

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 fee for issuance of wall certificates for
20 various health profession licenses; authorizing the
21 boards or the department to adopt rules waiving
22 certain fees for a specified period in certain
23 circumstances; amending s. 456.033, F.S.; exempting
24 Board of Medicine licensees from certain continuing
25 education requirements relating to instruction on HIV
26 and AIDS; amending s. 458.319, F.S.; providing

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

53 amending s. 480.042, F.S.; revising requirements for
 54 conducting massage therapist licensing examinations
 55 and maintaining examination records; amending s.
 56 480.044, F.S.; deleting fee for massage therapy
 57 apprentices; amending s. 823.05, F.S.; conforming a
 58 cross-reference; providing an effective date.

59

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

61

62 Section 1. Paragraphs (j) and (k) of subsection (4) of
 63 section 322.142, Florida Statutes, are amended, and paragraph
 64 (1) is added to that subsection, to read:

65 322.142 Color photographic or digital imaged licenses.—

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

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

78 (k) To the following persons for the purpose of

79 identifying a person as part of the official work of a court:

80 1. A justice or judge of this state;

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

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

89 (1) To the Department of Health, pursuant to an
90 interagency agreement to access digital images to verify the
91 identity of an individual during an investigation under chapter
92 456, and for the reproduction of licenses issued by the
93 Department of Health.

94 Section 2. Paragraph (e) of subsection (4) of section
95 395.3025, Florida Statutes, is amended to read:

96 395.3025 Patient and personnel records; copies;
97 examination.-

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

102 (e) The department ~~agency~~ upon subpoena issued pursuant to
103 s. 456.071, ~~but~~ The records obtained ~~thereby~~ must be used
104 solely for the purpose of the department ~~agency~~ and the

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

126 Section 3. Subsections (2), (6), and (7) of section
127 456.013, Florida Statutes, are amended to read:

128 456.013 Department; general licensing provisions.—

129 (2) Before the issuance of a any license, the department
130 shall charge an initial license fee as determined by the

131 applicable board or, if there is no board, by rule of the
132 department. Upon receipt of the appropriate license fee, the
133 department shall issue a license to a ~~any~~ person certified by
134 the appropriate board, or its designee, as having met the
135 licensure requirements imposed by law or rule. ~~The license shall~~
136 ~~consist of a wallet-size identification card and a wall card~~
137 ~~measuring 6 1/2 inches by 5 inches.~~ The licensee shall surrender
138 the license to the department ~~the wallet-size identification~~
139 ~~card and the wall card~~ if the ~~licensee's~~ license was ~~is~~ issued
140 in error or is revoked.

141 (6) As a condition of renewal of a license, ~~the Board of~~
142 ~~Medicine,~~ the Board of Osteopathic Medicine, the Board of
143 Chiropractic Medicine, and the Board of Podiatric Medicine shall
144 each require their respective licensees ~~which they respectively~~
145 ~~regulate~~ to periodically demonstrate their professional
146 competency by completing at least 40 hours of continuing
147 education every 2 years. The boards may require by rule that up
148 to 1 hour of the required 40 or more hours be in the area of
149 risk management or cost containment. This provision does ~~shall~~
150 ~~not be construed to~~ limit the number of hours that a licensee
151 may obtain in risk management or cost containment to be credited
152 toward satisfying the 40 or more required hours. This provision
153 does ~~shall not be construed to~~ require the boards to impose any
154 requirement on licensees except for the completion of at least
155 40 hours of continuing education every 2 years. Each of the ~~such~~
156 boards shall determine whether any specific continuing education

157 requirements not otherwise mandated by law will ~~shall~~ be
158 mandated and shall approve criteria for, and the content of, ~~any~~
159 continuing education mandated by such board. Notwithstanding any
160 other provision of law, the board, or the department when there
161 is no board, may approve by rule alternative methods of
162 obtaining continuing education credits in risk management. The
163 alternative methods may include attending a board meeting at
164 which another licensee is disciplined, serving as a volunteer
165 expert witness for the department in a disciplinary case, or
166 serving as a member of a probable cause panel following the
167 expiration of a board member's term. Other boards within the
168 Division of Medical Quality Assurance, or the department if
169 there is no board, may adopt rules granting continuing education
170 hours in risk management for attending a board meeting at which
171 another licensee is disciplined, for serving as a volunteer
172 expert witness for the department in a disciplinary case, or for
173 serving as a member of a probable cause panel following the
174 expiration of a board member's term.

175 (7) The boards, except the Board of Medicine, or the
176 department when there is no board, shall require the completion
177 of a 2-hour course relating to prevention of medical errors as
178 part of the licensure and renewal process. The 2-hour course
179 shall count towards the total number of continuing education
180 hours required for the profession. The course shall be approved
181 by the board or department, as appropriate, and shall include a
182 study of root-cause analysis, error reduction and prevention,

183 and patient safety. In addition, the course approved by the
184 ~~Board of Medicine and~~ the Board of Osteopathic Medicine shall
185 include information relating to the five most misdiagnosed
186 conditions during the previous biennium, as determined by the
187 board. If the course is being offered by a facility licensed
188 pursuant to chapter 395 for its employees, the board may approve
189 up to 1 hour of the 2-hour course to be specifically related to
190 error reduction and prevention methods used in that facility.

191 Section 4. Subsections (5) through (11) of section
192 456.025, Florida Statutes, are renumbered as subsections (4)
193 through (10), respectively, and present subsections (4) and (6)
194 are amended to read:

195 456.025 Fees; receipts; disposition.—

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

202 (5) ~~(6)~~ If the cash balance of the trust fund at the end of
203 any fiscal year exceeds the total appropriation provided for the
204 regulation of the health care professions in the prior fiscal
205 year, the boards, in consultation with the department, may lower
206 the license renewal fees. When the department determines, based
207 on long-range estimates of revenue, that a profession's trust
208 fund balance exceeds the amount required to cover necessary

209 functions, each board, or the department when there is no board,
 210 may adopt rules to implement the waiver of initial application
 211 fees, initial licensure fees, unlicensed activity fees, or
 212 renewal fees for that profession. The waiver of renewal fees may
 213 not exceed 2 years.

214 Section 5. Section 456.033, Florida Statutes, is amended
 215 to read:

216 456.033 Requirement for instruction for certain licensees
 217 on HIV and AIDS.—The following requirements apply to each person
 218 licensed or certified under chapter 457; ~~chapter 458;~~ chapter
 219 459; chapter 460; chapter 461; chapter 463; part I of chapter
 220 464; chapter 465; chapter 466; part II, part III, part V, or
 221 part X of chapter 468; or chapter 486:

222 (1) Each person shall be required by the appropriate board
 223 to complete no later than upon first renewal a continuing
 224 educational course, approved by the board, on human
 225 immunodeficiency virus and acquired immune deficiency syndrome
 226 as part of biennial relicensure or recertification. The course
 227 shall consist of education on the modes of transmission,
 228 infection control procedures, clinical management, and
 229 prevention of human immunodeficiency virus and acquired immune
 230 deficiency syndrome. Such course shall include information on
 231 current Florida law on acquired immune deficiency syndrome and
 232 its impact on testing, confidentiality of test results,
 233 treatment of patients, and any protocols and procedures
 234 applicable to human immunodeficiency virus counseling and

235 testing, reporting, the offering of HIV testing to pregnant
 236 women, and partner notification issues pursuant to ss. 381.004
 237 and 384.25.

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

241 (3) The board shall have the authority to approve
 242 additional equivalent courses that may be used to satisfy the
 243 requirements in subsection (1). Each licensing board that
 244 requires a licensee to complete an educational course pursuant
 245 to this section may count the hours required for completion of
 246 the course included in the total continuing educational
 247 requirements as required by law.

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

253 (5) Failure to comply with the above requirements shall
 254 constitute grounds for disciplinary action under each respective
 255 licensing chapter and s. 456.072(1)(e). In addition to
 256 discipline by the board, the licensee shall be required to
 257 complete the course.

258 Section 6. Subsections (2), (3), and (4) of section
 259 458.319, Florida Statutes, are renumbered as subsections (3),
 260 (4), and (5), respectively, and a new subsection (2) is added to

261 that section to read:

262 458.319 Renewal of license.—

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

267 (a) Provide that continuing medical education approved by
268 the American Medical Association satisfies some or all of the
269 continuing medical education requirements.

270 (b) Mandate specific continuing medical education
271 requirements.

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

274 1. Attendance at a board meeting at which another licensee
275 is disciplined;

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

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

280 (d) Provide that up to 25 percent of the required
281 continuing medical education hours may be fulfilled through pro
282 bono services to the indigent, underserved populations, or
283 patients in critical need areas in the state where the licensee
284 practices.

285 1. The board shall require that any pro bono service be
286 approved in advance to receive credit for continuing medical

287 education under this paragraph.

288 2. The standard for determining indigency shall be that
 289 recognized by the federal poverty guidelines and shall be less
 290 than 150 percent of the federal poverty level.

291 (e) Provide that a portion of the continuing medical
 292 education hours may be fulfilled by performing research in
 293 critical need areas or by training for advanced professional
 294 certification.

295 (f) Adopt rules to define underserved and critical need
 296 areas.

297 Section 7. Subsection (7) of section 464.203, Florida
 298 Statutes, is amended to read:

299 464.203 Certified nursing assistants; certification
 300 requirement.—

301 (7) A certified nursing assistant shall complete 24 ~~12~~
 302 hours of inservice training during each biennium ~~calendar year~~.
 303 The certified nursing assistant is ~~shall be~~ responsible for
 304 maintaining documentation demonstrating compliance with these
 305 provisions. ~~The Council on Certified Nursing Assistants, in~~
 306 ~~accordance with s. 464.2085(2)(b), shall propose rules to~~
 307 ~~implement this subsection.~~

308 Section 8. Section 464.2085, Florida Statutes, is
 309 repealed.

310 Section 9. Subsection (2) of section 466.032, Florida
 311 Statutes, is amended to read:

312 466.032 Registration.—

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

319 Section 10. Subsection (8) of section 467.009, Florida
 320 Statutes, is amended to read:

321 467.009 Midwifery programs; education and training
 322 requirements.—

323 (8) Nonpublic educational institutions that conduct
 324 approved midwifery programs shall be accredited by a member of
 325 the Council on Higher Education Accreditation ~~Commission on~~
 326 ~~Recognition of Postsecondary Accreditation~~ and shall be licensed
 327 by the Commission for Independent Education.

328 Section 11. Subsection (2) of section 468.1665, Florida
 329 Statutes, is amended to read:

330 468.1665 Board of Nursing Home Administrators; membership;
 331 appointment; terms.—

332 (2) Four ~~Three~~ members of the board must be licensed
 333 nursing home administrators. One member ~~Two members~~ of the board
 334 must be a health care practitioner ~~practitioners~~. The remaining
 335 two members of the board must be laypersons who are not, and
 336 have never been, nursing home administrators or members of any
 337 health care profession or occupation. At least one member of the
 338 board must be 60 years of age or older.

339 Section 12. Subsection (2) of section 468.1695, Florida
 340 Statutes, is amended to read:

341 468.1695 Licensure by examination.—

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

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

351 2. Has fulfilled the requirements of a college-affiliated
 352 or university-affiliated internship in nursing home
 353 administration or of a 1,000-hour nursing home administrator-in-
 354 training program prescribed by the board; or

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

357 2.a. Has fulfilled the requirements of a 2,000-hour
 358 nursing home administrator-in-training program prescribed by the
 359 board; or

360 b. Has 1 year of management experience allowing for the
 361 application of executive duties and skills, including the
 362 staffing, budgeting, and directing of resident care, dietary,
 363 and bookkeeping departments within a skilled nursing facility,
 364 hospital, hospice, assisted living facility with a minimum of 60

365 licensed beds, or geriatric residential treatment program and,
 366 if such experience is not in a skilled nursing facility, has
 367 fulfilled the requirements of a 1,000-hour nursing home
 368 administrator-in-training program prescribed by the board.

369 Section 13. Section 468.1735, Florida Statutes, is
 370 repealed.

371 Section 14. Subsection (11) of section 468.503, Florida
 372 Statutes, is amended to read:

373 468.503 Definitions.—As used in this part:

374 (11) "Registered dietitian" means an individual registered
 375 with the accrediting body of the Academy of Nutrition and
 376 Dietetics Commission on Dietetic Registration, the accrediting
 377 body of the American Dietetic Association.

378 Section 15. Subsection (4) of section 468.505, Florida
 379 Statutes, is amended to read:

380 468.505 Exemptions; exceptions.—

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

386 Section 16. Subsection (5) of section 480.033, Florida
 387 Statutes, is amended to read:

388 480.033 Definitions.—As used in this act:

389 ~~(5) "Apprentice" means a person approved by the board to~~
 390 ~~study massage under the instruction of a licensed massage~~

391 ~~therapist.~~

392 Section 17. Subsections (1) and (4) of section 480.041,
393 Florida Statutes, are amended to read:

394 480.041 Massage therapists; qualifications; licensure;
395 endorsement.—

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

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

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

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

405 (4) The board shall adopt rules:

406 (a) ~~Establishing a minimum training program for~~
407 ~~apprentices.~~

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

411 (b) ~~(e)~~ Specifying licensing procedures for practitioners
412 desiring to be licensed in this state who hold an active license
413 and have practiced in any other state, territory, or
414 jurisdiction of the United States or any foreign national
415 jurisdiction which has licensing standards substantially similar
416 to, equivalent to, or more stringent than the standards of this

417 state.

418 Section 18. Subsection (5) of section 480.042, Florida
 419 Statutes, is amended to read:

420 480.042 Examinations.—

421 (5) ~~All licensing examinations shall be conducted in such~~
 422 ~~manner that the applicant shall be known to the department by~~
 423 ~~number until her or his examination is completed and the proper~~
 424 ~~grade determined.~~ An accurate record of each examination shall
 425 be maintained, ~~shall be made,~~ and that record, together with all
 426 examination papers, ~~shall be filed with the State Surgeon~~
 427 ~~General and~~ shall be kept by the testing entities for reference
 428 and inspection for a period of not less than 2 years immediately
 429 following the examination.

430 Section 19. Paragraph (h) of subsection (1) of section
 431 480.044, Florida Statutes, is amended to read:

432 480.044 Fees; disposition.—

433 (1) The board shall set fees according to the following
 434 schedule:

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

436 Section 20. Subsection (3) of section 823.05, Florida
 437 Statutes, is amended to read:

438 823.05 Places and groups engaged in criminal gang-related
 439 activity declared a nuisance; massage establishments engaged in
 440 prohibited activity; may be abated and enjoined.—

441 (3) A massage establishment as defined in s. 480.033
 442 ~~480.033(7)~~ that operates in violation of s. 480.0475 or s.

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2014

443 | 480.0535(2) is declared a nuisance and may be abated or enjoined
444 | as provided in ss. 60.05 and 60.06.

445 | Section 21. This act shall take effect July 1, 2014.