

1  
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.

7  
8 Be It Enacted by the Legislature of the State of Florida:

9  
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.

30

31

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:

31



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  
31

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.

31

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.  
30  
31