utilize the legal services of the Department of  
20 Legal Affairs or outside counsel retained pursuant to s.  
21 287.059. Fees and costs of providing legal services provided  
22 under this subsection shall be paid from the Professional  
23 Regulation Trust Fund, subject to the provisions of ss.  
24 455.219 and 215.37.

25 Section 24. Subsection (1) of section 455.221, Florida  
26 Statutes, is amended to read:

27 455.221 Legal and investigative services.--

28 (1) The department shall provide board counsel for  
29 boards within the department by contracting with the  
30 Department of Legal Affairs, by retaining private counsel  
31 pursuant to s. 287.059, or by providing department staff

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1 ~~counsel~~ A board shall retain, through the department's  
2 ~~contract procedures, board counsel from the Department of~~  
3 ~~Legal Affairs. The Department of Legal Affairs shall provide~~  
4 ~~legal services to each board within the Department of Business~~  
5 ~~and Professional Regulation, but the primary responsibility of~~  
6 ~~board counsel the Department of Legal Affairs shall be to~~  
7 ~~represent the interests of the citizens of the state by~~  
8 ~~vigorously counseling the boards with respect to their~~  
9 ~~obligations under the laws of the state. A board shall provide~~  
10 ~~for the periodic review and evaluation of the services~~  
11 ~~provided by its board counsel. Subject to the prior approval~~  
12 ~~of the Attorney General, any board may retain, through the~~  
13 ~~department's contract procedures, independent legal counsel to~~  
14 ~~provide legal advice to the board on a specific matter. Fees~~  
15 ~~and costs of such counsel by the Department of Legal Affairs~~  
16 ~~or independent legal counsel approved by the Attorney General~~  
17 ~~shall be paid from the Professional Regulation Trust Fund,~~  
18 ~~subject to the provisions of ss. 455.219 and 215.37. All~~  
19 ~~contracts for independent counsel shall provide for periodic~~  
20 ~~review and evaluation by the board and the department of~~  
21 ~~services provided.~~

22 Section 25. Subsection (2) of section 455.541, Florida  
23 Statutes, is amended to read:

24 455.541 Accountability and liability of board  
25 members.--

26 (2) Each board member and each former board member  
27 serving on a probable cause panel shall be exempt from civil  
28 liability for any act or omission when acting in the member's  
29 official capacity, and the department ~~or the Department of~~  
30 ~~Legal Affairs~~ shall defend any such member in any action  
31 against any board or member of a board arising from any such

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1 act or omission. In addition, the department ~~or the Department~~  
 2 ~~of Legal Affairs~~ may defend the member's company or business  
 3 in any action against the company or business if the  
 4 department ~~or the Department of Legal Affairs~~ determines that  
 5 the actions from which the suit arises are actions taken by  
 6 the member in the member's official capacity and were not  
 7 beyond the member's statutory authority. In providing such  
 8 defense, the department ~~or the Department of Legal Affairs~~ may  
 9 employ or utilize the legal services of the Department of  
 10 Legal Affairs or outside counsel retained pursuant to s.  
 11 287.059. Fees and costs of providing legal services provided  
 12 under this subsection shall be paid from a trust fund used by  
 13 the department to implement this part, subject to the  
 14 provisions of s. 455.587.

15 Section 26. Subsection (1) of section 455.594, Florida  
 16 Statutes, is amended to read:

17 455.594 Legal and investigative services.--

18 (1) The department shall provide board counsel for  
 19 boards within the department by contracting with the  
 20 Department of Legal Affairs, by retaining private counsel  
 21 pursuant to s. 287.059, or by providing department staff  
 22 counsel ~~A board shall retain, through the department's~~  
 23 ~~contract procedures, board counsel from the Department of~~  
 24 ~~Legal Affairs. The Department of Legal Affairs shall provide~~  
 25 ~~legal services to each board within the Department of Health,~~  
 26 ~~but the primary responsibility of board counsel the Department~~  
 27 ~~of Legal Affairs shall be to represent the interests of the~~  
 28 ~~citizens of the state by vigorously counseling the boards with~~  
 29 ~~respect to their obligations under the laws of the state. A~~  
 30 ~~board shall provide for the periodic review and evaluation of~~  
 31 ~~the services provided by its board counsel. Subject to the~~

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1 ~~prior approval of the Attorney General, any board may retain,~~  
 2 ~~through the department's contract procedures, independent~~  
 3 ~~legal counsel to provide legal advice to the board on a~~  
 4 ~~specific matter. Fees and costs of such counsel by the~~  
 5 ~~Department of Legal Affairs or independent legal counsel~~  
 6 ~~approved by the Attorney General shall be paid from a trust~~  
 7 ~~fund used by the department to implement this part, subject to~~  
 8 ~~the provisions of s. 455.587. All contracts for independent~~  
 9 ~~counsel shall provide for periodic review and evaluation by~~  
 10 ~~the board and the department of services provided.~~

11 Section 27. Subsection (16) of section 458.347,  
 12 Florida Statutes, 1998 Supplement, is amended to read:

13 458.347 Physician assistants.--

14 (16) LEGAL SERVICES.--~~The Department of Legal Affairs~~  
 15 ~~shall provide~~ Legal services shall be provided to the council  
 16 pursuant to as authorized in s. 455.594(1).

17 Section 28. Subsection (16) of section 459.022,  
 18 Florida Statutes, 1998 Supplement, is amended to read:

19 459.022 Physician assistants.--

20 (16) LEGAL SERVICES.--~~The Department of Legal Affairs~~  
 21 ~~shall provide~~ Legal services shall be provided to the council  
 22 pursuant to as authorized in s. 455.594(1).

23 Section 29. Paragraphs (b) and (c) of subsection (1)  
 24 of section 458.3115, Florida Statutes, 1998 Supplement, are  
 25 amended to read:

26 458.3115 Restricted license; certain foreign-licensed  
 27 physicians; United States Medical Licensing Examination  
 28 (USMLE) or agency-developed examination; restrictions on  
 29 practice; full licensure.--

30 (1)

31 (b) A person who is eligible to take and elects to

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1 take the USMLE who has previously passed part 1 or part 2 of  
2 the previously administered FLEX shall not be required to  
3 retake or pass the equivalent parts of the USMLE up to the  
4 year 2002 ~~2000~~.

5 (c) A person shall be eligible to take such  
6 examination for restricted licensure if the person:

7 1. Has taken, upon approval by the board, and  
8 completed, in November 1990 or November 1992, one of the  
9 special preparatory medical update courses authorized by the  
10 board and the University of Miami Medical School and  
11 subsequently passed the final course examination; upon  
12 approval by the board to take the course completed in 1990 or  
13 in 1992, has a certificate of successful completion of that  
14 course from the University of Miami or the Stanley H. Kaplan  
15 course; or can document to the department that he or she was  
16 one of the persons who took and successfully completed the  
17 Stanley H. Kaplan course that was approved by the Board of  
18 Medicine and supervised by the University of Miami. At a  
19 minimum, the documentation must include class attendance  
20 records and the test score on the final course examination;

21 2. Applies to the agency and submits an application  
22 fee that is nonrefundable and equivalent to the fee required  
23 for full licensure;

24 3. Documents no less than 2 years of the active  
25 practice of medicine in the field of medicine ~~another~~  
26 ~~jurisdiction~~;

27 4. Submits an examination fee that is nonrefundable  
28 and equivalent to the fee required for full licensure plus the  
29 actual per-applicant cost to the agency to provide either  
30 examination described in this section;

31 5. Has not committed any act or offense in this or any



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1 other jurisdiction that would constitute a substantial basis  
2 for disciplining a physician under this chapter or part II of  
3 chapter 455; and

4 6. Is not under discipline, investigation, or  
5 prosecution in this or any other jurisdiction for an act that  
6 would constitute a violation of this chapter or part II of  
7 chapter 455 and that substantially threatened or threatens the  
8 public health, safety, or welfare.

9 Section 30. Subsection (2) of section 458.3124,  
10 Florida Statutes, 1998 Supplement, is amended to read:

11 458.3124 Restricted license; certain experienced  
12 foreign-trained physicians.--

13 (2) A person applying for licensure under this section  
14 must submit to the Department of Health on or before December  
15 31, 2000 ~~1998~~:

16 (a) A completed application and documentation required  
17 by the Board of Medicine to prove compliance with subsection  
18 (1); and

19 (b) A nonrefundable application fee not to exceed \$500  
20 and a nonrefundable examination fee not to exceed \$300 plus  
21 the actual cost to purchase and administer the examination.

22 Section 31. Effective upon this act becoming a law,  
23 section 301 of chapter 98-166, Laws of Florida, is amended to  
24 read:

25 Section 301. The sum of \$1.2 million from the  
26 unallocated balance in the Medical Quality Assurance Trust  
27 Fund is appropriated to the Department of Health to allow the  
28 department to develop the examination required for foreign  
29 licensed physicians in section 458.3115(1)(a), Florida  
30 Statutes, through a contract with the University of South  
31 Florida. The department shall charge examinees a fee not to

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1 exceed 25 percent of the cost of the actual costs of the first  
 2 examination administered pursuant to section 458.3115, Florida  
 3 Statutes, 1998 Supplement, and a fee not to exceed 75 percent  
 4 of the actual costs for any subsequent examination  
 5 administered pursuant to that section.

6 Section 32. Except as otherwise provided herein, this  
 7 act shall take effect July 1, 1999.

8  
 9  
 10 ===== T I T L E A M E N D M E N T =====

11 And the title is amended as follows:

12 remove from the title of the bill: everything before the  
 13 enacting clause

14  
 15 and insert in lieu thereof:

16 A bill to be entitled  
 17 An act relating to the regulation of  
 18 professions and occupations; amending s. 11.62,  
 19 F.S.; providing criteria for evaluating  
 20 proposals for new regulation of a profession or  
 21 occupation based on the effect of such  
 22 regulation on job creation or retention;  
 23 requiring proponents of legislation to regulate  
 24 a profession or occupation not already  
 25 regulated to provide additional cost  
 26 information; amending ss. 455.201, 455.517,  
 27 F.S.; prohibiting the Department of Business  
 28 and Professional Regulation and the Department  
 29 of Health and their regulatory boards from  
 30 creating any regulation that has an  
 31 unreasonable effect on job creation or

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1 retention or on employment opportunities;  
2 providing for evaluation of proposals to  
3 increase the regulation of already regulated  
4 professions to determine the effect of such  
5 regulation on job creation or retention and  
6 employment opportunities; creating s. 455.2035,  
7 F.S.; providing rulemaking authority to the  
8 Department of Business and Professional  
9 Regulation for the regulation of any profession  
10 under its jurisdiction which does not have a  
11 regulatory board; creating s. 455.2123, F.S.;  
12 authorizing the use of distance learning to  
13 satisfy continuing education requirements;  
14 creating s. 455.2124, F.S.; authorizing  
15 proration of continuing education requirements;  
16 amending s. 455.213, F.S.; requiring  
17 fingerprint cards with applications for  
18 registration, certification, or licensure in  
19 certain professions; providing for use of such  
20 cards for criminal history record checks of  
21 applicants; amending s. 468.453, F.S.; applying  
22 such fingerprint card requirements to  
23 applicants for licensure as an athlete agent;  
24 amending s. 475.175, F.S.; applying such  
25 fingerprint card requirements to persons  
26 applying to take the examination for licensure  
27 as a real estate broker or salesperson;  
28 amending s. 475.615, F.S.; applying such  
29 fingerprint card requirements to applicants for  
30 registration, certification, or licensure as a  
31 real estate appraiser; creating s. 455.2255,

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1 F.S.; providing for the department to classify  
2 disciplinary actions according to severity;  
3 providing for the periodic clearing of certain  
4 violations from the disciplinary record;  
5 amending s. 455.227, F.S.; providing for denial  
6 or renewal of a license under certain  
7 circumstances; amending ss. 455.557 and  
8 455.565, F.S.; ensuring that an intern in a  
9 hospital is not subject to the credentialing or  
10 profiling laws; amending s. 455.564, F.S.;  
11 clarifying continuing education requirements;  
12 amending s. 455.601, F.S.; providing the basis  
13 for presuming a blood-borne infection is  
14 contracted in the course of employment;  
15 amending s. 477.013, F.S.; redefining the terms  
16 "cosmetology" and "specialty" and defining the  
17 terms "body wrapping" and "skin care services";  
18 amending s. 477.0132, F.S.; requiring  
19 registration of persons whose occupation or  
20 practice is body wrapping; requiring a  
21 registration fee and certain education;  
22 amending s. 477.019, F.S.; exempting persons  
23 whose occupation or practice is confined solely  
24 to body wrapping from certain continuing  
25 education requirements; amending s. 477.026,  
26 F.S.; providing for the registration fee;  
27 amending s. 477.0265, F.S.; prohibiting  
28 advertising or implying that skin care services  
29 or body wrapping have any relationship to the  
30 practice of massage therapy; providing  
31 penalties; amending s. 477.029, F.S.;

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1 prohibiting holding oneself out as a body  
2 wrapper unless licensed, registered, or  
3 otherwise authorized under chapter 477, F.S.;  
4 providing penalties; providing rulemaking  
5 authority; amending ss. 455.209, 455.221,  
6 455.541, and 455.594, F.S.; revising provisions  
7 relating to the provision of legal services for  
8 regulatory boards under the Department of  
9 Business and Professional Regulation and the  
10 Department of Health; providing for the funding  
11 of such services; amending ss. 458.347 and  
12 459.022, F.S., relating to physician  
13 assistants, to conform; amending s. 458.3115,  
14 F.S.; revising requirements with respect to  
15 eligibility of certain foreign-licensed  
16 physicians to take and pass standardized  
17 examinations; amending s. 458.3124, F.S.;  
18 changing the date by which application for a  
19 restricted license must be submitted; amending  
20 s. 301, ch. 98-166, Laws of Florida;  
21 prescribing fees for foreign-licensed  
22 physicians taking a certain examination;  
23 providing effective dates.

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