

1 A bill to be entitled
 2 An act relating to health care practitioners and
 3 massage therapy; amending s. 456.074, F.S.;
 4 authorizing the Department of Health to immediately
 5 suspend the license of certain health care
 6 practitioners and massage establishments in certain
 7 circumstances; amending s. 480.033, F.S.; revising and
 8 providing definitions; amending s. 480.035, F.S.;
 9 revising quorum requirements for the Board of Massage
 10 Therapy; amending s. 480.043, F.S.; revising certain
 11 rules the board is required to adopt; revising the
 12 timeframe in which establishment owners must report
 13 specified information to the department; prohibiting
 14 sexual activity and certain devices in massage
 15 establishments; specifying prohibited conduct by
 16 establishment owners and employees; providing
 17 requirements for outside windows and signs in massage
 18 establishments; providing exceptions; providing
 19 employee dress code requirements; requiring
 20 establishments to maintain certain employment records
 21 in English or Spanish; requiring that specified
 22 information be recorded before an employee may provide
 23 services or treatment; requiring massage
 24 establishments to conspicuously display a photo and
 25 specified information for each employee; requiring

26 | that such photos and information be displayed before
27 | an employee may provide services or treatment;
28 | providing for such requirements in massage
29 | establishments within public lodging establishments;
30 | requiring massage establishments to maintain customer
31 | and patient records for services and treatment
32 | provided in the massage establishment in English or
33 | Spanish; providing that medical records satisfy
34 | certain requirements; requiring massage establishments
35 | to maintain such records for a specified timeframe;
36 | requiring massage establishments to collect and record
37 | specified information; requiring massage
38 | establishments to confirm the identification of a
39 | customer or patient before providing services or
40 | treatment; amending s. 480.0465, F.S.; revising
41 | advertising requirements for massage therapists and
42 | massage establishments; amending s. 480.0475, F.S.;
43 | prohibiting establishments from sheltering or
44 | harboring, or being used as sleeping quarters for, any
45 | person; amending s. 480.0535, F.S.; requiring
46 | Department of Health investigators to request valid
47 | government identification from all employees while in
48 | a massage establishment; specifying additional
49 | documents a person operating a massage establishment
50 | must immediately present, upon request, to department

51 | investigators and law enforcement officers; requiring
 52 | the department to notify a federal immigration office
 53 | if specified persons fail to provide valid government
 54 | identification; amending s. 823.05, F.S.; conforming a
 55 | cross-reference; providing an effective date.
 56 |

57 | Be It Enacted by the Legislature of the State of Florida:
 58 |

59 | Section 1. Subsection (4) of section 456.074, Florida
 60 | Statutes, is amended, and subsection (7) is added to that
 61 | section, to read:

62 | 456.074 Certain health care practitioners; immediate
 63 | suspension of license.—

64 | (4) The department shall issue an emergency order
 65 | suspending the license of a massage therapist and ~~or~~
 66 | establishment as those terms are defined in chapter 480 upon
 67 | receipt of information that the massage therapist; ~~the~~ the
 68 | designated establishment manager as defined in chapter 480; an
 69 | employee of the establishment; a person with an ownership
 70 | interest in the establishment; ~~or,~~ or, for a corporation that has
 71 | more than \$250,000 of business assets in this state, the owner,
 72 | officer, or individual directly involved in the management of
 73 | the establishment has been arrested for committing or
 74 | attempting, soliciting, or conspiring to commit, or convicted or
 75 | found guilty of, or has entered a plea of guilty or nolo

76 | contendere to, regardless of adjudication, a violation of s.
 77 | 796.07 ~~s. 796.07(2)(a) which is reclassified under s. 796.07(7)~~
 78 | or a felony offense under any of the following provisions of
 79 | state law or a similar provision in another jurisdiction:
 80 | (a) Section 787.01, relating to kidnapping.
 81 | (b) Section 787.02, relating to false imprisonment.
 82 | (c) Section 787.025, relating to luring or enticing a
 83 | child.
 84 | (d) Section 787.06, relating to human trafficking.
 85 | (e) Section 787.07, relating to human smuggling.
 86 | (f) Section 794.011, relating to sexual battery.
 87 | (g) Section 794.08, relating to female genital mutilation.
 88 | (h) Former s. 796.03, relating to procuring a person under
 89 | the age of 18 for prostitution.
 90 | (i) Former s. 796.035, relating to the selling or buying
 91 | of minors into prostitution.
 92 | (j) Section 796.04, relating to forcing, compelling, or
 93 | coercing another to become a prostitute.
 94 | (k) Section 796.05, relating to deriving support from the
 95 | proceeds of prostitution.
 96 | (l) Section 796.07(4)(a)3., relating to a felony of the
 97 | third degree for a third or subsequent violation of s. 796.07,
 98 | relating to prohibiting prostitution and related acts.
 99 | (m) Section 800.04, relating to lewd or lascivious
 100 | offenses committed upon or in the presence of persons less than

101 16 years of age.

102 (n) Section 825.1025(2)(b), relating to lewd or lascivious
 103 offenses committed upon or in the presence of an elderly or
 104 disabled person.

105 (o) Section 827.071, relating to sexual performance by a
 106 child.

107 (p) Section 847.0133, relating to the protection of
 108 minors.

109 (q) Section 847.0135, relating to computer pornography.

110 (r) Section 847.0138, relating to the transmission of
 111 material harmful to minors to a minor by electronic device or
 112 equipment.

113 (s) Section 847.0145, relating to the selling or buying of
 114 minors.

115 (7) The department shall issue an emergency order
 116 suspending the license of any licensee upon a finding of the
 117 State Surgeon General that probable cause exists to believe that
 118 the licensee has committed sexual misconduct as defined and
 119 prohibited in s. 456.063(1), or the applicable practice act, and
 120 that such violation constitutes an immediate danger to the
 121 public.

122 Section 2. Subsections (1) through (6) of section 480.033,
 123 Florida Statutes, are renumbered as subsections (2) through (7),
 124 respectively, subsections (7) through (12), are renumbered as
 125 subsections (9) through (14), respectively, present subsection

126 (6) is amended, and new subsections (1), (8), and (15) are added
 127 to that section, to read:

128 480.033 Definitions.—As used in this act:

129 (1) "Advertising medium" means any newspaper; airwave or
 130 computer transmission; telephone directory listing, other than
 131 an in-column listing consisting only of a name, physical
 132 address, and telephone number; business card; handbill; flyer;
 133 sign, other than a building directory listing all building
 134 tenants and their room or suite numbers; or any other form of
 135 written or electronic advertisement.

136 (7)-(6) "Designated establishment manager" means a massage
 137 therapist; a health care practitioner licensed under chapter
 138 457; or a physician licensed under chapter 458, chapter 459, or
 139 chapter 460 who holds a clear and active license without
 140 restriction, who is responsible for the operation of a massage
 141 establishment in accordance with the provisions of this chapter,
 142 and who is designated the manager by the rules or practices at
 143 the establishment.

144 (8) "Employee" means any person, including independent
 145 contractors or lessees of a massage establishment, whose duties
 146 involve any aspect or capacity of the massage establishment,
 147 including preparing meals and cleaning regardless of whether
 148 such person is compensated for the performance of such duties.

149 The term does not include a person who is:

150 (a) Exclusively engaged in the repair or maintenance of

151 the massage establishment or the delivery of goods to the
 152 establishment.

153 (b) Engaged in work at a clothing-optional location
 154 properly licensed under general law or local law and chartered
 155 with the American Association for Nude Recreation or The
 156 Naturalist Society.

157 (15) "Sexual activity" means any direct or indirect
 158 contact by any employee or person, or between any employees or
 159 persons, with the intent to abuse, humiliate, harass, degrade,
 160 or arouse, or gratify the sexual desire of, any employee or
 161 person, or which is likely to cause such abuse, humiliation,
 162 harassment, degradation, or arousal, or sexual gratification:

163 (a) With or without the consent of the employee or person.

164 (b) With or without verbal or nonverbal communication that
 165 the sexual activity is undesired.

166 (c) With or without the use of any device or object.

167 (d) With or without the occurrence of penetration, orgasm,
 168 or ejaculation.

169 (e) Including, but not limited to, intentional contact
 170 with the genitalia, groin, femoral triangle, anus, buttocks,
 171 gluteal cleft, breast or nipples, mouth, or tongue.

172 (f) Including, but not limited to, the intentional removal
 173 of any drape without specific written informed consent of the
 174 patient.

175 Section 3. Subsection (5) of section 480.035, Florida

176 Statutes, is amended to read:

177 480.035 Board of Massage Therapy.—

178 (5) The board shall hold such meetings during the year as
 179 it may determine to be necessary, one of which shall be the
 180 annual meeting. The chair of the board shall have the authority
 181 to call other meetings at her or his discretion. A quorum of the
 182 board shall consist of not less than a majority of the current
 183 membership of the board ~~four members~~.

184 Section 4. Subsection (14) of section 480.043, Florida
 185 Statutes, is renumbered as subsection (15), subsection (3) and
 186 present subsection (14) are amended, and a new subsection (14)
 187 is added to that section, to read:

188 480.043 Massage establishments; requisites; licensure;
 189 inspection; human trafficking awareness training and policies.—

190 (3) The board shall adopt rules governing the operation of
 191 establishments and their facilities, employees ~~personnel~~, safety
 192 and sanitary requirements, financial responsibility, insurance
 193 coverage, and the license application and granting process.

194 (14) In order to provide the department and law
 195 enforcement agencies the means to more effectively identify
 196 persons engaging in human trafficking at massage establishments,
 197 the following apply:

198 (a) Sexual activity in a massage establishment is
 199 prohibited. An establishment owner or employee may not engage in
 200 or allow any person to engage in sexual activity in the

201 establishment or use the establishment to make arrangements to
202 engage in sexual activity in another location. Used or unused
203 condoms are prohibited in a massage establishment.

204 (b) If there is an outside window or windows into the
205 massage establishment's reception area, the outside window or
206 windows must allow for at least 35 percent light penetration and
207 no more than 50 percent of the outside window or windows may be
208 obstructed with signage, blinds, curtains, or other
209 obstructions, allowing the public to see the establishment's
210 reception area. A sign must be posted on the front window of the
211 establishment that includes the name and license number of the
212 massage establishment and the telephone number that has been
213 provided to the department as part of licensure of the
214 establishment. This paragraph does not apply to:

215 1. A massage establishment within a public lodging
216 establishment as defined in s. 509.013(4).

217 2. A massage establishment located within a county or
218 municipality that has an ordinance that prescribes requirements
219 related to business window light penetration or signage
220 limitations if compliance with this paragraph would result in
221 noncompliance with such ordinance.

222 (c) All employees within the massage establishment must be
223 fully clothed and such clothing must be fully opaque and made of
224 nontransparent material that does not expose the employee's
225 genitalia.

226 (d) A massage establishment must maintain a complete set
227 of legible records in English or Spanish, which must include
228 each employee's start date of employment, full legal name, date
229 of birth, home address, telephone number, and employment
230 position and a copy of the employee's government identification
231 required under s. 480.0535. All information required under this
232 paragraph must be recorded before the employee may provide any
233 service or treatment to a client or patient.

234 (e) A massage establishment must conspicuously display a 2
235 inch by 2 inch photo for each employee, which, for massage
236 therapists, must be attached to the massage therapist's license.
237 Such display must also include the employee's full legal name
238 and employment position. All information required under this
239 paragraph must be displayed before the employee may provide any
240 service or treatment to a client or patient. A massage
241 establishment within a public lodging establishment as defined
242 in s. 509.013(4) may satisfy this requirement by displaying the
243 photos and required information in an employee break room or
244 other room that is used by employees, but is not used by clients
245 or patients.

246 (f) A massage establishment must maintain a complete set
247 of legible records in English or Spanish, which must include the
248 date, time, and type of service or treatment provided; the full
249 legal name of the employee who provided the service or
250 treatment; and the full legal name, home address, and telephone

251 number of the client or patient. Medical records may satisfy
 252 this requirement if the records include the specified
 253 information. A copy of the client's or patient's photo
 254 identification may be used to provide the full legal name and
 255 home address of the client or patient. Records required under
 256 this paragraph must be maintained for at least 1 year after a
 257 service or treatment is provided. All information required under
 258 this paragraph must be collected and recorded before any service
 259 or treatment is provided to a client or patient. The
 260 establishment must confirm the identification of the client or
 261 patient before any service or treatment is provided to the
 262 client or patient.

263 (15)~~(14)~~ Except for the requirements of subsection (13),
 264 this section does not apply to a practitioner ~~physician~~ licensed
 265 under chapter 457 or a physician licensed under~~7~~ chapter 458,
 266 chapter 459, or chapter 460 who employs a licensed massage
 267 therapist to perform massage therapy on the practitioner's or
 268 physician's patients at her or his ~~the physician's~~ place of
 269 practice. This subsection does not restrict investigations by
 270 the department for violations of chapter 456 or this chapter.

271 Section 5. Section 480.0465, Florida Statutes, is amended
 272 to read:

273 480.0465 Advertisement; prohibitions.—

274 (1) Each massage therapist or massage establishment
 275 licensed under this act shall include the number of the license

276 | in any advertisement of massage therapy services appearing in
277 | any advertising medium, including a newspaper, airwave
278 | transmission, telephone directory, Internet, or other
279 | advertising medium. Pending licensure of a new massage
280 | establishment under s. 480.043(7), the license number of a
281 | licensed massage therapist who is an owner or principal officer
282 | of the establishment may be used in lieu of the license number
283 | for the establishment. The advertisement must also include the
284 | physical address of the massage establishment and the telephone
285 | number that has been provided to the department as part of the
286 | licensing of the establishment. However, the inclusion of the
287 | physical address and telephone number is not required for an
288 | advertisement by a massage establishment whose establishment
289 | owner operates more than five locations in this state.

290 | (2) A massage therapist, an establishment owner, an
291 | employee, or any third party directed by the establishment owner
292 | or employee, may not place, publish, or distribute, or cause to
293 | be placed, published, or distributed, any advertisement in any
294 | advertising medium which states prostitution services, escort
295 | services, or sexual services are available.

296 | (3) A massage therapist, an establishment owner, an
297 | employee, or any third party directed by the massage therapist,
298 | establishment owner, or employee may not place, publish, or
299 | distribute, or cause to be placed, published, or distributed,
300 | any online advertisement on any website known for advertising

301 prostitution services, escort services, or sexual services.

302 Section 6. Subsection (2) of section 480.0475, Florida
303 Statutes, is amended to read:

304 480.0475 Massage establishments; prohibited practices.—

305 (2) A person operating a massage establishment may not use
306 or permit the establishment to be used as a principal domicile
307 for, to shelter or harbor, or as sleeping or napping quarters
308 for any person unless the establishment is zoned for residential
309 use under a local ordinance.

310 Section 7. Section 480.0535, Florida Statutes, is amended
311 to read:

312 480.0535 Documents required while working in a massage
313 establishment; penalties; reporting.—

314 (1) In order to provide the department and law enforcement
315 agencies the means to more effectively identify, investigate,
316 and arrest persons engaging in human trafficking, an employee ~~a~~
317 ~~person employed by a massage establishment~~ and any person
318 performing massage therapy in a massage establishment therein
319 must immediately present, upon the request of an investigator of
320 the department or a law enforcement officer, valid government
321 identification while in the establishment. An investigator of
322 the department must request valid government identification from
323 all employees while in the establishment. A valid government
324 identification for the purposes of this section is:

325 (a) A valid, unexpired driver license issued by any state,

326 | territory, or district of the United States;

327 | (b) A valid, unexpired identification card issued by any

328 | state, territory, or district of the United States;

329 | (c) A valid, unexpired United States passport;

330 | (d) A naturalization certificate issued by the United

331 | States Department of Homeland Security;

332 | (e) A valid, unexpired alien registration receipt card

333 | (green card); or

334 | (f) A valid, unexpired employment authorization card

335 | issued by the United States Department of Homeland Security.

336 | (2) A person operating a massage establishment must:

337 | (a) Immediately present, upon the request of an

338 | investigator of the department or a law enforcement officer:

339 | 1. Valid government identification while in the

340 | establishment.

341 | 2. A copy of the documentation specified in paragraph

342 | (1)(a) for each employee and any person performing massage

343 | therapy in the establishment.

344 | 3. A copy of the documents required under s.

345 | 480.043(14)(d) and (f).

346 | (b) Ensure that each employee and any person performing

347 | massage therapy in the massage establishment is able to

348 | immediately present, upon the request of an investigator of the

349 | department or a law enforcement officer, valid government

350 | identification while in the establishment.

351 (3) A person who violates ~~any provision of~~ this section
 352 commits:

353 (a) For a first violation, a misdemeanor of the second
 354 degree, punishable as provided in s. 775.082 or s. 775.083.

355 (b) For a second violation, a misdemeanor of the first
 356 degree, punishable as provided in s. 775.082 or s. 775.083.

357 (c) For a third or subsequent violation, a felony of the
 358 third degree, punishable as provided in s. 775.082, s. 775.083,
 359 or s. 775.084.

360 (4) The department shall notify a federal immigration
 361 office if a person operating a massage establishment, an
 362 employee, or any person performing massage therapy in a massage
 363 establishment fails to provide valid government identification
 364 as required under this section.

365 Section 8. Subsection (3) of section 823.05, Florida
 366 Statutes, is amended to read:

367 823.05 Places and groups engaged in certain activities
 368 declared a nuisance; abatement and enjoinder.-

369 (3) A massage establishment as defined in s. 480.033 which
 370 operates in violation of s. 480.043(14)(a) or (f), s. 480.0475,
 371 or s. 480.0535(2) is declared a nuisance and may be abated or
 372 enjoined as provided in ss. 60.05 and 60.06.

373 Section 9. This act shall take effect July 1, 2024.