

By Senator Brandes

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1 A bill to be entitled
2 An act relating to professional regulation; amending
3 s. 455.213, F.S.; requiring certain boards and
4 entities within the Divisions of Certified Public
5 Accounting, Professions, or Real Estate of the
6 Department of Business and Professional Regulation to
7 use a specified process for the review of an
8 applicant's criminal record to determine the
9 applicant's eligibility for certain licenses;
10 prohibiting the conviction, plea, adjudication, or
11 sentencing of a crime before a specified date from
12 being used as grounds for the denial of certain
13 licenses; authorizing a person to apply for a license
14 before his or her lawful release from confinement or
15 supervision; prohibiting the Department of Business
16 and Professional Regulation from imposing additional
17 fees on certain applicants; prohibiting certain boards
18 and entities from basing a denial of a license
19 application solely on the applicant's current
20 confinement or supervision; authorizing certain boards
21 and entities to stay the issuance of an approved
22 license under certain circumstances; requiring certain
23 boards and entities to verify an applicant's release
24 with the Department of Corrections; providing
25 requirements for the appearance of certain applicants
26 at certain meetings; requiring certain boards and
27 entities to compile, publish, and update lists that
28 specify how certain crimes affect an applicant's
29 eligibility for licensure; amending s. 464.203, F.S.;

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30 prohibiting the conviction, plea, adjudication, or
31 sentencing of a crime before a specified date from
32 being used as grounds for the denial of certain
33 certifications; providing that conviction of a crime
34 which does not fall within a specified timeframe is
35 not grounds for the failure of a background screening;
36 authorizing a person to apply for certification before
37 his or her lawful release from confinement or
38 supervision; prohibiting the Department of Health from
39 imposing additional fees on certain applicants;
40 prohibiting the Board of Nursing from basing the
41 denial of a certification solely on the applicant's
42 current confinement or supervision; authorizing the
43 board to stay the issuance of an approved certificate
44 under certain circumstances; requiring the board to
45 verify an applicant's release with the Department of
46 Corrections; providing requirements for the appearance
47 of certain applicants at certain meetings; requiring
48 the board to compile and update lists that specify how
49 certain crimes affect an applicant's eligibility for
50 certification; amending s. 400.211, F.S.; conforming a
51 cross-reference; providing an effective date.

52
53 Be It Enacted by the Legislature of the State of Florida:

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55 Section 1. Present subsections (3) through (12) of section
56 455.213, Florida Statutes, are redesignated as subsections (4)
57 through (13), respectively, subsection (2) of that section is
58 amended, and a new subsection (3) is added to that section, to

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59 read:

60 455.213 General licensing provisions.-

61 (2) Before the issuance of any license, the department may
62 charge an initial license fee as determined by rule of the
63 applicable board or, if no such board exists, by rule of the
64 department. Upon receipt of the appropriate license fee, except
65 as provided in subsection (4) ~~(3)~~, the department shall issue a
66 license to any person certified by the appropriate board, or its
67 designee, or the department when there is no board, as having
68 met the applicable requirements imposed by law or rule. However,
69 an applicant who is not otherwise qualified for licensure is not
70 entitled to licensure solely based on a passing score on a
71 required examination. Upon a determination by the department
72 that it erroneously issued a license, or upon the revocation of
73 a license by the applicable board, or by the department when
74 there is no board, the licensee must surrender his or her
75 license to the department.

76 (3) (a) Notwithstanding any other provision of law, the
77 applicable board shall use the process established in this
78 subsection for review of an applicant's criminal record to
79 determine his or her eligibility for licensure as:

80 1. A barber under chapter 476;81 2. A cosmetologist or cosmetology specialist under chapter
82 477; or83 3. Any of the following construction professionals under
84 chapter 489:85 a. Air-conditioning contractor;86 b. Commercial pool/spa contractor;87 c. Electrical contractor;

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88 d. Mechanical contractor;

89 e. Plumbing contractor;

90 f. Pollutant storage systems contractor;

91 g. Residential swimming pool/spa contractor;

92 h. Roofing contractor;

93 i. Septic tank contractor;

94 j. Sheet metal contractor;

95 k. Solar contractor;

96 l. Swimming pool/spa servicing contractor;

97 m. Underground utility and excavation contractor; and

98 n. Specialty contractor.

99 (b) The criminal history of an applicant for licensure in a
100 profession specified in paragraph (a) may not be used as grounds
101 for denial of the license if the date of conviction, plea, or
102 adjudication, or the date of sentencing is more than 3 years
103 before the date of application.

104 (c)1. A person may apply for a license before his or her
105 lawful release from confinement or supervision. The department
106 may not charge such an applicant an additional fee related to
107 such confinement or supervision. The applicable board may not
108 deny an application for a license solely on the basis of the
109 applicant's current confinement or supervision.

110 2. After a license application is approved, the applicable
111 board may stay the issuance of a license until the applicant is
112 lawfully released from confinement or supervision and the
113 applicant notifies the board of such release. The applicable
114 board shall verify the applicant's release with the Department
115 of Corrections before it issues a license.

116 3. If an applicant is unable to appear in person due to his

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117 or her confinement or supervision, the applicable board must
118 allow the applicant to appear by teleconference or video
119 conference, as appropriate, at any meeting of the board or other
120 hearing by the department concerning his or her application.

121 4. If an applicant is confined or under supervision, the
122 Department of Corrections and the applicable board shall
123 cooperate and coordinate to facilitate the appearance of the
124 applicant at a board meeting or department hearing in person, by
125 teleconference, or by video conference, as appropriate.

126 (d) By October 1, 2019, each applicable board shall compile
127 and post on the department's website a list of crimes that, if
128 committed and regardless of adjudication, do not relate to the
129 practice of the profession or the ability to practice the
130 profession and do not constitute grounds for denial of a
131 license. This list must be updated annually by each applicable
132 board. In addition, as of that date, each such board shall begin
133 to compile separate lists of such crimes that, when reported by
134 an applicant for licensure, were and were not used as a basis
135 for denial in the past 2 years. The lists, which must be
136 available on the department's website and updated at least
137 quarterly by the applicable board, must identify for each such
138 approval or denial of license the crime reported and the date of
139 conviction, plea, adjudication, or sentencing.

140 Section 2. Present subsections (2) through (8) of section
141 464.203, Florida Statutes, are redesignated as subsections (3)
142 through (9), respectively, and a new subsection (2) is added to
143 that section, to read:

144 464.203 Certified nursing assistants; certification
145 requirement.-

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146 (2) (a) 1. Except as provided in ss. 435.04 and 456.0635, the
147 criminal history of an applicant may not be used as grounds for
148 denial of a certificate to practice as a certified nursing
149 assistant if the date of conviction, plea, adjudication, or
150 sentencing is more than 3 years before the date of the
151 application.

152 2. Except as provided in ss. 435.07(4) and 456.0635, the
153 criminal history of an applicant may not be used as grounds for
154 failure of a required background screening if the date of
155 conviction, plea, adjudication, or sentencing is more than 3
156 years before the date of the application.

157 (b) 1. A person may apply for a certificate to practice as a
158 certified nursing assistant before his or her lawful release
159 from confinement or supervision. The department may not charge
160 such an applicant an additional fee related to such confinement
161 or supervision. The board may not deny an application for a
162 certificate solely on the basis of the person's current
163 confinement or supervision.

164 2. After a certification application is approved, the board
165 may stay the issuance of a certificate until the applicant is
166 lawfully released from confinement or supervision and until the
167 applicant notifies the board of such release. The board must
168 verify the applicant's release with the Department of
169 Corrections before it issues a certificate.

170 3. If an applicant is unable to appear in person due to his
171 or her confinement or supervision, the board must allow the
172 applicant to appear by teleconference or video conference, as
173 appropriate, at any meeting of the board or other hearing by the
174 department concerning his or her application.

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175 4. If an applicant is confined or under supervision, the
176 Department of Corrections and the board shall cooperate and
177 coordinate to facilitate the appearance of the applicant at a
178 board meeting or department hearing in person, by
179 teleconference, or by video conference, as appropriate.

180 (c) By October 1, 2019, the board shall compile and post on
181 the department's website a list of crimes that, if committed and
182 regardless of adjudication, do not relate to the practice of the
183 profession or the ability to practice the profession and do not
184 constitute grounds for denial of a certificate. This list must
185 be updated annually by the board. In addition, as of that date,
186 the board shall begin to compile separate lists of such crimes
187 that, when reported by an applicant for licensure, were and were
188 not used as a basis for denial in the past 2 years. The lists,
189 which must be available on the department's website and updated
190 at least quarterly by the board, must identify for each such
191 approval or denial of license the crime reported and the date of
192 conviction, plea, adjudication, or sentencing.

193 Section 3. Subsection (4) of section 400.211, Florida
194 Statutes, is amended to read:

195 400.211 Persons employed as nursing assistants;
196 certification requirement.—

197 (4) When employed by a nursing home facility for a 12-month
198 period or longer, a nursing assistant, to maintain
199 certification, shall submit to a performance review every 12
200 months and must receive regular inservice education based on the
201 outcome of such reviews. The inservice training must meet all of
202 the following requirements:

203 (a) Be sufficient to ensure the continuing competence of

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204 nursing assistants and must meet the standard specified in s.
205 464.203(8). ~~s. 464.203(7);~~

206 (b) Include, at a minimum:

207 1. Techniques for assisting with eating and proper feeding;

208 2. Principles of adequate nutrition and hydration;

209 3. Techniques for assisting and responding to the
210 cognitively impaired resident or the resident with difficult
211 behaviors;

212 4. Techniques for caring for the resident at the end-of-
213 life; and

214 5. Recognizing changes that place a resident at risk for
215 pressure ulcers and falls. ~~;~~ ~~and~~

216 (c) Address areas of weakness as determined in nursing
217 assistant performance reviews and may address the special needs
218 of residents as determined by the nursing home facility staff.

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220 Costs associated with this training may not be reimbursed from
221 additional Medicaid funding through interim rate adjustments.

222 Section 4. This act shall take effect October 1, 2019.