

CHAPTER 98-169

Senate Bill No. 2316

An act relating to the State Board of Independent Colleges and Universities (RAB); amending s. 246.081, F.S.; restricting certain activities of graduates of foreign medical schools; amending s. 246.085, F.S.; providing for rules relating to certificates of exemption; amending ss. 246.087, 246.091, F.S.; providing for certain procedures and rules to be adopted relating to licensing requirements; creating s. 246.093, F.S.; requiring certain colleges to obtain permission to operate; amending s. 246.095, F.S.; providing for rules relating to fair consumer practices; providing an effective date.

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

Section 1. Subsections (1) and (2) of section 246.081, Florida Statutes, are amended and subsection (6) is added to that section to read:

246.081 License, certificate of exemption, or authorization required; exceptions.—

(1) The following colleges are not under the jurisdiction of the board and are not required to obtain a license, a certificate of exemption, permission to operate, or an authorization from the board:

(a) Any college provided, operated, and supported by the State of Florida or its political subdivisions or the Federal Government.

(b) Any college, school, or course licensed or approved for establishment and operation under chapter 464, chapter 466, or chapter 475, or any other chapter of the Florida Statutes, requiring licensing or approval as defined in ss. 246.011-246.151.

(2) No nonpublic college shall continue operation or be established within the state, and no students of foreign medical schools shall engage in clinical clerkships of Florida, unless such college shall apply for, and obtain from the board, a license, a certificate of exemption, permission to operate, or authorization in the manner and form prescribed by the board. Upon receipt of approved articles of incorporation from the Department of State that purport to be for a college as defined in s. 246.021, the newly formed corporation shall, within 60 days after such approval, make an application to the board for a license, a certificate of exemption, or other authorization as required by law. The approval of articles of incorporation by the Department of State shall not be deemed to be an approval to engage in the operation of an institution of higher learning. Such institution shall not advertise or operate until a license, certificate of exemption, permission to operate, or authorization has been obtained from the board. When articles of incorporation are issued to an institution of higher learning, the Department of State shall immediately furnish a copy of the articles of incorporation to the board.

(6) A student of a foreign medical school may not engage in a clinical clerkship in this state unless the foreign medical school has received a license, in the case of a core clerkship or an ongoing regular program of clerkships, or has received individual approval, in the case of an occasional elective clerkship. The board has authority to adopt rules to administer this subsection.

Section 2. Subsection (4) of section 246.085, Florida Statutes, is amended to read:

246.085 Certificate of exemption.—

(4) Each certificate of exemption issued by the board shall be subject to an annual review by the board to determine if the college remains eligible for the exemption. Colleges which have applied for and received exemption under this section may remain in compliance for exemption by annually submitting evidence that the college remains in compliance with the provisions of subsection (1), the information required by s. 246.041(1)(n), and a current catalog. The burden of determining compliance shall rest with the board, and the board may make such further investigation and may require further evidence, in addition to the information submitted, as may be necessary in its judgment. The board has authority to adopt rules for issuing and annually reviewing certificates of exemption.

Section 3. Section 246.087, Florida Statutes, is amended to read:

246.087 Licensing requirements.—

(1) The minimum standards to be evaluated by the board for the licensing of colleges shall include purpose, administrative organization, admissions and recruitment, educational program and curricula, finances, faculty, library, student personnel services, physical plant and facilities, publications, and disclosure statements about the status of the college in relation to professional certification and licensure. The board has authority to adopt rules to ensure that licensed colleges meet these standards in ways that are appropriate to achieve the stated intent of s. 246.011, including provisions for nontraditional programs and delivery.

(2) The minimum standards for the licensing of agents shall include name, residential and business addresses, background, training, college to be represented, and demonstrated knowledge of statutes and rules related to the authority granted to agents and the limitations imposed upon such authority. ~~An~~ ~~No~~ employee of a nonpublic college ~~may not shall~~ solicit prospective students for enrollment in such college until that employee has completed a training program containing the information required by the board in rule and becomes is licensed by the board as an agent. The board has authority to adopt rules to ensure that licensed agents meet these standards and uphold the intent of s. 246.011.

Section 4. Section 246.091, Florida Statutes, is amended to read:

246.091 License period and renewal.—

(1) Each license issued by the board shall be subject to an annual review and renewal by the board to determine if the licensee is in compliance with ss. 246.011-246.151. A college affected under this act may be granted a temporary or provisional license. Nothing in ss. 246.011-246.151 shall prevent the extension of such a temporary or provisional license provided a good faith effort has been made by the college and agent. The burden of determining compliance or a good-faith good faith effort rests shall rest with the board, and the board has authority to adopt rules to administer this section.

(2) A licensed college that which seeks to expand its degrees to be conferred or to add new branches or other locations shall file a supplementary application. The board shall promulgate standards for the approval of additional degrees and locations.

(3) A licensed college shall notify the board at least 30 days prior to a change of ownership or control. If the board determines that the anticipated effects of the change are substantive enough that the practical result is to transform the licensed institution into a different college entity, a new application for licensure is required for the same level of licensure currently held by the college. During the time that the new application is being prepared, submitted, and evaluated, the board shall not interrupt the progress of currently enrolled students solely because of the change of ownership or control. The board has authority to adopt rules governing changes of ownership or control.

(4)(3) A licensed college which seeks to conduct any diploma program, as defined in s. 246.203, shall apply to the State Board of Independent Postsecondary Vocational, Technical, Trade, and Business Schools for licensure for such program.

(5)(4) A licensed college, prior to the discontinuance of operation, shall have the duty to convey all student records to the board or to another location designated by the board. At least 60 days prior to closing, the college shall notify the board of the intention to close and shall submit a plan for the orderly transfer of students and records. At the same time, students shall be informed by the college of the plan to close and of their options for continuing their programs elsewhere and for the storage of their records. The board has authority to adopt rules for the orderly closure of colleges.

Section 5. Section 246.093, Florida Statutes, is created to read:

246.093 Permission to operate.—

(1) An out-of-state college seeking to have a minimal presence in this state for the purpose of maintaining a business office, providing an occasional seminar that carries college credit, or arranging an occasional clinical clerkship for a medical student or for the purpose of other operations not involving a regular, continuous, credit-bearing educational program in this state must apply to the board for permission to operate. The board has authority to adopt rules and fees for this status.

(2) Permission to operate shall be granted for a specific period of time not to exceed 1 year, and shall be limited to the activities approved by the board

at the time of application. A new application for permission to operate is required for additional or different activities or additional periods of time.

(3) Colleges granted permission to operate must disclose to prospective students the status, the limited meaning of the status, and the name, address, and telephone number of the board for further information about the college or program and must provide the board with copies of this disclosure. Colleges granted permission to operate must adhere to applicable fair consumer practices, to be determined by the board as appropriate in each case to protect consumers in this state.

(4) Permission to operate is subject to denial, probation, or revocation for cause under s. 246.111.

Section 6. Section 246.095, Florida Statutes, is amended to read:

246.095 Fair consumer practices ~~Disclosure to prospective students; condition of operation.~~—

(1) Every college which is either licensed by the board or has been granted a certificate of exemption by the board and which either directly or indirectly solicits for enrollment any student shall disclose to each prospective student a statement of the purpose of such college, its educational programs and curricula, a description of its physical facilities, its status regarding licensure, its fee schedule and policies about retaining student fees if a student withdraws, and a statement regarding the transferability of credits to and from other colleges. In addition, colleges which are required to be licensed by the board shall disclose to prospective students that additional information regarding the college may be obtained by contacting the State Board of Independent Colleges and Universities, Department of Education, Tallahassee. The college shall make the required disclosures in writing at least 1 week prior to enrollment or collection of any tuition from the prospective student. The required disclosures may be made in the institution's current catalog.

(2) In order to ensure fair and equitable conduct of business and academic relations between colleges and their students or potential students, each college shall demonstrate to the board, as specified in board rules:

(a) That it uses a reliable method to assess, before accepting a student into a program, the student's ability to complete successfully the course of study for which he or she has applied;

(b) That it informs each student accurately about financial assistance and obligations for repayment of loans; that it accurately describes any employment placement services provided and the limitations thereof; and that it does not promise or imply guaranteed placement, market availability, or salary amounts;

(c) That it provides to prospective and enrolled students accurate information regarding the relationship of its programs to state licensure requirements for practicing related occupations and professions in Florida;

(d) That all advertisements are accurate and not misleading;

(e) That it publishes and follows an equitable prorated refund policy for all students, and that it follows both the federal refund guidelines for students receiving federal financial assistance and the minimum refund guidelines set by board rule;

(f) That it follows the requirements of ss. 240.2683 and 240.2684 and federal laws that require annual reporting with respect to crime statistics and physical plant safety and make those reports available to the public; and

(g) That it publishes and follows procedures for handling student complaints, disciplinary actions, and appeals.

~~(3)~~(2) A license or certificate of exemption shall not be granted or renewed by the board unless the college seeking the action provides the board with a sworn statement of compliance with this section. The board shall prescribe the manner and form of the statement.

~~(4)~~(3) The board may examine any complaint of nondisclosure to prospective students of colleges under the jurisdiction of the board, and, if the college is found to be routinely handling these matters correctly, the complaint shall be disregarded. Complaints of nondisclosure against accredited colleges shall be forwarded by the board to the college and appropriate accrediting agency with a request that the board be advised of any and all actions taken in response to the complaint.

~~(5)~~(4) Refusal to comply with this section is cause for denial or revocation of a license or a certificate of exemption under s. 246.111.

Section 7. This act shall take effect upon becoming a law.

Became a law without the Governor's approval May 22, 1998.

Filed in Office Secretary of State May 21, 1998.