

LEGAL ASPECTS OF NURSING 12 Hr

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PURPOSE

The purpose of this course is to review the legal aspects of Nursing / 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), and Advanced Registered Nurse Practitioners (APRN), Certified Nursing Assistants (CNA) with the Regulations / Requirements, including detail review of information regarding 64B9 of the Florida Administrative Code, Chapters 464 (NURSE PRACTICE ACT) 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
13. Discuss the Advance Directives - THE PATIENT'S RIGHT TO DECIDE.

Introduction

According to Chapter 464 Florida Statutes (NURSE PRACTICE ACT), regarding 464.002 Purpose; the sole legislative purpose in enacting this part is to ensure that every nurse practicing in this state meets minimum requirements for safe practice. It is the legislative intent that nurses who fall below minimum competency or who otherwise present a danger to the public shall be prohibited from practicing in this state.



464.004 Board of Nursing; membership; appointment; terms

According to 464.004 regarding the Board of Nursing; membership; appointment; terms;

- (1) The Board of Nursing is created within the department and shall consist of 13 members to be appointed by the Governor and confirmed by the Senate.
- (2) Seven members of the board must be registered nurses who are residents of this state and who have been engaged in the practice of professional nursing for at least 4 years, including at least one advanced practice registered nurse, one nurse educator member of an approved program, and one nurse executive. These seven board members should be representative of the diverse areas of practice within the nursing profession. In addition, three members of the board must be licensed practical nurses who are residents of this state and who have been actively engaged in the practice of practical nursing for at least 4 years prior to their appointment. The remaining three members must be residents of the state who have never been licensed as nurses and who are in no way connected with the practice of nursing. No person may be appointed as a lay member who is in any way connected with, or has any financial interest in, any health care facility, agency, or insurer. At least one member of the board must be 60 years of age or older.
- (3) As the terms of the members expire, the Governor shall appoint successors for terms of 4 years, and such members shall serve until their successors are appointed.

- (4) All provisions of chapter 456 relating to activities of the board shall apply.
- (5) The executive director of the board appointed pursuant to s. 456.004(2) or his or her designee shall serve as the state administrator of the Nurse Licensure Compact as required under s. 464.0095.

464.008 Licensure by Examination

According to 464.008 regarding 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)(a) 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.

(b) An applicant who resides in this state, meets the licensure requirements of this section, and meets the criteria for multistate licensure under s. 464.0095 may request the issuance of a multistate license from the department.

(c) A nurse who holds a single-state license in this state and applies to the department for a multistate license must meet the eligibility criteria for a multistate license under s. 464.0095 and must pay an application and licensure fee to change the licensure status.

(d) The department shall conspicuously distinguish a multistate license from a single-state license.

(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 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.

(5) A person holding an active multistate license in another state pursuant to s. 464.0095 is exempt from the licensure requirements of this section.

464.009 Licensure by endorsement

According to 464.009 regarding 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. 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.

(7) A person holding an active multistate license in another state pursuant to s. 464.0095 is exempt from the requirements for licensure by endorsement in this section.

464.0095 Nurse Licensure Compact

According to 464.0095 regarding Nurse Licensure Compact;

The Nurse Licensure Compact is hereby enacted into law and entered into by this state with all other jurisdictions legally joining therein in the form substantially as follows:

ARTICLE I

FINDINGS AND DECLARATION OF PURPOSE

(1) The party states find that:

- (a) The health and safety of the public are affected by the degree of compliance with and the effectiveness of enforcement activities related to state nurse licensure laws.
- (b) Violations of nurse licensure and other laws regulating the practice of nursing may result in injury or harm to the public.
- (c) The expanded mobility of nurses and the use of advanced communication technologies as part of the nation's health care delivery system require greater coordination and cooperation among states in the areas of nurse licensure and regulation.
- (d) New practice modalities and technology make compliance with individual state nurse licensure laws difficult and complex.
- (e) The current system of duplicative licensure for nurses practicing in multiple states is cumbersome and redundant for both nurses and states.
- (f) Uniformity of nurse licensure requirements throughout the states promotes public safety and public health benefits.

- (2) The general purposes of this compact are to:
- (a) Facilitate the states' responsibility to protect the public's health and safety.
 - (b) Ensure and encourage the cooperation of party states in the areas of nurse licensure and regulation.
 - (c) Facilitate the exchange of information among party states in the areas of nurse regulation, investigation, and adverse actions.
 - (d) Promote compliance with the laws governing the practice of nursing in each jurisdiction.
 - (e) Invest all party states with the authority to hold a nurse accountable for meeting all state practice laws in the state in which the patient is located at the time care is rendered through the mutual recognition of party state licenses.
 - (f) Decrease redundancies in the consideration and issuance of nurse licenses.
 - (g) Provide opportunities for interstate practice by nurses who meet uniform licensure requirements.

ARTICLE II

DEFINITIONS

As used in this compact, the term:

- (1) "Adverse action" means any administrative, civil, equitable, or criminal action permitted by a state's laws which is imposed by a licensing board or other authority against a nurse, including actions against an individual's license or multistate licensure privilege, such as revocation, suspension, probation, monitoring of the licensee, limitation on the licensee's practice, or any other encumbrance on licensure affecting a nurse's authorization to practice, including issuance of a cease and desist action.

- (2) “Alternative program” means a nondisciplinary monitoring program approved by a licensing board.
- (3) “Commission” means the Interstate Commission of Nurse Licensure Compact Administrators established by this compact.
- (4) “Compact” means the Nurse Licensure Compact recognized, established, and entered into by the state under this compact.
- (5) “Coordinated licensure information system” means an integrated process for collecting, storing, and sharing information on nurse licensure and enforcement activities related to nurse licensure laws which is administered by a nonprofit organization composed of and controlled by licensing boards.
- (6) “Current significant investigative information” means:
 - (a) Investigative information that a licensing board, after a preliminary inquiry that includes notification and an opportunity for the nurse to respond, if required by state law, has reason to believe is not groundless and, if proved true, would indicate more than a minor infraction; or
 - (b) Investigative information that indicates that the nurse represents an immediate threat to public health and safety regardless of whether the nurse has been notified and had an opportunity to respond.
- (7) “Encumbrance” means a revocation or suspension of, or any limitation on, the full and unrestricted practice of nursing imposed by a licensing board.
- (8) “Home state” means the party state that is the nurse’s primary state of residence.

(9) “Licensing board” means a party state’s regulatory body responsible for issuing nurse licenses.

(10) “Multistate license” means a license to practice as a registered nurse (RN) or a licensed practical/vocational nurse (LPN/VN) issued by a home state licensing board which authorizes the licensed nurse to practice in all party states under a multistate licensure privilege.

(11) “Multistate licensure privilege” means a legal authorization associated with a multistate license permitting the practice of nursing as either an RN or an LPN/VN in a remote state.

(12) “Nurse” means an RN or LPN/VN, as those terms are defined by each party state’s practice laws.

(13) “Party state” means any state that has adopted this compact.

(14) “Remote state” means a party state other than the home state.

(15) “Single-state license” means a nurse license issued by a party state which authorizes practice only within the issuing state and does not include a multistate licensure privilege to practice in any other party state.

(16) “State” means a state, territory, or possession of the United States, or the District of Columbia.

(17) “State practice laws” means a party state’s laws, rules, and regulations that govern the practice of nursing, define the scope of nursing practice, and create the methods and grounds for imposing discipline. The

term “state practice laws” does not include requirements necessary to obtain and retain a license, except for qualifications or requirements of the home state.

ARTICLE III

GENERAL PROVISIONS AND JURISDICTION

(1) A multistate license to practice registered or licensed practical/vocational nursing issued by a home state to a resident in that state shall be recognized by each party state as authorizing a nurse to practice as an RN or as an LPN/VN under a multistate licensure privilege in each party state.

(2) Each party state must implement procedures for considering the criminal history records of applicants for initial multistate licensure or licensure by endorsement. Such procedures shall include the submission of fingerprints or other biometric-based information by applicants for the purpose of obtaining an applicant’s criminal history record information from the Federal Bureau of Investigation and the agency responsible for retaining that state’s criminal records.

(3) In order for an applicant to obtain or retain a multistate license in the home state, each party state shall require that the applicant fulfills the following criteria:

(a) Meets the home state’s qualifications for licensure or renewal of licensure, as well as all other applicable state laws.

(b)1. Has graduated or is eligible to graduate from a licensing board-approved RN or LPN/VN prelicensure education program; or

2. Has graduated from a foreign RN or LPN/VN prelicensure education program that has been approved by the authorized accrediting body in the applicable country and has been verified by a licensing board-approved independent credentials review agency to be comparable to a licensing board-approved prelicensure education program.

(c) If the applicant is a graduate of a foreign prelicensure education program not taught in English, or if English is not the applicant's native language, has successfully passed a licensing board-approved English proficiency examination that includes the components of reading, speaking, writing, and listening.

(d) Has successfully passed an NCLEX-RN or NCLEX-PN Examination or recognized predecessor, as applicable.

(e) Is eligible for or holds an active, unencumbered license.

(f) Has submitted, in connection with an application for initial licensure or licensure by endorsement, fingerprints or other biometric data for the purpose of obtaining criminal history record information from the Federal Bureau of Investigation and the agency responsible for retaining that state's criminal records.

(g) Has not been convicted or found guilty, or has entered into an agreed disposition other than a disposition that results in nolle prosequi, of a felony offense under applicable state or federal criminal law.

(h) Has not been convicted or found guilty, or has entered into an agreed disposition other than a disposition that results in nolle prosequi, of a misdemeanor offense related to the practice of nursing as determined on a case-by-case basis.

- (i) Is not currently enrolled in an alternative program.
 - (j) Is subject to self-disclosure requirements regarding current participation in an alternative program.
 - (k) Has a valid United States social security number.
- (4) All party states may, in accordance with existing state due process law, take adverse action against a nurse's multistate licensure privilege, such as revocation, suspension, probation, or any other action that affects the nurse's authorization to practice under a multistate licensure privilege, including cease and desist actions. If a party state takes such action, it shall promptly notify the administrator of the coordinated licensure information system. The administrator of the coordinated licensure information system shall promptly notify the home state of any such actions by remote states.
- (5) A nurse practicing in a party state must comply with the state practice laws of the state in which the patient is located at the time service is provided. The practice of nursing is not limited to patient care but shall include all nursing practice as defined by the state practice laws of the party state in which the patient is located. The practice of nursing in a party state under a multistate licensure privilege subjects a nurse to the jurisdiction of the licensing board, the courts, and the laws of the party state in which the patient is located at the time service is provided.
- (6) A person not residing in a party state shall continue to be able to apply for a party state's single-state license as provided under the laws of each party state. The single-state license granted to such a person does not grant the privilege to practice nursing in any other party state. This compact

does not affect the requirements established by a party state for the issuance of a single-state license.

(7) A nurse holding a home state multistate license, on the effective date of this compact, may retain and renew the multistate license issued by the nurse's then-current home state, provided that:

(a) A nurse who changes his or her primary state of residence after the effective date must meet all applicable requirements under subsection (3) to obtain a multistate license from a new home state.

(b) A nurse who fails to satisfy the multistate licensure requirements under subsection (3) due to a disqualifying event occurring after the effective date is ineligible to retain or renew a multistate license, and the nurse's multistate license shall be revoked or deactivated in accordance with applicable rules adopted by the commission.

ARTICLE IV

APPLICATIONS FOR LICENSURE

IN A PARTY STATE

(1) Upon application for a multistate license, the licensing board in the issuing party state shall ascertain, through the coordinated licensure information system, whether the applicant has ever held, or is the holder of, a license issued by any other state, whether there are any encumbrances on any license or multistate licensure privilege held by the applicant, whether any adverse action has been taken against any license or multistate licensure privilege held by the applicant, and whether the applicant is currently participating in an alternative program.

(2) A nurse may hold a multistate license, issued by the home state, in only one party state at a time.

(3) If a nurse changes his or her primary state of residence by moving from one party state to another party state, the nurse must apply for licensure in the new home state, and the multistate license issued by the prior home state shall be deactivated in accordance with applicable rules adopted by the commission.

(a) The nurse may apply for licensure in advance of a change in his or her primary state of residence.

(b) A multistate license may not be issued by the new home state until the nurse provides satisfactory evidence of a change in his or her primary state of residence to the new home state and satisfies all applicable requirements to obtain a multistate license from the new home state.

(4) If a nurse changes his or her primary state of residence by moving from a party state to a nonparty state, the multistate license issued by the prior home state shall convert to a single-state license valid only in the former home state.

ARTICLE V

ADDITIONAL AUTHORITY VESTED IN

PARTY STATE LICENSING BOARDS

(1) In addition to the other powers conferred by state law, a licensing board or state agency may:

(a) Take adverse action against a nurse's multistate licensure privilege to practice within that party state.

1. Only the home state has the power to take adverse action against a nurse's license issued by the home state.

2. For purposes of taking adverse action, the home state licensing board or state agency shall give the same priority and effect to conduct reported by a remote state as it would if such conduct had occurred within the home state. In so doing, the home state shall apply its own state laws to determine appropriate action.

(b) Issue cease and desist orders or impose an encumbrance on a nurse's authority to practice within that party state.

(c) Complete any pending investigation of a nurse who changes his or her primary state of residence during the course of such investigation. The licensing board or state agency may also take appropriate action and shall promptly report the conclusions of such investigation to the administrator of the coordinated licensure information system. The administrator of the coordinated licensure information system shall promptly notify the new home state of any such action.

(d) Issue subpoenas for both hearings and investigations that require the attendance and testimony of witnesses or the production of evidence. Subpoenas issued by a licensing board or state agency in a party state for the attendance and testimony of witnesses or the production of evidence from another party state shall be enforced in the latter state by any court of competent jurisdiction according to the practice and procedure of that court applicable to subpoenas issued in proceedings pending before it. The issuing authority shall pay any witness fees, travel expenses, and mileage

and other fees required by the service statutes of the state in which the witnesses or evidence is located.

(e) Obtain and submit, for each nurse licensure applicant, fingerprint or other biometric-based information to the Federal Bureau of Investigation for criminal background checks, receive the results of the Federal Bureau of Investigation record search on criminal background checks, and use the results in making licensure decisions.

(f) If otherwise permitted by state law, recover from the affected nurse the costs of investigations and disposition of cases resulting from any adverse action taken against that nurse.

(g) Take adverse action based on the factual findings of the remote state, provided that the licensing board or state agency follows its own procedures for taking such adverse action.

(2) If adverse action is taken by the home state against a nurse's multistate license, the nurse's multistate licensure privilege to practice in all other party states shall be deactivated until all encumbrances are removed from the multistate license. All home state disciplinary orders that impose adverse action against a nurse's multistate license shall include a statement that the nurse's multistate licensure privilege is deactivated in all party states during the pendency of the order.

(3) This compact does not override a party state's decision that participation in an alternative program may be used in lieu of adverse action. The home state licensing board shall deactivate the multistate licensure privilege under the multistate license of any nurse for the duration of the nurse's participation in an alternative program.

ARTICLE VI
COORDINATED LICENSURE
INFORMATION SYSTEM
AND EXCHANGE INFORMATION

(1) All party states shall participate in a coordinated licensure information system relating to all licensed RNs and LPNs/VNs. This system shall include information on the licensure and disciplinary history of each nurse, as submitted by party states, to assist in the coordination of nurse licensure and enforcement efforts.

(2) The commission, in consultation with the administrator of the coordinated licensure information system, shall formulate necessary and proper procedures for the identification, collection, and exchange of information under this compact.

(3) All licensing boards shall promptly report to the coordinated licensure information system any adverse action, any current significant investigative information, denials of applications, the reasons for application denials, and nurse participation in alternative programs known to the licensing board regardless of whether such participation is deemed nonpublic or confidential under state law.

(4) Current significant investigative information and participation in nonpublic or confidential alternative programs shall be transmitted through the coordinated licensure information system only to party state licensing boards.

(5) Notwithstanding any other provision of law, all party state licensing boards contributing information to the coordinated licensure information system may designate information that may not be shared with nonparty

states or disclosed to other entities or individuals without the express permission of the contributing state.

(6) Any personal identifying information obtained from the coordinated licensure information system by a party state licensing board may not be shared with nonparty states or disclosed to other entities or individuals except to the extent permitted by the laws of the party state contributing the information.

(7) Any information contributed to the coordinated licensure information system which is subsequently required to be expunged by the laws of the party state contributing that information shall also be expunged from the coordinated licensure information system.

(8) The compact administrator of each party state shall furnish a uniform data set to the compact administrator of each other party state, which shall include, at a minimum:

- (a) Identifying information.
- (b) Licensure data.
- (c) Information related to alternative program participation.
- (d) Other information that may facilitate the administration of this compact, as determined by commission rules.

(9) The compact administrator of a party state shall provide all investigative documents and information requested by another party state.

ARTICLE VII

ESTABLISHMENT OF THE INTERSTATE COMMISSION OF NURSE LICENSURE COMPACT ADMINISTRATORS

(1) The party states hereby create and establish a joint public entity known as the Interstate Commission of Nurse Licensure Compact Administrators.

(a) The commission is an instrumentality of the party states.

(b) Venue is proper, and judicial proceedings by or against the commission shall be brought solely and exclusively, in a court of competent jurisdiction where the commission's principal office is located. The commission may waive venue and jurisdictional defenses to the extent it adopts or consents to participate in alternative dispute resolution proceedings.

(c) This compact does not waive sovereign immunity except to the extent sovereign immunity is waived in the party states.

(2)(a) Each party state shall have and be limited to one administrator. The executive director of the state licensing board or his or her designee shall be the administrator of this compact for each party state. Any administrator may be removed or suspended from office as provided by the law of the state from which the administrator is appointed. Any vacancy occurring on the commission shall be filled in accordance with the laws of the party state in which the vacancy exists.

(b) Each administrator is entitled to one vote with regard to the adoption of rules and the creation of bylaws and shall otherwise have an opportunity to participate in the business and affairs of the commission. An administrator shall vote in person or by such other means as provided in the bylaws. The bylaws may provide for an administrator's participation in meetings by telephone or other means of communication.

(c) The commission shall meet at least once during each calendar year. Additional meetings shall be held as set forth in the commission's bylaws or rules.

(d) All meetings shall be open to the public, and public notice of meetings shall be given in the same manner as required under Article VIII of this compact.

(e) The commission may convene in a closed, nonpublic meeting if the commission must discuss:

1. Failure of a party state to comply with its obligations under this compact;
2. The employment, compensation, discipline, or other personnel matters, practices, or procedures related to specific employees or other matters related to the commission's internal personnel practices and procedures;
3. Current, threatened, or reasonably anticipated litigation;
4. Negotiation of contracts for the purchase or sale of goods, services, or real estate;

5. Accusing any person of a crime or formally censuring any person;
 6. Disclosure of trade secrets or commercial or financial information that is privileged or confidential;
 7. Disclosure of information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;
 8. Disclosure of investigatory records compiled for law enforcement purposes;
 9. Disclosure of information related to any reports prepared by or on behalf of the commission for the purpose of investigation of compliance with this compact; or
 10. Matters specifically exempted from disclosure by federal or state statute.
- (f) If a meeting, or portion of a meeting, is closed pursuant to this subsection, the commission's legal counsel or designee shall certify that the meeting, or portion of the meeting, is closed and shall reference each relevant exempting provision. The commission shall keep minutes that fully and clearly describe all matters discussed in a meeting and shall provide a full and accurate summary of actions taken, and the reasons therefor, including a description of the views expressed. All documents considered in connection with an action shall be identified in such minutes. All minutes and documents of a closed meeting shall remain under seal, subject to release by a majority vote of the commission or order of a court of competent jurisdiction.

(3) The commission shall, by a majority vote of the administrators, prescribe bylaws or rules to govern its conduct as may be necessary or appropriate to carry out the purposes and exercise the powers of this compact, including, but not limited to:

(a) Establishing the commission's fiscal year.

(b) Providing reasonable standards and procedures:

1. For the establishment and meetings of other committees.

2. Governing any general or specific delegation of any authority or function of the commission.

(c) Providing reasonable procedures for calling and conducting meetings of the commission, ensuring reasonable advance notice of all meetings, and providing an opportunity for attendance of such meetings by interested parties, with enumerated exceptions designed to protect the public's interest, the privacy of individuals, and proprietary information, including trade secrets. The commission may meet in closed session only after a majority of the administrators vote to close a meeting in whole or in part. As soon as practicable, the commission must make public a copy of the vote to close the meeting revealing the vote of each administrator, with no proxy votes allowed.

(d) Establishing the titles, duties and authority, and reasonable procedures for the election of the commission's officers.

(e) Providing reasonable standards and procedures for the establishment of the commission's personnel policies and programs. Notwithstanding any

civil service or other similar laws of any party state, the bylaws shall exclusively govern the commission's personnel policies and programs.

(f) Providing a mechanism for winding up the commission's operations and the equitable disposition of any surplus funds that may exist after the termination of this compact after the payment or reserving of all of its debts and obligations.

(4) The commission shall publish its bylaws and rules, and any amendments thereto, in a convenient form on the commission's website.

(5) The commission shall maintain its financial records in accordance with the bylaws.

(6) The commission shall meet and take such actions as are consistent with this compact and the bylaws.

(7) The commission has the power to:

(a) Adopt uniform rules to facilitate and coordinate implementation and administration of this compact. The rules shall have the force and effect of law and are binding in all party states.

(b) Bring and prosecute legal proceedings or actions in the name of the commission, provided that the standing of any licensing board to sue or be sued under applicable law is not affected.

(c) Purchase and maintain insurance and bonds.

- (d) Borrow, accept, or contract for services of personnel, including employees of a party state or nonprofit organizations.
- (e) Cooperate with other organizations that administer state compacts related to the regulation of nursing, including sharing administrative or staff expenses, office space, or other resources.
- (f) Hire employees, elect or appoint officers, fix compensation, define duties, grant such individuals appropriate authority to carry out the purposes of this compact, and establish the commission's personnel policies and programs relating to conflicts of interest, qualifications of personnel, and other related personnel matters.
- (g) Accept any and all appropriate donations, grants, and gifts of money, equipment, supplies, materials, and services and receive, use, and dispose of the same, provided that, at all times, the commission shall avoid any appearance of impropriety or conflict of interest.
- (h) Lease, purchase, accept appropriate gifts or donations of, or otherwise own, hold, improve, or use any property, whether real, personal, or mixed, provided that, at all times, the commission shall avoid any appearance of impropriety.
- (i) Sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any property, whether real, personal, or mixed.
- (j) Establish a budget and make expenditures.
- (k) Borrow money.

(l) Appoint committees, including advisory committees comprised of administrators, state nursing regulators, state legislators or their representatives, consumer representatives, and other interested persons.

(m) Provide information to, receive information from, and cooperate with law enforcement agencies.

(n) Adopt and use an official seal.

(o) Perform such other functions as may be necessary or appropriate to achieve the purposes of this compact consistent with the state regulation of nurse licensure and practice.

(8) Relating to the financing of the commission, the commission:

(a) Shall pay, or provide for the payment of, the reasonable expenses of its establishment, organization, and ongoing activities.

(b) May also levy and collect an annual assessment from each party state to cover the cost of its operations, activities, and staff in its annual budget as approved each year. The aggregate annual assessment amount, if any, shall be allocated based on a formula to be determined by the commission, which shall adopt a rule that is binding on all party states.

(c) May not incur obligations of any kind before securing the funds adequate to meet the same; and the commission may not pledge the credit of any of the party states, except by and with the authority of such party state.

(d) Shall keep accurate accounts of all receipts and disbursements. The commission's receipts and disbursements are subject to the audit and accounting procedures established under its bylaws. However, all receipts and disbursements of funds handled by the commission shall be audited yearly by a certified or licensed public accountant, and the report of the audit shall be included in, and become part of, the commission's annual report.

(9) Relating to the sovereign immunity, defense, and indemnification of the commission:

(a) The administrators, officers, executive director, employees, and representatives of the commission are immune from suit and liability, either personally or in their official capacity, for any claim for damage to or loss of property or personal injury or other civil liability caused by or arising out of any actual or alleged act, error, or omission that occurred, or that the person against whom the claim is made had a reasonable basis for believing occurred, within the scope of commission employment, duties, or responsibilities. This paragraph does not protect any such person from suit or liability for any damage, loss, injury, or liability caused by the intentional, willful, or wanton misconduct of that person.

(b) The commission shall defend any administrator, officer, executive director, employee, or representative of the commission in any civil action seeking to impose liability arising out of any actual or alleged act, error, or omission that occurred within the scope of commission employment, duties, or responsibilities or that the person against whom the claim is made had a reasonable basis for believing occurred within the scope of commission employment, duties, or responsibilities, provided that the actual or alleged act, error, or omission did not result from that person's intentional, willful, or wanton misconduct. This paragraph does not prohibit that person from retaining his or her own counsel.

(c) The commission shall indemnify and hold harmless any administrator, officer, executive director, employee, or representative of the commission for the amount of any settlement or judgment obtained against that person arising out of any actual or alleged act, error, or omission that occurred within the scope of commission employment, duties, or responsibilities or that such person had a reasonable basis for believing occurred within the scope of commission employment, duties, or responsibilities, provided that the actual or alleged act, error, or omission did not result from the intentional, willful, or wanton misconduct of that person.

ARTICLE VIII

RULEMAKING

(1) The commission shall exercise its rulemaking powers pursuant to the criteria set forth in this article and the rules adopted thereunder. Rules and amendments become binding as of the date specified in each rule or amendment and have the same force and effect as provisions of this compact.

(2) Rules or amendments to the rules shall be adopted at a regular or special meeting of the commission.

(3) Before adoption of a final rule or final rules by the commission, and at least 60 days before the meeting at which the rule will be considered and voted upon, the commission shall file a notice of proposed rulemaking:

(a) On the commission's website.

(b) On the website of each licensing board or the publication in which each state would otherwise publish proposed rules.

- (4) The notice of proposed rulemaking shall include:
 - (a) The proposed time, date, and location of the meeting in which the rule will be considered and voted upon.
 - (b) The text of the proposed rule or amendment and the reason for the proposed rule.
 - (c) A request for comments on the proposed rule from any interested person.
 - (d) The manner in which an interested person may submit notice to the commission of his or her intention to attend the public hearing and any written comments.
- (5) Before adoption of a proposed rule, the commission shall allow persons to submit written data, facts, opinions, and arguments, which shall be made available to the public.
- (6) The commission shall grant an opportunity for a public hearing before it adopts a rule or amendment.
- (7) The commission shall publish the place, time, and date of the scheduled public hearing.
 - (a) Hearings shall be conducted in a manner providing each person who wishes to comment a fair and reasonable opportunity to comment orally or

in writing. All hearings will be recorded, and a copy will be made available upon request.

(b) This article does not require a separate hearing on each rule. Rules may be grouped for the convenience of the commission at hearings required by this article.

(8) If no interested person appears at the public hearing, the commission may proceed with adoption of the proposed rule.

(9) Following the scheduled hearing date, or by the close of business on the scheduled hearing date if the hearing is not held, the commission shall consider all written and oral comments received.

(10) The commission shall, by majority vote of all administrators, take final action on the proposed rule and shall determine the effective date of the rule, if any, based on the rulemaking record and the full text of the rule.

(11) Upon determination that an emergency exists, the commission may consider and adopt an emergency rule without prior notice, opportunity for comment, or hearing, provided that the usual rulemaking procedures provided in this compact and in this article shall be applied retroactively to the rule as soon as reasonably possible within 90 days after the effective date of the rule. For the purposes of this subsection, an emergency rule is one that must be adopted immediately in order to:

(a) Meet an imminent threat to public health, safety, or welfare;

(b) Prevent a loss of commission or party state funds; or

(c) Meet a deadline for the adoption of an administrative rule that is required by federal law or rule.

(12) The commission may direct revisions to a previously adopted rule or amendment for purposes of correcting typographical errors, errors in format, errors in consistency, or grammatical errors. Public notice of any revisions shall be posted on the commission's website. The revision is subject to challenge by any person for 30 days after posting. The revision may be challenged only on grounds that the revision results in a material change to a rule. A challenge must be made in writing and delivered to the commission before the end of the notice period. If no challenge is made, the revision shall take effect without further action. If the revision is challenged, the revision may not take effect without the commission's approval.

ARTICLE IX

OVERSIGHT, DISPUTE RESOLUTION, AND ENFORCEMENT

(1) Oversight of this compact shall be accomplished by:

(a) Each party state, which shall enforce this compact and take all actions necessary and appropriate to effectuate this compact's purposes and intent.

(b) The commission, which is entitled to receive service of process in any proceeding that may affect the powers, responsibilities, or actions of the commission and has standing to intervene in such a proceeding for all purposes. Failure to provide service of process in such proceeding to the

commission renders a judgment or order void as to the commission, this compact, or adopted rules.

(2) When the commission determines that a party state has defaulted in the performance of its obligations or responsibilities under this compact or the adopted rules, the commission shall:

(a) Provide written notice to the defaulting state and other party states of the nature of the default, the proposed means of curing the default, or any other action to be taken by the commission.

(b) Provide remedial training and specific technical assistance regarding the default.

(3) If a state in default fails to cure the default, the defaulting state's membership in this compact may be terminated upon an affirmative vote of a majority of the administrators, and all rights, privileges, and benefits conferred by this compact may be terminated on the effective date of termination. A cure of the default does not relieve the offending state of obligations or liabilities incurred during the period of default.

(4) Termination of membership in this compact shall be imposed only after all other means of securing compliance have been exhausted. Notice of intent to suspend or terminate shall be given by the commission to the governor of the defaulting state, to the executive officer of the defaulting state's licensing board, and each of the party states.

(5) A state whose membership in this compact is terminated is responsible for all assessments, obligations, and liabilities incurred through the effective date of termination, including obligations that extend beyond the effective date of termination.

(6) The commission shall not bear any costs related to a state that is found to be in default or whose membership in this compact is terminated unless agreed upon in writing between the commission and the defaulting state.

(7) The defaulting state may appeal the action of the commission by petitioning the United States District Court for the District of Columbia or the federal district in which the commission has its principal offices. The prevailing party shall be awarded all costs of such litigation, including reasonable attorney fees.

(8) Dispute resolution may be used by the commission in the following manner:

(a) Upon request by a party state, the commission shall attempt to resolve disputes related to the compact that arise among party states and between party and nonparty states.

(b) The commission shall adopt a rule providing for both mediation and binding dispute resolution for disputes, as appropriate.

(c) In the event the commission cannot resolve disputes among party states arising under this compact:

1. The party states may submit the issues in dispute to an arbitration panel, which will be comprised of individuals appointed by the compact administrator in each of the affected party states and an individual mutually agreed upon by the compact administrators of all the party states involved in the dispute.

2. The decision of a majority of the arbitrators is final and binding.

(9)(a) The commission shall, in the reasonable exercise of its discretion, enforce the provisions and rules of this compact.

(b) By majority vote, the commission may initiate legal action in the United States District Court for the District of Columbia or the federal district in which the commission has its principal offices against a party state that is in default to enforce compliance with this compact and its adopted rules and bylaws. The relief sought may include both injunctive relief and damages. In the event judicial enforcement is necessary, the prevailing party shall be awarded all costs of such litigation, including reasonable attorney fees.

(c) The remedies provided in this subsection are not the exclusive remedies of the commission. The commission may pursue any other remedies available under federal or state law.

ARTICLE X

EFFECTIVE DATE, WITHDRAWAL, AND AMENDMENT

(1) This compact becomes effective and binding on the date of legislative enactment of this compact into law by no fewer than 26 states or on December 31, 2018, whichever occurs first. All party states to this compact which were also parties to the prior Nurse Licensure Compact ("prior compact"), superseded by this compact, are deemed to have withdrawn from the prior compact within 6 months after the effective date of this compact.

- (2) Each party state to this compact shall continue to recognize a nurse's multistate licensure privilege to practice in that party state issued under the prior compact until such party state is withdrawn from the prior compact.
- (3) Any party state may withdraw from this compact by enacting a statute repealing the compact. A party state's withdrawal does not take effect until 6 months after enactment of the repealing statute.
- (4) A party state's withdrawal or termination does not affect the continuing requirement of the withdrawing or terminated state's licensing board to report adverse actions and significant investigations occurring before the effective date of such withdrawal or termination.
- (5) This compact does not invalidate or prevent any nurse licensure agreement or other cooperative arrangement between a party state and a nonparty state that is made in accordance with the other provisions of this compact.
- (6) This compact may be amended by the party states. An amendment to this compact does not become effective and binding upon the party states unless and until it is enacted into the laws of all party states.
- (7) Representatives of nonparty states to this compact shall be invited to participate in the activities of the commission, on a nonvoting basis, before the adoption of this compact by all party states.

ARTICLE XI

CONSTRUCTION AND SEVERABILITY

This compact shall be liberally construed so as to effectuate the purposes thereof. The provisions of this compact are severable, and if any phrase, clause, sentence, or provision of this compact is declared to be contrary to the constitution of any party state or of the United States, or if the applicability thereof to any government, agency, person, or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person, or circumstance is not affected thereby. If this compact is declared to be contrary to the constitution of any party state, the compact shall remain in full force and effect as to the remaining party states and in full force and effect as to the party state affected as to all severable matters.

464.0096 Nurse Licensure Compact; public records and meetings exemptions

According to 464.0096 regarding Nurse Licensure Compact; public records and meetings exemptions;

(1) A nurse's personal identifying information, other than the nurse's name, licensure status, or licensure number, obtained from the coordinated licensure information system, as defined in s. 464.0095, and held by the department or the board is exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution unless the state that originally reported the information to the coordinated licensure information system authorizes the disclosure of such information by law. Under such circumstances, the

information may only be disclosed to the extent permitted by the reporting state's law.

(2)(a) A meeting or portion of a meeting of the Interstate Commission of Nurse Licensure Compact Administrators established under s. 464.0095 at which matters specifically exempted from disclosure by federal or state statute are discussed is exempt from s. 286.011 and s. 24(b), Art. I of the State Constitution.

(b) Recordings, minutes, and records generated during an exempt meeting are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

(3) This section is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2021, unless reviewed and saved from repeal through reenactment by the Legislature.

464.012 Licensure of advanced practice registered nurses; fees; controlled substance prescribing.—

(1) Any nurse desiring to be licensed as an advanced practice registered nurse must apply to the department and submit proof that he or she holds a current license to practice professional nursing or holds an active multistate license to practice professional nursing pursuant to s. 464.0095 and that he or she meets one or more of the following requirements as determined by the board:

(a) Certification by an appropriate specialty board. Such certification is required for initial state licensure and any licensure renewal as a certified nurse midwife, certified nurse practitioner, certified registered nurse anesthetist, clinical nurse specialist, or psychiatric nurse. The board may by rule provide for provisional state licensure of certified registered nurse anesthetists, clinical nurse specialists, certified nurse practitioners, psychiatric nurses, and certified nurse midwives for a period of time determined to be appropriate for preparing for and passing the national certification examination.

(b) 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 is required for initial licensure as a certified nurse practitioner under paragraph (4)(a).

1. For applicants graduating on or after October 1, 2001, graduation from a master's degree program is required for initial licensure as a certified registered nurse anesthetist who may perform the acts listed in paragraph (4)(b).

2. For applicants graduating on or after October 1, 1998, graduation from a master's degree program is required for initial licensure as a certified nurse midwife who may perform the acts listed in paragraph (4)(c).

3. For applicants graduating on or after July 1, 2007, graduation from a master's degree program is required for initial licensure as a clinical nurse specialist who may perform the acts listed in paragraph (4)(d).

(2) The board shall provide by rule the appropriate requirements for advanced practice registered nurses for the advanced nursing practices of certified nurse midwives, certified nurse practitioners, certified registered nurse anesthetists, clinical nurse specialists, and psychiatric nurses.

(3) An advanced practice registered nurse shall perform those functions authorized in this section within the framework of an established protocol that must be maintained on site at the location or locations at which an advanced practice registered nurse practices. In the case of multiple supervising physicians in the same group, an advanced practice registered nurse must enter into a supervisory protocol with at least one physician within the physician group practice. 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 practice registered nurse may:

(a) Prescribe, dispense, administer, or order any drug; however, an advanced practice registered nurse may prescribe or dispense a controlled substance as defined in s. 893.03 only if the advanced practice registered nurse has graduated from a program leading to a master's or doctoral

degree in a clinical nursing specialty area with training in specialized practitioner skills.

- (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.
 - (e) Order any medication for administration to a patient in a facility licensed under chapter 395 or part II of chapter 400, notwithstanding any provisions in chapter 465 or chapter 893.
- (4) In addition to the general functions specified in subsection (3), an advanced practice registered nurse may perform the following acts within his or her specialty:
- (a) The certified nurse practitioner may perform any or all of the following acts within the framework of established protocol:
 - 1. Manage selected medical problems.
 - 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.
 - (b) 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.
 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.
- (c) 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.

(d) The clinical nurse specialist may perform any or all of the following acts within the framework of established protocol:

1. Assess the health status of individuals and families using methods appropriate to the population and area of practice.
2. Diagnose human responses to actual or potential health problems.
3. Plan for health promotion, disease prevention, and therapeutic intervention in collaboration with the patient or client.
4. Implement therapeutic interventions based on the nurse specialist's area of expertise and within the scope of advanced nursing practice, including, but not limited to, direct nursing care, counseling, teaching, and collaboration with other licensed health care providers.
5. Coordinate health care as necessary and appropriate and evaluate with the patient or client the effectiveness of care.

(e) A psychiatric nurse, who meets the requirements in s. 394.455(35), within the framework of an established protocol with a psychiatrist, may prescribe psychotropic controlled substances for the treatment of mental disorders.

(5) The board shall approve for licensure, and the department shall issue a license 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.

(6)(a) The board shall establish a committee to recommend a formulary of controlled substances that an advanced practice registered nurse may not prescribe or may prescribe only for specific uses or in limited quantities.

The committee must consist of three advanced practice registered nurses licensed under this section, recommended by the board; three physicians licensed under chapter 458 or chapter 459 who have work experience with advanced practice registered nurses, recommended by the Board of Medicine; and a pharmacist licensed under chapter 465 who is a doctor of pharmacy, recommended by the Board of Pharmacy. The committee may recommend an evidence-based formulary applicable to all advanced practice registered nurses which is limited by specialty certification, is limited to approved uses of controlled substances, or is subject to other similar restrictions the committee finds are necessary to protect the health, safety, and welfare of the public. The formulary must restrict the prescribing of psychiatric mental health controlled substances for children younger than 18 years of age to advanced practice registered nurses who also are psychiatric nurses as defined in s. 394.455. The formulary must also limit the prescribing of Schedule II controlled substances as listed in s. 893.03 to a 7-day supply, except that such restriction does not apply to controlled substances that are psychiatric medications prescribed by psychiatric nurses as defined in s. 394.455.

(b) The board shall adopt by rule the recommended formulary and any revision to the formulary which it finds is supported by evidence-based clinical findings presented by the Board of Medicine, the Board of Osteopathic Medicine, or the Board of Dentistry.

(c) The formulary required under this subsection does not apply to a controlled substance that is dispensed for administration pursuant to an order, including an order for medication authorized by subparagraph (4)(b)3., subparagraph (4)(b)4., or subparagraph (4)(b)9.

(d) The board shall adopt the committee's initial recommendation no later than October 31, 2016.

(7) This section shall be known as "The Barbara Lumpkin Prescribing Act."

(8) The department and board shall establish a transition timeline and process for practitioners certified as of September 30, 2018, as advanced registered nurse practitioners or clinical nurse specialists, to convert a certificate in good standing to a license that becomes effective on October

1, 2018, to practice as an advanced practice registered nurse. An advanced registered nurse practitioner or a clinical nurse specialist holding a certificate to practice in good standing on September 30, 2018, may continue to practice with all rights, authorizations, and responsibilities under this section for licensure as an advanced practice registered nurse and may use the applicable title under s. 464.015 after the effective date of this act while the department and board complete the transition from certification to licensure, as established under this act. This subsection may not be construed to limit or restrict the department's or board's disciplinary authority or enforcement responsibilities for safe nursing practice. This subsection expires on October 1, 2020.

464.013 Renewal of license or certificate

According to 464.013 regarding 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) 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 must be approved by the board.

(b) Notwithstanding the exemption in paragraph (a), as part of the maximum 30 hours of continuing education hours required under this subsection, advanced practice registered nurses licensed under s. 464.012 must complete at least 3 hours of continuing education on the safe and effective prescription of controlled substances. Such continuing education courses must be offered by a statewide professional association of physicians in this state accredited to provide educational activities designated for the American Medical Association Physician's Recognition Award Category 1 credit, the American Nurses Credentialing Center, the American Association of Nurse Anesthetists, or the American Association of Nurse Practitioners and may be offered in a distance learning format.

(c) Notwithstanding the exemption in paragraph (a), as part of the maximum biennial continuing education hours required under this subsection, the board shall require each person licensed or certified under this chapter to complete a 2-hour continuing education course on human trafficking, as defined in s. 787.06(2). The continuing education course must consist of data and information on the types of human trafficking, such as labor and sex, and the extent of human trafficking; factors that place a person at greater risk of being a victim of human trafficking; public and private social services available for rescue, food, clothing, and shelter referrals; hotlines for reporting human trafficking which are maintained by the National Human Trafficking Resource Center and the United States Department of Homeland Security; validated assessment tools for identifying a human trafficking victim and general indicators that a person may be a victim of human trafficking; procedures for sharing information related to human trafficking with a patient; and referral options for legal and social services. All licensees must complete this course for every biennial licensure renewal on or after January 1, 2019.

464.014

Inactive status

According to 464.014 regarding 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 Titles and abbreviations; restrictions; penalty

According to 464.015 regarding titles and abbreviations, restrictions, penalty;

- (1) Only a person who holds a license in this state or a multistate license pursuant to s. 464.0095 to practice professional nursing or who performs nursing services pursuant to the exception set forth in s. 464.022(8) may use the title “Registered Nurse” and the abbreviation “R.N.”
- (2) Only a person who holds a license in this state or a multistate license pursuant to s. 464.0095 to practice as a licensed practical nurse or who performs practical nursing services pursuant to the exception set forth in s. 464.022(8) may use the title “Licensed Practical Nurse” and the abbreviation “L.P.N.”
- (3) Only persons who are graduates of prelicensure nursing education programs listed in s. 464.008(1)(c) may use the term “Graduate Nurse” and the abbreviation “G.N.,” pending the results of the first licensure examination for which they are eligible.
- (4) Only persons who are graduates of prelicensure nursing education programs listed in s. 464.008(1)(c) may use the term “Graduate Practical Nurse” and the abbreviation “G.P.N.,” pending the results of the first licensure examination for which they are eligible.
- (5) Only persons who hold valid licenses to practice as clinical nurse specialists in this state may use the title “Clinical Nurse Specialist” and the abbreviation “C.N.S.”

- (6) Only persons who hold valid certificates to practice as certified registered nurse anesthetists in this state may use the title “Certified Registered Nurse Anesthetist” and the abbreviations “C.R.N.A.” or “nurse anesthetist.”
- (7) Only persons who hold valid certificates to practice as certified nurse midwives in this state may use the title “Certified Nurse Midwife” and the abbreviations “C.N.M.” or “nurse midwife.”
- (8) Only persons who hold valid licenses to practice as advanced practice registered nurses in this state may use the title “Advanced Practice Registered Nurse” and the abbreviation “A.P.R.N.”
- (9) A person may not practice or advertise as, or assume the title of, registered nurse, licensed practical nurse, clinical nurse specialist, certified registered nurse anesthetist, certified nurse midwife, certified nurse practitioner, or advanced practice registered nurse or use the abbreviation “R.N.,” “L.P.N.,” “C.N.S.,” “C.R.N.A.,” “C.N.M.,” “C.N.P.,” or “A.P.R.N.” or take any other action that would lead the public to believe that person was authorized by law to practice as such or is performing nursing services pursuant to the exception set forth in s. 464.022(8) unless that person is licensed, certified, or authorized pursuant to s. 464.0095 to practice as such.
- (10) A violation of this section is a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

464.016 Violations and penalties

According to 464.016 regarding violations and penalties;

(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 Practitioner,” “Certified Nurse Midwife,” “Advanced Practice Registered Nurse,” 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

According to 464.017 regarding to 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

According to 464.018 regarding disciplinary actions;

- (1) The following acts constitute grounds for denial of a license or disciplinary action, as specified in ss. 456.072(2) and 464.0095:
 - (a) Procuring, attempting to procure, or renewing a license to practice nursing or the authority to practice practical or professional nursing pursuant to s. 464.0095 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 guilty or 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.
 - (d) Being convicted or found guilty of, or entering a plea of guilty or nolo contendere to, regardless of adjudication, 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.
9. For an applicant for a multistate license or for a multistate license holder under s. 464.0095, a felony offense under Florida law or federal criminal law.
 - (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 nurse 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 nurse is unable to practice nursing because of the reasons stated in this paragraph, the authority to issue an order to compel a nurse to submit to a mental or physical examination by physicians designated by the department. If the nurse 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 nurse resides or does business. The nurse 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 closed to the public. The department shall be entitled to the summary procedure provided in s. 51.011. A nurse affected by 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 nurse knows is in violation of this part or of the rules of the department or the board.

However, a person who the licensee knows is unable to practice nursing with reasonable skill and safety to patients by reason of illness or use of alcohol, drugs, narcotics, chemicals, or any other type of material, or as a result of a mental or physical condition, may be reported to a consultant operating an impaired practitioner program as described in s. 456.076 rather than to the department.

(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 nurse is not qualified by training or experience.

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

(p) For an advanced practice registered nurse:

1. Presigning blank prescription forms.

2. Prescribing for office use any medicinal drug appearing on Schedule II in chapter 893.
3. Prescribing, ordering, dispensing, administering, supplying, selling, or giving a drug that is an amphetamine, a sympathomimetic amine drug, or a compound designated in s. 893.03(2) as a Schedule II controlled substance, to or for any person except for:
 - a. The treatment of narcolepsy; hyperkinesia; behavioral syndrome in children characterized by the developmentally inappropriate symptoms of moderate to severe distractibility, short attention span, hyperactivity, emotional lability, and impulsivity; or drug-induced brain dysfunction.
 - b. The differential diagnostic psychiatric evaluation of depression or the treatment of depression shown to be refractory to other therapeutic modalities.
 - c. The clinical investigation of the effects of such drugs or compounds when an investigative protocol is submitted to, reviewed by, and approved by the department before such investigation is begun.
4. Prescribing, ordering, dispensing, administering, supplying, selling, or giving growth hormones, testosterone or its analogs, human chorionic gonadotropin (HCG), or other hormones for the purpose of muscle building or to enhance athletic performance. As used in this subparagraph, the term “muscle building” does not include the treatment of injured muscle. A prescription written for the drug products identified in this subparagraph may be dispensed by a pharmacist with the presumption that the prescription is for legitimate medical use.
5. Promoting or advertising on any prescription form a community pharmacy unless the form also states: “This prescription may be filled at any pharmacy of your choice.”
6. Prescribing, dispensing, administering, mixing, or otherwise preparing a legend drug, including a controlled substance, other than in the course of his or her professional practice. For the purposes of this subparagraph, it is legally presumed that prescribing, dispensing, administering, mixing, or otherwise preparing legend drugs, including all controlled substances, inappropriately or in excessive or inappropriate quantities is not in the best

interest of the patient and is not in the course of the advanced practice registered nurse's professional practice, without regard to his or her intent.

7. Prescribing, dispensing, or administering a medicinal drug appearing on any schedule set forth in chapter 893 to himself or herself, except a drug prescribed, dispensed, or administered to the advanced practice registered nurse by another practitioner authorized to prescribe, dispense, or administer medicinal drugs.

8. Prescribing, ordering, dispensing, administering, supplying, selling, or giving amygdalin (laetrile) to any person.

9. Dispensing a substance designated in s. 893.03(2) or (3) as a substance controlled in Schedule II or Schedule III, respectively, in violation of s. 465.0276.

10. Promoting or advertising through any communication medium the use, sale, or dispensing of a substance designated in s. 893.03 as a controlled substance.

(q) For a psychiatric nurse:

1. Presigning blank prescription forms.

2. Prescribing for office use any medicinal drug appearing in Schedule II of s. 893.03.

3. Prescribing, ordering, dispensing, administering, supplying, selling, or giving a drug that is an amphetamine, a sympathomimetic amine drug, or a compound designated in s. 893.03(2) as a Schedule II controlled substance, to or for any person except for:

a. The treatment of narcolepsy; hyperkinesis; behavioral syndrome in children characterized by the developmentally inappropriate symptoms of moderate to severe distractibility, short attention span, hyperactivity, emotional lability, and impulsivity; or drug-induced brain dysfunction.

b. The differential diagnostic psychiatric evaluation of depression or the treatment of depression shown to be refractory to other therapeutic modalities.

- c. The clinical investigation of the effects of such drugs or compounds when an investigative protocol is submitted to, reviewed by, and approved by the department before such investigation is begun.
4. Prescribing, ordering, dispensing, administering, supplying, selling, or giving growth hormones, testosterone or its analogs, human chorionic gonadotropin (HCG), or other hormones for the purpose of muscle building or to enhance athletic performance. As used in this subparagraph, the term “muscle building” does not include the treatment of injured muscle. A prescription written for the drug products identified in this subparagraph may be dispensed by a pharmacist with the presumption that the prescription is for legitimate medical use.
5. Promoting or advertising on any prescription form a community pharmacy unless the form also states: “This prescription may be filled at any pharmacy of your choice.”
6. Prescribing, dispensing, administering, mixing, or otherwise preparing a legend drug, including a controlled substance, other than in the course of his or her professional practice. For the purposes of this subparagraph, it is legally presumed that prescribing, dispensing, administering, mixing, or otherwise preparing legend drugs, including all controlled substances, inappropriately or in excessive or inappropriate quantities is not in the best interest of the patient and is not in the course of the advanced practice registered nurse’s professional practice, without regard to his or her intent.
7. Prescribing, dispensing, or administering a medicinal drug appearing on any schedule set forth in chapter 893 to himself or herself, except a drug prescribed, dispensed, or administered to the psychiatric nurse by another practitioner authorized to prescribe, dispense, or administer medicinal drugs.
8. Prescribing, ordering, dispensing, administering, supplying, selling, or giving amygdalin (laetrile) to any person.
9. Dispensing a substance designated in s. 893.03(2) or (3) as a substance controlled in Schedule II or Schedule III, respectively, in violation of s. 465.0276.

10. Promoting or advertising through any communication medium the use, sale, or dispensing of a substance designated in s. 893.03 as a controlled substance.

(2)(a) 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 nurse who is found guilty of violating subsection (1) or s. 456.072(1).

(b) The board may take adverse action against a nurse's multistate licensure privilege and impose any of the penalties in s. 456.072(2) when the nurse is found guilty of violating subsection (1) or 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.

(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 Approval of Nursing Education Programs

According to 464.019 regarding approval of nursing education programs;

(1) PROGRAM APPLICATION

An educational institution that wishes to conduct a program in this state for the prelicensure education of professional or practical nurses must submit to the department a program application and review fee of \$1,000 for each prelicensure nursing education program to be offered at the institution's main campus, branch campus, or other instructional site. The program application must include the legal name of the educational institution, the legal name of the nursing education program, and, if such institution is accredited, the name of the accrediting agency. The application must also document that:

- (a)1. For a professional nursing education program, the program director and at least 50 percent of the program's faculty members are registered nurses who have a master's or higher degree in nursing or a bachelor's degree in nursing and a master's or higher degree in a field related to nursing.
2. For a practical nursing education program, the program director and at least 50 percent of the program's faculty members are registered nurses who have a bachelor's or higher degree in nursing.

The educational degree requirements of this paragraph may be documented by an official transcript or by a written statement from the educational institution verifying that the institution conferred the degree.

(b) The program's nursing major curriculum consists of at least:

1. Fifty percent clinical training in the United States, the District of Columbia, or a possession or territory of the United States for a practical nursing education program, an associate degree professional nursing education program, or a professional diploma nursing education program.
2. Forty percent clinical training in the United States, the District of Columbia, or a possession or territory of the United States for a bachelor's degree professional nursing education program.

(c) No more than 50 percent of the program's clinical training consists of clinical simulation.

(d) The program has signed agreements with each agency, facility, and organization included in the curriculum plan as clinical training sites and community-based clinical experience sites.

(e) The program has written policies for faculty which include provisions for direct or indirect supervision by program faculty or clinical preceptors for students in clinical training consistent with the following standards:

1. The number of program faculty members equals at least one faculty member directly supervising every 12 students unless the written agreement between the program and the agency, facility, or organization providing clinical training sites allows more students, not to exceed 18 students, to be directly supervised by one program faculty member.
2. For a hospital setting, indirect supervision may occur only if there is direct supervision by an assigned clinical preceptor, a supervising program faculty member is available by telephone, and such arrangement is approved by the clinical facility.

3. For community-based clinical experiences that involve student participation in invasive or complex nursing activities, students must be directly supervised by a program faculty member or clinical preceptor and such arrangement must be approved by the community-based clinical facility.

4. For community-based clinical experiences not subject to subparagraph 3., indirect supervision may occur only when a supervising program faculty member is available to the student by telephone.

A program's policies established under this paragraph must require that a clinical preceptor who is supervising students in a professional nursing education program be a registered nurse or, if supervising students in a practical nursing education program, be a registered nurse or licensed practical nurse.

(f) The professional or practical nursing curriculum plan documents clinical experience and theoretical instruction in medical, surgical, obstetric, pediatric, and geriatric nursing. A professional nursing curriculum plan shall also document clinical experience and theoretical instruction in psychiatric nursing. Each curriculum plan must document clinical training experience in appropriate settings that include, but are not limited to, acute care, long-term care, and community settings.

(g) The professional or practical nursing education program provides theoretical instruction and clinical application in personal, family, and community health concepts; nutrition; human growth and development throughout the life span; body structure and function; interpersonal relationship skills; mental health concepts; pharmacology and administration of medications; and legal aspects of practice. A professional nursing education program must also provide theoretical instruction and clinical application in interpersonal relationships and leadership skills; professional role and function; and health teaching and counseling skills.

(2) PROGRAM APPROVAL;

(a) Upon receipt of a program application and review fee, the department shall examine the application to determine if it is complete. If the application is not complete, the department shall notify the educational institution in writing of any errors or omissions within 30 days after the department's receipt of the application. A program application is deemed complete upon the department's receipt of:

1. The initial application, if the department does not notify the educational institution of any errors or omissions within the 30-day period; or
2. A revised application that corrects each error and omission of which the department notifies the educational institution within the 30-day period.

(b) Following the department's receipt of a complete program application, the board may conduct an onsite evaluation if necessary, to document the applicant's compliance with subsection (1). Within 90 days after the department's receipt of a complete program application, the board shall:

1. Approve the application if it documents compliance with subsection (1); or
2. Provide the educational institution with a notice of intent to deny the application if it does not document compliance with subsection (1). The notice must specify written reasons for the board's denial of the application. The board may not deny a program application because of an educational institution's failure to correct an error or omission that the department failed to provide notice of to the institution within the 30-day notice period under paragraph (a). The educational institution may request a hearing on the notice of intent to deny the program application pursuant to chapter 120.

(c) A program application is deemed approved if the board does not act within the 90-day review period provided under paragraph (b).

(d) Upon the board's approval of a program application, the program becomes an approved program.

(3) ANNUAL REPORT

By November 1 of each year, each approved program shall submit to the board an annual report comprised of an affidavit certifying continued compliance with subsection (1), a summary description of the program's compliance with subsection (1), and documentation for the previous academic year that, to the extent applicable, describes:

- (a) The number of student applications received, qualified applicants, applicants accepted, accepted applicants who enroll in the program, students enrolled in the program, and program graduates.
- (b) The program's retention rates for students tracked from program entry to graduation.
- (c) The program's accreditation status, including identification of the accrediting agency.

(4) INTERNET WEBSITE

The board shall publish the following information on its Internet website:

- (a) A list of each accredited program conducted in the state and the program's graduate passage rates for the most recent 2 calendar years, which the department shall determine through the following sources:
 - 1. For a program's accreditation status, the specialized accrediting agencies that are nationally recognized by the United States Secretary of Education to accredit nursing education programs.
 - 2. For a program's graduate passage rates, the contract testing service of the National Council of State Boards of Nursing.
- (b) The following data for each approved program, which includes, to the extent applicable:
 - 1. All documentation provided by the program in its program application if submitted on or after July 1, 2009.
 - 2. The summary description of the program's compliance submitted under subsection (3).

3. The program's accreditation status, including identification of the accrediting agency.
 4. The program's probationary status.
 5. The program's graduate passage rates for the most recent 2 calendar years.
 6. Each program's retention rates for students tracked from program entry to graduation.
- (c) The average passage rates for United States educated, first-time test takers on the National Council of State Boards of Nursing Licensing Examination for the most recent 2 calendar years, as calculated by the contract testing service of the National Council of State Boards of Nursing. The average passage rates shall be published separately for each type of comparable degree program listed in subparagraph (5)(a)1.

The information required to be published under this subsection shall be made available in a manner that allows interactive searches and comparisons of individual programs selected by the website user. The board shall update the Internet website at least quarterly with the available information.

(5) ACCOUNTABILITY

- (a)1. An approved program must achieve a graduate passage rate for first-time test takers which is not more than 10 percentage points lower than the average passage rate during the same calendar year for graduates of comparable degree programs who are United States educated, first-time test takers on the National Council of State Boards of Nursing Licensing Examination, as calculated by the contract testing service of the National Council of State Boards of Nursing. For purposes of this subparagraph, an approved program is comparable to all degree programs of the same program type from among the following program types:
- a. Professional nursing education programs that terminate in a bachelor's degree.

- b. Professional nursing education programs that terminate in an associate degree.
 - c. Professional nursing education programs that terminate in a diploma.
 - d. Practical nursing education programs.
2. Beginning with graduate passage rates for calendar year 2010, if an approved program's graduate passage rates do not equal or exceed the required passage rates for 2 consecutive calendar years, the board shall place the program on probationary status pursuant to chapter 120 and the program director shall appear before the board to present a plan for remediation, which shall include specific benchmarks to identify progress toward a graduate passage rate goal. The program must remain on probationary status until it achieves a graduate passage rate that equals or exceeds the required passage rate for any 1 calendar year. The board shall deny a program application for a new prelicensure nursing education program submitted by an educational institution if the institution has an existing program that is already on probationary status.
3. Upon the program's achievement of a graduate passage rate that equals or exceeds the required passage rate, the board, at its next regularly scheduled meeting following release of the program's graduate passage rate by the National Council of State Boards of Nursing, shall remove the program's probationary status. If the program, during the 2 calendar years following its placement on probationary status, does not achieve the required passage rate for any 1 calendar year, the board may extend the program's probationary status for 1 additional year, provided the program has demonstrated adequate progress toward the graduate passage rate goal by meeting a majority of the benchmarks established in the remediation plan. If the program is not granted the 1-year extension or fails to achieve the required passage rate by the end of such extension, the board shall terminate the program pursuant to chapter 120.
- (b) If an approved program fails to submit the annual report required in subsection (3), the board shall notify the program director and president or chief executive officer of the educational institution in writing within 15 days after the due date of the annual report. The program director shall appear before the board at the board's next regularly scheduled meeting to explain

the reason for the delay. The board shall terminate the program pursuant to chapter 120 if the program director fails to appear before the board, as required under this paragraph, or if the program does not submit the annual report within 6 months after the due date.

(c) A nursing education program, whether accredited or nonaccredited, which has been placed on probationary status shall disclose its probationary status in writing to the program's students and applicants. The notification must include an explanation of the implications of the program's probationary status on the students or applicants.

(d) If students from a program that is terminated pursuant to this subsection transfer to an approved or an accredited program under the direction of the Commission for Independent Education, the board shall recalculate the passage rates of the programs receiving the transferring students, excluding the test scores of those students transferring more than 12 credits.

(6) DISCLOSURE OF GRADUATE PASSAGE RATE DATA

(a) For each graduate of the program included in the calculation of the program's graduate passage rate, the department shall disclose to the program director, upon his or her written request, the name, examination date, and determination of whether each graduate passed or failed the National Council of State Boards of Nursing Licensing Examination, if such information is provided to the department by the contract testing service of the National Council of State Boards of Nursing. The written request must specify the calendar years for which the information is requested.

(b) A program director to whom confidential information exempt from public disclosure pursuant to s. 456.014 is disclosed under this subsection must maintain the confidentiality of the information and is subject to the same penalties provided in s. 456.082 for department employees who unlawfully disclose confidential information.

(7) PROGRAM CLOSURE

(a) An educational institution conducting an approved program or accredited program in this state, at least 30 days before voluntarily closing the program, shall notify the board in writing of the institution's reason for

closing the program, the intended closure date, the institution's plan to provide for or assist in the completion of training by the program's students, and the arrangements for storage of the program's permanent records.

(b) An educational institution conducting a nursing education program that is terminated under subsection (5) or closed under subparagraph (9)(b)3.:

1. May not accept or enroll new students.
2. Shall submit to the board within 30 days after the program is terminated or closed a written description of how the institution will assist in completing the training of the program's students and the institution's arrangements for storage of the program's permanent records.

(c) If an educational institution does not comply with paragraph (a) or paragraph (b), the board shall provide a written notice explaining the institution's noncompliance to the following persons and entities:

1. The president or chief executive officer of the educational institution.
2. The Board of Governors, if the program is conducted by a state university.
3. The district school board, if the program is conducted by an educational institution operated by a school district.
4. The Commission for Independent Education, if the program is conducted by an educational institution licensed under chapter 1005.
5. The State Board of Education, if the program is conducted by an educational institution in the Florida College System or by an educational institution that is not subject to subparagraphs 2.-4.

(d) A program that is terminated or closed under this section may not seek program approval under its original name or a new program name for a minimum of 3 years after the date of termination or closing. An institutional name change or the creation of a new educational institution with the same ownership does not reduce the waiting period for reapplication.

(8) RULEMAKING

The board does not have rulemaking authority to administer this section, except that the board shall adopt rules that prescribe the format for submitting program applications under subsection (1) and annual reports under subsection (3), and to administer the documentation of the accreditation of nursing education programs under subsection (11). The board may adopt rules relating to the nursing curriculum, including rules relating to the uses and limitations of simulation technology. The board may not impose any condition or requirement on an educational institution submitting a program application, an approved program, or an accredited program, except as expressly provided in this section.

(9) APPLICABILITY TO ACCREDITED PROGRAMS

(a) Subsections (1)-(3), paragraph (4)(b), and paragraph (5)(b) do not apply to an accredited program.

(b) If an accredited program ceases to be accredited, the educational institution conducting the program:

1. Within 10 business days after the program ceases to be accredited, must provide written notice of the date that the program ceased to be accredited to the board, the program's students and applicants, and each entity providing clinical training sites or community-based clinical experience sites for the program. The educational institution must continue to provide the written notice to new students, applicants, and entities providing clinical training sites or community-based clinical experience sites for the program until the program becomes an approved program or is closed under subparagraph 3.

2. Within 30 days after the program ceases to be accredited, must submit an affidavit to the board, signed by the educational institution's president or chief executive officer, which certifies the institution's compliance with subparagraph 1. The board shall notify the persons and applicable entities listed in paragraph (7)(c) if an educational institution does not submit the affidavit required by this subparagraph.

3. May apply to become an approved program under this section. If the educational institution:
 - a. Within 30 days after the program ceases to be accredited, submits a program application and review fee to the department under subsection (1) and the affidavit required under subparagraph 2., the program shall be deemed an approved program from the date that the program ceased to be accredited until the date that the board approves or denies the program application. The program application must be denied by the board pursuant to chapter 120 if it does not contain the affidavit. If the board denies the program application under subsection (2) or if the program application does not contain the affidavit, the program shall be closed and the educational institution conducting the program must comply with paragraph (7)(b).
 - b. Does not apply to become an approved program pursuant to subparagraph a., the program shall be deemed an approved program from the date the program ceased to be accredited until the 31st day after that date. On the 31st day after the program ceased to be accredited, the program shall be closed and the educational institution conducting the program must comply with paragraph (7)(b).

(10) IMPLEMENTATION STUDY

The Florida Center for Nursing shall study the administration of this section and submit reports to the Governor, the President of the Senate, and the Speaker of the House of Representatives annually by January 30, through January 30, 2020. The annual reports shall address the previous academic year; provide data on the measures specified in paragraphs (a) and (b), as such data becomes available; and include an evaluation of such data for purposes of determining whether this section is increasing the availability of nursing education programs and the production of quality nurses. The department and each approved program or accredited program shall comply with requests for data from the Florida Center for Nursing.

(a) The Florida Center for Nursing shall evaluate program-specific data for each approved program and accredited program conducted in the state, including, but not limited to:

1. The number of programs and student slots available.
2. The number of student applications submitted, the number of qualified applicants, and the number of students accepted.
3. The number of program graduates.
4. Program retention rates of students tracked from program entry to graduation.
5. Graduate passage rates on the National Council of State Boards of Nursing Licensing Examination.
6. The number of graduates who become employed as practical or professional nurses in the state.

(b) The Florida Center for Nursing shall evaluate the board's implementation of the:

1. Program application approval process, including, but not limited to, the number of program applications submitted under subsection (1); the number of program applications approved and denied by the board under subsection (2); the number of denials of program applications reviewed under chapter 120; and a description of the outcomes of those reviews.
2. Accountability processes, including, but not limited to, the number of programs on probationary status, the number of approved programs for which the program director is required to appear before the board under subsection (5), the number of approved programs terminated by the board, the number of terminations reviewed under chapter 120, and a description of the outcomes of those reviews.

(c) The Florida Center for Nursing shall complete an annual assessment of compliance by programs with the accreditation requirements of subsection (11), include in the assessment a determination of the accreditation process status for each program, and submit the assessment as part of the reports required by this subsection.

(11) ACCREDITATION REQUIRED

- (a) A nursing education program that prepares students for the practice of professional nursing, that was approved under this section before July 1, 2014, and that enrolled students before July 1, 2014, must become an accredited program by July 1, 2019.
- (b) A nursing education program that prepares students for the practice of professional nursing and that was approved under this section before July 1, 2014, but did not enroll students before that date, must become an accredited program within 5 years after the date of enrolling the program's first students.
- (c) A nursing education program that prepares students for the practice of professional nursing and that is approved under this section after June 30, 2014, must become an accredited program within 5 years after the date of enrolling the program's first students.
- (d) This subsection does not apply to a nursing education program provided by an institution that is exempt from licensure by the Commission for Independent Education under s. 1005.06(1)(e).
- (e) A nursing education program that fails to meet the accreditation requirements shall be terminated and is ineligible for reapproval under its original name or a new program name for a minimum of 3 years after the date of termination. An institutional name change or the creation of a new educational institution with the same ownership does not reduce the waiting period for reapplication.

464.0205 Retired volunteer nurse certificate

According to 464.0205 regarding 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 practice registered nurse licensed 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 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 certificate holder may reapply for a certificate so long as the certificate holder 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.

According to 464.022 regarding exceptions. No provision of this part shall be construed to prohibit:

- (1) The care of the sick by friends or members of the family without compensation, the incidental care of the sick by domestic servants, or the incidental care of noninstitutionalized persons by a surrogate family.
- (2) Assistance by anyone in the case of an emergency.
- (3) The practice of nursing by students enrolled in approved schools of nursing.
- (4) The practice of nursing by graduates of prelicensure nursing education programs listed in s. 464.008(1)(c), pending the result of the first licensing examination for which they are eligible following graduation, provided they practice under direct supervision of a registered professional nurse. The board shall by rule define what constitutes direct supervision.
- (5) The rendering of services by nursing assistants acting under the direct supervision of a registered professional nurse.
- (6) Any nurse practicing in accordance with the practices and principles of the body known as the Church of Christ Scientist; nor shall any rule of the board apply to any sanitarium, nursing home, or rest home operated in accordance with the practices and principles of the body known as the Church of Christ Scientist.
- (7) The practice of any legally qualified nurse or licensed attendant of another state who is employed by the United States Government, or any bureau, division, or agency thereof, while in the discharge of official duties.

- (8) Any nurse currently licensed in another state or territory of the United States from performing nursing services in this state for a period of 60 days after furnishing to the employer satisfactory evidence of current licensure in another state or territory and having submitted proper application and fees to the board for licensure prior to employment. If the nurse licensed in another state or territory is relocating to this state pursuant to his or her military-connected spouse's official military orders, this period shall be 120 days after furnishing to the employer satisfactory evidence of current licensure in another state or territory and having submitted proper application and fees to the board for licensure prior to employment. The board may extend this time for administrative purposes when necessary.
- (9) The rendering of nursing services on a fee-for-service basis, or the reimbursement for nursing services directly to a nurse rendering such services by any government program, commercial insurance company, hospital or medical services plan, or any other third-party payor.
- (10) The establishment of an independent practice by one or more nurses for the purpose of rendering to patients nursing services within the scope of the nursing license.
- (11) The furnishing of hemodialysis treatments in a patient's home, using an assistant chosen by the patient, provided that the assistant is properly trained, as defined by the board by rule, and has immediate telephonic access to a registered nurse who is licensed pursuant to this part and who has dialysis training and experience.
- (12) The practice of nursing by any legally qualified nurse of another state whose employment requires the nurse to accompany and care for a patient temporarily residing in this state for not more than 30 consecutive days, provided the patient is not in an inpatient setting, the board is notified prior to arrival of the patient and nurse, the nurse has the standing physician orders and current medical status of the patient available, and prearrangements with the appropriate licensed health care providers in this state have been made in case the patient needs placement in an inpatient setting.
- (13) The practice of nursing by individuals enrolled in board-approved remedial courses.

464.027 Registered nurse first assistant

According to 464.027 regarding Registered nurse first assistant;

(1) LEGISLATIVE INTENT;

The purposes of this section are to:

(a) Encourage the use of registered nurse first assistants who meet the qualifications of this section as “assistants at surgery” by physicians and hospitals to provide quality, cost-effective surgical intervention to health care recipients in the state.

(b) Provide for reimbursement for the registered nurse first assistant from managed health care agencies, state agencies, workers’ compensation carriers, and private insurance companies.

(2) DEFINITIONS - as used in this section, the term:

(a) “Perioperative nursing” means a practice of nursing in which the nurse provides preoperative, intraoperative, and postoperative nursing care to surgical patients.

(b) “Recognized program” means a program that:

1. Addresses all content of the Association of Operating Room Nurses, Inc. Core Curriculum for the Registered Nurse First Assistant, and
2. Includes 1 academic year, defined as 45 hours of didactic instruction and 120 hours of clinical internship or its equivalent of 2 college semesters.

(c) “Registered nurse first assistant” means a person who meets the qualifications listed in this section.

(3) QUALIFICATIONS

A registered nurse first assistant is any person who:

- (a) Is licensed as a registered nurse under this part;
- (b) Is certified in perioperative nursing; and
- (c) Holds a certificate from, and has successfully completed, a recognized program.

(4) INSTITUTIONAL POWERS. Each health care institution must establish specific procedures for the appointment and reappointment of registered nurse first assistant staff members and for granting, renewing, and revising their clinical privileges.

464.003 Definitions

According to the Florida Statutes chapter 464.003 regarding

Definitions as used in this part, the term:

(1) “Accredited program” means a program for the prelicensure education of professional or practical nurses that is conducted in the United States at an educational institution, whether in this state, another state, or the District of Columbia, and that is accredited by a specialized nursing accrediting agency that is nationally recognized by the United States Secretary of Education to accredit nursing education programs.

(2) “Advanced or specialized nursing practice” means, in addition to the practice of professional nursing, the performance of advanced-level nursing acts approved by the board which, by virtue of post basic specialized education, training, and experience, are appropriately performed by an advanced practice registered nurse. Within the context of advanced or specialized nursing practice, the advanced practice registered nurse may

perform acts of nursing diagnosis and nursing treatment of alterations of the health status. The advanced practice registered nurse may also perform acts of medical diagnosis and treatment, prescription, and operation as authorized within the framework of an established supervisory protocol. The department may, by rule, require that a copy of the protocol be filed with the department along with the notice required by s. 458.348.

(3) “Advanced practice registered nurse” means any person licensed in this state to practice professional nursing and who is licensed in an advanced nursing practice, including certified nurse midwives, certified nurse practitioners, certified registered nurse anesthetists, clinical nurse specialists, and psychiatric nurses.

(4) “Approved program” means a program for the prelicensure education of professional or practical nurses that is conducted in the state at an educational institution and that is approved under s. 464.019. The term includes such a program placed on probationary status.

(5) “Board” means the Board of Nursing.

(6) “Clinical preceptor” means a registered nurse or licensed practical nurse who is employed by a clinical training facility to serve as a role model and clinical resource person for a specified period to students enrolled in an approved program.

(7) “Clinical simulation” means a strategy used to replicate clinical practice as closely as possible to teach theory, assessment, technology, pharmacology, and skills.

(8) “Clinical training” means direct nursing care experiences with patients or clients, or clinical simulation of such experiences, which offer the student the opportunity to integrate, apply, and refine specific skills and abilities based on theoretical concepts and scientific principles.

(9) “Community-based clinical experience” means activities consistent with the curriculum and involving individuals, families, and groups with the intent of promoting wellness, maintaining health, and preventing illness.

(10) “Curriculum” means a planned sequence of course offerings and learning experiences that comprise a nursing education program.

(11) “Department” means the Department of Health.

- (12) “Educational institution” means a school, college, or university.
- (13) “Graduate passage rate” means the percentage of a program’s graduates who, as first-time test takers, pass the National Council of State Boards of Nursing Licensing Examination during a calendar year, as calculated by the contract testing service of the National Council of State Boards of Nursing.
- (14) “Licensed practical nurse” means any person licensed in this state or holding an active multistate license under s. 464.0095 to practice practical nursing.
- (15) “Nursing diagnosis” means the observation and evaluation of physical or mental conditions, behaviors, signs and symptoms of illness, and reactions to treatment and the determination as to whether such conditions, signs, symptoms, and reactions represent a deviation from normal.
- (16) “Nursing treatment” means the establishment and implementation of a nursing regimen for the care and comfort of individuals, the prevention of illness, and the education, restoration, and maintenance of health.
- (17) “Practice of practical nursing” means the performance of selected acts, including the administration of treatments and medications, in the care of the ill, injured, or infirm; the promotion of wellness, maintenance of health, and prevention of illness of others under the direction of a registered nurse, a licensed physician, a licensed osteopathic physician, a licensed podiatric physician, or a licensed dentist; and the teaching of general principles of health and wellness to the public and to students other than nursing students. A practical nurse is responsible and accountable for making decisions that are based upon the individual’s educational preparation and experience in nursing.
- (18) “Practice of professional nursing” means the performance of those acts requiring substantial specialized knowledge, judgment, and nursing skill based upon applied principles of psychological, biological, physical, and social sciences which shall include, but not be limited to:
- (a) The observation, assessment, nursing diagnosis, planning, intervention, and evaluation of care; health teaching and counseling of the

ill, injured, or infirm; and the promotion of wellness, maintenance of health, and prevention of illness of others.

(b) The administration of medications and treatments as prescribed or authorized by a duly licensed practitioner authorized by the laws of this state to prescribe such medications and treatments.

(c) The supervision and teaching of other personnel in the theory and performance of any of the acts described in this subsection.

A professional nurse is responsible and accountable for making decisions that are based upon the individual's educational preparation and experience in nursing.

(19) "Probationary status" means the status of an approved program that is placed on such status pursuant to s. 464.019.

(20) "Registered nurse" means any person licensed in this state or holding an active multistate license under s. 464.0095 to practice professional nursing.

(21) "Required passage rate" means the graduate passage rate required for an approved program pursuant to s. 464.019(5)(a).

Florida Administrative Code

64B9

Click on the links for more information and New updates:

<u>Chapter No.</u>	<u>Chapter Title</u>
<u>64B9-1</u>	ORGANIZATION
<u>64B9-2</u>	NURSING PROGRAMS
<u>64B9-3</u>	REQUIREMENTS FOR LICENSURE
<u>64B9-4</u>	ADMINISTRATIVE POLICIES PERTAINING TO CERTIFICATION OF ADVANCED REGISTERED NURSE PRACTITIONERS
<u>64B9-5</u>	CONTINUING EDUCATION REQUIREMENTS
<u>64B9-6</u>	INACTIVE STATUS AND REACTIVATION OF INACTIVE LICENSE
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<u>64B9-16</u>	LPN SUPERVISION IN NURSING HOME FACILITIES.
<u>64B9-17</u>	ROLE OF THE REGISTERED NURSE IN CONSCIOUS SEDATION

64B9-5.002 Continuing Education Requirement

According to 64B9-5.002 regarding continuing Education Requirement;

- (1) During each biennium, one contact hour must be earned for each calendar month of the licensure cycle.
- (2) The following continuing education courses are a mandatory part of the hours required in subsection (1), at the stated time periods:
 - (a) A two hour course in prevention of medical errors each biennium;
 - (b) A one hour course in HIV/AIDS in the first biennium only;
 - (c) A two hour course in Florida laws and rules each biennium;
 - (d) A two hour course in recognizing impairment in the workplace every other biennium thereafter;
 - (e) For biennial renewal on or after January 1, 2019, a two hour course on human trafficking, and each biennium thereafter;
 - (f) A course in domestic violence every third biennium.
- (3) 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.

(4) 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.

(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.

Certified Nursing Assistants

According to 464.202 regarding duties and powers of the board; the board shall maintain, or contract with or approve another entity to maintain, a state registry of certified nursing assistants.

The registry must consist of the name of each certified nursing assistant in this state; other identifying information defined by board rule; certification status; the effective date of certification; other information required by state or federal law; information regarding any crime or any abuse, neglect, or exploitation as provided under chapter 435; and any disciplinary action taken against the certified nursing assistant.

The registry shall be accessible to the public, the certificate holder, employers, and other state agencies. The board shall adopt by rule testing procedures for use in certifying nursing assistants and shall adopt rules regulating the practice of certified nursing assistants and specifying the scope of practice authorized and the level of supervision required for the practice of certified nursing assistants.

The board may contract with or approve another entity or organization to provide the examination services, including the development and administration of examinations.

The board shall require that the contract provider offer certified nursing assistant applications via the Internet, and may require the contract provider to accept certified nursing assistant applications for processing via the Internet.

The board shall require the contract provider to provide the preliminary results of the certified nursing examination on the date the test is administered. The provider shall pay all reasonable costs and expenses incurred by the board in evaluating the provider's application and

performance during the delivery of services, including examination services and procedures for maintaining the certified nursing assistant registry.

464.203 Certified nursing assistants; certification requirement

According to 464.203 regarding 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.

(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 24 hours of in-service training during each biennium. The certified nursing assistant shall maintain documentation demonstrating compliance with 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.

According to 464.204 regarding 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.
- (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 the department's impaired practitioner program operated by a consultant as described in s. 456.076.
- (3) The board may, upon the request of a certificate holder, exempt the certificate holder 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

According to 464.205 regarding the 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

According to 464.206 regarding 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.

464.207 Penalties

According to 464.207 regarding 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 certificate holder.

464.208 Background screening information; rulemaking authority

According to 464.208 regarding 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.

[For more information on CHAPTER 456 CLICK HERE](#)

ADVANCE DIRECTIVES

Health Care Advance Directives

THE PATIENT'S RIGHT TO DECIDE

This is a very important topic to discuss as individuals are being asked to participate in making decisions about end of life wishes and care. Every competent adult has the right to make decisions regarding his or her own health, which includes the right to choose or refuse medical treatment.

When an individual becomes unable to make decisions due to a physical or mental change, such as being in a coma or other conditions or disease such as Alzheimer's disease, they are considered incapacitated.

Only the patient's primary physician can determine if they are incapacitated. To make sure that an incapacitated person's decisions about health care will still be respected, the Florida legislature enacted legislation pertaining to health care advance directives (Chapter 765, Florida Statutes). Check your state for the specific legislature. See also the attached resources.

The law recognizes the rights of a competent adult to make an advance directive which will:

- o Instruct his or her physician to provide, withdraw or withhold life-prolonging procedures
- o Designate another individual to make treatment decisions if the person becomes unable to make his or her own decisions and /or
- o Indicate the desire to make an anatomical donation after death.

Also, the law states that the individuals do not have to be incapacitated to elect a health care surrogate to make their decisions.

By law hospitals, long term health care facilities; nursing homes, home health agencies, hospices, health maintenance organizations (HMOs) are required to provide their patients with written information concerning health care advance directives.

ADVANCE DIRECTIVES

An Advance Directive is a written or oral statement about how individuals want medical decisions made in the event that they are not able to make them themselves and/or it can express the individuals' wish to make an anatomical donation after death. Communicating wishes about end of life wishes or care will ensure that patients with terminal illnesses face the end of their lives with dignity.

Some individuals make advance directives when they are diagnosed with a life-threatening illness. Others put their wishes into writing while they are healthy, sometimes as part of their estate planning.

Three types of advance directives are:

- o A Living Will
- o A Health Care Surrogate Designation
- o An Anatomical Donation

Some individuals may choose to complete one, two, or all three of these forms; to best serve their needs.

LIVING WILL

A Living will is a written or oral statement of the kind of medical care the resident/ patient or individual want or do not want if they become unable to make their own decisions. It is referred to as a “living will” because it becomes effective while the individuals are still living. Each individual may wish to speak to their attorney or health care provider to be certain they have completed the living will in a way that their wishes will be understood.

HEALTH CARE SURROGATE DESIGNATION

A Health Care Surrogate Designation is a document which has the name of another person as the representative to make medical decisions for the patient if he /she is unable to make the decisions themselves. The patient /individual may include instructions about any treatment that they want or do not want. The patient can also designate an alternate surrogate.

ANATOMICAL DONATION

An Anatomical Donation is a document that indicates the individuals’ wish to donate all or part of their body; at death. This donation can be an organ and tissue donation to people in need, or donation of their body for training of health care workers.

The individuals can indicate their choice to be an organ donor by designating it on their driver’s license or on their state identification card; this may be done at the driver’s license office. The individuals may also sign a uniform donor form or expressing their wish in a living will.

The individual may wish to complete any one or a combination of the three types of advance directives depending on the individual’s needs. Within the state of Florida, there is no legal requirement to complete an advance directive. However,

if the individual does not make an advance directive, decisions about his/ her health care or an anatomical donation may be made for them by:

- o A court-appointed guardian,
- o A spouse (wife or husband),
- o Their adult child,
- o Their parent,
- o Their adult sibling,
- o An adult relative or
- o A close friend.

Sometimes the person making decisions for the patient/ resident may or may not be aware of their wishes. When an advance directive is made and is reviewed or discussed with the significant person in their lives, it will better ensure that the patients' wishes will be carried out the way they desired it to be done.

The advance directive procedures are simple and do not require an attorney; however, the individual may choose to consult one. An advance directive completed in another state, as described in that state's law, can be honored in Florida.

WITNESSES

An advance directive, a written document or an oral statement, needs to be witnessed by two individuals. At least one of the witnesses cannot be a blood relative or a spouse. Many states including Florida law provides a sample of each of the following forms: a living will, a health care surrogate, and an anatomical donation.

CANCEL OR CHANGE AN ADVANCE DIRECTIVES?

An individual may change or cancel an advance directive at any time. Changes should be written, signed and dated. Changes may also be by oral statement, physical destruction of the advance directive or by writing a new advance directive. If the individual has a driver's license or state identification card that indicates that he/ she is an organ donor, but he/ she no longer want this designation, the individual should contact the nearest driver's license office to cancel the donor designation and a new license or card will be issued to them.

When the individual chooses to have an advance directive:

If the patient/ individual designates a health care surrogate and an alternate surrogate it is best to ask them if they agree to take this responsibility and also to review / discuss how matters should be handled,

It is also best to give them a copy of the document,

The patients/ individuals should make sure that their health care provider, attorney, and the significant people in their lives know that they have an advance directive and where it is located. Giving them a copy will also be helpful.

The patients/ individuals can set up a file where they can keep a copy of their advance directive as well as other important papers. Some individuals may keep original papers in a bank safety deposit box.

The patients/ individuals may keep a card or note in their wallet, purse / bag that states that they have an advance directive and where it is located; so that it will be found when needed.

WHEN CHANGES ARE MADE

When the patients/ individuals have made changes to their advance directive, they need to make sure that their health care provider, attorney and the significant persons in their lives have the updated copy.

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