



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. 458.319, F.S.; providing
30 | continuing medical education requirements for Board of
31 | Medicine licensees; authorizing the board to adopt
32 | rules; amending s. 458.3485, F.S.; deleting a
33 | provision authorizing medical assistants to be
34 | certified by certain entities; amending s. 464.203,
35 | F.S.; revising certified nursing assistant inservice
36 | training requirements; repealing s. 464.2085, F.S.,
37 | relating to the creation, membership, and duties of
38 | the Council on Certified Nursing Assistants; amending
39 | s. 466.032, F.S.; deleting a requirement that the
40 | department provide certain notice to a dental
41 | laboratory operator who fails to renew her or his
42 | registration; amending s. 467.009, F.S.; revising the
43 | organization that must accredit certain midwifery
44 | programs; amending s. 468.1665, F.S.; revising
45 | membership of the Board of Nursing Home
46 | Administrators; amending s. 468.1695, F.S.; revising
47 | an educational requirement for an applicant to be
48 | eligible to take the nursing home administrator
49 | licensure examination; repealing s. 468.1735, F.S.,
50 | relating to provisional licenses for nursing home
51 | administrators; amending ss. 468.503 and 468.505,
52 | F.S.; revising the organization with whom an



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

68
69 Be It Enacted by the Legislature of the State of Florida:

70
71 Section 1. Paragraphs (j) and (k) of subsection (4) of
72 section 322.142, Florida Statutes, are amended, and paragraph
73 (l) is added to that subsection, to read:

74 322.142 Color photographic or digital imaged licenses.—

75 (4) The department may maintain a film negative or print
76 file. The department shall maintain a record of the digital
77 image and signature of the licensees, together with other data
78 required by the department for identification and retrieval.



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79 Reproductions from the file or digital record are exempt from
80 the provisions of s. 119.07(1) and shall be made and issued
81 only:

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

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

89 1. A justice or judge of this state;

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

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

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

103 Section 2. Subsection (1), paragraphs (a), (b), (g), and
104 (h) of subsection (2), and paragraph (d) of subsection (4) of



105 section 381.004, Florida Statutes, are amended, and subsection
106 (1) of that section is reordered, to read:

107 381.004 HIV testing.—

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

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

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

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

126 (d) "Nonhealth care setting" means a site that conducts
127 HIV testing for the sole purpose of identifying HIV infection.
128 Such setting does not provide medical treatment but may include
129 community-based organizations, outreach settings, county health
130 department HIV testing programs, and mobile vans.



- 131 (f)~~(e)~~ "Significant exposure" means:
- 132 1. Exposure to blood or body fluids through needlestick,
133 instruments, or sharps;
- 134 2. Exposure of mucous membranes to visible blood or body
135 fluids, ~~to which universal precautions apply according to the~~
136 National Centers for Disease Control and Prevention, including,
137 without limitations, the following body fluids:
- 138 a. Blood.
- 139 b. Semen.
- 140 c. Vaginal secretions.
- 141 d. Cerebrospinal ~~Cerebro-spinal~~ fluid (CSF).
- 142 e. Synovial fluid.
- 143 f. Pleural fluid.
- 144 g. Peritoneal fluid.
- 145 h. Pericardial fluid.
- 146 i. Amniotic fluid.
- 147 j. Laboratory specimens that contain HIV (e.g.,
148 suspensions of concentrated virus); or
- 149 3. Exposure of skin to visible blood or body fluids,
150 especially when the exposed skin is chapped, abraded, or
151 afflicted with dermatitis or the contact is prolonged or
152 involving an extensive area.
- 153 (e)~~(d)~~ "Preliminary HIV test" means an antibody or
154 antibody-antigen screening test, such as the ~~enzyme-linked~~
155 immunosorbent assays (IA), or a rapid test approved by the
156 United States Food and Drug Administration ~~(ELISAs) or the~~



157 ~~Single-Use Diagnostic System (SUDS).~~

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

162 (2) HUMAN IMMUNODEFICIENCY VIRUS TESTING; INFORMED
163 CONSENT; RESULTS; COUNSELING; CONFIDENTIALITY.—

164 (a) Before performing an HIV test:

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



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

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

197
198 The test subject shall also be informed that a positive HIV test
199 result will be reported to the county health department with
200 sufficient information to identify the test subject and on the
201 availability and location of sites at which anonymous testing is
202 performed. As required in paragraph (3) (c), each county health
203 department shall maintain a list of sites at which anonymous
204 testing is performed, including the locations, telephone
205 numbers, and hours of operation of the sites.

206 (b) Except as provided in paragraph (h), informed consent
207 must be obtained from a legal guardian or other person
208 authorized by law if ~~when~~ the person:



- 209 1. Is not competent, is incapacitated, or is otherwise
210 unable to make an informed judgment; or
- 211 2. Has not reached the age of majority, except as provided
212 in s. 384.30.
- 213 (g) Human immunodeficiency virus test results contained in
214 the medical records of a hospital licensed under chapter 395 may
215 be released in accordance with s. 395.3025 without being subject
216 to ~~the requirements of~~ subparagraph (e)2., subparagraph (e)9.,
217 or paragraph (f) ~~if, provided~~ the hospital has notified the
218 patient of the limited confidentiality protections afforded HIV
219 test results contained in hospital medical records ~~obtained~~
220 ~~written informed consent for the HIV test in accordance with~~
221 ~~provisions of this section.~~
- 222 (h) Notwithstanding ~~the provisions of~~ paragraph (a),
223 informed consent is not required:
- 224 1. When testing for sexually transmissible diseases is
225 required by state or federal law, or by rule including the
226 following situations:
- 227 a. HIV testing pursuant to s. 796.08 of persons convicted
228 of prostitution or of procuring another to commit prostitution.
- 229 b. HIV testing of inmates pursuant to s. 945.355 before
230 ~~prior to their~~ release from prison by reason of parole,
231 accumulation of gain-time credits, or expiration of sentence.
- 232 c. Testing for HIV by a medical examiner in accordance
233 with s. 406.11.
- 234 d. HIV testing of pregnant women pursuant to s. 384.31.



235 2. Those exceptions provided for blood, plasma, organs,
236 skin, semen, or other human tissue pursuant to s. 381.0041.

237 3. For the performance of an HIV-related test by licensed
238 medical personnel in bona fide medical emergencies if ~~when~~ the
239 test results are necessary for medical diagnostic purposes to
240 provide appropriate emergency care or treatment to the person
241 being tested and the patient is unable to consent, as supported
242 by documentation in the medical record. Notification of test
243 results in accordance with paragraph (c) is required.

244 4. For the performance of an HIV-related test by licensed
245 medical personnel for medical diagnosis of acute illness where,
246 in the opinion of the attending physician, providing
247 notification ~~obtaining informed consent~~ would be detrimental to
248 the patient, as supported by documentation in the medical
249 record, and the test results are necessary for medical
250 diagnostic purposes to provide appropriate care or treatment to
251 the person being tested. Notification of test results in
252 accordance with paragraph (c) is required if it would not be
253 detrimental to the patient. This subparagraph does not authorize
254 the routine testing of patients for HIV infection without
255 notification ~~informed consent~~.

256 5. If ~~When~~ HIV testing is performed as part of an autopsy
257 for which consent was obtained pursuant to s. 872.04.

258 6. For the performance of an HIV test upon a defendant
259 pursuant to the victim's request in a prosecution for any type
260 of sexual battery where a blood sample is taken from the



261 defendant voluntarily, pursuant to court order for any purpose,
262 or pursuant to ~~the provisions of~~ s. 775.0877, s. 951.27, or s.
263 960.003; however, the results of an ~~any~~ HIV test performed shall
264 be disclosed solely to the victim and the defendant, except as
265 provided in ss. 775.0877, 951.27, and 960.003.

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

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

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

276 10. For the performance of an HIV test upon an individual
277 who comes into contact with medical personnel in such a way that
278 a significant exposure has occurred during the course of
279 employment or within the scope of practice and where a blood
280 sample is available which ~~that~~ was taken from that individual
281 voluntarily by medical personnel for other purposes. The term
282 "medical personnel" includes a licensed or certified health care
283 professional; an employee of a health care professional or
284 health care facility; employees of a laboratory licensed under
285 chapter 483; personnel of a blood bank or plasma center; a
286 medical student or other student who is receiving training as a



287 health care professional at a health care facility; and a
288 paramedic or emergency medical technician certified by the
289 department to perform life-support procedures under s. 401.23.

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

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



313 protocols based on the National Centers for Disease Control and
314 Prevention guidelines on HIV postexposure prophylaxis and in the
315 physician's medical judgment, the information is medically
316 necessary to determine the course of treatment for the medical
317 personnel.

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

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

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

334 f. If the source of the exposure will not voluntarily
335 submit to HIV testing and a blood sample is not available, the
336 medical personnel or the employer of such person acting on
337 behalf of the employee may seek a court order directing the
338 source of the exposure to submit to HIV testing. A sworn



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

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

360 a. An individual who is capable of providing consent shall
361 be requested to consent to an HIV test before ~~prior to the~~
362 testing. If consent cannot be obtained within the time necessary
363 to perform the HIV test and begin prophylactic treatment of the
364 exposed medical personnel and nonmedical personnel, all



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

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

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

388 d. In order to use ~~utilize~~ the provisions of this
389 subparagraph, the medical personnel or nonmedical personnel
390 shall be tested for HIV pursuant to this section or shall



391 provide the results of an HIV test taken within 6 months before
392 ~~prior to~~ the significant exposure if such test results are
393 negative.

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

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

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



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

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

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

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

437 13. For the performance of an HIV-related test medically
438 indicated by licensed medical personnel for medical diagnosis of
439 a hospitalized infant as necessary to provide appropriate care
440 and treatment of the infant if ~~when~~, after a reasonable attempt,
441 a parent cannot be contacted to provide consent. The medical
442 records of the infant must ~~shall~~ reflect the reason consent of



443 the parent was not initially obtained. Test results shall be
444 provided to the parent when the parent is located.

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

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

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

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

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

467 382.011 Medical examiner determination of cause of death.—

468 (1) In the case of any death or fetal death involving the



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

486 Section 4. Paragraph (e) of subsection (4) of section
487 395.3025, Florida Statutes, is amended to read:

488 395.3025 Patient and personnel records; copies;
489 examination.—

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

494 (e) The department ~~agency~~ upon subpoena issued pursuant to



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

518 Section 5. Subsection (2) of section 456.013, Florida
519 Statutes, is amended to read:

520 456.013 Department; general licensing provisions.—



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

533 Section 6. Subsections (5) through (11) of section
534 456.025, Florida Statutes, are renumbered as subsections (4)
535 through (10), respectively, and present subsections (4) and (6)
536 are amended to read:

537 456.025 Fees; receipts; disposition.—

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

544 (5)(6) If the cash balance of the trust fund at the end of
545 any fiscal year exceeds the total appropriation provided for the
546 regulation of the health care professions in the prior fiscal



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

556 | Section 7. Subsection (2) of section 456.032, Florida
557 | Statutes, is amended to read:

558 | 456.032 Hepatitis B or HIV carriers.—

559 | (2) Any person licensed by the department and any other
560 | person employed by a health care facility who contracts a blood-
561 | borne infection shall have a rebuttable presumption that the
562 | illness was contracted in the course and scope of his or her
563 | employment, provided that the person, as soon as practicable,
564 | reports to the person's supervisor or the facility's risk
565 | manager any significant exposure, as that term is defined in s.
566 | 381.004(1)(f) ~~381.004(1)(e)~~, to blood or body fluids. The
567 | employer may test the blood or body fluid to determine if it is
568 | infected with the same disease contracted by the employee. The
569 | employer may rebut the presumption by the preponderance of the
570 | evidence. Except as expressly provided in this subsection, there
571 | shall be no presumption that a blood-borne infection is a job-
572 | related injury or illness.



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573 Section 8. Subsections (2), (3), and (4) of section
574 458.319, Florida Statutes, are renumbered as subsections (3),
575 (4), and (5), respectively, and a new subsection (2) is added to
576 that section to read:

577 458.319 Renewal of license.—

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

582 (a) Provide that continuing medical education approved by
583 the American Medical Association satisfies some or all of the
584 continuing medical education requirements.

585 (b) Mandate specific continuing medical education
586 requirements.

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

589 1. Attendance at a board meeting at which another licensee
590 is disciplined;

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

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

595 Section 9. Subsection (3) of section 458.3485, Florida
596 Statutes, is amended to read:

597 458.3485 Medical assistant.—

598 ~~(3) CERTIFICATION. Medical assistants may be certified by~~



599 ~~the American Association of Medical Assistants or as a~~
600 ~~Registered Medical Assistant by the American Medical~~
601 ~~Technologists.~~

602 Section 10. Subsection (7) of section 464.203, Florida
603 Statutes, is amended to read:

604 464.203 Certified nursing assistants; certification
605 requirement.—

606 (7) A certified nursing assistant shall complete 24 ~~12~~
607 hours of inservice training every 2 years ~~during each calendar~~
608 ~~year~~. The certified nursing assistant is ~~shall be~~ responsible
609 for maintaining documentation demonstrating compliance with
610 these provisions. ~~The Council on Certified Nursing Assistants,~~
611 ~~in accordance with s. 464.2085(2)(b), shall propose rules to~~
612 ~~implement this subsection.~~

613 Section 11. Section 464.2085, Florida Statutes, is
614 repealed.

615 Section 12. Subsection (2) of section 466.032, Florida
616 Statutes, is amended to read:

617 466.032 Registration.—

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

624 Section 13. Subsection (8) of section 467.009, Florida



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625 Statutes, is amended to read:

626 467.009 Midwifery programs; education and training
627 requirements.—

628 (8) Nonpublic educational institutions that conduct
629 approved midwifery programs shall be accredited by a member of
630 the Council for Higher Education Accreditation ~~Commission on~~
631 ~~Recognition of Postsecondary Accreditation~~ and shall be licensed
632 by the Commission for Independent Education.

633 Section 14. Subsection (2) of section 468.1665, Florida
634 Statutes, is amended to read:

635 468.1665 Board of Nursing Home Administrators; membership;
636 appointment; terms.—

637 (2) Four ~~Three~~ members of the board must be licensed
638 nursing home administrators. One member ~~Two members~~ of the board
639 must be a health care practitioner ~~practitioners~~. The remaining
640 two members of the board must be laypersons who are not, and
641 have never been, nursing home administrators or members of any
642 health care profession or occupation. At least one member of the
643 board must be 60 years of age or older.

644 Section 15. Subsection (2) of section 468.1695, Florida
645 Statutes, is amended to read:

646 468.1695 Licensure by examination.—

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

650 (a)1. Holds a baccalaureate or master's degree from an



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651 accredited college or university and majored in health care
652 administration, health services administration, or an equivalent
653 major, or has credit for at least 60 semester hours in subjects,
654 as prescribed by rule of the board, which prepare the applicant
655 for total management of a nursing home; and

656 2. Has fulfilled the requirements of a college-affiliated
657 or university-affiliated internship in nursing home
658 administration or of a 1,000-hour nursing home administrator-in-
659 training program prescribed by the board; or

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

662 2.a. Has fulfilled the requirements of a 2,000-hour
663 nursing home administrator-in-training program prescribed by the
664 board; or

665 b. Has 1 year of management experience allowing for the
666 application of executive duties and skills, including the
667 staffing, budgeting, and directing of resident care, dietary,
668 and bookkeeping departments within a skilled nursing facility,
669 hospital, hospice, assisted living facility with a minimum of 60
670 licensed beds, or geriatric residential treatment program and,
671 if such experience is not in a skilled nursing facility, has
672 fulfilled the requirements of a 1,000-hour nursing home
673 administrator-in-training program prescribed by the board.

674 Section 16. Section 468.1735, Florida Statutes, is
675 repealed.

676 Section 17. Subsection (11) of section 468.503, Florida



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677 Statutes, is amended to read:

678 468.503 Definitions.—As used in this part:

679 (11) "Registered dietitian" means an individual registered
680 with the accrediting body of the Academy of Nutrition and
681 Dietetics Commission on Dietetic Registration, ~~the accrediting~~
682 ~~body of the American Dietetic Association.~~

683 Section 18. Subsection (4) of section 468.505, Florida
684 Statutes, is amended to read:

685 468.505 Exemptions; exceptions.—

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

691 Section 19. Subsection (5) of section 480.033, Florida
692 Statutes, is amended to read:

693 480.033 Definitions.—As used in this act:

694 ~~(5) "Apprentice" means a person approved by the board to~~
695 ~~study massage under the instruction of a licensed massage~~
696 ~~therapist.~~

697 Section 20. Subsections (1) and (4) of section 480.041,
698 Florida Statutes, are amended to read:

699 480.041 Massage therapists; qualifications; licensure;
700 endorsement.—

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



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

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

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

710 (4) The board shall adopt rules:

711 (a) ~~Establishing a minimum training program for~~
712 ~~apprentices.~~

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

716 ~~(b)(e)~~ (b) Specifying licensing procedures for practitioners
717 desiring to be licensed in this state who hold an active license
718 and have practiced in any other state, territory, or
719 jurisdiction of the United States or any foreign national
720 jurisdiction which has licensing standards substantially similar
721 to, equivalent to, or more stringent than the standards of this
722 state.

723 Section 21. Subsection (5) of section 480.042, Florida
724 Statutes, is amended to read:

725 480.042 Examinations.—

726 (5) ~~All licensing examinations shall be conducted in such~~
727 ~~manner that the applicant shall be known to the department by~~
728 ~~number until her or his examination is completed and the proper~~



729 ~~grade determined.~~ An accurate record of each examination shall
730 be maintained, ~~shall be made,~~ and that record, together with all
731 examination papers, ~~shall be filed with the State Surgeon~~
732 ~~General and~~ shall be kept by the testing entities for reference
733 and inspection for a period of not less than 2 years immediately
734 following the examination.

735 Section 22. Paragraph (h) of subsection (1) of section
736 480.044, Florida Statutes, is amended to read:

737 480.044 Fees; disposition.—

738 (1) The board shall set fees according to the following
739 schedule:

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

741 Section 23. Subsection (4) of section 766.1115, Florida
742 Statutes, is amended to read:

743 766.1115 Health care providers; creation of agency
744 relationship with governmental contractors.—

745 (4) CONTRACT REQUIREMENTS.—A health care provider that
746 executes a contract with a governmental contractor to deliver
747 health care services on or after April 17, 1992, as an agent of
748 the governmental contractor is an agent for purposes of s.
749 768.28(9), while acting within the scope of duties under the
750 contract, if the contract complies with the requirements of this
751 section and regardless of whether the individual treated is
752 later found to be ineligible. A health care provider shall
753 continue to be an agent for purposes of s. 768.28(9) for 30 days
754 after a determination of ineligibility to allow for treatment



755 until the individual transitions to treatment by another health
756 care provider. A health care provider under contract with the
757 state may not be named as a defendant in any action arising out
758 of medical care or treatment provided on or after April 17,
759 1992, under contracts entered into under this section. The
760 contract must provide that:

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

764 (b) The governmental contractor has access to the patient
765 records of any health care provider delivering services under
766 the contract.

767 (c) Adverse incidents and information on treatment
768 outcomes must be reported by any health care provider to the
769 governmental contractor if the incidents and information pertain
770 to a patient treated under the contract. The health care
771 provider shall submit the reports required by s. 395.0197. If an
772 incident involves a professional licensed by the Department of
773 Health or a facility licensed by the Agency for Health Care
774 Administration, the governmental contractor shall submit such
775 incident reports to the appropriate department or agency, which
776 shall review each incident and determine whether it involves
777 conduct by the licensee that is subject to disciplinary action.
778 All patient medical records and any identifying information
779 contained in adverse incident reports and treatment outcomes
780 which are obtained by governmental entities under this paragraph



781 are confidential and exempt from the provisions of s. 119.07(1)
782 and s. 24(a), Art. I of the State Constitution.

783 (d) Patient selection and initial referral must be made by
784 the governmental contractor or the provider. Patients may not be
785 transferred to the provider based on a violation of the
786 antidumping provisions of the Omnibus Budget Reconciliation Act
787 of 1989, the Omnibus Budget Reconciliation Act of 1990, or
788 chapter 395.

789 (e) If emergency care is required, the patient need not be
790 referred before receiving treatment, but must be referred within
791 48 hours after treatment is commenced or within 48 hours after
792 the patient has the mental capacity to consent to treatment,
793 whichever occurs later.

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

796
797 A governmental contractor that is also a health care provider is
798 not required to enter into a contract under this section with
799 respect to the health care services delivered by its employees.

800 Section 24. Subsection (3) of section 823.05, Florida
801 Statutes, is amended to read:

802 823.05 Places and groups engaged in criminal gang-related
803 activity declared a nuisance; massage establishments engaged in
804 prohibited activity; may be abated and enjoined.—

805 (3) A massage establishment as defined in s. 480.033
806 ~~480.033(7)~~ that operates in violation of s. 480.0475 or s.



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807 480.0535(2) is declared a nuisance and may be abated or enjoined
808 as provided in ss. 60.05 and 60.06.
809 Section 25. This act shall take effect July 1, 2014.