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1
 2 An act relating to health care practitioners and
 3 massage therapy; amending s. 456.026, F.S.; requiring
 4 the Department of Health to report specified data;
 5 amending s. 456.074, F.S.; authorizing the department
 6 to immediately suspend the license of certain health
 7 care practitioners and massage establishments in
 8 certain circumstances; amending s. 480.033, F.S.;
 9 revising and providing definitions; amending s.
 10 480.035, F.S.; revising quorum requirements for the
 11 Board of Massage Therapy; amending s. 480.043, F.S.;
 12 revising certain rules the board is required to adopt;
 13 revising the timeframe in which establishment owners
 14 must report specified information to the department;
 15 prohibiting sexual activity and certain devices in
 16 massage establishments; specifying prohibited conduct
 17 by establishment owners and employees; providing
 18 requirements for outside windows and signs in massage
 19 establishments; providing exceptions; providing
 20 employee dress code requirements; requiring
 21 establishments to maintain certain employment records
 22 in English or Spanish; requiring that specified
 23 information be recorded before an employee may provide
 24 services or treatment; requiring massage
 25 establishments to conspicuously display a photo and

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

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

58

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

60

61 Section 1. Section 456.026, Florida Statutes, is amended
 62 to read:

63 456.026 Annual report concerning finances, administrative
 64 complaints, disciplinary actions, and recommendations.—

65 (1) The department is directed to prepare and submit a
 66 report to the President of the Senate and the Speaker of the
 67 House of Representatives by November 1 of each year. In addition
 68 to finances and any other information the Legislature may
 69 require, the report shall include statistics and relevant
 70 information, profession by profession, detailing:

71 (a)~~(1)~~ The revenues, expenditures, and cash balances for
 72 the prior year, and a review of the adequacy of existing fees.

73 (b)~~(2)~~ The number of complaints received and investigated.

74 (c)~~(3)~~ The number of findings of probable cause made.

75 (d)~~(4)~~ The number of findings of no probable cause made.

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76 (e)~~(5)~~ The number of administrative complaints filed.

77 (f)~~(6)~~ The disposition of all administrative complaints.

78 (g)~~(7)~~ A description of disciplinary actions taken.

79 (h)~~(8)~~ A description of any effort by the department to
 80 reduce or otherwise close any investigation or disciplinary
 81 proceeding not before the Division of Administrative Hearings
 82 under chapter 120 or otherwise not completed within 1 year after
 83 the initial filing of a complaint under this chapter.

84 (i)~~(9)~~ The status of the development and implementation of
 85 rules providing for disciplinary guidelines pursuant to s.
 86 456.079.

87 (j)~~(10)~~ Such recommendations for administrative and
 88 statutory changes necessary to facilitate efficient and cost-
 89 effective operation of the department and the various boards.

90 (2) The report shall separately categorize all complaints,
 91 investigations, probable cause, and disciplinary actions against
 92 a massage therapist or massage establishment licensed under
 93 chapter 480 related to a violation of:

94 (a) Section 480.043(12).

95 (b) Section 480.043(13).

96 (c) Section 480.043(14)(a) - (f).

97 (d) Section 480.0465.

98 (e) Section 480.0475.

99 (f) Section 480.0485.

100 (g) Section 480.0535.

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101 Section 2. Subsection (4) of section 456.074, Florida
 102 Statutes, is amended, and subsection (7) is added to that
 103 section, to read:

104 456.074 Certain health care practitioners; immediate
 105 suspension of license.—

106 (4) The department shall issue an emergency order
 107 suspending the license of a massage therapist and ~~or~~
 108 establishment as those terms are defined in chapter 480 upon
 109 receipt of information that the massage therapist; ~~the~~
 110 designated establishment manager as defined in chapter 480; an
 111 employee of the establishment; a person with an ownership
 112 interest in the establishment; or, for a corporation that has
 113 more than \$250,000 of business assets in this state, the owner,
 114 officer, or individual directly involved in the management of
 115 the establishment has been arrested for committing or
 116 attempting, soliciting, or conspiring to commit, or convicted or
 117 found guilty of, or has entered a plea of guilty or nolo
 118 contendere to, regardless of adjudication, a violation of s.
 119 796.07 ~~s. 796.07(2)(a) which is reclassified under s. 796.07(7)~~
 120 or a felony offense under any of the following provisions of
 121 state law or a similar provision in another jurisdiction:

- 122 (a) Section 787.01, relating to kidnapping.
- 123 (b) Section 787.02, relating to false imprisonment.
- 124 (c) Section 787.025, relating to luring or enticing a
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- 126 (d) Section 787.06, relating to human trafficking.
- 127 (e) Section 787.07, relating to human smuggling.
- 128 (f) Section 794.011, relating to sexual battery.
- 129 (g) Section 794.08, relating to female genital mutilation.
- 130 (h) Former s. 796.03, relating to procuring a person under
 131 the age of 18 for prostitution.
- 132 (i) Former s. 796.035, relating to the selling or buying
 133 of minors into prostitution.
- 134 (j) Section 796.04, relating to forcing, compelling, or
 135 coercing another to become a prostitute.
- 136 (k) Section 796.05, relating to deriving support from the
 137 proceeds of prostitution.
- 138 (l) Section 796.07(4)(a)3., relating to a felony of the
 139 third degree for a third or subsequent violation of s. 796.07,
 140 relating to prohibiting prostitution and related acts.
- 141 (m) Section 800.04, relating to lewd or lascivious
 142 offenses committed upon or in the presence of persons less than
 143 16 years of age.
- 144 (n) Section 825.1025(2)(b), relating to lewd or lascivious
 145 offenses committed upon or in the presence of an elderly or
 146 disabled person.
- 147 (o) Section 827.071, relating to sexual performance by a
 148 child.
- 149 (p) Section 847.0133, relating to the protection of
 150 minors.

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

152 (r) Section 847.0138, relating to the transmission of
 153 material harmful to minors to a minor by electronic device or
 154 equipment.

155 (s) Section 847.0145, relating to the selling or buying of
 156 minors.

157 (7) The department shall issue an emergency order
 158 suspending the license of any licensee upon a finding of the
 159 State Surgeon General that probable cause exists to believe that
 160 the licensee has committed sexual misconduct as defined and
 161 prohibited in s. 456.063(1), or the applicable practice act, and
 162 that such violation constitutes an immediate danger to the
 163 public.

164 Section 3. Subsections (1) through (6) of section 480.033,
 165 Florida Statutes, are renumbered as subsections (2) through (7),
 166 respectively, subsections (7) through (12), are renumbered as
 167 subsections (9) through (14), respectively, present subsection
 168 (6) is amended, and new subsections (1), (8), and (15) are added
 169 to that section, to read:

170 480.033 Definitions.—As used in this act:

171 (1) "Advertising medium" means any newspaper; airwave or
 172 computer transmission; telephone directory listing, other than
 173 an in-column listing consisting only of a name, physical
 174 address, and telephone number; business card; handbill; flyer;
 175 sign, other than a building directory listing all building

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176 tenants and their room or suite numbers; or any other form of
 177 written or electronic advertisement.

178 (7)-(6) "Designated establishment manager" means a massage
 179 therapist who holds a clear and active license without
 180 restriction; a health care practitioner licensed under chapter
 181 457; or a physician licensed under chapter 458, chapter 459, or
 182 chapter 460, who is responsible for the operation of a massage
 183 establishment in accordance with the provisions of this chapter,
 184 and who is designated the manager by the rules or practices at
 185 the establishment.

186 (8) "Employee" means any person, including, but not
 187 limited to, independent contractors or lessees of a massage
 188 establishment, whose duties involve any aspect or capacity of
 189 the massage establishment, including, but not limited to,
 190 preparing meals and cleaning regardless of whether such person
 191 is compensated for the performance of such duties. The term does
 192 not include a person who is exclusively engaged in the repair or
 193 maintenance of the massage establishment or the delivery of
 194 goods to the establishment.

195 (15) "Sexual activity" means any direct or indirect
 196 contact by any employee or person, or between any employees or
 197 persons, with the intent to abuse, humiliate, harass, degrade,
 198 or arouse, or gratify the sexual desire of, any employee or
 199 person, or which is likely to cause such abuse, humiliation,
 200 harassment, degradation, or arousal, or sexual gratification:

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

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

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

205 (d) With or without the occurrence of penetration, orgasm,
 206 or ejaculation.

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

210 (f) Including, but not limited to, the intentional removal
 211 of any drape without specific written informed consent of the
 212 patient.

213 Section 4. Subsection (5) of section 480.035, Florida
 214 Statutes, is amended to read:

215 480.035 Board of Massage Therapy.—

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

222 Section 5. Subsection (14) of section 480.043, Florida
 223 Statutes, is renumbered as subsection (15), subsection (3) and
 224 present subsection (14) are amended, and a new subsection (14)
 225 is added to that section, to read:

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226 480.043 Massage establishments; requisites; licensure;
 227 inspection; human trafficking awareness training and policies.—

228 (3) The board shall adopt rules governing the operation of
 229 massage establishments and their facilities, employees
 230 ~~personnel~~, safety and sanitary requirements, financial
 231 responsibility, insurance coverage, and the license application
 232 and granting process.

233 (14) In order to provide the department and law
 234 enforcement agencies the means to more effectively identify
 235 persons engaging in human trafficking at massage establishments,
 236 the following apply:

237 (a) Sexual activity in a massage establishment is
 238 prohibited. An establishment owner or employee may not engage in
 239 or allow any person to engage in sexual activity in the
 240 establishment or use the establishment to make arrangements to
 241 engage in sexual activity in another location. Used or unused
 242 condoms are prohibited in a massage establishment.

243 (b) If there is an outside window or windows into the
 244 massage establishment's reception area, the outside window or
 245 windows must allow for at least 35 percent light penetration and
 246 no more than 50 percent of the outside window or windows may be
 247 obstructed with signage, blinds, curtains, or other
 248 obstructions, allowing the public to see the establishment's
 249 reception area. A sign must be posted on the front window of the
 250 establishment that includes the name and license number of the

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251 message establishment and the telephone number that has been
 252 provided to the department as part of licensure of the
 253 establishment. This paragraph does not apply to:

254 1. A message establishment within a public lodging
 255 establishment as defined in s. 509.013(4).

256 2. A message establishment located within a county or
 257 municipality that has an ordinance that prescribes requirements
 258 related to business window light penetration or signage
 259 limitations if compliance with this paragraph would result in
 260 noncompliance with such ordinance.

261 (c) All employees within the message establishment must be
 262 fully clothed and such clothing must be fully opaque and made of
 263 nontransparent material that does not expose the employee's
 264 genitalia. This requirement does not apply to an employee,
 265 excluding a massage therapist, of a public lodging
 266 establishment, as defined in s. 509.013(4), that is licensed as
 267 a clothing-optional establishment and chartered with the
 268 American Association for Nude Recreation.

269 (d) A message establishment must maintain a complete set
 270 of legible records in English or Spanish, which must include
 271 each employee's start date of employment, full legal name, date
 272 of birth, home address, telephone number, and employment
 273 position and a copy of the employee's government identification
 274 required under s. 480.0535. All information required under this
 275 paragraph must be recorded before the employee may provide any

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276 service or treatment to a client or patient.

277 (e) A massage establishment must conspicuously display a 2
278 inch by 2 inch photo for each employee, which, for massage
279 therapists, must be attached to the massage therapist's license.
280 Such display must also include the employee's full legal name
281 and employment position. All information required under this
282 paragraph must be displayed before the employee may provide any
283 service or treatment to a client or patient. A massage
284 establishment within a public lodging establishment as defined
285 in s. 509.013(4) may satisfy this requirement by displaying the
286 photos and required information in an employee break room or
287 other room that is used by employees, but is not used by clients
288 or patients.

289 (f) A massage establishment must maintain a complete set
290 of legible records in English or Spanish, which must include the
291 date, time, and type of service or treatment provided; the full
292 legal name of the employee who provided the service or
293 treatment; and the full legal name, home address, and telephone
294 number of the client or patient. Medical records may satisfy
295 this requirement if the records include the specified
296 information. A copy of the client's or patient's photo
297 identification may be used to provide the full legal name and
298 home address of the client or patient. Records required under
299 this paragraph must be maintained for at least 1 year after a
300 service or treatment is provided. All information required under

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301 this paragraph must be collected and recorded before any service
 302 or treatment is provided to a client or patient. The
 303 establishment must confirm the identification of the client or
 304 patient before any service or treatment is provided to the
 305 client or patient.

306 (15)-(14) Except for the requirements of subsection (13),
 307 this section does not apply to a practitioner ~~physician~~ licensed
 308 under chapter 457 or a physician licensed under, chapter 458,
 309 chapter 459, or chapter 460 who employs a licensed massage
 310 therapist to perform massage therapy on the practitioner's or
 311 physician's patients at her or his ~~the physician's~~ place of
 312 practice. This subsection does not restrict investigations by
 313 the department for violations of chapter 456 or this chapter.

314 Section 6. Section 480.0465, Florida Statutes, is amended
 315 to read:

316 480.0465 Advertisement; prohibitions.—

317 (1) Each massage therapist or massage establishment
 318 licensed under this act shall include the number of the license
 319 in any advertisement of massage therapy services appearing in
 320 any advertising medium, including, but not limited to, a
 321 newspaper, airwave transmission, telephone directory, Internet,
 322 or other advertising medium. The advertisement must also include
 323 the physical address of the massage establishment and the
 324 telephone number that has been provided to the department as
 325 part of the licensing of the establishment. However, the

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326 inclusion of the physical address and telephone number is not
 327 required for an advertisement by a massage establishment whose
 328 establishment owner operates more than five locations in this
 329 state.

330 (2) A massage therapist, an establishment owner, an
 331 employee, or any third party directed by the establishment owner
 332 or employee, may not place, publish, or distribute, or cause to
 333 be placed, published, or distributed, any advertisement in any
 334 advertising medium which states prostitution services, escort
 335 services, or sexual services are available.

336 (3) A massage therapist, an establishment owner, an
 337 employee, or any third party directed by the massage therapist,
 338 establishment owner, or employee may not place, publish, or
 339 distribute, or cause to be placed, published, or distributed,
 340 any online advertisement on any website known for advertising
 341 prostitution services, escort services, or sexual services.

342 ~~Pending licensure of a new massage establishment under s.~~
 343 ~~480.043(7), the license number of a licensed massage therapist~~
 344 ~~who is an owner or principal officer of the establishment may be~~
 345 ~~used in lieu of the license number for the establishment.~~

346 Section 7. Subsection (2) of section 480.0475, Florida
 347 Statutes, is amended to read:

348 480.0475 Massage establishments; prohibited practices.—

349 (2) A person operating a massage establishment may not use
 350 or permit the establishment to be used as a principal or

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351 temporary domicile for, to shelter or harbor, or as sleeping or
352 napping quarters for any person unless the establishment is
353 zoned for residential use under a local ordinance.

354 Section 8. Section 480.0535, Florida Statutes, is amended
355 to read:

356 480.0535 Documents required while working in a massage
357 establishment; penalties; reporting.—

358 (1) In order to provide the department and law enforcement
359 agencies the means to more effectively identify, investigate,
360 and arrest persons engaging in human trafficking, an employee a
361 person employed by a massage establishment and any person
362 performing massage therapy in a massage establishment therein
363 must immediately present, upon the request of an investigator of
364 the department or a law enforcement officer, valid government
365 identification while in the establishment. An investigator of
366 the department must request valid government identification from
367 all employees while in the establishment. A valid government
368 identification for the purposes of this section is:

369 (a) A valid, unexpired driver license issued by any state,
370 territory, or district of the United States;

371 (b) A valid, unexpired identification card issued by any
372 state, territory, or district of the United States;

373 (c) A valid, unexpired United States passport;

374 (d) A naturalization certificate issued by the United
375 States Department of Homeland Security;

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376 (e) A valid, unexpired alien registration receipt card
 377 (green card); or

378 (f) A valid, unexpired employment authorization card
 379 issued by the United States Department of Homeland Security.

380 (2) A person operating a massage establishment must:

381 (a) Immediately present, upon the request of an
 382 investigator of the department or a law enforcement officer:

383 1. Valid government identification while in the
 384 establishment.

385 2. A copy of the documentation specified in paragraph
 386 (1)(a) for each employee and any person performing massage
 387 therapy in the establishment.

388 3. A copy of the documents required under s.
 389 480.043(14)(d) and (f).

390 (b) Ensure that each employee and any person performing
 391 massage therapy in the massage establishment is able to
 392 immediately present, upon the request of an investigator of the
 393 department or a law enforcement officer, valid government
 394 identification while in the establishment.

395 (3) A person who violates ~~any provision of~~ this section
 396 commits:

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

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

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401 (c) For a third or subsequent violation, a felony of the
 402 third degree, punishable as provided in s. 775.082, s. 775.083,
 403 or s. 775.084.

404 (4) The department shall notify a federal immigration
 405 office if a person operating a massage establishment, an
 406 employee, or any person performing massage therapy in a massage
 407 establishment fails to provide valid government identification
 408 as required under this section.

409 Section 9. Subsection (3) of section 823.05, Florida
 410 Statutes, is amended to read:

411 823.05 Places and groups engaged in certain activities
 412 declared a nuisance; abatement and enjoinder.—

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

417 Section 10. For the 2024-2025 fiscal year, eight full-time
 418 equivalent positions, with associated salary rate of 593,954,
 419 are authorized and the sums of \$925,080 in recurring and
 420 \$108,952 in nonrecurring funds from the Medical Quality
 421 Assurance Trust Fund are appropriated to the Department of
 422 Health for the purpose of implementing this act.

423 Section 11. This act shall take effect July 1, 2024.