

Amendment No. (for drafter's use only)

CHAMBER ACTION

Senate

House

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1 Representative(s) Flores offered the following:

2

3 **Amendment (with title amendment)**

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 16 ~~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. The remaining four ~~three~~ members  
22 must be residents of the state who have lived in the state for  
23 at least 5 years immediately preceding their appointments, have  
24 never been licensed as a health care practitioner under chapter  
25 456 or the applicable practice act, and do not have a  
26 substantial personal, business, professional, or pecuniary  
27 connection with a licensed health care practitioner or with a  
28 medical education or health care facility, except as patients or  
29 potential patients ~~are not, and never have been, licensed health~~  
30 ~~care practitioners~~. One member must be a health care risk  
31 manager licensed under s. 395.10974. At least one member of the  
32 board must be 60 years of age or older. The requirements of this  
33 subsection shall be a continuing condition of membership on the  
34 board. Any member who ceases to meet the requirements of this  
35 subsection shall be removed from the board, and a new qualified  
36 member shall be appointed to fill the vacancy for the remainder  
37 of that member's term.

38 Section 2. The requirements of section 458.307, Florida  
39 Statutes, as amended by this act, shall apply to appointments  
40 made on or after the effective date of this act and shall not be  
41 construed to end the term of any member of the Board of Medicine  
42 holding that appointment on the effective date of this act. The

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43 term of the additional member required to be appointed under  
44 section 458.307, Florida Statutes, as amended by this act, shall  
45 begin November 1, 2005.

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

50 458.311 Licensure by examination; requirements; fees.--

51 (2) Notwithstanding sub-subparagraphs (1)(f)1.c.,  
52 (1)(f)2.c., and (1)(f)3.c. and paragraph (3)(d), except for  
53 passing part II of the National Board of Medical Examiners  
54 examination or the Educational Commission for Foreign Medical  
55 Graduates examination equivalent as referred to in paragraph  
56 (3)(d), the department may develop procedures for an applicant  
57 for licensure as a physician pursuant to this chapter to meet  
58 postgraduate training requirements by completion of a 2-year  
59 externship at a nonstatutory teaching hospital licensed in this  
60 state. The training provided in the externship shall be  
61 substantially similar, as defined by board rule, to the training  
62 provided in an approved residency as provided in sub-  
63 subparagraph (1)(f)1.c., sub-subparagraph (1)(f)2.c., or sub-  
64 subparagraph (1)(f)3.c. In order for the externship to meet the  
65 requirements of this subsection, it must be approved by the  
66 board prior to the applicant entering into the externship. The  
67 applicant shall not be licensed pursuant to this subsection  
68 unless the board finds that the applicant has successfully  
69 completed the externship. The board may adopt rules to implement

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70 this subsection, including the implementation of fees to cover  
71 costs.

72 ~~(6)(5)~~ The board may not certify to the department for  
73 licensure any applicant who is under investigation in another  
74 jurisdiction for an offense which would constitute a violation  
75 of this chapter until such investigation is completed. Upon  
76 completion of the investigation, the provisions of s. 458.331  
77 shall apply. Furthermore, the department may not issue an  
78 unrestricted license to any individual who has committed any act  
79 or offense in any jurisdiction which would constitute the basis  
80 for disciplining a physician pursuant to s. 458.331. When the  
81 board finds that an individual has committed an act or offense  
82 in any jurisdiction which would constitute the basis for  
83 disciplining a physician pursuant to s. 458.331, then the board  
84 may enter an order imposing one or more of the terms set forth  
85 in subsection ~~(9)(8)~~.

86 ~~(8)(7)~~ Upon certification by the board, the department  
87 shall impose conditions, limitations, or restrictions on a  
88 license if the applicant is on probation in another jurisdiction  
89 for an act which would constitute a violation of this chapter or  
90 if the externship requirement provided in subsection (2) was  
91 complied with at a nonstatutory teaching hospital.

92 Section 4. Paragraph (a) of subsection (1) of section  
93 458.313, Florida Statutes, is amended to read:

94 458.313 Licensure by endorsement; requirements; fees.--

95 (1) The department shall issue a license by endorsement to  
96 any applicant who, upon applying to the department on forms

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97 furnished by the department and remitting a fee set by the board  
98 not to exceed \$500, the board certifies:

99 (a) Has met the qualifications for licensure in s.  
100 458.311(1)(b)-(g) or in s. 458.311(1)(b)-(e) and (g) and ~~(4)(3)~~;

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

103 458.316 Public health certificate.--

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

114 Section 6. Section 458.3165, Florida Statutes, is amended  
115 to read:

116 458.3165 Public psychiatry certificate.--The board shall  
117 issue a public psychiatry certificate to an individual who  
118 remits an application fee not to exceed \$300, as set by the  
119 board, who is a board-certified psychiatrist, who is licensed to  
120 practice medicine without restriction in another state, and who  
121 meets the requirements in s. 458.311(1)(a)-(g) and ~~(6)(5)~~. A  
122 recipient of a public psychiatry certificate may use the

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123 certificate to work at any public mental health facility or  
124 program funded in part or entirely by state funds.

125 (1) Such certificate shall:

126 (a) Authorize the holder to practice only in a public  
127 mental health facility or program funded in part or entirely by  
128 state funds.

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

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

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

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

144 Section 7. Paragraph (a) of subsection (1) of section  
145 458.317, Florida Statutes, is amended to read:

146 458.317 Limited licenses.--

147 (1)(a) Any person desiring to obtain a limited license  
148 shall:

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

164 2. Meet the requirements in s. 458.311(1)(b)-(g) and  
165 ~~(6)~~(5). If the applicant graduated from medical school prior to  
166 1946, the board or its appropriate committee may accept military  
167 medical training or medical experience as a substitute for the  
168 approved 1-year residency requirement in s. 458.311(1)(f).

169  
170 Nothing herein limits in any way any policy by the board,  
171 otherwise authorized by law, to grant licenses to physicians  
172 duly licensed in other states under conditions less restrictive  
173 than the requirements of this section. Notwithstanding the other  
174 provisions of this section, the board may refuse to authorize a  
175 physician otherwise qualified to practice in the employ of any

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176 agency or institution otherwise qualified if the agency or  
177 institution has caused or permitted violations of the provisions  
178 of this chapter which it knew or should have known were  
179 occurring.

180 Section 8. Subsection (2) of section 458.331, Florida  
181 Statutes, is amended, and subsection (11) is added to said  
182 section, to read:

183 458.331 Grounds for disciplinary action; action by the  
184 board and department.--

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

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

209        Section 9. Paragraph (b) of subsection (7) of section  
210 458.347, Florida Statutes, is amended to read:

211        458.347 Physician assistants.--

212        (7) PHYSICIAN ASSISTANT LICENSURE.--

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

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

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

249       b.(I) Is an unlicensed physician who graduated from a  
250 foreign medical school listed with the World Health Organization  
251 who has not previously taken and failed the examination of the  
252 National Commission on Certification of Physician Assistants and  
253 who has been certified by the Board of Medicine as having met  
254 the requirements for licensure as a medical doctor by  
255 examination as set forth in s. 458.311(1), ~~(4)(3)~~, ~~(5)(4)~~, and

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256 | ~~(6)(5)~~, with the exception that the applicant is not required to  
257 | have completed an approved residency of at least 1 year and the  
258 | applicant is not required to have passed the licensing  
259 | examination specified under s. 458.311 or hold a valid, active  
260 | certificate issued by the Educational Commission for Foreign  
261 | Medical Graduates; was eligible and made initial application for  
262 | certification as a physician assistant in this state between  
263 | July 1, 1990, and June 30, 1991; and was a resident of this  
264 | state on July 1, 1990, or was licensed or certified in any state  
265 | in the United States as a physician assistant on July 1, 1990;  
266 | or

267 |       (II) Completed all coursework requirements of the Master  
268 | of Medical Science Physician Assistant Program offered through  
269 | the Florida College of Physician's Assistants prior to its  
270 | closure in August of 1996. Prior to taking the examination, such  
271 | applicant must successfully complete any clinical rotations that  
272 | were not completed under such program prior to its termination  
273 | and any additional clinical rotations with an appropriate  
274 | physician assistant preceptor, not to exceed 6 months, that are  
275 | determined necessary by the council. The boards shall determine,  
276 | based on recommendations from the council, the facilities under  
277 | which such incomplete or additional clinical rotations may be  
278 | completed and shall also determine what constitutes successful  
279 | completion thereof, provided such requirements are comparable to  
280 | those established by accredited physician assistant programs.  
281 | This sub-sub-subparagraph is repealed July 1, 2001.

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

298           3. Notwithstanding any other provision of law, the  
299 examination specified pursuant to subparagraph 1. shall be  
300 administered by the department only five times. Applicants  
301 certified by the board for examination shall receive at least 6  
302 months' notice of eligibility prior to the administration of the  
303 initial examination. Subsequent examinations shall be  
304 administered at 1-year intervals following the reporting of the  
305 scores of the first and subsequent examinations. For the  
306 purposes of this paragraph, the department may develop, contract  
307 for the development of, purchase, or approve an examination that  
308 adequately measures an applicant's ability to practice with

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

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

320 459.015 Grounds for disciplinary action; action by the  
321 board and department.--

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

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336 physician. All costs associated with compliance with orders  
337 issued under this subsection are the obligation of the  
338 physician.

339 Section 11. This act shall take effect upon becoming a  
340 law.

341  
342 ===== T I T L E A M E N D M E N T =====

343 Remove the entire title and insert:

344 A bill to be entitled  
345 An act relating to the practice of medicine; amending s.  
346 458.307, F.S.; revising membership requirements of the  
347 Board of Medicine; providing for the appointment of an  
348 additional member; providing applicability to current  
349 members; providing the beginning date for the term of the  
350 additional member; providing for continuing conditions of  
351 membership and replacement of unqualified members;  
352 amending s. 458.311, F.S.; providing an option for  
353 applicants for physician licensure to complete an  
354 externship; authorizing the Department of Health to  
355 develop procedures relating to completion of the  
356 externship; requiring board approval of externships;  
357 authorizing the board to adopt rules to implement  
358 externship requirements, including fees to cover costs;  
359 revising the requirement of the department to impose  
360 conditions, limitations, or restrictions on a license;  
361 amending ss. 458.313, 458.316, 458.3165, 458.317, and  
362 458.347, F.S.; correcting cross references; amending s.

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HOUSE AMENDMENT

Bill No. CS/SB 1180

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363 458.331, F.S.; providing a requirement for a probable  
364 cause panel considering disciplinary action against a  
365 physician assistant; providing an exception; providing  
366 practitioners a defense to alleged violations; amending s.  
367 459.015, F.S.; providing a requirement for a probable  
368 cause panel considering disciplinary action against a  
369 physician assistant; providing an exception; providing an  
370 effective date.

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