

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.  
7 381.004, F.S.; revising and providing definitions;  
8 specifying the notification and consent procedures for  
9 performing an HIV test in a health care setting and a  
10 nonhealth care setting; amending s. 382.011, F.S.;  
11 providing that a member of the public may not be  
12 charged for certain examinations, investigations, or  
13 autopsies; authorizing a county to charge a medical  
14 examiner approval fee; amending s. 395.3025, F.S.;  
15 clarifying duties of the department to maintain the  
16 confidentiality of patient records that it obtains  
17 under subpoena pursuant to an investigation;  
18 authorizing licensees under investigation to inspect  
19 or receive copies of patient records connected with  
20 the investigation, subject to certain conditions;  
21 amending s. 456.013, F.S.; deleting requirements for  
22 the physical size of licenses issued for various  
23 health professions; amending s. 456.025, F.S.;  
24 deleting fee for issuance of wall certificates for  
25 various health profession licenses; authorizing the  
26 boards or the department to adopt rules waiving

27 certain fees for a specified period in certain  
28 circumstances; amending s. 456.032, F.S.; conforming a  
29 cross-reference; amending s. 456.057, F.S.; providing  
30 a requirement for rates charged for reproduction of  
31 certain records; amending s. 458.319, F.S.; providing  
32 continuing medical education requirements for Board of  
33 Medicine licensees; authorizing the board to adopt  
34 rules; amending s. 458.3485, F.S.; deleting a  
35 provision authorizing medical assistants to be  
36 certified by certain entities; amending s. 464.203,  
37 F.S.; revising certified nursing assistant inservice  
38 training requirements; repealing s. 464.2085, F.S.,  
39 relating to the creation, membership, and duties of  
40 the Council on Certified Nursing Assistants; amending  
41 s. 466.032, F.S.; deleting a requirement that the  
42 department provide certain notice to a dental  
43 laboratory operator who fails to renew her or his  
44 registration; amending s. 467.009, F.S.; revising the  
45 organization that must accredit certain midwifery  
46 programs; amending s. 468.1665, F.S.; revising  
47 membership of the Board of Nursing Home  
48 Administrators; amending s. 468.1695, F.S.; revising  
49 an educational requirement for an applicant to be  
50 eligible to take the nursing home administrator  
51 licensure examination; repealing s. 468.1735, F.S.,  
52 relating to provisional licenses for nursing home

53 administrators; amending ss. 468.503 and 468.505,  
 54 F.S.; revising the organization with whom an  
 55 individual must be registered to be a registered  
 56 dietitian; revising a definition; amending ss. 480.033  
 57 and 480.041, F.S.; deleting provisions relating to  
 58 massage therapy apprentices and apprenticeship  
 59 programs; deleting a definition and revising licensure  
 60 requirements for massage therapists, to conform;  
 61 amending s. 480.042, F.S.; revising requirements for  
 62 conducting massage therapist licensing examinations  
 63 and maintaining examination records; amending s.  
 64 480.044, F.S.; deleting fee for massage therapy  
 65 apprentices; amending s. 766.1115, F.S.; requiring a  
 66 health care provider to continue to be an agent for a  
 67 specified period after determination of ineligibility;  
 68 amending s. 823.05, F.S.; conforming a cross-  
 69 reference; providing an effective date.

70  
 71 Be It Enacted by the Legislature of the State of Florida:

72  
 73 Section 1. Paragraphs (j) and (k) of subsection (4) of  
 74 section 322.142, Florida Statutes, are amended, and paragraph  
 75 (1) is added to that subsection, to read:

76 322.142 Color photographic or digital imaged licenses.—

77 (4) The department may maintain a film negative or print  
 78 file. The department shall maintain a record of the digital

79 image and signature of the licensees, together with other data  
 80 required by the department for identification and retrieval.  
 81 Reproductions from the file or digital record are exempt from  
 82 the provisions of s. 119.07(1) and shall be made and issued  
 83 only:

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

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

- 91 1. A justice or judge of this state;
- 92 2. An employee of the state courts system who works in a  
 93 position that is designated in writing for access by the Chief  
 94 Justice of the Supreme Court or a chief judge of a district or  
 95 circuit court, or by his or her designee; or
- 96 3. A government employee who performs functions on behalf  
 97 of the state courts system in a position that is designated in  
 98 writing for access by the Chief Justice or a chief judge, or by  
 99 his or her designee; or

100 (l) To the Department of Health, pursuant to an  
 101 interagency agreement to access digital images to verify the  
 102 identity of an individual during an investigation under chapter  
 103 456, and for the reproduction of licenses issued by the  
 104 Department of Health.

105 Section 2. Subsection (1), paragraphs (a), (b), (g), and  
 106 (h) of subsection (2), and paragraph (d) of subsection (4) of  
 107 section 381.004, Florida Statutes, are amended, and subsection  
 108 (1) of that section is reordered, to read:

109 381.004 HIV testing.—

110 (1) DEFINITIONS.—As used in this section:

111 (a) "Health care setting" means a setting devoted to both  
 112 the diagnosis and care of persons, such as county health  
 113 department clinics, hospital emergency departments, urgent care  
 114 clinics, substance abuse treatment clinics, primary care  
 115 settings, community clinics, mobile medical clinics, and  
 116 correctional health care facilities.

117 (b) ~~(a)~~ "HIV test" means a test ordered after July 6, 1988,  
 118 to determine the presence of the antibody or antigen to human  
 119 immunodeficiency virus or the presence of human immunodeficiency  
 120 virus infection.

121 (c) ~~(b)~~ "HIV test result" means a laboratory report of a  
 122 human immunodeficiency virus test result entered into a medical  
 123 record on or after July 6, 1988, or any report or notation in a  
 124 medical record of a laboratory report of a human  
 125 immunodeficiency virus test. ~~As used in this section,~~ The term  
 126 ~~"HIV test result"~~ does not include test results reported to a  
 127 health care provider by a patient.

128 (d) "Nonhealth care setting" means a site that conducts  
 129 HIV testing for the sole purpose of identifying HIV infection.  
 130 Such setting does not provide medical treatment but may include

131 community-based organizations, outreach settings, county health  
 132 department HIV testing programs, and mobile vans.

133 (f)~~(e)~~ "Significant exposure" means:

134 1. Exposure to blood or body fluids through needlestick,  
 135 instruments, or sharps;

136 2. Exposure of mucous membranes to visible blood or body  
 137 fluids, ~~to which universal precautions apply according to the~~  
 138 National Centers for Disease Control and Prevention, including,  
 139 without limitations, the following body fluids:

140 a. Blood.

141 b. Semen.

142 c. Vaginal secretions.

143 d. Cerebrospinal ~~Cerebro-spinal~~ fluid (CSF).

144 e. Synovial fluid.

145 f. Pleural fluid.

146 g. Peritoneal fluid.

147 h. Pericardial fluid.

148 i. Amniotic fluid.

149 j. Laboratory specimens that contain HIV (e.g.,  
 150 suspensions of concentrated virus); or

151 3. Exposure of skin to visible blood or body fluids,  
 152 especially when the exposed skin is chapped, abraded, or  
 153 afflicted with dermatitis or the contact is prolonged or  
 154 involving an extensive area.

155 (e)~~(d)~~ "Preliminary HIV test" means an antibody or  
 156 antibody-antigen screening test, such as the ~~enzyme-linked~~

157 immunosorbent assays (IA), or a rapid test approved by the  
158 United States Food and Drug Administration ~~(ELISAs)~~ or the  
159 Single-Use Diagnostic System ~~(SUDS)~~.

160 (g)~~(e)~~ "Test subject" or "subject of the test" means the  
161 person upon whom an HIV test is performed, or the person who has  
162 legal authority to make health care decisions for the test  
163 subject.

164 (2) HUMAN IMMUNODEFICIENCY VIRUS TESTING; INFORMED  
165 CONSENT; RESULTS; COUNSELING; CONFIDENTIALITY.—

166 (a) Before performing an HIV test:

167 1. In a health care setting, the person to be tested shall  
168 be provided information about the test and shall be notified  
169 that the test is planned, that he or she has the right to  
170 decline the test, and that he or she has the right to  
171 confidential treatment of information identifying the subject of  
172 the test and of the results of the test as provided by law. If  
173 the person to be tested declines the test, such decision shall  
174 be documented in the medical record. No person in this state  
175 shall order a test designed to identify the human  
176 immunodeficiency virus, or its antigen or antibody, without  
177 first obtaining the informed consent of the person upon whom the  
178 test is being performed, except as specified in paragraph (h).  
179 ~~Informed consent shall be preceded by an explanation of the~~  
180 ~~right to confidential treatment of information identifying the~~  
181 ~~subject of the test and the results of the test to the extent~~  
182 ~~provided by law. Information shall also be provided on the fact~~

183 ~~that a positive HIV test result will be reported to the county~~  
184 ~~health department with sufficient information to identify the~~  
185 ~~test subject and on the availability and location of sites at~~  
186 ~~which anonymous testing is performed. As required in paragraph~~  
187 ~~(3)(c), each county health department shall maintain a list of~~  
188 ~~sites at which anonymous testing is performed, including the~~  
189 ~~locations, phone numbers, and hours of operation of the sites.~~  
190 ~~Consent need not be in writing provided there is documentation~~  
191 ~~in the medical record that the test has been explained and the~~  
192 ~~consent has been obtained.~~

193 2. In a nonhealth care setting, a provider shall obtain  
194 the informed consent of the person upon whom the test is being  
195 performed. Informed consent shall be preceded by an explanation  
196 of the right to confidential treatment of information  
197 identifying the subject of the test and the results of the test  
198 as provided by law.

199  
200 The test subject shall also be informed that a positive HIV test  
201 result will be reported to the county health department with  
202 sufficient information to identify the test subject and on the  
203 availability and location of sites at which anonymous testing is  
204 performed. As required in paragraph (3)(c), each county health  
205 department shall maintain a list of sites at which anonymous  
206 testing is performed, including the locations, telephone  
207 numbers, and hours of operation of the sites.

208 (b) Except as provided in paragraph (h), informed consent



209 must be obtained from a legal guardian or other person  
 210 authorized by law if ~~when~~ the person:

211 1. Is not competent, is incapacitated, or is otherwise  
 212 unable to make an informed judgment; or

213 2. Has not reached the age of majority, except as provided  
 214 in s. 384.30.

215 (g) Human immunodeficiency virus test results contained in  
 216 the medical records of a hospital licensed under chapter 395 may  
 217 be released in accordance with s. 395.3025 without being subject  
 218 to ~~the requirements of~~ subparagraph (e)2., subparagraph (e)9.,  
 219 or paragraph (f) if; ~~provided~~ the hospital has notified the  
 220 patient of the limited confidentiality protections afforded HIV  
 221 test results contained in hospital medical records ~~obtained~~  
 222 ~~written informed consent for the HIV test in accordance with~~  
 223 ~~provisions of this section.~~

224 (h) Notwithstanding ~~the provisions of~~ paragraph (a),  
 225 informed consent is not required:

226 1. When testing for sexually transmissible diseases is  
 227 required by state or federal law, or by rule including the  
 228 following situations:

229 a. HIV testing pursuant to s. 796.08 of persons convicted  
 230 of prostitution or of procuring another to commit prostitution.

231 b. HIV testing of inmates pursuant to s. 945.355 before  
 232 ~~prior to their~~ release from prison by reason of parole,  
 233 accumulation of gain-time credits, or expiration of sentence.

234 c. Testing for HIV by a medical examiner in accordance

235 with s. 406.11.

236 d. HIV testing of pregnant women pursuant to s. 384.31.

237 2. Those exceptions provided for blood, plasma, organs,

238 skin, semen, or other human tissue pursuant to s. 381.0041.

239 3. For the performance of an HIV-related test by licensed

240 medical personnel in bona fide medical emergencies if ~~when~~ the

241 test results are necessary for medical diagnostic purposes to

242 provide appropriate emergency care or treatment to the person

243 being tested and the patient is unable to consent, as supported

244 by documentation in the medical record. Notification of test

245 results in accordance with paragraph (c) is required.

246 4. For the performance of an HIV-related test by licensed

247 medical personnel for medical diagnosis of acute illness where,

248 in the opinion of the attending physician, providing

249 notification ~~obtaining informed consent~~ would be detrimental to

250 the patient, as supported by documentation in the medical

251 record, and the test results are necessary for medical

252 diagnostic purposes to provide appropriate care or treatment to

253 the person being tested. Notification of test results in

254 accordance with paragraph (c) is required if it would not be

255 detrimental to the patient. This subparagraph does not authorize

256 the routine testing of patients for HIV infection without

257 notification ~~informed consent~~.

258 5. If ~~When~~ HIV testing is performed as part of an autopsy

259 for which consent was obtained pursuant to s. 872.04.

260 6. For the performance of an HIV test upon a defendant

261 pursuant to the victim's request in a prosecution for any type  
 262 of sexual battery where a blood sample is taken from the  
 263 defendant voluntarily, pursuant to court order for any purpose,  
 264 or pursuant to ~~the provisions of~~ s. 775.0877, s. 951.27, or s.  
 265 960.003; however, the results of an ~~any~~ HIV test performed shall  
 266 be disclosed solely to the victim and the defendant, except as  
 267 provided in ss. 775.0877, 951.27, and 960.003.

268 7. If ~~When~~ an HIV test is mandated by court order.

269 8. For epidemiological research pursuant to s. 381.0031,  
 270 for research consistent with institutional review boards created  
 271 by 45 C.F.R. part 46, or for the performance of an HIV-related  
 272 test for the purpose of research, if the testing is performed in  
 273 a manner by which the identity of the test subject is not known  
 274 and may not be retrieved by the researcher.

275 9. If ~~When~~ human tissue is collected lawfully without the  
 276 consent of the donor for corneal removal as authorized by s.  
 277 765.5185 or enucleation of the eyes as authorized by s. 765.519.

278 10. For the performance of an HIV test upon an individual  
 279 who comes into contact with medical personnel in such a way that  
 280 a significant exposure has occurred during the course of  
 281 employment or within the scope of practice and where a blood  
 282 sample is available which ~~that~~ was taken from that individual  
 283 voluntarily by medical personnel for other purposes. The term  
 284 "medical personnel" includes a licensed or certified health care  
 285 professional; an employee of a health care professional or  
 286 health care facility; employees of a laboratory licensed under

287 chapter 483; personnel of a blood bank or plasma center; a  
288 medical student or other student who is receiving training as a  
289 health care professional at a health care facility; and a  
290 paramedic or emergency medical technician certified by the  
291 department to perform life-support procedures under s. 401.23.

292 a. Before performing ~~Prior to performance of~~ an HIV test  
293 on a voluntarily obtained blood sample, the individual from whom  
294 the blood was obtained shall be requested to consent to the  
295 performance of the test and to the release of the results. If  
296 consent cannot be obtained within the time necessary to perform  
297 the HIV test and begin prophylactic treatment of the exposed  
298 medical personnel, all information concerning the performance of  
299 an HIV test and any HIV test result shall be documented only in  
300 the medical personnel's record unless the individual gives  
301 written consent to entering this information on the individual's  
302 medical record.

303 b. Reasonable attempts to locate the individual and to  
304 obtain consent shall be made, and all attempts must be  
305 documented. If the individual cannot be found or is incapable of  
306 providing consent, an HIV test may be conducted on the available  
307 blood sample. If the individual does not voluntarily consent to  
308 the performance of an HIV test, the individual shall be informed  
309 that an HIV test will be performed, and counseling shall be  
310 furnished as provided in this section. However, HIV testing  
311 shall be conducted only after appropriate medical personnel  
312 under the supervision of a licensed physician documents, in the

313 medical record of the medical personnel, that there has been a  
314 significant exposure and that, in accordance with the written  
315 protocols based on the National Centers for Disease Control and  
316 Prevention guidelines on HIV postexposure prophylaxis and in the  
317 physician's medical judgment, the information is medically  
318 necessary to determine the course of treatment for the medical  
319 personnel.

320 c. Costs of an ~~any~~ HIV test of a blood sample performed  
321 with or without the consent of the individual, as provided in  
322 this subparagraph, shall be borne by the medical personnel or  
323 the employer of the medical personnel. However, costs of testing  
324 or treatment not directly related to the initial HIV tests or  
325 costs of subsequent testing or treatment may not be borne by the  
326 medical personnel or the employer of the medical personnel.

327 d. In order to use ~~utilize~~ the provisions of this  
328 subparagraph, the medical personnel must ~~either~~ be tested for  
329 HIV pursuant to this section or provide the results of an HIV  
330 test taken within 6 months before ~~prior to~~ the significant  
331 exposure if such test results are negative.

332 e. A person who receives the results of an HIV test  
333 pursuant to this subparagraph shall maintain the confidentiality  
334 of the information received and of the persons tested. Such  
335 confidential information is exempt from s. 119.07(1).

336 f. If the source of the exposure will not voluntarily  
337 submit to HIV testing and a blood sample is not available, the  
338 medical personnel or the employer of such person acting on

339 | behalf of the employee may seek a court order directing the  
340 | source of the exposure to submit to HIV testing. A sworn  
341 | statement by a physician licensed under chapter 458 or chapter  
342 | 459 that a significant exposure has occurred and that, in the  
343 | physician's medical judgment, testing is medically necessary to  
344 | determine the course of treatment constitutes probable cause for  
345 | the issuance of an order by the court. The results of the test  
346 | shall be released to the source of the exposure and to the  
347 | person who experienced the exposure.

348 |       11. For the performance of an HIV test upon an individual  
349 | who comes into contact with medical personnel in such a way that  
350 | a significant exposure has occurred during the course of  
351 | employment or within the scope of practice of the medical  
352 | personnel while the medical personnel provides emergency medical  
353 | treatment to the individual; or notwithstanding s. 384.287, an  
354 | individual who comes into contact with nonmedical personnel in  
355 | such a way that a significant exposure has occurred while the  
356 | nonmedical personnel provides emergency medical assistance  
357 | during a medical emergency. For the purposes of this  
358 | subparagraph, a medical emergency means an emergency medical  
359 | condition outside of a hospital or health care facility that  
360 | provides physician care. The test may be performed only during  
361 | the course of treatment for the medical emergency.

362 |       a. An individual who is capable of providing consent shall  
363 | be requested to consent to an HIV test before ~~prior to the~~  
364 | testing. If consent cannot be obtained within the time necessary

365 to perform the HIV test and begin prophylactic treatment of the  
366 exposed medical personnel and nonmedical personnel, all  
367 information concerning the performance of an HIV test and its  
368 result, shall be documented only in the medical personnel's or  
369 nonmedical personnel's record unless the individual gives  
370 written consent to entering this information in ~~on~~ the  
371 individual's medical record.

372 b. HIV testing shall be conducted only after appropriate  
373 medical personnel under the supervision of a licensed physician  
374 documents, in the medical record of the medical personnel or  
375 nonmedical personnel, that there has been a significant exposure  
376 and that, in accordance with the written protocols based on the  
377 National Centers for Disease Control and Prevention guidelines  
378 on HIV postexposure prophylaxis and in the physician's medical  
379 judgment, the information is medically necessary to determine  
380 the course of treatment for the medical personnel or nonmedical  
381 personnel.

382 c. Costs of any HIV test performed with or without the  
383 consent of the individual, as provided in this subparagraph,  
384 shall be borne by the medical personnel or the employer of the  
385 medical personnel or nonmedical personnel. However, costs of  
386 testing or treatment not directly related to the initial HIV  
387 tests or costs of subsequent testing or treatment may not be  
388 borne by the medical personnel or the employer of the medical  
389 personnel or nonmedical personnel.

390 d. In order to use ~~utilize~~ the provisions of this

391 subparagraph, the medical personnel or nonmedical personnel  
392 shall be tested for HIV pursuant to this section or shall  
393 provide the results of an HIV test taken within 6 months before  
394 ~~prior to~~ the significant exposure if such test results are  
395 negative.

396 e. A person who receives the results of an HIV test  
397 pursuant to this subparagraph shall maintain the confidentiality  
398 of the information received and of the persons tested. Such  
399 confidential information is exempt from s. 119.07(1).

400 f. If the source of the exposure will not voluntarily  
401 submit to HIV testing and a blood sample was not obtained during  
402 treatment for the medical emergency, the medical personnel, the  
403 employer of the medical personnel acting on behalf of the  
404 employee, or the nonmedical personnel may seek a court order  
405 directing the source of the exposure to submit to HIV testing. A  
406 sworn statement by a physician licensed under chapter 458 or  
407 chapter 459 that a significant exposure has occurred and that,  
408 in the physician's medical judgment, testing is medically  
409 necessary to determine the course of treatment constitutes  
410 probable cause for the issuance of an order by the court. The  
411 results of the test shall be released to the source of the  
412 exposure and to the person who experienced the exposure.

413 12. For the performance of an HIV test by the medical  
414 examiner or attending physician upon an individual who expired  
415 or could not be resuscitated while receiving emergency medical  
416 assistance or care and who was the source of a significant



417 exposure to medical or nonmedical personnel providing such  
418 assistance or care.

419 a. HIV testing may be conducted only after appropriate  
420 medical personnel under the supervision of a licensed physician  
421 documents in the medical record of the medical personnel or  
422 nonmedical personnel that there has been a significant exposure  
423 and that, in accordance with the written protocols based on the  
424 National Centers for Disease Control and Prevention guidelines  
425 on HIV postexposure prophylaxis and in the physician's medical  
426 judgment, the information is medically necessary to determine  
427 the course of treatment for the medical personnel or nonmedical  
428 personnel.

429 b. Costs of an ~~any~~ HIV test performed under this  
430 subparagraph may not be charged to the deceased or to the family  
431 of the deceased person.

432 c. For ~~the provisions of~~ this subparagraph to be  
433 applicable, the medical personnel or nonmedical personnel must  
434 be tested for HIV under this section or must provide the results  
435 of an HIV test taken within 6 months before the significant  
436 exposure if such test results are negative.

437 d. A person who receives the results of an HIV test  
438 pursuant to this subparagraph shall comply with paragraph (e).

439 13. For the performance of an HIV-related test medically  
440 indicated by licensed medical personnel for medical diagnosis of  
441 a hospitalized infant as necessary to provide appropriate care  
442 and treatment of the infant if ~~when~~, after a reasonable attempt,

443 a parent cannot be contacted to provide consent. The medical  
 444 records of the infant must ~~shall~~ reflect the reason consent of  
 445 the parent was not initially obtained. Test results shall be  
 446 provided to the parent when the parent is located.

447 14. For the performance of HIV testing conducted to  
 448 monitor the clinical progress of a patient previously diagnosed  
 449 to be HIV positive.

450 15. For the performance of repeated HIV testing conducted  
 451 to monitor possible conversion from a significant exposure.

452 (4) HUMAN IMMUNODEFICIENCY VIRUS TESTING REQUIREMENTS;  
 453 REGISTRATION WITH THE DEPARTMENT OF HEALTH; EXEMPTIONS FROM  
 454 REGISTRATION.—No county health department and no other person in  
 455 this state shall conduct or hold themselves out to the public as  
 456 conducting a testing program for acquired immune deficiency  
 457 syndrome or human immunodeficiency virus status without first  
 458 registering with the Department of Health, reregistering each  
 459 year, complying with all other applicable provisions of state  
 460 law, and meeting the following requirements:

461 (d) A program in a health care setting shall meet the  
 462 notification criteria contained in subparagraph (2)(a)1. A  
 463 program in a nonhealth care setting shall meet all informed  
 464 consent criteria contained in subparagraph (2)(a)2. ~~The program~~  
 465 ~~must meet all the informed consent criteria contained in~~  
 466 ~~subsection (2).~~

467 Section 3. Subsection (1) of section 382.011, Florida  
 468 Statutes, is amended to read:

469 382.011 Medical examiner determination of cause of death.—

470 (1) In the case of any death or fetal death involving the  
 471 circumstances due to causes or conditions listed in s. 406.11(1)  
 472 ~~406.11~~, any death that occurred more than 12 months after the  
 473 decedent was last treated by a primary or attending physician as  
 474 defined in s. 382.008(3), or any death for which there is reason  
 475 to believe that the death may have been due to an unlawful act  
 476 or neglect, the funeral director or other person to whose  
 477 attention the death may come shall refer the case to the  
 478 district medical examiner of the county in which the death  
 479 occurred or the body was found for investigation and  
 480 determination of the cause of death. A member of the public may  
 481 not be charged a fee by a county or district medical examiner  
 482 for an examination, investigation, or autopsy performed to  
 483 determine the cause of death pursuant to s. 406.11(1). However,  
 484 a county, by resolution or ordinance of the board of county  
 485 commissioners, may charge a medical examiner approval fee not to  
 486 exceed \$50 when a body is to be cremated, buried at sea, or  
 487 dissected.

488 Section 4. Paragraph (e) of subsection (4) of section  
 489 395.3025, Florida Statutes, is amended to read:

490 395.3025 Patient and personnel records; copies;  
 491 examination.—

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

495 such consent to:

496 (e) The department agency upon subpoena issued pursuant to  
497 s. 456.071, ~~but~~ The records obtained ~~thereby~~ must be used  
498 solely for the purpose of the department agency and the  
499 appropriate professional board in its investigation,  
500 prosecution, and appeal of disciplinary proceedings. If the  
501 department agency requests copies of the records, the facility  
502 shall charge a fee pursuant to this section ~~no more than its~~  
503 ~~actual copying costs, including reasonable staff time.~~ The  
504 department and the appropriate professional board must maintain  
505 the confidentiality of patient records obtained under this  
506 paragraph pursuant to s. 456.057. A licensee who is the subject  
507 of a department investigation may inspect or receive a copy of a  
508 patient record connected with the investigation if the licensee  
509 agrees in writing to maintain the confidentiality of the patient  
510 record pursuant to s. 456.057 ~~must be sealed and must not be~~  
511 ~~available to the public pursuant to s. 119.07(1) or any other~~  
512 ~~statute providing access to records, nor may they be available~~  
513 ~~to the public as part of the record of investigation for and~~  
514 ~~prosecution in disciplinary proceedings made available to the~~  
515 ~~public by the agency or the appropriate regulatory board.~~  
516 ~~However, the agency must make available, upon written request by~~  
517 ~~a practitioner against whom probable cause has been found, any~~  
518 ~~such records that form the basis of the determination of~~  
519 ~~probable cause.~~

520 Section 5. Subsection (2) of section 456.013, Florida

521 Statutes, is amended to read:

522 456.013 Department; general licensing provisions.—

523 (2) Before the issuance of a ~~any~~ license, the department  
524 shall charge an initial license fee as determined by the  
525 applicable board or, if there is no board, by rule of the  
526 department. Upon receipt of the appropriate license fee, the  
527 department shall issue a license to a ~~any~~ person certified by  
528 the appropriate board, or its designee, as having met the  
529 licensure requirements imposed by law or rule. ~~The license shall~~  
530 ~~consist of a wallet-size identification card and a wall card~~  
531 ~~measuring 6 1/2 inches by 5 inches.~~ The licensee shall surrender  
532 the license to the department ~~the wallet-size identification~~  
533 ~~card and the wall card~~ if the licensee's license was ~~is~~ issued  
534 in error or is revoked.

535 Section 6. Subsections (5) through (11) of section  
536 456.025, Florida Statutes, are renumbered as subsections (4)  
537 through (10), respectively, and present subsections (4) and (6)  
538 are amended to read:

539 456.025 Fees; receipts; disposition.—

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

546 (5) ~~(6)~~ If the cash balance of the trust fund at the end of

547 any fiscal year exceeds the total appropriation provided for the  
548 regulation of the health care professions in the prior fiscal  
549 year, the boards, in consultation with the department, may lower  
550 the license renewal fees. When the department determines, based  
551 on long-range estimates of revenue, that a profession's trust  
552 fund balance exceeds the amount required to cover necessary  
553 functions, each board, or the department when there is no board,  
554 may adopt rules to implement the waiver of initial application  
555 fees, initial licensure fees, unlicensed activity fees, or  
556 renewal fees for that profession. The waiver of renewal fees may  
557 not exceed 2 years.

558 Section 7. Subsection (2) of section 456.032, Florida  
559 Statutes, is amended to read:

560 456.032 Hepatitis B or HIV carriers.—

561 (2) Any person licensed by the department and any other  
562 person employed by a health care facility who contracts a blood-  
563 borne infection shall have a rebuttable presumption that the  
564 illness was contracted in the course and scope of his or her  
565 employment, provided that the person, as soon as practicable,  
566 reports to the person's supervisor or the facility's risk  
567 manager any significant exposure, as that term is defined in s.  
568 381.004(1)(f) ~~381.004(1)(e)~~, to blood or body fluids. The  
569 employer may test the blood or body fluid to determine if it is  
570 infected with the same disease contracted by the employee. The  
571 employer may rebut the presumption by the preponderance of the  
572 evidence. Except as expressly provided in this subsection, there

573 shall be no presumption that a blood-borne infection is a job-  
 574 related injury or illness.

575 Section 8. Subsection (17) of section 456.057, Florida  
 576 Statutes, is amended to read:

577 456.057 Ownership and control of patient records; report  
 578 or copies of records to be furnished; disclosure of  
 579 information.—

580 (17) A health care practitioner or records owner  
 581 furnishing copies of reports or records or making the reports or  
 582 records available for digital scanning pursuant to this section  
 583 shall charge no more than the actual cost of copying, including  
 584 reasonable staff time, or the amount specified in administrative  
 585 rule by the appropriate board, or the department when there is  
 586 no board. The rates charged for reproduction of written or typed  
 587 medical records must be the same regardless of format or medium.

588 Section 9. Subsections (2), (3), and (4) of section  
 589 458.319, Florida Statutes, are renumbered as subsections (3),  
 590 (4), and (5), respectively, and a new subsection (2) is added to  
 591 that section to read:

592 458.319 Renewal of license.—

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

597 (a) Provide that continuing medical education approved by  
 598 the American Medical Association satisfies some or all of the

599 continuing medical education requirements.

600 (b) Mandate specific continuing medical education  
 601 requirements.

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

604 1. Attendance at a board meeting at which another licensee  
 605 is disciplined;

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

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

610 Section 10. Subsection (3) of section 458.3485, Florida  
 611 Statutes, is amended to read:

612 458.3485 Medical assistant.—

613 ~~(3) CERTIFICATION. Medical assistants may be certified by~~  
 614 ~~the American Association of Medical Assistants or as a~~  
 615 ~~Registered Medical Assistant by the American Medical~~  
 616 ~~Technologists.~~

617 Section 11. Subsection (7) of section 464.203, Florida  
 618 Statutes, is amended to read:

619 464.203 Certified nursing assistants; certification  
 620 requirement.—

621 (7) A certified nursing assistant shall complete 24 ~~12~~  
 622 hours of inservice training every 2 years ~~during each calendar~~  
 623 ~~year~~. The certified nursing assistant is ~~shall be~~ responsible  
 624 for maintaining documentation demonstrating compliance with



625 these provisions. ~~The Council on Certified Nursing Assistants,~~  
626 ~~in accordance with s. 464.2085(2)(b), shall propose rules to~~  
627 ~~implement this subsection.~~

628 Section 12. Section 464.2085, Florida Statutes, is  
629 repealed.

630 Section 13. Subsection (2) of section 466.032, Florida  
631 Statutes, is amended to read:

632 466.032 Registration.—

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

639 Section 14. Subsection (8) of section 467.009, Florida  
640 Statutes, is amended to read:

641 467.009 Midwifery programs; education and training  
642 requirements.—

643 (8) Nonpublic educational institutions that conduct  
644 approved midwifery programs shall be accredited by a member of  
645 the Council for Higher Education Accreditation ~~Commission on~~  
646 ~~Recognition of Postsecondary Accreditation~~ and shall be licensed  
647 by the Commission for Independent Education.

648 Section 15. Subsection (2) of section 468.1665, Florida  
649 Statutes, is amended to read:

650 468.1665 Board of Nursing Home Administrators; membership;

651 appointment; terms.—

652 (2) Four ~~Three~~ members of the board must be licensed  
 653 nursing home administrators. One member ~~Two members~~ of the board  
 654 must be a health care practitioner ~~practitioners~~. The remaining  
 655 two members of the board must be laypersons who are not, and  
 656 have never been, nursing home administrators or members of any  
 657 health care profession or occupation. At least one member of the  
 658 board must be 60 years of age or older.

659 Section 16. Subsection (2) of section 468.1695, Florida  
 660 Statutes, is amended to read:

661 468.1695 Licensure by examination.—

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

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

671 2. Has fulfilled the requirements of a college-affiliated  
 672 or university-affiliated internship in nursing home  
 673 administration or of a 1,000-hour nursing home administrator-in-  
 674 training program prescribed by the board; or

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

677           2.a. Has fulfilled the requirements of a 2,000-hour  
 678 nursing home administrator-in-training program prescribed by the  
 679 board; or

680           b. Has 1 year of management experience allowing for the  
 681 application of executive duties and skills, including the  
 682 staffing, budgeting, and directing of resident care, dietary,  
 683 and bookkeeping departments within a skilled nursing facility,  
 684 hospital, hospice, assisted living facility with a minimum of 60  
 685 licensed beds, or geriatric residential treatment program and,  
 686 if such experience is not in a skilled nursing facility, has  
 687 fulfilled the requirements of a 1,000-hour nursing home  
 688 administrator-in-training program prescribed by the board.

689           Section 17. Section 468.1735, Florida Statutes, is  
 690 repealed.

691           Section 18. Subsection (11) of section 468.503, Florida  
 692 Statutes, is amended to read:

693           468.503 Definitions.—As used in this part:

694           (11) "Registered dietitian" means an individual registered  
 695 with the accrediting body of the Academy of Nutrition and  
 696 Dietetics ~~Commission on Dietetic Registration, the accrediting~~  
 697 ~~body of the American Dietetic Association.~~

698           Section 19. Subsection (4) of section 468.505, Florida  
 699 Statutes, is amended to read:

700           468.505 Exemptions; exceptions.—

701           (4) Notwithstanding any other provision of this part, an  
 702 individual registered by the accrediting body of the Academy of

703 Nutrition and Dietetics ~~Commission on Dietetic Registration of~~  
 704 ~~the American Dietetic Association~~ has the right to use the title  
 705 "Registered Dietitian" and the designation "R.D."

706 Section 20. Subsection (5) of section 480.033, Florida  
 707 Statutes, is amended to read:

708 480.033 Definitions.—As used in this act:

709 ~~(5) "Apprentice" means a person approved by the board to~~  
 710 ~~study massage under the instruction of a licensed massage~~  
 711 ~~therapist.~~

712 Section 21. Subsections (1) and (4) of section 480.041,  
 713 Florida Statutes, are amended to read:

714 480.041 Massage therapists; qualifications; licensure;  
 715 endorsement.—

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

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

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

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

725 (4) The board shall adopt rules:

726 (a) ~~Establishing a minimum training program for~~  
 727 ~~apprentices.~~

728 ~~(b)~~ Providing for educational standards, examination, and

729 certification for the practice of colonic irrigation, as defined  
 730 in s. 480.033 ~~480.033(6)~~, by massage therapists.

731 (b) ~~(e)~~ Specifying licensing procedures for practitioners  
 732 desiring to be licensed in this state who hold an active license  
 733 and have practiced in any other state, territory, or  
 734 jurisdiction of the United States or any foreign national  
 735 jurisdiction which has licensing standards substantially similar  
 736 to, equivalent to, or more stringent than the standards of this  
 737 state.

738 Section 22. Subsection (5) of section 480.042, Florida  
 739 Statutes, is amended to read:

740 480.042 Examinations.—

741 (5) ~~All licensing examinations shall be conducted in such~~  
 742 ~~manner that the applicant shall be known to the department by~~  
 743 ~~number until her or his examination is completed and the proper~~  
 744 ~~grade determined.~~ An accurate record of each examination shall  
 745 be maintained, ~~shall be made;~~ and that record, together with all  
 746 examination papers, ~~shall be filed with the State Surgeon~~  
 747 ~~General and~~ shall be kept by the testing entities for reference  
 748 and inspection for a period of not less than 2 years immediately  
 749 following the examination.

750 Section 23. Paragraph (h) of subsection (1) of section  
 751 480.044, Florida Statutes, is amended to read:

752 480.044 Fees; disposition.—

753 (1) The board shall set fees according to the following  
 754 schedule:

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

756 Section 24. Subsection (4) of section 766.1115, Florida  
757 Statutes, is amended to read:

758 766.1115 Health care providers; creation of agency  
759 relationship with governmental contractors.—

760 (4) CONTRACT REQUIREMENTS.—A health care provider that  
761 executes a contract with a governmental contractor to deliver  
762 health care services on or after April 17, 1992, as an agent of  
763 the governmental contractor is an agent for purposes of s.  
764 768.28(9), while acting within the scope of duties under the  
765 contract, if the contract complies with the requirements of this  
766 section and regardless of whether the individual treated is  
767 later found to be ineligible. A health care provider shall  
768 continue to be an agent for purposes of s. 768.28(9) for 30 days  
769 after a determination of ineligibility to allow for treatment  
770 until the individual transitions to treatment by another health  
771 care provider. A health care provider under contract with the  
772 state may not be named as a defendant in any action arising out  
773 of medical care or treatment provided on or after April 17,  
774 1992, under contracts entered into under this section. The  
775 contract must provide that:

776 (a) The right of dismissal or termination of any health  
777 care provider delivering services under the contract is retained  
778 by the governmental contractor.

779 (b) The governmental contractor has access to the patient  
780 records of any health care provider delivering services under

781 the contract.

782 (c) Adverse incidents and information on treatment  
783 outcomes must be reported by any health care provider to the  
784 governmental contractor if the incidents and information pertain  
785 to a patient treated under the contract. The health care  
786 provider shall submit the reports required by s. 395.0197. If an  
787 incident involves a professional licensed by the Department of  
788 Health or a facility licensed by the Agency for Health Care  
789 Administration, the governmental contractor shall submit such  
790 incident reports to the appropriate department or agency, which  
791 shall review each incident and determine whether it involves  
792 conduct by the licensee that is subject to disciplinary action.  
793 All patient medical records and any identifying information  
794 contained in adverse incident reports and treatment outcomes  
795 which are obtained by governmental entities under this paragraph  
796 are confidential and exempt from the provisions of s. 119.07(1)  
797 and s. 24(a), Art. I of the State Constitution.

798 (d) Patient selection and initial referral must be made by  
799 the governmental contractor or the provider. Patients may not be  
800 transferred to the provider based on a violation of the  
801 antidumping provisions of the Omnibus Budget Reconciliation Act  
802 of 1989, the Omnibus Budget Reconciliation Act of 1990, or  
803 chapter 395.

804 (e) If emergency care is required, the patient need not be  
805 referred before receiving treatment, but must be referred within  
806 48 hours after treatment is commenced or within 48 hours after

807 the patient has the mental capacity to consent to treatment,  
808 whichever occurs later.

809 (f) The provider is subject to supervision and regular  
810 inspection by the governmental contractor.

811

812 A governmental contractor that is also a health care provider is  
813 not required to enter into a contract under this section with  
814 respect to the health care services delivered by its employees.

815 Section 25. Subsection (3) of section 823.05, Florida  
816 Statutes, is amended to read:

817 823.05 Places and groups engaged in criminal gang-related  
818 activity declared a nuisance; massage establishments engaged in  
819 prohibited activity; may be abated and enjoined.—

820 (3) A massage establishment as defined in s. 480.033  
821 ~~480.033(7)~~ that operates in violation of s. 480.0475 or s.  
822 480.0535(2) is declared a nuisance and may be abated or enjoined  
823 as provided in ss. 60.05 and 60.06.

824 Section 26. This act shall take effect July 1, 2014.