

1                   A bill to be entitled  
2           An act relating to regulation of professions  
3           and occupations under the Department of  
4           Business and Professional Regulation; creating  
5           s. 455.2177, F.S.; requiring the department to  
6           establish a system to monitor licensee  
7           compliance with applicable continuing education  
8           requirements; authorizing the department to  
9           contract with one or more vendors for the  
10          monitoring of compliance with applicable  
11          continuing education requirements by all  
12          licensees within one or more professions  
13          regulated by the department; providing contract  
14          terms and conditions; providing for funding of  
15          contracts; providing sanctions for failure to  
16          comply and requiring notice thereof; providing  
17          for disposition of fine revenues; providing for  
18          exclusivity of sanctions over certain other  
19          disciplinary provisions; providing for a  
20          dispute resolution process; providing for  
21          suspension of a contract for failure of a  
22          vendor to meet its contract obligations;  
23          providing for waiver under specified  
24          circumstances; providing rulemaking authority;  
25          creating s. 455.2178, F.S.; providing  
26          requirements of continuing education providers  
27          with respect to cooperating with such vendors;  
28          providing conditions on approval of continuing  
29          education providers; providing for revocation  
30          of provider approval for failure to comply;  
31          providing rulemaking authority; creating s.

1 455.2179, F.S.; providing limits on continuing  
2 education provider approval; providing for  
3 cease and desist orders and revocation of  
4 provider approval thereunder; amending s.  
5 455.2281, F.S.; providing for allocation of  
6 certain funds to cover the costs of continuing  
7 education compliance monitoring; providing for  
8 crediting, by profession, fines collected under  
9 the compliance monitoring system; providing for  
10 inclusion of financial and statistical data  
11 resulting from compliance monitoring as a  
12 separate category in the department's quarterly  
13 management report to each board; amending s.  
14 455.224, F.S.; providing for adoption by the  
15 department of rules to permit the issuance of  
16 citations, whether or not there is a board;  
17 amending s. 468.4315, F.S.; authorizing the  
18 Regulatory Council of Community Association  
19 Managers to adopt rules relating to continuing  
20 education providers; amending s. 477.019, F.S.;  
21 revising provisions relating to continuing  
22 education requirements of cosmetologists;  
23 providing an effective date.  
24

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

26  
27 Section 1. Section 455.2177, Florida Statutes, is  
28 created to read:

29 455.2177 Monitoring of compliance with continuing  
30 education requirements.--  
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1           (1) The department shall establish a system to monitor  
2 licensee compliance with applicable continuing education  
3 requirements and to determine each licensee's continuing  
4 education status. The department is authorized to provide for  
5 a phase-in of the compliance monitoring system, but the system  
6 must provide for monitoring of compliance with applicable  
7 continuing education requirements by all professions regulated  
8 by the department no later than July 1, 2002. The compliance  
9 monitoring system may use staff of the department or may be  
10 privatized. As used in this section, the term "monitor" means  
11 the act of determining, for each licensee, whether the  
12 licensee was in full compliance with applicable continuing  
13 education requirements as of the time of the licensee's  
14 license renewal.

15           (2) If the compliance monitoring system required under  
16 this section is privatized, the following provisions apply:

17           (a) The department may contract pursuant to s. 287.057  
18 with a vendor or vendors for the monitoring of compliance with  
19 applicable continuing education requirements by all licensees  
20 within one or more professions regulated by the department.  
21 The contract shall include, but need not be limited to, the  
22 following terms and conditions:

23           1.a. The vendor shall create a computer database, in  
24 the form required by the department, that includes the  
25 continuing education status of each licensee and shall provide  
26 a report to the department within 90 days after the vendor  
27 receives the list of licensees to be monitored as provided in  
28 sub-subparagraph b. The report shall be in a format determined  
29 by the department and shall include each licensee's continuing  
30 education status by license number, hours of continuing  
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1 education credit per cycle, and such other information the  
2 department deems necessary.

3 b. No later than 30 days after the end of each renewal  
4 period, the department shall provide to the vendor a list that  
5 includes all licensees of a particular profession whose  
6 licenses were renewed during a particular renewal period. In  
7 order to account for late renewals, the department shall  
8 provide the vendor with such updates to the list as are  
9 mutually determined to be necessary.

10 2.a. Before the vendor informs the department of the  
11 status of any licensee the vendor has determined is not in  
12 compliance with continuing education requirements, the vendor,  
13 acting on behalf of the department, shall provide the licensee  
14 with a notice stating that the vendor has determined that the  
15 licensee is not in compliance with applicable continuing  
16 education requirements. The notice shall also include the  
17 licensee's continuing education record for the renewal period,  
18 as shown in the records of the vendor, and a description of  
19 the process for correcting the vendor's record under  
20 sub-subparagraph b.

21 b. The vendor shall give the licensee 45 days to  
22 correct the vendor's information. The vendor shall correct a  
23 record only on the basis of evidence of compliance supplied to  
24 the vendor by a continuing education provider.

25 3.a. The vendor must provide the department, with the  
26 report required under subparagraph 1., a list, in a form  
27 determined by the department, identifying each licensee who  
28 the vendor has determined is not in compliance with applicable  
29 continuing education requirements.

30 b. The vendor shall provide the department with access  
31 to such information and services as the department deems

1 necessary to ensure that the actions of the vendor conform to  
2 the contract and to the duties of the department and the  
3 vendor under this subsection.

4 4. The department shall ensure the vendor access to  
5 such information from continuing education providers as is  
6 necessary to determine the continuing education record of each  
7 licensee. The vendor shall inform the department of any  
8 provider that fails to provide such information to the vendor.

9 5. If the vendor fails to comply with a provision of  
10 the contract, the vendor is obligated to pay the department  
11 liquidated damages in the amounts specified in the contract.

12 6. The department's payments to the vendor must be  
13 based on the number of licensees monitored. The department may  
14 allocate from the unlicensed activity account of any  
15 profession under s. 455.2281 up to \$2 per licensee for the  
16 monitoring of that profession's licensees under this  
17 subsection, which allocations are the exclusive source of  
18 funding for contracts under this subsection.

19 7. A continuing education provider is not eligible to  
20 be a vendor under this subsection.

21 (b) When it receives notice from a vendor that a  
22 licensee is not in compliance with continuing education  
23 requirements, the department shall send the licensee written  
24 notice that disciplinary actions will be taken, together with  
25 a description of the remedies available to the licensee under  
26 the dispute resolution process created under paragraph (c). If  
27 a licensee does not prevail in the dispute resolution process,  
28 the department:

29 1. May impose an administrative fine in the amount of  
30 \$500 against the licensee; however, the department may reduce  
31 the amount of the fine to \$250 if the licensee comes into

1 compliance with the applicable continuing education  
2 requirements within 90 days after imposition of the original  
3 fine. All proceeds of fines under this subparagraph shall be  
4 deposited in the appropriate unlicensed activity account under  
5 s. 455.2281.

6 2. May refuse any further renewal of the licensee's  
7 license unless the licensee has paid the fine and satisfied  
8 the applicable continuing education requirements.

9 (c) The department is authorized to adopt by rule a  
10 process for the resolution of disputes between a vendor and a  
11 continuing education provider, between a vendor and a  
12 licensee, and between a licensee and a continuing education  
13 provider. The process shall ensure all parties a fair  
14 opportunity to correct any erroneous information. If the  
15 parties are unable to reach an agreement, the department shall  
16 determine the resolution of the dispute.

17 (d) Upon the failure of a vendor to meet its  
18 obligations under a contract as provided in paragraph (a), the  
19 department may suspend the contract and enter into an  
20 emergency contract under s. 287.057(3).

21 (3) Notwithstanding any other provision of law to the  
22 contrary and regardless of whether the compliance monitoring  
23 system is privatized, neither the department nor a board may  
24 impose any sanction other than the sanctions specified in  
25 paragraph (2)(b) for the failure of a licensee to meet  
26 continuing education requirements. This subsection does not  
27 apply to actions under chapter 473.

28 (4) The department shall waive the continuing  
29 education monitoring requirements of this section for any  
30 profession that demonstrates to the department that it has a  
31 program in place which measures compliance with continuing

1 education requirements through statistical sampling techniques  
2 or other methods and can indicate that at least 95 percent of  
3 its licensees are in compliance.

4 (5) The department is authorized to adopt rules to  
5 implement this section.

6 Section 2. Section 455.2178, Florida Statutes, is  
7 created to read:

8 455.2178 Continuing education providers.--If the  
9 monitoring of compliance with continuing education  
10 requirements is privatized pursuant to s. 455.2177:

11 (1)(a) The department shall notify each approved  
12 continuing education provider of the name and address of all  
13 vendors that monitor compliance of licensees under s.  
14 455.2177. If the department contracts with more than one  
15 vendor under s. 455.2177, the notice shall specify the  
16 professions to be monitored by each vendor.

17 (b) Each continuing education provider shall provide  
18 to the appropriate vendor such information regarding the  
19 continuing education status of licensees as the department  
20 determines is necessary for the vendor to carry out its duties  
21 under s. 455.2177(2), in a form determined by the department.  
22 The information must be submitted to the vendor electronically  
23 no later than 5 business days after a licensee's completion of  
24 a course. Upon the request of a licensee, the provider must  
25 also furnish to a vendor information regarding courses  
26 completed by the licensee.

27 (2) Each continuing education provider shall retain  
28 all records relating to a licensee's completion of continuing  
29 education courses for at least 4 years after completion of a  
30 course.

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1           (3) A continuing education provider may not be  
2 approved, and the approval may not be renewed, unless the  
3 provider agrees in writing to provide such cooperation with  
4 vendors under s. 455.2177 as the department deems necessary or  
5 appropriate.

6           (4) The department may immediately revoke approval of  
7 any continuing education provider that fails to comply with  
8 its duties under this section.

9           (5) For the purpose of determining which persons or  
10 entities must meet the reporting, recordkeeping, and access  
11 provisions of this section, the board of any profession  
12 subject to this section, or the department if there is no  
13 board, shall, by rule, adopt a definition of the term  
14 "continuing education provider" applicable to the profession's  
15 continuing education requirements. The intent of the rule  
16 shall be to ensure that all records and information necessary  
17 to carry out the requirements of this section and s. 455.2177  
18 are maintained and transmitted accordingly and to minimize  
19 disputes as to what person or entity is responsible for  
20 maintaining and reporting such records and information.

21           (6) The department has the authority to adopt rules to  
22 implement this section.

23           Section 3. Section 455.2179, Florida Statutes, is  
24 created to read:

25           455.2179 Continuing education provider approval; cease  
26 and desist orders.--

27           (1) If a board, or the department if there is no  
28 board, requires approval of a continuing education provider,  
29 the approval must be for a specified period of time, not to  
30 exceed 4 years. An approval that does not include such a time  
31 limitation may remain in effect only until July 1, 2001,



1 unless earlier replaced by an approval that includes such a  
2 time limitation.

3 (2) The department, on its own motion or at the  
4 request of a board, shall issue an order requiring a person or  
5 entity to cease and desist from offering any continuing  
6 education programs for licensees, and revoking any approval of  
7 the provider previously granted by the department or a board,  
8 if the department or a board determines that the person or  
9 entity failed to provide appropriate continuing education  
10 services that conform to approved course material.

11 Section 4. Section 455.2281, Florida Statutes, is  
12 amended to read:

13 455.2281 Unlicensed activities; fees; disposition.--In  
14 order to protect the public and to ensure a consumer-oriented  
15 department, it is the intent of the Legislature that vigorous  
16 enforcement of regulation for all professional activities is a  
17 state priority. All enforcement costs should be covered by  
18 professions regulated by the department. Therefore, the  
19 department shall impose, upon initial licensure and each  
20 renewal thereof, a special fee of \$5 per licensee. Such fee  
21 shall be in addition to all other fees collected from each  
22 licensee and shall fund efforts to combat unlicensed activity.  
23 The board with concurrence of the department, or the  
24 department when there is no board, may earmark \$5 of the  
25 current licensure fee for this purpose, if such board, or  
26 profession regulated by the department, is not in a deficit  
27 and has a reasonable cash balance. The department shall make  
28 direct charges to this fund by profession and shall not  
29 allocate indirect overhead. The department shall seek board  
30 advice regarding enforcement methods and strategies prior to  
31 expenditure of funds; however, the department may, without

1 board advice, allocate funds to cover the costs of continuing  
 2 education compliance monitoring under s. 455.2177. The  
 3 department shall directly credit, by profession, revenues  
 4 received from the department's efforts to enforce licensure  
 5 provisions, including revenues received from fines collected  
 6 under s. 455.2177. The department shall include all financial  
 7 and statistical data resulting from unlicensed activity  
 8 enforcement and from continuing education compliance  
 9 monitoring as a separate categories category in the quarterly  
 10 management report provided for in s. 455.219. The department  
 11 shall not charge the account of any profession for the costs  
 12 incurred on behalf of any other profession. For an unlicensed  
 13 activity account, a balance which remains at the end of a  
 14 renewal cycle may, with concurrence of the applicable board  
 15 and the department, be transferred to the operating fund  
 16 account of that profession.

17 Section 5. Subsection (1) of section 455.224, Florida  
 18 Statutes, is amended to read:

19 455.224 Authority to issue citations.--

20 (1) Notwithstanding s. 455.225, the board, or the  
 21 department ~~when there is no board,~~ shall adopt rules to permit  
 22 the issuance of citations. The citation shall be issued to the  
 23 subject and shall contain the subject's name and address, the  
 24 subject's license number if applicable, a brief factual  
 25 statement, the sections of the law allegedly violated, and the  
 26 penalty imposed. The citation must clearly state that the  
 27 subject may choose, in lieu of accepting the citation, to  
 28 follow the procedure under s. 455.225. If the subject disputes  
 29 the matter in the citation, the procedures set forth in s.  
 30 455.225 must be followed. However, if the subject does not  
 31 dispute the matter in the citation with the department within

1 30 days after the citation is served, the citation becomes a  
2 final order and constitutes discipline. The penalty shall be a  
3 fine or other conditions as established by rule.

4 Section 6. Subsection (2) of section 468.4315, Florida  
5 Statutes, 1998 Supplement, is amended to read:

6 468.4315 Regulatory Council of Community Association  
7 Managers.--

8 (2) The council may adopt rules relating to the  
9 licensure examination, continuing education requirements,  
10 continuing education providers, fees, and professional  
11 practice standards to assist the department in carrying out  
12 the duties and authorities conferred upon the department by  
13 this part.

14 Section 7. Subsection (7) of section 477.019, Florida  
15 Statutes, 1998 Supplement, is amended to read:

16 477.019 Cosmetologists; qualifications; licensure;  
17 supervised practice; license renewal; endorsement; continuing  
18 education.--

19 (7)(a) The board shall prescribe by rule continuing  
20 education requirements intended to ensure protection of the  
21 public through updated training of licensees and registered  
22 specialists, not to exceed 16 hours biennially, as a condition  
23 for renewal of a license or registration as a specialist under  
24 this chapter. Continuing education courses shall include, but  
25 not be limited to, the following subjects as they relate to  
26 the practice of cosmetology: human immunodeficiency virus and  
27 acquired immune deficiency syndrome; Occupational Safety and  
28 Health Administration regulations; workers' compensation  
29 issues; state and federal laws and rules as they pertain to  
30 cosmetologists, cosmetology, salons, specialists, specialty  
31 salons, and booth renters; chemical makeup as it pertains to

1 hair, skin, and nails; and environmental issues. Courses given  
2 at cosmetology conferences may be counted toward the number of  
3 continuing education hours required if approved by the board.

4 ~~(b) The department may privatize provider and course~~  
5 ~~approval and the monitoring of continuing education~~  
6 ~~requirements under a contract which ensures that the services~~  
7 ~~will be without cost to the department or board, including the~~  
8 ~~cost of appropriate oversight by the department. The~~  
9 ~~department may contract with one or more private entities for~~  
10 ~~the provision of such services, including the collection of~~  
11 ~~fees for the services rendered. The department and board shall~~  
12 ~~retain final authority for licensure decisions, rulemaking~~  
13 ~~related to continuing education system requirements,~~  
14 ~~noncompliance noticing, and overall implementation of any~~  
15 ~~privatization project under this subsection.~~

16 (b)(c) Any person whose occupation or practice is  
17 confined solely to hair braiding or hair wrapping is exempt  
18 from the continuing education requirements of this subsection.

19 ~~(c)(d) Notwithstanding any provision of law to the~~  
20 ~~contrary, enforcement of mandatory continuing education~~  
21 ~~requirements pursuant to this chapter shall be accomplished~~  
22 ~~only as a secondary action when a person is investigated for~~  
23 ~~another violation. However, The board may, by rule, require~~  
24 any licensee in violation of a continuing education  
25 requirement to take a refresher course or refresher course and  
26 examination in addition to any other penalty. The number of  
27 hours for the refresher course may not exceed 48 hours.

28 Section 8. This act shall take effect July 1, 1999.  
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