

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. 401.252, F.S.;
14 providing additional requirements for a licensed basic
15 or advanced life support service to conduct
16 interfacility transfers in a permitted ambulance;
17 amending s. 456.013, F.S.; deleting requirements for
18 the physical size of licenses issued for various
19 health professions; exempting Board of Medicine
20 licensees from certain continuing education
21 requirements applicable to other health professions;
22 amending s. 456.025, F.S.; deleting fee for issuance
23 of wall certificates for various health profession
24 licenses; authorizing the boards or the department to
25 adopt rules waiving certain fees for a specified
26 period in certain circumstances; amending s. 456.033,

27 F.S.; exempting Board of Medicine licensees from
28 certain continuing education requirements relating to
29 instruction on HIV and AIDS; amending s. 458.319,
30 F.S.; providing continuing medical education
31 requirements for Board of Medicine licensees;
32 authorizing the board to adopt rules; amending s.
33 464.203, F.S.; revising certified nursing assistant
34 inservice training requirements; repealing s.
35 464.2085, F.S., relating to the creation, membership,
36 and duties of the Council on Certified Nursing
37 Assistants; amending s. 466.032, F.S.; deleting a
38 requirement that the department provide certain notice
39 to a dental laboratory operator who fails to renew her
40 or his registration; amending s. 467.009, F.S.;
41 revising the organization that must accredit certain
42 midwifery programs; amending s. 468.1665, F.S.;
43 revising membership of the Board of Nursing Home
44 Administrators; amending s. 468.1695, F.S.; revising
45 an educational requirement for an applicant to be
46 eligible to take the nursing home administrator
47 licensure examination; repealing s. 468.1735, F.S.,
48 relating to provisional licenses for nursing home
49 administrators; amending ss. 468.503 and 468.505,
50 F.S.; revising the organization with whom an
51 individual must be registered to be a registered
52 dietitian; revising a definition; amending ss. 480.033

53 and 480.041, F.S.; deleting provisions relating to
 54 massage therapy apprentices and apprenticeship
 55 programs; deleting a definition and revising licensure
 56 requirements for massage therapists, to conform;
 57 amending s. 480.042, F.S.; revising requirements for
 58 conducting massage therapist licensing examinations
 59 and maintaining examination records; amending s.
 60 480.044, F.S.; deleting fee for massage therapy
 61 apprentices; amending s. 823.05, F.S.; conforming a
 62 cross-reference; providing an effective date.

63

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

65

66 Section 1. Paragraphs (j) and (k) of subsection (4) of
 67 section 322.142, Florida Statutes, are amended, and paragraph
 68 (l) is added to that subsection, to read:

69 322.142 Color photographic or digital imaged licenses.—

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

77 (j) To district medical examiners pursuant to an
 78 interagency agreement for the purpose of identifying a deceased

79 individual, determining cause of death, and notifying next of
 80 kin of any investigations, including autopsies and other
 81 laboratory examinations, authorized in s. 406.11; ~~or~~

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

84 1. A justice or judge of this state;

85 2. An employee of the state courts system who works in a
 86 position that is designated in writing for access by the Chief
 87 Justice of the Supreme Court or a chief judge of a district or
 88 circuit court, or by his or her designee; or

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

93 (l) To the Department of Health, pursuant to an
 94 interagency agreement to access digital images to verify the
 95 identity of an individual during an investigation under chapter
 96 456, and for the reproduction of licenses issued by the
 97 Department of Health.

98 Section 2. Paragraph (e) of subsection (4) of section
 99 395.3025, Florida Statutes, is amended to read:

100 395.3025 Patient and personnel records; copies;
 101 examination.—

102 (4) Patient records are confidential and may ~~must~~ not be
 103 disclosed without the consent of the patient or his or her legal
 104 representative, but appropriate disclosure may be made without

105 such consent to:

106 (e) The department agency upon subpoena issued pursuant to
107 s. 456.071, ~~but~~ The records obtained ~~thereby~~ must be used
108 solely for the purpose of the department agency and the
109 appropriate professional board in its investigation,
110 prosecution, and appeal of disciplinary proceedings. If the
111 department agency requests copies of the records, the facility
112 shall charge a fee pursuant to this section ~~no more than its~~
113 ~~actual copying costs, including reasonable staff time.~~ The
114 department and the appropriate professional board must maintain
115 the confidentiality of patient records obtained under this
116 paragraph pursuant to s. 456.057. A licensee who is the subject
117 of a department investigation may inspect or receive a copy of a
118 patient record connected with the investigation if the licensee
119 agrees in writing to maintain the confidentiality of the patient
120 record pursuant to s. 456.057 ~~must be sealed and must not be~~
121 ~~available to the public pursuant to s. 119.07(1) or any other~~
122 ~~statute providing access to records, nor may they be available~~
123 ~~to the public as part of the record of investigation for and~~
124 ~~prosecution in disciplinary proceedings made available to the~~
125 ~~public by the agency or the appropriate regulatory board.~~
126 ~~However, the agency must make available, upon written request by~~
127 ~~a practitioner against whom probable cause has been found, any~~
128 ~~such records that form the basis of the determination of~~
129 ~~probable cause.~~

130 Section 3. Subsection (2) of section 401.252, Florida

131 Statutes, is amended to read:

132 401.252 Interfacility transfer.—

133 (2) (a) A licensed basic or advanced life support service
134 may conduct interfacility transfers in a permitted ambulance if
135 the patient's treating physician certifies that the transfer is
136 medically appropriate and the physician provides reasonable
137 transfer orders. An interfacility transfer must be conducted in
138 a permitted ambulance if the patient:

139 1. Is bed-confined, as defined in chapter 10 of the
140 Medicare Benefit Policy Manual published by the Centers for
141 Medicare and Medicaid Services of the United States Department
142 of Health and Human Services;

143 2. Requires the administration, as defined in s.
144 465.003(1), of medical oxygen; or

145 3. Has been determined to need ~~it is determined that the~~
146 ~~patient needs~~, or is likely to need, medical attention during
147 transport.

148 (b) If the emergency medical technician or paramedic
149 believes the level of patient care required during the transfer
150 is beyond his or her capability, the medical director, or his or
151 her designee, must be contacted for clearance prior to
152 conducting the transfer. If necessary, the medical director, or
153 his or her designee, shall attempt to contact the treating
154 physician for consultation to determine the appropriateness of
155 the transfer.

156 Section 4. Subsections (2), (6), and (7) of section

157 456.013, Florida Statutes, are amended to read:

158 456.013 Department; general licensing provisions.—

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

171 (6) As a condition of renewal of a license, ~~the Board of~~
172 ~~Medicine,~~ the Board of Osteopathic Medicine, the Board of
173 Chiropractic Medicine, and the Board of Podiatric Medicine shall
174 ~~each~~ require their respective licensees ~~which they respectively~~
175 ~~regulate~~ to periodically demonstrate their professional
176 competency by completing at least 40 hours of continuing
177 education every 2 years. The boards may require by rule that up
178 to 1 hour of the required 40 or more hours be in the area of
179 risk management or cost containment. This provision does ~~shall~~
180 ~~not be construed to~~ limit the number of hours that a licensee
181 may obtain in risk management or cost containment to be credited
182 toward satisfying the 40 or more required hours. This provision

183 does ~~shall not be construed to~~ require the boards to impose any
184 requirement on licensees except for the completion of at least
185 40 hours of continuing education every 2 years. Each of the ~~such~~
186 boards shall determine whether any specific continuing education
187 requirements not otherwise mandated by law will ~~shall~~ be
188 mandated and shall approve criteria for, and the content of, ~~any~~
189 continuing education mandated by such board. Notwithstanding any
190 other provision of law, the board, or the department when there
191 is no board, may approve by rule alternative methods of
192 obtaining continuing education credits in risk management. The
193 alternative methods may include attending a board meeting at
194 which another licensee is disciplined, serving as a volunteer
195 expert witness for the department in a disciplinary case, or
196 serving as a member of a probable cause panel following the
197 expiration of a board member's term. Other boards within the
198 Division of Medical Quality Assurance, or the department if
199 there is no board, may adopt rules granting continuing education
200 hours in risk management for attending a board meeting at which
201 another licensee is disciplined, for serving as a volunteer
202 expert witness for the department in a disciplinary case, or for
203 serving as a member of a probable cause panel following the
204 expiration of a board member's term.

205 (7) The boards, except the Board of Medicine, or the
206 department when there is no board, shall require the completion
207 of a 2-hour course relating to prevention of medical errors as
208 part of the licensure and renewal process. The 2-hour course

209 shall count towards the total number of continuing education
 210 hours required for the profession. The course shall be approved
 211 by the board or department, as appropriate, and shall include a
 212 study of root-cause analysis, error reduction and prevention,
 213 and patient safety. In addition, the course approved by ~~the~~
 214 ~~Board of Medicine and the Board of Osteopathic Medicine~~ shall
 215 include information relating to the five most misdiagnosed
 216 conditions during the previous biennium, as determined by the
 217 board. If the course is being offered by a facility licensed
 218 pursuant to chapter 395 for its employees, the board may approve
 219 up to 1 hour of the 2-hour course to be specifically related to
 220 error reduction and prevention methods used in that facility.

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

225 456.025 Fees; receipts; disposition.-

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

232 (5)~~(6)~~ If the cash balance of the trust fund at the end of
 233 any fiscal year exceeds the total appropriation provided for the
 234 regulation of the health care professions in the prior fiscal

235 year, the boards, in consultation with the department, may lower
 236 the license renewal fees. When the department determines, based
 237 on long-range estimates of revenue, that a profession's trust
 238 fund balance exceeds the amount required to cover necessary
 239 functions, each board, or the department when there is no board,
 240 may adopt rules to implement the waiver of initial application
 241 fees, initial licensure fees, unlicensed activity fees, or
 242 renewal fees for that profession. The waiver of renewal fees may
 243 not exceed 2 years.

244 Section 6. Section 456.033, Florida Statutes, is amended
 245 to read:

246 456.033 Requirement for instruction for certain licensees
 247 on HIV and AIDS.—The following requirements apply to each person
 248 licensed or certified under chapter 457; ~~chapter 458~~; chapter
 249 459; chapter 460; chapter 461; chapter 463; part I of chapter
 250 464; chapter 465; chapter 466; part II, part III, part V, or
 251 part X of chapter 468; or chapter 486:

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

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

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

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

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

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

287 complete the course.

288 Section 7. Subsections (2), (3), and (4) of section
 289 458.319, Florida Statutes, are renumbered as subsections (3),
 290 (4), and (5), respectively, and a new subsection (2) is added to
 291 that section to read:

292 458.319 Renewal of license.—

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

297 (a) Provide that continuing medical education approved by
 298 the American Medical Association satisfies some or all of the
 299 continuing medical education requirements.

300 (b) Mandate specific continuing medical education
 301 requirements.

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

304 1. Attendance at a board meeting at which another licensee
 305 is disciplined;

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

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

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

313 patients in critical need areas in the state where the licensee
 314 practices.

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

318 2. The standard for determining indigency shall be that
 319 recognized by the federal poverty guidelines and shall be less
 320 than 150 percent of the federal poverty level.

321 (e) Provide that a portion of the continuing medical
 322 education hours may be fulfilled by performing research in
 323 critical need areas or by training for advanced professional
 324 certification.

325 (f) Adopt rules to define underserved and critical need
 326 areas.

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

329 464.203 Certified nursing assistants; certification
 330 requirement.—

331 (7) A certified nursing assistant shall complete 24 ~~12~~
 332 hours of inservice training during each biennium ~~calendar year~~.
 333 The certified nursing assistant is ~~shall be~~ responsible for
 334 maintaining documentation demonstrating compliance with these
 335 provisions. ~~The Council on Certified Nursing Assistants, in~~
 336 ~~accordance with s. 464.2085(2) (b), shall propose rules to~~
 337 ~~implement this subsection.~~

338 Section 9. Section 464.2085, Florida Statutes, is

339 repealed.

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

342 466.032 Registration.—

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

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

351 467.009 Midwifery programs; education and training
 352 requirements.—

353 (8) Nonpublic educational institutions that conduct
 354 approved midwifery programs shall be accredited by a member of
 355 the Council on Higher Education Accreditation ~~Commission on~~
 356 ~~Recognition of Postsecondary Accreditation~~ and shall be licensed
 357 by the Commission for Independent Education.

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

360 468.1665 Board of Nursing Home Administrators; membership;
 361 appointment; terms.—

362 (2) Four ~~Three~~ members of the board must be licensed
 363 nursing home administrators. One member ~~Two members~~ of the board
 364 must be a health care practitioner ~~practitioners~~. The remaining

365 two members of the board must be laypersons who are not, and
 366 have never been, nursing home administrators or members of any
 367 health care profession or occupation. At least one member of the
 368 board must be 60 years of age or older.

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

371 468.1695 Licensure by examination.—

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

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

381 2. Has fulfilled the requirements of a college-affiliated
 382 or university-affiliated internship in nursing home
 383 administration or of a 1,000-hour nursing home administrator-in-
 384 training program prescribed by the board; or

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

387 2.a. Has fulfilled the requirements of a 2,000-hour
 388 nursing home administrator-in-training program prescribed by the
 389 board; or

390 b. Has 1 year of management experience allowing for the

391 application of executive duties and skills, including the
 392 staffing, budgeting, and directing of resident care, dietary,
 393 and bookkeeping departments within a skilled nursing facility,
 394 hospital, hospice, assisted living facility with a minimum of 60
 395 licensed beds, or geriatric residential treatment program and,
 396 if such experience is not in a skilled nursing facility, has
 397 fulfilled the requirements of a 1,000-hour nursing home
 398 administrator-in-training program prescribed by the board.

399 Section 14. Section 468.1735, Florida Statutes, is
 400 repealed.

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

403 468.503 Definitions.—As used in this part:

404 (11) "Registered dietitian" means an individual registered
 405 with the accrediting body of the Academy of Nutrition and
 406 Dietetics Commission on Dietetic Registration, the accrediting
 407 body of the American Dietetic Association.

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

410 468.505 Exemptions; exceptions.—

411 (4) Notwithstanding any other provision of this part, an
 412 individual registered by the accrediting body of the Academy of
 413 Nutrition and Dietetics Commission on Dietetic Registration of
 414 the American Dietetic Association has the right to use the title
 415 "Registered Dietitian" and the designation "R.D."

416 Section 17. Subsection (5) of section 480.033, Florida

417 Statutes, is amended to read:

418 480.033 Definitions.—As used in this act:

419 ~~(5) "Apprentice" means a person approved by the board to~~
 420 ~~study massage under the instruction of a licensed massage~~
 421 ~~therapist.~~

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

424 480.041 Massage therapists; qualifications; licensure;
 425 endorsement.—

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

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

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

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

435 (4) The board shall adopt rules:

436 (a) ~~Establishing a minimum training program for~~
 437 ~~apprentices.~~

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

441 (b) ~~(e)~~ Specifying licensing procedures for practitioners
 442 desiring to be licensed in this state who hold an active license

443 and have practiced in any other state, territory, or
 444 jurisdiction of the United States or any foreign national
 445 jurisdiction which has licensing standards substantially similar
 446 to, equivalent to, or more stringent than the standards of this
 447 state.

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

450 480.042 Examinations.—

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

460 Section 20. Paragraph (h) of subsection (1) of section
 461 480.044, Florida Statutes, is amended to read:

462 480.044 Fees; disposition.—

463 (1) The board shall set fees according to the following
 464 schedule:

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

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

468 823.05 Places and groups engaged in criminal gang-related

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469 activity declared a nuisance; massage establishments engaged in
470 prohibited activity; may be abated and enjoined.—

471 (3) A massage establishment as defined in s. 480.033
472 ~~480.033(7)~~ that operates in violation of s. 480.0475 or s.
473 480.0535(2) is declared a nuisance and may be abated or enjoined
474 as provided in ss. 60.05 and 60.06.

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