

1 A bill to be entitled
2 An act relating to medical regulatory boards;
3 amending s. 458.307, F.S.; revising membership
4 requirements; providing for expiration of terms
5 of current members, appointment of new members
6 to staggered terms, and appointment and terms
7 of successors; providing for applicability;
8 amending s. 458.311, F.S.; providing for an
9 externship; amending ss. 458.331 and 459.015,
10 F.S.; providing for membership on certain
11 probable cause panels; providing that a
12 practitioner licensed in ch. 458, F.S., may use
13 as a defense that the practitioner relied in
14 good faith on the representations made to the
15 practitioner by a drug manufacturer and that
16 the practitioner had no intent to violate the
17 law; requiring the Department of Health to
18 notify health care providers if the department
19 learns that a drug that has not been approved
20 by the United States Food and Drug
21 Administration for human use has been sold to
22 identified health care providers in this state;
23 providing an effective date.

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

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27 Section 1. Subsections (2) and (3) of section 458.307,
28 Florida Statutes, are amended to read:

29 458.307 Board of Medicine.--

30 (2) ~~Ten~~ Twelve members of the board must be licensed
31 physicians in good standing in this state who are residents of

1 the state and who have been engaged in the active practice or
2 teaching of medicine in this state with a full and
3 unrestricted medical license for at least ~~5~~ 4 years
4 immediately preceding their appointment. One of the physicians
5 must be on the full-time faculty of a medical school in this
6 state, and one of the physicians must be in private practice
7 and on the full-time staff of a statutory teaching hospital in
8 this state as defined in s. 408.07. At least one of the
9 physicians must be a graduate of a foreign medical school.
10 ~~Four consumer members~~ ~~The remaining three members~~ must be
11 residents of the state who have lived in the state for at
12 least 5 years immediately preceding their appointments, have
13 never been licensed as a health care practitioner under
14 chapter 456 or the applicable practice act, and do not have a
15 substantial personal, business, professional, or pecuniary
16 connection with a licensed health care practitioner or with a
17 medical education or health care facility, except as patients
18 or potential patients are not, and never have been, licensed
19 ~~health care practitioners.~~ The final ~~One~~ member must be the
20 chief operations officer of a hospital ~~a health care risk~~
21 ~~manager~~ licensed under chapter 395 who has lived in the state
22 and held this position for at least 5 years immediately
23 preceding his or her appointment ~~s. 395.10974~~. At least one
24 member of the board must be 60 years of age or older. The
25 requirements of this subsection shall be a continuing
26 condition of membership on the board. Any member who ceases to
27 meet the requirements of this subsection shall be removed from
28 the board, and a qualified new member shall be appointed to
29 fill the vacancy for the remainder of that member's term.
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1 (3) As the terms of the members expire, the Governor
2 shall appoint successors for terms of 4 years, and such
3 members shall serve until their successors are appointed.

4 Section 2. The requirements of section 458.307,
5 Florida Statutes, as amended by this act, shall not be
6 construed to end the term of any member of the Board of
7 Medicine holding that appointment on the effective date of
8 this act, but the requirements of section 458.307, Florida
9 Statutes, as amended by this act, shall apply to any
10 appointment made after the effective date of this act to a
11 term that expires on or after November 1, 2005.

12 Section 3. Present subsections (2) through (8) of
13 section 458.311, Florida Statutes, are redesignated as
14 subsections (3) through (9), respectively, present subsection
15 (7) of that section is amended, and a new subsection (2) is
16 added to that section, to read:

17 458.311 Licensure by examination; requirements;
18 fees.--

19 (2) Notwithstanding sub-subparagraphs (1)(f)1.c.,
20 2.c., and 3.c. and paragraph (3)(d), except for passing part
21 II of the National Board of Medical Examiners examination or
22 the Educational Commission for Foreign Medical Graduates
23 examination equivalent as referred to in paragraph (3)(d), the
24 board may develop procedures for an applicant for licensure as
25 a physician pursuant to this chapter to meet postgraduate
26 training requirements by completing a 2-year externship at a
27 nonstatutory teaching hospital licensed in this state. The
28 training provided in the externship must be substantially
29 similar, as defined by board rule, to the training provided in
30 an approved residency as described in sub-subparagraphs
31 (1)(f)1.c., 2.c., or 3.c. In order for the externship to meet

1 the requirements of this section, it must be approved by the
2 board before the applicant enters into the externship. The
3 applicant may not be licensed under this section unless the
4 board finds that the applicant has successfully completed the
5 externship. The board may adopt rules to administer this
6 section, including the implementation of fees to cover costs.

7 Section 4. Subsection (2) of section 458.331, Florida
8 Statutes, is amended, and subsections (11) and (12) are added
9 to that section, to read:

10 458.331 Grounds for disciplinary action; action by the
11 board and department.--

12 (2) The board may enter an order denying licensure or
13 imposing any of the penalties in s. 456.072(2) against any
14 applicant for licensure or licensee who is found guilty of
15 violating any provision of subsection (1) of this section or
16 who is found guilty of violating any provision of s.
17 456.072(1). A probable cause panel considering disciplinary
18 action against a physician assistant pursuant to s. 456.073
19 shall include a licensed physician assistant designated by the
20 Council on Physician Assistants unless a physician assistant
21 is not available. In determining what action is appropriate,
22 the board must first consider what sanctions are necessary to
23 protect the public or to compensate the patient. Only after
24 those sanctions have been imposed may the disciplining
25 authority consider and include in the order requirements
26 designed to rehabilitate the physician. All costs associated
27 with compliance with orders issued under this subsection are
28 the obligation of the physician.

29 (11) Notwithstanding any law to the contrary, a
30 practitioner licensed under this chapter has as a defense to
31 an alleged violation, by the preponderance of the evidence,

1 that the practitioner relied in good faith on the
2 representations made to the practitioner by a drug
3 manufacturer or its representatives and that the practitioner
4 had no intent to violate the law.

5 (12) If the department learns that a drug, as defined
6 under s. 499.003(17), which has not been approved by the
7 United States Food and Drug Administration for human use, has
8 been sold to identified health care providers in this state
9 and licensed under this chapter, the department shall
10 immediately notify the providers by certified mail of the
11 status of the drug as an unapproved product. The department
12 shall also post the information on its website to advise other
13 providers and consumers of the unapproved status of the drug.

14 Section 5. Subsection (2) of section 459.015, Florida
15 Statutes, is amended to read:

16 459.015 Grounds for disciplinary action; action by the
17 board and department.--

18 (2) The board may enter an order denying licensure or
19 imposing any of the penalties in s. 456.072(2) against any
20 applicant for licensure or licensee who is found guilty of
21 violating any provision of subsection (1) of this section or
22 who is found guilty of violating any provision of s.
23 456.072(1). A probable cause panel considering disciplinary
24 action against a physician assistant pursuant to s. 456.073
25 shall include a licensed physician assistant designated by the
26 Council on Physician Assistants unless a physician assistant
27 is not available. In determining what action is appropriate,
28 the board must first consider what sanctions are necessary to
29 protect the public or to compensate the patient. Only after
30 those sanctions have been imposed may the disciplining
31 authority consider and include in the order requirements

1 | designed to rehabilitate the physician. All costs associated
2 | with compliance with orders issued under this subsection are
3 | the obligation of the physician.

4 | Section 6. This act shall take effect upon becoming a
5 | law.

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