

**TRAIN FOR SUCCESS INC.
Florida's Laws and Rules
for Nursing 4 hours**

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for Nursing
4 Hours**

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PURPOSE

The purpose of this course is to review the laws and rules for the State of Florida that apply to the nursing profession and to provide the Licensed Practical Nurse (LPN), Registered Nurse (RN), Clinical Nurse Specialist (CNS), and Advanced Registered Nurse Practitioners (ARNP) with the Regulations / Requirements, including detail review of information regarding 64B9 of the Florida Administrative Code, Chapters 464 and 456 of the Florida Statutes .

OBJECTIVES

When the individual has successfully completed this course, he/she will be able to:

1. Define specific laws relating to the Nursing practice,
2. Define specific laws relating to the practice of the nursing assistants,
3. Describe the purpose of the Nurse Practice Act,
4. Describe the discipline process as it relates to Nursing,
5. Define the Intervention Program for Nurses,
6. Discuss requirements / legal practice,
7. Discuss patient records,
8. Describe requirements for licensure, renewal
9. Discuss Florida Documentation standards
10. Discuss Florida Continuing Education standards
11. Define Florida Nursing licensure by endorsement, examination
12. Discuss Florida Nursing Education standards

Introduction

The Florida Board of Nursing proposed a new rule to incorporate a requirement of continuing education on the laws and rules that govern the practice of nursing in Florida for Licensed Practical Nurses, Registered Nurses, Clinical Nurse Specialists and Advanced Registered Nurse Practitioners. Florida Administrative Code Rule 64B9-5.013 became effective April 21, 2013. Beginning with the biennium ending in 2015, each nursing licensee must complete a two hour course on the laws and rules that govern the practice of nursing in Florida.

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Laws and rules that govern the practice of nursing in the State of Florida include:

- Florida Administrative Code 64B9
- Chapter 464 of the Florida Statutes
- Chapters 456 of the Florida Statutes

Florida Administrative Code 64B9 (64B9-1 to 64B9-17)

64B9-1.001 includes Abbreviations and Definitions

64B9-1.007 includes; other Board Business; Unexcused Absences

64B9-1.013 Address of Record and Place of Practice.

Each individual holding a license issued pursuant to Chapter 464, F.S., must maintain on file with the Board of Nursing the current address at which any notice required by law may be served by the Board or its agent. Within 60 days of changing this address, whether or not within this state, the licensee shall notify the Board in writing of the new address at which the licensee may be served with notices or other documents.

Each individual holding a license issued pursuant to Chapter 464, F.S., must maintain on file with the Board of Nursing the current place of practice. Place of practice is defined as one of the following:

- (a) Acute care facility;
- (b) Long-term care facility;
- (c) Rehabilitation facility;
- (d) Clinic;
- (e) Physician's office;
- (f) Home health care agency;
- (g) Educational institution;
- (h) Office of independent nursing practice;
- (i) Correctional facility;
- (j) Mental health facility;
- (k) Occupational health facility;

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- (l) Managed health care organization or insurance company;
- (m) Community health facility;
- (n) Other.

64 B 9-2 NURSING PROGRAMS

64B9-2.016 includes Forms.

The following forms are incorporated herein by reference, and may be obtained from the Board office or on the Board's website: <http://floridanursing.gov>:

- (1) Application for Nursing Licensure by Examination, form number DH-MQA 1094, 10/08.
- (2) Application for Nursing Licensure by Re-Examination, form number DH-MQA 1120, 10/08.
- (3) Application for Nursing Licensure by Endorsement, form number DH-MQA 1095, 10/08.
- (4) Application for Dual Registered Nurse (RN) and Advanced Registered Nurse Practitioner, form number DH-MQA 1124, 12/08.
- (5) Financial Responsibility, form number DH-MQA 1186, 1/09.
- (6) Dispensing Application for ARNPs, form number DH-MQA 1185, 3/09.
- (7) Application for Clinical Nurse Specialist (CNS), form number DH-MQA 1117, 10/08.
- (8) Reciprocity Application for Certified Nursing Assistant, form number DH-MQA 1121, 2/08.
- (9) Application for New Nursing Program DH-MQA 1211, 03/10 (rev.)
- (10) Annual Report for Programs in Nursing DH-MQA 1096, 05/10.

64B9-2.017 Approval of Nursing Education Programs.

An educational institution that wishes to conduct a program in this state for the prelicensure education of professional or practical nurses shall submit to the department the following:

- (1) A complete program application, Form DH-MQA 1211 (revised 3/10), "Application for New Nursing Program," which is incorporated herein by reference and may be obtained from the Board office, <http://www.flrules.org/Gateway/reference.asp?No=Ref-05078> or at <http://floridasnursing.gov/>, demonstrating the proposed program meets the

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requirements of Section 464.019, F.S. The application is available from the board office or on the board's website at <http://floridasnursing.gov>.

(2) A review fee of \$1,000 for each prelicensure nursing education program to be offered regardless of the location of the instructional site.

64B9-2.019 Documentation of Accredited Programs.

Documentation of an accredited nursing education program that prepares students for the practice of professional nursing shall initially be demonstrated by submission by the school to the board a copy of the notification letter from the accrediting body granting accreditation to the program and annually thereafter by submitting to the board a copy of the letter from the accrediting body demonstrating continuation of the program's accredited status.

64B9-3 REQUIREMENTS FOR LICENSURE

64B9-3.001 includes Definitions.

64B9-3.0015 Application for Licensure.

64B9-3.002 Qualifications for Examination.

(1) An applicant seeking certification to take the licensure examination shall submit a completed Application for Nursing Licensure by Examination, form number DH-MQA 1094, 08/10, Application for Nursing Licensure by Re-Examination, form number DH-MQA 1120 10/08, or Application for Nursing Licensure by Endorsement, form number DH-MQA 1095, 08/10, hereby incorporated by reference demonstrating that he or she meets the qualifications prescribed by the Nurse Practice Act, Chapter 464, F.S. These forms are available from the Board office or on the Board's website: www.doh.state.fl.us/mqa/nursing. The demonstration shall include:

(a) A high school diploma, or a high school diploma equivalent.

(b) For graduates of an approved nursing program, a notice of graduation or of completion of the requirements for graduation. For graduates of an approved program equivalent, an official transcript or equivalent documentation which identifies all courses completed with a minimum acceptable passing score established by the institution or program at which each course was completed that meet graduation requirements. For graduates of programs in a country other than the United States, the applicant must obtain a report by a credentialing agency that meets the requirements of Rule 64B9-3.014, F.A.C.

(c) For an applicant writing the examination for practical nurses on the basis of practical nursing education equivalency, a completed Practical Nurse Equivalence (PNEQ) Application Letter, form number DH-MQA 1233, 03/10, hereby incorporated by reference or an official certified transcript which sets forth graduation from an approved professional program. The form is available from the Board office or on the Board's website: www.doh.state.fl.us/mqa/nursing.

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(d) Successful completion of any one of the approved English competency examinationswith

1. A minimum score of 540 (207 on computerized version) on the Test of English as a
...Foreign Language (TOEFL) Examination;

2. A minimum score of 79% on the Michigan English Language Assessment Battery ...
(MELAB);

3. A minimum MELAB converted score of 79% on the Michigan Examination for the ...
Certificate of Proficiency in English (ECPE Examination);

4. A minimum score of 725 on Test of English for International Communication (TOEIC);

5. A minimum score of 6.5 overall with a 7.0 on the spoken portion on the academic version ...
of International English Language Testing System (IELTS);

6. Completion of a nursing program given in English in another country;

7. A passing score on a nursing licensing examination which is given in English;

8. A certificate from the Commission on Graduates from Foreign Nursing Schools or other
...agency which indicates successful completion of TOEFL, TOEIC, or IELTS;

9. A valid U.S. High School Diploma;

10. Completion of a college level course for academic credit in a U.S. institution; or

(2) If an applicant has been convicted or found guilty of, or has entered a plea of nolo
contendere to, regardless of adjudication, any offense other than minor traffic violation, the
applicant shall submit arrest and certified court records stating the nature of the offense and
final disposition of the case so that a determination can be made by the Board whether the
offense relates to the practice of nursing or the ability to practice nursing.

(3) Documents in a foreign language must be accompanied by a certified translation in the
... English language.

(4) The applicant shall notify the Board in writing of any change in the information provided
.....on the application which occurs prior to licensure.

(5) The applicant must submit proof of graduation before the license will be issued.

64B9-3.0025 Remedial Courses for Reexamination.

To meet the requirements of Section 464.008(3), F.S., remedial courses must be
approved by the Board, and must meet the following requirements:

(1) The faculty qualifications and clinical training shall comply with the standards in

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Sections 464.019(1)(a), (c), (d), and (e), F.S.

(2) The curriculum shall comply with the guidelines in Sections 464.019(1)(f) and (g), F.S., and shall include a minimum of 80 hours didactic education and 96 hours clinical experience in a medical-surgical setting.

64B9-3.003 Practice of Nursing by Applicant for Licensure by Examination.

(1) No applicant for licensure by examination will be permitted to practice nursing unless:

(a) The applicant has submitted the required application and fee to the Department,

(b) and the applicant has been authorized by the Board to practice as a graduate nurse or graduate practical nurse, and has been authorized to test by the examination vendor.

(2) Any applicant who is a graduate nurse, or a graduate practical nurse, shall practice nursing only under the direct supervision of a registered professional nurse. The Board may require periodic reports from the supervisor or employers of a graduate nurse or graduate practical nurse whom the Board finds has violated the provisions of Section 464.018(1), F.S. Such a finding shall be made at the time of consideration of the application.

(3) An applicant who fails the first, or any subsequent examination, shall not practice nursing until such time as the applicant passes a nursing licensing examination.

(4) An applicant who is eligible to write the professional examination but elects to write the practical examination on the basis of practical nursing education equivalency and fails the practical examination shall not be granted Graduate Nurse status when the applicant applies to write the professional examination.

64B9-3.007 Examination Security.

Rulemaking Authority 456.017(1)(d) FS. Law Implemented 456.017(1)(d) FS. History—New 10-6-82, Formerly 21O-17.01, 21O-17.001, 61F7-3.007, 59S-3.007, Amended 4-28-99, Repealed 4-22-12.

64B9-3.008 Licensure by Endorsement.

An applicant for licensure by endorsement must apply to the Department on prescribed forms, including verification of licensure forms from the original state or territory in which licensure was obtained and from a state or territory in which the applicant holds an active license, and pay the required fee. If the applicant:

(a) Has been convicted or found guilty of, or has entered a plea of nolo contendere to, regardless of adjudication, any offense, other than a minor traffic violation, the applicant shall furnish certified court records stating the nature of the offense and the disposition

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of the case so that a determination may be made by the Board whether the conviction related to the practice of nursing or the ability to practice nursing.

(b) Has ever had disciplinary action taken against a license (including relinquishment or denial of licensure) in another state, territory, or country, the applicant shall submit to the Board documentation pertaining to such action and its final disposition.

An applicant who wants to apply for endorsement is required to :

To apply for endorsement pursuant to Section 464.009(1)(a), F.S., an applicant shall be required to show current licensure in another state of the United States and the licensure requirements of the original state of licensure at the time of original licensure. For the purpose of determining if the requirements in the original state of licensure were substantially equivalent to or more stringent than the requirements in Florida at that time, the applicant must demonstrate a passing score on one of the following:

(a) The NCLEX examination for professional or practical nurses;

(b) The State Board Test Pool Examination for Professional Nurses given between 1951 and 1981, if the applicant passed with a score of 350 in each subject or a total score of 1800;

(c) The State Board Test Pool Examination for Practical Nurses given between 1952 and 1981, if the applicant passed with a score of 350;

(d) A state licensing examination for professional nurses given prior to 1951 or a state licensing examination for practical nurses given prior to 1952;

(e) Any licensing examination taken as a condition for state licensure by a professional nurse after 1951 or by a practical nurse after 1952, if the examination meets the following standards:

1. The examination was developed using accepted psychometric procedures;
2. The content and passing score of the examination was substantially equivalent tothe examination given in Florida at the time;
3. The security of the examination was maintained;
4. At least one of the reliability estimations for the examination is .70 or higher;
5. The examination was revised after each administration to ensure currency ofcontent;
6. For examinations given after 1984, the test plan was based on a job analysis ofnew nursing graduates.

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To apply for endorsement pursuant to Section 464.009(1)(b), F.S., an applicant shall meet all requirements for eligibility to take the licensure examination as provided in Rule 64B9-3.002, F.A.C., and demonstrate a passing score on one of the following:

(a) The National Council Licensure Examination for registered nurses with a minimum score of 1600, or, after 1988, a report of Pass;

(b) The National Council Licensure Examination for practical nurses with a minimum score of 350, or, after 1988, a report of Pass;

(c) A state, regional, or national examination which meets the following minimum requirements:

1. The examination is developed using accepted psychometric procedures.
2. The content and passing score of the examination are substantially equivalent to that of the National Council Licensure Examination.
3. The security of the examination is maintained.
4. At least one of the reliability estimations for the examination is .70 or higher.
5. The examination is revised after each administration to insure currency of content.

64B9-3.0085 State Requirements Not Substantially Equivalent.

Rulemaking Authority 464.009(2) FS. Law Implemented 464.009(2) FS. History--New 3-11-09, Repealed 8-16-09.

64B9-3.009 Practice of Nursing by Applicants for Licensure by Endorsement.

(1) An applicant for licensure by endorsement holding a current license in another state may perform nursing services in Florida for sixty (60) days after furnishing the employer the following:

(a) Evidence of current licensure in another state,

(b) Verification from the Board that the applicant has submitted proper endorsement form and fee.

(2) If a license by endorsement has not been issued within the 60-day limit, the applicant shall make a written or verbal request of the Board to continue working. The permit shall be extended for 60 days when verification of licensure from the other state has not been received by the Board within the 60-day period, and otherwise, until acted upon by the Board.

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64B9-3.011 Exemption for Licensure in an Emergency.

The Board construes "case of an emergency" to mean:

- (1) A natural or man-made disaster or accident in which human health or life is in immediate jeopardy.
- (2) A situation in which human life is in immediate jeopardy.
- (3) A formal declaration of a state of emergency by the Governor or appropriate governing body of a county or municipality under the State Emergency Management Act.
- (4) A formal declaration of a State of Emergency by the President of the United States.

64B9-3.013 Renewal of Licenses.

Rulemaking Authority 464.006 FS. Law Implemented 464.013, 464.018 FS. History—New 6-8-89, Formerly 210-13.012, Amended 9-20-93, Formerly 61F7-3.013, Amended 1-1-96, 4-29-96, Formerly 59S-3.013, Amended 2-18-98, Repealed 12-15-14.

64B9-3.014 Graduates from Foreign or Non-NCSBN Jurisdictions.

(1) Graduates of foreign nursing programs or nursing programs in jurisdictions which are not members of the National Council of State Boards of Nursing (NCSBN) must submit an evaluation from a credentialing agency approved by the Board.

(2) Approved credentialing agencies must meet the following criteria:

(a) The credentialing agency must be a member of a national credentialing organization that sets performance standards for the industry, and must adhere to those standards.

(b) The credentialing agency's standards must be monitored by an external committee of credentialing experts and nursing educators.

(c) The credentialing agency must demonstrate the ability to accurately analyze academic and licensure credentials in terms of U.S. comparability, with course-by-course analysis for nursing academic records.

(d) The credentialing agency must manage the translation of original documents into English.

(e) The credentialing agency will inform the Board of Nursing in the event applicant documents are found to be fraudulent.

(f) The credentialing agency must have been in the business of evaluating nursing education for a minimum of 10 years.

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(3) Credentials evaluation report.

(a) The references used in the evaluation must be cited in the credentials report.

(b) The credentials report must state the language of nursing instruction and the
..... language of textbooks for nursing education.

(c) The credentialing agency must use only original source documentation in
.....evaluating nursing education.

(d) The report must state the comparability of the foreign education to U.S. and to
.....Florida Board of Nursing standards.

(e) The report must detail course clock hours for theory and clinical components of
.....nursing education.

Educational Requirement

In order for the applicant to meet the educational requirements of Section 464.008, F.S., the credentials report and transcripts must include all courses set forth in Section 464.019, F.S., and must demonstrate, at a minimum, the following equivalency to hours of theoretical and clinical instruction:

Registered nursing programs:

1. 70 theory hours and 127 clinical hours in medical nursing;
2. 45 theory hours and 104 clinical hours in surgical nursing;
3. 31 theory hours and 44 clinical hours in obstetrical nursing;
4. 32 theory hours and 43 clinical hours in pediatric nursing; and
5. 34 theory hours and 53 clinical hours in psychiatric/mental health nursing.

Practical nursing programs:

1. 87 theory hours and 115 clinical hours in medical nursing;
2. 76 theory hours and 103 clinical hours in surgical nursing;
3. 34 theory hours and 47 hours in obstetrics nursing; and
4. 27 theory hours and 38 clinical hours in pediatrics nursing.

Registered and practical nursing programs must meet the requirements of Section
.....464.019(1)(f) and (g), F.S.

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64B9-3.015 Licensure Examination Preparatory Courses.

To meet the requirements of Section 464.008(4), F.S., licensure preparatory courses must be approved by the Board, and must meet the following requirements:

(1) Authorized providers shall include:

(a) A Florida Board of Nursing approved nursing education program;

(b) A continuing education provider as approved by the Board of Nursing; or

(c) An RN association or specialty organization, recognized by the Board and appearing on the Department of Health, Board of Nursing, website at www.floridasnursing.gov.

Course content shall include the following subject areas:

(a) Medical;

(b) Surgical;

(c) Pediatric;

(d) Obstetric;

(e) Psychiatry;

(f) Gerontology; and,

(g) Critical reasoning.

The total length of the course shall be at least 85 hours.

(a) The course shall be designed to be delivered over a minimum of three (3) weeks or more, and it may be divided into modules to achieve the required hours and meet all content areas addressed in subsection (2).

(b) The course shall include a practice competency for each content area addressed in subsection (2). The practice competency may be accomplished by simulation.

64B9-4.001 include Definitions.

Rulemaking Authority 464.006, 464.012 FS. Law Implemented 464.003(3), 464.012 FS. History—New 8-31-80, Amended 3-16-81, 6-18-85, Formerly 210-11.20, 210-11.020, 61F7-4.001, Amended 5-29-96, Formerly 59S-4.001, Amended 4-5-00.

64B9-4.002 Requirements for Certification.

(1) In accordance with the provisions of Section 464.012, F.S., any person who wishes to be

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certified as an Advanced Registered Nurse Practitioner shall submit a completed Application for Dual Registered Nurse (RN) and Advanced Registered Nurse Practitioner, form number DH-MQA1124, 10/13, hereby incorporated by reference and available at <http://www.flrules.org/Gateway/reference.asp?No=Ref-03638>. The form is available from the Board office or on the Board's website: www.FloridasNursing.gov.

(2) Applicant shall submit proof of national advanced practice certification from an approved nursing specialty board. After July 1, 2006, applications for certification as an Advanced Registered Nurse Practitioner pursuant to Section 464.012(3), F.S., shall submit proof of current national advanced practice certification from an approved nursing specialty board.

(3) Professional or national nursing specialty boards recognized by the Board include, but are not limited to:

(a) Council on Certification of Nurse Anesthetists, or Council on Recertification of Nurse Anesthetists, or their predecessors.

(b) American College of Nurse Midwives.

(c) American Nurses Association (American Nurses Credentialing Center) Nurse Practitioner level examinations only.

(d) National Certification Corporation for OB/GYN, Neonatal Nursing Specialties (nurse practitioner level examination only).

(e) National Board of Pediatric Nurse Practitioners and Associates (Pediatric Nurse Associate/Practitioner level examinations only).

(f) National Board for Certification of Hospice and Palliative Nurses;

(g) American Academy of Nurse Practitioners (nurse practitioner level examination only).

(h) Oncology Nursing Certification Corporation.

(i) American Association of Critical-Care Nurses (AACN Certification Corporation) Adult Acute Care Nurse Practitioner Certification (ACNPC).

Nursing specialty boards shall meet the following standards:

(a) Attest to the competency of nurses in a clinical specialty area;

(b) Require a written examination prior to certification;

(c) Require (and required at the time of original certification) completion of a formal program prior to eligibility of examination;

(d) Maintain a program accreditation or review mechanism that adheres to criteria which are substantially equivalent to requirements in Florida;

(e) Identify standards or scope of practice statements as appropriate for the specialty.

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Pursuant to Section 456.048, F.S., all ARNP's shall carry malpractice insurance or demonstrate proof of financial responsibility. Any applicant for certification shall submit proof of compliance with Section 456.048, F.S. or exemption to the Board office within sixty days of certification or be in violation of this rule. All certificateholders shall submit such proof as a condition of biennial renewal or reactivation. Acceptable coverage shall include:

- (a) Professional liability coverage of at least \$100,000 per claim with a minimum annual aggregate of at least \$300,000 from an authorized insurer under Section 624.09, F.S., a surplus lines insurer under Section 626.914(2), F.S., a joint underwriting association under Section 627.351(4), F.S., a self-insurance plan under Section 627.357, F.S., or a risk retention group under Section 627.942(9), F.S.; or
- (b) An unexpired irrevocable letter of credit as defined by Chapter 675, F.S., which is in the amount of at least \$100,000 per claim with a minimum aggregate availability of at least \$300,000 and which is payable to the ARNP as beneficiary.
- (c) Any person claiming exemption from the financial responsibility law pursuant to Section 456.048(2), F.S., must timely document such exemption at initial certification, biennial renewal, and reactivation.

64B9-4.0025 Provisional Certification.

- (1) Prior to certification by the appropriate professional or national nursing specialty board, applicants for certification as certified registered nurse anesthetists or certified nurse midwives may apply for provisional state certification.
- (2) Each applicant for provisional state certification must be a graduate of an appropriate educational program pursuant to Rule 64B9-4.002, F.A.C.
- (3) The provisional ARNP certification shall be valid for a period of 12 months.
- (4) The provisional ARNP certification will expire if no specialty board certification is submitted within 12 months of the date granting provisional ARNP certification.

64B9-4.003 Program Guidelines.

- (1) The nurse practitioner certificate program which prepares the registered nurse for advanced or specialized nursing practice as an Advanced Registered Nurse Practitioner shall meet the following criteria:
 - (a) The program shall have as its primary purpose the preparation of nurses for advanced and specialized levels of nursing practice in the expanded nursing role.
 - (b) The philosophy, purpose, and objectives of the program shall be clearly defined and available in written form.

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(c) The objectives reflecting the philosophy shall be stated in behavioral terms and describe the competencies of the graduate.

(d) The program shall reflect the following administrative policies:

1. Admission criteria shall be clearly stated and available in written form. In Florida, admission criteria shall include that the student holds a current unencumbered Registered Nurse license under Section 464.008 or 464.009, F.S.

2. Admission requirements, philosophy objectives and criteria shall be available to the student.

3. Policies for withdrawal, dismissal, and readmission shall be available to the student.

4. The student shall receive official evidence that indicates successful completion of the program.

5. The program shall be conducted by one of the following:

a. An accredited school of nursing that offers a baccalaureate or higher degree in nursing.

b. An accredited school of medicine.

c. An institution or health care agency approved by the Board.

(e) Faculty shall meet the following requirements:

1. Nursing faculty shall hold current licensure to practice.

2. Medical faculty shall hold current licensure to practice or current required credentials for teaching.

3. Faculty shall include currently practicing Advanced Registered Nurse Practitioners.

4. There shall be an adequate number of qualified faculty in the specialty area available to develop and implement the program and achieve the stated objectives.

5. Preceptors shall participate in teaching, supervising, and evaluating students.

(f) Curriculum of the Advanced Nursing Program shall reflect the following:

1. The course content, methods of instruction and learning experiences shall be consistent with the philosophy and objectives of the program.

2. Outlines and descriptions of all learning experiences shall be available in written form.

3. The program shall be at least one (1) academic year in length and shall include theory in ... the biological, behavioral, nursing and medical sciences relevant to the area of advanced practice, in addition to clinical experience with a qualified preceptor.

4. The program shall include, but not be limited, to the following areas:

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- a. Theory and directed clinical experience in comprehensive physical and biopsychosocial assessment.
 - b. Interviewing and communication skills.
 - c. Eliciting, recording, and maintaining a health history.
 - d. Interpretation of laboratory findings.
 - e. Pharmacotherapeutics, to include the initiation, selection, and modification of selected medications.
 - f. Initiation and modification of selected therapies.
 - g. Nutrition, including modifications of diet.
 - h. Providing emergency treatments.
 - i. Assessment of community resources and referrals to appropriate professionals oragencies.
 - j. Role realignment.
 - k. Legal implications of the advanced nursing practice nurse practitioner role.
 - l. Health care delivery systems.
 - m. Management of selected diseases and illnesses.
 - n. Differential diagnosis related to specialty problems.
- (g) The program shall provide a minimum of 500 hours of supervised clinical experience inthe performance of the specialized diagnostic procedures that are essential to practice inthat specialty area.
- (h) Records of the program, philosophy, objectives, administration, faculty, curriculum,students and graduates shall be maintained systematically and be retrievable.
- (i) Provision shall be made for periodic program evaluation by the faculty and students.
- (2) Graduation from a program leading to a master's, a post-masters, a doctoral, or post-doctoral degree, which prepares the nurse for advanced or specialized nursing practice as an Advanced Registered Nurse Practitioner shall meet the following criteria:
- (a) The program shall prepare nurses as nurse practitioners, certified registered nurseanesthetists or nurse midwives.
 - (b) The philosophy, purpose, and objectives of the program shall be clearly defined andavailable in written form.
 - (c) The objectives shall be stated in behavioral terms and describe the competencies of the

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graduate.

(d) The curriculum shall include, but not be limited to, the following practitioner skills:

1. Theory and directed clinical experience in physical and biopsychosocial assessment.
2. Interviewing and communication skills relevant to obtaining and maintaining a health history.
3. Pharmacotherapeutics, including selecting, prescribing, initiating, and modifying medications in the management of health/ illness.
4. Selecting, initiating and modifying diets and therapies in the management of health/illness.
5. Performance of specialized diagnostic tests that are essential to the area of advanced practice.
6. Differential diagnosis pertinent to the specialty area.
7. Interpretation of laboratory findings.
8. Management of selected diseased and illnesses.
9. Professional socialization/role realignment.
10. Legal implications of the advanced nursing practice/nurse practitioner role.
11. Health delivery systems, including assessment of community resources and referrals to appropriate professionals or agencies.
12. Providing emergency treatments.
13. A minimum of 500 hours of preceptorship/supervised clinical experience in the performance of the specialized diagnostic procedures that are essential to practice in that specialty area.

(e) Faculty shall include currently practicing ARNP's.

(f) Records of the program, philosophy, objectives, administration, faculty, curriculum, students and graduates shall be maintained systematically and be retrievable.

64B9-4.004 Requirements for Documentation.

A Registered Nurse applying for initial certification as an Advanced Registered Nurse Practitioner shall submit with a completed application the following:

- (1) Documentation acceptable to the Board that the educational program attended meets the program guidelines stipulated in subsection 64B9-4.003(1) or (2), F.A.C.
- (2) Proof acceptable to the Board of satisfactory completion of the educational program which shall consist of:

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- (a) An official Registrar's copy of the applicant's transcript shall be sent directly to the Board from the school and shall denote successful completion of the formal post-basic program or awarding of the masters' degree in a nursing clinical specialty;
 - (b) A verification form prescribed by the Board submitted by the director of the advanced nursing program indicating successful completion with the official school seal;
 - (c) Documentation which demonstrates compliance with subsection 64B9-4.003(2), F.A.C.; or
 - (d) Such other documentary proof which evidences completion.
- (3) Documentation of national certification by a national nursing specialty board identified in subsection 64B9-4.002(3), F.A.C., or documentation of certification by a specialty board that meets the requirements set forth in subsection 64B9-4.002(4), F.A.C., by submitting one of the following:
- (a) A notarized true and correct copy of the original or recertification specialty board certificate;
 - (b) Such other documentary proof which evidences certification by an appropriate specialty board; or
 - (c) Verification from the specialty association of certification.

64B9-4.005 Filing of the Application.

Rulemaking Authority 464.006 FS. Law Implemented 464.012 FS. History—New 8-31-80, Formerly 21O-11.26, 21O-11.026, 61F7-4.005, Amended 5-29-96, Formerly 59S-4.005, Repealed 4-22-12.

64B9-4.006 Certification in More Than One Category.

- (1) An applicant who wishes to be certified in more than one ARNP category shall be required to submit separate application in accordance with Section 464.012(1), F.S., and these rules for each category in which certification is desired.
- (2) An applicant who wishes to be certified in a second category must be able to document eligibility for certification in that category. Such eligibility may be determined by meeting at least one of the following criteria:
 - (a) Content appropriate to the second category was addressed in the initial ARNP educational program and the applicant has passed a national certification examination in the second category, if required.
 - (b) Content appropriate to the second category was addressed in a formal educational program undertaken after completion of initial ARNP education and the applicant has passed a national certification examination in the second category, if required.

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(3) An Advanced Registered Nurse Practitioner Certificate is not transferable from one category to another.

64B9-4.008 Purpose.

An Advanced Registered Nurse Practitioner may perform additional acts of medical diagnosis, treatment, and operation in accordance with this rule chapter. Rule 64B9-4.010, F.A.C., sets minimum standards for protocols pursuant to which an ARNP performs medical acts identified and approved by the joint committee pursuant to Section 464.003(3)(c), F.S., or acts set forth in Section 464.012(3) and (4), F.S.

64B9-4.009 Functions of the Advanced Registered Nurse.

All categories of Advanced Registered Nurse Practitioner may perform functions listed in Section 464.012(3), F.S. The scope of practice for all categories of ARNP's shall include those functions which the ARNP has been educated to perform including the monitoring and altering of drug therapies, and initiation of appropriate therapies, according to the established protocol and consistent with the practice setting.

64B9-4.010 Standards for Protocols.

(1) An Advanced Registered Nurse Practitioner shall only perform medical acts of diagnosis, treatment, and operation pursuant to a protocol between the ARNP and a Florida-licensed medical doctor, osteopathic physician, or dentist. The degree and method of supervision, determined by the ARNP and the physician or dentist, shall be specifically identified in the written protocol and shall be appropriate for prudent health care providers under similar circumstances. General supervision by the physician or dentist is required unless these rules set a different level of supervision for a particular act. The number of persons to be supervised shall be limited to insure that an acceptable standard of medical care is rendered in consideration of the following factors:

- (a) Risk to patient;
- (b) Educational preparation, specialty, and experience of the parties to the protocol;
- (c) Complexity and risk of the procedures;
- (d) Practice setting; and
- (e) Availability of the physician or dentist.

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(2) A written protocol signed by all parties, representing the mutual agreement of the physician or dentist and the ARNP, shall include the following, at a minimum:

(a) General Data.

1. Signatures of individual parties to the protocol;
 - a. Name, address, ARNP certificate number;
 - b. Name, address, license number, and DEA number of the physician or dentist;
2. Nature of practice, practice location, including primary and satellite sites; and
3. Date developed and dates amended with signatures of all parties.

(b) Collaborative Practice Agreement.

1. A description of the duties of the ARNP.
2. A description of the duties of the physician or dentist (which shall include consultant and supervisory arrangements in case the physician or dentist is unavailable).
3. The management areas for which the ARNP is responsible, including
 - a. The conditions for which therapies may be initiated,
 - b. The treatments that may be initiated by the ARNP, depending on patient condition and judgment of the ARNP,
 - c. The drug therapies that the ARNP may prescribe, initiate, monitor, alter, or order.
4. A provision for annual review by the parties.
5. Specific conditions and a procedure for identifying conditions that require direct evaluation or specific consultation by the physician or dentist. The parties to the protocol, to insure an acceptable standard of supervision and medical care, will decide the detail and scope needed in the description of conditions and treatments, and in doing so will consider the factors listed in subparagraphs (1)(a) through (e) above.

(3) The original of the protocol and the original of the notice shall be filed with the Department within 30 days of renewal of the practitioner's license, and a copy of the protocol and a copy of the notice required by Section 458.348(1), F.S., shall be kept at the site of practice of each party to the protocol. Any alterations to the protocol or amendments should be signed by the ARNP and a Florida-licensed medical doctor, osteopathic physician, or dentist and filed with the Department within 30 days of the alteration to be kept in the Department for filing purposes only.

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After the termination of the relationship between the ARNP and the supervising professional, each party is responsible for insuring that a copy of the protocol is maintained for future reference for a period of four years.

64B9-4.011 Dispensing Practitioners.

(1) Those ARNP's whose protocols permit them to dispense medications for a fee as contemplated by Section 465.0276, F.S., must register with the Board of Nursing by submitting a completed Dispensing Application for ARNP's, form number DH-MQA 1185, 3/09, and hereby incorporated by reference this form into the rule.

(2) The ARNP dispensing practitioner must comply with all state and federal laws and regulations applicable to all dispensing practitioners under Section 465.0276, F.S.

64B9-4.013 Recertification.

(1) Upon initial certification, an ARNP shall be issued a certificate in the appropriate category. At the first and subsequent recertifications thereafter, the licensee shall, upon payment of the renewal fee provided in subsection 64B9-7.001(6), F.A.C., receive a dual RN/ARNP license/certificate.

(2) For each recertification cycle, the ARNP shall submit all of the following to the Board:

- (a) Proof of malpractice insurance or exemption.
- (b) Protocols or exemption.
- (c) Proof of current national certification.

(3) Failure to recertify as an Advanced Registered Nurse Practitioner within the time period prescribed by the Department will result in the certificate being placed on delinquent status.

64B9-4.014 Inactive Status; Reactivation.

Rulemaking Authority 464.006, 464.012, 464.014 FS. Law Implemented 456.036(9), 464.012, 464.014 FS. History—New 8-31-80, Amended 3-16-81, 6-18-85, Formerly 210-11.28, Amended 3-19-87, 10-21-87, Formerly 210-11.028, Amended 12-27-93, Formerly 61F7-4.014, 59S-4.014, Amended 4-5-00, 9-6-09, Repealed 4-22-12.

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64B9-4.015 Approved Certification Bodies for Clinical Nurse Specialists.

The following nationally recognized certifying bodies are approved to meet the licensure requirements of Section 464.0115(1), F.S.:

- (1) Oncology Nursing Certification Corporation.
- (2) American Association of Critical-Care Nurses (AACN).
- (3) American Nurses Credentialing Center (ANCC).
- (4) National Board for Certification of Hospice and Palliative Nurses.

CHAPTER 64B9-5 CONTINUING EDUCATION REQUIREMENTS

64B9-5.001 Definitions

64B9-5.002 Continuing Education Requirement.

(1) During each biennium, one contact hour must be earned for each calendar month of the licensure cycle.

(2) Those persons licensed by examination within a biennium are exempt from the continuing education requirement for that biennium. This exemption shall apply to a person who is licensed by endorsement during a biennium if such person was licensed in the original state of licensure by successful completion of an acceptable licensure examination during that biennium. A licensee who has endorsed into this State during a biennium or whose license was reactivated or reinstated during a biennium shall be required to accrue one (1) contact hour for each calendar month remaining in the biennium after licensure, reactivation, or reinstatement (however, no hours are required if the time remaining in the biennium is six months or less). This exemption or limitation shall only apply if the license is timely renewed at the end of the biennium, and does not apply if the license is suspended, revoked, or is (or becomes) inactive at the end of the biennium.

(3) A registered nurse who also holds a current license as a licensed practical nurse may satisfy the continuing education requirement for renewal of both licenses by completing appropriate continuing education for a registered nurse. A registered nurse who also holds a current ARNP certificate may satisfy the continuing education requirement for both licenses by completing appropriate continuing education for a registered nurse, or may satisfy up to 50% of the continuing education requirement by completing continuing medical education coursework equivalent to the contact hours required by these rules.

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(4) A licensee is exempt from continuing education requirements at the time of renewal if the licensee was on active duty with the Armed Forces within 6 months of the renewal date. However, this exemption will not arise on the basis of the performance of short periods of active duty (such as summer or weekend drills) by a member of the Armed Forces Reserves. Duty in the United States Public Health Service is not considered duty in the Armed Forces.

(5) A nurse who is the spouse of a member of the Armed Forces and was caused to be absent from Florida due to the spouse's duties with the Armed Forces shall be exempt from continuing education requirements. The licensee must show satisfactory proof of the absence and the spouse's military status.

64B9-5.003 Standards for Continuing Education.

(1) Learner Objectives. Objectives shall describe expected learner outcomes in behavioral terms, can be evaluated, are attainable, and are relevant to current nursing practice. Objectives shall determine the content, teaching methodology and plan for evaluation.

(2) Subject Matter. The Content shall be specifically designed to meet the objectives and the stated level and learning needs of the participants. The content shall be planned in logical order and reflect input from experts in the subject matter. Appropriate subject matter for continuing education offering shall reflect the professional educational needs for the learner in order to meet the health care needs of the consumer and consist of content from one or more of the following:

(a) Nursing practice areas and special health care problems.

(b) Biological, physical, behavioral and social sciences.

(c) Legal aspects of health care.

(d) Management/administration of health care personnel and patient care.

(e) Teaching/learning process of health care personnel and patients.

(f) Subjects which are taken at an accredited educational institution as verified by an official transcript, that meet any one of the criteria in paragraphs 64B9-5.003(2)(a)-(e), F.A.C., and are advanced beyond that completed for original licensure may be approved for continuing education under this rule.

(g) Personal development subject matter must include application of content as it relates to improved patient care.

(3) Faculty Qualifications.

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(a) The faculty shall provide evidence of academic preparation and/or experience in the subject matter. Evidence concerning faculty qualifications shall be presented to the Board upon request.

(b) When the subject matter of an offering includes nursing practice, a nurse with expertise in the content area must be involved in the planning and instruction.

(c) Nurse faculty other than those exempted in Section 464.022(7), F.S., supervising learning experiences in a clinical area in this State shall be currently licensed in the State of Florida.

(d) When an offering includes clinical nursing practice in Florida, a Florida licensed nurse competent in the practice area shall provide supervision.

(4) Materials and Methods. Evidence satisfactory to the Board shall be presented that:

(a) Learning experiences and teaching methods are appropriate to achieve the objectives.

(b) Time allotted for each activity shall be sufficient for the learner to meet the objectives.

(c) Principles of adult education are utilized in determining teaching strategies and learning activities.

(5) Evaluation. Evidence satisfactory to the Board shall be presented that participants are given an opportunity to evaluate learning experiences, instructional methods, facilities and resources used for the offering. Self-directed learning experiences, including but not limited to home study, computer programs, internet or web-based courses, are required to evaluate learner knowledge at the completion of the learning experience. The evaluation must include a minimum of 10 questions. The learner must achieve a minimum score of 70% on the evaluation to receive the contact hours. The evaluation must be graded by the provider.

(6) Contact Hour Criteria.

(a) All offerings shall be at least 60 minutes in length or one (1) contact hour.

(b) Increments of 30 minutes will be accepted when the offering extends beyond the one (1) contact hour.

(c) Contact hours shall be awarded for clinical as well as classroom education.

(7) Self-directed Learning – Standards for Self-directed Learning.

(a) Construction of the learning experience shall be developed, implemented and evaluated by the licensee requesting contact hours.

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- (b) Specific learning needs must be related to nursing practice and shall be identified.
- (c) Objectives shall state expected outcomes of the learning experience.
- (d) Preceptors must meet qualifications as identified in subsection (3), F.A.C., above.
- (e) The proposal shall state an explanation of expected length and plan for documenting contact hours.
- (8) Standards for Continuing Education Providers. Providers seeking Board approval shall meet each of the Standards outlined herein:
 - (a) All educational offerings conducted by the provider shall meet the Standards for Continuing Education Offerings as outlined in these rules.
 - (b) Providers shall adhere to guidelines as established by the Board.
 - (c) There shall be a designated person assuming responsibility for continuing education offerings for nurses. If the contact person is not a nurse, provision should be made for insuring nursing input in overall program planning and evaluation.
 - (d) Target audience will be identified for each offering.
 - (e) Currency and accuracy of subject matter will be documented by references/bibliography.
 - (f) Program shall have stated, long term, coordinated plan for providing continuing education offerings based on data related to specific characteristics of its learner population including learner needs and methods of assessing these needs. There shall be a tangible plan for ongoing evaluation of the program content, faculty, learning process and evaluation tools. Evaluation data will be analyzed and the conclusions utilized in program planning, design, and continuity.
 - (g) Providers shall establish written policies and procedures for implementation of the continuing education program.
 - (h) Providers shall maintain a system of record-keeping which provides for storage of individual offering information.
 - (i) Records of individual offerings shall be maintained for four years for inspection by the Board.
 - (j) Providers shall furnish each participant with an authenticated individual Certificate of Attendance.
 - (k) Providers shall maintain security of attendance records and certificates.

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64B9-5.004 Procedure for Approval of Attendance at Continuing Education Courses.

(1) Procedure Relating to the Nurse.

(a) Transcripts and/or dated legible grade reports from accredited institutions of higher learning are appropriate documentation of attendance at credit courses.

(b) Offerings presented by other than approved providers need not be submitted to the Board for approval unless the licensee is selected for audit. Contact hours shall be awarded if the information submitted by the licensee documents that the offerings attended are equivalent in quality to offerings presented by approved providers.

(c) All licensees may be awarded contact hours for attendance at offerings that are approved by a state or national organizations empowered to accredit nursing continuing education.

(2) Self-directed Learning.

(a) Prior approval to undertake Self-directed Learning must be requested from the Board.

(b) The number of clock hours claimed shall be based on the time spent completing the activity and shall be subject to review by the Board.

(c) Contact hours will be awarded upon submission of documentation evidencing adherence to the Standards for Self-directed Learning.

(d) Copy of contract for preceptor will be submitted with application.

(3) The licensee shall retain records of the following information from offerings not presented by approved providers for four years in case of audit: title, provider, description, dates, contact-hours, objectives, teaching methods, evaluation method, faculty qualifications, explanation of why appropriate for learner's continuing education. There shall be no guaranteed retroactive approval for courses under this section which were not preapproved but they may be considered under extreme hardship or exceptional circumstances.

64B9-5.005 Procedure Relating to the Provider.

Provider seeking approval shall:

(1) Make application on forms provided by the Board and allow a minimum of ninety (90) days prior to the date the offering begins to allow for processing.

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- (2) Submit a minimum of three (3) offerings which evidence adherence of the Standards for Continuing Education as set forth in these rules.
- (3) Present evidence, satisfactory to the Board, if requested, that all offerings meet the Standards for Continuing Education as set forth in these rules.
- (4) Notify the Board of change of contact person and any significant alterations or changes which may affect the maintenance of standards within 30 days.
- (5) Determine whether or not partial credit is appropriate for participants failing to complete the total number of hours for which a specific offering is planned and approved. Determine criteria for "successful completion" of course and make this information available to participants prior to offering.
- (6) Provider approval may be granted for a period of time established by the Board, not to exceed sixty (60) months.
- (7) Provider approval shall be subject to periodic review and may be withdrawn if the Board determines that adherence to the Standards outlined herein is not maintained, or if information submitted to the Board by the provider is found to be a material misrepresentation of fact.
- (8) The Board may approve, under special circumstances, other selected single offerings.
- (9) The Board may utilize a representative, expert groups, or individuals as appropriate in implementing these rules.

64B9-5.006 Procedure Relating to the Faculty/Authors.

- (1) Each licensed nurse who is presenting a continuing education course as either the lecturer of the offering or as author of the course materials may earn a maximum 12 contact hours of continuing education credit per biennium. Each licensed nurse who is either participating as a lecturer of a continuing education course or an author of a continuing education program may receive credit for the portion of the offering he/she presented or authored to the total hours awarded for the offering.
- (2) Continuing education credit may be awarded to a lecturer or author for the initial presentation of each program only; repeat presentations of the same continuing education course shall not be granted credit.
- (3) In order for a continuing education credit to be awarded to each licensed nurse participating as either faculty or author, the format of the continuing education program must conform with all applicable sections of this rule chapter regarding learner objectives, subject matter of the program, and teaching methods.

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(4) Continuing education credit shall be given for publications of continuing education offerings. Continuing education credit for publications and presentations of scholarly research shall be considered on an individual basis by the Board. In order to obtain credit, licensees must meet all standards for self-directed learning in subsections 64B9-5.003(7) and 64B9-5.004(2), F.A.C.

(5) The number of contact hours to be awarded to each licensed nurse who participates in a continuing education program as either a lecturer or author is based on the 60 minute contact hour employed within this rule chapter.

64B9-5.007 Continuing Education for Expert Witnesses and Probable Cause Panel Members.

(1) Each licensed nurse who serves as a volunteer expert witness in providing written expert witness opinions citing references of current, prevailing practice and relevant standards of practice for cases being reviewed pursuant to Chapter 464, F.S., shall receive 2.5 hours of continuing education credit per case for performing a literature survey of at least two articles in conjunction with the review of cases for the Agency, probable cause panel, or Board.

(2) Each former board member who serves on a probable cause panel at least twice in a biennium shall receive 8 hours of continuing education credit.

64B9-5.009 Continuing Education on HIV/AIDS.

Rulemaking Authority 456.033, 464.006 FS. Law Implemented 456.033 FS. History—New 4-6-92, Amended 9-22-92, Formerly 21O-19.002, Amended 9-13-93, Formerly 61F7-5.009, Amended 5-2-95, Formerly 59S-5.009, Repealed 5-16-12.

64B9-5.010 Continuing Education of Domestic Violence.

Rulemaking Authority 455.587, 456.031, 464.006 FS. Law Implemented 455.587, 456.031 FS. History—New 11-16-95, Formerly 59S-5.010, Amended 10-23-02, Repealed 4-22-12.

64B9-5.011 Continuing Education on Prevention of Medical Errors.

(1) All licensees must complete a two hour course on prevention of medical errors, which meets the criteria of Section 456.013, F.S., as part of the total hours of continuing education required for initial licensure and biennial renewal.

(2) To receive Board approval, each course on prevention of medical errors shall consist of a minimum of at least two (2) hours of classroom or an equivalent home study program and shall include at a minimum the following subject areas:

(a) Factors that impact the occurrence of medical errors,

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- (b) Recognizing error-prone situations,
- (c) Processes to improve patient outcomes,
- (d) Responsibilities for reporting,
- (e) Safety needs of special populations,
- (f) Public education.

64B9-5.012 Continuing Education on End of Life.

Rulemaking Authority 456.031(1)(c), 456.033(3) FS. Law Implemented 456.031(1)(c), 456.033(3) FS. History—New 1-28-02, Repealed 4-22-12.

64B9-5.013 Continuing Education on Laws and Rules.

Beginning with the biennium ending in 2015, each licensee shall complete a two hour course on the laws and rules that govern the practice of nursing in Florida. To receive Board approval, each course must include content on Chapters 456 and 464 of the Florida Statutes and the rules in Title 64B9 of the Florida Administrative Code.

CHAPTER 64B9-6 INACTIVE STATUS AND REACTIVATION OF LICENSE. For more information, see Florida Administrative code 64B9-6.

CHAPTER 64B9-7

64B9-7.001 Includes Fees

64B9-7.002 Duplicate License Fee.

(1) If a licensee wishes to request the Board provide a duplicate license for replacement of a lost or destroyed license, the Board will issue the duplicate if the request is in writing and accompanied by a payment of \$25.00.

(2) If a licensee who was licensed prior to July 1, 1998, wishes to request the Board provide a wall certificate pursuant to Section 456.013(2), F.S., the Board will provide the wall certificate if the request is in writing and accompanied by a payment of \$25.00.

64B9-8 HEARINGS, PROCEEDINGS, CONFERENCE, DISCIPLINE (For more information see Chapter 64B 9-8)

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64B9-8.003 Citations.

(1) "Citation" means an instrument which meets the requirements set forth in Section 456.077, F.S., and which is served upon a licensee for the purpose of assessing a penalty in an amount established by this rule.

(2) In lieu of the disciplinary procedures contained in Section 456.073, F.S., the Agency may issue a citation to the subject within six months after the filing of the complaint which is basis for the citation. All citations will include a requirement that the respondent correct the violation, if remediable, within a specified period of time and impose whatever obligations will remedy the offense.

(3) The Board designates the first instance of the following as citation violations, which shall result in a penalty of \$100.00:

(a) False, deceptive or misleading advertising in violation of Section 464.018(1)(g), F.S., provided no criminal prosecution resulted and no practice issue was involved.

(b) Improper use of a nursing title under Section 464.015, F.S., provided no practice issue was involved or no criminal prosecution resulted.

(c) Unprofessional conduct as defined in subsection 64B9-8.005(15), F.A.C., using abusive, threatening or foul language in front of a patient or directing such language toward a patient.

(4) The Board designates the second instance of the following as citation violations, which shall result in a penalty of \$100.00:

(a) Issuance of a worthless bank check to the Department or to the Board in violation of Section 464.018(1)(a), F.S., provided the licensee does not continue to practice on an inactive license or the check was not in payment of a Board ordered administrative fine.

(b) Failure to report address change in violation of Rule 64B9-1.013, F.A.C., provided the licensee was not ordered to do so in a Board disciplinary order.

(c) Failure to pay a Board ordered administrative fine by the time ordered, provided payment had been made by the time the citation issues.

(d) Failure to complete a Board ordered continuing education course by the time ordered, provided the course had been completed by the time the citation issues.

(e) Failure when requested to document full compliance with the continuing education requirements, provided that all continuing education courses had been timely completed.

(f) Failure to submit updates of required information in practitioner profile within 15 days after the final activity that renders such information a fact, as required by Section

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456.042, F.S.

(5) The Board designates the following a citation violation, which shall result in a penalty of \$250.00: Second-time failure to complete continuing education hours within the biennium. In addition to the fine, the licensee will be required to complete the number of hours necessary to meet the biennial requirements not completed within 6 months of the issuance of the citation.

(6) The Board designates the first instance of the following a citation violation, which shall result in a penalty of \$1,500: Providing to another individual a confidential password, access code, keys, or other entry mechanisms, which results in a violation of, or threatens, the integrity of a medication administration system or an information technology system. In addition to the fine, the licensee will be required to complete a 2-hour continuing education course in legal aspects of nursing within 60 days of the issuance of the citation.

64B9-8.0045 Minor Violations.

For the purposes of Section 456.073(3), F.S., the Board deems the following violations to be minor:

- (1) False, deceptive or misleading advertising in violation of Section 464.018(1)(g), F.S., provided no criminal prosecution resulted;
- (2) Issuance of a worthless bank check to the Agency or to the Board in violation of Section 464.018(1)(a), F.S., provided the licensee does not continue to practice on an inactive license or the check was not in payment of a Board ordered administrative fine;
- (3) Failure to report address change in violation of Rule 64B9-1.013, F.A.C., provided the licensee was not ordered to do so in a Board disciplinary order;
- (4) Improper use of a nursing title under Section 464.015, F.S., provided no practice issue was involved or no criminal prosecution resulted.

64B9-8.005 Unprofessional Conduct.

Unprofessional conduct shall include:

- (1) Inaccurate recording;
- (2) Misappropriating drugs, supplies or equipment;
- (3) Leaving a nursing assignment without advising licensed nursing personnel;

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- (4) Stealing from a patient;
- (5) Violating the integrity of a medication administration system or an information technology system;
- (6) Falsifying or altering of patient records or nursing progress records, employment applications or time records;
- (7) Violating the confidentiality of information or knowledge concerning a patient;
- (8) Discriminating on the basis of race, creed, religion, sex, age or national origin, in the rendering of nursing services as it relates to human rights and dignity of the individuals;
- (9) Engaging in fraud, misrepresentation, or deceit in taking the licensing examination;
- (10) Impersonating another licensed practitioner, or permitting another person to use his certificate for the purpose of practicing nursing;
- (11) Providing false or incorrect information to the employer regarding the status of the license;
- (12) Practicing beyond the scope of the licensee's license, educational preparation or nursing experience;
- (13) Using force against a patient, striking a patient, or throwing objects at a patient;
- (14) Using abusive, threatening or foul language in front of a patient or directing such language toward a patient.

64B9-8.006 Disciplinary Guidelines; Range of Penalties; Aggravating and Mitigating Circumstances.

(1) The legislature created the Board to assure protection of the public from nurses who do not meet minimum requirements for safe practice or who pose a danger to the public. The suspensions, restrictions of practice, and conditions of probation used by the Board in discharging its duties under Sections 464.018 and 456.072, F.S., shall include, but are not limited to, the following:

- (a) Suspension until appearance before the Board or for a definite time period and demonstration of ability to practice safely.
- (b) Suspension until appearance before the Board, or for a definite time period, and submission of mental or physical examinations from professionals specializing in the diagnosis or treatment of the suspected condition, completion of counseling, completion of continuing education, and ability to practice safely.

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(c) Suspension until fees and fines paid or until proof of continuing education completion submitted.

(d) Suspension until evaluation by and treatment in the Intervention Project for Nurses.

(e) Suspension stayed so long as the licensee complies with probationary conditions.

(f) Probation with the minimum conditions of not violating laws, rules, or orders related to the ability to practice nursing safely, keeping the Board advised of the nurse's address and employment, and supplying both timely and satisfactory probation and employer/supervisor reports, or the requirement that work must be under direct supervision on a regularly assigned basis.

(g) Probation with specified continuing education courses in addition to the minimum conditions. In those cases involving unprofessional conduct or substandard practice, including recordkeeping, the Board finds continuing education directed to the practice deficiency to be the preferred punishment.

(h) Personal appearances before the Board to monitor compliance with the Board's order.

(i) Administrative fine and payment of costs associated with probation or professional treatment.

(2) The Board sets forth below a range of disciplinary guidelines from which disciplinary penalties will be imposed upon practitioners and applicants for licensure guilty of violating Chapters 464 and 456, F.S. The purpose of the disciplinary guidelines is to give notice to licensees and applicants of the range of penalties which will normally be imposed upon violations of particular provisions of Chapters 464 and 456, F.S.

(3) The following disciplinary guidelines shall be followed by the Board in imposing disciplinary penalties upon licensees for violation of the noted statutes and rules:

(a) Procuring, attempting to procure, or renewing a license to practice nursing by bribery, by knowing misrepresentations, or through an error of the department or board. (Section 456.072(1)(h) or 464.018(1)(a), F.S.)

(C) SEE CHAPTER 64B9-8 for more information regarding offences and fines/ fees.

(4) In licensure and disciplinary matters involving impairment, the applicant or licensee **may be referred to IPN in addition to** the imposition of the above-outlined disciplinary action.

(5)(a) The Board shall be entitled to deviate from the foregoing guidelines upon a showing of aggravating or mitigating circumstances by clear and convincing evidence,

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presented to the Board prior to the imposition of a final penalty at informal hearing. If a formal hearing is held, any aggravating or mitigating factors must be submitted to the hearing officer at formal hearing. At the final hearing following a formal hearing, the Board will not hear additional aggravating or mitigating evidence.

(b) Circumstances which may be considered for purposes of mitigation or aggravation of penalty shall include, but are not limited to, the following:

1. The danger to the public.
2. Previous disciplinary action against the licensee in this or any other jurisdiction.
3. The length of time the licensee has practiced.
4. The actual damage, physical or otherwise, caused by the violation.
5. The deterrent effect of the penalty imposed.
6. Any efforts at rehabilitation.
7. Attempts by the licensee to correct or stop violations, or refusal by the licensee tocorrect or stop violations.
8. Cost of treatment.
9. Financial hardship.
10. Cost of disciplinary proceedings.

(6) In instances when a licensee or applicant is found guilty of any of the above offenses involving fraud or making a false or fraudulent representation, the Board shall impose a fine of \$10,000.00 per count or offense.

64B9-8.009 Payment of Fines.

Unless stated otherwise in the Final Order, fines and costs are payable within 12 months of the filing of the order for each \$1,000.00 or portion thereof. If the penalty of the Final Order is revocation, the fine and costs are payable within 60 days.

64B9-8.011 Reinstatement of Suspended and Revoked Licenses.

(1) When the Board has suspended the license of a nurse or accepted the relinquishment of licensure in lieu of further disciplinary action for a definite period of time, the licensee, by petition, shall demonstrate to the Board, after the expiration of the time period, compliance with all terms and conditions of the final order and must

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demonstrate the present ability to engage in the safe practice of nursing to obtain reinstatement. If no definite period of time was stated in the final order, the licensee may petition the Board at any time to demonstrate full compliance with the final order and present ability to engage in the safe practice of nursing.

(2) In order to demonstrate the present ability to engage in the safe practice of nursing, the nurse must submit evidence which may include:

(a) Completion of continuing education courses approved by the Board, particularly if the disciplinary action resulted from unsafe practice or the nurse has been out of practice for a number of years.

(b) Participation in nursing programs, including refresher courses, clinical skills courses, and any Board approved nursing education programs leading to licensure in this state, particularly if the nurse has been out of practice for a number of years.

(c) Submission of evaluations of mental or physical examinations by appropriate professionals which attest to the nurse's present ability to engage in safe practice or conditions under which safe practice can be attained.

(d) Completion of treatment within a program designed to alleviate alcohol or other chemical dependencies, including necessary aftercare measures or a plan for continuation of such treatment as appropriate. Current sobriety must be demonstrated.

(e) Other educational achievements, employment background, references, successful completion of criminal sanctions imposed by the courts, or other factors which would demonstrate rehabilitation and present ability to engage in the safe practice of nursing.

(3) When the Board has revoked the license of a nurse for a definite period of time, that nurse may reapply for licensure under the conditions stated in the final order. If no time period for revocation was stated in the final order, the nurse, if otherwise eligible by law, may reapply for licensure. Depending on the length of time out of nursing, the applicant may be required to undergo additional education and to rewrite the nursing examination. Present ability to engage in the safe practice of nursing as set forth in subsection 64B9-8.011(2), F.A.C., and full compliance with the revocation order must be demonstrated by the applicant.

(4) All persons seeking reinstatement or relicensure under this rule shall submit all documentation supporting their petition prior to the next available Board meeting for which the Board may take action on the request. Unless the final order specifically stated otherwise, the petitioner must personally appear before the Board to answer any additional concerns by the Board related to the nurse's present ability to engage in the safe practice of nursing.

(5) If the Board reinstates the license of the petitioner, it may order reasonable conditions of probation or participation in the **Intervention Project for Nurses (IPN)**,

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particularly when the nurse has been out of practice for a number of years, when practice problems led to the disciplinary action, or when mental, physical, or substance abuse problems led to the disciplinary action.

64B9-8.012 Mediation.

The Board finds that mediation is an acceptable resolution for the first instance of the following violations:

- (1) Issuance of a worthless bank check to the Department or the Board for initial licensure or renewal of license, provided the licensee does not practice on a delinquent license.
- (2) Failure to report address changes in violation of Rule 64B9-1.013, F.A.C., provided the failure does not constitute failure to comply with an order of the Board.
- (3) Failure to pay fines and investigative costs by the time ordered.
- (4) Failure to timely submit documentation of completion of continuing education imposed by Board order.
- (5) Failure to update a practitioner profile within 15 days as required by Section 456.042, F.S.

64B9-8.014 Continuous Sobriety.

Rulemaking Authority 464.006 FS. Law Implemented 464.008(1)(c), 464.018(1)(j) FS. History—New 6-11-97, Formerly 59S-8.014, Repealed 4-22-12.

CHAPTER 64B9-9 IMPAIRED NURSE PROGRAM

64B9-9.002 HIV/AIDS: Knowledge of Antibody Status; Action to be Taken.

The Board of Nursing strongly urges all licensees under its jurisdiction who are involved in invasive procedures to undergo testing to determine their HIV status. In the event a licensee tests positive, the licensee should enter and comply with the requirements of the Intervention Project for Nurses.

CHAPTER 64B9-11 - MAINTENANCE OF MEDICAL RECORDS

64B9-11.001 Medical Records of Deceased Nurse

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64B9-11.002 Medical Records of Nurses Relocating or Terminating Practice

64B9-11.001 Medical Records of Deceased Nurse.

(1) Each Registered Nurse (RN), Certified Nurse Specialist (CNS) or Advanced Registered Nurse Practitioner (ARNP) engaged in private practice, who maintains possession of client/patient medical records, shall ensure that the executor, administrator, personal representative or survivor of such licensee shall arrange to maintain those medical records in existence upon the death of the licensee for a period of at least two (2) years from the date of the death of the licensee.

(2) Within one (1) month from the date of death of the licensee, the executor, administrator, personal representative or survivor shall cause to be published in the newspaper of greatest general circulation in the county where the licensee practice, a notice indicating to the clients/patients of the deceased licensee that the nurse's medical records are available to the clients/ patients or their duly constituted representative from a specific person at a certain location.

(3) At the conclusion of a 22-month period of time from the date of death of the licensee or thereafter the executor, administrator, personal representative or survivor shall cause to be published once during each week for four (4) consecutive weeks, in the newspaper of greatest general circulation in the county where the licensee practiced, a notice indicating to the clients/patients of the deceased nurse that client/patient records will be disposed of or destroyed one (1) month or later from the last day of the fourth week of publication of notice.

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64B9-11.002 Medical Records of Nurses Relocating or Terminating Practice.

(1) The Board of Nursing and the Legislature recognize the need for maintenance and retention of medical records in order to protect and serve clients/patients. For that reason, the Legislature has directed the Board of Nursing to promulgate rules setting standards that will provide a minimum requirement for retention and disposition of client/patient records of nurses relocating and terminating practice. However, the Board of Nursing is concerned that the promulgation of these rules may mislead the licensed nurses. Paragraph (2) of this rule sets forth standards which, if not met, will constitute a violation of Sections 456.058 and 464.018, Florida Statutes, and will subject the nurse to disciplinary proceedings. Nurses should retain medical records as long as needed not only to serve and protect clients/patients, but also to protect themselves against adverse actions. The times specified in paragraph (2) below may well be less than the length of time necessary for protecting the nurses. Furthermore, the times stated may fall below the community standards for retention in specific communities and practice settings and for specific client/patient needs. For these purposes, nurses may wish to seek advice from private legal counsel or their insurance carrier.

(2) Each Registered Nurse, Certified Nurse Specialist or Advanced Registered Nurse Practitioner engaged in private practice, who maintains possession of client/patient medical records, shall, when terminating or relocating practice in such a manner as to no longer be reasonably available to clients/patients, notify each client/patient of such termination or relocation and unavailability. Such notification shall consist of at least causing to be published, in the newspaper of greatest general circulation in each county in which the nurse practices or practiced, a notice which shall contain the date of termination or relocation and an address at which medical records may be obtained. Such notice shall be published no less than 4 times over a period of at least 4 weeks. In addition, the nurse shall place in a conspicuous location in or on the facade of the nurse's office, a sign, announcing the termination or relocation of the practice. The sign shall be placed at least thirty (30) days prior to the termination or relocation and shall remain until the date of termination or relocation. Both the notice and the sign shall advise the clients/patients of their opportunity to transfer or receive their medical records. Furthermore, each such licensee shall see that client/patient records are maintained and may be obtained by the client/patient for a minimum of 2 years after the termination or relocation of practice.

Chapter 64B9-12 ADMINISTRATION OF INTRAVENOUS THERAPY BY LICENSED PRACTICAL NURSES – see chapter 64B9-12 for more information.

Chapter 64B9-13 HOME HEMODIALYSIS TREATMENTS see chapter 64B9-13 for more information.

Chapter 64B9-14 DELEGATION TO UNLICENSED ASSISTIVE PERSONNEL

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Unlicensed assistive personnel" (UAP) are persons who do not hold licensure from the Division of Health Quality Assurance of the Department of Health but who have been assigned to function in an assistive role to registered nurses or licensed practical nurses in the provision of patient care services through regular assignments or delegated tasks or activities and under the supervision of a nurse.

64B9-14.002 Delegation of Tasks or Activities.

In the delegation process, the delegator must use nursing judgment to consider the suitability of the task or activity to be delegated.

(1) Factors to weigh in selecting the task or activity include:

(a) Potential for patient harm.

(b) complexity of the task.

(c) Predictability or unpredictability of outcome including the reasonable potential for a rapid change in the medical status of the patient.

(d) Level of interaction required or communication available with the patient.

(e) Resources both in equipment and personnel available in the patient setting.

(2) Factors to weigh in selecting and delegating to a specific delegate include:

(a) Normal assignments of the UAP.

(b) Validation or verification of the education and training of the delegate.

(3) The delegation process shall include communication to the UAP which identifies the task or activity, the expected or desired outcome, the limits of authority, the time frame for the delegation, the nature of the supervision required, verification of delegate's understanding of assignment, verification of monitoring and supervision.

(4) Initial allocation of the task or activity to the delegate, periodic inspection of the accomplishment of such task or activity, and total nursing care responsibility remains with the qualified nurse delegating the tasks or assuming responsibility for supervision.

64B9-14.003 Delegation of Tasks Prohibited.

The registered nurse or licensed practical nurse, under direction of the appropriate licensed professional as defined in Section 464.003(3)(b), F.S., **shall not** delegate:

(1) Those activities not within the delegating or supervising nurse's scope of practice.

(2) Nursing activities that include the use of the nursing process and require the special knowledge, nursing judgment or skills of a registered or practical nurse, including:

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- (a) The initial nursing assessment or any subsequent assessments;
 - (b) The determination of the nursing diagnosis or interpretations of nursing assessments;
 - (c) Establishment of the nursing care goals and development of the plan of care; and
 - (d) Evaluation of progress in relationship to the plan of care.
- (3) Those activities for which the UAP has not demonstrated competence.

Chapter 64B9-15 Certified Nursing Assistants - for more information see 64B9-15.

Chapter 64B9-16 LPN SUPERVISION IN NURSING HOME FACILITIES - for more information see 64B9-16.

Chapter 464 of the Florida Statutes

Chapter 464 includes Part 1 and Part 11.

- Part 1 (ss. 464.001-464.027) includes the NURSE PRACTICE ACT.
- Part 11 (ss. 464.201-464.2085) CERTIFIED NURSING ASSISTANTS

464.001 Chapter 464 Part 1 – THE NURSE PRACTICE ACT

464.002 detail the purpose as follows:

The sole legislative purpose in enacting this part is to ensure that every nurse practicing in the State of Florida meets minimum requirements for safe practice. It is the legislative intent that each nurse who falls below minimum competency or who otherwise presents a danger to the public, shall be prohibited from practicing in the state of Florida.

464.003 include a list of definitions/ terms and their meaning.

464.004 Board of Nursing; membership; appointment; terms.

464.005 Board headquarters. The board shall maintain its official headquarters in Tallahassee.

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464.006 Rulemaking authority.—The board has authority to adopt rules pursuant to ss. 120.536(1) and 120.54 to implement the provisions of this part conferring duties upon it.

464.008 Licensure by examination:

(1) Any person desiring to be licensed as a registered nurse or licensed practical nurse shall apply to the department to take the licensure examination. The department shall examine each applicant who:

(a) Has completed the application form and remitted a fee set by the board not to exceed \$150 and has remitted an examination fee set by the board not to exceed \$75 plus the actual per applicant cost to the department for purchase of the examination from the National Council of State Boards of Nursing or a similar national organization.

(b) Has provided sufficient information on or after October 1, 1989, which must be submitted by the department for a statewide criminal records correspondence check through the Department of Law Enforcement.

(c) Is in good mental and physical health, is a recipient of a high school diploma or the equivalent, and has completed the requirements for:

1. Graduation from an approved program;
2. Graduation from a prelicensure nursing education program that the board determines is equivalent to an approved program;
3. Graduation on or after July 1, 2009, from an accredited program; or
4. Graduation before July 1, 2009, from a prelicensure nursing education program whose graduates at that time were eligible for examination.

Courses successfully completed in a professional nursing education program that are at least equivalent to a practical nursing education program may be used to satisfy the education requirements for licensure as a licensed practical nurse.

(d) Has the ability to communicate in the English language, which may be determined by an examination given by the department.

(2) Each applicant who passes the examination and provides proof of meeting the educational requirements specified in subsection (1) shall, unless denied pursuant to s. 464.018, be entitled to licensure as a registered professional nurse or a licensed practical nurse, whichever is applicable.

(3) Any applicant who fails the examination three consecutive times, regardless of the jurisdiction in which the examination is taken, shall be required to complete a board-approved

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remedial course before the applicant will be approved for reexamination. After taking the remedial course, the applicant may be approved to retake the examination up to three additional times before the applicant is required to retake remediation. The applicant shall apply for reexamination within 6 months after completion of remediation. The board shall by rule establish guidelines for remedial courses.

(4) If an applicant who graduates from an approved program does not take the licensure examination within 6 months after graduation, he or she must enroll in and successfully complete a board-approved licensure examination preparatory course. The applicant is responsible for all costs associated with the course and may not use state or federal financial aid for such costs. The board shall by rule establish guidelines for licensure examination preparatory courses.

464.009 Licensure by endorsement:

(1) The department shall issue the appropriate license by endorsement to practice professional or practical nursing to an applicant who, upon applying to the department and remitting a fee set by the board not to exceed \$100, demonstrates to the board that he or she:

(a) Holds a valid license to practice professional or practical nursing in another state or territory of the United States, provided that, when the applicant secured his or her original license, the requirements for licensure were substantially equivalent to or more stringent than those existing in Florida at that time;

(b) Meets the qualifications for licensure in s. 464.008 and has successfully completed a state, regional, or national examination which is substantially equivalent to or more stringent than the examination given by the department; or

(c) Has actively practiced nursing in another state, jurisdiction, or territory of the United States for 2 of the preceding 3 years without having his or her license acted against by the licensing authority of any jurisdiction. Applicants who become licensed pursuant to this paragraph must complete within 6 months after licensure a Florida laws and rules course that is approved by the board. Once the department has received the results of the national criminal history check and has determined that the applicant has no criminal history, the appropriate license by endorsement shall be issued to the applicant.

(2) Such examinations and requirements from other states and territories of the United States shall be presumed to be substantially equivalent to or more stringent than those in this state.

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Such presumption shall not arise until January 1, 1980. However, the board may, by rule, specify states and territories the examinations and requirements of which shall not be presumed to be substantially equivalent to those of this state.

(3) An applicant for licensure by endorsement who is relocating to this state pursuant to his or her military-connected spouse's official military orders and who is licensed in another state that is a member of the Nurse Licensure Compact shall be deemed to have satisfied the requirements of subsection (1) and shall be issued a license by endorsement upon submission of the appropriate application and fees and completion of the criminal background check required under subsection (4).

(4) The applicant must submit to the department a set of fingerprints on a form and under procedures specified by the department, along with a payment in an amount equal to the costs incurred by the Department of Health for the criminal background check of the applicant. The Department of Health shall submit the fingerprints provided by the applicant to the Florida Department of Law Enforcement for a statewide criminal history check, and the Florida Department of Law Enforcement shall forward the fingerprints to the Federal Bureau of Investigation for a national criminal history check of the applicant. The Department of Health shall review the results of the criminal history check, issue a license to an applicant who has met all of the other requirements for licensure and has no criminal history, and shall refer all applicants with criminal histories back to the board for determination as to whether a license should be issued and under what conditions.

(5) The department shall not issue a license by endorsement to any applicant who is under investigation in another state, jurisdiction, or territory of the United States for an act which would constitute a violation of this part or chapter 456 until such time as the investigation is complete, at which time the provisions of s. 464.018 shall apply.

(6) The department shall develop an electronic applicant notification process and provide electronic notification when the application has been received and when background screenings have been completed, and shall issue a license within 30 days after completion of all required data collection and verification. This 30-day period to issue a license shall be tolled if the applicant must appear before the board due to information provided on the application or obtained through screening and data collection and verification procedures.

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464.0115 Certification of clinical nurse specialists.

(1) Any nurse seeking certification as a clinical nurse specialist must apply to the department and submit proof that he or she holds a current license to practice professional nursing, a master's degree in a clinical nursing specialty, and either:

- (a) Proof of current certification in a specialty area as a clinical nurse specialist from a nationally recognized certifying body as determined by the board; or
- (b) Proof that he or she holds a master's degree in a specialty area for which there is no certification within the clinical nurse specialist role and specialty and proof of having completed 1,000 hours of clinical experience in the clinical specialty for which he or she is academically prepared, with a minimum of 500 hours of clinical practice after graduation. The applicant for certification as a clinical nurse specialist must submit an affidavit to the Board of Nursing affirming the required hours of clinical experience. Falsification of the affidavit constitutes grounds for discipline in accordance with s. 464.018(1)(f).

(2) The board shall certify, and the department shall issue a certificate to, any nurse who fulfills the qualifications of this section. The board shall establish an application fee not to exceed \$75 and a biennial renewal fee not to exceed \$75.

(3) The board may adopt rules necessary to administer this section pursuant to ss. 120.536(1) and 120.54.

464.012 Certification of advanced registered nurse practitioners; fees.

(1) Any nurse desiring to be certified as an advanced registered nurse practitioner shall apply to the department and submit proof that he or she holds a current license to practice professional nursing and that he or she meets one or more of the following requirements as determined by the board:

- (a) Satisfactory completion of a formal postbasic educational program of at least one academic year, the primary purpose of which is to prepare nurses for advanced or specialized practice.
- (b) Certification by an appropriate specialty board. Such certification shall be required for initial state certification and any recertification as a registered nurse anesthetist or nurse midwife. The board may by rule provide for provisional state certification of graduate nurse anesthetists and nurse midwives for a period of time determined to be appropriate for preparing for and passing the national certification examination.

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(c) Graduation from a program leading to a master's degree in a nursing clinical specialty area with preparation in specialized practitioner skills. For applicants graduating on or after October 1, 1998, graduation from a master's degree program shall be required for initial certification as a nurse practitioner under paragraph (4)(c). For applicants graduating on or after October 1, 2001, graduation from a master's degree program shall be required for initial certification as a registered nurse anesthetist under paragraph (4)(a).

(2) The board shall provide by rule the appropriate requirements for advanced registered nurse practitioners in the categories of certified registered nurse anesthetist, certified nurse midwife, and nurse practitioner.

(3) An advanced registered nurse practitioner shall perform those functions authorized in this section within the framework of an established protocol that is filed with the board upon biennial license renewal and within 30 days after entering into a supervisory relationship with a physician or changes to the protocol. The board shall review the protocol to ensure compliance with applicable regulatory standards for protocols. The board shall refer to the department licensees submitting protocols that are not compliant with the regulatory standards for protocols. A practitioner currently licensed under chapter 458, chapter 459, or chapter 466 shall maintain supervision for directing the specific course of medical treatment. Within the established framework, an advanced registered nurse practitioner may:

(a) Monitor and alter drug therapies.

(b) Initiate appropriate therapies for certain conditions.

(c) Perform additional functions as may be determined by rule in accordance with s. 464.003(2).

(d) Order diagnostic tests and physical and occupational therapy.

(4) In addition to the general functions specified in subsection (3), an advanced registered nurse practitioner may perform the following acts within his or her specialty:

(a) The certified registered nurse anesthetist may, to the extent authorized by established protocol approved by the medical staff of the facility in which the anesthetic service is performed, perform any or all of the following:

1. Determine the health status of the patient as it relates to the risk factors and to the anesthetic management of the patient through the performance of the general functions.

2. Based on history, physical assessment, and supplemental laboratory results, determine, with the consent of the responsible physician, the appropriate type of anesthesia within the framework of the protocol.

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3. Order under the protocol preanesthetic medication.
 4. Perform under the protocol procedures commonly used to render the patient insensible to pain during the performance of surgical, obstetrical, therapeutic, or diagnostic clinical procedures. These procedures include ordering and administering regional, spinal, and general anesthesia; inhalation agents and techniques; intravenous agents and techniques; and techniques of hypnosis.
 5. Order or perform monitoring procedures indicated as pertinent to the anesthetic health care management of the patient.
 6. Support life functions during anesthesia health care, including induction and intubation procedures, the use of appropriate mechanical supportive devices, and the management of fluid, electrolyte, and blood component balances.
 7. Recognize and take appropriate corrective action for abnormal patient responses to anesthesia, adjunctive medication, or other forms of therapy.
 8. Recognize and treat a cardiac arrhythmia while the patient is under anesthetic care.
 9. Participate in management of the patient while in the postanesthesia recovery area, including ordering the administration of fluids and drugs.
 10. Place special peripheral and central venous and arterial lines for blood sampling and monitoring as appropriate.
- (b) The certified nurse midwife may, to the extent authorized by an established protocol which has been approved by the medical staff of the health care facility in which the midwifery services are performed, or approved by the nurse midwife's physician backup when the delivery is performed in a patient's home, perform any or all of the following:
1. Perform superficial minor surgical procedures.
 2. Manage the patient during labor and delivery to include amniotomy, episiotomy, and repair.
 3. Order, initiate, and perform appropriate anesthetic procedures.
 4. Perform postpartum examination.
 5. Order appropriate medications.
 6. Provide family-planning services and well-woman care.
 7. Manage the medical care of the normal obstetrical patient and the initial care of a newborn patient.
- (c) The nurse practitioner may perform any or all of the following acts within the framework of established protocol:
1. Manage selected medical problems.

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2. Order physical and occupational therapy.
3. Initiate, monitor, or alter therapies for certain uncomplicated acute illnesses.
4. Monitor and manage patients with stable chronic diseases.
5. Establish behavioral problems and diagnosis and make treatment recommendations.

(5) The board shall certify, and the department shall issue a certificate to, any nurse meeting the qualifications in this section. The board shall establish an application fee not to exceed \$100 and a biennial renewal fee not to exceed \$50. The board is authorized to adopt such other rules as are necessary to implement the provisions of this section.

464.013 Renewal of license or certificate.—

(1) The department shall renew a license upon receipt of the renewal application and fee.

(2) The department shall adopt rules establishing a procedure for the biennial renewal of licenses.

(3) The board shall by rule prescribe up to 30 hours of continuing education biennially as a condition for renewal of a license or certificate. A nurse who is certified by a health care specialty program accredited by the National Commission for Certifying Agencies or the Accreditation Board for Specialty Nursing Certification is exempt from continuing education requirements. The criteria for programs shall be approved by the board.

464.014 Inactive status.—

(1) The board shall adopt rules relating to application procedures for inactive status, to the biennial renewal of inactive licenses, and to the reactivation of licenses. The board shall prescribe by rule an application fee for inactive status, a renewal fee for inactive status, a delinquency fee, and a fee for the reactivation of a license. None of these fees may exceed the biennial renewal fee established by the board for biennial renewal of an active license.

(2) The department may not reactivate a license unless the inactive or delinquent licensee has paid any applicable biennial renewal or delinquency fee, or both, and a reactivation fee.

464.015 includes Titles and abbreviations; restrictions; penalty.

464.016 Violations and penalties

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(1) Each of the following acts constitutes a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084:

(a) Practicing advanced or specialized, professional, or practical nursing, as defined in this part, unless holding an active license or certificate to do so.

(b) Using or attempting to use a license or certificate which has been suspended or revoked.

(c) Knowingly employing unlicensed persons in the practice of nursing.

(d) Obtaining or attempting to obtain a license or certificate under this part by misleading statements or knowing misrepresentation.

(2) Each of the following acts constitutes a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083:

(a) Using the name or title "Nurse," "Registered Nurse," "Licensed Practical Nurse," "Clinical Nurse Specialist," "Certified Registered Nurse Anesthetist," "Certified Nurse Midwife," "Advanced Registered Nurse Practitioner," or any other name or title which implies that a person was licensed or certified as same, unless such person is duly licensed or certified.

(b) Knowingly concealing information relating to violations of this part.

464.017 Sexual misconduct in the practice of nursing. The nurse-patient relationship is founded on mutual trust. Sexual misconduct in the practice of nursing means violation of the nurse-patient relationship through which the nurse uses said relationship to induce or attempt to induce the patient to engage, or to engage or attempt to engage the patient, in sexual activity outside the scope of the practice or the scope of generally accepted examination or treatment of the patient. Sexual misconduct in the practice of nursing is prohibited.

464.018 Disciplinary actions.—

(1) The following acts constitute grounds for denial of a license or disciplinary action, as specified in s. 456.072(2):

(a) Procuring, attempting to procure, or renewing a license to practice nursing by bribery, by knowing misrepresentations, or through an error of the department or the board.

(b) Having a license to practice nursing revoked, suspended, or otherwise acted against, including the denial of licensure, by the licensing authority of another state, territory, or country.

(c) Being convicted or found guilty of, or entering a plea of nolo contendere to, regardless of adjudication, a crime in any jurisdiction which directly relates to the practice of nursing or to the ability to practice nursing.

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(d) Being found guilty, regardless of adjudication, of any of the following offenses:

1. A forcible felony as defined in chapter 776.
2. A violation of chapter 812, relating to theft, robbery, and related crimes.
3. A violation of chapter 817, relating to fraudulent practices.
4. A violation of chapter 800, relating to lewdness and indecent exposure.
5. A violation of chapter 784, relating to assault, battery, and culpable negligence.
6. A violation of chapter 827, relating to child abuse.
7. A violation of chapter 415, relating to protection from abuse, neglect, and exploitation.
8. A violation of chapter 39, relating to child abuse, abandonment, and neglect.

(e) Having been found guilty of, regardless of adjudication, or entered a plea of nolo contendere or guilty to, any offense prohibited under s. 435.04 or similar statute of another jurisdiction; or having committed an act which constitutes domestic violence as defined in s. 741.28.

(f) Making or filing a false report or record, which the licensee knows to be false, intentionally or negligently failing to file a report or record required by state or federal law, willfully impeding or obstructing such filing or inducing another person to do so. Such reports or records shall include only those which are signed in the nurse's capacity as a licensed nurse.

(g) False, misleading, or deceptive advertising.

(h) Unprofessional conduct, as defined by board rule.

(i) Engaging or attempting to engage in the possession, sale, or distribution of controlled substances as set forth in chapter 893, for any other than legitimate purposes authorized by this part.

(j) Being unable to practice nursing with reasonable skill and safety to patients by reason of illness or use of alcohol, drugs, narcotics, or chemicals or any other type of material or as a result of any mental or physical condition. In enforcing this paragraph, the department shall have, upon a finding of the State Surgeon General or the State Surgeon General's designee that probable cause exists to believe that the licensee is unable to practice nursing because of the reasons stated in this paragraph, the authority to issue an order to compel a licensee to submit to a mental or physical examination by physicians designated by the department. If the licensee refuses to comply with such order, the department's order directing such examination may be enforced by filing a petition for enforcement in the circuit court where the licensee resides or does business. The licensee against whom the petition is filed shall not be named or identified by initials in any public court records or documents, and the proceedings shall be

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closed to the public. The department shall be entitled to the summary procedure provided in s. 51.011. A nurse affected by the provisions of this paragraph shall at reasonable intervals be afforded an opportunity to demonstrate that she or he can resume the competent practice of nursing with reasonable skill and safety to patients.

(k) Failing to report to the department any person who the licensee knows is in violation of this part or of the rules of the department or the board; however, if the licensee verifies that such person is actively participating in a board-approved program for the treatment of a physical or mental condition, the licensee is required to report such person only to an impaired professionals consultant.

(l) Knowingly violating any provision of this part, a rule of the board or the department, or a lawful order of the board or department previously entered in a disciplinary proceeding or failing to comply with a lawfully issued subpoena of the department.

(m) Failing to report to the department any licensee under chapter 458 or under chapter 459 who the nurse knows has violated the grounds for disciplinary action set out in the law under which that person is licensed and who provides health care services in a facility licensed under chapter 395, or a health maintenance organization certificated under part I of chapter 641, in which the nurse also provides services.

(n) Failing to meet minimal standards of acceptable and prevailing nursing practice, including engaging in acts for which the licensee is not qualified by training or experience.

(o) Violating any provision of this chapter or chapter 456, or any rules adopted pursuant thereto.

(2) The board may enter an order denying licensure or imposing any of the penalties in s. 456.072(2) against any applicant for licensure or licensee who is found guilty of violating any provision of subsection (1) of this section or who is found guilty of violating any provision of s. 456.072(1).

(3) The board shall not reinstate the license of a nurse, or cause a license to be issued to a person it has deemed unqualified, until such time as it is satisfied that such person has complied with all the terms and conditions set forth in the final order and that such person is capable of safely engaging in the practice of nursing.

(4) The board shall not reinstate the license of a nurse who has been found guilty by the board on three separate occasions of violations of this part relating to the use of drugs or narcotics, which offenses involved the diversion of drugs or narcotics from patients to personal use or sale.

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(5) The board shall by rule establish guidelines for the disposition of disciplinary cases involving specific types of violations. Such guidelines may include minimum and maximum fines, periods of supervision or probation, or conditions of probation or reissuance of a license.

464.019 include Approval of nursing education programs.

464.0195 include Florida Center for Nursing; goals.

464.0196 include Florida Center for Nursing; board of directors.

464.0205 Retired volunteer nurse certificate.

(1) Any retired practical or registered nurse desiring to serve indigent, underserved, or critical need populations in this state may apply to the department for a retired volunteer nurse certificate by providing:

(a) A complete application.

(b) Verification that the applicant had been licensed to practice nursing in any jurisdiction in the United States for at least 10 years, had retired or plans to retire, intends to practice nursing only pursuant to the limitations provided by the retired volunteer nurse certificate, and has not committed any act that would constitute a violation under s. 464.018(1).

(c) Proof that the applicant meets the requirements for licensure under s. 464.008 or s. 464.009.

(2) All related administrative costs shall be borne by the applicant.

(3) The board may deny a retired volunteer nurse certificate to any applicant who has committed, or who is under investigation or prosecution for, any act that would constitute a ground for disciplinary action under s. 464.018.

(4) A retired volunteer nurse receiving certification from the board shall:

(a) Work under the direct supervision of the director of a county health department, a physician working under a limited license issued pursuant to s. 458.317 or s. 459.0075, a physician licensed under chapter 458 or chapter 459, an advanced registered nurse practitioner certified under s. 464.012, or a registered nurse licensed under s. 464.008 or s. 464.009.

(b) Comply with the minimum standards of practice for nurses and be subject to disciplinary action for violations of s. 464.018, except that the scope of practice for

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certified volunteers shall be limited to primary and preventive health care, or as further defined by board rule.

(c) Work only in a setting for which there are provisions for professional liability coverage for acts or omissions of the retired volunteer nurse.

(d) Provide services under the certificate only in settings whose sponsors have been approved by the board.

(5) A retired volunteer nurse receiving certification from the board shall not:

(a) Administer controlled substances.

(b) Supervise other nurses.

(c) Receive monetary compensation.

(6) A retired volunteer nurse certified under this section may practice only in board-approved settings in public agencies or institutions or in nonprofit agencies or institutions meeting the requirements of s. 501(c)(3) of the Internal Revenue Code, which agencies or institutions are located in areas of critical nursing need as determined by the board. Determination of underserved areas shall be made by the board after consultation with the Department of Health, the Department of Children and Families, the Agency for Health Care Administration, and the Department of Elderly Affairs; however, such determination shall include, but not be limited to, health manpower shortage areas designated by the United States Department of Health and Human Services. The sponsoring agencies desiring to use certified retired volunteer nurses shall submit to the board verification of their status under s. 501(c)(3) of the Internal Revenue Code, the sites at which such volunteer nurses would work, the duties and scope of practice intended for such volunteer nurses, and the training or skills validation for such volunteer nurses.

(7) The retired volunteer nurse certificate shall be valid for 2 years, and a certificateholder may reapply for a certificate so long as the certificateholder continues to meet the eligibility requirements of this section. Any legislatively mandated continuing education on specific topics must be completed by the certificate holder prior to renewal; otherwise, the provisions of s. 464.013 do not apply.

464.022 include Exceptions.

464.027 include Registered nurse first assistant.

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PART II- CERTIFIED NURSING ASSISTANTS

464.203 Certified nursing assistants; certification requirement:

(1) The board shall issue a certificate to practice as a certified nursing assistant to any person who demonstrates a minimum competency to read and write and successfully passes the required background screening pursuant to s. 400.215. If the person has successfully passed the required background screening pursuant to s. 400.215 or s. 408.809 within 90 days before applying for a certificate to practice and the person's background screening results are not retained in the clearinghouse created under s. 435.12, the board shall waive the requirement that the applicant successfully pass an additional background screening pursuant to s. 400.215. The person must also meet one of the following requirements:

(a) Has successfully completed an approved training program and achieved a minimum score, established by rule of the board, on the nursing assistant competency examination, which consists of a written portion and skills-demonstration portion approved by the board and administered at a site and by personnel approved by the department.

(b) Has achieved a minimum score, established by rule of the board, on the nursing assistant competency examination, which consists of a written portion and skills-demonstration portion, approved by the board and administered at a site and by personnel approved by the department and:

1. Has a high school diploma, or its equivalent; or
2. Is at least 18 years of age.

(c) Is currently certified in another state; is listed on that state's certified nursing assistant registry; and has not been found to have committed abuse, neglect, or exploitation in that state.

(d) Has completed the curriculum developed under the Enterprise Florida Jobs and Education Partnership Grant and achieved a minimum score, established by rule of the board, on the nursing assistant competency examination, which consists of a written portion and skills-demonstration portion, approved by the board and administered at a site and by personnel approved by the department.

(2) If an applicant fails to pass the nursing assistant competency examination in three attempts, the applicant is not eligible for reexamination unless the applicant completes an approved training program.

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(3) An oral examination shall be administered as a substitute for the written portion of the examination upon request. The oral examination shall be administered at a site and by personnel approved by the department.

(4) The board shall adopt rules to provide for the initial certification of certified nursing assistants.

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

(6) A certified nursing assistant shall maintain a current address with the board in accordance with s. 456.035.

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

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

464.204 Denial, suspension, or revocation of certification; disciplinary actions.—

(1) The following acts constitute grounds for which the board may impose disciplinary sanctions as specified in subsection (2):

(a) Obtaining or attempting to obtain certification or an exemption, or possessing or attempting to possess certification or a letter of exemption, by bribery, misrepresentation, deceit, or through an error of the board.

(b) Intentionally violating any provision of this chapter, chapter 456, or the rules adopted by the board.

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(2) When the board finds any person guilty of any of the grounds set forth in subsection (1), it may enter an order imposing one or more of the following penalties:

- (a) Denial, suspension, or revocation of certification.
- (b) Imposition of an administrative fine not to exceed \$150 for each count or separate offense.
- (c) Imposition of probation or restriction of certification, including conditions such as corrective actions as retraining or compliance with an approved treatment program for impaired practitioners.

(3) The board may, upon the request of a certificateholder, exempt the certificateholder from disqualification of employment in accordance with chapter 435 and issue a letter of exemption. The board must notify an applicant seeking an exemption from disqualification from certification or employment of its decision to approve or deny the request within 30 days after the date the board receives all required documentation.

464.205 Availability of disciplinary records and proceedings.—Pursuant to s. 456.073, any complaint or record maintained by the department pursuant to the discipline of a certified nursing assistant and any proceeding held by the board to discipline a certified nursing assistant shall remain open and available to the public.

464.206 Exemption from liability.—If an employer terminates or denies employment to a certified nursing assistant whose certification is inactive as shown on the certified nursing assistant registry or whose name appears on a criminal screening report of the Department of Law Enforcement, the employer is not civilly liable for such termination and a cause of action may not be brought against the employer for damages, regardless of whether the employee has filed for an exemption from the board under s. 464.204(3). There may not be any monetary liability on the part of, and a cause of action for damages may not arise against, any licensed facility, its governing board or members thereof, medical staff, disciplinary board, agents, investigators, witnesses, employees, or any other person for any action taken in good faith without intentional fraud in carrying out this section.

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464.207 Penalties. It is a misdemeanor of the first degree, punishable as provided under s. 775.082 or s. 775.083, for any person, knowingly or intentionally, to fail to disclose, by false statement, misrepresentation, impersonation, or other fraudulent means, in any application for voluntary or paid employment or certification regulated under this part, a material fact used in making a determination as to such person's qualifications to be an employee or certificateholder.

464.208 Background screening information; rulemaking authority.

(1) The Agency for Health Care Administration shall allow the board to electronically access its background screening database and records.

(2) An employer, or an agent thereof, may not use criminal records or juvenile records relating to vulnerable adults for any purpose other than determining if the person meets the requirements of this part. Such records and information obtained by the board shall remain confidential and exempt from s. 119.07(1).

(3) If the requirements of the Omnibus Budget Reconciliation Act of 1987, as amended, for the certification of nursing assistants are in conflict with this part, the federal requirements shall prevail for those facilities certified to provide care under Title XVIII (Medicare) or Title XIX (Medicaid) of the Social Security Act.

464.2085 include Council on Certified Nursing Assistants. The Council on Certified Nursing Assistants is created within the department, under the Board of Nursing.

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Chapters 456 of the Florida Statutes

HEALTH PROFESSIONS AND OCCUPATIONS

456.0135 General background screening provisions.

(1) An application for initial licensure received on or after January 1, 2013, under chapter 458, chapter 459, chapter 460, chapter 461, chapter 464, s. 465.022, or chapter 480 shall include fingerprints pursuant to procedures established by the department through a vendor approved by the Department of Law Enforcement and fees imposed for the initial screening and retention of fingerprints. Fingerprints must be submitted electronically to the Department of Law Enforcement for state processing, and the Department of Law Enforcement shall forward the fingerprints to the Federal Bureau of Investigation for national processing. Each board, or the department if there is no board, shall screen the results to determine if an applicant meets licensure requirements. For any subsequent renewal of the applicant's license that requires a national criminal history check, the department shall request the Department of Law Enforcement to forward the retained fingerprints of the applicant to the Federal Bureau of Investigation unless the fingerprints are enrolled in the national retained print arrest notification program.

(2) All fingerprints submitted to the Department of Law Enforcement as required under subsection (1) shall be retained by the Department of Law Enforcement as provided under s. 943.05(2)(g) and (h) and (3) and enrolled in the national retained print arrest notification program at the Federal Bureau of Investigation when the Department of Law Enforcement begins participation in the program. The department shall notify the Department of Law Enforcement regarding any person whose fingerprints have been retained but who is no longer licensed.

(3) The costs of fingerprint processing, including the cost for retaining fingerprints, shall be borne by the applicant subject to the background screening.

(4) All fingerprints received under this section shall be entered into the Care Provider Background Screening Clearinghouse as provided in s. 435.12.

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456.018 Penalty for theft or reproduction of an examination.—In addition to, or in lieu of, any other discipline imposed pursuant to s. 456.072, the theft of an examination in whole or in part or the act of reproducing or copying any examination administered by the department, whether such examination is reproduced or copied in part or in whole and by any means, constitutes a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

456.019 Restriction on requirement of citizenship.—A person is not disqualified from practicing an occupation or profession regulated by the state solely because she or he is not a United States citizen.

456.021 Qualification of immigrants for examination to practice a licensed profession or occupation.

(1) It is the declared purpose of this section to encourage the use of foreign-speaking Florida residents duly qualified to become actively qualified in their professions so that all people of this state may receive better services.

(2) Any person who has successfully completed, or is currently enrolled in, an approved course of study created pursuant to chapters 74-105 and 75-177, Laws of Florida, shall be deemed qualified for examination and reexaminations for a professional or occupational license which shall be administered in the English language unless 15 or more such applicants request that the reexamination be administered in their native language. In the event that such reexamination is administered in a foreign language, the full cost to the board of preparing and administering it shall be borne by the applicants.

(3) Each board within the department shall adopt and implement programs designed to qualify for examination all persons who were resident nationals of the Republic of Cuba and who, on July 1, 1977, were residents of this state.

456.022 Foreign-trained professionals; special examination and license provisions.

(1) When not otherwise provided by law, within its jurisdiction, the department shall by rule provide procedures under which exiled professionals may be examined within each practice act.

456.023 include Exemption for certain out-of-state or foreign professionals; limited practice permitted.

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456.024 Members of Armed Forces in good standing with administrative boards or the department; spouses; licensure.

Any member of the Armed Forces of the United States now or hereafter on active duty who, at the time of becoming such a member, was in good standing with any administrative board of the state, or the department when there is no board, and was entitled to practice or engage in his or her profession or vocation in the state shall be kept in good standing by such administrative board, or the department when there is no board, without registering, paying dues or fees, or performing any other act on his or her part to be performed, as long as he or she is a member of the Armed Forces of the United States on active duty and for a period of 6 months after discharge from active duty as a member of the Armed Forces of the United States, provided he or she is not engaged in his or her licensed profession or vocation in the private sector for profit.

456.025 Fees; receipts; disposition.

(1) It is the intent of the Legislature that all costs of regulating health care professions and practitioners shall be borne solely by licensees and licensure applicants. It is also the intent of the Legislature that fees should be reasonable and not serve as a barrier to licensure. Moreover, it is the intent of the Legislature that the department operate as efficiently as possible and regularly report to the Legislature additional methods to streamline operational costs.

456.026 Annual report concerning finances, administrative complaints, disciplinary actions, and recommendations.—The department is directed to prepare and submit a report to the President of the Senate and the Speaker of the House of Representatives by November 1 of each year. In addition to finances and any other information the Legislature may require, the report shall include statistics and relevant information, profession by profession, detailing:

- (1) The revenues, expenditures, and cash balances for the prior year, and a review of the adequacy of existing fees.
- (2) The number of complaints received and investigated.
- (3) The number of findings of probable cause made.
- (4) The number of findings of no probable cause made.
- (5) The number of administrative complaints filed.

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- (6) The disposition of all administrative complaints.
- (7) A description of disciplinary actions taken.
- (8) A description of any effort by the department to reduce or otherwise close any investigation or disciplinary proceeding not before the Division of Administrative Hearings under chapter 120 or otherwise not completed within 1 year after the initial filing of a complaint under this chapter.
- (9) The status of the development and implementation of rules providing for disciplinary guidelines pursuant to s. 456.079.
- (10) Such recommendations for administrative and statutory changes necessary to facilitate efficient and cost-effective operation of the department and the various boards.

456.027 Education; accreditation.—Notwithstanding any other provision of law, educational programs and institutions which are required by statute to be accredited, but which were accredited by an agency that has since ceased to perform an accrediting function, shall be recognized until such programs and institutions are accredited by a qualified successor to the original accrediting agency, an accrediting agency recognized by the United States Department of Education, or an accrediting agency recognized by the board, or the department when there is no board.

456.028 Consultation with postsecondary education boards prior to adoption of changes to training requirements. Any state agency or board that has jurisdiction over the regulation of a profession or occupation shall consult with the Commission for Independent Education, the Board of Governors of the State University System, and the State Board of Education prior to adopting any changes to training requirements relating to entry into the profession or occupation. This consultation must allow the educational board to provide advice regarding the impact of the proposed changes in terms of the length of time necessary to complete the training program and the fiscal impact of the changes. The educational board must be consulted only when an institution offering the training program falls under its jurisdiction.

456.029 Education; substituting demonstration of competency for clock-hour requirements.—Any board, or the department when there is no board, that requires student completion of a specific number of clock hours of classroom instruction for initial licensure purposes shall establish the minimal competencies that such students must demonstrate in order to be licensed. The demonstration of such competencies may be substituted for specific classroom clock-hour requirements established in statute or rule which are related to instructional programs for licensure purposes. Student demonstration of the established minimum competencies shall be certified by the educational institution. The provisions of this

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section shall not apply to boards for which federal licensure standards are more restrictive or stringent than the standards prescribed in statute.

456.031 Requirement for instruction on domestic violence.

(1)(a) The appropriate board shall require each person licensed or certified under chapter 458, chapter 459, part I of chapter 464, chapter 466, chapter 467, chapter 490, or chapter 491 to complete a 2-hour continuing education course, approved by the board, on domestic violence, as defined in s. 741.28, as part of every third biennial relicensure or recertification. The course shall consist of information on the number of patients in that professional's practice who are likely to be victims of domestic violence and the number who are likely to be perpetrators of domestic violence, screening procedures for determining whether a patient has any history of being either a victim or a perpetrator of domestic violence, and instruction on how to provide such patients with information on, or how to refer such patients to, resources in the local community, such as domestic violence centers and other advocacy groups, that provide legal aid, shelter, victim counseling, batterer counseling, or child protection services.

(b) Each such licensee or certificate holder shall submit confirmation of having completed such course, on a form provided by the board, when submitting fees for every third biennial renewal. (See entire chapter for more information)

Failure to comply with the requirements of this subsection shall constitute grounds for disciplinary action under each respective practice act and under s. 456.072(1)(k). In addition to discipline by the board, the licensee shall be required to complete such course.

456.032 Hepatitis B or HIV carriers.

(1) The department and each appropriate board within the Division of Medical Quality Assurance shall have the authority to establish procedures to handle, counsel, and provide other services to health care professionals within their respective boards who are infected with hepatitis B or the human immunodeficiency virus.

(2) Any person licensed by the department and any other person employed by a health care facility who contracts a blood-borne infection shall have a rebuttable presumption that the illness was contracted in the course and scope of his or her employment, provided that the person, as soon as practicable, reports to the person's supervisor or the facility's risk manager any significant exposure, as that term is defined in s. 381.004(1)(c), to blood or body fluids. The employer may test the blood or body fluid to determine if it is infected with the same disease contracted by the employee. The employer may rebut the presumption by the preponderance of

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the evidence. Except as expressly provided in this subsection, there shall be no presumption that a blood-borne infection is a job-related injury or illness.

456.033 Requirement for instruction for certain licensees on HIV and AIDS. The following requirements apply to each person licensed or certified under chapter 457; chapter 458; chapter 459; chapter 460; chapter 461; chapter 463; part I of chapter 464; chapter 465; chapter 466; part II, part III, part V, or part X of chapter 468; or chapter 486:

(1) Each person shall be required by the appropriate board to complete no later than upon first renewal a continuing educational course, approved by the board, on human immunodeficiency virus and acquired immune deficiency syndrome as part of biennial relicensure or recertification. The course shall consist of education on the modes of transmission, infection control procedures, clinical management, and prevention of human immunodeficiency virus and acquired immune deficiency syndrome. Such course shall include information on current Florida law on acquired immune deficiency syndrome and its impact on testing, confidentiality of test results, treatment of patients, and any protocols and procedures applicable to human immunodeficiency virus counseling and testing, reporting, the offering of HIV testing to pregnant women, and partner notification issues pursuant to ss. 381.004 and 384.25.

Each person shall submit confirmation of having completed the course required under subsection (1), on a form as provided by the board, when submitting fees for first renewal. The board shall have the authority to approve additional equivalent courses that may be used to satisfy the requirements in subsection

Each licensing board that requires a licensee to complete an educational course pursuant to this section may count the hours required for completion of the course included in the total continuing educational requirements as required by law.

Failure to comply with the above requirements shall constitute grounds for disciplinary action under each respective licensing chapter and s. 456.072(1)(e). In addition to discipline by the board, the licensee shall be required to complete the course. (see entire chapter for more information).

456.035 Address of record.

(1) Each licensee of the department is solely responsible for notifying the department in writing of the licensee's current mailing address and place of practice, as

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defined by rule of the board or the department if there is no board. Electronic notification shall be allowed by the department; however, it shall be the responsibility of the licensee to ensure that the electronic notification was received by the department. A licensee's failure to notify the department of a change of address constitutes a violation of this section, and the licensee may be disciplined by the board or the department if there is no board.

(2) Notwithstanding any other law, service by regular mail to a licensee's last known address of record with the department constitutes adequate and sufficient notice to the licensee for any official communication to the licensee by the board or the department except when other service is required under s. 456.076.

456.036 Licenses; active and inactive status; delinquency.

A licensee may practice a profession only if the licensee has an active status license. A licensee who practices a profession with an inactive status license, a retired status license, or a delinquent license is in violation of this section and s. 456.072, and the board, or the department if there is no board, may impose discipline on the licensee.

456.037 Business establishments; requirements for active status licenses; delinquency; discipline; applicability.

A business establishment regulated by the Division of Medical Quality Assurance pursuant to this chapter may provide regulated services only if the business establishment has an active status license. A business establishment that provides regulated services without an active status license is in violation of this section and s. 456.072, and the board, or the department if there is no board, may impose discipline on the business establishment.

456.038 Renewal and cancellation notices.

- (1) At least 90 days before the end of a licensure cycle, the department shall:
 - (a) Forward a licensure renewal notification to an active or inactive status licensee at the licensee's last known address of record with the department.
 - (b) Forward a notice of pending cancellation of licensure to a delinquent licensee at the licensee's last known address of record with the department.

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(2) Each licensure renewal notification and each notice of pending cancellation of licensure must state conspicuously that a licensee who remains on inactive status for more than two consecutive biennial licensure cycles and who wishes to reactivate the license may be required to demonstrate the competency to resume active practice by sitting for a special purpose examination or by completing other reactivation requirements, as defined by rule of the board or the department if there is no board.

456.039 Designated health care professionals; information required for licensure.

Each person who applies for initial licensure as a physician under chapter 458, chapter 459, chapter 460, or chapter 461, except a person applying for registration pursuant to ss. 458.345 and 459.021, must, at the time of application, and each physician who applies for license renewal under chapter 458, chapter 459, chapter 460, or chapter 461, except a person registered pursuant to ss. 458.345 and 459.021, must, in conjunction with the renewal of such license and under procedures adopted by the Department of Health, and in addition to any other information that may be required from the applicant.

456.0391 Advanced registered nurse practitioners; information required for certification.

(1)(a) Each person who applies for initial certification under s. 464.012 must, at the time of application, and each person certified under s. 464.012 who applies for certification renewal must, in conjunction with the renewal of such certification and under procedures adopted by the Department of Health, and in addition to any other information that may be required from the applicant.

456.0392 Prescription labeling.

(1) A prescription written by a practitioner who is authorized under the laws of this state to write prescriptions for drugs that are not listed as controlled substances in chapter 893 but who is not eligible for a federal Drug Enforcement Administration number shall include that practitioner's name and professional license number. The pharmacist or dispensing practitioner must include the practitioner's name on the container of the drug that is dispensed. A

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pharmacist shall be permitted, upon verification by the prescriber, to document any information required by this section.

(2) A prescription for a drug that is not listed as a controlled substance in chapter 893 which is written by an advanced registered nurse practitioner certified under s. 464.012 is presumed, subject to rebuttal, to be valid and within the parameters of the prescriptive authority delegated by a practitioner licensed under chapter 458, chapter 459, or chapter 466.

(3) A prescription for a drug that is not listed as a controlled substance in chapter 893 which is written by a physician assistant licensed under chapter 458 or chapter 459 is presumed, subject to rebuttal, to be valid and within the parameters of the prescriptive authority delegated by the physician assistant's supervising physician.

456.041 Practitioner profile; creation.

The Department of Health shall compile the information submitted pursuant to s. 456.039 into a practitioner profile of the applicant submitting the information, except that the Department of Health shall develop a format to compile uniformly any information submitted under s. 456.039(4)(b). Beginning July 1, 2001, the Department of Health may compile the information submitted pursuant to s. 456.0391 into a practitioner profile of the applicant submitting the information. The protocol submitted pursuant to s. 464.012(3) must be included in the practitioner profile of the advanced registered nurse practitioner.

456.042 Practitioner profiles; update. A practitioner must submit updates of required information within 15 days after the final activity that renders such information a fact. The Department of Health shall update each practitioner's practitioner profile periodically. An updated profile is subject to the same requirements as an original profile.

456.043 include Practitioner profiles; data storage.

456.044 Practitioner profiles; rules; workshops. Effective upon this act becoming a law, the Department of Health shall adopt rules for the form of a practitioner profile that the agency is required to prepare. The Department of Health, pursuant to chapter 120, must hold public workshops for purposes of rule development to implement this section. An agency to which information is to be submitted under this act may adopt by rule a form for the submission of the information required under s. 456.039 or s. 456.0391.

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456.045 Practitioner profiles; maintenance of superseded information.

Information in superseded practitioner profiles must be maintained by the Department of Health, in accordance with general law and the rules of the Department of State.

456.046 include Practitioner profiles; confidentiality.

456.048 include Financial responsibility requirements for certain health care practitioners.

456.049 Health care practitioners; reports on professional liability claims and actions. Any practitioner of medicine licensed pursuant to the provisions of chapter 458, practitioner of osteopathic medicine licensed pursuant to the provisions of chapter 459, podiatric physician licensed pursuant to the provisions of chapter 461, or dentist licensed pursuant to the provisions of chapter 466 shall report to the Office of Insurance Regulation any claim or action for damages for personal injury alleged to have been caused by error, omission, or negligence in the performance of such licensee's professional services or based on a claimed performance of professional services without consent pursuant to s. 627.912.

456.051 include Reports of professional liability actions; bankruptcies; Department of Health's responsibility to provide.

456.052 include Disclosure of financial interest by production.

456.053 include Financial arrangements between referring health care providers and providers of health care services.

456.054 Kickbacks prohibited.

(1) As used in this section, the term "kickback" means a remuneration or payment, by or on behalf of a provider of health care services or items, to any person as an incentive or inducement to refer patients for past or future services or items, when the payment is not tax deductible as an ordinary and necessary expense.

(2) It is unlawful for any health care provider or any provider of health care services to offer, pay, solicit, or receive a kickback, directly or indirectly, overtly or covertly, in cash or in kind, for referring or soliciting patients.

(3) Violations of this section shall be considered patient brokering and shall be punishable as provided in s. 817.505.

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456.055 include Chiropractic and podiatric health care; denial of payment; limitation.

456.056 include Treatment of Medicare beneficiaries; refusal, emergencies, consulting physicians.

456.057 Ownership and control of patient records; report or copies of records to be furnished; disclosure of information.

(1) As used in this section, the term “records owner” means any health care practitioner who generates a medical record after making a physical or mental examination of, or administering treatment or dispensing legend drugs to, any person; any health care practitioner to whom records are transferred by a previous records owner; or any health care practitioner’s employer, including, but not limited to, group practices and staff-model health maintenance organizations, provided the employment contract or agreement between the employer and the health care practitioner designates the employer as the records owner.

(2) As used in this section, the terms “records owner,” “health care practitioner,” and “health care practitioner’s employer” do not include any of the following persons or entities; furthermore, the following persons or entities are not authorized to acquire or own medical records, but are authorized under the confidentiality and disclosure requirements of this section to maintain those documents required by the part or chapter under which they are licensed or regulated:

- (a) Certified nursing assistants regulated under part II of chapter 464.
 - (b) Pharmacists and pharmacies licensed under chapter 465.
 - (c) Dental hygienists licensed under s. 466.023.
 - (d) Nursing home administrators licensed under part II of chapter 468.
 - (e) Respiratory therapists regulated under part V of chapter 468.
 - (f) Athletic trainers licensed under part XIII of chapter 468.
 - (g) Electrologists licensed under chapter 478.
 - (h) Clinical laboratory personnel licensed under part III of chapter 483.
 - (i) Medical physicists licensed under part IV of chapter 483.
 - (j) Opticians and optical establishments licensed or permitted under part I of chapter484.
 - (k) Persons or entities practicing under s. 627.736(7).
- See remaining chapter for more information.

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456.0575 Duty to notify patients. Every licensed health care practitioner shall inform each patient, or an individual identified pursuant to s. 765.401(1), in person about adverse incidents that result in serious harm to the patient. Notification of outcomes of care that result in harm to the patient under this section shall not constitute an acknowledgment of admission of liability, nor can such notifications be introduced as evidence.

456.058 Disposition of records of deceased practitioners or practitioners relocating or terminating practice.—Each board created under the provisions of chapter 457, chapter 458, chapter 459, chapter 460, chapter 461, chapter 463, part I of chapter 464, chapter 465, chapter 466, part I of chapter 484, chapter 486, chapter 490, or chapter 491, and the department under the provisions of chapter 462, shall provide by rule for the disposition, under that chapter, of the medical records or records of a psychological nature of practitioners which are in existence at the time the practitioner dies, terminates practice, or relocates and is no longer available to patients and which records pertain to the practitioner's patients. The rules shall provide that the records be retained for at least 2 years after the practitioner's death, termination of practice, or relocation. In the case of the death of the practitioner, the rules shall provide for the disposition of such records by the estate of the practitioner.

456.059 Communications confidential; exceptions.—Communications between a patient and a psychiatrist, as defined in s. 394.455, shall be held confidential and shall not be disclosed except upon the request of the patient or the patient's legal representative. Provision of psychiatric records and reports shall be governed by s. 456.057. Notwithstanding any other provision of this section or s. 90.503, where:

- (1) A patient is engaged in a treatment relationship with a psychiatrist;
- (2) Such patient has made an actual threat to physically harm an identifiable victim or victims; and
- (3) The treating psychiatrist makes a clinical judgment that the patient has the apparent capability to commit such an act and that it is more likely than not that in the near future the patient will carry out that threat,

the psychiatrist may disclose patient communications to the extent necessary to warn any potential victim or to communicate the threat to a law enforcement agency. No civil or criminal action shall be instituted, and there shall be no liability on account of

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disclosure of otherwise confidential communications by a psychiatrist in disclosing a threat pursuant to this section.

456.061 Practitioner disclosure of confidential information; immunity from civil or criminal liability.—

(1) A practitioner regulated through the Division of Medical Quality Assurance of the department shall not be civilly or criminally liable for the disclosure of otherwise confidential information to a sexual partner or a needle-sharing partner under the following circumstances:

(a) If a patient of the practitioner who has tested positive for human immunodeficiency virus discloses to the practitioner the identity of a sexual partner or a needle-sharing partner;

(b) The practitioner recommends the patient notify the sexual partner or the needle-sharing partner of the positive test and refrain from engaging in sexual or drug activity in a manner likely to transmit the virus and the patient refuses, and the practitioner informs the patient of his or her intent to inform the sexual partner or needle-sharing partner; and

(c) If pursuant to a perceived civil duty or the ethical guidelines of the profession, the practitioner reasonably and in good faith advises the sexual partner or the needle-sharing partner of the patient of the positive test and facts concerning the transmission of the virus.

However, any notification of a sexual partner or a needle-sharing partner pursuant to this section shall be done in accordance with protocols developed pursuant to rule of the Department of Health.

(2) Notwithstanding the foregoing, a practitioner regulated through the Division of Medical Quality Assurance of the department shall not be civilly or criminally liable for failure to disclose information relating to a positive test result for human immunodeficiency virus of a patient to a sexual partner or a needle-sharing partner.

456.062 Advertisement by a health care practitioner of free or discounted services; required statement.—In any advertisement for a free, discounted fee, or reduced fee service, examination, or treatment by a health care practitioner licensed under chapter 458, chapter 459, chapter 460, chapter 461, chapter 462, chapter 463, chapter 464, chapter 465, chapter 466, chapter 467, chapter 478, chapter 483, part I of chapter 484, chapter 486, chapter 490, or chapter 491, the following statement shall appear in capital letters clearly distinguishable from the rest of the text: THE PATIENT AND ANY OTHER PERSON RESPONSIBLE FOR PAYMENT HAS A RIGHT TO REFUSE TO PAY, CANCEL PAYMENT, OR BE REIMBURSED FOR PAYMENT FOR ANY OTHER

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SERVICE, EXAMINATION, OR TREATMENT THAT IS PERFORMED AS A RESULT OF AND WITHIN 72 HOURS OF RESPONDING TO THE ADVERTISEMENT FOR THE FREE, DISCOUNTED FEE, OR REDUCED FEE SERVICE, EXAMINATION, OR TREATMENT. However, the required statement shall not be necessary as an accompaniment to an advertisement of a licensed health care practitioner defined by this section if the advertisement appears in a classified directory the primary purpose of which is to provide products and services at free, reduced, or discounted prices to consumers and in which the statement prominently appears in at least one place.

456.063 Sexual misconduct; disqualification for license, certificate, or registration.

Sexual misconduct in the practice of a health care profession means violation of the professional relationship through which the health care practitioner uses such relationship to engage or attempt to engage the patient or client, or an immediate family member, guardian, or representative of the patient or client in, or to induce or attempt to induce such person to engage in, verbal or physical sexual activity outside the scope of the professional practice of such health care profession. Sexual misconduct in the practice of a health care profession is prohibited.

Licensed health care practitioners shall report allegations of sexual misconduct to the department, regardless of the practice setting in which the alleged sexual misconduct occurred.

456.0635 include Health care fraud; disqualification for license, certificate, or registration.

Health care fraud in the practice of a health care profession is prohibited.

456.065 Unlicensed practice of a health care profession; intent; cease and desist notice; penalties; enforcement; citations; fees; allocation and disposition of moneys collected.

It is the intent of the Legislature that vigorous enforcement of licensure regulation for all health care professions is a state priority in order to protect Florida residents and visitors from the potentially serious and dangerous consequences of receiving medical and health care services from unlicensed persons whose professional education and training and other relevant qualifications have not been approved through the issuance

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of a license by the appropriate regulatory board or the department when there is no board. The unlicensed practice of a health care profession or the performance or delivery of medical or health care services to patients in this state without a valid, active license to practice that profession, regardless of the means of the performance or delivery of such services is strictly prohibited.

456.066 Prosecution of criminal violations. The department or the appropriate board shall report any criminal violation of any statute relating to the practice of a profession regulated by the department or appropriate board to the proper prosecuting authority for prompt prosecution.

456.067 Penalty for giving false information. In addition to, or in lieu of, any other discipline imposed pursuant to s. 456.072, the act of knowingly giving false information in the course of applying for or obtaining a license from the department, or any board there under, with intent to mislead a public servant in the performance of his or her official duties, or the act of attempting to obtain or obtaining a license from the department, or any board there under, to practice a profession by knowingly misleading statements or knowing misrepresentations constitutes a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

456.068 Toll-free telephone number for reporting of complaints. The Agency for Health Care Administration shall establish a toll-free telephone number for public reporting of complaints relating to medical treatment or services provided by health care professionals.

456.069 Authority to inspect. In addition to the authority specified in s. 465.017, duly authorized agents and employees of the department shall have the power to inspect in a lawful manner at all reasonable hours:

- (1) Any pharmacy; or
- (2) Any establishment at which the services of a licensee authorized to prescribe controlled substances specified in chapter 893 are offered, for the purpose of determining if any of the provisions of this chapter or any practice act of a profession or any rule adopted there under is being violated; or for the purpose of securing such other evidence as may be needed for prosecution.

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456.071 Power to administer oaths, take depositions, and issue subpoenas.

For the purpose of any investigation or proceeding conducted by the department, the department shall have the power to administer oaths, take depositions, make inspections when authorized by statute, issue subpoenas which shall be supported by affidavit, serve subpoenas and other process, and compel the attendance of witnesses and the production of books, papers, documents, and other evidence. The department shall exercise this power on its own initiative or whenever requested by a board or the probable cause panel of any board. Challenges to, and enforcement of, the subpoenas and orders shall be handled as provided in s. 120.569.

456.072 include Grounds for discipline; penalties; enforcement.

(1) The following acts shall constitute grounds for which the disciplinary actions specified in subsection (2) may be taken:

(a) Making misleading, deceptive, or fraudulent representations in or related to the practice of the licensee's profession.

(b) Intentionally violating any rule adopted by the board or the department, as appropriate.

(c) Being convicted or found guilty of, or entering a plea of guilty or nolo contendere to, regardless of adjudication, a crime in any jurisdiction which relates to the practice of, or the ability to practice, a licensee's profession.

(d) Using a Class III or a Class IV laser device or product, as defined by federal regulations, without having complied with the rules adopted under s. 501.122(2) governing the registration of the devices.

(e) Failing to comply with the educational course requirements for human immunodeficiency virus and acquired immune deficiency syndrome.

(f) Having a license or the authority to practice any regulated profession revoked, suspended, or otherwise acted against, including the denial of licensure, by the licensing authority of any jurisdiction, including its agencies or subdivisions, for a violation that would constitute a violation under Florida law. The licensing authority's acceptance of a relinquishment of licensure, stipulation, consent order, or other settlement, offered in response to or in anticipation of the filing of charges against the license, shall be construed as action against the license.

(g) Having been found liable in a civil proceeding for knowingly filing a false report or complaint with the department against another licensee.

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(h) Attempting to obtain, obtaining, or renewing a license to practice a profession by bribery, by fraudulent misrepresentation, or through an error of the department or the board.

(i) Except as provided in s. 465.016, failing to report to the department any person who the licensee knows is in violation of this chapter, the chapter regulating the alleged violator, or the rules of the department or the board.

(j) Aiding, assisting, procuring, employing, or advising any unlicensed person or entity to practice a profession contrary to this chapter, the chapter regulating the profession, or the rules of the department or the board.

(k) Failing to perform any statutory or legal obligation placed upon a licensee. For purposes of this section, failing to repay a student loan issued or guaranteed by the state or the Federal Government in accordance with the terms of the loan or failing to comply with service scholarship obligations shall be considered a failure to perform a statutory or legal obligation, and the minimum disciplinary action imposed shall be a suspension of the license until new payment terms are agreed upon or the scholarship obligation is resumed, followed by probation for the duration of the student loan or remaining scholarship obligation period, and a fine equal to 10 percent of the defaulted loan amount. Fines collected shall be deposited into the Medical Quality Assurance Trust Fund. (see the remaining chapter for more information).

456.0721 Practitioners in default on student loan or scholarship obligations; investigation; report. The Department of Health shall obtain from the United States Department of Health and Human Services information necessary to investigate and prosecute health care practitioners for failing to repay a student loan or comply with scholarship service obligations pursuant to s. 456.072(1)(k). The department shall obtain from the United States Department of Health and Human Services a list of default health care practitioners each month, along with the information necessary to investigate a complaint in accordance with s. 456.073. The department may obtain evidence to support the investigation and prosecution from any financial institution or educational institution involved in providing the loan or education to the practitioner. The department shall report to the Legislature as part of the annual report required by s. 456.026, the number of practitioners in default, along with the results of the department's investigations and prosecutions, and the amount of fines collected from practitioners prosecuted for violating s. 456.072(1)(k).

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456.073 include Disciplinary proceedings. Disciplinary proceedings for each board shall be within the jurisdiction of the department.

456.074 include certain health care practitioners; immediate suspension of license.

456.075 Criminal proceedings against licensees; appearances by department representatives. In any criminal proceeding against a person licensed by the department to practice a health care profession in this state, a representative of the department may voluntarily appear and furnish pertinent information, make recommendations regarding specific conditions of probation, or provide any other assistance necessary to promote justice or protect the public. The court may order a representative of the department to appear in any criminal proceeding if the crime charged is substantially related to the qualifications, functions, or duties of a health care professional licensed by the department.

456.076 include Treatment programs for impaired practitioners.

456.077 include Authority to issue citations.

456.078 include Mediation.

(1) Notwithstanding the provisions of s. 456.073, the board, or the department when there is no board, shall adopt rules to designate which violations of the applicable professional practice act are appropriate for mediation. The board, or the department when there is no board, shall designate as mediation offenses those complaints where harm caused by the licensee:

- (a) Is economic in nature except any act or omission involving intentional misconduct;
- (b) Can be remedied by the licensee;
- (c) Is not a standard of care violation involving any type of injury to a patient; or
- (d) Does not result in an adverse incident.

(2) For the purposes of this section, an "adverse incident" means an event that results in:

- (a) The death of a patient;
- (b) Brain or spinal damage to a patient;
- (c) The performance of a surgical procedure on the wrong patient;
- (d) The performance of a wrong-site surgical procedure;

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(e) The performance of a surgical procedure that is medically unnecessary or otherwise unrelated to the patient's diagnosis or medical condition;

(f) The surgical repair of damage to a patient resulting from a planned surgical procedure, which damage is not a recognized specific risk as disclosed to the patient and documented through the informed-consent process;

(g) The performance of a procedure to remove unplanned foreign objects remaining from a surgical procedure; or

(h) The performance of any other surgical procedure that breached the standard of care.

(3) After the department determines a complaint is legally sufficient and the alleged violations are defined as mediation offenses, the department or any agent of the department may conduct informal mediation to resolve the complaint. If the complainant and the subject of the complaint agree to a resolution of a complaint within 14 days after contact by the mediator, the mediator shall notify the department of the terms of the resolution. The department or board shall take no further action unless the complainant and the subject each fail to record with the department an acknowledgment of satisfaction of the terms of mediation within 60 days of the mediator's notification to the department. A successful mediation shall not constitute discipline. In the event the complainant and subject fail to reach settlement terms or to record the required acknowledgment, the department shall process the complaint according to the provisions of s. 456.073.

(4) Conduct or statements made during mediation are inadmissible in any proceeding pursuant to s. 456.073. Further, any information relating to the mediation of a case shall be subject to the confidentiality provisions of s. 456.073.

(5) No licensee shall go through the mediation process more than three times without approval of the department. The department may consider the subject and dates of the earlier complaints in rendering its decision. Such decision shall not be considered a final agency action for purposes of chapter 120.

(6) Any board created on or after January 1, 1995, shall have 6 months to adopt rules designating which violations are appropriate for mediation, after which time the department shall have exclusive authority to adopt rules pursuant to this section. A board shall have continuing authority to amend its rules adopted pursuant to this section.

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456.079 Disciplinary guidelines.

(1) Each board, or the department if there is no board, shall adopt by rule and periodically review the disciplinary guidelines applicable to each ground for disciplinary action which may be imposed by the board, or the department if there is no board, pursuant to this chapter, the respective practice acts, and any rule of the board or department.

(2) The disciplinary guidelines shall specify a meaningful range of designated penalties based upon the severity and repetition of specific offenses, it being the legislative intent that minor violations be distinguished from those which endanger the public health, safety, or welfare; that such guidelines provide reasonable and meaningful notice to the public of likely penalties which may be imposed for proscribed conduct; and that such penalties be consistently applied by the board.

(3) A specific finding in the final order of mitigating or aggravating circumstances shall allow the board to impose a penalty other than that provided for in such guidelines. If applicable, the board, or the department if there is no board, shall adopt by rule disciplinary guidelines to designate possible mitigating and aggravating circumstances and the variation and range of penalties permitted for such circumstances.

(4) The department must review such disciplinary guidelines for compliance with the legislative intent as set forth herein to determine whether the guidelines establish a meaningful range of penalties and may also challenge such rules pursuant to s. 120.56.

(5) The administrative law judge, in recommending penalties in any recommended order, must follow the penalty guidelines established by the board or department and must state in writing the mitigating or aggravating circumstances upon which the recommended penalty is based.

456.081 Publication of information.—The department and the boards shall have the authority to advise licensees periodically, through the publication of a newsletter on the department's website, about information that the department or the board determines is of interest to the industry. The department and the boards shall maintain a website which contains copies of the newsletter; information relating to adverse incident reports without identifying the patient, practitioner, or facility in which the adverse incident occurred until 10 days after probable cause is found, at which time the name of the practitioner and facility shall become public as part of the investigative file; information about error prevention and safety strategies; and information concerning best practices. Unless otherwise prohibited by law, the department and the boards shall publish on the website a summary of final orders entered after July 1,

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2001, resulting in disciplinary action, and any other information the department or the board determines is of interest to the public. In order to provide useful and timely information at minimal cost, the department and boards may consult with, and include information provided by, professional associations and national organizations.

456.082 Disclosure of confidential information.

(1) No officer, employee, or person under contract with the department, or any board therein, or any subject of an investigation shall convey knowledge or information to any person who is not lawfully entitled to such knowledge or information about any public meeting or public record, which at the time such knowledge or information is conveyed is exempt from the provisions of s. 119.01, s. 119.07(1), or s. 286.011.

(2) Any person who willfully violates any provision of this section is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083, and may be subject to discipline pursuant to s. 456.072, and, if applicable, shall be removed from office, employment, or the contractual relationship.

(3) Any person injured as a result of a willful violation of this section shall have a civil cause of action for treble damages, reasonable attorney fees, and costs.

456.36 Health care professionals; exemption from disqualification from employment or contracting.—Any other provision of law to the contrary notwithstanding, only the appropriate regulatory board, or the department when there is no board, may grant an exemption from disqualification from employment or contracting as provided in s. 435.07 to a person under the licensing jurisdiction of that board or the department, as applicable.

456.38 Practitioner registry for disasters and emergencies.—The Department of Health may include on its forms for the licensure or certification of health care practitioners, as defined in s. 456.001, who could assist the department in the event of a disaster a question asking if the practitioner would be available to provide health care services in special needs shelters or to help staff disaster medical assistance teams during times of emergency or major disaster. The names of practitioners who answer affirmatively shall be maintained by the department as a health care practitioner registry for disasters and emergencies.

456.41 Complementary or alternative health care treatments.

(1) **LEGISLATIVE INTENT.** It is the intent of the Legislature that citizens be able to make informed choices for any type of health care they deem to be an effective option for treating human disease, pain, injury, deformity, or other physical or mental condition.

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It is the intent of the Legislature that citizens be able to choose from all health care options, including the prevailing or conventional treatment methods as well as other treatments designed to complement or substitute for the prevailing or conventional treatment methods. It is the intent of the Legislature that health care practitioners be able to offer complementary or alternative health care treatments with the same requirements, provisions, and liabilities as those associated with the prevailing or conventional treatment methods.

(2) **DEFINITIONS.** As used in this section, the term:

(a) “Complementary or alternative health care treatment” means any treatment that is designed to provide patients with an effective option to the prevailing or conventional treatment methods associated with the services provided by a health care practitioner. Such a treatment may be provided in addition to or in place of other treatment options.

(b) “Health care practitioner” means any health care practitioner as defined in s. 456.001(4). (see remaining chapter for more information).

456.42 Written prescriptions for medicinal drugs.

(1) A written prescription for a medicinal drug issued by a health care practitioner licensed by law to prescribe such drug must be legibly printed or typed so as to be capable of being understood by the pharmacist filling the prescription; must contain the name of the prescribing practitioner, the name and strength of the drug prescribed, the quantity of the drug prescribed, and the directions for use of the drug; must be dated; and must be signed by the prescribing practitioner on the day when issued. However, a prescription that is electronically generated and transmitted must contain the name of the prescribing practitioner, the name and strength of the drug prescribed, the quantity of the drug prescribed in numerical format, and the directions for use of the drug and must be dated and signed by the prescribing practitioner only on the day issued, which signature may be in an electronic format as defined in s. 668.003(4).

(2) A written prescription for a controlled substance listed in chapter 893 must have the quantity of the drug prescribed in both textual and numerical formats, must be dated in numerical, month/day/year format, or with the abbreviated month written out, or the month written out in whole, and must be either written on a standardized counterfeit-proof prescription pad produced by a vendor approved by the department or electronically prescribed as that term is used in s. 408.0611. As a condition of being an

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approved vendor, a prescription pad vendor must submit a monthly report to the department that, at a minimum, documents the number of prescription pads sold and identifies the purchasers. The department may, by rule, require the reporting of additional information.

456.43 Electronic prescribing for medicinal drugs.

- (1) Electronic prescribing shall not interfere with a patient's freedom to choose a pharmacy.
- (2) Electronic prescribing software shall not use any means or permit any other person to use any means, including, but not limited to, advertising, instant messaging, and pop-up ads, to influence or attempt to influence, through economic incentives or otherwise, the prescribing decision of a prescribing practitioner at the point of care. Such means shall not be triggered or in specific response to the input, selection, or act of a prescribing practitioner or his or her agent in prescribing a certain pharmaceutical or directing a patient to a certain pharmacy.
 - (a) The term "prescribing decision" means a prescribing practitioner's decision to prescribe a certain pharmaceutical.
 - (b) The term "point of care" means the time that a prescribing practitioner or his or her agent is in the act of prescribing a certain pharmaceutical.
- (3) Electronic prescribing software may show information regarding a payor's formulary as long as nothing is designed to preclude or make more difficult the act of a prescribing practitioner or patient selecting any particular pharmacy or pharmaceutical.

456.44 Controlled substance prescribing.

STANDARDS OF PRACTICE. The standards of practice in this section do not supersede the level of care, skill, and treatment recognized in general law related to health care licensure.

A complete medical history and a physical examination must be conducted before beginning any treatment and must be documented in the medical record. The exact components of the physical examination shall be left to the judgment of the clinician who is expected to perform a physical examination proportionate to the diagnosis that justifies a treatment. The medical record must, at a minimum, document the nature and

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intensity of the pain, current and past treatments for pain, underlying or coexisting diseases or conditions, the effect of the pain on physical and psychological function, a review of previous medical records, previous diagnostic studies, and history of alcohol and substance abuse. The medical record shall also document the presence of one or more recognized medical indications for the use of a controlled substance. Each registrant must develop a written plan for assessing each patient's risk of aberrant drug-related behavior, which may include patient drug testing. Registrants must assess each patient's risk for aberrant drug-related behavior and monitor that risk on an ongoing basis in accordance with the plan.

(b) Each registrant must develop a written individualized treatment plan for each patient. The treatment plan shall state objectives that will be used to determine treatment success, such as pain relief and improved physical and psychosocial function, and shall indicate if any further diagnostic evaluations or other treatments are planned. After treatment begins, the physician shall adjust drug therapy to the individual medical needs of each patient. Other treatment modalities, including a rehabilitation program, shall be considered depending on the etiology of the pain and the extent to which the pain is associated with physical and psychosocial impairment. The interdisciplinary nature of the treatment plan shall be documented.

(c) The physician shall discuss the risks and benefits of the use of controlled substances, including the risks of abuse and addiction, as well as physical dependence and its consequences, with the patient, persons designated by the patient, or the patient's surrogate or guardian if the patient is incompetent. The physician shall use a written controlled substance agreement between the physician and the patient outlining the patient's responsibilities. (See entire chapter for more information).

456.50 Repeated medical malpractice.

For purposes of this section:

1. A single act of medical malpractice, regardless of the number of claimants, shall count as only one incident.
2. Multiple findings of medical malpractice arising from the same wrongful act or series of wrongful acts associated with the treatment of the same patient shall count as only one incident.

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(e) "Level of care, skill, and treatment recognized in general law related to health care licensure" means the standard of care specified in s. 766.102.

(f) "Medical doctor" means a physician licensed pursuant to chapter 458 or chapter459.

(g) "Medical malpractice" means the failure to practice medicine in accordance with the level of care, skill, and treatment recognized in general law related to health care licensure. Only for the purpose of finding repeated medical malpractice pursuant to this section, any similar wrongful act, neglect, or default committed in another state or country which, if committed in this state, would have been considered medical malpractice as defined in this paragraph, shall be considered medical malpractice if the standard of care and burden of proof applied in the other state or country equaled or exceeded that used in this state.

(h) "Repeated medical malpractice" means three or more incidents of medical malpractice found to have been committed by a medical doctor. Only an incident occurring on or after November 2, 2004, shall be considered an incident for purposes of finding repeated medical malpractice under this section.

(2) For purposes of implementing s. 26, Art. X of the State Constitution, the board shall not license or continue to license a medical doctor found to have committed repeated medical malpractice, the finding of which was based upon clear and convincing evidence. In order to rely on an incident of medical malpractice to determine whether a license must be denied or revoked under this section, if the facts supporting the finding of the incident of medical malpractice were determined on a standard less stringent than clear and convincing evidence, the board shall review the record of the case and determine whether the finding would be supported under a standard of clear and convincing evidence. Section 456.073 applies. The board may verify on a biennial basis an out-of-state licensee's medical malpractice history using federal, state, or other databases. The board may require licensees and applicants for licensure to provide a copy of the record of the trial of any medical malpractice judgment, which may be required to be in an electronic format, involving an incident that occurred on or after November 2, 2004. For purposes of implementing s. 26, Art. X of the State Constitution, the 90-day requirement for granting or denying a complete allopathic or osteopathic licensure application in s. 120.60(1) is extended to 180 days.

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