

1 A bill to be entitled
2 An act relating to professional regulation; amending
3 s. 455.213, F.S.; conforming a cross-reference;
4 requiring the board to use a specified process for the
5 review of an applicant's criminal record to determine
6 the applicant's eligibility for certain licenses;
7 prohibiting the conviction of a crime before a
8 specified date from being grounds for the denial of
9 certain licenses; defining the term "conviction";
10 authorizing a person to apply for a license before his
11 or her lawful release from confinement or supervision;
12 prohibiting additional fees for an applicant confined
13 or under supervision; prohibiting the board from
14 basing a denial of a license application solely on the
15 applicant's current confinement or supervision;
16 authorizing the board to stay the issuance of an
17 approved license under certain circumstances;
18 requiring the board to verify an applicant's release
19 with the Department of Corrections; providing
20 requirements for the appearance of certain applicants
21 at certain meetings; requiring the board to provide an
22 annually updated list on its website specifying how
23 certain crimes affect an applicant's eligibility for
24 licensure; providing that certain information be
25 identified for each crime on the list; requiring such

26 | list be available to the public upon request; amending
27 | s. 464.203, F.S.; prohibiting the conviction of a
28 | crime before a specified date from being grounds for
29 | the denial of a certification under certain
30 | circumstances; prohibiting the conviction of a crime
31 | before a specified date from being grounds for the
32 | failure of a background screening; defining the term
33 | "conviction"; authorizing a person to apply for
34 | certification before his or her lawful release from
35 | confinement or supervision; prohibiting additional
36 | fees for an applicant confined or under supervision;
37 | prohibiting the board from basing the denial of a
38 | certification solely on the applicant's current
39 | confinement or supervision; authorizing the board to
40 | stay the issuance of an approved certificate under
41 | certain circumstances; requiring the board to verify
42 | an applicant's release with the Department of
43 | Corrections; providing requirements for the appearance
44 | of certain applicants at certain meetings; requiring
45 | the board to provide a quarterly updated list on its
46 | website specifying how certain crimes may affect an
47 | applicant's eligibility for certification; providing
48 | that certain information be identified for each crime
49 | on the list; requiring such list be available to the
50 | public upon request; amending s. 400.211, F.S.;

51 conforming a cross-reference; providing an effective
 52 date.

53

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

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56 Section 1. Subsections (3) through (12) of section 455.213,
 57 Florida Statutes, are renumbered as subsections (4) through
 58 (13), respectively, subsection (2) of that section is amended,
 59 and a new subsection (3) is added to that section, to 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 board shall use the process in this subsection for review of an
 78 applicant's criminal record to determine his or her eligibility
 79 for licensure as:

80 1. A barber under chapter 476;
 81 2. A cosmetologist or cosmetology specialist under chapter
 82 477; or

83 3. Any of the following construction professions under
 84 chapter 489:

85 a. Air-conditioning contractor;
 86 b. Electrical contractor;
 87 c. Mechanical contractor;
 88 d. Plumbing contractor;
 89 e. Pollutant storage systems contractor;
 90 f. Roofing contractor;
 91 g. Septic tank contractor;
 92 h. Sheet metal contractor;
 93 i. Solar contractor;
 94 j. Swimming pool and spa contractor;
 95 k. Underground utility and excavation contractor; and
 96 l. Other specialty contractors.

97 (b) A conviction, or any other adjudication, for a crime
 98 more than 5 years before the date of the application may not be
 99 grounds for denial of a license specified in paragraph (a). For
 100 purposes of this paragraph, the term "conviction" means a

101 determination of guilt that is the result of a plea or trial,
102 regardless of whether adjudication is withheld.

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

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

115 3. If an applicant is unable to appear in person due to
116 his or her confinement or supervision, the board must permit the
117 applicant to appear by teleconference or video conference, as
118 appropriate, at any meeting of the board or other hearing by the
119 agency concerning his or her application.

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

125 (d) Each board shall compile a list of crimes that, if

126 committed and regardless of adjudication, do not relate to the
127 practice of the profession or the ability to practice the
128 profession and do not constitute grounds for denial of a
129 license. This list shall be made available on the department's
130 website and be updated annually. Beginning October 1, 2019, each
131 board shall compile a list of crimes that although reported by
132 an applicant for licensure, were not used as a basis for denial.
133 The list must identify the crime reported and the date of
134 conviction, finding of guilt, plea, or adjudication entered or
135 the date of sentencing for each such license application.

136 (e) Each board shall compile a list of crimes that have
137 been used as a basis for denial of a license in the past 2
138 years, which shall be made available on the department's
139 website. Starting October 1, 2019, and updated quarterly
140 thereafter, the applicable board shall compile a list indicating
141 each crime used as a basis for denial. For each crime listed,
142 the board must identify the date of conviction, finding of
143 guilt, plea, or adjudication entered, or date of sentencing.
144 Such denials shall be available to the public upon request.

145 Section 2. Subsections (2) through (8) of section 464.203,
146 Florida Statutes, are renumbered as subsections (3) through (9),
147 respectively, and a new subsection (2) is added to that section,
148 to read:

149 464.203 Certified nursing assistants; certification
150 requirement.—

151 (2) (a) 1. Except as provided in ss. 435.07(4) and 456.0635,
152 a conviction, or any other adjudication, for a crime more than 7
153 years before the date of the application may not be grounds for
154 denial of a certificate to practice as a certified nursing
155 assistant.

156 2. Except as provided in ss. 435.07(4) and 456.0635, a
157 conviction, or any other adjudication, for a crime more than 7
158 years before the date of the application may not be grounds for
159 failure of a required background screening.

160 3. For purposes of this paragraph, the term "conviction"
161 means a determination of guilt that is the result of a plea or
162 trial, regardless of whether adjudication is withheld.

163 (b) 1. A person may apply for a certificate to practice as
164 a certified nursing assistant before his or her lawful release
165 from confinement or supervision. The department may not charge
166 an applicant an additional fee for being confined or under
167 supervision. The board may not deny an application for a
168 certificate solely on the basis of the person's current
169 confinement or supervision.

170 2. After a certification application is approved, the
171 board may stay the issuance of a certificate until the applicant
172 notifies the board of his or her lawful release from confinement
173 or supervision. The board must verify the applicant's release
174 with the Department of Corrections before it issues a
175 certificate.

176 3. If an applicant is unable to appear in person due to
177 his or her confinement or supervision, the board must permit the
178 applicant to appear by teleconference or video conference, as
179 appropriate, at any meeting of the board or other hearing by the
180 agency concerning his or her application.

181 4. If an applicant is confined or under supervision, the
182 Department of Corrections and the board shall cooperate and
183 coordinate to facilitate the appearance of the applicant at a
184 board meeting or agency hearing in person, by teleconference, or
185 by video conference, as appropriate.

186 (c) The board shall compile a list of crimes that, if
187 committed and regardless of adjudication, do not relate to the
188 practice of the profession or the ability to practice the
189 profession and do not constitute grounds for denial of a
190 license. This list shall be made available on the department's
191 website and be updated annually. Beginning October 1, 2019, the
192 board shall compile a list of crimes that although reported by
193 an applicant for licensure, were not used as a basis for denial.
194 The list must identify the crime reported and the date of
195 conviction, finding of guilt, plea, or adjudication entered or
196 the date of sentencing for each such license application.

197 (d) The board shall compile a list of crimes that have been
198 used as a basis for denial of a license in the past 2 years,
199 which shall be made available on the department's website.
200 Starting October 1, 2019, and updated quarterly thereafter, the

201 board shall compile a list indicating each crime used as a basis
202 for denial. For each crime listed the board must identify the
203 date of conviction, finding of guilt, plea, or adjudication
204 entered, or date of sentencing. Such denials shall be available
205 to the public upon request.

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

208 400.211 Persons employed as nursing assistants;
209 certification requirement.—

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

216 (a) Be sufficient to ensure the continuing competence of
217 nursing assistants and must meet the standard specified in s.
218 464.203(8). ~~s. 464.203(7);~~

219 (b) Include, at a minimum:

220 1. Techniques for assisting with eating and proper
221 feeding;

222 2. Principles of adequate nutrition and hydration;

223 3. Techniques for assisting and responding to the
224 cognitively impaired resident or the resident with difficult
225 behaviors;

226 4. Techniques for caring for the resident at the end-of-
 227 life; and

228 5. Recognizing changes that place a resident at risk for
 229 pressure ulcers and falls. ~~and~~

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

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

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