

1 A bill to be entitled
2 An act relating to the regulation of health care
3 professionals; amending s. 456.013, F.S.; deleting the
4 requirement that the Department of Health issue wall
5 certificates; requiring licensees with licenses issued in
6 error to surrender certain documents to the department;
7 amending s. 456.017, F.S.; specifying that a state-
8 developed test is not permitted if a national examination
9 has been certified by the department; clarifying the
10 limitation on who may challenge the validity of an
11 examination; permitting the department to post examination
12 scores on the Internet; amending s. 456.025, F.S.;
13 deleting an obsolete provision; amending s. 456.036, F.S.;
14 providing for a retired license status and providing a fee
15 for such status; authorizing the department to reexamine
16 certain licensees under certain circumstances; providing
17 requirements for retired status licensees to reactivate
18 their licenses; amending s. 464.201, F.S.; defining
19 "practice of a certified nursing assistant"; amending s.
20 464.202, F.S.; requiring the Board of Nursing to adopt
21 rules to specify the scope of practice for certified
22 nursing assistants; amending s. 464.203, F.S.; providing
23 for the renewal of nursing assistant certification;
24 providing for a fee; reducing the hours of inservice
25 training required of certified nursing assistants;
26 requiring certification as a nursing assistant to be
27 renewed and authorizing a fee for such renewal; requiring
28 the department to adopt rules regarding such renewal;

29 providing that certificates not renewed by a specified
 30 date are void; providing an effective date.

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

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 34 Section 1. Subsection (2) of section 456.013, Florida
 35 Statutes, is amended to read:

36 456.013 Department; general licensing provisions.--

37 (2) Before the issuance of any license, the department
 38 shall charge an initial license fee as determined by the
 39 applicable board or, if there is no ~~such~~ board ~~exists~~, by rule
 40 of the department. Upon receipt of the appropriate license fee,
 41 the department shall issue a license to any person certified by
 42 the appropriate board, or its designee, as having met the
 43 licensure requirements imposed by law or rule. The license shall
 44 consist of a wallet-size identification card and a wall card
 45 measuring 6 1/2 inches by 5 inches. ~~In addition to the two-part~~
 46 ~~license, the department, at the time of initial licensure, shall~~
 47 ~~issue a wall certificate suitable for conspicuous display, which~~
 48 ~~shall be no smaller than 8 1/2 inches by 14 inches.~~ The licensee
 49 shall surrender to the department the wallet-size identification
 50 card and, the wall card, ~~and the wall certificate, if one has~~
 51 ~~been issued by the department,~~ if the licensee's license was
 52 issued in error or is revoked.

53 Section 2. Paragraph (c) of subsection (1) and subsection
 54 (2) of section 456.017, Florida Statutes, are amended, and
 55 subsection (7) is added to said section, to read:

56 456.017 Examinations.--

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(1)

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

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

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

85 3. The board, or the department when there is no board,
86 may administer a state-developed practical or clinical
87 examination, as required by the applicable practice act, if all
88 costs of development, purchase, validation, administration,
89 review, and defense are paid by the examination candidate prior
90 to the administration of the examination. If a national
91 practical or clinical examination is available and certified by
92 the department pursuant to this section, the board, or the
93 department when there is no board, may administer the national
94 examination.

95 4. It is the intent of the Legislature to reduce the costs
96 associated with state examinations and to encourage the use of
97 national examinations whenever possible.

98 (2) For each examination developed by the department or a
99 contracted vendor, the board, or the department when there is no
100 board, shall adopt rules providing for reexamination of any
101 applicants who failed an examination developed by the department
102 or a contracted vendor. If both a written and a practical
103 examination are given, an applicant shall be required to retake
104 only the portion of the examination on which the applicant
105 failed to achieve a passing grade, if the applicant successfully
106 passes that portion within a reasonable time, as determined by
107 rule of the board, or the department when there is no board, of
108 passing the other portion. Except for national examinations
109 approved and administered pursuant to this section, the
110 department shall provide procedures for applicants who fail an
111 examination developed by the department or a contracted vendor
112 to review their examination questions, answers, papers, grades,

113 and grading key for the questions the candidate answered
 114 incorrectly or, if not feasible, the parts of the examination
 115 failed. Applicants shall bear the actual cost for the department
 116 to provide examination review pursuant to this subsection. An
 117 applicant may waive in writing the confidentiality of the
 118 applicant's examination grades. Notwithstanding any other
 119 provisions, only candidates who fail an examination with a score
 120 that is by less than 10 percent below the minimum score required
 121 to pass the examination shall be entitled to challenge the
 122 validity of the examination at hearing.

123 (7) The department may post examination scores
 124 electronically on the Internet in lieu of mailing the scores to
 125 each applicant. Such electronic posting of the examination
 126 scores meets the requirements of chapter 120 if the department
 127 also posts with the examination scores a notification of rights
 128 as set forth in chapter 120. The date of receipt for purposes of
 129 chapter 120 shall be the date the examination scores are posted
 130 electronically. The department shall also notify the examinee
 131 when scores are posted electronically of the availability of a
 132 postexamination review, if applicable.

133 Section 3. Subsections (5) through (11) of section
 134 456.025, Florida Statutes, are renumbered as subsections (4)
 135 through (10), respectively, and present subsection (4) of said
 136 section is amended to read:

137 456.025 Fees; receipts; disposition.--

138 ~~(4) Each board, or the department if there is no board,~~
 139 ~~may charge a fee not to exceed \$25, as determined by rule, for~~
 140 ~~the issuance of a wall certificate pursuant to s. 456.013(2)~~

141 ~~requested by a licensee who was licensed prior to July 1, 1998,~~
 142 ~~or for the issuance of a duplicate wall certificate requested by~~
 143 ~~any licensee.~~

144 Section 4. Subsections (1), (2), and (4) of section
 145 456.036, Florida Statutes, are amended, subsections (10), (12),
 146 and (13) are renumbered as subsections (11), (14), and (15),
 147 respectively, present subsection (11) is renumbered as
 148 subsection (13) and amended, and new subsections (10) and (12)
 149 are added to said section, to read:

150 456.036 Licenses; active, and inactive, and retired
 151 status; delinquency.--

152 (1) A licensee may practice a profession only if the
 153 licensee has an active status license. A licensee who practices
 154 a profession with an inactive status, retired status, or
 155 delinquent ~~without an active status~~ license is in violation of
 156 this section and s. 456.072, and the board, or the department if
 157 there is no board, may impose discipline on the licensee.

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

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

163 (a) Active status licensees choosing inactive status at
 164 the time of license renewal must pay the inactive status renewal
 165 fee, and, if applicable, the delinquency fee and the fee to
 166 change licensure status. Active status licensees choosing
 167 inactive status at any other time than at the time of license
 168 renewal must pay the fee to change licensure status.

169 (b) Active status or inactive status licensees choosing
 170 retired status at the time of license renewal must pay the
 171 retired status fee, not to exceed \$50, as established by rule of
 172 the board, or the department if there is no board. Active status
 173 or inactive status licensees choosing retired status at any
 174 other time than at the time of license renewal must pay the
 175 retired status fee plus the fee to change licensure status.

176 (c)~~(b)~~ An inactive status licensee may change to active
 177 status at any time, if the licensee meets all requirements for
 178 active status. Inactive status licensees choosing active status
 179 at the time of license renewal must pay the active status
 180 renewal fee, any applicable reactivation fees as set by the
 181 board, or the department if there is no board, and, if
 182 applicable, the delinquency fee and the fee to change licensure
 183 status. Inactive status licensees choosing active status at any
 184 other time than at the time of license renewal must pay the
 185 difference between the inactive status renewal fee and the
 186 active status renewal fee, if any exists, any applicable
 187 reactivation fees as set by the board, or the department if
 188 there is no board, and the fee to change licensure status.

189 (10) Each board, or the department if there is no board,
 190 may by rule impose reasonable conditions, including full
 191 reexamination to assess current competency, necessary to ensure
 192 that a licensee who has been on retired status for more than 5
 193 years or a licensee from another state who has not been in
 194 active practice within the past 5 years and who applies for
 195 active status is able to practice with the care and skill
 196 sufficient to protect the health, safety, and welfare of the

197 public. Reactivation requirements may differ depending on the
 198 length of time licensees are retired.

199 (12) Before reactivation, a retired status licensee must
 200 meet the same continuing education requirements, if any, and pay
 201 any renewal fees imposed on active status licensees for all
 202 biennial licensure periods in which the licensee was in retired
 203 status.

204 (13)~~(11)~~ The status or a change in status of a licensee
 205 does not alter in any way the right of the board, or of the
 206 department if there is no board, to impose discipline or to
 207 enforce discipline previously imposed on a licensee for acts or
 208 omissions committed by the licensee while holding a license,
 209 whether active, inactive, retired, or delinquent.

210 Section 5. Subsection (5) of section 464.201, Florida
 211 Statutes, is renumbered as subsection (6), and a new subsection
 212 (5) is added to said section to read:

213 464.201 Definitions.--As used in this part, the term:

214 (5) "Practice of a certified nursing assistant" means the
 215 provision of care and assistance with tasks relating to the
 216 activities of daily living. Such tasks are those associated with
 217 personal care, maintaining mobility, nutrition and hydration,
 218 toileting and elimination, assistive devices, safety and
 219 cleanliness, data gathering, reporting abnormal signs and
 220 symptoms, postmortem care, patient socialization and reality
 221 orientation, end-of-life care, cardiopulmonary resuscitation and
 222 emergency care, residents' or patients' rights, documentation of
 223 nursing assistant services, and other tasks that a certified
 224 nursing assistant may perform after training beyond that

225 required for initial certification and upon validation of
226 competence in that skill by the registered nurse. This
227 subsection does not restrict the ability of any person who is
228 otherwise trained and educated from performing such tasks.

229 Section 6. Section 464.202, Florida Statutes, is amended
230 to read:

231 464.202 Duties and powers of the board.--The board shall
232 maintain, or contract with or approve another entity to
233 maintain, a state registry of certified nursing assistants. The
234 registry must consist of the name of each certified nursing
235 assistant in this state; other identifying information defined
236 by board rule; certification status; the effective date of
237 certification; other information required by state or federal
238 law; information regarding any crime or any abuse, neglect, or
239 exploitation as provided under chapter 435; and any disciplinary
240 action taken against the certified nursing assistant. The
241 registry shall be accessible to the public, the
242 certificateholder, employers, and other state agencies. The
243 board shall adopt by rule testing procedures for use in
244 certifying nursing assistants and shall adopt rules regulating
245 the practice of certified nursing assistants that specify the
246 scope of practice authorized and the level of supervision
247 required for the practice of certified nursing assistants ~~to~~
248 ~~enforce this part~~. The board may contract with or approve
249 another entity or organization to provide the examination
250 services, including the development and administration of
251 examinations. The board shall require that the contract provider
252 offer certified nursing assistant applications via the Internet,

253 and may require the contract provider to accept certified
 254 nursing assistant applications for processing via the Internet.
 255 The board shall require the contract provider to provide the
 256 preliminary results of the certified nursing examination on the
 257 date the test is administered. The provider shall pay all
 258 reasonable costs and expenses incurred by the board in
 259 evaluating the provider's application and performance during the
 260 delivery of services, including examination services and
 261 procedures for maintaining the certified nursing assistant
 262 registry.

263 Section 7. Subsections (5) and (7) of section 464.203,
 264 Florida Statutes, are amended, and subsection (8) is added to
 265 said section, to read:

266 464.203 Certified nursing assistants; certification
 267 requirement.--

268 (5) Certification as a nursing assistant, in accordance
 269 with this part, may be renewed ~~continues in effect~~ until such
 270 time as the nursing assistant allows a period of 24 consecutive
 271 months to pass during which period the nursing assistant fails
 272 to perform any nursing-related services for monetary
 273 compensation. When a nursing assistant fails to perform any
 274 nursing-related services for monetary compensation for a period
 275 of 24 consecutive months, the nursing assistant must complete a
 276 new training and competency evaluation program or a new
 277 competency evaluation program.

278 (7) A certified nursing assistant shall complete 12 ~~18~~
 279 hours of inservice training during each calendar year. The
 280 certified nursing assistant shall be responsible for maintaining

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281 documentation demonstrating compliance with these provisions.
282 The Council on Certified Nursing Assistants, in accordance with
283 s. 464.2085(2)(b), shall propose rules to implement this
284 subsection.

285 (8) The department shall renew a certificate upon receipt
286 of the renewal application and receipt of a fee. The department
287 shall adopt rules establishing a procedure for the biennial
288 renewal of certificates and the imposition of a fee of not less
289 than \$20 and not more than \$50 biennially. Any certificate not
290 renewed by July 1, 2006, is void.

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