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CS/CS/HB 543, Engrossed 2

2017 Legislature

1
2 An act relating to the regulation of health care
3 practitioners; amending s. 458.348, F.S.; removing a
4 provision that requires a joint committee to determine
5 standards for the content of advanced registered nurse
6 practitioner protocols; conforming a cross-reference;
7 amending s. 464.012, F.S.; removing an obsolete
8 qualification that is no longer sufficient to satisfy
9 certain nursing certification requirements; requiring
10 that an established protocol be maintained at certain
11 locations; requiring an advanced registered nurse
12 practitioner to enter into a supervisory protocol with
13 a physician under certain circumstances; removing the
14 requirement that the Board of Nursing review protocols
15 and submit uncompliant protocols to the Department of
16 Health; amending s. 464.019, F.S.; authorizing the
17 board to conduct certain onsite evaluations; removing
18 a limiting criterion from the requirement to measure
19 graduate passage rates; removing a requirement that
20 certain nursing program graduates complete a specific
21 preparatory course; clarifying circumstances when
22 programs in probationary status must be terminated;
23 requiring that accredited and nonaccredited nursing
24 education programs disclose probationary status;
25 requiring notification of probationary status to

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26 | include certain information; prohibiting a terminated
27 | or closed program from seeking program approval for a
28 | certain time; providing that a name change or the
29 | creation of a new educational institution does not
30 | reduce the waiting period for reapplication;
31 | authorizing the board to adopt certain rules; removing
32 | requirements that the Office of Program Policy
33 | Analysis and Government Accountability perform certain
34 | tasks; requiring the Florida Center for Nursing to
35 | evaluate program-specific data for each approved
36 | nursing program and make an annual assessment of
37 | compliance by nursing programs with certain
38 | accreditation requirements; requiring the center to
39 | include its assessment in a report to the Governor and
40 | the Legislature; requiring the termination of a
41 | program under certain circumstances; creating s.
42 | 465.1893, F.S.; authorizing a pharmacist to administer
43 | specified medication by injection under certain
44 | circumstances; requiring a pharmacist who administers
45 | such injections to complete a specified course;
46 | providing requirements for the course;
47 | amending s. 468.80, F.S.; requiring completion of a
48 | specified course in orthotics and prosthetics for
49 | licensure and licensure renewal; providing course
50 | requirements; amending s. 486.102, F.S.; providing

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51 requirements for certain physical therapist assistant
 52 licensure applicants; providing effective dates.

53

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

55

56 Section 1. Present subsections (3) through (6) of section
 57 458.348, Florida Statutes, are redesignated as subsections (4)
 58 through (7), respectively, present subsection (2) and paragraph
 59 (e) of present subsection (4) of that section are amended, to
 60 read:

61 458.348 Formal supervisory relationships, standing orders,
 62 and established protocols; notice; standards.—

63 ~~(2) ESTABLISHMENT OF STANDARDS BY JOINT COMMITTEE. The~~
 64 ~~joint committee shall determine minimum standards for the~~
 65 ~~content of established protocols pursuant to which an advanced~~
 66 ~~registered nurse practitioner may perform medical acts or acts~~
 67 ~~set forth in s. 464.012(3) and (4) and shall determine minimum~~
 68 ~~standards for supervision of such acts by the physician, unless~~
 69 ~~the joint committee determines that any act set forth in s.~~
 70 ~~464.012(3) or (4) is not a medical act. Such standards shall be~~
 71 ~~based on risk to the patient and acceptable standards of medical~~
 72 ~~care and shall take into account the special problems of~~
 73 ~~medically underserved areas. The standards developed by the~~
 74 ~~joint committee shall be adopted as rules by the Board of~~
 75 ~~Nursing and the Board of Medicine for purposes of carrying out~~

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76 | ~~their responsibilities pursuant to part I of chapter 464 and~~
 77 | ~~this chapter, respectively, but neither board shall have~~
 78 | ~~disciplinary powers over the licensees of the other board.~~

79 | (3)~~(4)~~ SUPERVISORY RELATIONSHIPS IN MEDICAL OFFICE

80 | SETTINGS.—A physician who supervises an advanced registered
 81 | nurse practitioner or physician assistant at a medical office
 82 | other than the physician's primary practice location, where the
 83 | advanced registered nurse practitioner or physician assistant is
 84 | not under the onsite supervision of a supervising physician,
 85 | must comply with the standards set forth in this subsection. For
 86 | the purpose of this subsection, a physician's "primary practice
 87 | location" means the address reflected on the physician's profile
 88 | published pursuant to s. 456.041.

89 | (e) This subsection does not apply to health care services
 90 | provided in facilities licensed under chapter 395 or in
 91 | conjunction with a college of medicine, a college of nursing, an
 92 | accredited graduate medical program, or a nursing education
 93 | program; not-for-profit, family-planning clinics that are not
 94 | licensed pursuant to chapter 390; rural and federally qualified
 95 | health centers; health care services provided in a nursing home
 96 | licensed under part II of chapter 400, an assisted living
 97 | facility licensed under part I of chapter 429, a continuing care
 98 | facility licensed under chapter 651, or a retirement community
 99 | consisting of independent living units and a licensed nursing
 100 | home or assisted living facility; anesthesia services provided

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101 in accordance with law; health care services provided in a
 102 designated rural health clinic; health care services provided to
 103 persons enrolled in a program designed to maintain elderly
 104 persons and persons with disabilities in a home or community-
 105 based setting; university primary care student health centers;
 106 school health clinics; or health care services provided in
 107 federal, state, or local government facilities. Subsection (2)
 108 ~~(3)~~ and this subsection do not apply to offices at which the
 109 exclusive service being performed is laser hair removal by an
 110 advanced registered nurse practitioner or physician assistant.

111 Section 2. Subsections (1) and (3) of section 464.012,
 112 Florida Statutes, are amended to read:

113 464.012 Certification of advanced registered nurse
 114 practitioners; fees; controlled substance prescribing.—

115 (1) Any nurse desiring to be certified as an advanced
 116 registered nurse practitioner shall apply to the department and
 117 submit proof that he or she holds a current license to practice
 118 professional nursing and that he or she meets one or more of the
 119 following requirements as determined by the board:

120 ~~(a) Satisfactory completion of a formal postbasic~~
 121 ~~educational program of at least one academic year, the primary~~
 122 ~~purpose of which is to prepare nurses for advanced or~~
 123 ~~specialized practice.~~

124 (a) ~~(b)~~ Certification by an appropriate specialty board.
 125 Such certification shall be required for initial state

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126 certification and any recertification as a registered nurse
 127 anesthetist, psychiatric nurse, or nurse midwife. The board may
 128 by rule provide for provisional state certification of graduate
 129 nurse anesthetists, psychiatric nurses, and nurse midwives for a
 130 period of time determined to be appropriate for preparing for
 131 and passing the national certification examination.

132 (b) ~~(e)~~ Graduation from a program leading to a master's
 133 degree in a nursing clinical specialty area with preparation in
 134 specialized practitioner skills. For applicants graduating on or
 135 after October 1, 1998, graduation from a master's degree program
 136 shall be required for initial certification as a nurse
 137 practitioner under paragraph (4) (c). For applicants graduating
 138 on or after October 1, 2001, graduation from a master's degree
 139 program shall be required for initial certification as a
 140 registered nurse anesthetist under paragraph (4) (a).

141 (3) An advanced registered nurse practitioner shall
 142 perform those functions authorized in this section within the
 143 framework of an established protocol which must be maintained on
 144 site at the location or locations at which an advanced
 145 registered nurse practitioner practices. In the case of multiple
 146 supervising physicians in the same group, an advanced registered
 147 nurse practitioner must enter into a supervisory protocol with
 148 at least one physician within the physician group practice that
 149 ~~is filed with the board upon biennial license renewal and within~~
 150 ~~30 days after entering into a supervisory relationship with a~~

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151 ~~physician or changes to the protocol. The board shall review the~~
152 ~~protocol to ensure compliance with applicable regulatory~~
153 ~~standards for protocols. The board shall refer to the department~~
154 ~~licensees submitting protocols that are not compliant with the~~
155 ~~regulatory standards for protocols. A practitioner currently~~
156 licensed under chapter 458, chapter 459, or chapter 466 shall
157 maintain supervision for directing the specific course of
158 medical treatment. Within the established framework, an advanced
159 registered nurse practitioner may:

160 (a) Prescribe, dispense, administer, or order any drug;
161 however, an advanced registered nurse practitioner may prescribe
162 or dispense a controlled substance as defined in s. 893.03 only
163 if the advanced registered nurse practitioner has graduated from
164 a program leading to a master's or doctoral degree in a clinical
165 nursing specialty area with training in specialized practitioner
166 skills.

167 (b) Initiate appropriate therapies for certain conditions.

168 (c) Perform additional functions as may be determined by
169 rule in accordance with s. 464.003(2).

170 (d) Order diagnostic tests and physical and occupational
171 therapy.

172 (e) Order any medication for administration to a patient
173 in a facility licensed under chapter 395 or part II of chapter
174 400, notwithstanding any provisions in chapter 465 or chapter
175 893.

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176 Section 3. Effective December 31, 2018, or upon enactment
 177 of the Nurse Licensure Compact into law by 26 states, whichever
 178 occurs first, subsection (1) of section 464.012, Florida
 179 Statutes, as amended by section 8 of chapter 2016-139, section
 180 12 of chapter 2016-224, and section 7 of chapter 2016-231, Laws
 181 of Florida, is amended to read:

182 464.012 Certification of advanced registered nurse
 183 practitioners; fees; controlled substance prescribing.—

184 (1) Any nurse desiring to be certified as an advanced
 185 registered nurse practitioner shall apply to the department and
 186 submit proof that he or she holds a current license to practice
 187 professional nursing or holds an active multistate license to
 188 practice professional nursing pursuant to s. 464.0095 and that
 189 he or she meets one or more of the following requirements as
 190 determined by the board:

191 ~~(a) Satisfactory completion of a formal postbasic~~
 192 ~~educational program of at least one academic year, the primary~~
 193 ~~purpose of which is to prepare nurses for advanced or~~
 194 ~~specialized practice.~~

195 (a) ~~(b)~~ Certification by an appropriate specialty board.
 196 Such certification shall be required for initial state
 197 certification and any recertification as a registered nurse
 198 anesthetist, psychiatric nurse, or nurse midwife. The board may
 199 by rule provide for provisional state certification of graduate
 200 nurse anesthetists, psychiatric nurses, and nurse midwives for a

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201 period of time determined to be appropriate for preparing for
 202 and passing the national certification examination.

203 (b)~~(e)~~ Graduation from a program leading to a master's
 204 degree in a nursing clinical specialty area with preparation in
 205 specialized practitioner skills. For applicants graduating on or
 206 after October 1, 1998, graduation from a master's degree program
 207 shall be required for initial certification as a nurse
 208 practitioner under paragraph (4) (c). For applicants graduating
 209 on or after October 1, 2001, graduation from a master's degree
 210 program shall be required for initial certification as a
 211 registered nurse anesthetist under paragraph (4) (a).

212 Section 4. Paragraph (b) of subsection (2), subsection
 213 (5), subsection (8), paragraph (a) of subsection (9), and
 214 subsection (10) of section 464.019, Florida Statutes, are
 215 amended, paragraph (d) is added to subsection (7) of that
 216 section, and paragraph (e) is added to subsection (11) of that
 217 section, to read:

218 464.019 Approval of nursing education programs.—

219 (2) PROGRAM APPROVAL.—

220 (b) Following the department's receipt of a complete
 221 program application, the board may conduct an onsite evaluation
 222 if necessary to document the applicant's compliance with
 223 subsection (1). Within 90 days after the department's receipt of
 224 a complete program application, the board shall:

225 1. Approve the application if it documents compliance with

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226 subsection (1); or

227 2. Provide the educational institution with a notice of
228 intent to deny the application if it does not document
229 compliance with subsection (1). The notice must specify written
230 reasons for the board's denial of the application. The board may
231 not deny a program application because of an educational
232 institution's failure to correct an error or omission that the
233 department failed to provide notice of to the institution within
234 the 30-day notice period under paragraph (a). The educational
235 institution may request a hearing on the notice of intent to
236 deny the program application pursuant to chapter 120.

237 (5) ACCOUNTABILITY.—

238 (a)1. An approved program must achieve a graduate passage
239 rate for first-time test takers which ~~who take the licensure~~
240 ~~examination within 6 months after graduation from the program~~
241 ~~that~~ is not more than 10 percentage points lower than the
242 average passage rate during the same calendar year for graduates
243 of comparable degree programs who are United States educated,
244 first-time test takers on the National Council of State Boards
245 of Nursing Licensing Examination, as calculated by the contract
246 testing service of the National Council of State Boards of
247 Nursing. ~~An approved program shall require a graduate from the~~
248 ~~program who does not take the licensure examination within 6~~
249 ~~months after graduation to enroll in and successfully complete a~~
250 ~~licensure examination preparatory course pursuant to s. 464.008.~~

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251 For purposes of this subparagraph, an approved program is
 252 comparable to all degree programs of the same program type from
 253 among the following program types:

254 a. Professional nursing education programs that terminate
 255 in a bachelor's degree.

256 b. Professional nursing education programs that terminate
 257 in an associate degree.

258 c. Professional nursing education programs that terminate
 259 in a diploma.

260 d. Practical nursing education programs.

261 2. Beginning with graduate passage rates for calendar year
 262 2010, if an approved program's graduate passage rates do not
 263 equal or exceed the required passage rates for 2 consecutive
 264 calendar years, the board shall place the program on
 265 probationary status pursuant to chapter 120 and the program
 266 director shall appear before the board to present a plan for
 267 remediation, which shall include specific benchmarks to identify
 268 progress toward a graduate passage rate goal. The program must
 269 remain on probationary status until it achieves a graduate
 270 passage rate that equals or exceeds the required passage rate
 271 for any 1 calendar year. The board shall deny a program
 272 application for a new prelicensure nursing education program
 273 submitted by an educational institution if the institution has
 274 an existing program that is already on probationary status.

275 3. Upon the program's achievement of a graduate passage

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276 rate that equals or exceeds the required passage rate, the
277 board, at its next regularly scheduled meeting following release
278 of the program's graduate passage rate by the National Council
279 of State Boards of Nursing, shall remove the program's
280 probationary status. If the program, during the 2 calendar years
281 following its placement on probationary status, does not achieve
282 the required passage rate for any 1 calendar year, the board
283 ~~shall terminate the program pursuant to chapter 120. However,~~
284 ~~the board~~ may extend the program's probationary status for 1
285 additional year, provided if the program has demonstrated
286 ~~demonstrates~~ adequate progress toward the graduate passage rate
287 goal by meeting a majority of the benchmarks established in the
288 remediation plan. If the program is not granted the 1-year
289 extension or fails to achieve the required passage rate by the
290 end of such extension, the board shall terminate the program
291 pursuant to chapter 120.

292 (b) If an approved program fails to submit the annual
293 report required in subsection (3), the board shall notify the
294 program director and president or chief executive officer of the
295 educational institution in writing within 15 days after the due
296 date of the annual report. The program director shall appear
297 before the board at the board's next regularly scheduled meeting
298 to explain the reason for the delay. The board shall terminate
299 the program pursuant to chapter 120 if the program director
300 fails to appear before the board, as required under this

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301 paragraph, or if the program ~~it~~ does not submit the annual
 302 report within 6 months after the due date.

303 (c) A nursing education ~~An approved~~ program, whether
 304 accredited or nonaccredited, which has been placed on
 305 probationary status shall disclose its probationary status in
 306 writing to the program's students and applicants. The
 307 notification must include an explanation of the implications of
 308 the program's probationary status on the students or applicants.

309 (d) If students from a program that is terminated pursuant
 310 to this subsection transfer to an approved or an accredited
 311 program under the direction of the Commission for Independent
 312 Education, the board shall recalculate the passage rates of the
 313 programs receiving the transferring students, excluding the test
 314 scores of those students transferring more than 12 credits.

315 (7) PROGRAM CLOSURE.—

316 (d) A program that is terminated or closed under this
 317 section may not seek program approval under its original name or
 318 a new program name for a minimum of 3 years after the date of
 319 termination or closing. An institutional name change or the
 320 creation of a new educational institution with the same
 321 ownership does not reduce the waiting period for reapplication.

322 (8) RULEMAKING.—The board does not have rulemaking
 323 authority to administer this section, except that the board
 324 shall adopt rules that prescribe the format for submitting
 325 program applications under subsection (1) and annual reports

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326 | under subsection (3), and to administer the documentation of the
 327 | accreditation of nursing education programs under subsection
 328 | (11). The board may adopt rules relating to the nursing
 329 | curriculum, including rules relating to the uses and limitations
 330 | of simulation technology. The board may not impose any condition
 331 | or requirement on an educational institution submitting a
 332 | program application, an approved program, or an accredited
 333 | program, except as expressly provided in this section.

334 | (9) APPLICABILITY TO ACCREDITED PROGRAMS.—

335 | (a) Subsections (1)-(3), paragraph (4)(b), and paragraph
 336 | (5)(b) ~~subsection (5)~~ do not apply to an accredited program.

337 | (10) IMPLEMENTATION STUDY.—The Florida Center for Nursing
 338 | ~~and the education policy area of the Office of Program Policy~~
 339 | ~~Analysis and Government Accountability~~ shall study the
 340 | administration of this section and submit reports to the
 341 | Governor, the President of the Senate, and the Speaker of the
 342 | House of Representatives annually by January 30, through January
 343 | 30, 2020. The annual reports shall address the previous academic
 344 | year; provide data on the measures specified in paragraphs (a)
 345 | and (b), as such data becomes available; and include an
 346 | evaluation of such data for purposes of determining whether this
 347 | section is increasing the availability of nursing education
 348 | programs and the production of quality nurses. The department
 349 | and each approved program or accredited program shall comply
 350 | with requests for data from the Florida Center for Nursing ~~and~~

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351 ~~the education policy area of the Office of Program Policy~~
 352 ~~Analysis and Government Accountability.~~

353 (a) The Florida Center for Nursing ~~education policy area~~
 354 ~~of the Office of Program Policy Analysis and Government~~
 355 ~~Accountability~~ shall evaluate program-specific data for each
 356 approved program and accredited program conducted in the state,
 357 including, but not limited to:

358 1. The number of programs and student slots available.

359 2. The number of student applications submitted, the
 360 number of qualified applicants, and the number of students
 361 accepted.

362 3. The number of program graduates.

363 4. Program retention rates of students tracked from
 364 program entry to graduation.

365 5. Graduate passage rates on the National Council of State
 366 Boards of Nursing Licensing Examination.

367 6. The number of graduates who become employed as
 368 practical or professional nurses in the state.

369 (b) The Florida Center for Nursing shall evaluate the
 370 board's implementation of the:

371 1. Program application approval process, including, but
 372 not limited to, the number of program applications submitted
 373 under subsection (1); the number of program applications
 374 approved and denied by the board under subsection (2); the
 375 number of denials of program applications reviewed under chapter

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376 | 120; and a description of the outcomes of those reviews.

377 | 2. Accountability processes, including, but not limited
 378 | to, the number of programs on probationary status, the number of
 379 | approved programs for which the program director is required to
 380 | appear before the board under subsection (5), the number of
 381 | approved programs terminated by the board, the number of
 382 | terminations reviewed under chapter 120, and a description of
 383 | the outcomes of those reviews.

384 | (c) The Florida Center for Nursing shall complete an
 385 | annual assessment of compliance by programs with the
 386 | accreditation requirements of subsection (11), include in the
 387 | assessment a determination of the accreditation process status
 388 | for each program, and submit the assessment as part of the
 389 | reports required ~~For any state fiscal year in which The Florida~~
 390 | ~~Center for Nursing does not receive legislative appropriations,~~
 391 | ~~the education policy area of the Office of Program Policy~~
 392 | ~~Analysis and Government Accountability shall perform the duties~~
 393 | ~~assigned by this subsection to the Florida Center for Nursing.~~

394 | (11) ACCREDITATION REQUIRED.—

395 | (e) A nursing education program that fails to meet the
 396 | accreditation requirements shall be terminated and is ineligible
 397 | for reapproval under its original name or a new program name for
 398 | a minimum of 3 years after the date of termination. An
 399 | institutional name change or the creation of a new educational
 400 | institution with the same ownership does not reduce the waiting

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401 period for reapplication.

402 Section 5. Section 465.1893, Florida Statutes, is created
403 to read:

404 465.1893 Administration of antipsychotic medication by
405 injection.—

406 (1) (a) A pharmacist, at the direction of a physician
407 licensed under chapter 458 or chapter 459, may administer a
408 long-acting antipsychotic medication approved by the United
409 States Food and Drug Administration by injection to a patient if
410 the pharmacist:

411 1. Is authorized by and acting within the framework of an
412 established protocol with the prescribing physician.

413 2. Practices at a facility that accommodates privacy for
414 nondeltoid injections and conforms with state rules and
415 regulations regarding the appropriate and safe disposal of
416 medication and medical waste.

417 3. Has completed the course required under subsection (2).

418 (b) A separate prescription from a physician is required
419 for each injection administered by a pharmacist under this
420 subsection.

421 (2) (a) A pharmacist seeking to administer a long-acting
422 antipsychotic medication by injection must complete an 8-hour
423 continuing education course offered by:

424 1. A statewide professional association of physicians in
425 this state accredited to provide educational activities

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426 designated for the American Medical Association Physician's
 427 Recognition Award (AMA PRA) Category 1 Credit or the American
 428 Osteopathic Association (AOA) Category 1-A continuing medical
 429 education (CME) credit; and

430 2. A statewide association of pharmacists.

431 (b) The course may be offered in a distance learning
 432 format and must be included in the 30 hours of continuing
 433 professional pharmaceutical education required under s.
 434 465.009(1). The course shall have a curriculum of instruction
 435 that concerns the safe and effective administration of
 436 behavioral health and antipsychotic medications by injection,
 437 including, but not limited to, potential allergic reactions to
 438 such medications.

439 Section 6. Subsection (5) of section 468.80, Florida
 440 Statutes, is amended to read:

441 468.80 Definitions.—As used in this part, the term:

442 (5) "Mandatory courses" means continuing education courses
 443 that the board has defined by rule and required for license
 444 issuance or renewal. Notwithstanding s. 456.013(7), the board
 445 shall require completion of a 1-hour course relating to the
 446 prevention of medical errors as a part of the licensure issuance
 447 and biennial renewal process. The 1-hour medical errors course
 448 counts toward the total number of continuing education hours
 449 required. The course must be approved by the board, be developed
 450 specifically for the field of orthotics and prosthetics, and

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451 include a study of root-cause analysis, error reduction and
 452 prevention, patient safety, and medical records.

453 Section 7. Paragraphs (b) and (c) of subsection (3) of
 454 section 486.102, Florida Statutes, are amended, and paragraph
 455 (d) is added to that subsection, to read:

456 486.102 Physical therapist assistant; licensing
 457 requirements.—To be eligible for licensing by the board as a
 458 physical therapist assistant, an applicant must:

459 (3)

460 (b) Have been graduated from a school giving a course for
 461 physical therapist assistants in a foreign country and have
 462 educational credentials deemed equivalent to those required for
 463 the educational preparation of physical therapist assistants in
 464 this country, as recognized by the appropriate agency as
 465 identified by the board, and passed to the satisfaction of the
 466 board an examination to determine her or his fitness for
 467 practice as a physical therapist assistant as hereinafter
 468 provided; ~~or~~

469 (c) Be entitled to licensure without examination as
 470 provided in s. 486.107; or

471 (d) Have been enrolled between July 1, 2014, and July 1,
 472 2016, in a physical therapist assistant school in this state
 473 which was accredited at the time of enrollment; and

474 1. Have been graduated or be eligible to graduate from
 475 such school no later than July 1, 2018; and

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476 2. Have passed to the satisfaction of the board an
477 examination to determine his or her fitness for practice as a
478 physical therapist assistant as provided in s. 486.104.

479 Section 8. Except as otherwise expressly provided in this
480 act, this act shall take effect upon becoming a law.