

By the Committee on Fiscal Policy; and Senator Martin

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1 A bill to be entitled
2 An act relating to health care practitioners and
3 massage therapy; amending s. 456.026, F.S.; requiring
4 that a certain annual report required of the
5 Department of Health include specified data; amending
6 s. 456.074, F.S.; requiring the department to
7 immediately suspend the license of massage therapists
8 and massage establishments under certain
9 circumstances; requiring the department to suspend the
10 license of any person or entity under its jurisdiction
11 under certain circumstances; amending s. 480.033,
12 F.S.; revising and providing definitions; amending s.
13 480.035, F.S.; revising quorum requirements for the
14 Board of Massage Therapy; amending s. 480.043, F.S.;
15 revising certain rules the board is required to adopt;
16 prohibiting sexual activity and certain related
17 activities in massage establishments; specifying
18 prohibited conduct by establishment owners and
19 employees; providing requirements for outside windows
20 and signs in massage establishments; providing
21 exceptions; providing employee dress code
22 requirements, with an exception; requiring massage
23 establishments to maintain certain employment records
24 in English or Spanish; requiring that specified
25 information be recorded before an employee may provide
26 services or treatment; requiring massage
27 establishments to conspicuously display a photo and
28 specified information for each employee; requiring
29 that such photos and information be displayed before

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30 an employee may provide services or treatment;
31 providing for such requirements in massage
32 establishments within public lodging establishments;
33 requiring massage establishments to maintain customer
34 and patient records, in English or Spanish, for
35 services and treatment provided in the massage
36 establishment; providing that medical records satisfy
37 certain requirements; requiring massage establishments
38 to maintain such records for a specified timeframe;
39 requiring massage establishments to collect and record
40 specified information; requiring massage
41 establishments to confirm the identification of a
42 customer or patient before providing services or
43 treatment; amending s. 480.0465, F.S.; revising
44 advertising requirements and prohibitions for massage
45 therapists and massage establishments; amending s.
46 480.0475, F.S.; prohibiting massage establishments
47 from being used as a temporary domicile for, to
48 shelter or harbor, or as sleeping quarters for any
49 person, with an exception; amending s. 480.0535, F.S.;
50 requiring the department's investigators to request
51 valid government identification from all employees
52 while in a massage establishment; specifying
53 additional documents that a person operating a massage
54 establishment must immediately present, upon request,
55 to department investigators and law enforcement
56 officers; requiring the department to notify a federal
57 immigration office if specified persons in a massage
58 establishment fail to provide valid government

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59 identification; amending s. 823.05, F.S.; providing
60 criminal penalties; providing appropriations and
61 authorizing positions; providing an effective date.
62

63 Be It Enacted by the Legislature of the State of Florida:
64

65 Section 1. Section 456.026, Florida Statutes, is amended to
66 read:

67 456.026 Annual report concerning finances, administrative
68 complaints, disciplinary actions, and recommendations.—

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

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

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

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

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

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

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

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

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

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88 (i)~~(9)~~ The status of the development and implementation of
 89 rules providing for disciplinary guidelines pursuant to s.
 90 456.079.

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

94 (2) The report must separately categorize all complaints,
 95 investigations, probable cause findings, and disciplinary
 96 actions against a massage therapist or massage establishment
 97 licensed under chapter 480 related to a violation of each of the
 98 following:

99 (a) Section 480.043(12).

100 (b) Section 480.043(13).

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

102 (d) Section 480.0465.

103 (e) Section 480.0475.

104 (f) Section 480.0485.

105 (g) Section 480.0535.

106 Section 2. Subsection (4) of section 456.074, Florida
 107 Statutes, is amended, and subsection (7) is added to that
 108 section, to read:

109 456.074 Certain health care practitioners; immediate
 110 suspension of license.—

111 (4) The department shall issue an emergency order
 112 suspending the license of a massage therapist and ~~or~~
 113 establishment as those terms are defined in s. 480.033 ~~chapter~~
 114 ~~480~~ upon receipt of information that the massage therapist; the
 115 designated establishment manager as defined in s. 480.033; an
 116 employee of the establishment; ~~;~~ a person with an ownership

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117 interest in the establishment;7 or, for a corporation that has
118 more than \$250,000 of business assets in this state, the owner,
119 officer, or individual directly involved in the management of
120 the establishment has been arrested for committing or
121 attempting, soliciting, or conspiring to commit, has been
122 convicted or found guilty of, or has entered a plea of guilty or
123 nolo contendere to, regardless of adjudication, a violation of
124 s. 796.07 ~~s. 796.07(2)(a) which is reclassified under s.~~
125 ~~796.07(7)~~ or a felony offense under any of the following
126 provisions of state law or a similar provision in another
127 jurisdiction:

128 (a) Section 787.01, relating to kidnapping.

129 (b) Section 787.02, relating to false imprisonment.

130 (c) Section 787.025, relating to luring or enticing a
131 child.

132 (d) Section 787.06, relating to human trafficking.

133 (e) Section 787.07, relating to human smuggling.

134 (f) Section 794.011, relating to sexual battery.

135 (g) Section 794.08, relating to female genital mutilation.

136 (h) Former s. 796.03, relating to procuring a person under
137 the age of 18 for prostitution.

138 (i) Former s. 796.035, relating to the selling or buying of
139 minors into prostitution.

140 (j) Section 796.04, relating to forcing, compelling, or
141 coercing another to become a prostitute.

142 (k) Section 796.05, relating to deriving support from the
143 proceeds of prostitution.

144 (l) Section 796.07(4)(a)3., relating to a felony of the
145 third degree for a third or subsequent violation of s. 796.07,

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146 relating to prohibiting prostitution and related acts.

147 (m) Section 800.04, relating to lewd or lascivious offenses
148 committed upon or in the presence of persons less than 16 years
149 of age.

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

153 (o) Section 827.071, relating to sexual performance by a
154 child.

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

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

157 (r) Section 847.0138, relating to the transmission of
158 material harmful to minors to a minor by electronic device or
159 equipment.

160 (s) Section 847.0145, relating to the selling or buying of
161 minors.

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

169 Section 3. Present subsections (1) through (6) and (7)
170 through (12) of section 480.033, Florida Statutes, are
171 redesignated as subsections (2) through (7) and (9) through
172 (14), respectively, new subsections (1) and (8) and subsection
173 (15) are added to that section, and present subsection (6) of
174 that section is amended, to read:

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175 480.033 Definitions.—As used in this act:

176 (1) "Advertising medium" means any newspaper; airwave or
177 computer transmission; telephone directory listing, other than
178 an in-column listing consisting only of a name, physical
179 address, and telephone number; business card; handbill; flyer;
180 sign, other than a building directory listing all building
181 tenants and their room or suite numbers; or any other form of
182 written or electronic advertisement.

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

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

200 (15) "Sexual activity" means any direct or indirect contact
201 by any employee or person, or between any employees or persons,
202 with the intent to abuse, humiliate, harass, degrade, or arouse,
203 or gratify the sexual desire of, any employee or person, or

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204 which is likely to cause such abuse, humiliation, harassment,
205 degradation, arousal, or sexual gratification:

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

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

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

210 (d) With or without the occurrence of penetration, orgasm,
211 or ejaculation.

212

213 The term includes, but is not limited to, intentional contact
214 with the genitalia, groin, femoral triangle, anus, buttocks,
215 gluteal cleft, breast or nipples, mouth, or tongue and the
216 intentional removal of any drape without specific written
217 informed consent of the patient.

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

220 480.035 Board of Massage Therapy.—

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

227 Section 5. Present subsection (14) of section 480.043,
228 Florida Statutes, is redesignated as subsection (15), a new
229 subsection (14) is added to that section, and subsection (3) and
230 present subsection (14) of that section are amended, to read:

231 480.043 Massage establishments; requisites; licensure;
232 inspection; human trafficking awareness training and policies.—

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233 (3) The board shall adopt rules governing the operation of
234 massage establishments and their facilities, employees
235 ~~personnel~~, safety and sanitary requirements, financial
236 responsibility, insurance coverage, and the license application
237 and granting process.

238 (14) In order to provide the department and law enforcement
239 agencies the means to more effectively identify persons engaging
240 in human trafficking at massage establishments, all of the
241 following apply:

242 (a) Sexual activity in a massage establishment is
243 prohibited. An establishment owner or employee may not engage in
244 or allow any person to engage in sexual activity in the
245 establishment or use the establishment to make arrangements to
246 engage in sexual activity in another location. Used or unused
247 condoms are prohibited in a massage establishment.

248 (b) If there is an outside window or windows into the
249 massage establishment's reception area, the outside window or
250 windows must allow for at least 35 percent light penetration,
251 and no more than 50 percent of the outside window or windows may
252 be obstructed with signage, blinds, curtains, or other
253 obstructions, allowing the public to see the establishment's
254 reception area. A sign must be posted on the front window of the
255 establishment that includes the name and license number of the
256 massage establishment and the telephone number that has been
257 provided to the department as part of licensure of the
258 establishment. This paragraph does not apply to:

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

261 2. A massage establishment located within a county or

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262 municipality that has an ordinance that prescribes requirements
263 related to business window light penetration or signage
264 limitations if compliance with this paragraph would result in
265 noncompliance with such ordinance.

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

274 (d) A massage establishment must maintain a complete set of
275 legible records in English or Spanish, which must include each
276 employee's start date of employment, full legal name, date of
277 birth, home address, telephone number, and employment position
278 and a copy of the employee's government identification required
279 under s. 480.0535. All information required under this paragraph
280 must be recorded before the employee may provide any service or
281 treatment to a client or patient.

282 (e) A massage establishment must conspicuously display a 2
283 inch by 2 inch photo for each employee, which, for massage
284 therapists, must be attached to the massage therapist's license.
285 Such display must also include the employee's full legal name
286 and employment position. All information required under this
287 paragraph must be displayed before the employee may provide any
288 service or treatment to a client or patient. A massage
289 establishment within a public lodging establishment as defined
290 in s. 509.013(4) may satisfy this requirement by displaying the

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291 photos and required information in an employee break room or
292 other room that is used by employees, but is not used by clients
293 or patients.

294 (f) A massage establishment must maintain a complete set of
295 legible records in English or Spanish which must include the
296 date, time, and type of service or treatment provided; the full
297 legal name of the employee who provided the service or
298 treatment; and the full legal name, home address, and telephone
299 number of the client or patient. Medical records may satisfy
300 this requirement if the records include the specified
301 information. A copy of the client's or patient's photo
302 identification may be used to provide the full legal name and
303 home address of the client or patient. Records required under
304 this paragraph must be maintained for at least 1 year after a
305 service or treatment is provided. All information required under
306 this paragraph must be collected and recorded before any service
307 or treatment is provided to a client or patient. The
308 establishment must confirm the identification of the client or
309 patient before any service or treatment is provided to the
310 client or patient.

311 (15)~~(14)~~ Except for the requirements of subsection (13),
312 this section does not apply to a practitioner ~~physician~~ licensed
313 under chapter 457 or a physician licensed under~~7~~ chapter 458,
314 chapter 459, or chapter 460 who employs a licensed massage
315 therapist to perform massage therapy on the practitioner's or
316 physician's patients at his or her ~~the physician's~~ place of
317 practice. This subsection does not restrict investigations by
318 the department for violations of chapter 456 or this chapter.

319 Section 6. Section 480.0465, Florida Statutes, is amended

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320 to read:

321 480.0465 Advertisement; prohibitions.-

322 (1) Each massage therapist or massage establishment
323 licensed under this act shall include the number of the license
324 in any advertisement of massage therapy services appearing in
325 any advertising medium, including, but not limited to, a
326 newspaper, airwave transmission, telephone directory, Internet,
327 or other advertising medium. The advertisement must also include
328 the physical address of the massage establishment and the
329 telephone number that has been provided to the department as
330 part of the licensing of the establishment. However, the
331 inclusion of the physical address and telephone number is not
332 required for an advertisement by a massage establishment whose
333 establishment owner operates more than five locations in this
334 state.

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

341 (3) A massage therapist, an establishment owner, an
342 employee, or any third party directed by the massage therapist,
343 establishment owner, or employee may not place, publish, or
344 distribute, or cause to be placed, published, or distributed,
345 any online advertisement on any website known for advertising
346 prostitution services, escort services, or sexual services
347 ~~Pending licensure of a new massage establishment under s.~~
348 ~~480.043(7), the license number of a licensed massage therapist~~

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349 ~~who is an owner or principal officer of the establishment may be~~
350 ~~used in lieu of the license number for the establishment.~~

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

353 480.0475 Massage establishments; prohibited practices.—

354 (2) A person operating a massage establishment may not use
355 or permit the establishment to be used as a principal or
356 temporary domicile for, to shelter or harbor, or as sleeping or
357 napping quarters for any person unless the establishment is
358 zoned for residential use under a local ordinance.

359 Section 8. Section 480.0535, Florida Statutes, is amended
360 to read:

361 480.0535 Documents required while working in a massage
362 establishment; penalties; reporting.—

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

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

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

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- 378 (c) A valid, unexpired United States passport;
- 379 (d) A naturalization certificate issued by the United
380 States Department of Homeland Security;
- 381 (e) A valid, unexpired alien registration receipt card
382 (green card); or
- 383 (f) A valid, unexpired employment authorization card issued
384 by the United States Department of Homeland Security.
- 385 (2) A person operating a massage establishment must:
- 386 (a) Immediately present, upon the request of an
387 investigator of the department or a law enforcement officer:
- 388 1. Valid government identification while in the
389 establishment.
- 390 2. A copy of the documentation specified in paragraph
391 (1)(a) for each employee and any person performing massage
392 therapy in the establishment.
- 393 3. A copy of the documents required under s. 480.043(14)(d)
394 and (f).
- 395 (b) Ensure that each employee and any person performing
396 massage therapy in the massage establishment is able to
397 immediately present, upon the request of an investigator of the
398 department or a law enforcement officer, valid government
399 identification while in the establishment.
- 400 (3) A person who violates ~~any provision of~~ this section
401 commits:
- 402 (a) For a first violation, a misdemeanor of the second
403 degree, punishable as provided in s. 775.082 or s. 775.083.
- 404 (b) For a second violation, a misdemeanor of the first
405 degree, punishable as provided in s. 775.082 or s. 775.083.
- 406 (c) For a third or subsequent violation, a felony of the

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407 third degree, punishable as provided in s. 775.082, s. 775.083,
408 or s. 775.084.

409 (4) The department shall notify a federal immigration
410 office if a person operating a massage establishment, an
411 employee, or any person performing massage therapy in a massage
412 establishment fails to provide valid government identification
413 as required under this section.

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

416 823.05 Places and groups engaged in certain activities
417 declared a nuisance; abatement and enjoinder.-

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

422 Section 10. For the 2024-2025 fiscal year, eight full-time
423 equivalent positions, with associated salary rate of 593,954,
424 are authorized and the sums of \$925,080 in recurring and
425 \$108,952 in nonrecurring funds from the Medical Quality
426 Assurance Trust Fund are appropriated to the Department of
427 Health for the purpose of implementing this act.

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