

1 A bill to be entitled
2 An act relating to the Department of Health;
3 amending s. 456.013, F.S.; eliminating a
4 requirement that the department issue wall
5 certificates; amending s. 456.017, F.S.;
6 prohibiting the use of a state-developed
7 examination if a national examination has been
8 certified by the department; revising the
9 criteria under which an applicant may challenge
10 the validity of an examination; authorizing the
11 department to post examination scores on the
12 Internet in lieu of mailing the scores to each
13 applicant; amending s. 456.036, F.S.; providing
14 for a retired-status license; providing a fee
15 for changing to retired status at the time of
16 license renewal; requiring an additional fee if
17 retired status is chosen at any time other than
18 at the time of license renewal; authorizing
19 each board or the department to reexamine a
20 licensee who has been retired or inactive for a
21 specified period in order to assess the
22 licensee's competency; amending s. 464.201,
23 F.S.; defining the phrase "practice of a
24 certified nursing assistant"; amending s.
25 464.202, F.S.; requiring the Board of Nursing
26 to adopt rules specifying the scope of practice
27 and level of supervision required for certified
28 nursing assistants; amending s. 464.203, F.S.;
29 requiring the biennial renewal of certification
30 as a nursing assistant; reducing the number of
31 required hours of inservice training for

1 certified nursing assistants; providing a fee
2 for certification renewal; amending s. 456.041,
3 F.S.; requiring that information relating to
4 liability and disciplinary actions be included
5 in the practitioner profile; providing an
6 effective date.

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

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

12 456.013 Department; general licensing provisions.--

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

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

4 456.017 Examinations.--

5 (1)

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

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

25 ~~2. The board, or the department when there is no~~
26 ~~board, shall approve and begin administering a national~~
27 ~~examination no later than December 31, 2001.~~ Neither the board
28 nor the department may administer a state-developed written
29 examination if a national examination has been certified by
30 the department ~~after December 31, 2001, notwithstanding any~~
31 ~~other provision of law.~~ The examination may be administered

1 | electronically if adequate security measures are used, as
2 | determined by rule of the department.

3 | 3. The board, or the department when there is no
4 | board, may administer a state-developed practical or clinical
5 | examination, as required by the applicable practice act, if
6 | all costs of development, purchase, validation,
7 | administration, review, and defense are paid by the
8 | examination candidate prior to the administration of the
9 | examination. If a national practical or clinical examination
10 | is available and certified by the department pursuant to this
11 | section, the board, or the department when there is no board,
12 | may administer the national examination.

13 | 4. It is the intent of the Legislature to reduce the
14 | costs associated with state examinations and to encourage the
15 | use of national examinations whenever possible.

16 | (2) For each examination developed by the department
17 | or a contracted vendor, the board, or the department when
18 | there is no board, shall adopt rules providing for
19 | reexamination of any applicants who failed an examination
20 | developed by the department or a contracted vendor. If both a
21 | written and a practical examination are given, an applicant
22 | shall be required to retake only the portion of the
23 | examination on which the applicant failed to achieve a passing
24 | grade, if the applicant successfully passes that portion
25 | within a reasonable time, as determined by rule of the board,
26 | or the department when there is no board, of passing the other
27 | portion. Except for national examinations approved and
28 | administered pursuant to this section, the department shall
29 | provide procedures for applicants who fail an examination
30 | developed by the department or a contracted vendor to review
31 | their examination questions, answers, papers, grades, and

1 grading key for the questions the candidate answered
 2 incorrectly or, if not feasible, the parts of the examination
 3 failed. Applicants shall bear the actual cost for the
 4 department to provide examination review pursuant to this
 5 subsection. An applicant may waive in writing the
 6 confidentiality of the applicant's examination grades.
 7 Notwithstanding any other provisions, only candidates who fail
 8 an examination with a score that is ~~by~~ less than 10 percent
 9 below the minimum score required to pass the examination shall
 10 be entitled to challenge the validity of the examination at
 11 hearing.

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

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

25 456.036 Licenses; active and inactive status;
 26 delinquency.--

27 (1) A licensee may practice a profession only if the
 28 licensee has an active status license. A licensee who
 29 practices a profession with an inactive status license, a
 30 retired status license, or a delinquent ~~without an active~~
 31 ~~status~~ license is in violation of this section and s. 456.072,

1 and the board, or the department if there is no board, may
2 impose discipline on the licensee.

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

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

8 (a) Active status licensees choosing inactive status
9 at the time of license renewal must pay the inactive status
10 renewal fee, and, if applicable, the delinquency fee and the
11 fee to change licensure status. Active status licensees
12 choosing inactive status at any other time than at the time of
13 license renewal must pay the fee to change licensure status.

14 (b) An active status licensee or an inactive status
15 licensee who chooses retired status at the time of license
16 renewal must pay the retired-status fee, which may not exceed
17 \$50 as established by rule of the board or the department if
18 there is no board. An active status licensee or inactive
19 status licensee who chooses retired status at any time other
20 than at the time of license renewal must pay the
21 retired-status fee plus a change-of-status fee.

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

1 renewal fee and the active status renewal fee, if any exists,
2 any applicable reactivation fees as set by the board, or the
3 department if there is no board, and the fee to change
4 licensure status.

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

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

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

28 ~~(13)~~(11) The status or a change in status of a
29 licensee does not alter in any way the right of the board, or
30 of the department if there is no board, to impose discipline
31 or to enforce discipline previously imposed on a licensee for

1 acts or omissions committed by the licensee while holding a
2 license, whether active, inactive, retired, or delinquent.

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

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

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

12 464.201 Definitions.--As used in this part, the term:

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

29 Section 5. Section 464.202, Florida Statutes, is
30 amended to read:

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1 464.202 Duties and powers of the board.--The board
2 shall maintain, or contract with or approve another entity to
3 maintain, a state registry of certified nursing assistants.
4 The registry must consist of the name of each certified
5 nursing assistant in this state; other identifying information
6 defined by board rule; certification status; the effective
7 date of certification; other information required by state or
8 federal law; information regarding any crime or any abuse,
9 neglect, or exploitation as provided under chapter 435; and
10 any disciplinary action taken against the certified nursing
11 assistant. The registry shall be accessible to the public, the
12 certificateholder, employers, and other state agencies. The
13 board shall adopt by rule testing procedures for use in
14 certifying nursing assistants and shall adopt rules regulating
15 the practice of certified nursing assistants and specifying
16 the scope of practice authorized and the level of supervision
17 required for the practice of certified nursing assistants ~~to~~
18 ~~enforce this part~~. The board may contract with or approve
19 another entity or organization to provide the examination
20 services, including the development and administration of
21 examinations. The board shall require that the contract
22 provider offer certified nursing assistant applications via
23 the Internet, and may require the contract provider to accept
24 certified nursing assistant applications for processing via
25 the Internet. The board shall require the contract provider
26 to provide the preliminary results of the certified nursing
27 examination on the date the test is administered. The provider
28 shall pay all reasonable costs and expenses incurred by the
29 board in evaluating the provider's application and performance
30 during the delivery of services, including examination
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1 services and procedures for maintaining the certified nursing
2 assistant registry.

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

6 464.203 Certified nursing assistants; certification
7 requirement.--

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

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

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

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1 Section 7. Subsection (1) of section 456.041, Florida
2 Statutes, as amended by Committee Substitute for Senate Bill
3 940 enacted in the 2005 Regular Session of the Legislature, is
4 amended to read:

5 456.041 Practitioner profile; creation.--

6 (1)(a) The Department of Health shall compile the
7 information submitted pursuant to s. 456.039 into a
8 practitioner profile of the applicant submitting the
9 information, except that the Department of Health shall
10 develop a format to compile uniformly any information
11 submitted under s. 456.039(4)(b). Beginning July 1, 2001, the
12 Department of Health may compile the information submitted
13 pursuant to s. 456.0391 into a practitioner profile of the
14 applicant submitting the information.

15 (b) Beginning July 1, 2005, the department shall
16 verify the information submitted by the applicant under s.
17 456.039 concerning disciplinary history and medical
18 malpractice claims at the time of initial licensure and
19 license renewal using the National Practitioner Data Bank. The
20 physician profiles shall reflect the disciplinary action and
21 medical malpractice claims as reported by the National
22 Practitioner Data Bank, and shall include information relating
23 to liability and disciplinary actions obtained as a result of
24 a search of the National Practitioner Data Bank.

25 (c) Within 30 calendar days after receiving an update
26 of information required for the practitioner's profile, the
27 department shall update the practitioner's profile in
28 accordance with the requirements of subsection (7).

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