

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

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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 paragraph (1)(f)1.c., sub-subparagraph (1)(f)2.c., or sub-
64 paragraph (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
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

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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
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.--
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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
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
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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:

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
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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
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
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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.

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
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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
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

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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
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

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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.

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

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307 for the development of, purchase, or approve an examination that
308 adequately measures an applicant's ability to practice with
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
348 additional members; providing applicability to current
349 members; providing the beginning date for the term of
350 additional members; membership and replacement of
351 unqualified members; amending s. 458.311, F.S.; providing
352 an option for applicants for physician licensure to
353 complete an externship; authorizing the Department of
354 Health to develop procedures relating to completion of the
355 externship; requiring board approval of externships;
356 authorizing the board to adopt rules to implement
357 externship requirements, including fees to cover costs;
358 revising the requirement of the department to impose
359 conditions, limitations, or restrictions on a license;
360 amending ss. 458.313, 458.316, 458.3165, 458.317, and
361 458.347, F.S.; correcting cross references; amending s.
362 458.331, F.S.; providing a requirement for a probable
363 cause panel considering disciplinary action against a
364 physician assistant; providing an exception; providing

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