

By the Committee on Health and Human Services Appropriations; and Senator Saunders

603-1664A-05

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A bill to be entitled  
An act relating to the Department of Health;  
amending s. 456.013, F.S.; eliminating a  
requirement that the department issue wall  
certificates; amending s. 456.017, F.S.;  
prohibiting the use of a state-developed  
examination if a national examination has been  
certified by the department; revising the  
criteria under which an applicant may challenge  
the validity of an examination; authorizing the  
department to post examination scores on the  
Internet in lieu of mailing the scores to each  
applicant; amending s. 456.036, F.S.; providing  
for a retired-status license; providing a fee  
for changing to retired status at the time of  
license renewal; requiring an additional fee if  
retired status is chosen at any time other than  
at the time of license renewal; authorizing  
each board or the department to reexamine a  
licensee who has been retired or inactive for a  
specified period in order to assess the  
licensee's competency; amending s. 464.201,  
F.S.; defining the phrase "practice of a  
certified nursing assistant"; amending s.  
464.202, F.S.; requiring the Board of Nursing  
to adopt rules specifying the scope of practice  
and level of supervision required for certified  
nursing assistants; amending s. 464.203, F.S.;  
requiring the biennial renewal of certification  
as a nursing assistant; reducing the number of  
required hours of inservice training for

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

1 certified nursing assistants; providing a fee  
2 for certification renewal; providing an  
3 effective date.  
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5 Be It Enacted by the Legislature of the State of Florida:  
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7 Section 1. Subsection (2) of section 456.013, Florida  
8 Statutes, is amended to read:

9 456.013 Department; general licensing provisions.--

10 (2) Before the issuance of any license, the department  
11 shall charge an initial license fee as determined by the  
12 applicable board or, if there is no ~~such~~ board ~~exists~~, by rule  
13 of the department. Upon receipt of the appropriate license  
14 fee, the department shall issue a license to any person  
15 certified by the appropriate board, or its designee, as having  
16 met the licensure requirements imposed by law or rule. The  
17 license shall consist of a wallet-size identification card and  
18 a wall card measuring 6 1/2 inches by 5 inches. ~~In addition~~  
19 ~~to the two part license, the department, at the time of~~  
20 ~~initial licensure, shall issue a wall certificate suitable for~~  
21 ~~conspicuous display, which shall be no smaller than 8 1/2~~  
22 ~~inches by 14 inches.~~ The licensee shall surrender to the  
23 department the wallet-size identification card and, the wall  
24 card, ~~and the wall certificate, if one has been issued by the~~  
25 ~~department,~~ if the licensee's license is issued in error or is  
26 revoked.

27 Section 2. Paragraph (c) of subsection (1) and  
28 subsection (2) of section 456.017, Florida Statutes, are  
29 amended, and subsection (7) is added to that section, to read:

30 456.017 Examinations.--

31 (1)

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

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

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

29           3. The board, or the department when there is no  
30 board, may administer a state-developed practical or clinical  
31 examination, as required by the applicable practice act, if

1 all costs of development, purchase, validation,  
2 administration, review, and defense are paid by the  
3 examination candidate prior to the administration of the  
4 examination. If a national practical or clinical examination  
5 is available and certified by the department pursuant to this  
6 section, the board, or the department when there is no board,  
7 may administer the national examination.

8 4. It is the intent of the Legislature to reduce the  
9 costs associated with state examinations and to encourage the  
10 use of national examinations whenever possible.

11 (2) For each examination developed by the department  
12 or a contracted vendor, the board, or the department when  
13 there is no board, shall adopt rules providing for  
14 reexamination of any applicants who failed an examination  
15 developed by the department or a contracted vendor. If both a  
16 written and a practical examination are given, an applicant  
17 shall be required to retake only the portion of the  
18 examination on which the applicant failed to achieve a passing  
19 grade, if the applicant successfully passes that portion  
20 within a reasonable time, as determined by rule of the board,  
21 or the department when there is no board, of passing the other  
22 portion. Except for national examinations approved and  
23 administered pursuant to this section, the department shall  
24 provide procedures for applicants who fail an examination  
25 developed by the department or a contracted vendor to review  
26 their examination questions, answers, papers, grades, and  
27 grading key for the questions the candidate answered  
28 incorrectly or, if not feasible, the parts of the examination  
29 failed. Applicants shall bear the actual cost for the  
30 department to provide examination review pursuant to this  
31 subsection. An applicant may waive in writing the

1 confidentiality of the applicant's examination grades.  
2 Notwithstanding any other provisions, only candidates who fail  
3 an examination with a score that is ~~by~~ less than 10 percent  
4 below the minimum score required to pass the examination shall  
5 be entitled to challenge the validity of the examination at  
6 hearing.

7 (7) The department may post examination scores  
8 electronically on the Internet in lieu of mailing the scores  
9 to each applicant. The electronic posting of the examination  
10 scores meets the requirements of chapter 120 if the department  
11 also posts along with the examination scores a notification of  
12 the rights set forth in chapter 120. The date of receipt for  
13 purposes of chapter 120 is the date the examination scores are  
14 posted electronically. The department shall also notify the  
15 applicant when scores are posted electronically of the  
16 availability of post-examination review, if applicable.

17 Section 3. Subsections (1), (2), (4), (10), (11),  
18 (12), and (13) of section 456.036, Florida Statutes, are  
19 amended to read:

20 456.036 Licenses; active and inactive status;  
21 delinquency.--

22 (1) A licensee may practice a profession only if the  
23 licensee has an active status license. A licensee who  
24 practices a profession with an inactive status license, a  
25 retired status license, or a delinquent ~~without an active~~  
26 ~~status~~ license is in violation of this section and s. 456.072,  
27 and the board, or the department if there is no board, may  
28 impose discipline on the licensee.

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

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

3 (a) Active status licensees choosing inactive status  
4 at the time of license renewal must pay the inactive status  
5 renewal fee, and, if applicable, the delinquency fee and the  
6 fee to change licensure status. Active status licensees  
7 choosing inactive status at any other time than at the time of  
8 license renewal must pay the fee to change licensure status.

9 (b) An active status licensee or an inactive status  
10 licensee who chooses retired status at the time of license  
11 renewal must pay the retired-status fee, which may not exceed  
12 \$50 as established by rule of the board or the department if  
13 there is no board. An active status licensee or inactive  
14 status licensee who chooses retired status at any time other  
15 than at the time of license renewal must pay the  
16 retired-status fee plus a change-of-status fee.

17 ~~(c)(b)~~ An inactive status licensee may change to  
18 active status at any time, if the licensee meets all  
19 requirements for active status. Inactive status licensees  
20 choosing active status at the time of license renewal must pay  
21 the active status renewal fee, any applicable reactivation  
22 fees as set by the board, or the department if there is no  
23 board, and, if applicable, the delinquency fee and the fee to  
24 change licensure status. Inactive status licensees choosing  
25 active status at any other time than at the time of license  
26 renewal must pay the difference between the inactive status  
27 renewal fee and the active status renewal fee, if any exists,  
28 any applicable reactivation fees as set by the board, or the  
29 department if there is no board, and the fee to change  
30 licensure status.

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1           (10) Each board, or the department if there is no  
2 board, may by rule impose reasonable conditions, including  
3 full reexamination to assess current competency, in order to  
4 ensure that a licensee who has been on retired status for more  
5 than 5 years, or a licensee from another state who has not  
6 been in active practice within the past 5 years, and who  
7 applies for active status is able to practice with the care  
8 and skill sufficient to protect the health, safety, and  
9 welfare of the public. Requirements for reactivation of a  
10 license may differ depending on the length of time a licensee  
11 has been retired.

12           ~~(11)(10)~~ Before reactivation, an inactive status  
13 licensee or a delinquent licensee who was inactive prior to  
14 becoming delinquent must meet the same continuing education  
15 requirements, if any, imposed on an active status licensee for  
16 all biennial licensure periods in which the licensee was  
17 inactive or delinquent.

18           (12) Before the license of a retired status licensee  
19 is reactivated, the licensee must meet the same requirements  
20 for continuing education, if any, and pay any renewal fees  
21 imposed on an active status licensee for all biennial  
22 licensure periods during which the licensee was on retired  
23 status.

24           ~~(13)(11)~~ The status or a change in status of a  
25 licensee does not alter in any way the right of the board, or  
26 of the department if there is no board, to impose discipline  
27 or to enforce discipline previously imposed on a licensee for  
28 acts or omissions committed by the licensee while holding a  
29 license, whether active, inactive, retired, or delinquent.

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1           ~~(14)~~~~(12)~~ This section does not apply to a business  
2 establishment registered, permitted, or licensed by the  
3 department to do business.

4           ~~(15)~~~~(13)~~ The board, or the department when there is no  
5 board, may adopt rules pursuant to ss. 120.536(1) and 120.54  
6 as necessary to implement this section.

7           Section 4. Present subsection (5) of section 464.201,  
8 Florida Statutes, is redesignated as subsection (6), and a new  
9 subsection (5) is added to that section, to read:

10           464.201 Definitions.--As used in this part, the term:

11           ~~(5)~~ "Practice of a certified nursing assistant" means  
12 providing care and assisting persons with tasks relating to  
13 the activities of daily living. Such tasks are those  
14 associated with personal care, maintaining mobility, nutrition  
15 and hydration, toileting and elimination, assistive devices,  
16 safety and cleanliness, data gathering, reporting abnormal  
17 signs and symptoms, postmortem care, patient socialization and  
18 reality orientation, end-of-life care, cardiopulmonary  
19 resuscitation and emergency care, residents' or patients'  
20 rights, documentation of nursing-assistant services, and other  
21 tasks that a certified nurse assistant may perform after  
22 training beyond that required for initial certification and  
23 upon validation of competence in that skill by a registered  
24 nurse. This subsection does not restrict the ability of any  
25 person who is otherwise trained and educated from performing  
26 such tasks.

27           Section 5. Section 464.202, Florida Statutes, is  
28 amended to read:

29           464.202 Duties and powers of the board.--The board  
30 shall maintain, or contract with or approve another entity to  
31 maintain, a state registry of certified nursing assistants.



1 The registry must consist of the name of each certified  
2 nursing assistant in this state; other identifying information  
3 defined by board rule; certification status; the effective  
4 date of certification; other information required by state or  
5 federal law; information regarding any crime or any abuse,  
6 neglect, or exploitation as provided under chapter 435; and  
7 any disciplinary action taken against the certified nursing  
8 assistant. The registry shall be accessible to the public, the  
9 certificateholder, employers, and other state agencies. The  
10 board shall adopt by rule testing procedures for use in  
11 certifying nursing assistants and shall adopt rules regulating  
12 the practice of certified nursing assistants and specifying  
13 the scope of practice authorized and the level of supervision  
14 required for the practice of certified nursing assistants ~~to~~  
15 ~~enforce this part~~. The board may contract with or approve  
16 another entity or organization to provide the examination  
17 services, including the development and administration of  
18 examinations. The board shall require that the contract  
19 provider offer certified nursing assistant applications via  
20 the Internet, and may require the contract provider to accept  
21 certified nursing assistant applications for processing via  
22 the Internet. The board shall require the contract provider  
23 to provide the preliminary results of the certified nursing  
24 examination on the date the test is administered. The provider  
25 shall pay all reasonable costs and expenses incurred by the  
26 board in evaluating the provider's application and performance  
27 during the delivery of services, including examination  
28 services and procedures for maintaining the certified nursing  
29 assistant registry.

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1           Section 6. Subsections (5) and (7) of section 464.203,  
2 Florida Statutes, are amended, and subsection (8) is added to  
3 that section, to read:

4           464.203 Certified nursing assistants; certification  
5 requirement.--

6           (5) Certification as a nursing assistant, in  
7 accordance with this part, may be renewed ~~continues in effect~~  
8 until such time as the nursing assistant allows a period of 24  
9 consecutive months to pass during which period the nursing  
10 assistant fails to perform any nursing-related services for  
11 monetary compensation. When a nursing assistant fails to  
12 perform any nursing-related services for monetary compensation  
13 for a period of 24 consecutive months, the nursing assistant  
14 must complete a new training and competency evaluation program  
15 or a new competency evaluation program.

16           (7) A certified nursing assistant shall complete 12 ~~18~~  
17 hours of inservice training during each calendar year. The  
18 certified nursing assistant shall be responsible for  
19 maintaining documentation demonstrating compliance with these  
20 provisions. The Council on Certified Nursing Assistants, in  
21 accordance with s. 464.2085(2)(b), shall propose rules to  
22 implement this subsection.

23           (8) The department shall renew a certificate upon  
24 receipt of the renewal application and imposition of a fee of  
25 not less than \$20 and not more than \$50 biennially. The  
26 department shall adopt rules establishing a procedure for the  
27 biennial renewal of certificates. Any certificate that is not  
28 renewed by July 1, 2006, is void.

29           Section 7. This act shall take effect July 1, 2005.  
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STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN  
COMMITTEE SUBSTITUTE FOR  
Senate Bill 410

- Deletes the requirement from the Department of Health to issue wall certificates to licensed practitioners at the time of initial licensure.
- Clarifies the requirements pertaining to certifying national examinations and requests to challenge the examination. Candidates with a score no less than 10 percent below the minimum score required to pass the examination shall be entitled to challenge the examination in hearing. The department may post examination grades on the Internet in a manner consistent with the requirements of Chapter 120, F.S., instead of mailing the results.
- Creates a retired license status, authorizes a retired license fee not to exceed \$50 and allows the appropriate board or the department, if there is no board, to impose conditions on a licensed practitioner who has held a retired license for more than five years or from another state who has not practiced for five years or more.
- Defines the scope of practice for certified nursing assistants (CNAs). The Board of Nursing shall determine if a certified nursing assistant is in compliance with the scope of their practice and federal regulations.
- Provides rule making authority to the Board of Nursing to specify the scope of practice and level of supervision required for CNAs.
- Provides for a renewal of a CNA certificate for a fee of \$20-\$50 biennially, to be established by rule. Any certificate not renewed by July 1, 2006 is void.