

Bill No. CS for SB 410

Barcode 263900

CHAMBER ACTION

Senate

House

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11 The Conference Committee on CS for SB 410 recommended the
12 following amendment:

14 **Conference Committee Amendment (with title amendment)**

15 Delete everything after the enacting clause

17 and insert:

18 Section 1. Subsection (2) of section 456.013,
19 Statutes, is amended to read:

20 456.013 Department; general licensing provisions.--

21 (2) Before the issuance of any license, the department
 22 shall charge an initial license fee as determined by the
 23 applicable board or, if there is no ~~such~~ board ~~exists~~, by rule
 24 of the department. Upon receipt of the appropriate license
 25 fee, the department shall issue a license to any person
 26 certified by the appropriate board, or its designee, as having
 27 met the licensure requirements imposed by law or rule. The
 28 license shall consist of a wallet-size identification card and
 29 a wall card measuring 6 1/2 inches by 5 inches. ~~In addition~~
 30 ~~to the two-part license, the department, at the time of~~
 31 ~~initial licensure, shall issue a wall certificate suitable for~~

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1 ~~conspicuous display, which shall be no smaller than 8 1/2~~
 2 ~~inches by 14 inches.~~ The licensee shall surrender to the
 3 department the wallet-size identification card and, the wall
 4 card, ~~and the wall certificate, if one has been issued by the~~
 5 ~~department,~~ if the licensee's license is issued in error or is
 6 revoked.

7 Section 2. Paragraph (c) of subsection (1) and
 8 subsection (2) of section 456.017, Florida Statutes, are
 9 amended, and subsection (7) is added to that section, to read:

10 456.017 Examinations.--

11 (1)

12 (c)~~1~~. The board, or the department when there is no
 13 board, shall approve by rule the use of one or more national
 14 examinations that ~~which~~ the department has certified as
 15 meeting requirements of national examinations and generally
 16 accepted testing standards pursuant to department rules.

17 1. Providers of examinations seeking certification ~~by~~
 18 ~~the department~~ shall pay the actual costs incurred by the
 19 department in making a determination regarding the
 20 certification. The name and number of a candidate may be
 21 provided to a national contractor for the limited purpose of
 22 preparing the grade tape and information to be returned to the
 23 board or department; or, to the extent otherwise specified by
 24 rule, the candidate may apply directly to the vendor of the
 25 national examination and supply test score information to the
 26 department. The department may delegate to the board the duty
 27 to provide and administer the examination. Any national
 28 examination approved by a board, or the department when there
 29 is no board, prior to October 1, 1997, is deemed certified
 30 under this paragraph.

31 ~~2. The board, or the department when there is no~~

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1 ~~board, shall approve and begin administering a national~~
2 ~~examination no later than December 31, 2001.~~ Neither the board
3 nor the department may administer a state-developed written
4 examination if a national examination has been certified by
5 the department after December 31, 2001, notwithstanding any
6 ~~other provision of law.~~ The examination may be administered
7 electronically if adequate security measures are used, as
8 determined by rule of the department.

9 3. The board, or the department when there is no
10 board, may administer a state-developed practical or clinical
11 examination, as required by the applicable practice act, if
12 all costs of development, purchase, validation,
13 administration, review, and defense are paid by the
14 examination candidate prior to the administration of the
15 examination. If a national practical or clinical examination
16 is available and certified by the department pursuant to this
17 section, the board, or the department when there is no board,
18 may administer the national examination.

19 4. It is the intent of the Legislature to reduce the
20 costs associated with state examinations and to encourage the
21 use of national examinations whenever possible.

22 (2) For each examination developed by the department
23 or a contracted vendor, the board, or the department when
24 there is no board, shall adopt rules providing for
25 reexamination of any applicants who failed an examination
26 developed by the department or a contracted vendor. If both a
27 written and a practical examination are given, an applicant
28 shall be required to retake only the portion of the
29 examination on which the applicant failed to achieve a passing
30 grade, if the applicant successfully passes that portion
31 within a reasonable time, as determined by rule of the board,

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1 or the department when there is no board, of passing the other
2 portion. Except for national examinations approved and
3 administered pursuant to this section, the department shall
4 provide procedures for applicants who fail an examination
5 developed by the department or a contracted vendor to review
6 their examination questions, answers, papers, grades, and
7 grading key for the questions the candidate answered
8 incorrectly or, if not feasible, the parts of the examination
9 failed. Applicants shall bear the actual cost for the
10 department to provide examination review pursuant to this
11 subsection. An applicant may waive in writing the
12 confidentiality of the applicant's examination grades.
13 Notwithstanding any other provisions, only candidates who fail
14 an examination with a score that is by less than 10 percent
15 below the minimum score required to pass the examination shall
16 be entitled to challenge the validity of the examination at
17 hearing.

18 (7) The department may post examination scores
19 electronically on the Internet in lieu of mailing the scores
20 to each applicant. The electronic posting of the examination
21 scores meets the requirements of chapter 120 if the department
22 also posts along with the examination scores a notification of
23 the rights set forth in chapter 120. The date of receipt for
24 purposes of chapter 120 is the date the examination scores are
25 posted electronically. The department shall also notify the
26 applicant when scores are posted electronically of the
27 availability of post-examination review, if applicable.

28 Section 3. Subsections (1), (2), (4), (10), (11),
29 (12), and (13) of section 456.036, Florida Statutes, are
30 amended to read:

31 456.036 Licenses; active and inactive status;

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1 delinquency.--

2 (1) A licensee may practice a profession only if the
3 licensee has an active status license. A licensee who
4 practices a profession with an inactive status license, a
5 retired status license, or a delinquent ~~without an active~~
6 ~~status~~ license is in violation of this section and s. 456.072,
7 and the board, or the department if there is no board, may
8 impose discipline on the licensee.

9 (2) Each board, or the department if there is no
10 board, shall permit a licensee to choose, at the time of
11 licensure renewal, an active, ~~or~~ inactive, or retired status.

12 (4) Notwithstanding any other provision of law to the
13 contrary, a licensee may change licensure status at any time.

14 (a) Active status licensees choosing inactive status
15 at the time of license renewal must pay the inactive status
16 renewal fee, and, if applicable, the delinquency fee and the
17 fee to change licensure status. Active status licensees
18 choosing inactive status at any other time than at the time of
19 license renewal must pay the fee to change licensure status.

20 (b) An active status licensee or an inactive status
21 licensee who chooses retired status at the time of license
22 renewal must pay the retired-status fee, which may not exceed
23 \$50 as established by rule of the board or the department if
24 there is no board. An active status licensee or inactive
25 status licensee who chooses retired status at any time other
26 than at the time of license renewal must pay the
27 retired-status fee plus a change-of-status fee.

28 (c) ~~(b)~~ An inactive status licensee may change to
29 active status at any time, if the licensee meets all
30 requirements for active status. Inactive status licensees
31 choosing active status at the time of license renewal must pay

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1 the active status renewal fee, any applicable reactivation
 2 fees as set by the board, or the department if there is no
 3 board, and, if applicable, the delinquency fee and the fee to
 4 change licensure status. Inactive status licensees choosing
 5 active status at any other time than at the time of license
 6 renewal must pay the difference between the inactive status
 7 renewal fee and the active status renewal fee, if any exists,
 8 any applicable reactivation fees as set by the board, or the
 9 department if there is no board, and the fee to change
 10 licensure status.

11 (10) Each board, or the department if there is no
 12 board, may by rule impose reasonable conditions, including
 13 full reexamination to assess current competency, in order to
 14 ensure that a licensee who has been on retired status for more
 15 than 5 years, or a licensee from another state who has not
 16 been in active practice within the past 5 years, and who
 17 applies for active status is able to practice with the care
 18 and skill sufficient to protect the health, safety, and
 19 welfare of the public. Requirements for reactivation of a
 20 license may differ depending on the length of time a licensee
 21 has been retired.

22 (11)(10) Before reactivation, an inactive status
 23 licensee or a delinquent licensee who was inactive prior to
 24 becoming delinquent must meet the same continuing education
 25 requirements, if any, imposed on an active status licensee for
 26 all biennial licensure periods in which the licensee was
 27 inactive or delinquent.

28 (12) Before the license of a retired status licensee
 29 is reactivated, the licensee must meet the same requirements
 30 for continuing education, if any, and pay any renewal fees
 31 imposed on an active status licensee for all biennial

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1 licensure periods during which the licensee was on retired
2 status.

3 ~~(13)(11)~~ The status or a change in status of a
4 licensee does not alter in any way the right of the board, or
5 of the department if there is no board, to impose discipline
6 or to enforce discipline previously imposed on a licensee for
7 acts or omissions committed by the licensee while holding a
8 license, whether active, inactive, retired, or delinquent.

9 ~~(14)(12)~~ This section does not apply to a business
10 establishment registered, permitted, or licensed by the
11 department to do business.

12 ~~(15)(13)~~ The board, or the department when there is no
13 board, may adopt rules pursuant to ss. 120.536(1) and 120.54
14 as necessary to implement this section.

15 Section 4. Present subsection (5) of section 464.201,
16 Florida Statutes, is redesignated as subsection (6), and a new
17 subsection (5) is added to that section, to read:

18 464.201 Definitions.--As used in this part, the term:

19 ~~(5)~~ "Practice of a certified nursing assistant" means
20 providing care and assisting persons with tasks relating to
21 the activities of daily living. Such tasks are those
22 associated with personal care, maintaining mobility, nutrition
23 and hydration, toileting and elimination, assistive devices,
24 safety and cleanliness, data gathering, reporting abnormal
25 signs and symptoms, postmortem care, patient socialization and
26 reality orientation, end-of-life care, cardiopulmonary
27 resuscitation and emergency care, residents' or patients'
28 rights, documentation of nursing-assistant services, and other
29 tasks that a certified nurse assistant may perform after
30 training beyond that required for initial certification and
31 upon validation of competence in that skill by a registered

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1 nurse. This subsection does not restrict the ability of any
2 person who is otherwise trained and educated from performing
3 such tasks.

4 Section 5. Section 464.202, Florida Statutes, is
5 amended to read:

6 464.202 Duties and powers of the board.--The board
7 shall maintain, or contract with or approve another entity to
8 maintain, a state registry of certified nursing assistants.
9 The registry must consist of the name of each certified
10 nursing assistant in this state; other identifying information
11 defined by board rule; certification status; the effective
12 date of certification; other information required by state or
13 federal law; information regarding any crime or any abuse,
14 neglect, or exploitation as provided under chapter 435; and
15 any disciplinary action taken against the certified nursing
16 assistant. The registry shall be accessible to the public, the
17 certificateholder, employers, and other state agencies. The
18 board shall adopt by rule testing procedures for use in
19 certifying nursing assistants and shall adopt rules regulating
20 the practice of certified nursing assistants and specifying
21 the scope of practice authorized and the level of supervision
22 required for the practice of certified nursing assistants to
23 ~~enforce this part.~~ The board may contract with or approve
24 another entity or organization to provide the examination
25 services, including the development and administration of
26 examinations. The board shall require that the contract
27 provider offer certified nursing assistant applications via
28 the Internet, and may require the contract provider to accept
29 certified nursing assistant applications for processing via
30 the Internet. The board shall require the contract provider
31 to provide the preliminary results of the certified nursing

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1 examination on the date the test is administered. The provider
 2 shall pay all reasonable costs and expenses incurred by the
 3 board in evaluating the provider's application and performance
 4 during the delivery of services, including examination
 5 services and procedures for maintaining the certified nursing
 6 assistant registry.

7 Section 6. Subsections (5) and (7) of section 464.203,
 8 Florida Statutes, are amended, and subsection (8) is added to
 9 that section, to read:

10 464.203 Certified nursing assistants; certification
 11 requirement.--

12 (5) Certification as a nursing assistant, in
 13 accordance with this part, may be renewed ~~continues in effect~~
 14 until such time as the nursing assistant allows a period of 24
 15 consecutive months to pass during which period the nursing
 16 assistant fails to perform any nursing-related services for
 17 monetary compensation. When a nursing assistant fails to
 18 perform any nursing-related services for monetary compensation
 19 for a period of 24 consecutive months, the nursing assistant
 20 must complete a new training and competency evaluation program
 21 or a new competency evaluation program.

22 (7) A certified nursing assistant shall complete 12 ~~18~~
 23 hours of inservice training during each calendar year. The
 24 certified nursing assistant shall be responsible for
 25 maintaining documentation demonstrating compliance with these
 26 provisions. The Council on Certified Nursing Assistants, in
 27 accordance with s. 464.2085(2)(b), shall propose rules to
 28 implement this subsection.

29 (8) The department shall renew a certificate upon
 30 receipt of the renewal application and imposition of a fee of
 31 not less than \$20 and not more than \$50 biennially. The

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1 department shall adopt rules establishing a procedure for the
2 biennial renewal of certificates. Any certificate that is not
3 renewed by July 1, 2006, is void.

4 Section 7. Subsection (1) of section 456.041, Florida
5 Statutes, as amended by Committee Substitute for Senate Bill
6 940 enacted in the 2005 Regular Session of the Legislature, is
7 amended to read:

8 456.041 Practitioner profile; creation.--

9 (1)(a) The Department of Health shall compile the
10 information submitted pursuant to s. 456.039 into a
11 practitioner profile of the applicant submitting the
12 information, except that the Department of Health shall
13 develop a format to compile uniformly any information
14 submitted under s. 456.039(4)(b). Beginning July 1, 2001, the
15 Department of Health may compile the information submitted
16 pursuant to s. 456.0391 into a practitioner profile of the
17 applicant submitting the information.

18 (b) Beginning July 1, 2005, the department shall
19 verify the information submitted by the applicant under s.
20 456.039 concerning disciplinary history and medical
21 malpractice claims at the time of initial licensure and
22 license renewal using the National Practitioner Data Bank. The
23 physician profiles shall reflect the disciplinary action and
24 medical malpractice claims as reported by the National
25 Practitioner Data Bank, and shall include information relating
26 to liability and disciplinary actions obtained as a result of
27 a search of the National Practitioner Data Bank.

28 (c) Within 30 calendar days after receiving an update
29 of information required for the practitioner's profile, the
30 department shall update the practitioner's profile in
31 accordance with the requirements of subsection (7).

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1 Section 8. This act shall take effect July 1, 2005.

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4 ===== T I T L E A M E N D M E N T =====

5 And the title is amended as follows:

6 Delete everything before the enacting clause

7

8 and insert:

9 A bill to be entitled

10 An act relating to the Department of Health;

11 amending s. 456.013, F.S.; eliminating a

12 requirement that the department issue wall

13 certificates; amending s. 456.017, F.S.;

14 prohibiting the use of a state-developed

15 examination if a national examination has been

16 certified by the department; revising the

17 criteria under which an applicant may challenge

18 the validity of an examination; authorizing the

19 department to post examination scores on the

20 Internet in lieu of mailing the scores to each

21 applicant; amending s. 456.036, F.S.; providing

22 for a retired-status license; providing a fee

23 for changing to retired status at the time of

24 license renewal; requiring an additional fee if

25 retired status is chosen at any time other than

26 at the time of license renewal; authorizing

27 each board or the department to reexamine a

28 licensee who has been retired or inactive for a

29 specified period in order to assess the

30 licensee's competency; amending s. 464.201,

31 F.S.; defining the phrase "practice of a

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1 certified nursing assistant"; amending s.
2 464.202, F.S.; requiring the Board of Nursing
3 to adopt rules specifying the scope of practice
4 and level of supervision required for certified
5 nursing assistants; amending s. 464.203, F.S.;
6 requiring the biennial renewal of certification
7 as a nursing assistant; reducing the number of
8 required hours of inservice training for
9 certified nursing assistants; providing a fee
10 for certification renewal; amending s. 456.041,
11 F.S.; requiring that information relating to
12 liability and disciplinary actions be included
13 in the practitioner profile; providing an
14 effective date.

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