

By Senator Grimsley

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1 A bill to be entitled
2 An act relating to the Department of Health; amending
3 s. 322.142, F.S.; authorizing the Department of
4 Highway Safety and Motor Vehicles to provide
5 reproductions of specified records to the Department
6 of Health under certain circumstances; amending s.
7 395.3025, F.S.; clarifying duties of the Department of
8 Health to maintain the confidentiality of patient
9 records that it obtains under subpoena pursuant to an
10 investigation; authorizing licensees under
11 investigation to inspect or receive copies of patient
12 records connected with the investigation, subject to
13 certain conditions; amending s. 456.013, F.S.;
14 deleting requirements for the physical size of
15 licenses issued for various health professions;
16 exempting Board of Medicine licensees from certain
17 continuing education requirements applicable to other
18 health professions; amending s. 456.025, F.S.;
19 deleting a fee provision for the issuance of wall
20 certificates for various health profession licenses;
21 authorizing the boards or the department to adopt
22 rules waiving certain fees for a specified period in
23 certain circumstances; amending s. 456.033, F.S.;
24 exempting Board of Medicine licensees from certain
25 continuing education requirements relating to
26 instruction on HIV and AIDS; amending s. 456.068,
27 F.S.; requiring the department to establish a toll-
28 free telephone number for public reporting of certain
29 complaints; amending s. 458.319, F.S.; providing

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30 continuing medical education requirements for Board of
31 Medicine licensees; authorizing the board to adopt
32 rules; amending s. 464.203, F.S.; revising certified
33 nursing assistant inservice training requirements;
34 repealing s. 464.2085, F.S., relating to the creation,
35 membership, and duties of the Council on Certified
36 Nursing Assistants; amending s. 466.032, F.S.;
37 deleting a requirement that the department provide
38 certain notice to a dental laboratory operator who
39 fails to renew her or his registration; amending s.
40 467.009, F.S.; revising the organization that must
41 accredit certain midwifery programs; amending s.
42 468.1665, F.S.; increasing the number of members of
43 the Board of Nursing Home Administrators who must be
44 licensed nursing home administrators and decreasing
45 the number of members who must be laypersons; amending
46 s. 468.1695, F.S.; revising the qualifications of
47 applicants who may sit for the licensed nursing home
48 administrator examination to include an applicant with
49 a master's degree in certain subjects; repealing s.
50 468.1735, F.S., relating to provisional licenses for
51 nursing home administrators; amending ss. 468.503 and
52 468.505, F.S.; revising the organization with whom an
53 individual must be registered to be a registered
54 dietitian; revising a definition; amending ss. 480.033
55 and 480.041, F.S.; deleting provisions relating to
56 massage therapy apprentices and apprenticeship
57 programs; deleting a definition and revising licensure
58 requirements for massage therapists, to conform;

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59 amending s. 480.042, F.S.; revising requirements for
60 conducting massage therapist licensing examinations
61 and maintaining examination records; amending s.
62 480.044, F.S.; deleting a fee for massage therapy
63 apprentices; amending s. 823.05, F.S.; conforming a
64 cross-reference; providing an effective date.
65

66 Be It Enacted by the Legislature of the State of Florida:
67

68 Section 1. Subsection (4) of section 322.142, Florida
69 Statutes, is amended to read:

70 322.142 Color photographic or digital imaged licenses.—

71 (4) The department may maintain a film negative or print
72 file. The department shall maintain a record of the digital
73 image and signature of the licensees, together with other data
74 required by the department for identification and retrieval.
75 Reproductions from the file or digital record are exempt from
76 the provisions of s. 119.07(1) and shall be made and issued
77 only:

78 (a) For departmental administrative purposes;

79 (b) For the issuance of duplicate licenses;

80 (c) In response to law enforcement agency requests;

81 (d) To the Department of Business and Professional
82 Regulation pursuant to an interagency agreement for the purpose
83 of accessing digital images for reproduction of licenses issued
84 by the Department of Business and Professional Regulation;

85 (e) To the Department of State pursuant to an interagency
86 agreement to facilitate determinations of eligibility of voter
87 registration applicants and registered voters in accordance with

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88 ss. 98.045 and 98.075;

89 (f) To the Department of Revenue pursuant to an interagency
90 agreement for use in establishing paternity and establishing,
91 modifying, or enforcing support obligations in Title IV-D cases;

92 (g) To the Department of Children and Families pursuant to
93 an interagency agreement to conduct protective investigations
94 under part III of chapter 39 and chapter 415;

95 (h) To the Department of Children and Families pursuant to
96 an interagency agreement specifying the number of employees in
97 each of that department's regions to be granted access to the
98 records for use as verification of identity to expedite the
99 determination of eligibility for public assistance and for use
100 in public assistance fraud investigations;

101 (i) To the Department of Financial Services pursuant to an
102 interagency agreement to facilitate the location of owners of
103 unclaimed property, the validation of unclaimed property claims,
104 and the identification of fraudulent or false claims;

105 (j) To district medical examiners pursuant to an
106 interagency agreement for the purpose of identifying a deceased
107 individual, determining cause of death, and notifying next of
108 kin of any investigations, including autopsies and other
109 laboratory examinations, authorized in s. 406.11; ~~or~~

110 (k) To the following persons for the purpose of identifying
111 a person as part of the official work of a court:

- 112 1. A justice or judge of this state;
- 113 2. An employee of the state courts system who works in a
114 position that is designated in writing for access by the Chief
115 Justice of the Supreme Court or a chief judge of a district or
116 circuit court, or by his or her designee; or

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117 3. A government employee who performs functions on behalf
118 of the state courts system in a position that is designated in
119 writing for access by the Chief Justice or a chief judge, or by
120 his or her designee; or

121 (1) To the Department of Health, pursuant to an interagency
122 agreement to access digital images to verify the identity of an
123 individual during an investigation under chapter 456, and for
124 the reproduction of licenses issued by the Department of Health.

125 Section 2. Paragraph (e) of subsection (4) of section
126 395.3025, Florida Statutes, is amended to read:

127 395.3025 Patient and personnel records; copies;
128 examination.—

129 (4) Patient records are confidential and may ~~must~~ not be
130 disclosed without the consent of the patient or his or her legal
131 representative, but appropriate disclosure may be made without
132 such consent to:

133 (e) The department agency upon subpoena issued pursuant to
134 s. 456.071, ~~but~~ The records obtained ~~thereby~~ must be used
135 solely for the purpose of the department agency and the
136 appropriate professional board in its investigation,
137 prosecution, and appeal of disciplinary proceedings. If the
138 department agency requests copies of the records, the facility
139 shall charge a fee pursuant to this section ~~no more than its~~
140 ~~actual copying costs, including reasonable staff time.~~ The
141 department and the appropriate professional board must maintain
142 the confidentiality of patient records obtained under this
143 paragraph pursuant to s. 456.057. A licensee who is the subject
144 of a department investigation may inspect or receive a copy of a
145 patient record connected with the investigation if the licensee

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146 agrees in writing to maintain the confidentiality of the patient
147 record pursuant to s. 456.057 ~~must be sealed and must not be~~
148 ~~available to the public pursuant to s. 119.07(1) or any other~~
149 ~~statute providing access to records, nor may they be available~~
150 ~~to the public as part of the record of investigation for and~~
151 ~~prosecution in disciplinary proceedings made available to the~~
152 ~~public by the agency or the appropriate regulatory board.~~
153 ~~However, the agency must make available, upon written request by~~
154 ~~a practitioner against whom probable cause has been found, any~~
155 ~~such records that form the basis of the determination of~~
156 ~~probable cause.~~

157 Section 3. Subsections (2), (6), and (7) of section
158 456.013, Florida Statutes, are amended to read:

159 456.013 Department; general licensing provisions.—

160 (2) Before the issuance of a any license, the department
161 shall charge an initial license fee as determined by the
162 applicable board or, if there is no board, by rule of the
163 department. Upon receipt of the appropriate license fee, the
164 department shall issue a license to a any person certified by
165 the appropriate board, or its designee, as having met the
166 licensure requirements imposed by law or rule. ~~The license shall~~
167 ~~consist of a wallet-size identification card and a wall card~~
168 ~~measuring 6 1/2 inches by 5 inches.~~ The licensee shall surrender
169 the license to the department ~~the wallet-size identification~~
170 ~~card and the wall card~~ if the licensee's license was ~~is~~ issued
171 in error or is revoked.

172 (6) As a condition of renewal of a license, ~~the Board of~~
173 ~~Medicine,~~ the Board of Osteopathic Medicine, the Board of
174 Chiropractic Medicine, and the Board of Podiatric Medicine shall

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175 each require their respective licensees ~~which they respectively~~
176 ~~regulate~~ to periodically demonstrate their professional
177 competency by completing at least 40 hours of continuing
178 education every 2 years. The boards may require by rule that up
179 to 1 hour of the required 40 or more hours be in the area of
180 risk management or cost containment. This provision does ~~shall~~
181 ~~not be construed to~~ limit the number of hours that a licensee
182 may obtain in risk management or cost containment to be credited
183 toward satisfying the 40 or more required hours. This provision
184 does ~~shall~~ ~~not be construed to~~ require the boards to impose any
185 requirement on licensees except for the completion of at least
186 40 hours of continuing education every 2 years. Each of the ~~such~~
187 boards shall determine whether any specific continuing education
188 requirements not otherwise mandated by law will ~~shall~~ be
189 mandated and shall approve criteria for, and the content of, ~~any~~
190 continuing education mandated by such board. Notwithstanding any
191 other provision of law, the board, or the department when there
192 is no board, may approve by rule alternative methods of
193 obtaining continuing education credits in risk management. The
194 alternative methods may include attending a board meeting at
195 which another licensee is disciplined, serving as a volunteer
196 expert witness for the department in a disciplinary case, or
197 serving as a member of a probable cause panel following the
198 expiration of a board member's term. Other boards within the
199 Division of Medical Quality Assurance, or the department if
200 there is no board, may adopt rules granting continuing education
201 hours in risk management for attending a board meeting at which
202 another licensee is disciplined, for serving as a volunteer
203 expert witness for the department in a disciplinary case, or for

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204 serving as a member of a probable cause panel following the
205 expiration of a board member's term.

206 (7) The boards, except the Board of Medicine, or the
207 department when there is no board, shall require the completion
208 of a 2-hour course relating to prevention of medical errors as
209 part of the licensure and renewal process. The 2-hour course
210 shall count towards the total number of continuing education
211 hours required for the profession. The course shall be approved
212 by the board or department, as appropriate, and shall include a
213 study of root-cause analysis, error reduction and prevention,
214 and patient safety. In addition, the course approved by ~~the~~
215 ~~Board of Medicine~~ and the Board of Osteopathic Medicine shall
216 include information relating to the five most misdiagnosed
217 conditions during the previous biennium, as determined by the
218 board. If the course is being offered by a facility licensed
219 pursuant to chapter 395 for its employees, the board may approve
220 up to 1 hour of the 2-hour course to be specifically related to
221 error reduction and prevention methods used in that facility.

222 Section 4. Present subsections (5) through (11) of section
223 456.025, Florida Statutes, are redesignated as subsections (4)
224 through (10), respectively, and present subsections (4) and (6)
225 are amended to read:

226 456.025 Fees; receipts; disposition.-

227 ~~(4) Each board, or the department if there is no board, may~~
228 ~~charge a fee not to exceed \$25, as determined by rule, for the~~
229 ~~issuance of a wall certificate pursuant to s. 456.013(2)~~
230 ~~requested by a licensee who was licensed prior to July 1, 1998,~~
231 ~~or for the issuance of a duplicate wall certificate requested by~~
232 ~~any licensee.~~

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233 (5)~~(6)~~ If the cash balance of the trust fund at the end of
234 any fiscal year exceeds the total appropriation provided for the
235 regulation of the health care professions in the prior fiscal
236 year, the boards, in consultation with the department, may lower
237 the license renewal fees. When the department determines, based
238 on long-range estimates of revenue, that a profession's trust
239 fund balance exceeds the amount required to cover necessary
240 functions, each board, or the department when there is no board,
241 may adopt rules to implement the waiver of initial application
242 fees, initial licensure fees, unlicensed activity fees, or
243 renewal fees for that profession. The waiver of renewal fees may
244 not exceed 2 years.

245 Section 5. Section 456.033, Florida Statutes, is amended to
246 read:

247 456.033 Requirement for instruction for certain licensees
248 on HIV and AIDS.—The following requirements apply to each person
249 licensed or certified under chapter 457; ~~chapter 458~~; chapter
250 459; chapter 460; chapter 461; chapter 463; part I of chapter
251 464; chapter 465; chapter 466; part II, part III, part V, or
252 part X of chapter 468; or chapter 486:

253 (1) Each person shall be required by the appropriate board
254 to complete no later than upon first renewal a continuing
255 educational course, approved by the board, on human
256 immunodeficiency virus and acquired immune deficiency syndrome
257 as part of biennial relicensure or recertification. The course
258 shall consist of education on the modes of transmission,
259 infection control procedures, clinical management, and
260 prevention of human immunodeficiency virus and acquired immune
261 deficiency syndrome. Such course shall include information on

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262 current Florida law on acquired immune deficiency syndrome and
263 its impact on testing, confidentiality of test results,
264 treatment of patients, and any protocols and procedures
265 applicable to human immunodeficiency virus counseling and
266 testing, reporting, the offering of HIV testing to pregnant
267 women, and partner notification issues pursuant to ss. 381.004
268 and 384.25.

269 (2) Each person shall submit confirmation of having
270 completed the course required under subsection (1), on a form as
271 provided by the board, when submitting fees for first renewal.

272 (3) The board shall have the authority to approve
273 additional equivalent courses that may be used to satisfy the
274 requirements in subsection (1). Each licensing board that
275 requires a licensee to complete an educational course pursuant
276 to this section may count the hours required for completion of
277 the course included in the total continuing educational
278 requirements as required by law.

279 (4) Any person holding two or more licenses subject to the
280 provisions of this section shall be permitted to show proof of
281 having taken one board-approved course on human immunodeficiency
282 virus and acquired immune deficiency syndrome, for purposes of
283 relicensure or recertification for additional licenses.

284 (5) Failure to comply with the above requirements shall
285 constitute grounds for disciplinary action under each respective
286 licensing chapter and s. 456.072(1)(e). In addition to
287 discipline by the board, the licensee shall be required to
288 complete the course.

289 Section 6. Section 456.068, Florida Statutes, is amended to
290 read:

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291 456.068 Toll-free telephone number for reporting of
292 complaints.—The Department of Health ~~Agency for Health Care~~
293 ~~Administration~~ shall establish a toll-free telephone number for
294 public reporting of complaints relating to medical treatment or
295 services provided by health care professionals.

296 Section 7. Subsections (2) through (4) of section 458.319,
297 Florida Statutes, are redesignated as subsections (3) through
298 (5), respectively, and a new subsection (2) is added to that
299 section, to read:

300 458.319 Renewal of license.—

301 (2) Each licensee shall demonstrate his or her professional
302 competency by completing at least 40 hours of continuing medical
303 education every 2 years. The board, by rule, may:

304 (a) Provide that continuing medical education approved by
305 the American Medical Association satisfies some or all of the
306 continuing medical education requirements.

307 (b) Mandate specific continuing medical education
308 requirements.

309 (c) Approve alternative methods for obtaining continuing
310 medical education credits, including, but not limited to:

311 1. Attendance at a board meeting at which another licensee
312 is disciplined;

313 2. Service as a volunteer expert witness for the department
314 in a disciplinary proceeding; or

315 3. Service as a member of a probable cause panel following
316 expiration of a board member's term.

317 (d) Provide that up to 25 percent of the required
318 continuing medical education hours may be fulfilled through pro
319 bono services to the indigent, underserved populations, or

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320 patients in critical need areas in the state where the licensee
321 practices.

322 1. The board shall require that any pro bono service be
323 approved in advance to receive credit for continuing medical
324 education under this paragraph.

325 2. The standard for determining indigency shall be that
326 recognized by the federal poverty guidelines and shall be less
327 than 150 percent of the federal poverty level.

328 (e) Provide that a portion of the continuing medical
329 education hours may be fulfilled by performing research in
330 critical need areas or by training for advanced professional
331 certification.

332 (f) Adopt rules to define underserved and critical need
333 areas.

334 Section 8. Subsection (7) of section 464.203, Florida
335 Statutes, is amended to read:

336 464.203 Certified nursing assistants; certification
337 requirement.—

338 (7) A certified nursing assistant shall complete 24 ~~12~~
339 hours of inservice training during each biennium ~~calendar year~~.
340 The certified nursing assistant is ~~shall be~~ responsible for
341 maintaining documentation demonstrating compliance with these
342 provisions. ~~The Council on Certified Nursing Assistants, in~~
343 ~~accordance with s. 464.2085(2)(b), shall propose rules to~~
344 ~~implement this subsection.~~

345 Section 9. Section 464.2085, Florida Statutes, is repealed.

346 Section 10. Subsection (2) of section 466.032, Florida
347 Statutes, is amended to read:

348 466.032 Registration.—

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349 ~~(2) Upon the failure of any dental laboratory operator to~~
 350 ~~comply with subsection (1), the department shall notify her or~~
 351 ~~him by registered mail, within 1 month after the registration~~
 352 ~~renewal date, return receipt requested, at her or his last known~~
 353 ~~address, of such failure and inform her or him of the provisions~~
 354 ~~of subsections (3) and (4).~~

355 Section 11. Subsection (8) of section 467.009, Florida
 356 Statutes, is amended to read:

357 467.009 Midwifery programs; education and training
 358 requirements.—

359 (8) Nonpublic educational institutions that conduct
 360 approved midwifery programs shall be accredited by a member of
 361 the Council for Higher Education Accreditation ~~Commission on~~
 362 ~~Recognition of Postsecondary Accreditation~~ and shall be licensed
 363 by the Commission for Independent Education.

364 Section 12. Subsection (2) of section 468.1665, Florida
 365 Statutes, is amended to read:

366 468.1665 Board of Nursing Home Administrators; membership;
 367 appointment; terms.—

368 (2) Four ~~Three~~ members of the board must be licensed
 369 nursing home administrators. Two members of the board must be
 370 health care practitioners. The remaining member ~~two members~~ of
 371 the board must be a layperson ~~laypersons~~ who is ~~are~~ not, and has
 372 ~~have~~ never been, a nursing home administrator ~~administrators~~ or
 373 member ~~members~~ of any health care profession or occupation. At
 374 least one member of the board must be 60 years of age or older.

375 Section 13. Subsection (2) of section 468.1695, Florida
 376 Statutes, is amended to read:

377 468.1695 Licensure by examination.—

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378 (2) The department shall examine each applicant who the
379 board certifies has completed the application form and remitted
380 an examination fee set by the board not to exceed \$250 and who:

381 (a)1. Holds a baccalaureate or master's degree from an
382 accredited college or university and majored in health care
383 administration, health services administration, or an equivalent
384 major, or has credit for at least 60 semester hours in subjects,
385 as prescribed by rule of the board, which prepare the applicant
386 for total management of a nursing home; and

387 2. Has fulfilled the requirements of a college-affiliated
388 or university-affiliated internship in nursing home
389 administration or of a 1,000-hour nursing home administrator-in-
390 training program prescribed by the board; or

391 (b)1. Holds a baccalaureate degree from an accredited
392 college or university; and

393 2.a. Has fulfilled the requirements of a 2,000-hour nursing
394 home administrator-in-training program prescribed by the board;
395 or

396 b. Has 1 year of management experience allowing for the
397 application of executive duties and skills, including the
398 staffing, budgeting, and directing of resident care, dietary,
399 and bookkeeping departments within a skilled nursing facility,
400 hospital, hospice, assisted living facility with a minimum of 60
401 licensed beds, or geriatric residential treatment program and,
402 if such experience is not in a skilled nursing facility, has
403 fulfilled the requirements of a 1,000-hour nursing home
404 administrator-in-training program prescribed by the board.

405 Section 14. Section 468.1735, Florida Statutes, is
406 repealed.

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407 Section 15. Subsection (11) of section 468.503, Florida
408 Statutes, is amended to read:

409 468.503 Definitions.—As used in this part:

410 (11) "Registered dietitian" means an individual registered
411 with the accrediting body of the Academy of Nutrition and
412 Dietetics Commission on Dietetic Registration, ~~the accrediting~~
413 ~~body of the American Dietetic Association.~~

414 Section 16. Subsection (4) of section 468.505, Florida
415 Statutes, is amended to read:

416 468.505 Exemptions; exceptions.—

417 (4) Notwithstanding any other provision of this part, an
418 individual registered by the accrediting body of the Academy of
419 Nutrition and Dietetics Commission on Dietetic Registration of
420 ~~the American Dietetic Association~~ has the right to use the title
421 "Registered Dietitian" and the designation "R.D."

422 Section 17. Subsection (5) of section 480.033, Florida
423 Statutes, is amended to read:

424 480.033 Definitions.—As used in this act:

425 ~~(5) "Apprentice" means a person approved by the board to~~
426 ~~study massage under the instruction of a licensed massage~~
427 ~~therapist.~~

428 Section 18. Subsections (1) and (4) of section 480.041,
429 Florida Statutes, are amended to read:

430 480.041 Massage therapists; qualifications; licensure;
431 endorsement.—

432 (1) A ~~Any~~ person is qualified for licensure as a massage
433 therapist under this act who:

434 (a) Is at least 18 years of age or has received a high
435 school diploma or graduate equivalency diploma;

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436 (b) Has completed a course of study at a board-approved
437 massage school ~~or has completed an apprenticeship program that~~
438 ~~meets standards adopted by the board;~~ and

439 (c) Has received a passing grade on an examination
440 administered by the department.

441 (4) The board shall adopt rules:

442 (a) ~~Establishing a minimum training program for~~
443 ~~apprentices.~~

444 ~~(b)~~ Providing for educational standards, examination, and
445 certification for the practice of colonic irrigation, as defined
446 in s. 480.033~~(6)~~, by massage therapists.

447 ~~(b)~~~~(e)~~ Specifying licensing procedures for practitioners
448 desiring to be licensed in this state who hold an active license
449 and have practiced in any other state, territory, or
450 jurisdiction of the United States or any foreign national
451 jurisdiction which has licensing standards substantially similar
452 to, equivalent to, or more stringent than the standards of this
453 state.

454 Section 19. Subsection (5) of section 480.042, Florida
455 Statutes, is amended to read:

456 480.042 Examinations.—

457 (5) ~~All licensing examinations shall be conducted in such~~
458 ~~manner that the applicant shall be known to the department by~~
459 ~~number until her or his examination is completed and the proper~~
460 ~~grade determined.~~ An accurate record of each examination shall
461 be maintained, ~~made~~; and that record, together with all
462 examination papers, ~~shall be filed with the State Surgeon~~
463 ~~General~~ and shall be kept by the testing entities for reference
464 and inspection for a period of not less than 2 years immediately

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465 following the examination.

466 Section 20. Paragraph (h) of subsection (1) of section
467 480.044, Florida Statutes, is amended to read:

468 480.044 Fees; disposition.—

469 (1) The board shall set fees according to the following
470 schedule:

471 ~~(h) Fee for apprentice: not to exceed \$100.~~

472 Section 21. Subsection (3) of section 823.05, Florida
473 Statutes, is amended to read:

474 823.05 Places and groups engaged in criminal gang-related
475 activity declared a nuisance; massage establishments engaged in
476 prohibited activity; may be abated and enjoined.—

477 (3) A massage establishment as defined in s. 480.033~~(7)~~
478 that operates in violation of s. 480.0475 or s. 480.0535(2) is
479 declared a nuisance and may be abated or enjoined as provided in
480 ss. 60.05 and 60.06.

481 Section 22. This act shall take effect July 1, 2014.