

Amendment No. (for drafter's use only)

CHAMBER ACTION

Senate

House

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1 Representative(s) Flores offered the following:

2

3 **Substitute Amendment for Amendment (072115)**

4 Remove everything after the enacting clause and insert:

5 Section 1. Subsections (1) and (2) of section 458.307,

6 Florida Statutes, are amended to read:

7 458.307 Board of Medicine.--

8 (1) There is created within the department the Board of
9 Medicine, composed of 17 ~~15~~ members appointed by the Governor
10 and confirmed by the Senate.

11 (2) Twelve members of the board must be licensed
12 physicians in good standing in this state who are residents of
13 the state and who have been engaged in the active practice or
14 teaching of medicine in this state with a full and unrestricted
15 medical license for at least 5 4 years immediately preceding

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16 their appointment. One of the physicians must be on the full-
17 time faculty of a medical school in this state, and one of the
18 physicians must be in private practice and on the full-time
19 staff of a statutory teaching hospital in this state as defined
20 in s. 408.07. At least one of the physicians must be a graduate
21 of a foreign medical school. Four consumer ~~The remaining three~~
22 members must be residents of the state who have lived in the
23 state for at least 5 years immediately preceding their
24 appointments, have never been licensed as a health care
25 practitioner under chapter 456 or the applicable practice act,
26 and do not have a substantial personal, business, professional,
27 or pecuniary connection with a licensed health care practitioner
28 or with a medical education or health care facility, except as
29 patients or potential patients are not, and never have been,
30 licensed health care practitioners. The final One member must be
31 the chief operations officer of a hospital ~~a health care risk~~
32 ~~manager~~ licensed under chapter 395 who has lived in the state
33 and held such position for at least 5 years immediately
34 preceding his or her appointment to the board ~~s. 395.10974~~. At
35 least one member of the board must be 60 years of age or older.
36 The requirements of this subsection shall be a continuing
37 condition of membership on the board. Any member who ceases to
38 meet the requirements of this subsection shall be removed from
39 the board, and a new qualified member shall be appointed to fill
40 the vacancy for the remainder of that member's term.

41 Section 2. The requirements of section 458.307, Florida
42 Statutes, as amended by this act, shall apply to appointments

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43 made on or after the effective date of this act and shall not be
44 construed to end the term of any member of the Board of Medicine
45 holding that appointment on the effective date of this act. The
46 terms of the additional members required to be appointed under
47 section 458.307, Florida Statutes, as amended by this act, shall
48 begin November 1, 2005.

49 Section 3. Subsections (2) through (8) of section 458.311,
50 Florida Statutes, are renumbered as subsections (3) through (9),
51 respectively, present subsections (5) and (7) are amended, and a
52 new subsection (2) is added to said section, to read:

53 458.311 Licensure by examination; requirements; fees.--
54 (2) Notwithstanding sub-subparagraphs (1)(f)1.c.,
55 (1)(f)2.c., and (1)(f)3.c. and paragraph (3)(d), except for
56 passing part II of the National Board of Medical Examiners
57 examination or the Educational Commission for Foreign Medical
58 Graduates examination equivalent as referred to in paragraph
59 (3)(d), the department may develop procedures for an applicant
60 for licensure as a physician pursuant to this chapter to meet
61 postgraduate training requirements by completion of a 2-year
62 externship at a nonstatutory teaching hospital licensed in this
63 state. The training provided in the externship shall be
64 substantially similar, as defined by board rule, to the training
65 provided in an approved residency as provided in sub-
66 subparagraph (1)(f)1.c., sub-subparagraph (1)(f)2.c., or sub-
67 subparagraph (1)(f)3.c. In order for the externship to meet the
68 requirements of this subsection, it must be approved by the
69 board prior to the applicant entering into the externship. The

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70 applicant shall not be licensed pursuant to this subsection
71 unless the board finds that the applicant has successfully
72 completed the externship. The board may adopt rules to implement
73 this subsection, including the implementation of fees to cover
74 costs.

75 ~~(6)(5)~~ The board may not certify to the department for
76 licensure any applicant who is under investigation in another
77 jurisdiction for an offense which would constitute a violation
78 of this chapter until such investigation is completed. Upon
79 completion of the investigation, the provisions of s. 458.331
80 shall apply. Furthermore, the department may not issue an
81 unrestricted license to any individual who has committed any act
82 or offense in any jurisdiction which would constitute the basis
83 for disciplining a physician pursuant to s. 458.331. When the
84 board finds that an individual has committed an act or offense
85 in any jurisdiction which would constitute the basis for
86 disciplining a physician pursuant to s. 458.331, then the board
87 may enter an order imposing one or more of the terms set forth
88 in subsection ~~(9)(8)~~.

89 ~~(8)(7)~~ Upon certification by the board, the department
90 shall impose conditions, limitations, or restrictions on a
91 license if the applicant is on probation in another jurisdiction
92 for an act which would constitute a violation of this chapter or
93 if the externship requirement provided in subsection (2) was
94 complied with at a nonstatutory teaching hospital.

95 Section 4. Paragraph (a) of subsection (1) of section
96 458.313, Florida Statutes, is amended to read:

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97 458.313 Licensure by endorsement; requirements; fees.--

98 (1) The department shall issue a license by endorsement to
99 any applicant who, upon applying to the department on forms
100 furnished by the department and remitting a fee set by the board
101 not to exceed \$500, the board certifies:

102 (a) Has met the qualifications for licensure in s.
103 458.311(1)(b)-(g) or in s. 458.311(1)(b)-(e) and (g) and (4)~~(3)~~;

104 Section 5. Subsection (1) of section 458.316, Florida
105 Statutes, is amended to read:

106 458.316 Public health certificate.--

107 (1) Any person desiring to obtain a public health
108 certificate shall submit an application fee not to exceed \$300
109 and shall demonstrate to the board that he or she is a graduate
110 of an accredited medical school and holds a master of public
111 health degree or is board eligible or certified in public health
112 or preventive medicine, or is licensed to practice medicine
113 without restriction in another jurisdiction in the United States
114 and holds a master of public health degree or is board eligible
115 or certified in public health or preventive medicine, and shall
116 meet the requirements in s. 458.311(1)(a)-(g) and (6)~~(5)~~.

117 Section 6. Section 458.3165, Florida Statutes, is amended
118 to read:

119 458.3165 Public psychiatry certificate.--The board shall
120 issue a public psychiatry certificate to an individual who
121 remits an application fee not to exceed \$300, as set by the
122 board, who is a board-certified psychiatrist, who is licensed to
123 practice medicine without restriction in another state, and who

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124 meets the requirements in s. 458.311(1)(a)-(g) and ~~(6)(5)~~. A
125 recipient of a public psychiatry certificate may use the
126 certificate to work at any public mental health facility or
127 program funded in part or entirely by state funds.

128 (1) Such certificate shall:

129 (a) Authorize the holder to practice only in a public
130 mental health facility or program funded in part or entirely by
131 state funds.

132 (b) Be issued and renewable biennially if the secretary of
133 the Department of Health and the chair of the department of
134 psychiatry at one of the public medical schools or the chair of
135 the department of psychiatry at the accredited medical school at
136 the University of Miami recommend in writing that the
137 certificate be issued or renewed.

138 (c) Automatically expire if the holder's relationship with
139 a public mental health facility or program expires.

140 (d) Not be issued to a person who has been adjudged
141 unqualified or guilty of any of the prohibited acts in this
142 chapter.

143 (2) The board may take disciplinary action against a
144 certificateholder for noncompliance with any part of this
145 section or for any reason for which a regular licensee may be
146 subject to discipline.

147 Section 7. Paragraph (a) of subsection (1) of section
148 458.317, Florida Statutes, is amended to read:

149 458.317 Limited licenses.--

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150 (1)(a) Any person desiring to obtain a limited license
151 shall:

152 1. Submit to the board, with an application and fee not to
153 exceed \$300, an affidavit stating that he or she has been
154 licensed to practice medicine in any jurisdiction in the United
155 States for at least 10 years and intends to practice only
156 pursuant to the restrictions of a limited license granted
157 pursuant to this section. However, a physician who is not fully
158 retired in all jurisdictions may use a limited license only for
159 noncompensated practice. If the person applying for a limited
160 license submits a notarized statement from the employing agency
161 or institution stating that he or she will not receive
162 compensation for any service involving the practice of medicine,
163 the application fee and all licensure fees shall be waived.
164 However, any person who receives a waiver of fees for a limited
165 license shall pay such fees if the person receives compensation
166 for the practice of medicine.

167 2. Meet the requirements in s. 458.311(1)(b)-(g) and
168 ~~(6)(5)~~. If the applicant graduated from medical school prior to
169 1946, the board or its appropriate committee may accept military
170 medical training or medical experience as a substitute for the
171 approved 1-year residency requirement in s. 458.311(1)(f).

172
173 Nothing herein limits in any way any policy by the board,
174 otherwise authorized by law, to grant licenses to physicians
175 duly licensed in other states under conditions less restrictive
176 than the requirements of this section. Notwithstanding the other

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177 provisions of this section, the board may refuse to authorize a
178 physician otherwise qualified to practice in the employ of any
179 agency or institution otherwise qualified if the agency or
180 institution has caused or permitted violations of the provisions
181 of this chapter which it knew or should have known were
182 occurring.

183 Section 8. Subsection (2) of section 458.331, Florida
184 Statutes, is amended, and subsection (11) is added to said
185 section, to read:

186 458.331 Grounds for disciplinary action; action by the
187 board and department.--

188 (2) The board may enter an order denying licensure or
189 imposing any of the penalties in s. 456.072(2) against any
190 applicant for licensure or licensee who is found guilty of
191 violating any provision of subsection (1) of this section or who
192 is found guilty of violating any provision of s. 456.072(1). A
193 probable cause panel considering disciplinary action against a
194 physician assistant pursuant to s. 456.073 shall include a
195 licensed physician assistant designated by the Council on
196 Physician Assistants, unless a physician assistant is not
197 available. In determining what action is appropriate, the board
198 must first consider what sanctions are necessary to protect the
199 public or to compensate the patient. Only after those sanctions
200 have been imposed may the disciplining authority consider and
201 include in the order requirements designed to rehabilitate the
202 physician. All costs associated with compliance with orders

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203 issued under this subsection are the obligation of the
204 physician.

205 (11) Notwithstanding any law to the contrary, a
206 practitioner licensed under this chapter has a defense to an
207 alleged violation, by the preponderance of the evidence, that
208 the practitioner relied in good faith on the representations
209 made to the practitioner by a drug manufacturer or its
210 representatives and that the practitioner had no intent to
211 violate the law.

212 Section 9. Paragraph (b) of subsection (7) of section
213 458.347, Florida Statutes, is amended to read:

214 458.347 Physician assistants.--

215 (7) PHYSICIAN ASSISTANT LICENSURE.--

216 (b)1. Notwithstanding subparagraph (a)2. and sub-
217 subparagraph (a)3.a., the department shall examine each
218 applicant who the Board of Medicine certifies:

219 a. Has completed the application form and remitted a
220 nonrefundable application fee not to exceed \$500 and an
221 examination fee not to exceed \$300, plus the actual cost to the
222 department to provide the examination. The examination fee is
223 refundable if the applicant is found to be ineligible to take
224 the examination. The department shall not require the applicant
225 to pass a separate practical component of the examination. For
226 examinations given after July 1, 1998, competencies measured
227 through practical examinations shall be incorporated into the
228 written examination through a multiple-choice format. The
229 department shall translate the examination into the native

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230 language of any applicant who requests and agrees to pay all
231 costs of such translation, provided that the translation request
232 is filed with the board office no later than 9 months before the
233 scheduled examination and the applicant remits translation fees
234 as specified by the department no later than 6 months before the
235 scheduled examination, and provided that the applicant
236 demonstrates to the department the ability to communicate orally
237 in basic English. If the applicant is unable to pay translation
238 costs, the applicant may take the next available examination in
239 English if the applicant submits a request in writing by the
240 application deadline and if the applicant is otherwise eligible
241 under this section. To demonstrate the ability to communicate
242 orally in basic English, a passing score or grade is required,
243 as determined by the department or organization that developed
244 it, on the test for spoken English (TSE) by the Educational
245 Testing Service (ETS), the test of English as a foreign language
246 (TOEFL) by ETS, a high school or college level English course,
247 or the English examination for citizenship, Bureau of
248 Citizenship and Immigration Services. A notarized copy of an
249 Educational Commission for Foreign Medical Graduates (ECFMG)
250 certificate may also be used to demonstrate the ability to
251 communicate in basic English; and

252 b.(I) Is an unlicensed physician who graduated from a
253 foreign medical school listed with the World Health Organization
254 who has not previously taken and failed the examination of the
255 National Commission on Certification of Physician Assistants and
256 who has been certified by the Board of Medicine as having met

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257 the requirements for licensure as a medical doctor by
258 examination as set forth in s. 458.311(1), ~~(4)(3)~~, ~~(5)(4)~~, and
259 ~~(6)(5)~~, with the exception that the applicant is not required to
260 have completed an approved residency of at least 1 year and the
261 applicant is not required to have passed the licensing
262 examination specified under s. 458.311 or hold a valid, active
263 certificate issued by the Educational Commission for Foreign
264 Medical Graduates; was eligible and made initial application for
265 certification as a physician assistant in this state between
266 July 1, 1990, and June 30, 1991; and was a resident of this
267 state on July 1, 1990, or was licensed or certified in any state
268 in the United States as a physician assistant on July 1, 1990;
269 or

270 (II) Completed all coursework requirements of the Master
271 of Medical Science Physician Assistant Program offered through
272 the Florida College of Physician's Assistants prior to its
273 closure in August of 1996. Prior to taking the examination, such
274 applicant must successfully complete any clinical rotations that
275 were not completed under such program prior to its termination
276 and any additional clinical rotations with an appropriate
277 physician assistant preceptor, not to exceed 6 months, that are
278 determined necessary by the council. The boards shall determine,
279 based on recommendations from the council, the facilities under
280 which such incomplete or additional clinical rotations may be
281 completed and shall also determine what constitutes successful
282 completion thereof, provided such requirements are comparable to

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283 those established by accredited physician assistant programs.

284 This sub-sub-subparagraph is repealed July 1, 2001.

285 2. The department may grant temporary licensure to an
286 applicant who meets the requirements of subparagraph 1. Between
287 meetings of the council, the department may grant temporary
288 licensure to practice based on the completion of all temporary
289 licensure requirements. All such administratively issued
290 licenses shall be reviewed and acted on at the next regular
291 meeting of the council. A temporary license expires 30 days
292 after receipt and notice of scores to the licenseholder from the
293 first available examination specified in subparagraph 1.
294 following licensure by the department. An applicant who fails
295 the proficiency examination is no longer temporarily licensed,
296 but may apply for a one-time extension of temporary licensure
297 after reapplying for the next available examination. Extended
298 licensure shall expire upon failure of the licenseholder to sit
299 for the next available examination or upon receipt and notice of
300 scores to the licenseholder from such examination.

301 3. Notwithstanding any other provision of law, the
302 examination specified pursuant to subparagraph 1. shall be
303 administered by the department only five times. Applicants
304 certified by the board for examination shall receive at least 6
305 months' notice of eligibility prior to the administration of the
306 initial examination. Subsequent examinations shall be
307 administered at 1-year intervals following the reporting of the
308 scores of the first and subsequent examinations. For the
309 purposes of this paragraph, the department may develop, contract

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310 for the development of, purchase, or approve an examination that
311 adequately measures an applicant's ability to practice with
312 reasonable skill and safety. The minimum passing score on the
313 examination shall be established by the department, with the
314 advice of the board. Those applicants failing to pass that
315 examination or any subsequent examination shall receive notice
316 of the administration of the next examination with the notice of
317 scores following such examination. Any applicant who passes the
318 examination and meets the requirements of this section shall be
319 licensed as a physician assistant with all rights defined
320 thereby.

321 Section 10. Subsection (2) of section 459.015, Florida
322 Statutes, is amended to read:

323 459.015 Grounds for disciplinary action; action by the
324 board and department.--

325 (2) The board may enter an order denying licensure or
326 imposing any of the penalties in s. 456.072(2) against any
327 applicant for licensure or licensee who is found guilty of
328 violating any provision of subsection (1) of this section or who
329 is found guilty of violating any provision of s. 456.072(1). A
330 probable cause panel considering disciplinary action against a
331 physician assistant pursuant to s. 456.073 shall include a
332 licensed physician assistant designated by the Council on
333 Physician Assistants, unless a physician assistant is not
334 available. In determining what action is appropriate, the board
335 must first consider what sanctions are necessary to protect the
336 public or to compensate the patient. Only after those sanctions

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337 have been imposed may the disciplining authority consider and
338 include in the order requirements designed to rehabilitate the
339 physician. All costs associated with compliance with orders
340 issued under this subsection are the obligation of the
341 physician.

342 Section 11. This act shall take effect upon becoming a
343 law.

344
345 ===== T I T L E A M E N D M E N T =====

346 Remove the entire title and insert:

347 A bill to be entitled
348 An act relating to the practice of medicine; amending s.
349 458.307, F.S.; revising membership requirements of the
350 Board of Medicine; providing for the appointment of
351 additional members; providing applicability to current
352 members; providing the beginning date for the terms of the
353 additional members; providing for continuing conditions of
354 membership and replacement of unqualified members;
355 amending s. 458.311, F.S.; providing an option for
356 applicants for physician licensure to complete an
357 externship; authorizing the Department of Health to
358 develop procedures relating to completion of the
359 externship; requiring board approval of externships;
360 authorizing the board to adopt rules to implement
361 externship requirements, including fees to cover costs;
362 revising the requirement of the department to impose
363 conditions, limitations, or restrictions on a license;

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HOUSE AMENDMENT

Bill No. CS/SB 1180

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364 | amending ss. 458.313, 458.316, 458.3165, 458.317, and
365 | 458.347, F.S.; correcting cross references; amending s.
366 | 458.331, F.S.; providing a requirement for a probable
367 | cause panel considering disciplinary action against a
368 | physician assistant; providing an exception; providing
369 | practitioners a defense to alleged violations; amending s.
370 | 459.015, F.S.; providing a requirement for a probable
371 | cause panel considering disciplinary action against a
372 | physician assistant; providing an exception; providing an
373 | effective date.

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