

Bill No. SB 410

Barcode 964918

Proposed Committee Substitute by the Committee on Health and
Human Services Appropriations

1 A bill to be entitled
2 An act relating to the Department of Health;
3 amending s. 456.013, F.S.; eliminating a
4 requirement that the department issue wall
5 certificates; amending s. 456.017, F.S.;
6 prohibiting the use of a state-developed
7 examination if a national examination has been
8 certified by the department; revising the
9 criteria under which an applicant may challenge
10 the validity of an examination; authorizing the
11 department to post examination scores on the
12 Internet in lieu of mailing the scores to each
13 applicant; amending s. 456.036, F.S.; providing
14 for a retired-status license; providing a fee
15 for changing to retired status at the time of
16 license renewal; requiring an additional fee if
17 retired status is chosen at any time other than
18 at the time of license renewal; authorizing
19 each board or the department to reexamine a
20 licensee who has been retired or inactive for a
21 specified period in order to assess the
22 licensee's competency; amending s. 464.201,
23 F.S.; defining the phrase "practice of a
24 certified nursing assistant"; amending s.
25 464.202, F.S.; requiring the Board of Nursing
26 to adopt rules specifying the scope of practice
27 and level of supervision required for certified
28 nursing assistants; amending s. 464.203, F.S.;
29 requiring the biennial renewal of certification
30 as a nursing assistant; reducing the number of
31 required hours of inservice training for

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1 certified nursing assistants; providing a fee
 2 for certification renewal; providing an
 3 effective date.

4
5 Be It Enacted by the Legislature of the State of Florida:

6
7 Section 1. Subsection (2) of section 456.013, Florida
8 Statutes, is amended to read:

9 456.013 Department; general licensing provisions.--

10 (2) Before the issuance of any license, the department
 11 shall charge an initial license fee as determined by the
 12 applicable board or, if there is no such board exists, by rule
 13 of the department. Upon receipt of the appropriate license
 14 fee, the department shall issue a license to any person
 15 certified by the appropriate board, or its designee, as having
 16 met the licensure requirements imposed by law or rule. The
 17 license shall consist of a wallet-size identification card and
 18 a wall card measuring 6 1/2 inches by 5 inches. ~~In addition~~
 19 ~~to the two-part license, the department, at the time of~~
 20 ~~initial licensure, shall issue a wall certificate suitable for~~
 21 ~~conspicuous display, which shall be no smaller than 8 1/2~~
 22 ~~inches by 14 inches.~~ The licensee shall surrender to the
 23 department the wallet-size identification card and, the wall
 24 card, ~~and the wall certificate, if one has been issued by the~~
 25 ~~department,~~ if the licensee's license is issued in error or is
 26 revoked.

27 Section 2. Paragraph (c) of subsection (1) and
 28 subsection (2) of section 456.017, Florida Statutes, are
 29 amended, and subsection (7) is added to that section, to read:

30 456.017 Examinations.--

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1 (c) ~~1.~~ The board, or the department when there is no
2 board, shall approve by rule the use of one or more national
3 examinations that ~~which~~ the department has certified as
4 meeting requirements of national examinations and generally
5 accepted testing standards pursuant to department rules.

6 1. Providers of examinations seeking certification ~~by~~
7 ~~the department~~ shall pay the actual costs incurred by the
8 department in making a determination regarding the
9 certification. The name and number of a candidate may be
10 provided to a national contractor for the limited purpose of
11 preparing the grade tape and information to be returned to the
12 board or department; or, to the extent otherwise specified by
13 rule, the candidate may apply directly to the vendor of the
14 national examination and supply test score information to the
15 department. The department may delegate to the board the duty
16 to provide and administer the examination. Any national
17 examination approved by a board, or the department when there
18 is no board, prior to October 1, 1997, is deemed certified
19 under this paragraph.

20 ~~2. The board, or the department when there is no~~
21 ~~board, shall approve and begin administering a national~~
22 ~~examination no later than December 31, 2001. Neither the board~~
23 ~~nor the department may administer a state-developed written~~
24 ~~examination if a national examination has been certified by~~
25 ~~the department after December 31, 2001, notwithstanding any~~
26 ~~other provision of law. The examination may be administered~~
27 ~~electronically if adequate security measures are used, as~~
28 ~~determined by rule of the department.~~

29 3. The board, or the department when there is no
30 board, may administer a state-developed practical or clinical
31 examination, as required by the applicable practice act, if

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1 all costs of development, purchase, validation,
2 administration, review, and defense are paid by the
3 examination candidate prior to the administration of the
4 examination. If a national practical or clinical examination
5 is available and certified by the department pursuant to this
6 section, the board, or the department when there is no board,
7 may administer the national examination.

8 4. It is the intent of the Legislature to reduce the
9 costs associated with state examinations and to encourage the
10 use of national examinations whenever possible.

11 (2) For each examination developed by the department
12 or a contracted vendor, the board, or the department when
13 there is no board, shall adopt rules providing for
14 reexamination of any applicants who failed an examination
15 developed by the department or a contracted vendor. If both a
16 written and a practical examination are given, an applicant
17 shall be required to retake only the portion of the
18 examination on which the applicant failed to achieve a passing
19 grade, if the applicant successfully passes that portion
20 within a reasonable time, as determined by rule of the board,
21 or the department when there is no board, of passing the other
22 portion. Except for national examinations approved and
23 administered pursuant to this section, the department shall
24 provide procedures for applicants who fail an examination
25 developed by the department or a contracted vendor to review
26 their examination questions, answers, papers, grades, and
27 grading key for the questions the candidate answered
28 incorrectly or, if not feasible, the parts of the examination
29 failed. Applicants shall bear the actual cost for the
30 department to provide examination review pursuant to this
31 subsection. An applicant may waive in writing the

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1 confidentiality of the applicant's examination grades.
2 Notwithstanding any other provisions, only candidates who fail
3 an examination with a score that is by less than 10 percent
4 below the minimum score required to pass the examination shall
5 be entitled to challenge the validity of the examination at
6 hearing.

7 (7) The department may post examination scores
8 electronically on the Internet in lieu of mailing the scores
9 to each applicant. The electronic posting of the examination
10 scores meets the requirements of chapter 120 if the department
11 also posts along with the examination scores a notification of
12 the rights set forth in chapter 120. The date of receipt for
13 purposes of chapter 120 is the date the examination scores are
14 posted electronically. The department shall also notify the
15 applicant when scores are posted electronically of the
16 availability of post-examination review, if applicable.

17 Section 3. Subsections (1), (2), (4), (10), (11),
18 (12), and (13) of section 456.036, Florida Statutes, are
19 amended to read:

20 456.036 Licenses; active and inactive status;
21 delinquency.--

22 (1) A licensee may practice a profession only if the
23 licensee has an active status license. A licensee who
24 practices a profession with an inactive status license, a
25 retired status license, or a delinquent ~~without an active~~
26 ~~status~~ license is in violation of this section and s. 456.072,
27 and the board, or the department if there is no board, may
28 impose discipline on the licensee.

29 (2) Each board, or the department if there is no
30 board, shall permit a licensee to choose, at the time of
31 licensure renewal, an active, ~~or~~ inactive, or retired status.

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1 (4) Notwithstanding any other provision of law to the
2 contrary, a licensee may change licensure status at any time.

3 (a) Active status licensees choosing inactive status
4 at the time of license renewal must pay the inactive status
5 renewal fee, and, if applicable, the delinquency fee and the
6 fee to change licensure status. Active status licensees
7 choosing inactive status at any other time than at the time of
8 license renewal must pay the fee to change licensure status.

9 **(b) An active status licensee or an inactive status**
10 **licensee who chooses retired status at the time of license**
11 **renewal must pay the retired-status fee, which may not exceed**
12 **\$50 as established by rule of the board or the department if**
13 **there is no board. An active status licensee or inactive**
14 **status licensee who chooses retired status at any time other**
15 **than at the time of license renewal must pay the**
16 **retired-status fee plus a change-of-status fee.**

17 **(c) ~~(b)~~** An inactive status licensee may change to
18 active status at any time, if the licensee meets all
19 requirements for active status. Inactive status licensees
20 choosing active status at the time of license renewal must pay
21 the active status renewal fee, any applicable reactivation
22 fees as set by the board, or the department if there is no
23 board, and, if applicable, the delinquency fee and the fee to
24 change licensure status. Inactive status licensees choosing
25 active status at any other time than at the time of license
26 renewal must pay the difference between the inactive status
27 renewal fee and the active status renewal fee, if any exists,
28 any applicable reactivation fees as set by the board, or the
29 department if there is no board, and the fee to change
30 licensure status.

31 **(10) Each board, or the department if there is no**

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1 board, may by rule impose reasonable conditions, including
2 full reexamination to assess current competency, in order to
3 ensure that a licensee who has been on retired status for more
4 than 5 years, or a licensee from another state who has not
5 been in active practice within the past 5 years, and who
6 applies for active status is able to practice with the care
7 and skill sufficient to protect the health, safety, and
8 welfare of the public. Requirements for reactivation of a
9 license may differ depending on the length of time a licensee
10 has been retired.

11 (11)~~(10)~~ Before reactivation, an inactive status
12 licensee or a delinquent licensee who was inactive prior to
13 becoming delinquent must meet the same continuing education
14 requirements, if any, imposed on an active status licensee for
15 all biennial licensure periods in which the licensee was
16 inactive or delinquent.

17 (12) Before the license of a retired status licensee
18 is reactivated, the licensee must meet the same requirements
19 for continuing education, if any, and pay any renewal fees
20 imposed on an active status licensee for all biennial
21 licensure periods during which the licensee was on retired
22 status.

23 (13)~~(11)~~ The status or a change in status of a
24 licensee does not alter in any way the right of the board, or
25 of the department if there is no board, to impose discipline
26 or to enforce discipline previously imposed on a licensee for
27 acts or omissions committed by the licensee while holding a
28 license, whether active, inactive, retired, or delinquent.

29 (14)~~(12)~~ This section does not apply to a business
30 establishment registered, permitted, or licensed by the
31 department to do business.

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1 ~~(15)(13)~~ The board, or the department when there is no
2 board, may adopt rules pursuant to ss. 120.536(1) and 120.54
3 as necessary to implement this section.

4 Section 4. Present subsection (5) of section 464.201,
5 Florida Statutes, is redesignated as subsection (6), and a new
6 subsection (5) is added to that section, to read:

7 464.201 Definitions.--As used in this part, the term:

8 (5) "Practice of a certified nursing assistant" means
9 providing care and assisting persons with tasks relating to
10 the activities of daily living. Such tasks are those
11 associated with personal care, maintaining mobility, nutrition
12 and hydration, toileting and elimination, assistive devices,
13 safety and cleanliness, data gathering, reporting abnormal
14 signs and symptoms, postmortem care, patient socialization and
15 reality orientation, end-of-life care, cardiopulmonary
16 resuscitation and emergency care, residents' or patients'
17 rights, documentation of nursing-assistant services, and other
18 tasks that a certified nurse assistant may perform after
19 training beyond that required for initial certification and
20 upon validation of competence in that skill by a registered
21 nurse. This subsection does not restrict the ability of any
22 person who is otherwise trained and educated from performing
23 such tasks.

24 Section 5. Section 464.202, Florida Statutes, is
25 amended to read:

26 464.202 Duties and powers of the board.--The board
27 shall maintain, or contract with or approve another entity to
28 maintain, a state registry of certified nursing assistants.
29 The registry must consist of the name of each certified
30 nursing assistant in this state; other identifying information
31 defined by board rule; certification status; the effective

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1 date of certification; other information required by state or
2 federal law; information regarding any crime or any abuse,
3 neglect, or exploitation as provided under chapter 435; and
4 any disciplinary action taken against the certified nursing
5 assistant. The registry shall be accessible to the public, the
6 certificateholder, employers, and other state agencies. The
7 board shall adopt by rule testing procedures for use in
8 certifying nursing assistants and shall adopt rules regulating
9 the practice of certified nursing assistants and specifying
10 the scope of practice authorized and the level of supervision
11 required for the practice of certified nursing assistants to
12 ~~enforce this part~~. The board may contract with or approve
13 another entity or organization to provide the examination
14 services, including the development and administration of
15 examinations. The board shall require that the contract
16 provider offer certified nursing assistant applications via
17 the Internet, and may require the contract provider to accept
18 certified nursing assistant applications for processing via
19 the Internet. The board shall require the contract provider
20 to provide the preliminary results of the certified nursing
21 examination on the date the test is administered. The provider
22 shall pay all reasonable costs and expenses incurred by the
23 board in evaluating the provider's application and performance
24 during the delivery of services, including examination
25 services and procedures for maintaining the certified nursing
26 assistant registry.

27 Section 6. Subsections (5) and (7) of section 464.203,
28 Florida Statutes, are amended, and subsection (8) is added to
29 that section, to read:

30 464.203 Certified nursing assistants; certification
31 requirement.--

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1 (5) Certification as a nursing assistant, in
2 accordance with this part, may be renewed ~~continues in effect~~
3 until such time as the nursing assistant allows a period of 24
4 consecutive months to pass during which period the nursing
5 assistant fails to perform any nursing-related services for
6 monetary compensation. When a nursing assistant fails to
7 perform any nursing-related services for monetary compensation
8 for a period of 24 consecutive months, the nursing assistant
9 must complete a new training and competency evaluation program
10 or a new competency evaluation program.

11 (7) A certified nursing assistant shall complete 12 ~~18~~
12 hours of inservice training during each calendar year. The
13 certified nursing assistant shall be responsible for
14 maintaining documentation demonstrating compliance with these
15 provisions. The Council on Certified Nursing Assistants, in
16 accordance with s. 464.2085(2)(b), shall propose rules to
17 implement this subsection.

18 (8) The department shall renew a certificate upon
19 receipt of the renewal application and imposition of a fee of
20 not less than \$20 and not more than \$50 biennially. The
21 department shall adopt rules establishing a procedure for the
22 biennial renewal of certificates. Any certificate that is not
23 renewed by July 1, 2006, is void.

24 Section 7. This act shall take effect July 1, 2005.
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