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## The 2013 Florida Statutes

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REGULATION OF PROFESSIONS AND OCCUPATIONS

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NURSING

**CHAPTER 464**  
**NURSING**

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**NURSE PRACTICE ACT**  
(ss. 464.001-464.027)

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**PART I**  
**NURSE PRACTICE ACT**

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**464.001 Short title.**—This part may be cited as the “Nurse Practice Act.”

History.—ss. 1, 6, ch. 79-225; ss. 2, 3, ch. 81-318; ss. 1, 17, 18, ch. 86-284; s. 58, ch. 91-137; s. 5, ch. 91-156; s. 4, ch. 91-429; s. 119, ch. 2000-318.

**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.

History.—ss. 1, 6, ch. 79-225; ss. 2, 3, ch. 81-318; ss. 2, 17, 18, ch. 86-284; s. 58, ch. 91-137; s. 5, ch. 91-156; s. 4, ch. 91-429; s. 120, ch. 2000-318.

**464.003 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 postbasic specialized education, training, and experience, are appropriately performed by an advanced registered nurse practitioner. Within the context of advanced or specialized nursing practice, the advanced registered nurse practitioner may perform acts of nursing diagnosis and nursing treatment of alterations of the health status. The advanced registered nurse practitioner may also perform acts of medical diagnosis and treatment, prescription, and operation which are identified and approved by a joint committee composed of three members appointed by the Board of Nursing, two of whom must be advanced registered nurse practitioners; three members appointed by the Board of Medicine, two of whom must have had work experience with advanced registered nurse practitioners; and the State Surgeon General or the State Surgeon General’s designee. Each committee member appointed by a board shall be appointed to a term of 4 years unless a shorter term is required to establish or maintain staggered terms. The Board of Nursing shall adopt rules authorizing the performance of any such acts approved by the joint committee. Unless otherwise specified by the joint committee, such acts must be performed under the general supervision of a practitioner licensed under chapter 458, chapter 459, or chapter 466 within the framework of standing protocols which identify the medical acts to be performed and the conditions for their performance. 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 registered nurse practitioner” means any person licensed in this state to practice professional nursing and certified in advanced or specialized nursing practice, including certified registered nurse anesthetists, certified nurse midwives, and nurse practitioners.

(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 nurse specialist” means any person licensed in this state to practice professional nursing and certified in clinical nurse specialist practice.

(7) “Clinical nurse specialist practice” means the delivery and management of advanced practice nursing care to individuals or groups, including the ability to:

- (a) Assess the health status of individuals and families using methods appropriate to the population and area of practice.
  - (b) Diagnose human responses to actual or potential health problems.
  - (c) Plan for health promotion, disease prevention, and therapeutic intervention in collaboration with the patient or client.
  - (d) 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.
  - (e) Coordinate health care as necessary and appropriate and evaluate with the patient or client the effectiveness of care.
- (8) "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.
- (9) "Clinical simulation" means a strategy used to replicate clinical practice as closely as possible to teach theory, assessment, technology, pharmacology, and skills.
- (10) "Clinical training" means direct nursing care experiences with patients or clients which offer the student the opportunity to integrate, apply, and refine specific skills and abilities based on theoretical concepts and scientific principles.
- (11) "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.
- (12) "Curriculum" means a planned sequence of course offerings and learning experiences that comprise a nursing education program.
- (13) "Department" means the Department of Health.
- (14) "Educational institution" means a school, college, or university.
- (15) "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.
- (16) "Licensed practical nurse" means any person licensed in this state to practice practical nursing.
- (17) "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.
- (18) "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.
- (19) "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 and 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. A practical nurse is responsible and accountable for making decisions that are based upon the individual's educational preparation and experience in nursing.
- (20) "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.

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

(22) "Registered nurse" means any person licensed in this state to practice professional nursing.

(23) "Required passage rate" means the graduate passage rate required for an approved program pursuant to s. 464.019(6)(a)1.

History.—ss. 1, 6, ch. 79-225; ss. 2, 3, ch. 81-318; ss. 3, 4, ch. 82-32; ss. 3, 17, 18, ch. 86-284; s. 18, ch. 88-392; s. 58, ch. 91-137; s. 5, ch. 91-156; s. 4, ch. 91-429; s. 121, ch. 94-218; s. 1, ch. 96-274; s. 76, ch. 97-264; s. 210, ch. 98-166; s. 121, ch. 2000-318; s. 1, ch. 2007-167; s. 82, ch. 2008-6; s. 1, ch. 2009-168; s. 2, ch. 2010-37.

#### **464.004 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 registered nurse practitioner, 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.

History.—ss. 1, 6, ch. 79-225; ss. 2, 3, ch. 81-318; ss. 4, 17, 18, ch. 86-284; s. 15, ch. 87-172; ss. 12, 58, ch. 91-137; s. 5, ch. 91-156; s. 4, ch. 91-429; s. 122, ch. 94-218; s. 3, ch. 96-274; s. 77, ch. 97-264; s. 66, ch. 98-166; s. 123, ch. 2000-160.

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

History.—ss. 1, 6, ch. 79-225; ss. 2, 3, ch. 81-318; ss. 17, 18, ch. 86-284; s. 58, ch. 91-137; s. 5, ch. 91-156; s. 4, ch. 91-429; s. 94, ch. 2001-277.

#### **464.006 Rulemaking authority.—The board has authority to adopt rules pursuant to ss. 120.536**

(1) and 120.54 to implement the provisions of this part conferring duties upon it.

History.—ss. 1, 6, ch. 79-225; ss. 2, 3, ch. 81-318; ss. 5, 17, 18, ch. 86-284; s. 58, ch. 91-137; s. 5, ch. 91-156; s. 4, ch. 91-429; s. 125, ch. 98-200; s. 122, ch. 2000-318.

**464.008 Licensure by examination.—**

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

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

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

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

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

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

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

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

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

History.—ss. 1, 6, ch. 79-225; ss. 2, 3, ch. 81-318; ss. 6, 17, 18, ch. 86-284; s. 12, ch. 88-205; s. 10, ch. 88-219; s. 34, ch. 89-162; s. 58, ch. 91-137; s. 5, ch. 91-156; s. 4, ch. 91-429; s. 94, ch. 92-149; s. 5, ch. 96-274; s. 78, ch. 97-264; s. 116, ch. 99-397; s. 95, ch. 2001-277; s. 3, ch. 2010-37.

**464.009 Licensure by endorsement.—**

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

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

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

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

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

History.—ss. 1, 6, ch. 79-225; ss. 2, 3, ch. 81-318; ss. 7, 17, 18, ch. 86-284; s. 1, ch. 87-240; s. 58, ch. 91-137; s. 5, ch. 91-156; s. 4, ch. 91-429; s. 6, ch. 96-274; s. 1104, ch. 97-103; s. 79, ch. 97-264; s. 123, ch. 2000-318; s. 96, ch. 2001-277; s. 5, ch. 2002-230; s. 9, ch. 2004-230.

#### 464.0115 Certification of clinical nurse specialists.—

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

(a) Proof of current certification in a specialty area as a clinical nurse specialist from a nationally recognized certifying body as determined by the board; or

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

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

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

History.—s. 2, ch. 2007-167; s. 1, ch. 2008-164.

#### **464.012 Certification of advanced registered nurse practitioners; fees.—**

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

(a) Satisfactory completion of a formal postbasic educational program of at least one academic year, the primary purpose of which is to prepare nurses for advanced or specialized practice.

(b) Certification by an appropriate specialty board. Such certification shall be required for initial state certification and any recertification as a registered nurse anesthetist or nurse midwife. The board may by rule provide for provisional state certification of graduate nurse anesthetists and nurse midwives for a period of time determined to be appropriate for preparing for and passing the national certification examination.

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

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

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

specific course of medical treatment. Within the established framework, an advanced registered nurse practitioner may:

- (a) Monitor and alter drug therapies.
- (b) Initiate appropriate therapies for certain conditions.
- (c) Perform additional functions as may be determined by rule in accordance with s. 464.003(2).
- (d) Order diagnostic tests and physical and occupational therapy.

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

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

1. Determine the health status of the patient as it relates to the risk factors and to the anesthetic management of the patient through the performance of the general functions.
2. Based on history, physical assessment, and supplemental laboratory results, determine, with the consent of the responsible physician, the appropriate type of anesthesia within the framework of the protocol.
3. Order under the protocol preanesthetic medication.
4. Perform under the protocol procedures commonly used to render the patient insensible to pain during the performance of surgical, obstetrical, therapeutic, or diagnostic clinical procedures. These procedures include ordering and administering regional, spinal, and general anesthesia; inhalation agents and techniques; intravenous agents and techniques; and techniques of hypnosis.
5. Order or perform monitoring procedures indicated as pertinent to the anesthetic health care management of the patient.
6. Support life functions during anesthesia health care, including induction and intubation procedures, the use of appropriate mechanical supportive devices, and the management of fluid, electrolyte, and blood component balances.
7. Recognize and take appropriate corrective action for abnormal patient responses to anesthesia, adjunctive medication, or other forms of therapy.
8. Recognize and treat a cardiac arrhythmia while the patient is under anesthetic care.
9. Participate in management of the patient while in the postanesthesia recovery area, including ordering the administration of fluids and drugs.
10. Place special peripheral and central venous and arterial lines for blood sampling and monitoring as appropriate.

(b) The certified nurse midwife may, to the extent authorized by an established protocol which has been approved by the medical staff of the health care facility in which the midwifery services are performed, or approved by the nurse midwife's physician backup when the delivery is performed in a patient's home, perform any or all of the following:

1. Perform superficial minor surgical procedures.
2. Manage the patient during labor and delivery to include amniotomy, episiotomy, and repair.
3. Order, initiate, and perform appropriate anesthetic procedures.
4. Perform postpartum examination.
5. Order appropriate medications.
6. Provide family-planning services and well-woman care.
7. Manage the medical care of the normal obstetrical patient and the initial care of a newborn patient.



(c) The nurse practitioner may perform any or all of the following acts within the framework of established protocol:

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

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

History.—ss. 1, 6, ch. 79-225; ss. 2, 3, ch. 81-318; s. 4, ch. 84-268; ss. 8, 17, 18, ch. 86-284; s. 58, ch. 91-137; s. 5, ch. 91-156; s. 4, ch. 91-429; s. 7, ch. 96-274; s. 1105, ch. 97-103; s. 80, ch. 97-264; s. 8, ch. 2006-251; s. 3, ch. 2007-167; s. 9, ch. 2010-37.

#### **464.013 Renewal of license or certificate.—**

- (1) The department shall renew a license upon receipt of the renewal application and fee.
- (2) The department shall adopt rules establishing a procedure for the biennial renewal of licenses.
- (3) The board shall by rule prescribe continuing education not to exceed 30 hours biennially as a condition for renewal of a license or certificate. The criteria for programs shall be approved by the board.

History.—ss. 1, 6, ch. 79-225; ss. 2, 3, ch. 81-318; ss. 9, 17, 18, ch. 86-284; s. 11, ch. 88-219; s. 1, ch. 89-170; s. 58, ch. 91-137; s. 5, ch. 91-156; s. 4, ch. 91-429; s. 176, ch. 94-119; s. 8, ch. 96-274; s. 81, ch. 97-264.

#### **464.014 Inactive status.—**

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

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

History.—ss. 1, 6, ch. 79-225; s. 319, ch. 81-259; ss. 2, 3, ch. 81-318; ss. 11, 17, 18, ch. 86-284; s. 12, ch. 88-219; s. 35, ch. 89-162; s. 2, ch. 89-170; s. 58, ch. 91-137; s. 5, ch. 91-156; s. 4, ch. 91-429; s. 177, ch. 94-119; s. 9, ch. 96-274; s. 82, ch. 97-264.

#### **464.015 Titles and abbreviations; restrictions; penalty.—**

(1) Only persons who hold licenses to practice professional nursing in this state or who are performing nursing services pursuant to the exception set forth in s. 464.022(8) shall have the right to use the title “Registered Nurse” and the abbreviation “R.N.”

(2) Only persons who hold licenses to practice as licensed practical nurses in this state or who are performing practical nursing services pursuant to the exception set forth in s. 464.022(8) shall have the right to use the title “Licensed Practical Nurse” and the abbreviation “L.P.N.”

(3) Only persons who are graduates of precensure 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 certificates 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 certificates to practice as advanced registered nurse practitioners in this state may use the title “Advanced Registered Nurse Practitioner” and the abbreviation “A.R.N.P.”

(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, or advanced registered nurse practitioner or use the abbreviation “R.N.,” “L.P.N.,” “C.N.S.,” “C.R.N.A.,” “C.N.M.,” or “A.R.N.P.” or take any other action that would lead the public to believe that person was certified as such or is performing nursing services pursuant to the exception set forth in s. 464.022(8), unless that person is licensed or certified 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.

History.—ss. 1, 6, ch. 79-225; ss. 2, 3, ch. 81-318; ss. 12, 17, 18, ch. 86-284; s. 58, ch. 91-137; s. 5, ch. 91-156; s. 4, ch. 91-429; s. 4, ch. 2007-167; s. 4, ch. 2010-37.

#### **464.016 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 Midwife,” “Advanced Registered Nurse Practitioner,” or any other name or title which implies that a person was licensed or certified as same, unless such person is duly licensed or certified.

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

History.—ss. 1, 6, ch. 79-225; ss. 2, 3, ch. 81-318; ss. 13, 17, 18, ch. 86-284; s. 58, ch. 91-137; s. 5, ch. 91-156; s. 90, ch. 91-224; s. 4, ch. 91-429; s. 183, ch. 99-397; ss. 54, 124, ch. 2000-318; s. 5, ch. 2007-167.

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

the practice or the scope of generally accepted examination or treatment of the patient. Sexual misconduct in the practice of nursing is prohibited.

History.—ss. 1, 6, ch. 79-225; s. 320, ch. 81-259; ss. 2, 3, ch. 81-318; ss. 17, 18, ch. 86-284; s. 58, ch. 91-137; s. 5, ch. 91-156; s. 4, ch. 91-429.

**464.018 Disciplinary actions.—**

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

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

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

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

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

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

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

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

(g) False, misleading, or deceptive advertising.

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

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

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

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

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

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

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

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

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

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

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

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

(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.

History.—ss. 1, 6, ch. 79-225; s. 321, ch. 81-259; ss. 2, 3, ch. 81-318; s. 1, ch. 83-27; s. 27, ch. 83-329; ss. 14, 17, 18, ch. 86-284; s. 40, ch. 88-1; s. 13, ch. 88-219; s. 19, ch. 88-277; s. 19, ch. 88-392; s. 3, ch. 89-170; s. 33, ch. 91-57; s. 58, ch. 91-137; s. 5, ch. 91-156; s. 4, ch. 91-429; s. 44, ch. 92-149; s. 24, ch. 94-134; s. 24, ch. 94-135; s. 20, ch. 95-152; s. 48, ch. 95-228; s. 136, ch. 95-418; s. 10, ch. 96-274; s. 1106, ch. 97-103; s. 83, ch. 97-264; s. 155, ch. 98-403; s. 2, ch. 99-335; s. 125, ch. 2000-318; s. 103, ch. 2000-349; s. 31, ch. 2001-277; s. 6, ch. 2002-230; s. 30, ch. 2004-267; s. 9, ch. 2005-240; s. 83, ch. 2008-6; s. 51, ch. 2010-114.

#### **464.019 Approval of nursing education programs.—**

(1) PROGRAM APPLICATIONS.—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. Each program application must include the legal name of the educational institution, the legal name of the nursing education program, and, if such program is accredited by an accrediting agency other than an

accrediting agency described in s. 464.003(1), 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 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 for a bachelor's degree professional nursing education program.

(c) No more than 25 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 a clinical preceptor, if supervising students in a professional nursing education program, to be a registered nurse or, if supervising students in a practical nursing education program, to 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 shall 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 whether it is complete. If a program 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) 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 paragraphs (1)(a)-(g); or
2. Provide the educational institution with a notice of intent to deny the application if it does not document compliance with paragraphs (1)(a)-(g). The notice must set forth 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 any error or omission of which the department does not notify 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) STATUS OF CERTAIN PROGRAMS.—A professional or practical nursing education program becomes an approved program if, as of June 30, 2009, the program:

- (a) Has full or provisional approval from the board or, except as provided in paragraph (b), is on probationary status.
- (b) Is on probationary status because the program did not meet the board's requirement for graduate passage rates. Such program shall remain on probationary status until it achieves a graduate passage rate for calendar year 2009 or 2010 that equals or exceeds the required passage rate for the respective calendar year and must disclose its probationary status in writing to the program's students and applicants. If the program does not achieve the required passage rate, the board shall terminate the program pursuant to chapter 120.

(4) 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 paragraphs (1)(a)-(g), a summary description of the program's compliance with paragraphs (1)(a)-(g), and documentation for the previous academic year that, to the extent applicable, sets forth:

- (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 if such agency is not an accrediting agency described in s. 464.003(1).

(5) INTERNET WEBSITE.—By October 1, 2010, 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 shall include, 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 (4).
3. The program's accreditation status, including identification of the accrediting agency if such agency is not an accrediting agency described in s. 464.003(1).
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 sub-subparagraphs (6)(a)1.a.-d.

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.

(6) ACCOUNTABILITY.—

(a)1. An approved program must achieve a graduate passage rate that is not lower than 10 percentage points less than the average passage rate 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 during a calendar year, 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 must appear before the board to present a plan for remediation. The program shall 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. However, 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 shall terminate the program pursuant to chapter 120.

(b) If an approved program fails to submit the annual report required in subsection (4), 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 must 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 it does not submit the annual report within 6 months after the due date.

(c) An approved program on probationary status shall disclose its probationary status in writing to the program's students and applicants.

(7) DISCLOSURE OF GRADUATE PASSAGE RATE DATA.—

(a) For each of an approved program's or accredited program's graduates 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 for State Boards of Nursing Licensing Examination, to the extent that such information is provided to the department by the contract testing service of the National Council for 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.

(8) 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 (6) or closed under subparagraph (10)(b)3.:

1. May not accept or enroll new students.

2. Must submit to the board within 30 days after the program is terminated or closed a written description of how the institution will assist in the completion of training by 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.

(9) RULEMAKING.—The board does not have any rulemaking authority to administer this section, except that the board shall adopt a rule that prescribes the format for submitting program applications under subsection (1) and annual reports under subsection (4). 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. The board shall repeal all rules, or portions thereof, in existence on July 1, 2009, that are inconsistent with this subsection.

(10) APPLICABILITY TO ACCREDITED PROGRAMS.—

(a) Subsections (1)-(4), paragraph (5)(b), and subsection (6) do not apply to an accredited program. An accredited program on probationary status before July 1, 2010, ceases to be subject to the probationary status.

(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, that certifies the institution's compliance with subparagraph 1. The board shall notify the persons listed in subparagraph (8)(c)1. and the applicable entities listed in subparagraphs (8)(c)2.-5. 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 because the program application does not contain the affidavit, the program shall be closed and the educational institution conducting the program must comply with paragraph (8)(b).

- b. Does not apply to become an approved program pursuant to sub-subparagraph a., the program shall be deemed an approved program from the date that 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 (8)(b).

(11) IMPLEMENTATION STUDY.—The Florida Center for Nursing and the education policy area of the Office of Program Policy Analysis and Government Accountability shall study the 5-year administration of

this section and submit reports to the Governor, the President of the Senate, and the Speaker of the House of Representatives by January 30, 2011, and annually thereafter through January 30, 2015. The annual reports shall address the previous academic year; set forth 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 and the education policy area of the Office of Program Policy Analysis and Government Accountability.

(a) The education policy area of the Office of Program Policy Analysis and Government Accountability 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 (6), 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) For any state fiscal year in which the Florida Center for Nursing does not receive legislative appropriations, the education policy area of the Office of Program Policy Analysis and Government Accountability shall perform the duties assigned by this subsection to the Florida Center for Nursing.

History.—ss. 1, 6, ch. 79-225; ss. 2, 3, ch. 81-318; ss. 17, 18, ch. 86-284; s. 58, ch. 91-137; s. 5, ch. 91-156; s. 4, ch. 91-429; s. 11, ch. 96-274; s. 84, ch. 97-264; s. 126, ch. 2000-318; s. 7, ch. 2002-230; s. 2, ch. 2009-168; s. 5, ch. 2010-37; s. 98, ch. 2012-184.

#### **464.0195 Florida Center for Nursing; goals.—**

(1) There is established the Florida Center for Nursing to address issues of supply and demand for nursing, including issues of recruitment, retention, and utilization of nurse workforce resources. The Legislature finds that the center will repay the state's investment by providing an ongoing strategy for the allocation of the state's resources directed towards nursing.

(2) The primary goals for the center shall be to:

(a) Develop a strategic statewide plan for nursing manpower in this state by:

1. Establishing and maintaining a database on nursing supply and demand in the state, to include current supply and demand, and future projections; and
2. Selecting from the plan priorities to be addressed.

(b) Convene various groups representative of nurses, other health care providers, business and industry, consumers, legislators, and educators to:

1. Review and comment on data analysis prepared for the center;
  2. Recommend systemic changes, including strategies for implementation of recommended changes;
- and
3. Evaluate and report the results of these efforts to the Legislature and others.
    - (c) Enhance and promote recognition, reward, and renewal activities for nurses in the state by:
      1. Promoting nursing excellence programs such as magnet recognition by the American Nurses Credentialing Center;
      2. Proposing and creating additional reward, recognition, and renewal activities for nurses; and
      3. Promoting media and positive image-building efforts for nursing.

(3) The Board of Nursing shall include on its initial and renewal application forms a question asking each nurse to voluntarily contribute to funding the Florida Center for Nursing in addition to paying the fees imposed at the time of licensure and licensure renewal. Revenues collected from nurses over and above the required fees shall be transferred from the Medical Quality Assurance Trust Fund to the Grants and Donations Trust Fund within the Department of Health and shall be used solely to support and maintain the goals and functions of the center. Before giving a nurse the opportunity to contribute to funding the center at the time of licensure renewal, the Board of Nursing shall provide the nurse with a summary of the center's work, a link to the center's Internet website, and the following statement: "The Florida Center for Nursing's operating revenues are derived in part from your donation. In order for the Florida Center for Nursing to continue its work on behalf of nurses, please donate."

History.—s. 97, ch. 2001-277; s. 1, ch. 2002-229; s. 6, ch. 2004-245; s. 5, ch. 2008-19; s. 1, ch. 2009-145.

**464.0196 Florida Center for Nursing; board of directors.—**

(1) The Florida Center for Nursing shall be governed by a policy-setting board of directors. The board shall consist of 16 members, with a simple majority of the board being nurses representative of various practice areas. Other members shall include representatives of other health care professions, business and industry, health care providers, and consumers. The members of the board shall be appointed by the Governor as follows:

- (a) Four members recommended by the President of the Senate, at least one of whom shall be a registered nurse recommended by the Florida Organization of Nurse Executives and at least one other representative of the hospital industry recommended by the Florida Hospital Association;
- (b) Four members recommended by the Speaker of the House of Representatives, at least one of whom shall be a registered nurse recommended by the Florida Nurses Association and at least one other representative of the long-term care industry;
- (c) Four members recommended by the Governor, two of whom shall be registered nurses;
- (d) One nurse educator recommended by the Board of Governors who is a dean of a College of Nursing at a state university; and

(e) Three nurse educators recommended by the State Board of Education, one of whom must be a director of a nursing program at a state community college.

(2) The initial terms of the members shall be as follows:

(a) Of the members appointed pursuant to paragraph (1)(a), two shall be appointed for terms expiring June 30, 2005, one for a term expiring June 30, 2004, and one for a term expiring June 30, 2003.

(b) Of the members appointed pursuant to paragraph (1)(b), one shall be appointed for a term expiring June 30, 2005, two for terms expiring June 30, 2004, and one for a term expiring June 20, 2003.

(c) Of the members appointed pursuant to paragraph (1)(c), one shall be appointed for a term expiring June 30, 2005, one for a term expiring June 30, 2004, and two for terms expiring June 30, 2003.

(d) Of the members appointed pursuant to paragraph (1)(d), the terms of two members recommended by the State Board of Education shall expire June 30, 2005; the term of the member who is a dean of a College of Nursing at a state university shall expire June 30, 2004; and the term of the member who is a director of a state community college nursing program shall expire June 30, 2003.

After the initial appointments expire, the terms of all the members shall be for 3 years, with no member serving more than two consecutive terms.

(3) The board shall have the following powers and duties:

(a) To employ an executive director.

(b) To determine operational policy.

(c) To elect a chair and officers, to serve 2-year terms. The chair and officers may not succeed themselves.

(d) To establish committees of the board as needed.

(e) To appoint a multidisciplinary advisory council for input and advice on policy matters.

(f) To implement the major functions of the center as established in the goals set out in s.

464.0195.

(g) To seek and accept nonstate funds for sustaining the center and carrying out center policy.

(4) The members of the board are entitled to receive per diem and allowances prescribed by law for state boards and commissions.

History.—s. 98, ch. 2001-277; s. 55, ch. 2007-217.

**464.0205 Retired volunteer nurse certificate.—**

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

(a) A complete application.

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

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

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

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

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

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

(b) Comply with the minimum standards of practice for nurses and be subject to disciplinary action for violations of s. 464.018, except that the scope of practice for 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 Family Services, the Agency for Health Care Administration, and the Department of Elderly Affairs; however, such determination shall include, but not be limited to, health manpower shortage areas designated by the United States Department of Health and Human Services. The sponsoring agencies desiring to use certified retired volunteer nurses shall submit to the board verification of their status under s. 501(c)(3) of the Internal Revenue Code, the sites at which such volunteer nurses would work, the duties and scope of practice intended for such volunteer nurses, and the training or skills validation for such volunteer nurses.

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

History.—s. 85, ch. 97-264; s. 101, ch. 2001-277.

**464.022 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.

History.—ss. 1, 6, ch. 79-225; ss. 2, 3, ch. 81-318; ss. 15, 17, 18, ch. 86-284; s. 1, ch. 88-270; s. 58, ch. 91-137; s. 5, ch. 91-156; s. 4, ch. 91-429; s. 86, ch. 97-264; s. 117, ch. 99-397; s. 127, ch. 2000-318; s. 8, ch. 2002-230; s. 10, ch. 2004-230; s. 6, ch. 2010-37.

#### **464.027 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.

History.—s. 4, ch. 94-96; s. 129, ch. 2000-318.

## PART II CERTIFIED NURSING ASSISTANTS

- 464.201 Definitions.
- 464.202 Duties and powers of the board.
- 464.203 Certified nursing assistants; certification requirement.
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- 464.205 Availability of disciplinary records and proceedings.
- 464.206 Exemption from liability.
- 464.207 Penalties.
- 464.208 Background screening information; rulemaking authority.
- 464.2085 Council on Certified Nursing Assistants.

**464.201 Definitions.**—As used in this part, the term:

- (1) “Approved training program” means:
  - (a) A course of training conducted by a public sector or private sector educational center licensed by the Department of Education to implement the basic curriculum for nursing assistants which is approved by the Department of Education. Beginning October 1, 2000, the board shall assume responsibility for approval of training programs under this paragraph.
  - (b) A training program operated under s. 400.141.
- (2) “Board” means the Board of Nursing.
- (3) “Certified nursing assistant” means a person who meets the qualifications specified in this part and who is certified by the board as a certified nursing assistant.
- (4) “Department” means the Department of Health.
- (5) “Practice of a certified nursing assistant” means providing care and assisting persons with tasks relating to the activities of daily living. Such tasks are those associated with personal care, maintaining mobility, nutrition and hydration, toileting and elimination, assistive devices, safety and cleanliness, data gathering, reporting abnormal signs and symptoms, postmortem care, patient socialization and reality orientation, end-of-life care, cardiopulmonary resuscitation and emergency care, residents’ or patients’ rights, documentation of nursing-assistant services, and other tasks that a certified nurse assistant may perform after training beyond that required for initial certification and upon validation of competence in that skill by a registered nurse. This subsection does not restrict the ability of any person who is otherwise trained and educated from performing such tasks.
- (6) “Registry” means the listing of certified nursing assistants maintained by the board.

History.—s. 204, ch. 99-397; s. 79, ch. 2000-318; s. 4, ch. 2005-62.

Note.—Former s. 468.821.

**464.202 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 certificateholder, 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.

History.—s. 204, ch. 99-397; s. 79, ch. 2000-318; s. 5, ch. 2005-62.

Note.—Former s. 468.822.

#### **464.203 Certified nursing assistants; certification requirement.—**

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

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

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

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

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

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

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



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

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

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

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

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

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

History.—s. 204, ch. 99-397; s. 164, ch. 2000-160; s. 79, ch. 2000-318; s. 50, ch. 2001-45; s. 77, ch. 2002-1; s. 6, ch. 2005-62; s. 43, ch. 2010-114; s. 28, ch. 2011-213; s. 14, ch. 2012-73; s. 100, ch. 2012-184.

Note.—Former s. 468.823.

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

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

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

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

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

(a) Denial, suspension, or revocation of certification.

(b) Imposition of an administrative fine not to exceed \$150 for each count or separate offense.

(c) Imposition of probation or restriction of certification, including conditions such as corrective actions as retraining or compliance with an approved treatment program for impaired practitioners.

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

History.—s. 204, ch. 99-397; s. 165, ch. 2000-160; s. 79, ch. 2000-318.

Note.—Former s. 468.824.

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

History.—s. 204, ch. 99-397; s. 166, ch. 2000-160; s. 79, ch. 2000-318.

Note.—Former s. 468.825.

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

History.—s. 204, ch. 99-397; s. 79, ch. 2000-318; s. 105, ch. 2000-349.

Note.—Former s. 468.826.

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

History.—s. 204, ch. 99-397; s. 79, ch. 2000-318.

Note.—Former s. 468.827.

**464.208 Background screening information; rulemaking authority.**—

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

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

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

History.—s. 204, ch. 99-397; s. 129, ch. 2000-153; s. 79, ch. 2000-318; s. 106, ch. 2000-349; s. 101, ch. 2012-184.

Note.—Former s. 468.828.

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

(1) The council shall consist of five members appointed as follows:

(a) The chairperson of the Board of Nursing shall appoint two members who are registered nurses. One of the members must currently supervise a certified nursing assistant in a licensed nursing home.

(b) The chairperson of the Board of Nursing shall appoint one member who is a licensed practical nurse who is currently working in a licensed nursing home.

(c) The State Surgeon General or his or her designee shall appoint two certified nursing assistants currently certified under this chapter, at least one of whom is currently working in a licensed nursing home.

(2) The council shall:

(a) Recommend to the department policies and procedures for the certification of nursing assistants.

(b) Develop all rules regulating the education, training, and certification process for nursing assistants certified under this chapter. The Board of Nursing shall consider adopting a proposed rule developed by the council at the regularly scheduled meeting immediately following the submission of the proposed rule by the council.

(c) Make recommendations to the board regarding all matters relating to the certification of nursing assistants.

(d) Address concerns and problems of certified nursing assistants in order to improve safety in the practice of certified nursing assistants.

History.—s. 80, ch. 2000-318; s. 84, ch. 2008-6.