

By the Committee on Health Care Standards & Regulatory Reform and Representatives Jones, Lippman, Maygarden, Minton, Saunders, Wasserman Schultz and Diaz de la Portilla

1                                   A bill to be entitled  
2           An act relating to regulation of health care  
3           practitioners; creating part II of chapter 455,  
4           F.S., to provide regulatory provisions  
5           applicable to the Department of Health that are  
6           separate from those applicable to the  
7           Department of Business and Professional  
8           Regulation; creating ss. 455.401, 455.402,  
9           455.403, 455.404, 455.405, 455.406, 455.407,  
10          455.408, 455.409, 455.411, 455.412, 455.414,  
11          455.415, 455.416, 455.417, 455.418, 455.419,  
12          455.421, 455.422, 455.424, 455.427, 455.428,  
13          455.429, 455.431, 455.432, 455.433, 455.436,  
14          455.438, 455.439, 455.441, 455.442, 455.443,  
15          455.444, 455.445, 455.446, 455.447, 455.448,  
16          455.449, 455.451, 455.452, 455.453, 455.457,  
17          455.458, 455.461, 455.465, 455.466, 455.467,  
18          455.468, and 455.469, F.S., to conform;  
19          providing intent; providing for a procedure for  
20          updating boards on major public health policy;  
21          providing for appointment of a task force to  
22          develop uniform procedures to standardize the  
23          validation of health care practitioner  
24          credentials; providing requirements with  
25          respect to examinations, including requirements  
26          for national, contracted, and shared  
27          examinations and translations of examinations;  
28          restricting board meetings to those determined  
29          to be in the public interest; providing for  
30          appointment of nonboard members to board  
31          committees under certain circumstances;

1 requiring applicants for initial licensure to  
2 submit a full set of fingerprints; providing  
3 additional grounds for disciplinary action  
4 relating to keeping legible records, payments  
5 on federally or state guaranteed educational  
6 loans or service-conditional scholarships,  
7 providing proper identification to patients,  
8 and reporting of disciplinary actions of  
9 another jurisdiction; revising provisions  
10 relating to ownership and control of patient  
11 records; transferring s. 455.247, F.S., to  
12 conform; transferring and amending ss.  
13 455.2055, 455.2141, 455.2142, 455.2173,  
14 455.222, 455.2224, 455.241, 455.2415, 455.2416,  
15 455.244, 455.2455, and 455.2456, F.S., to  
16 conform; amending ss. 455.01, 455.017, 455.10,  
17 455.203, 455.205, 455.207, 455.208, 455.209,  
18 455.211, 455.213, 455.214, 455.217, 455.2175,  
19 455.218, 455.219, 455.221, 455.2228, 455.225,  
20 455.227, 455.2273, 455.2275, 455.228, 455.2285,  
21 455.229, 455.232, 455.26, 455.261, and 455.273,  
22 F.S., to conform; transferring and amending s.  
23 455.2205, F.S., relating to the Health Care  
24 Trust Fund, to conform; amending ss. 215.20,  
25 391.208, 391.217, 400.5575, and 408.20, F.S.;  
26 correcting cross references, to conform;  
27 transferring and amending ss. 455.24, 455.242,  
28 455.243, and 455.245, F.S., relating to  
29 veterinary medical practice, to conform;  
30 amending s. 455.25, F.S., relating to  
31 disclosure of financial interest; requiring

1 physicians or other health care providers to  
2 disclose their financial interest in certain  
3 entities; eliminating entity disclosure of  
4 financial interest; repealing s. 455.220, F.S.,  
5 relating to fees required by the boards to  
6 cover the costs of regulation, to conform;  
7 repealing s. 455.2226, F.S., relating to  
8 instruction on human immunodeficiency virus and  
9 acquired immune deficiency syndrome; creating  
10 part I of the remaining provisions of chapter  
11 455, F.S., as amended, to conform; amending ss.  
12 120.80, 212.08, 215.37, 240.215, 310.102,  
13 337.162, 381.0039, 383.32, 395.0193, 395.0197,  
14 395.3025, 400.491, 408.061, 408.704, 415.1055,  
15 415.5055, 415.51, 440.13, 457.103, 458.307,  
16 458.3115, 458.331, 458.343, 458.347, 459.004,  
17 459.015, 459.019, 459.022, 460.404, 460.4061,  
18 461.004, 461.013, 463.003, 463.016, 464.004,  
19 465.004, 465.006, 466.004, 466.007, 466.018,  
20 466.022, 466.028, 468.1135, 468.1145, 468.1185,  
21 468.1295, 468.1665, 468.1755, 468.1756,  
22 468.205, 468.219, 468.364, 468.365, 468.402,  
23 468.4315, 468.453, 468.456, 468.4571, 468.506,  
24 468.507, 468.513, 468.523, 468.526, 468.532,  
25 468.535, 468.703, 468.707, 468.711, 468.719,  
26 469.009, 470.003, 470.036, 471.008, 471.015,  
27 471.033, 472.015, 473.3035, 473.308, 473.311,  
28 473.323, 474.204, 474.214, 474.2145, 475.021,  
29 475.181, 475.25, 475.624, 476.204, 477.029,  
30 480.044, 481.2055, 481.213, 481.225, 481.2251,  
31 481.306, 481.311, 481.325, 483.805, 483.807,

1 483.901, 484.014, 484.042, 484.056, 486.023,  
2 486.115, 486.172, 489.129, 489.533, 490.004,  
3 490.009, 490.015, 491.004, 491.009, 491.015,  
4 492.103, 492.113, 627.668, 627.912, 636.039,  
5 641.27, 641.55, 766.106, 766.305, 766.308,  
6 766.314, and 937.031, F.S.; correcting cross  
7 references and terminology, to conform;  
8 amending ss. 20.43, 381.81, 400.211, 402.48,  
9 457.102, 458.305, 459.003, 460.403, 461.003,  
10 462.01, 463.002, 465.003, 466.003, 467.003,  
11 468.1125, 468.1655, 468.352, 468.518, 468.701,  
12 478.42, 480.033, 483.803, 484.002, 484.003,  
13 484.041, 484.042, 484.051, 486.021, 490.003,  
14 and 491.003, F.S.; correcting cross references  
15 and definitions, to conform; providing an  
16 effective date.

17

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

19

20 Section 1. Sections 455.401 through 455.469, Florida  
21 Statutes, are designated as part II of chapter 455, Florida  
22 Statutes, and entitled "Department of Health: Regulation of  
23 Health Care Practitioners."

24 Section 2. Section 455.401, Florida Statutes, is  
25 created to read:

26 455.401 Intent.--It is the intent of the Legislature  
27 that all policymaking and rulemaking authority relating to  
28 health care practitioner regulation and the Division of  
29 Medical Quality Assurance belongs to the Department of Health,  
30 including consumer complaint, investigative, and prosecutorial  
31 services. The department may contract with the Agency for

1 Health Care Administration for consumer complaint,  
2 investigative, and prosecutorial services, as appropriate.  
3 The agency shall provide the boards with detailed reports of  
4 medical malpractice presuit notice actions and other  
5 administrative actions on all cases closed prior to board  
6 action. The department may contract for other functions  
7 authorized under this part, as it may deem appropriate.  
8 Contract agents shall have access to all confidential records  
9 necessary to comply with the terms and conditions of such  
10 contracts and shall delegate the necessary authority to comply  
11 with the terms of such contracts. Contract agents shall  
12 provide detailed quarterly reports to the department and the  
13 boards, in a format approved by the department.

14 Section 3. Section 455.402, Florida Statutes, is  
15 created to read:

16 455.402 Definitions.--As used in this part, the term:

17 (1) "Agency" means the Agency for Health Care  
18 Administration.

19 (2) "Board" means any board or council, or other  
20 statutorily created entity to the extent such entity is  
21 authorized to exercise regulatory or rulemaking functions,  
22 within the Division of Medical Quality Assurance of the  
23 Department of Health.

24 (3) "Consumer member" means a person appointed to  
25 serve on a specific board or who has served on a specific  
26 board, who is not, and never has been, a member or  
27 practitioner of the profession, or of any closely related  
28 profession, regulated by such board.

29 (4) "Department" means the Department of Health.

30 (5) "Health care practitioner" means any person  
31 licensed under chapter 457; chapter 458; chapter 459; chapter

1 460; chapter 461; chapter 462; chapter 463; chapter 464;  
2 chapter 465; chapter 466; chapter 467; part I, part II, part  
3 III, part V, part X, or part XIV of chapter 468; chapter 478;  
4 chapter 480; part III or part IV of chapter 483; part I or  
5 part II of chapter 484; chapter 486; chapter 490; or chapter  
6 491.

7 (6) "License" means any permit, registration,  
8 certificate, or license issued by the department.

9 (7) "Licensee" means any person issued a permit,  
10 registration, certificate, or license by the department as  
11 authorized in this part and the individual practice acts.

12 (8) "Profession" means any activity, occupation, or  
13 profession regulated by the department in the Division of  
14 Medical Quality Assurance.

15 Section 4. Section 455.403, Florida Statutes, is  
16 created to read:

17 455.403 Applicability of this part.--The provisions of  
18 this part apply to the regulation of all health care  
19 practitioners, facilities, and businesses under the  
20 jurisdiction of the Division of Medical Quality Assurance  
21 within the Department of Health.

22 Section 5. Section 455.404, Florida Statutes, is  
23 created to read:

24 455.404 Members of Armed Forces in good standing with  
25 administrative boards.--

26 (1) Any member of the Armed Forces of the United  
27 States now or hereafter on active duty who, at the time of  
28 becoming such a member, was in good standing with any  
29 administrative board of the state and was entitled to practice  
30 or engage in his or her profession in the state shall be kept  
31 in good standing by such administrative board, without

1 registering, paying dues or fees, or performing any other act  
2 on his or her part to be performed, as long as he or she is a  
3 member of the Armed Forces of the United States on active duty  
4 and for a period of 6 months after his or her discharge from  
5 active duty as a member of the Armed Forces of the United  
6 States, provided he or she is not engaged in his or her  
7 licensed profession in the private sector for profit.

8 (2) The boards listed in s. 20.43(3)(f) shall  
9 promulgate rules exempting the spouses of members of the Armed  
10 Forces of the United States from licensure renewal provisions,  
11 but only in cases of absence from the state because of their  
12 spouses' duties with the Armed Forces.

13 Section 6. Section 455.405, Florida Statutes, is  
14 created to read:

15 455.405 Restriction on requirement of citizenship.--A  
16 person may not be disqualified from practicing a profession  
17 regulated by the state under this part solely because the  
18 person is not a United States citizen.

19 Section 7. Section 455.406, Florida Statutes, is  
20 created to read:

21 455.406 Qualification of immigrants for examination to  
22 practice a licensed profession.--

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

27 (2) Any person who has successfully completed, or is  
28 currently enrolled in, an approved course of study created  
29 pursuant to chapters 74-105 and 75-177, Laws of Florida, shall  
30 be deemed qualified for examination and reexaminations for a  
31 professional license which shall be administered in the

1 English language unless 15 or more such applicants request  
2 that any such reexamination be administered in their native  
3 language, unless otherwise specified by law. In the event  
4 that such a reexamination is administered in a foreign  
5 language, the full cost to the board of preparing and  
6 administering such reexamination shall be borne by such  
7 applicants.

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

12 Section 8. Section 455.407, Florida Statutes, is  
13 created to read:

14 455.407 Sale of services and information by  
15 department.--The department may provide, directly or by  
16 contract, services and information to other levels of  
17 government and private entities.

18 Section 9. Section 455.408, Florida Statutes, is  
19 created to read:

20 455.408 Professions regulated by department;  
21 legislative intent; requirements.--

22 (1) It is the intent of the Legislature that persons  
23 desiring to engage in any lawful profession regulated by the  
24 department shall be entitled to do so as a matter of right if  
25 otherwise qualified.

26 (2) The Legislature further believes that such  
27 professions shall be regulated only for the preservation of  
28 the health, safety, and welfare of the public under the police  
29 powers of the state. Such professions shall be regulated when:

30 (a) Their unregulated practice can harm or endanger  
31 the health, safety, and welfare of the public, and when the



1 potential for such harm is recognizable and clearly outweighs  
2 any anticompetitive impact which may result from regulation.

3 (b) The public is not effectively protected by other  
4 means, including, but not limited to, other state statutes,  
5 local ordinances, or federal legislation.

6 (c) Less restrictive means of regulation are not  
7 available.

8 (3) No board, nor the department, shall create  
9 unreasonably restrictive and extraordinary standards that  
10 deter qualified persons from entering the various professions.  
11 No board, nor the department, shall take any action which  
12 tends to create or maintain an economic condition that  
13 unreasonably restricts competition, except as specifically  
14 provided by law.

15 (4) Policies adopted by the department shall ensure  
16 that all expenditures are made in the most cost-effective  
17 manner to maximize competition, minimize licensure costs, and  
18 maximize public access to meetings conducted for the purpose  
19 of professional regulation. The long-range planning function  
20 of the department shall be implemented to facilitate effective  
21 operations and to eliminate inefficiencies.

22 Section 10. Section 455.409, Florida Statutes, is  
23 created to read:

24 455.409 Department of Health; powers and duties.--The  
25 department, for the boards under its jurisdiction, shall:

26 (1) Adopt rules establishing a procedure for the  
27 biennial renewal of licenses; provided, however, the  
28 department may issue up to a 4-year license to selected  
29 licensees notwithstanding any other provisions of law to the  
30 contrary. Fees for such renewal shall not exceed the fee caps

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1 for individual professions on an annualized basis as  
2 authorized by law.

3 (2) Appoint the executive director of each board,  
4 subject to the approval of the board.

5 (3) Submit an annual budget to the Legislature at a  
6 time and in the manner provided by law.

7 (4) Develop a training program for persons newly  
8 appointed to membership on any board. The program shall  
9 familiarize such persons with the substantive and procedural  
10 laws and rules and fiscal information relating to the  
11 regulation of the appropriate profession and with the  
12 structure of the department.

13 (5) Adopt all rules necessary to administer this part,  
14 including consumer complaint, investigative, and prosecutorial  
15 services.

16 (6) Establish by rule procedures by which the  
17 department shall use the expert or technical advice of the  
18 appropriate board for the purposes of investigation,  
19 inspection, evaluation of applications, other duties of the  
20 department, or any other areas the department may deem  
21 appropriate.

22 (7) Require all proceedings of any board or panel  
23 thereof and all formal or informal proceedings conducted by  
24 the department, an administrative law judge, or a hearing  
25 officer with respect to licensing or discipline to be  
26 electronically recorded in a manner sufficient to ensure the  
27 accurate transcription of all matters so recorded.

28 (8) Select only those investigators, or consultants  
29 who undertake investigations, who meet criteria established  
30 with the advice of the respective boards.

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1           (9) Allow applicants for new or renewal licenses and  
2 current licensees to be screened by child support agencies to  
3 ensure compliance with a support obligation. The purpose of  
4 this subsection is to promote the public child support  
5 enforcement policy of this state. The department shall, when  
6 directed by the court, suspend or deny the license of any  
7 licensee found to have a delinquent support obligation. The  
8 department shall issue or reinstate the license without  
9 additional charge to the licensee when notified by the court  
10 that the licensee has complied with the terms of the court  
11 order. The department shall not be held liable for any license  
12 denial or suspension resulting from the discharge of its  
13 duties under this subsection.

14           (10) Develop a procedure to periodically update the  
15 boards on major public health policy.

16           (11) The Secretary of Health shall appoint a task  
17 force to develop uniform procedures to standardize the  
18 validation of health care practitioner credentials in order to  
19 ensure that once credentials are validated they can be  
20 accepted by licensed health care providers and facilities  
21 throughout the state. The task force shall include, but not  
22 be limited to, representatives from the Florida Hospital  
23 Association, the Association of Community Hospitals and Health  
24 Systems, the Florida League of Hospitals, the Florida Medical  
25 Association, the Florida Osteopathic Medical Association, the  
26 Florida Health Care Association, the Florida Dental  
27 Association, the Florida Association for the Homes for the  
28 Aging, the Florida Association of Health Maintenance  
29 Organizations, and the Florida Association of Managed Care  
30 Organizations.

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1           Section 11. Section 455.411, Florida Statutes, is  
2 created to read:

3           455.411 Long-range policy planning; plans, reports,  
4 and recommendations.--To facilitate efficient and  
5 cost-effective regulation, the department and the board, where  
6 appropriate, shall develop and implement a long-range policy  
7 planning and monitoring process to include recommendations  
8 specific to each profession. Such process shall include  
9 estimates of revenues, expenditures, cash balances, and  
10 performance statistics for each profession. The period  
11 covered shall not be less than 5 years. The department, with  
12 input from the boards, shall develop the long-range plan and  
13 must obtain the approval of the secretary. The department  
14 shall monitor compliance with the approved long-range plan  
15 and, with input from the boards, shall annually update the  
16 plans for approval by the secretary. The department shall  
17 provide concise management reports to the boards quarterly.  
18 As part of the review process, the department shall evaluate:

19           (1) Whether the department, including the boards and  
20 the various functions performed by the department, is  
21 operating efficiently and effectively and if there is a need  
22 for a board or council to assist in cost-effective regulation.

23           (2) How and why the various professions are regulated.

24           (3) Whether there is a need to continue regulation,  
25 and to what degree.

26           (4) Whether or not consumer protection is adequate,  
27 and how it can be improved.

28           (5) Whether there is consistency between the various  
29 practice acts.

30           (6) Whether unlicensed activity is adequately  
31 enforced.

1  
2 Such plans should include conclusions and recommendations on  
3 these and other issues as appropriate. Such plans shall be  
4 provided to the Governor, the President of the Senate, the  
5 Speaker of the House of Representatives, and the chairs of the  
6 appropriate legislative committees of substance by November 1  
7 of each year.

8 Section 12. Section 455.412, Florida Statutes, is  
9 created to read:

10 455.412 Contacting boards through department.--Each  
11 board under the jurisdiction of the department may be  
12 contacted through the headquarters of the department in the  
13 City of Tallahassee or at any regional office of the  
14 department.

15 Section 13. Section 455.2055, Florida Statutes, 1996  
16 Supplement, is renumbered as section 455.413, Florida  
17 Statutes, and amended to read:

18 455.413 ~~455.2055~~ Department of Health; board  
19 appointments.--

20 (1) The members of each board within the department ~~of~~  
21 ~~Health~~ shall be appointed by the Governor, subject to  
22 confirmation by the Senate. Consumer members on the board  
23 shall be appointed pursuant to subsection (2). Members shall  
24 be appointed for 4-year terms, and such terms shall expire on  
25 October 31. However, a term of less than 4 years may be  
26 utilized to ensure that:

27 (a) No more than two members' terms expire during the  
28 same calendar year for boards consisting of seven or eight  
29 members.  
30  
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1           (b) No more than three members' terms expire during  
2 the same calendar year for boards consisting of 9 to 12  
3 members.

4           (c) No more than five members' terms expire during the  
5 same calendar year for boards consisting of 13 or more  
6 members.

7  
8 A member whose term has expired shall continue to serve on the  
9 board until such time as a replacement is appointed. A  
10 vacancy on the board shall be filled for the unexpired portion  
11 of the term in the same manner as the original appointment.  
12 No member may serve for more than the remaining portion of a  
13 previous member's unexpired term, plus two consecutive 4-year  
14 terms of the member's own appointment thereafter.

15           (2) Each board with five or more members shall have at  
16 least two consumer members who are not, and have never been,  
17 members or practitioners of the profession regulated by such  
18 board or of any closely related profession. Each board with  
19 fewer than five members shall have at least one consumer  
20 member who is not, and has never been, a member or  
21 practitioner of the profession regulated by such board or of  
22 any closely related profession.

23           (3) Notwithstanding any other provision of law, the  
24 department ~~of Health~~ is authorized to establish uniform  
25 application forms and certificates of licensure for use by the  
26 boards within the department. Nothing in this subsection  
27 authorizes the department ~~of Health~~ to vary any substantive  
28 requirements, duties, or eligibilities for licensure as  
29 provided by law.

30           Section 14. Section 455.414, Florida Statutes, is  
31 created to read:

1           455.414 Board members.--Notwithstanding any provision  
2 of law to the contrary, any person who otherwise meets the  
3 requirements of law for board membership and who is connected  
4 in any way with any medical college, dental college, or  
5 community college may be appointed to any board so long as  
6 that connection does not result in a relationship wherein such  
7 college represents the person's principal source of income.  
8 However, this section shall not apply to the physicians  
9 required by s. 458.307(2)(a) to be on the faculty of a medical  
10 school in this state or on the full-time staff of a teaching  
11 hospital in this state.

12           Section 15. Section 455.415, Florida Statutes, is  
13 created to read:

14           455.415 Boards; organization; meetings; compensation  
15 and travel expenses.--

16           (1) Each board within the department shall comply with  
17 the provisions of this section.

18           (2) The board shall annually elect from among its  
19 number a chair and vice chair.

20           (3) The board shall meet at least once annually and  
21 may meet as often as is necessary, so long as the meetings  
22 comply with guidelines preestablished by the department. The  
23 department shall not authorize the expenditure of state funds  
24 for meetings not determined to be in the public interest. The  
25 chair or a quorum of the board shall have the authority to  
26 call other meetings. A quorum shall be necessary for the  
27 conduct of official business by the board or any committee  
28 thereof. Unless otherwise provided by law, 51 percent or more  
29 of the appointed members of the board or any committee, when  
30 applicable, shall constitute a quorum. The membership of  
31 committees of the board, except as otherwise authorized

1 pursuant to this part or the applicable practice act, shall be  
2 composed of currently appointed members of the board. The vote  
3 of a majority of the members of the quorum shall be necessary  
4 for any official action by the board or committee. Nonboard  
5 members may be appointed to serve on committees of a board,  
6 including probable cause panels, by an affirmative vote of the  
7 members of that board and the concurrence of the secretary of  
8 the department. The department may reimburse nonboard members  
9 for travel expenses pursuant to s. 112.061. Three consecutive  
10 unexcused absences or absences constituting 50 percent or more  
11 of the board's meetings within any 12-month period shall cause  
12 the board membership of the member in question to become void,  
13 and the position shall be considered vacant. The board, or the  
14 department when there is no board, shall, by rule, define  
15 unexcused absences.

16 (4) Unless otherwise provided by law, a board member  
17 or former board member serving on a probable cause panel shall  
18 be compensated \$50 for each day in attendance at an official  
19 meeting of the board and for each day of participation in any  
20 other business involving the board. Each board shall adopt  
21 rules defining the phrase "other business involving the  
22 board," but the phrase may not routinely be defined to include  
23 telephone conference calls. A board member also shall be  
24 entitled to reimbursement for expenses pursuant to s. 112.061.  
25 Travel out of state shall require the prior approval of the  
26 secretary.

27 (5) When two or more boards have differences between  
28 them, the boards may elect to, or the secretary of the  
29 department may request that the boards, establish a special  
30 committee to settle those differences. The special committee  
31 shall consist of three members designated by each board, who



1 may be members of the designating board or other experts  
2 designated by the board, and of one additional person  
3 designated and agreed to by the members of the special  
4 committee. In the event the special committee cannot agree on  
5 the additional designee, upon request of the special  
6 committee, the secretary of the department may select the  
7 designee. The committee shall recommend rules necessary to  
8 resolve the differences. If a rule adopted pursuant to this  
9 provision is challenged, the participating boards shall share  
10 the costs associated with defending the rule or rules. The  
11 department shall provide legal representation for any special  
12 committee established pursuant to this section.

13 Section 16. Section 455.416, Florida Statutes, is  
14 created to read:

15 455.416 Publication of information.--The department  
16 and the boards shall have the authority to advise licensees  
17 periodically, through the publication of a newsletter, about  
18 information that the department or the board determines is  
19 useful in helping the licensee to better understand public  
20 health policy and is of interest to the industry. Unless  
21 otherwise prohibited by law, the department and the boards  
22 shall publish a summary of final orders resulting in fines,  
23 suspensions, or revocations, and any other information the  
24 department or the board determines is of interest to the  
25 public.

26 Section 17. Section 455.417, Florida Statutes, is  
27 created to read:

28 455.417 Accountability and liability of board  
29 members.--

30 (1) Each board member shall be accountable to the  
31 Governor for the proper performance of duties as a member of

1 the board. The Governor shall investigate any legally  
2 sufficient complaint or unfavorable written report received by  
3 the Governor or by the department or a board concerning the  
4 actions of the board or its individual members. The Governor  
5 may suspend from office any board member for malfeasance,  
6 misfeasance, neglect of duty, drunkenness, incompetence,  
7 permanent inability to perform his or her official duties, or  
8 commission of a felony.

9 (2) Each board member and each former board member  
10 serving on a probable cause panel shall be exempt from civil  
11 liability for any act or omission when acting in the member's  
12 official capacity, and the department or the Department of  
13 Legal Affairs shall defend any such member in any action  
14 against any board or member of a board arising from any such  
15 act or omission. In addition, the department or the Department  
16 of Legal Affairs may defend the member's company or business  
17 in any action against the company or business if the  
18 department or the Department of Legal Affairs determines that  
19 the actions from which the suit arises are actions taken by  
20 the member in the member's official capacity and were not  
21 beyond the member's statutory authority. In providing such  
22 defense, the department or the Department of Legal Affairs may  
23 employ or utilize the legal services of outside counsel.

24 Section 18. Section 455.418, Florida Statutes, is  
25 created to read:

26 455.418 Board rules; final agency action;  
27 challenges.--

28 (1) The secretary of the department shall have  
29 standing to challenge any rule or proposed rule of a board  
30 under its jurisdiction pursuant to s. 120.56. In addition to  
31 challenges for any invalid exercise of delegated legislative

1 authority, the administrative law judge, upon such a challenge  
2 by the secretary of the department may declare all or part of  
3 a rule or proposed rule invalid if it:

4 (a) Does not protect the public from any significant  
5 and discernible harm or damages;

6 (b) Unreasonably restricts competition or the  
7 availability of professional services in the state or in a  
8 significant part of the state; or

9 (c) Unnecessarily increases the cost of professional  
10 services without a corresponding or equivalent public benefit.

11  
12 However, there shall not be created a presumption of the  
13 existence of any of the conditions cited in this subsection in  
14 the event that the rule or proposed rule is challenged.

15 (2) In addition, either the secretary of the  
16 department or the board shall be a substantially interested  
17 party for purposes of s. 120.54(7). The board may, as an  
18 adversely affected party, initiate and maintain an action  
19 pursuant to s. 120.68 challenging the final agency action.

20 (3) No board created within the department shall have  
21 standing to challenge a rule or proposed rule of another  
22 board. However, if there is a dispute between boards  
23 concerning a rule or proposed rule, the boards may avail  
24 themselves of the provisions of s. 455.415(5).

25 Section 19. Section 455.419, Florida Statutes, is  
26 created to read:

27 455.419 Education; substituting demonstration of  
28 competency for clock-hour requirements.--Any board, or the  
29 department when there is no board, that requires student  
30 completion of a specific number of clock hours of classroom  
31 instruction for initial licensure purposes shall establish the

1 minimal competencies that such students must demonstrate in  
2 order to be licensed. The demonstration of such competencies  
3 may be substituted for specific classroom clock-hour  
4 requirements established in statute or rule which are related  
5 to instructional programs for licensure purposes. Student  
6 demonstration of the established minimum competencies shall be  
7 certified by the educational institution. The provisions of  
8 this section shall not apply to boards for which federal  
9 licensure standards are more restrictive or stringent than the  
10 standards prescribed in statute.

11 Section 20. Section 455.421, Florida Statutes, is  
12 created to read:

13 455.421 Education; accreditation.--Notwithstanding any  
14 other provision of law, educational programs and institutions  
15 which are required by statute to be accredited, but which were  
16 accredited by an agency that has since ceased to perform an  
17 accrediting function, shall be recognized until such programs  
18 and institutions are accredited by a qualified successor to  
19 the original accrediting agency, an accrediting agency  
20 recognized by the United States Department of Education, or an  
21 accrediting agency recognized by the board, or the department  
22 when there is no board.

23 Section 21. Section 455.422, Florida Statutes, is  
24 created to read:

25 455.422 Consultation with postsecondary education  
26 boards prior to adoption of changes to training  
27 requirements.--The department shall consult with the State  
28 Board of Independent Colleges and Universities; the State  
29 Board of Independent Postsecondary Vocational, Technical,  
30 Trade, and Business Schools; the Board of Regents; and the  
31 State Board of Community Colleges prior to adopting any

1 changes to training requirements relating to entry into any  
2 health care practitioner profession. This consultation must  
3 allow the educational board to provide advice regarding the  
4 impact of the proposed changes in terms of the length of time  
5 necessary to complete the training program and the fiscal  
6 impact of the changes. The educational board must be consulted  
7 only when an institution offering the training program falls  
8 under its jurisdiction.

9           Section 22. Section 455.2141, Florida Statutes, 1996  
10 Supplement, is renumbered as section 455.423, Florida  
11 Statutes, and amended to read:

12           455.423 ~~455.2141~~ Department of Health; Agency for  
13 ~~Health Care Administration~~ general licensing provisions.--

14           (1) Any person desiring to be licensed in a profession  
15 within the jurisdiction of the department ~~Agency for Health~~  
16 ~~Care Administration~~ shall apply to the department ~~agency~~ in  
17 writing to ~~take the licensure examination~~. The application  
18 for licensure shall be made on a form prepared and furnished  
19 by the department ~~agency~~ and shall be supplemented as needed  
20 to reflect any material change in any circumstance or  
21 condition stated in the application which takes place between  
22 the initial filing of the application and the final grant or  
23 denial of the license and which might affect the decision of  
24 the department ~~agency~~. In cases where a person takes an  
25 examination provided by a national organization or vendor, all  
26 related fees associated with the examination may be paid  
27 directly to the organization or vendor.

28           (2) For purposes of initial licensure only, upon  
29 receipt of a signed and dated application, the department  
30 shall investigate the applicant. The application shall  
31 include, but is not limited to, a full set of fingerprints to

1 enable a criminal background investigation to be conducted.  
2 The department shall submit the fingerprints to the Department  
3 of Law Enforcement for a state criminal history record check  
4 and the Department of Law Enforcement shall forward the  
5 fingerprints to the Federal Bureau of Investigation for a  
6 national criminal history record check. The actual cost as  
7 set by rule of the department of such state and national  
8 criminal history records checks shall be borne by the  
9 applicant. Upon completion of the background investigation,  
10 the board, or the department when there is no board, shall  
11 either certify the applicant for licensure, provided all other  
12 conditions are met, or determine the applicant ineligible for  
13 licensure based on criminal history.

14 (3)(2) Before the issuance of any license, the  
15 department Agency for Health Care Administration may charge an  
16 initial license fee as determined by rule of the applicable  
17 board or, if no such board exists, by rule of the department  
18 agency. Upon receipt of the appropriate license fee, the  
19 department agency shall issue a license to any person  
20 certified by the appropriate board, or its designee, as having  
21 met the licensure requirements imposed by law or rule.  
22 However, an applicant who is not otherwise qualified for  
23 licensure is not entitled to licensure solely based on a  
24 passing score on a required examination.

25 (4)(3) When any administrative law judge conducts a  
26 hearing pursuant to the provisions of chapter 120 with respect  
27 to the issuance of a license by the department Agency for  
28 Health Care Administration, the administrative law judge shall  
29 submit his recommended order to the appropriate board, which  
30 shall thereupon issue a final order. The applicant for  
31

1 licensure may appeal the final order of the board in  
2 accordance with the provisions of chapter 120.

3 (5)~~(4)~~ A privilege against civil liability is hereby  
4 granted to any witness for any information furnished by the  
5 witness in any proceeding pursuant to this section, unless the  
6 witness acted in bad faith or with malice in providing such  
7 information.

8 (6)~~(5)~~ As a condition of renewal of a license, the  
9 Board of Medicine, the Board of Osteopathic Medicine, the  
10 Board of Chiropractic, and the Board of Podiatric Medicine  
11 shall each require licensees which they respectively regulate  
12 to periodically demonstrate their professional competency by  
13 completing at least 40 hours of continuing education every 2  
14 years, which may include up to 1 hour of risk management or  
15 cost containment and up to 2 hours of other topics related to  
16 the applicable medical specialty, if required by board rule.  
17 Each of such boards shall determine whether any specific  
18 course requirements not otherwise mandated by law shall be  
19 mandated and shall approve criteria for, and the content of,  
20 any course mandated by such board.

21 (7)~~(6)~~ The respective boards within the jurisdiction  
22 of the department ~~Agency for Health Care Administration~~ may  
23 adopt rules to provide for the use of approved videocassette  
24 courses, not to exceed 5 hours per subject, to fulfill the  
25 continuing education requirements of the professions they  
26 regulate. Such rules shall provide for prior board approval  
27 of the criteria for and content of such courses and shall  
28 provide for a videocassette course validation form to be  
29 signed by the vendor and the licensee and submitted to the  
30 department ~~Agency for Health Care Administration~~, along with  
31

1 the license renewal application, for continuing education  
2 credit.

3 (8) In any instance in which a licensee or applicant  
4 to the department is required to be in compliance with a  
5 particular provision by, on, or before a certain date, and if  
6 that date occurs on a Saturday, Sunday, or a legal holiday,  
7 then the licensee or applicant is deemed to be in compliance  
8 with the specific date requirement if the required action  
9 occurs on the first succeeding day which is not a Saturday,  
10 Sunday, or legal holiday.

11 Section 23. Section 455.424, Florida Statutes, is  
12 created to read:

13 455.424 Limited licenses.--

14 (1) It is the intent of the Legislature that, absent a  
15 threat to the health, safety, and welfare of the public, the  
16 use of health care practitioners in good standing to serve the  
17 indigent, underserved, or critical need populations of this  
18 state should be encouraged. To that end, the board, or the  
19 department when there is no board, may adopt rules to permit  
20 practice by health care practitioners as limited licensees  
21 under this section. Such rules may allow health care  
22 practitioners in good standing who are intending to retire to  
23 exchange their regular license for a limited license without  
24 having to apply for a limited license.

25 (2) Any person desiring to obtain a limited license,  
26 when permitted by rule, shall submit to the board, or the  
27 department when there is no board, an application and fee, not  
28 to exceed \$300, and an affidavit stating that the applicant  
29 has been licensed to practice in any jurisdiction in the  
30 United States for at least 10 years in the profession for  
31 which the applicant seeks a limited license. The affidavit



1 shall also state that the applicant intends to practice only  
2 pursuant to the restrictions of the limited license granted  
3 pursuant to this section. If the applicant for a limited  
4 license submits a notarized statement from the employer  
5 stating that the applicant will not receive compensation for  
6 any service involving the practice of his profession, the  
7 application and all licensure fees shall be waived.

8 (3) The board, or the department when there is no  
9 board, may deny limited licensure to an applicant who has  
10 committed, or is under investigation or prosecution for, any  
11 act which would constitute the basis for discipline pursuant  
12 to the provisions of this part or the applicable practice act.

13 (4) The recipient of a limited license may practice  
14 only in the employ of public agencies or institutions or  
15 nonprofit agencies or institutions which meet the requirements  
16 of s. 501(c)(3) of the Internal Revenue Code, and which  
17 provide professional liability coverage for acts or omissions  
18 of the limited licensee. A limited licensee may provide  
19 services only to the indigent, underserved, or critical need  
20 populations within the state. The standard for determining  
21 indigency shall be that recognized by the Federal Poverty  
22 Income Guidelines produced by the United States Department of  
23 Health and Human Services. The board, or the department when  
24 there is no board, may adopt rules to define underserved and  
25 critical need areas and to ensure implementation of this  
26 section.

27 (5) A board, or the department when there is no board,  
28 may provide by rule for supervision of limited licensees to  
29 protect the health, safety, and welfare of the public.

30 (6) Each applicant granted a limited license is  
31 subject to all the provisions of this part and the respective

1 practice act under which the limited license is issued which  
2 are not in conflict with this section.

3 (7) This section does not apply to chapter 458 or  
4 chapter 459.

5 Section 24. Section 455.2142, Florida Statutes, is  
6 renumbered as section 455.425, Florida Statutes, and amended  
7 to read:

8 455.425 ~~455.2142~~ Sexual misconduct; disqualification  
9 for license, certificate, or registration.--Each board within  
10 the jurisdiction of the department ~~Agency for Health Care~~  
11 ~~Administration~~, or the department ~~agency~~ if there is no board,  
12 shall refuse to admit a candidate to any examination and  
13 refuse to issue a license, ~~certificate, or registration~~ to any  
14 applicant if the candidate or applicant has:

15 (1) Had any license, ~~certificate, or registration~~ to  
16 practice any profession or occupation revoked or surrendered  
17 based on a violation of sexual misconduct in the practice of  
18 that profession under the laws of any other state or any  
19 territory or possession of the United States and has not had  
20 that license, ~~certificate, or registration~~ reinstated by the  
21 licensing authority of the jurisdiction that revoked the  
22 license, ~~certificate, or registration~~; or

23 (2) Committed any act in any other state or any  
24 territory or possession of the United States which if  
25 committed in this state would constitute sexual misconduct.

26  
27 A licensing authority's acceptance of a candidate's  
28 relinquishment of a license which is offered in response to or  
29 in anticipation of the filing of administrative charges  
30 against the candidate's license constitutes the surrender of  
31 the license.

1           Section 25. Section 455.2173, Florida Statutes, 1996  
2 Supplement, is renumbered as section 455.426, Florida  
3 Statutes, and amended to read:

4           455.426 ~~455.2173~~ Department of Health ~~Agency for~~  
5 ~~Health Care Administration~~; examinations.--

6           (1)(a) The department ~~Agency for Health Care~~  
7 ~~Administration~~ shall provide, contract, or approve services  
8 for the development, preparation, and administration, scoring,  
9 score reporting, and evaluation of all examinations, in  
10 consultation with the appropriate board. The department  
11 agency shall certify ~~ensure~~ that ~~the~~ examinations developed  
12 and approved by the department adequately and reliably measure  
13 an applicant's ability to practice the profession regulated by  
14 the department ~~agency~~ and ~~shall seek the advice of the~~  
15 ~~appropriate board in the preparation and administration of the~~  
16 ~~examinations~~. After an examination developed or approved by  
17 the department has been administered, the board may reject any  
18 question which does not reliably measure the general areas of  
19 competency specified in the rules of the board. The  
20 department may contract for the preparation, administration,  
21 scoring, score reporting, and evaluation of ~~agency shall use~~  
22 ~~professional testing services to prepare, administer, grade,~~  
23 ~~and evaluate the~~ examinations, when such services are  
24 available and approved by the board.

25           (b) For each examination developed by the department  
26 or contracted vendor, to the extent not otherwise specified by  
27 statute, the board, or the department, when there is no board,  
28 ~~the Agency for Health Care Administration,~~ shall by rule  
29 specify the general areas of competency to be covered by each  
30 examination, the relative weight to be assigned in grading  
31 each area tested, and the score necessary to achieve a passing

1 grade, and fees, where applicable, to cover the actual cost  
2 for any purchase, development, and administration of required  
3 examinations. This subsection does not apply to national  
4 examinations approved and administered pursuant to paragraph  
5 (c). If a practical examination is deemed to be necessary,  
6 the rules shall specify the criteria by which examiners are to  
7 be selected, the grading criteria to be used by the examiner,  
8 the relative weight to be assigned in grading each criterion,  
9 and the score necessary to achieve a passing grade. When a  
10 mandatory standardization exercise for a practical examination  
11 is required by law, the board, or the department when there is  
12 no board, may conduct such exercise. Therefore, board  
13 members, or employees of the department when there is no  
14 board, may serve as examiners at a practical examination with  
15 the consent of the board or department, as appropriate.

16 (c) The board, or the department when there is no  
17 board, may approve by rule the use of any national examination  
18 which the department has certified as meeting requirements of  
19 national examinations and generally accepted testing standards  
20 pursuant to department rules. Providers of examinations  
21 seeking certification by the department shall pay the actual  
22 costs incurred by the department in making a determination  
23 regarding the certification ~~Agency for Health Care~~  
24 ~~Administration shall use any national examination which is~~  
25 ~~available and which is approved by the board.~~ The name and  
26 number of a candidate may be provided to a national contractor  
27 for the limited purpose of preparing the grade tape and  
28 information to be returned to the board or department; or, to  
29 the extent otherwise specified by rule, the candidate may  
30 apply directly to the vendor of the national examination and  
31 supply test score information to the department ~~agency.~~ The

1 department agency may delegate to the board the duty to  
2 provide and administer the examination. Any national  
3 examination approved by a board, or the department when there  
4 is no board, prior to October 1, 1997, is deemed certified  
5 under this paragraph.

6 (d) Each board, ~~or the department,~~ when there is no  
7 board, ~~the Agency for Health Care Administration~~ shall adopt  
8 rules regarding the security and monitoring of examinations.  
9 The department agency shall implement those rules adopted by  
10 the respective boards. In order to maintain the security of  
11 examinations, the department may employ the procedures set  
12 forth in s. 455.447 to seek fines and injunctive relief  
13 against an examinee who violates the provisions of s. 455.428  
14 or the rules adopted pursuant to this paragraph. The  
15 department, or any agent thereof, may, for the purposes of  
16 investigation, confiscate any written, photographic, or  
17 recording material or device in the possession of the examinee  
18 at the examination site which the department deems necessary  
19 to enforce such provisions or rules.

20 (e) If the professional board with jurisdiction over  
21 an examination concurs, the department may, for a fee, share  
22 with any other state's licensing authority an examination  
23 developed by or for the department unless prohibited by a  
24 contract entered into by the department for development or  
25 purchase of the examination. The department, with the  
26 concurrence of the appropriate board, shall establish  
27 guidelines that ensure security of a shared exam and shall  
28 require that any other state's licensing authority comply with  
29 those guidelines. Those guidelines shall be approved by the  
30 appropriate professional board. All fees paid by the user  
31

1 shall be applied to the department's examination and  
2 development program for professions regulated by this part.  
3 (2) For each examination developed by the department  
4 or a contracted vendor, the board, or the department, when  
5 there is no board, the Agency for Health Care Administration  
6 shall adopt rules providing for reexamination of any  
7 applicants who have failed an the examination developed by the  
8 department or a contracted vendor. If both a written and a  
9 practical examination are given, an applicant shall be  
10 required to retake only the portion of the examination on  
11 which the applicant he failed to achieve a passing grade, if  
12 the applicant he successfully passes that portion within a  
13 reasonable time, as determined by rule of the board, or the  
14 department when there is no board, of his passing the other  
15 portion. Except for national examinations approved and  
16 administered pursuant to this section, the department shall  
17 provide procedures for applicants who fail an examination  
18 developed by the department or a contracted vendor to review  
19 their examination questions, answers, papers, grades, and  
20 grading key. Applicants shall bear the actual cost for the  
21 department to provide examination review pursuant to this  
22 subsection. The board or, when there is no board, the agency  
23 shall make available an examination review procedure for  
24 applicants and charge an examination review fee not to exceed  
25 \$75 per review. Unless prohibited or limited by rules  
26 implementing security or access guidelines of national  
27 examinations, the applicant is entitled to review his  
28 examination questions, answers, papers, grades, and grading  
29 key. An applicant may waive in writing the confidentiality of  
30 <U>the applicant's his examination grades.  
31

1           (3) For each examination developed or administered by  
2 the department or a contracted vendor,~~The Agency for Health~~  
3 ~~Care Administration shall make~~ an accurate record of each  
4 applicant's examination questions, answers, papers, grades,  
5 and grading key.~~The agency shall be kept~~ keep such record  
6 for a period of not less than 2 years immediately following  
7 the examination, and such record shall thereafter be  
8 maintained or destroyed as provided in chapters 119 and 267.  
9 This subsection does not apply to national examinations  
10 approved and administered pursuant to this section.

11           (4) Meetings of any member of the department ~~Agency~~  
12 ~~for Health Care Administration~~ or of any board within the  
13 department ~~agency~~ held for the exclusive purpose of creating  
14 or reviewing licensure examination questions or proposed  
15 examination questions are exempt from the provisions of s.  
16 286.011 and s. 24(b), Art. I of the State Constitution. Any  
17 public records, such as tape recordings, minutes, or notes,  
18 generated during or as a result of such meetings are  
19 confidential and exempt from the provisions of s. 119.07(1)  
20 and s. 24(a), Art. I of the State Constitution. However, these  
21 exemptions shall not affect the right of any person to review  
22 an examination as provided in subsection (2).

23           (5) For examinations developed by the department or a  
24 contracted vendor, each board, or the department when there is  
25 no board, may provide licensure examinations in an applicant's  
26 native language. Applicants for examination or reexamination  
27 pursuant to this subsection shall bear the full cost for the  
28 department's development, preparation, administration,  
29 grading, and evaluation of any examination in a language other  
30 than English. Requests for translated examinations must be on  
31 file in the board office at least 6 months prior to the

1 scheduled examination. When determining whether it is in the  
2 public interest to allow the examination to be translated into  
3 a language other than English, the board shall consider the  
4 percentage of the population who speak the applicant's native  
5 language.

6 (6) In addition to meeting any other requirements for  
7 licensure by examination or by endorsement, an applicant may  
8 be required by a board, or the department when there is no  
9 board, to certify competency in state laws and rules relating  
10 to the applicable practice act.

11 Section 26. Section 455.427, Florida Statutes, is  
12 created to read:

13 455.427 Use of professional testing  
14 services.--Notwithstanding any other provision of law to the  
15 contrary, the department may use a professional testing  
16 service to prepare, administer, grade, and evaluate any  
17 computerized examination, when that service is available and  
18 approved by the board, or the department when there is no  
19 board.

20 Section 27. Section 455.428, Florida Statutes, is  
21 created to read:

22 455.428 Penalty for theft or reproduction of an  
23 examination.--In addition to, or in lieu of, any other  
24 discipline imposed pursuant to s. 455.443, the theft of an  
25 examination in whole or in part or the act of reproducing or  
26 copying any examination administered by the department,  
27 whether such examination is reproduced or copied in part or in  
28 whole and by any means, shall constitute a felony of the third  
29 degree, punishable as provided in s. 775.082, s. 775.083, or  
30 s. 775.084.

31



1           Section 28. Section 455.429, Florida Statutes, is  
2 created to read:

3           455.429 Foreign-trained professionals; special  
4 examination and license provisions.--

5           (1) When not otherwise provided by law, the department  
6 shall by rule provide procedures under which exiled  
7 professionals may be examined within each practice act. A  
8 person shall be eligible for such examination if the person:

9           (a) Immigrated to the United States after leaving the  
10 person's home country because of political reasons, provided  
11 such country is located in the Western Hemisphere and lacks  
12 diplomatic relations with the United States;

13           (b) Applies to the department and submits a fee;

14           (c) Was a Florida resident immediately preceding the  
15 person's application;

16           (d) Demonstrates to the department that the applicant  
17 was graduated with an appropriate professional degree from a  
18 college or university;

19           (e) Lawfully practiced the profession for at least 3  
20 years;

21           (f) Prior to 1980, successfully completed an approved  
22 course of study pursuant to chapters 74-105 and 75-177, Laws  
23 of Florida; and

24           (g) Presents a certificate demonstrating the  
25 successful completion of a continuing education program which  
26 offers a course of study that will prepare the applicant for  
27 the examination offered under subsection (2). The department  
28 shall develop rules for the approval of such programs.

29           (2) Upon request of a person who meets the  
30 requirements of subsection (1) and submits an examination fee,  
31

1 the department shall provide a written examination which tests  
2 the person's current ability to practice the profession.

3 (3) The fees charged for the examinations offered  
4 under subsection (2) shall be established by the department by  
5 rule and shall be sufficient to develop or to contract for the  
6 development of the examination and its administration,  
7 grading, and grade reviews.

8 (4) The department shall examine any applicant who  
9 meets the requirements of subsection (1) and pays the  
10 examination fee. Upon passing the examination and the  
11 issuance of the license, a licensee is subject to the  
12 administrative requirements of this part and the respective  
13 practice act under which the license is issued. Each applicant  
14 so licensed is subject to all provisions of this part and the  
15 respective practice act under which the license was issued.

16 (5) Upon a request by an applicant otherwise qualified  
17 under this section, the examination offered under subsection  
18 (2) may be given in the applicant's native language, provided  
19 that any translation costs are borne by the applicant.  
20 Applicants must apply for translation to the applicable board  
21 at least 6 months prior to the scheduled examination.

22 (6) The department shall not issue an initial license  
23 to, or renew a license of, any applicant or licensee who is  
24 under investigation or prosecution in any jurisdiction for an  
25 action which would constitute a violation of this part or the  
26 professional practice acts administered by the department and  
27 the boards until such time as the investigation or prosecution  
28 is complete, at which time the provisions of the professional  
29 practice acts shall apply.

30 Section 29. Section 455.431, Florida Statutes, is  
31 created to read:

1           455.431 Exemption for certain out-of-state or foreign  
2 professionals; limited practice permitted.--

3           (1) A professional of any other state or of any  
4 territory or other jurisdiction of the United States or of any  
5 other nation or foreign jurisdiction is exempt from the  
6 requirements of licensure under this part and the applicable  
7 professional practice act under the Division of Medical  
8 Quality Assurance within the department if that person:

9           (a) Holds, if so required in the jurisdiction in which  
10 that person practices, an active license to practice that  
11 profession.

12           (b) Engages in the active practice of that profession  
13 outside the state.

14           (c) Is employed or designated in that professional  
15 capacity by a sports entity visiting the state for a specific  
16 sporting event.

17           (2) A professional's practice under this section is  
18 limited to the members, coaches, and staff of the team for  
19 which that professional is employed or designated. A  
20 professional practicing under authority of this section shall  
21 not have practice privileges in any licensed health care  
22 facility without the approval of that facility.

23           Section 30. Section 455.432, Florida Statutes, is  
24 created to read:

25           455.432 Fees; receipts; disposition; periodic  
26 management reports.--

27           (1) Each board within the department shall determine  
28 by rule the amount of license fees for its profession, based  
29 upon department-prepared long-range estimates of the revenue  
30 required to implement all provisions of law relating to the  
31 regulation of professions by the department and any board.

1 Each board, or the department when there is no board, shall  
2 ensure that license fees are adequate to cover all anticipated  
3 costs and to maintain a reasonable cash balance, as determined  
4 by rule of the department, with advice of the applicable  
5 board. If sufficient action is not taken by a board within 1  
6 year of notification by the department that license fees are  
7 projected to be inadequate, the department shall set license  
8 fees on behalf of the applicable board to cover anticipated  
9 costs and to maintain the required cash balance. The  
10 department shall include recommended fee cap increases in its  
11 annual report to the President of the Senate, the Speaker of  
12 the House of Representatives, and the chairs of the  
13 appropriate legislative committees of substance. Further, it  
14 is legislative intent that no regulated profession operate  
15 with a negative cash balance. The department may provide by  
16 rule for the advancement of sufficient funds to any profession  
17 operating with a negative cash balance. Such advancement may  
18 be for a period not to exceed 2 consecutive years and shall  
19 require interest to be paid by the regulated profession.  
20 Interest shall be calculated at the current rate earned on  
21 Medical Quality Assurance Trust Fund investments. Interest  
22 earned shall be allocated to the various funds in accordance  
23 with the allocation of investment earnings during the period  
24 of the advance.

25 (2) Each board, or the department when there is no  
26 board, may, by rule, assess and collect a one-time fee from  
27 each active and each voluntary inactive licensee in an amount  
28 necessary to eliminate a cash deficit or, if there is not a  
29 cash deficit, in an amount sufficient to maintain the  
30 financial integrity of such professions as required in this  
31

1 section. No more than one such assessment may be made in any  
2 4-year period without specific legislative authorization.  
3 (3) Each board authorized to approve continuing  
4 education providers, or the department when there is no board,  
5 may establish, by rule, a fee not to exceed \$250 for anyone  
6 seeking approval to provide continuing education courses and  
7 may establish, by rule, a biennial renewal fee not to exceed  
8 \$250 for the renewal of providership of such courses. This  
9 subsection does not apply to the provision of continuing  
10 education courses or providers approved by the board under  
11 chapter 465.  
12 (4) All moneys collected by the department from fees  
13 or fines or from costs awarded to the department by a court  
14 shall be paid into the Medical Quality Assurance Trust Fund.  
15 The department may contract with public and private entities  
16 to receive and deposit revenue pursuant to this section. The  
17 Legislature shall appropriate funds from this trust fund  
18 sufficient to carry out the provisions of this part and the  
19 provisions of law with respect to professions regulated by the  
20 department and any board within the department. The department  
21 shall maintain separate accounts in the Medical Quality  
22 Assurance Trust Fund for every profession within the  
23 department. To the maximum extent possible, the department  
24 shall directly charge all expenses to the account of each  
25 regulated profession. For the purpose of this subsection,  
26 direct charge expenses shall include, but not be limited to,  
27 costs for investigations, examinations, and legal services.  
28 For expenses that cannot be charged directly, the department  
29 shall provide for the proportionate allocation among the  
30 accounts of expenses incurred by the department in the  
31 performance of its duties with respect to each regulated

1 profession. The department shall not expend funds from the  
2 account of a profession to pay for the expenses incurred on  
3 behalf of another profession. The department shall maintain  
4 adequate records to support its allocation of department  
5 expenses. The department shall provide any board with  
6 reasonable access to these records upon request. Each board  
7 shall be provided an annual report of revenue and direct and  
8 allocated expenses related to the operation of that  
9 profession. These reports and the department's adopted  
10 long-range plan shall be used by the board to determine the  
11 amount of license fees. A condensed version of this  
12 information, with the department's recommendations, shall be  
13 included in the annual report to the President of the Senate,  
14 the Speaker of the House of Representatives, and the chairs of  
15 the appropriate legislative committees of substance prepared  
16 pursuant to s. 455.449.

17 (5) A condensed management report of budgets,  
18 finances, performance statistics, and recommendations shall be  
19 provided to each board at least once a quarter. The  
20 department shall identify and include in such presentations  
21 any changes, or projected changes, made to the board's budget  
22 since the last presentation.

23 (6) If a duplicate license is required or requested by  
24 the licensee, the board, or the department when there is no  
25 board, may charge a fee as determined by rule not to exceed  
26 \$25 before issuance of the duplicate license.

27 (7) The department or the appropriate board shall  
28 charge a fee not to exceed \$25 for the certification of a  
29 public record. The fee shall be determined by rule of the  
30 department. The department or the appropriate board shall  
31

1 assess a fee for duplication of a public record as provided in  
2 s. 119.07(1)(a) and (b).

3 Section 31. Section 455.433, Florida Statutes, is  
4 created to read:

5 455.433 Legal and investigative services.--

6 (1) A board shall retain, through the contract  
7 procedures of the Department of Health, board counsel from the  
8 Department of Legal Affairs. The Department of Legal Affairs  
9 shall provide legal services to each board within the  
10 Department of Health, but the primary responsibility of the  
11 Department of Legal Affairs shall be to represent the  
12 interests of the citizens of the state by vigorously  
13 counseling the boards with respect to their obligations under  
14 the laws of the state. A board shall provide for the periodic  
15 review and evaluation of the services provided by its board  
16 counsel. Subject to the prior approval of the Attorney  
17 General, any board may retain, through the contract procedures  
18 of the Department of Health, independent legal counsel to  
19 provide legal advice to the board on a specific matter. Fees  
20 and costs of such counsel by the Department of Legal Affairs  
21 or independent legal counsel approved by the Attorney General  
22 shall be paid from the Medical Quality Assurance Trust Fund.  
23 All contracts for independent counsel shall provide for  
24 periodic review and evaluation, by the board and the  
25 Department of Health, of services provided.

26 (2) The Department of Health may employ or utilize the  
27 legal services of outside counsel and the investigative  
28 services of outside personnel. However, no attorney employed  
29 or utilized by the Department of Health shall prosecute a  
30 matter and provide legal services to the board with respect to  
31 the same matter.

1           (3) Any person retained by the Department of Health  
2 under contract to review materials, make site visits, or  
3 provide expert testimony regarding any complaint or  
4 application filed with the department relating to a profession  
5 under the jurisdiction of the department shall be considered  
6 an agent of the department in determining the state insurance  
7 coverage and sovereign immunity protection applicability of  
8 ss. 284.31 and 768.28.

9           Section 32. Section 455.222, Florida Statutes, is  
10 renumbered as section 455.434, Florida Statutes, and amended  
11 to read:

12           455.434 ~~455.222~~ Requirement for instruction on  
13 domestic violence.--

14           (1)(a) As of July 1, 1995, the appropriate board shall  
15 require each person licensed ~~or certified~~ under chapter 458,  
16 chapter 459, chapter 464, chapter 466, chapter 467, chapter  
17 490, or chapter 491 to complete a 1-hour continuing education  
18 course, approved by the board, on domestic violence, as  
19 defined in s. 741.30, as part of biennial relicensure ~~or~~  
20 ~~recertification~~. The course shall consist of information on  
21 the number of patients in that professional's practice who are  
22 likely to be victims of domestic violence and the number who  
23 are likely to be perpetrators of domestic violence, screening  
24 procedures for determining whether a patient has any history  
25 of being either a victim or a perpetrator of domestic  
26 violence, and instruction on how to provide such patients with  
27 information on, or how to refer such patients to, resources in  
28 the local community, such as domestic violence centers and  
29 other advocacy groups, that provide legal aid, shelter, victim  
30 counseling, batterer counseling, or child protection services.

31



1           (b) Each such licensee ~~or certificateholder~~ shall  
2 submit confirmation of having completed such course, on a form  
3 provided by the board, when submitting fees for each biennial  
4 renewal.

5           (c) The board may approve additional equivalent  
6 courses that may be used to satisfy the requirements of  
7 paragraph (a). Each licensing board that requires a licensee  
8 to complete an educational course pursuant to this subsection  
9 may include the hour required for completion of the course in  
10 the total hours of continuing education required by law for  
11 such profession unless the continuing education requirements  
12 for such profession consist of fewer than 30 hours biennially.

13           (d) Any person holding two or more licenses subject to  
14 the provisions of this subsection shall be permitted to show  
15 proof of having taken one board-approved course on domestic  
16 violence, for purposes of relicensure ~~or recertification~~ for  
17 additional licenses.

18           (e) Failure to comply with the requirements of this  
19 subsection shall constitute grounds for disciplinary action  
20 under each respective practice act and under s. 455.443(1)(g)  
21 ~~455.227(1)(g)~~. In addition to discipline by the board, the  
22 licensee shall be required to complete such course.

23           (2) The board shall also require, as a condition of  
24 granting a license under any chapter specified in paragraph  
25 (1)(a), that each applicant for initial licensure under the  
26 appropriate chapter complete an educational course acceptable  
27 to the board on domestic violence which is substantially  
28 equivalent to the course required in subsection (1). An  
29 applicant who has not taken such course at the time of  
30 licensure shall, upon submission of an affidavit showing good  
31 cause, be allowed 6 months to complete such requirement.

1           (3) Each board may adopt rules to carry out the  
2 provisions of this section.

3           (4) Each board shall report to the President of the  
4 Senate, the Speaker of the House of Representatives, and the  
5 chairs of the appropriate substantive committees of the  
6 Legislature by November ~~March~~ 1 of each year as to the  
7 implementation of and compliance with the requirements of this  
8 section.

9           Section 33. Section 455.2224, Florida Statutes, is  
10 renumbered as section 455.435, Florida Statutes, and amended  
11 to read:

12           455.435 ~~455.2224~~ Hepatitis B or human immunodeficiency  
13 carriers.--The department and each appropriate board within  
14 the Division of Medical Quality Assurance shall have the  
15 authority to establish procedures to handle, counsel, and  
16 provide other services to health care practitioners  
17 ~~professionals~~ within their respective boards who are infected  
18 with hepatitis B or the human immunodeficiency virus.

19           Section 34. Section 455.436, Florida Statutes, is  
20 created to read:

21           455.436 Requirement for instruction on human  
22 immunodeficiency virus and acquired immune deficiency  
23 syndrome.--

24           (1) The board, or the department when there is no  
25 board, shall require each person licensed under chapter 457;  
26 chapter 458; chapter 459; chapter 460; chapter 461; chapter  
27 463; chapter 464; chapter 465; chapter 466; part II, part III,  
28 part V, or part XIV of chapter 468; chapter 480 or chapter 486  
29 to complete a continuing educational course, approved by the  
30 board, on human immunodeficiency virus and acquired immune  
31 deficiency syndrome as part of biennial relicensure. The

1 course shall consist of education on the modes of  
2 transmission, infection control procedures, clinical  
3 management, and prevention of human immunodeficiency virus and  
4 acquired immune deficiency syndrome with an emphasis on  
5 appropriate behavioral and attitude change. Such course shall  
6 include information on current Florida law on acquired immune  
7 deficiency syndrome and its impact on testing, confidentiality  
8 of test results, and treatment of patients.

9 (2) When filing for biennial licensure renewal, each  
10 such licensee shall submit confirmation of having completed  
11 such course, on a form as provided by the department.

12 (3) The board, or the department when there is no  
13 board, shall have the authority to approve additional  
14 equivalent courses that may be used to satisfy the  
15 requirements in subsection (1). Each licensing board that  
16 requires a licensee to complete an educational course pursuant  
17 to this section may count the hours required for completion of  
18 the course included in the total continuing educational  
19 requirements as required by law.

20 (4) Any person holding two or more licenses subject to  
21 the provisions of this section shall be permitted to show  
22 proof of having taken one board-approved course, or one  
23 department-approved course when there is no board, on human  
24 immunodeficiency virus and acquired immune deficiency  
25 syndrome, for purposes of relicensure for additional licenses.

26 (5) Failure to comply with the above requirements  
27 shall constitute grounds for disciplinary action under each  
28 respective licensing chapter and s. 455.443(1)(e). In addition  
29 to discipline by the board, the licensee shall be required to  
30 complete such course.

31

1       (6) The board, or the department when there is no  
2 board, shall require as a condition of granting a license  
3 under the chapters specified in subsection (1) that an  
4 applicant making initial application for licensure complete an  
5 educational course acceptable to the board, or the department  
6 when there is no board, on human immunodeficiency virus and  
7 acquired immune deficiency syndrome. An applicant who has not  
8 taken a course at the time of licensure shall, upon an  
9 affidavit showing good cause, be allowed 6 months to complete  
10 this requirement.

11       (7) The board, or the department when there is no  
12 board, shall have the authority to adopt rules to carry out  
13 the provisions of this section.

14       (8) The board, or the department when there is no  
15 board, shall report to the President of the Senate, the  
16 Speaker of the House of Representatives, and the chairs of the  
17 appropriate legislative committees of substance by November 1  
18 of each year as to the implementation and compliance with the  
19 requirements of this section.

20       Section 35. Section 455.438, Florida Statutes, is  
21 created to read:

22       455.438 Power to administer oaths, take depositions,  
23 and issue subpoenas.--For the purpose of any investigation or  
24 proceeding conducted by the department, the department shall  
25 have the power to administer oaths, take depositions, make  
26 inspections when authorized by statute, issue subpoenas which  
27 shall be supported by affidavit, serve subpoenas and other  
28 process, and compel the attendance of witnesses and the  
29 production of books, papers, documents, and other evidence.  
30 The department shall exercise this power on its own initiative  
31 or whenever requested by a board or the probable cause panel

1 of any board. Challenges to, and enforcement of, the subpoenas  
2 and orders shall be handled as provided in s. 120.569.

3 Section 36. Section 455.439, Florida Statutes, is  
4 created to read:

5 455.439 Mediation.--

6 (1) Notwithstanding the provisions of s. 455.442, the  
7 board, or the department when there is no board, shall adopt  
8 rules to designate which violations of the applicable  
9 professional practice act are appropriate for mediation. The  
10 board, or the department when there is no board, may designate  
11 as mediation offenses those complaints where harm caused by  
12 the licensee is economic in nature or can be remedied by the  
13 licensee.

14 (2) After the department determines a complaint is  
15 legally sufficient and the alleged violations are defined as  
16 mediation offenses, the department or any agent of the  
17 department may conduct informal mediation to resolve the  
18 complaint. If the complainant and the subject of the complaint  
19 agree to a resolution of a complaint within 14 days after  
20 contact by the mediator, the mediator shall notify the  
21 department of the terms of the resolution. The department or  
22 board shall take no further action unless the complainant and  
23 the subject each fail to record with the department an  
24 acknowledgment of satisfaction of the terms of mediation  
25 within 60 days of the mediator's notification to the  
26 department. In the event the complainant and subject fail to  
27 reach settlement terms or to record the required  
28 acknowledgment, the department shall process the complaint  
29 according to the provisions of s. 455.442.

30 (3) Conduct or statements made during mediation are  
31 inadmissible in any proceeding pursuant to s. 455.442.

1 Further, any information relating to the mediation of a case  
2 shall be subject to the confidentiality provisions of s.  
3 455.442.

4 (4) No licensee shall go through the mediation process  
5 more than three times without approval of the department. The  
6 department may consider the subject and dates of the earlier  
7 complaints in rendering its decision. Such decision shall not  
8 be considered a final agency action for purposes of chapter  
9 120.

10 (5) If any board fails to adopt rules designating  
11 which violations are appropriate for resolution by mediation  
12 by January 1, 1995, the department shall have exclusive  
13 authority to, and shall, adopt rules to designate the  
14 violations which are appropriate for mediation. Any board  
15 created on or after January 1, 1995, shall have 6 months to  
16 adopt rules designating which violations are appropriate for  
17 mediation, after which time the department shall have  
18 exclusive authority to adopt rules pursuant to this section. A  
19 board shall have continuing authority to amend its rules  
20 adopted pursuant to this section.

21 Section 37. Section 455.441, Florida Statutes, is  
22 created to read:

23 455.441 Authority to issue citations.--

24 (1) Notwithstanding s. 455.442, the board, or the  
25 department when there is no board, shall adopt rules to permit  
26 the issuance of citations. The citation shall be issued to the  
27 subject and shall contain the subject's name and address, the  
28 subject's license number if applicable, a brief factual  
29 statement, the sections of the law allegedly violated, and the  
30 penalty imposed. The citation must clearly state that the  
31 subject may choose, in lieu of accepting the citation, to

1 follow the procedure under s. 455.442. If the subject disputes  
2 the matter in the citation, the procedures set forth in s.  
3 455.442 must be followed. However, if the subject does not  
4 dispute the matter in the citation with the department within  
5 30 days after the citation is served, the citation becomes a  
6 final order and constitutes discipline. The penalty shall be a  
7 fine or other conditions as established by rule.

8 (2) The board, or the department when there is no  
9 board, shall adopt rules designating violations for which a  
10 citation may be issued. Such rules shall designate as  
11 citation violations those violations for which there is no  
12 substantial threat to the public health, safety, and welfare.

13 (3) The department shall be entitled to recover the  
14 costs of investigation, in addition to any penalty provided  
15 according to board or department rule, as part of the penalty  
16 levied pursuant to the citation.

17 (4) A citation must be issued within 6 months after  
18 the filing of the complaint that is the basis for the  
19 citation.

20 (5) Service of a citation may be made by personal  
21 service or certified mail, restricted delivery, to the subject  
22 at the subject's last known address.

23 (6) The department has exclusive authority to, and  
24 shall adopt rules to, designate those violations for which the  
25 licensee is subject to the issuance of a citation and  
26 designate the penalties for those violations if any board  
27 fails to incorporate this section into rules by January 1,  
28 1992. A board created on or after January 1, 1992, has 6  
29 months in which to enact rules designating violations and  
30 penalties appropriate for citation offenses. Failure to enact  
31 such rules gives the department exclusive authority to adopt

1 rules as required for implementing this section. A board has  
2 continuous authority to amend its rules adopted pursuant to  
3 this section.

4 Section 38. Section 455.442, Florida Statutes, is  
5 created to read:

6 455.442 Disciplinary proceedings.--Disciplinary  
7 proceedings for each board shall be within the jurisdiction of  
8 the department.

9 (1) The department shall cause to be investigated any  
10 complaint that is filed before it if the complaint is in  
11 writing, signed by the complainant, and legally sufficient. A  
12 complaint is legally sufficient if it contains ultimate facts  
13 that show that a violation of this part, of any of the  
14 practice acts relating to the professions regulated by the  
15 department, or of any rule adopted by the department or a  
16 regulatory board in the department has occurred. In order to  
17 determine legal sufficiency, the department may require  
18 supporting information or documentation. The department may  
19 investigate, and the department or the appropriate board may  
20 take appropriate final action on, a complaint even though the  
21 original complainant withdraws it or otherwise indicates a  
22 desire not to cause the complaint to be investigated or  
23 prosecuted to completion. The department may investigate an  
24 anonymous complaint if the complaint is in writing and is  
25 legally sufficient, if the alleged violation of law or rule is  
26 substantial, and if the department has reason to believe,  
27 after preliminary inquiry, that the allegations of the  
28 complainant are true. The department may investigate a  
29 complaint made by a confidential informant if the complaint is  
30 legally sufficient, if the alleged violation of law or rule is  
31 substantial, and if the department has reason to believe,



1 after preliminary inquiry, that the allegations of the  
2 complainant are true. The department may initiate an  
3 investigation if it has reasonable cause to believe that a  
4 licensee or a group of licensees has violated a Florida  
5 statute, a rule of the department, or a rule of a board.  
6 Except as provided in ss. 458.331(9), 459.015(9), 460.413(5),  
7 and 461.013(6), when an investigation of any subject is  
8 undertaken, the department shall promptly furnish to the  
9 subject or the subject's attorney a copy of the complaint or  
10 document that resulted in the initiation of the investigation.  
11 The subject may submit a written response to the information  
12 contained in such complaint or document within 20 days after  
13 service to the subject of the complaint or document. The  
14 subject's written response shall be considered by the probable  
15 cause panel. The right to respond does not prohibit the  
16 issuance of a summary emergency order if necessary to protect  
17 the public. However, if the secretary, or the secretary's  
18 designee, and the chair of the respective board or the chair  
19 of its probable cause panel agree in writing that such  
20 notification would be detrimental to the investigation, the  
21 department may withhold notification. The department may  
22 conduct an investigation without notification to any subject  
23 if the act under investigation is a criminal offense.

24 (2) The department shall allocate sufficient and  
25 adequately trained staff to expeditiously and thoroughly  
26 determine legal sufficiency and investigate all legally  
27 sufficient complaints. When its investigation is complete and  
28 legally sufficient, the department shall prepare and submit to  
29 the probable cause panel of the appropriate regulatory board  
30 the investigative report of the department. The report shall  
31 contain the investigative findings and the recommendations of

1 the department concerning the existence of probable cause. At  
2 any time after legal sufficiency is found, the department may  
3 dismiss any case, or any part thereof, if the department  
4 determines that there is insufficient evidence to support the  
5 prosecution of allegations contained therein. The department  
6 shall provide a detailed report to the appropriate probable  
7 cause panel prior to dismissal of any case or part thereof,  
8 and to the subject of the complaint after dismissal of any  
9 case or part thereof, under this section. For cases dismissed  
10 prior to a finding of probable cause, such report is  
11 confidential and exempt from s. 119.07(1). The probable cause  
12 panel shall have access, upon request, to the investigative  
13 files pertaining to a case prior to dismissal of such case. If  
14 the department dismisses a case, the probable cause panel may  
15 retain independent legal counsel, employ investigators, and  
16 continue the investigation and prosecution of the case as it  
17 deems necessary.

18       (3) As an alternative to the provisions of subsections  
19 (1) and (2), when a complaint is received, the department may  
20 provide a licensee with a notice of noncompliance for an  
21 initial offense of a minor violation. Each board, or the  
22 department when there is no board, shall establish by rule  
23 those minor violations under this provision which do not  
24 endanger the public health, safety, and welfare and which do  
25 not demonstrate a serious inability to practice the  
26 profession. Failure of a licensee to take action in correcting  
27 the violation within 15 days after notice may result in the  
28 institution of regular disciplinary proceedings.

29       (4) The determination as to whether probable cause  
30 exists shall be made by majority vote of a probable cause  
31 panel of the board, or by the department, as appropriate. Each

1 regulatory board shall provide by rule that the determination  
2 of probable cause shall be made by a panel of its members or  
3 by the department. Each board may provide by rule for  
4 multiple probable cause panels composed of at least two  
5 members. Each board may provide by rule that one or more  
6 members of the panel or panels may be a former board member.  
7 The length of term or repetition of service of any such former  
8 board member on a probable cause panel may vary according to  
9 the direction of the board when authorized by board rule. Any  
10 probable cause panel must include one of the board's former or  
11 present consumer members, if one is available and willing to  
12 serve. Any probable cause panel must include a present board  
13 member. Any probable cause panel must include a former or  
14 present professional board member. However, any former  
15 professional board member serving on the probable cause panel  
16 must hold an active valid license for that profession. All  
17 proceedings of the panel are exempt from s. 286.011 until 10  
18 days after probable cause has been found to exist by the panel  
19 or until the subject of the investigation waives his privilege  
20 of confidentiality. The probable cause panel may make a  
21 reasonable request, and upon such request the department shall  
22 provide such additional investigative information as is  
23 necessary to the determination of probable cause. A request  
24 for additional investigative information shall be made within  
25 15 days from the date of receipt by the probable cause panel  
26 of the investigative report of the department. The probable  
27 cause panel or the department shall make its determination of  
28 probable cause within 30 days after receipt by it of the final  
29 investigative report of the department. The secretary may  
30 grant extensions of the 15-day and the 30-day time limits. If  
31 the probable cause panel does not find probable cause within

1 the 30-day time limit, as may be extended, or if the probable  
2 cause panel finds no probable cause, the department may  
3 determine, within 10 days after the panel fails to determine  
4 probable cause or 10 days after the time limit has elapsed,  
5 that probable cause exists. In lieu of a finding of probable  
6 cause, the probable cause panel, or the department when there  
7 is no board, may issue a letter of guidance to the subject. If  
8 the probable cause panel finds that probable cause exists, it  
9 shall direct the department to file a formal complaint against  
10 the licensee. The department shall follow the directions of  
11 the probable cause panel regarding the filing of a formal  
12 complaint. If directed to do so, the department shall file a  
13 formal complaint against the subject of the investigation and  
14 prosecute that complaint pursuant to chapter 120. However, the  
15 department may decide not to prosecute the complaint if it  
16 finds that probable cause had been improvidently found by the  
17 panel. In such cases, the department shall refer the matter to  
18 the board. The board may then file a formal complaint and  
19 prosecute the complaint pursuant to chapter 120. The  
20 department shall also refer to the board any investigation or  
21 disciplinary proceeding not before the Division of  
22 Administrative Hearings pursuant to chapter 120 or otherwise  
23 completed by the department within 1 year after the filing of  
24 a complaint. A probable cause panel or a board may retain  
25 independent legal counsel, employ investigators, and continue  
26 the investigation as it deems necessary; all costs thereof  
27 shall be paid from the Medical Quality Assurance Trust Fund.  
28 All proceedings of the probable cause panel are exempt from s.  
29 120.525.

30 (5) A formal hearing before an administrative law  
31 judge from the Division of Administrative Hearings shall be

1 held pursuant to chapter 120 if there are any disputed issues  
2 of material fact. The administrative law judge shall issue a  
3 recommended order pursuant to chapter 120. If any party raises  
4 an issue of disputed fact during an informal hearing, the  
5 hearing shall be terminated and a formal hearing pursuant to  
6 chapter 120 shall be held.

7 (6) The appropriate board, with those members of the  
8 panel, if any, who reviewed the investigation pursuant to  
9 subsection (4) being excused, or the department when there is  
10 no board, shall determine and issue the final order in each  
11 disciplinary case. Such order shall constitute final agency  
12 action. Any consent order or agreed settlement shall be  
13 subject to the approval of the department.

14 (7) The department shall have standing to seek  
15 judicial review of any final order of the board, pursuant to  
16 s. 120.68.

17 (8) Any proceeding for the purpose of summary  
18 suspension of a license, or for the restriction of the  
19 license, of a licensee pursuant to s. 120.60(6) shall be  
20 conducted by the secretary of the department, or his or her  
21 designee, who shall issue the final summary order.

22 (9) The department shall periodically notify the  
23 person who filed the complaint of the status of the  
24 investigation, whether probable cause has been found, and the  
25 status of any civil action or administrative proceeding or  
26 appeal.

27 (10) The complaint and all information obtained  
28 pursuant to the investigation by the department are  
29 confidential and exempt from s. 119.07(1) until 10 days after  
30 probable cause has been found to exist by the probable cause  
31 panel or by the department, or until the regulated

1 professional or subject of the investigation waives his or her  
2 privilege of confidentiality, whichever occurs first. Upon  
3 completion of the investigation and pursuant to a written  
4 request by the subject, the department shall provide the  
5 subject an opportunity to inspect the investigative file or,  
6 at the subject's expense, forward to the subject a copy of the  
7 investigative file. Notwithstanding s. 455.454, the subject  
8 may inspect or receive a copy of any expert witness report or  
9 patient record connected with the investigation, if the  
10 subject agrees in writing to maintain the confidentiality of  
11 any information received under this subsection until 10 days  
12 after probable cause is found and to maintain the  
13 confidentiality of patient records pursuant to s. 455.454. The  
14 subject may file a written response to the information  
15 contained in the investigative file. Such response must be  
16 filed within 20 days, unless an extension of time has been  
17 granted by the department. This subsection does not prohibit  
18 the department from providing such information to any law  
19 enforcement agency or to any other regulatory agency.

20 (11) A privilege against civil liability is hereby  
21 granted to any complainant or any witness with regard to  
22 information furnished with respect to any investigation or  
23 proceeding pursuant to this section, unless the complainant or  
24 witness acted in bad faith or with malice in providing such  
25 information.

26 (12)(a) No person who reports in any capacity, whether  
27 or not required by law, information to the department with  
28 regard to the incompetence, impairment, or unprofessional  
29 conduct of any health care practitioner licensed under chapter  
30 458, chapter 459, chapter 460, chapter 461, chapter 462,  
31 chapter 463, chapter 464, chapter 465, or chapter 466 shall be

1 held liable in any civil action for reporting against such  
2 health care practitioner if such person acts without  
3 intentional fraud or malice.

4 (b) No facility licensed under chapter 395, health  
5 maintenance organization certificated under part I of chapter  
6 641, physician licensed under chapter 458, or osteopathic  
7 physician licensed under chapter 459 shall discharge, threaten  
8 to discharge, intimidate, or coerce any employee or staff  
9 member by reason of such employee's or staff member's report  
10 to the department about a physician licensed under chapter  
11 458, chapter 459, chapter 460, chapter 461, or chapter 466 who  
12 may be guilty of incompetence, impairment, or unprofessional  
13 conduct so long as such report is given without intentional  
14 fraud or malice.

15 (c) In any civil suit brought outside the protections  
16 of paragraphs (a) and (b), where intentional fraud or malice  
17 is alleged, the person alleging intentional fraud or malice  
18 shall be liable for all court costs and for the other party's  
19 reasonable attorney's fees if intentional fraud or malice is  
20 not proved.

21 Section 39. Section 455.443, Florida Statutes, is  
22 created to read:

23 455.443 Grounds for discipline; penalties;  
24 enforcement.--

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

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

31

1           (b) Intentionally violating any rule adopted by the  
2 board or the department.

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

7           (d) Using a Class III or a Class IV laser device or  
8 product, as defined by federal regulations, without having  
9 complied with the rules adopted pursuant to s. 501.122(2)  
10 governing the registration of such devices with the  
11 department.

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

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

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

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



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

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

9        (k) Failing to perform any statutory or legal  
10 obligation placed upon a licensee.

11        (l) Making or filing a report which the licensee knows  
12 to be false, intentionally or negligently failing to file a  
13 report or record required by state or federal law, or  
14 willfully impeding or obstructing another person to do so.  
15 Such reports or records shall include only those that are  
16 signed in the capacity of a licensee.

17        (m) Making deceptive, untrue, or fraudulent  
18 representations in or related to the practice of a profession  
19 or employing a trick or scheme in or related to the practice  
20 of a profession.

21        (n) Exercising influence on the patient or client for  
22 the purpose of financial gain of the licensee or a third  
23 party.

24        (o) Practicing or offering to practice beyond the  
25 scope permitted by law or accepting and performing  
26 professional responsibilities the licensee knows, or has  
27 reason to know, the licensee is not competent to perform.

28        (p) Delegating or contracting for the performance of  
29 professional responsibilities by a person when the licensee  
30 delegating or contracting for performance of such  
31 responsibilities knows, or has reason to know, such person is

1 not qualified by training, experience, and authorization when  
2 required to perform them.

3 (q) Violating any provision of this part, the  
4 applicable professional practice act, a rule of the department  
5 or the board, or a lawful order previously entered into in a  
6 disciplinary or licensure hearing of the department or the  
7 board, or failing to comply with a lawfully issued subpoena of  
8 the department.

9 (r) Improperly interfering with an investigation or  
10 inspection authorized by statute, or with any disciplinary  
11 proceeding.

12 (s) Failing to comply with the educational course  
13 requirements for domestic violence.

14 (t) Failing to keep legible, as defined by department  
15 rule developed in consultation with the board, patient records  
16 that identify the licensed health care practitioner by name  
17 and professional title who is responsible for rendering,  
18 ordering, supervising, or billing for each examination or  
19 treatment procedure and that justify the course of treatment  
20 of the patient, including, but not limited to, patient  
21 histories, examination results, test results, records of drugs  
22 prescribed, dispensed, or administered, and reports of  
23 consultations and hospitalizations.

24 (u) Default on a federally or state guaranteed  
25 educational loan or service-conditional scholarship.

26 (v) Failing to provide the patient with proper  
27 identification, upon request, clearly identifying the health  
28 care practitioner's name and professional title.

29 (w) Failing to report to the board, in writing, within  
30 30 days, if disciplinary action has been taken against one's  
31 license to practice in another state, territory, or country.

1           (2) The board, or the department when there is no  
2 board, may suspend the license of any person who has been  
3 certified by a lending agency and reported to the board for  
4 default on a federally or state guaranteed educational loan or  
5 service-conditional scholarship. When suspension occurs, the  
6 person's license shall not be reissued until the person  
7 provides the board with a written release issued by the  
8 lending agency stating that the person is making payments on  
9 the loan in accordance with a repayment agreement approved by  
10 the lending agency. If the person has continued to meet all  
11 other requirements for licensure during the suspension,  
12 reinstatement shall be automatic upon receipt of the notice  
13 and payment of any reinstatement fee the board may impose.

14           (3) When the board, or the department when there is no  
15 board, finds any person guilty of the grounds set forth in  
16 subsection (1) or of any grounds set forth in the applicable  
17 practice act, including conduct constituting a substantial  
18 violation of subsection (1) or a violation of the applicable  
19 practice act which occurred prior to obtaining a license, it  
20 may enter an order imposing one or more of the following  
21 penalties:

22           (a) Refusal to certify, or to certify with  
23 restrictions, an application for a license.

24           (b) Suspension or permanent revocation of a license.

25           (c) Restriction of practice.

26           (d) Imposition of an administrative fine not to exceed  
27 \$5,000 for each count or separate offense.

28           (e) Issuance of a reprimand.

29           (f) Placement of the licensee on probation for a  
30 period of time and subject to such conditions as the board, or  
31 the department when there is no board, may specify. Those

1 conditions may include, but are not limited to, requiring the  
2 licensee to undergo treatment, attend continuing education  
3 courses, submit to be reexamined, work under the supervision  
4 of another licensee, or satisfy any terms which are reasonably  
5 tailored to the violations found.

6 (g) Corrective action.

7 (4) In addition to any other discipline imposed  
8 pursuant to this section or discipline imposed for a violation  
9 of any practice act, the board, or the department when there  
10 is no board, may assess costs related to the investigation and  
11 prosecution of the case excluding costs associated with an  
12 attorney's time. In any case where the board or the department  
13 imposes a fine or assessment and the fine or assessment is not  
14 paid within a reasonable time, such reasonable time to be  
15 prescribed in the rules of the board, or the department when  
16 there is no board, or in the order assessing such fines or  
17 costs, the department or the Department of Legal Affairs may  
18 contract for the collection of, or bring a civil action to  
19 recover, the fine or assessment.

20 (5) In addition to, or in lieu of, any other remedy or  
21 criminal prosecution, the department may file a proceeding in  
22 the name of the state seeking issuance of an injunction or a  
23 writ of mandamus against any person who violates any of the  
24 provisions of this part, or any provision of law with respect  
25 to professions regulated by the department, or any board  
26 therein, or the rules adopted pursuant thereto.

27 (6) In the event the board, or the department when  
28 there is no board, determines that revocation of a license is  
29 the appropriate penalty, the revocation shall be permanent.  
30 However, the board may establish, by rule, requirements for  
31 reapplication by applicants whose licenses have been

1 permanently revoked. Such requirements may include, but shall  
2 not be limited to, satisfying current requirements for an  
3 initial license.

4 Section 40. Section 455.444, Florida Statutes, is  
5 created to read:

6 455.444 Disciplinary guidelines.--

7 (1) Each board, or the department when there is no  
8 board, shall adopt, by rule, and periodically review the  
9 disciplinary guidelines applicable to each ground for  
10 disciplinary action which may be imposed by the board, or the  
11 department when there is no board, pursuant to this part, the  
12 respective practice acts, and any rule of the board or  
13 department.

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

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

30 (4) The department must review such disciplinary  
31 guidelines for compliance with the legislative intent as set

1 forth herein to determine whether the guidelines establish a  
2 meaningful range of penalties and may also challenge such  
3 rules pursuant to s. 120.56.

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

9 Section 41. Section 455.445, Florida Statutes, is  
10 created to read:

11 455.445 Penalty for giving false information.--In  
12 addition to, or in lieu of, any other discipline imposed  
13 pursuant to s. 455.443, the act of knowingly giving false  
14 information in the course of applying for or obtaining a  
15 license from the department with intent to mislead a public  
16 servant in the performance of his or her official duties, or  
17 the act of attempting to obtain or obtaining a license from  
18 the department, or any board thereunder, to practice a  
19 profession by knowingly misleading statements or knowing  
20 misrepresentations constitutes a felony of the third degree,  
21 punishable as provided in s. 775.082, s. 775.083, or s.  
22 775.084.

23 Section 42. Section 455.446, Florida Statutes, is  
24 created to read:

25 455.446 Prosecution of criminal violations.--The  
26 department or the appropriate board shall report any criminal  
27 violation of any statute relating to the practice of a  
28 profession regulated by the department or appropriate board to  
29 the proper prosecuting authority for prompt prosecution.

30 Section 43. Section 455.447, Florida Statutes, is  
31 created to read:

1           455.447 Unlicensed practice of a profession; cease and  
2 desist notice; civil penalty; enforcement; citations;  
3 allocation of moneys collected.--

4           (1) When the department has probable cause to believe  
5 that any person not licensed by the department, or the  
6 appropriate regulatory board within the department, has  
7 violated any provision of this part or any statute that  
8 relates to the practice of a profession regulated by the  
9 department, or any rule adopted pursuant thereto, the  
10 department may issue and deliver to such person a notice to  
11 cease and desist from such violation. In addition, the  
12 department may issue and deliver a notice to cease and desist  
13 to any person who aids and abets the unlicensed practice of a  
14 profession by employing such unlicensed person. The issuance  
15 of a notice to cease and desist shall not constitute agency  
16 action for which a hearing under ss. 120.569 and 120.57 may be  
17 sought. For the purpose of enforcing a cease and desist order,  
18 the department may file a proceeding in the name of the state  
19 seeking issuance of an injunction or a writ of mandamus  
20 against any person who violates any provisions of such order.  
21 In addition to the foregoing remedies, the department may  
22 impose an administrative penalty not to exceed \$5,000 per  
23 incident pursuant to the provisions of chapter 120 or may  
24 issue a citation pursuant to the provisions of subsection (3).  
25 If the department is required to seek enforcement of the  
26 agency order for a penalty pursuant to s. 120.569, it shall be  
27 entitled to collect its attorney's fees and costs, together  
28 with any cost of collection.

29           (2) In addition to or in lieu of any remedy provided  
30 in subsection (1), the department may seek the imposition of a  
31 civil penalty through the circuit court for any violation for

1 which the department may issue a notice to cease and desist  
2 under subsection (1). The civil penalty shall be no less than  
3 \$500 and no more than \$5,000 for each offense. The court may  
4 also award to the prevailing party court costs and reasonable  
5 attorney's fees and, in the event the department prevails, may  
6 also award reasonable costs of investigation.

7 (3)(a) Notwithstanding the provisions of s. 455.442,  
8 the department shall adopt rules to permit the issuance of  
9 citations for the unlicensed practice of a profession. The  
10 citation shall be issued to the subject and shall contain the  
11 subject's name and any other information the department  
12 determines to be necessary to identify the subject, a brief  
13 factual statement, the sections of the law allegedly violated,  
14 and the penalty imposed. The citation must clearly state that  
15 the subject may choose, in lieu of accepting the citation, to  
16 follow the procedure under s. 455.442. If the subject disputes  
17 the matter in the citation, the procedures set forth in s.  
18 455.442 must be followed. However, if the subject does not  
19 dispute the matter in the citation with the department within  
20 30 days after the citation is served, the citation shall  
21 become a final order of the department. The penalty shall be a  
22 fine of not less than \$500 or more than \$5,000 or other  
23 conditions as established by rule.

24 (b) Each day that the unlicensed practice continues  
25 after issuance of a citation constitutes a separate violation.

26 (c) The department shall be entitled to recover the  
27 costs of investigation, in addition to any penalty provided  
28 according to department rule as part of the penalty levied  
29 pursuant to the citation.

30  
31



1        (d) Service of a citation may be made by personal  
2 service or certified mail, restricted delivery, to the subject  
3 at the subject's last known address.

4        (4) All fines, fees, and costs collected through the  
5 procedures set forth in this section shall be allocated to the  
6 professions in the manner provided for in s. 455.448 for the  
7 allocation of the fees assessed and collected to combat  
8 unlicensed practice of a profession.

9        (5) The provisions of this section apply only to the  
10 provisions of s. 455.426 and the professional practice acts  
11 administered by the department.

12        Section 44. Section 455.448, Florida Statutes, is  
13 created to read:

14        455.448 Unlicensed activities; fees; disposition.--In  
15 order to protect the public and to ensure a consumer-oriented  
16 department, it is the intent of the Legislature that vigorous  
17 enforcement of regulation for all professional activities is a  
18 state priority. All enforcement costs should be covered by  
19 professions regulated by the department. Therefore, the  
20 department shall impose, upon initial licensure and each  
21 renewal thereof, a special fee of \$5 per licensee. Such fee  
22 shall be in addition to all other fees collected from each  
23 licensee and shall fund efforts to combat unlicensed activity.  
24 The board with concurrence of the department, or the  
25 department when there is no board, may earmark \$5 of the  
26 current licensure fee for this purpose, if such board, or  
27 profession regulated by the department, is not in a deficit  
28 and has a reasonable cash balance. The department shall make  
29 direct charges to this fund by profession and shall not  
30 allocate indirect overhead. The department shall seek board  
31 advice regarding enforcement methods and strategies prior to

1 expenditure of funds. The department shall directly credit, by  
2 profession, revenues received from the department's efforts to  
3 enforce licensure provisions. The department shall include all  
4 financial and statistical data resulting from unlicensed  
5 activity enforcement as a separate category in the quarterly  
6 management report provided for in s. 455.432. The department  
7 shall not charge the account of any profession for the costs  
8 incurred on behalf of any other profession. For an unlicensed  
9 activity account, a balance which remains at the end of a  
10 renewal cycle may, with concurrence of the applicable board  
11 and the department, be transferred to the operating fund  
12 account of that profession.

13 Section 45. Section 455.449, Florida Statutes, is  
14 created to read:

15 455.449 Annual report concerning finances,  
16 administrative complaints, disciplinary actions, and  
17 recommendations.--The department is directed to prepare and  
18 submit a report to the President of the Senate and Speaker of  
19 the House of Representatives by November 1 of each year. In  
20 addition to finances and any other information the Legislature  
21 may require, the report shall include statistics and relevant  
22 information, profession by profession, detailing:

23 (1) The revenues, expenditures, and cash balances for  
24 the prior year, and a review of the adequacy of existing fees.

25 (2) The number of complaints received and  
26 investigated.

27 (3) The number of findings of probable cause made.

28 (4) The number of findings of no probable cause made.

29 (5) The number of administrative complaints filed.

30 (6) The disposition of all administrative complaints.

31 (7) A description of disciplinary actions taken.

1       (8) The status of the development and implementation  
2 of rules providing for disciplinary guidelines pursuant to s.  
3 455.444.

4       (9) Such recommendations for administrative and  
5 statutory changes necessary to facilitate efficient and  
6 cost-effective operation of the department and the various  
7 boards.

8       Section 46. Section 455.451, Florida Statutes, is  
9 created to read:

10       455.451 Public inspection of information required from  
11 applicants; exceptions; examination hearing.--

12       (1) All information required by the department of any  
13 applicant shall be a public record and shall be open to public  
14 inspection pursuant to s. 119.07, except financial  
15 information, medical information, school transcripts,  
16 examination questions, answers, papers, grades, and grading  
17 keys, which are confidential and exempt from s. 119.07(1) and  
18 shall not be discussed with or made accessible to anyone  
19 except members of the board, the department, and staff  
20 thereof, who have a bona fide need to know such information.  
21 Any information supplied to the department by any other agency  
22 which is exempt from the provisions of chapter 119 or is  
23 confidential shall remain exempt or confidential pursuant to  
24 applicable law while in the custody of the department.

25       (2) The department shall establish by rule the  
26 procedure by which an applicant, and the applicant's attorney,  
27 may review examination questions and answers. Examination  
28 questions and answers are not subject to discovery but may be  
29 introduced into evidence and considered only in camera in any  
30 administrative proceeding under chapter 120. If an  
31 administrative hearing is held, the department shall provide

1 challenged examination questions and answers to the  
2 administrative law judge. The examination questions and  
3 answers provided at the hearing are confidential and exempt  
4 from s. 119.07(1), unless invalidated by the administrative  
5 law judge.

6 (3) Unless an applicant notifies the department at  
7 least 5 days prior to an examination hearing of the  
8 applicant's inability to attend, or unless an applicant can  
9 demonstrate an extreme emergency for failing to attend, the  
10 department may require an applicant who fails to attend to pay  
11 reasonable attorney's fees, costs, and court costs of the  
12 department for the examination hearing.

13 Section 47. Section 455.452, Florida Statutes, is  
14 created to read:

15 455.452 Disclosure of confidential information.--

16 (1) No officer, employee, person, or agent under  
17 contract with the department, or any board therein, or any  
18 subject of an investigation shall convey knowledge or  
19 information to any person who is not lawfully entitled to such  
20 knowledge or information about any public meeting or public  
21 record, which at the time such knowledge or information is  
22 conveyed is exempt from the provisions of s. 119.01, s.  
23 119.07(1), or s. 286.011.

24 (2) Any person who willfully violates any provision of  
25 this section commits a misdemeanor of the first degree,  
26 punishable as provided in s. 775.082 or s. 775.083, and may be  
27 subject to discipline pursuant to s. 455.443, and, if  
28 applicable, shall be removed from office, employment, or the  
29 contractual relationship.

30 Section 48. Section 455.453, Florida Statutes, is  
31 created to read:

1           455.453 Advertisement by a health care practitioner of  
2 free or discounted services; required statement.--In any  
3 advertisement for a free, discounted fee, or reduced fee  
4 service, examination, or treatment by a health care  
5 practitioner as defined in s. 455.402, the following statement  
6 shall appear in capital letters clearly distinguishable from  
7 the rest of the text: THE PATIENT AND ANY OTHER PERSON  
8 RESPONSIBLE FOR PAYMENT HAS A RIGHT TO REFUSE TO PAY, CANCEL  
9 PAYMENT, OR BE REIMBURSED FOR PAYMENT FOR ANY OTHER SERVICE,  
10 EXAMINATION, OR TREATMENT WHICH IS PERFORMED AS A RESULT OF  
11 AND WITHIN 72 HOURS OF RESPONDING TO THE ADVERTISEMENT FOR THE  
12 FREE, DISCOUNTED FEE, OR REDUCED FEE SERVICE, EXAMINATION, OR  
13 TREATMENT. However, the required statement shall not be  
14 necessary as an accompaniment to an advertisement of a  
15 licensed health care practitioner as defined in s. 455.402 if  
16 the advertisement appears in a classified directory the  
17 primary purpose of which is to provide products and services  
18 at free, reduced, or discounted prices to consumers and in  
19 which the statement prominently appears in at least one place.

20           Section 49. Section 455.241, Florida Statutes, 1996  
21 Supplement, is renumbered as section 455.454, Florida  
22 Statutes, and amended to read:

23           455.454 ~~455.241~~ Ownership and control of patient  
24 records; report or copies of records to be furnished.--

25           (1) As used in this section, the term "records owner"  
26 means any health care practitioner who generates a medical  
27 record after making a physical or mental examination of, or  
28 administering treatment or dispensing legend drugs to, any  
29 person; any health care practitioner to whom records are  
30 transferred by a previous records owner; or any health care  
31 practitioner's employer, including, but not limited to, group

1 practices and staff-model health maintenance organizations,  
2 provided the employment contract between the employer and the  
3 health care practitioner designates the employer as the  
4 records owner.

5 (2) As used in this section, the terms "records  
6 owner," "health care practitioner," and "health care  
7 practitioner's employer" do not include any of the following  
8 persons or entities; furthermore, the following persons or  
9 entities are not authorized to acquire or own medical records,  
10 but are authorized to maintain those documents required by the  
11 part or chapter under which they are licensed or regulated:

12 (a) Certified nursing assistants regulated under s.  
13 400.211.

14 (b) Pharmacists and pharmacies licensed under chapter  
15 465.

16 (c) Dental hygienists licensed under s. 466.023.

17 (d) Nursing home administrators licensed under part II  
18 of chapter 468.

19 (e) Respiratory therapists regulated under part V of  
20 chapter 468.

21 (f) Athletic trainers licensed under part XIV of  
22 chapter 468.

23 (g) Electrolysisists licensed under chapter 478.

24 (h) Clinical laboratory personnel licensed under part  
25 III of chapter 483.

26 (i) Medical physicists licensed under part IV of  
27 chapter 483.

28 (j) Opticians and optical establishments licensed or  
29 permitted under part I of chapter 484.

30 (k) Persons or entities practicing under s.  
31 627.736(7).

1           (3) This section does not apply to facilities licensed  
2 under chapter 395.

3           ~~(4)(1)~~ Any health care practitioner licensed by the  
4 department or a board within the department who makes a  
5 physical or mental examination of, or administers treatment or  
6 dispenses legend drugs to, any person shall, upon request of  
7 such person or the person's legal representative, furnish, in  
8 a timely manner, without delays for legal review, copies of  
9 all reports and records relating to such examination or  
10 treatment, including X rays and insurance information.  
11 However, when a patient's psychiatric, chapter 490  
12 psychological, or chapter 491 psychotherapeutic records are  
13 requested by the patient or the patient's legal  
14 representative, the health care practitioner may provide a  
15 report of examination and treatment in lieu of copies of  
16 records. Upon a patient's written request, complete copies of  
17 the patient's psychiatric records shall be provided directly  
18 to a subsequent treating psychiatrist. The furnishing of such  
19 report or copies shall not be conditioned upon payment of a  
20 fee for services rendered.

21           ~~(5)(2)~~ Except as otherwise provided in this section  
22 and in s. 440.13(4)(c)(2), such records may not be furnished  
23 to, and the medical condition of a patient may not be  
24 discussed with, any person other than the patient or the  
25 patient's legal representative or other health care  
26 practitioners and providers involved in the care or treatment  
27 of the patient, except upon written authorization of the  
28 patient. However, such records may be furnished without  
29 written authorization under the following circumstances:

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1           (a) To any person, firm, or corporation that has  
2 procured or furnished such examination or treatment with the  
3 patient's consent.

4           **~~(b) or~~** When compulsory physical examination is made  
5 pursuant to Rule 1.360, Florida Rules of Civil Procedure, in  
6 which case copies of the medical records shall be furnished to  
7 both the defendant and the plaintiff.

8           **~~(c) Such records may be furnished~~** In any civil or  
9 criminal action, unless otherwise prohibited by law, upon the  
10 issuance of a subpoena from a court of competent jurisdiction  
11 and proper notice to the patient or the patient's legal  
12 representative by the party seeking such records.

13           (d) For statistical and scientific research, provided  
14 the information is abstracted in such a way as to protect the  
15 identity of the patient or provided written permission is  
16 received from the patient or the patient's legal  
17 representative.

18           (6) Except in a medical negligence action or  
19 administrative proceeding when a health care practitioner or  
20 provider is or reasonably expects to be named as a defendant,  
21 information disclosed to a health care practitioner by a  
22 patient in the course of the care and treatment of such  
23 patient is confidential and may be disclosed only to other  
24 health care practitioners and providers involved in the care  
25 or treatment of the patient, or if permitted by written  
26 authorization from the patient or compelled by subpoena at a  
27 deposition, evidentiary hearing, or trial for which proper  
28 notice has been given.

29           **~~(7) The department or the Agency for Health Care~~**  
30 **~~Administration, as appropriate, may obtain patient records and~~**  
31 **~~insurance information, if the complaint being investigated~~**



1 alleges inadequate medical care based on termination of  
2 insurance. The department may access these records pursuant  
3 to a subpoena without written authorization from the patient  
4 if the department ~~or the Agency for Health Care Administration~~  
5 and the probable cause panel of the appropriate board, if any,  
6 find reasonable cause to believe that a health care  
7 practitioner has excessively or inappropriately prescribed any  
8 controlled substance specified in chapter 893 in violation of  
9 this part ~~chapter~~ or any professional practice act or that a  
10 health care practitioner has practiced his profession below  
11 that level of care, skill, and treatment required as defined  
12 by this part ~~chapter~~ or any professional practice act;  
13 provided, however, the patient record obtained by the  
14 department ~~or the agency~~ pursuant to this subsection shall be  
15 used solely for the purpose of the department ~~or the agency~~  
16 and the appropriate regulatory board in disciplinary  
17 proceedings. The records ~~record~~ shall otherwise be  
18 confidential and exempt from s. 119.07(1). This section does  
19 not limit the assertion of the psychotherapist-patient  
20 privilege under s. 90.503 in regard to records of treatment  
21 for mental or nervous disorders by a medical practitioner  
22 licensed pursuant to chapter 458 or chapter 459 who has  
23 primarily diagnosed and treated mental and nervous disorders  
24 for a period of not less than 3 years, inclusive of  
25 psychiatric residency. However, the health care practitioner  
26 shall release records of treatment for medical conditions even  
27 if the health care practitioner has also treated the patient  
28 for mental or nervous disorders. If the department ~~or the~~  
29 ~~agency~~ has found reasonable cause under this section and the  
30 psychotherapist-patient privilege is asserted, the department  
31 ~~or the agency~~ may petition the circuit court for an in camera

1 review of the records by expert medical practitioners  
2 appointed by the court to determine if the records or any part  
3 thereof are protected under the psychotherapist-patient  
4 privilege.

5 ~~(8)(3)~~ All patient records obtained by the department  
6 ~~or the Agency for Health Care Administration~~ and any other  
7 documents maintained by the department ~~or the agency~~ which  
8 identify the patient by name are confidential and exempt from  
9 s. 119.07(1) and shall be used solely for the purpose of the  
10 department ~~or the Agency for Health Care Administration~~ and  
11 the appropriate regulatory board in its investigation,  
12 prosecution, and appeal of disciplinary proceedings. The  
13 records shall not be available to the public as part of the  
14 record of investigation for and prosecution in disciplinary  
15 proceedings made available to the public by the department ~~or~~  
16 ~~the Agency for Health Care Administration~~ or the appropriate  
17 board.

18 (9) All records owners shall develop and implement  
19 policies, standards, and procedures to protect the  
20 confidentiality and security of the medical record. Employees  
21 of records owners shall be trained in these policies,  
22 standards, and procedures.

23 (10) Records owners are responsible for maintaining a  
24 record of all disclosures of information contained in the  
25 medical record to a third party, including the purpose of the  
26 disclosure request. The record of disclosure may be  
27 maintained in the medical record. The third party to whom  
28 information is disclosed is prohibited from further disclosing  
29 any information in the medical record without the expressed  
30 written consent of the patient or the patient's legal  
31 representative.

1       (11) Notwithstanding the provisions of s. 455.457,  
2 records owners shall place an advertisement in the local  
3 newspaper or notify patients, in writing, when they are  
4 terminating practice, retiring, or relocating, and no longer  
5 available to patients, and offer patients the opportunity to  
6 obtain a copy of their medical record.

7       (12) Notwithstanding the provisions of s. 455.457,  
8 records owners shall notify the appropriate board office when  
9 they are terminating practice, retiring, or relocating, and no  
10 longer available to patients, specifying who the new records  
11 owner is and where medical records can be found.

12       (13) Whenever a records owner has turned records over  
13 to a new records owner, the new records owner shall be  
14 responsible for providing a copy of the complete medical  
15 record, upon written request, of the patient or the patient's  
16 legal representative.

17       (14) Licensees in violation of the provisions of this  
18 section shall be disciplined by the appropriate licensing  
19 authority.

20       (15) The Attorney General is authorized to enforce the  
21 provisions of this section for records owners not otherwise  
22 licensed by the state, through injunctive relief and fines not  
23 to exceed \$5,000 per violation.

24       (16)~~(4)~~ A health care practitioner furnishing copies  
25 of reports or records pursuant to this section shall charge no  
26 more than the actual cost of copying, including reasonable  
27 staff time, or the amount specified in administrative rule by  
28 the appropriate board, or the department when there is no  
29 board.

30       (17) Nothing in this section shall be construed to  
31 limit health care practitioner consultations, as necessary.

1       (18) A records owner shall release to a health care  
2 practitioner who, as an employee of the records owner,  
3 previously provided treatment to a patient, those records that  
4 the health care practitioner actually created or generated  
5 when the health care practitioner treated the patient.  
6 Records released pursuant to this subsection shall be released  
7 only upon written request of the health care practitioner and  
8 shall be limited to the notes, plans of care, and orders and  
9 summaries that were actually generated by the health care  
10 practitioner requesting the record.

11           Section 50. Section 455.2415, Florida Statutes, 1996  
12 Supplement, is renumbered as section 455.455, Florida  
13 Statutes, and amended to read:

14           455.455 ~~455.2415~~ Communications confidential;  
15 exceptions.--Communications between a patient and a  
16 psychiatrist, as defined in s. 394.455(24)(23), shall be held  
17 confidential and shall not be disclosed except upon the  
18 request of the patient or the patient's legal representative.  
19 Provision of psychiatric records and reports shall be governed  
20 by s. 455.454 ~~455.241~~. Notwithstanding any other provisions of  
21 this section or s. 90.503, where:

22           (1) A patient is engaged in a treatment relationship  
23 with a psychiatrist;

24           (2) Such patient has made an actual threat to  
25 physically harm an identifiable victim or victims; and

26           (3) The treating psychiatrist makes a clinical  
27 judgment that the patient has the apparent capability to  
28 commit such an act and that it is more likely than not that in  
29 the near future the patient will carry out that threat,  
30  
31

1 the psychiatrist may disclose patient communications to the  
2 extent necessary to warn any potential victim or to  
3 communicate the threat to a law enforcement agency. No civil  
4 or criminal action shall be instituted, and there shall be no  
5 liability on account of disclosure of otherwise confidential  
6 communications by a psychiatrist in disclosing a threat  
7 pursuant to this section.

8 Section 51. Section 455.2416, Florida Statutes, is  
9 renumbered as section 455.456, Florida Statutes, and amended  
10 to read:

11 455.456 ~~455.2416~~ Health care practitioner disclosure  
12 of confidential information; immunity from civil or criminal  
13 liability.--

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

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

23 (b) The health care practitioner recommends that the  
24 patient notify the sexual partner or the needle-sharing  
25 partner of the positive test and refrain from engaging in  
26 sexual or drug activity in a manner likely to transmit the  
27 virus and the patient refuses, and the health care  
28 practitioner informs the patient of his intent to inform the  
29 sexual partner or needle-sharing partner; and

30 (c) If pursuant to a perceived civil duty or the  
31 ethical guidelines of the profession, the practitioner

1 reasonably and in good faith advises the sexual partner or the  
2 needle-sharing partner of the patient of the positive test and  
3 facts concerning the transmission of the virus.

4  
5 However, any notification of a sexual partner or a  
6 needle-sharing partner pursuant to this section shall be done  
7 in accordance with protocols developed pursuant to rule of the  
8 department ~~of Health and Rehabilitative Services~~.

9 (2) Notwithstanding subsection (1)~~the foregoing~~, a  
10 health care practitioner regulated through the Division of  
11 Medical Quality Assurance of the department shall not be  
12 civilly or criminally liable for failure to disclose  
13 information relating to a positive test result for human  
14 immunodeficiency virus of a patient to a sexual partner or a  
15 needle-sharing partner.

16 Section 52. Section 455.457, Florida Statutes, is  
17 created to read:

18 455.457 Disposition of records of deceased health care  
19 practitioners or health care practitioners relocating or  
20 terminating practice.--Each board created under this part, and  
21 the department under the provisions of chapter 20, shall  
22 provide by rule for the disposition, under such practice act,  
23 of the medical records or records of a psychological nature of  
24 health care practitioners which are in existence at the time  
25 the health care practitioner dies, terminates practice, or  
26 relocates and is no longer available to patients and which  
27 records pertain to the health care practitioner's patients.  
28 The rules shall provide that the records be retained for at  
29 least 2 years after the health care practitioner's death,  
30 termination of practice, or relocation. In the case of the  
31 death of the health care practitioner, the rules shall provide

1 for the disposition of such records by the estate of the  
2 health care practitioner. The rules shall require that records  
3 owners place an advertisement in the local newspaper or notify  
4 patients, in writing, when the records owner is terminating  
5 practice, retiring, or relocating and no longer available to  
6 patients. Records owners shall notify the appropriate board  
7 office when they are terminating practice, retiring, or  
8 relocating and no longer available to patients, specifying who  
9 the new records owner is and where medical records can be  
10 found.

11 Section 53. Section 455.458, Florida Statutes, is  
12 created to read:

13 455.458 Authority to inspect.--In addition to the  
14 authority specified in s. 465.017, duly authorized contract  
15 agents and employees of the department shall have the power to  
16 inspect in a lawful manner at all reasonable hours:

17 (1) Any pharmacy; or

18 (2) Any establishment at which the services of a  
19 licensee authorized to prescribe controlled substances  
20 specified in chapter 893 are offered,

21  
22 for the purpose of determining if any of the provisions of  
23 this part or any practice act of a profession or any rule  
24 promulgated thereunder is being violated, or for the purpose  
25 of securing such other evidence as may be needed for  
26 prosecution.

27 Section 54. Section 455.244, Florida Statutes, is  
28 renumbered as section 455.459, Florida Statutes, and amended  
29 to read:

30 455.459 ~~455.244~~ Chiropractic and podiatric health  
31 care; denial of payment; limitation.--A chiropractic physician

1 licensed under chapter 460 or a podiatrist licensed under  
2 chapter 461 shall not be denied payment for treatment rendered  
3 solely on the basis that the chiropractor or podiatrist is not  
4 a member of a particular preferred provider organization or  
5 exclusive provider organization which is composed only of  
6 physicians licensed under the same chapter.

7 Section 55. Section 455.461, Florida Statutes, is  
8 created to read:

9 455.461 Certain health care practitioners; immediate  
10 suspension of license.--

11 (1) The department shall issue an emergency order  
12 suspending the license of any health care practitioner as  
13 defined in s. 455.402 who pleads guilty to, is convicted or  
14 found guilty of, or enters a plea of nolo contendere to,  
15 regardless of adjudication, a felony under chapter 409 or  
16 chapter 893 or under 21 U.S.C. ss. 801-970 or under 42 U.S.C.  
17 ss. 1395-1396.

18 (2) If the board has previously found any physician or  
19 osteopathic physician in violation of the provisions of s.  
20 458.331(1)(t) or s. 459.015(1)(x), in regard to his or her  
21 treatment of three or more patients, and the probable cause  
22 panel of the board finds probable cause of an additional  
23 violation of that section, then the secretary of the  
24 department shall review the matter to determine if an  
25 emergency suspension or restriction order is warranted.  
26 Nothing in this section shall be construed so as to limit the  
27 authority of the secretary of the department to issue an  
28 emergency order.

29 Section 56. Section 455.2455, Florida Statutes, is  
30 renumbered as section 455.462, Florida Statutes, and amended  
31 to read:



1           455.462 ~~455.2455~~ Treatment of Medicare beneficiaries;  
2 refusal, emergencies, consulting physicians.--  
3           (1) ~~Effective as of January 1, 1993,~~As used in this  
4 section, the term:  
5           (a) "Physician" means a physician licensed under  
6 chapter 458, an osteopathic physician licensed under chapter  
7 459, a chiropractor licensed under chapter 460, a podiatrist  
8 licensed under chapter 461, or an optometrist licensed under  
9 chapter 463.  
10           (b) "Beneficiary" means a beneficiary of health  
11 insurance under Title XVIII of the federal Social Security  
12 Act.  
13           (c) "Consulting physician" means any physician to whom  
14 a primary physician refers a Medicare beneficiary for  
15 treatment.  
16           (2) A physician may refuse to treat a beneficiary.  
17 However, nothing contained in this section shall be construed  
18 to limit a physician's obligation under state or federal law  
19 to treat a patient for an emergency medical condition,  
20 regardless of the patient's ability to pay.  
21           (3) If treatment is provided to a beneficiary for an  
22 emergency medical condition as defined in s. 395.0142(2)(c),  
23 the physician must accept Medicare assignment,provided that  
24 the requirement to accept Medicare assignment for an emergency  
25 medical condition shall not apply to treatment rendered after  
26 the patient is stabilized, or the treatment is unrelated to  
27 the original emergency medical condition. For the purpose of  
28 this subsection,"stabilized" is defined to mean,with respect  
29 to an emergency medical condition, that no material  
30 deterioration of the condition is likely within reasonable  
31 medical probability.

1           (4) If treatment provided to a beneficiary is not for  
2 such emergency medical condition, and the primary physician  
3 accepts assignment, all consulting physicians must accept  
4 assignment unless the patient agrees in writing, before  
5 receiving the treatment, that the physician need not accept  
6 assignment.

7           (5) Any attempt by a primary physician or a consulting  
8 physician to collect from a Medicare beneficiary any amount of  
9 charges for medical services in excess of those authorized  
10 under this section, other than the unmet deductible and the 20  
11 percent of charges that Medicare does not pay, shall be deemed  
12 null, void, and of no merit.

13           Section 57. Section 455.2456, Florida Statutes, is  
14 renumbered as section 455.463, Florida Statutes, and amended  
15 to read:

16           455.463 ~~455.2456~~ Boards regulating certain health care  
17 practitioners.--

18           (1) As a prerequisite for licensure or license  
19 renewal, the Board of Acupuncture, the Board of Chiropractic,  
20 the Board of Podiatric Medicine, and the Board of Dentistry  
21 shall, by rule, require that all health care practitioners  
22 licensed under the respective board, and the Board of Nursing  
23 shall, by rule, require that advanced registered nurse  
24 practitioners certified under s. 464.012, maintain medical  
25 malpractice insurance or provide proof of financial  
26 responsibility in an amount and in a manner determined by the  
27 board to be sufficient to cover claims arising out of the  
28 rendering of or failure to render professional care and  
29 services in this state.

30           (2) The board may grant exemptions upon application by  
31 practitioners meeting any of the following criteria:

1           (a) Any person licensed under chapter 457, chapter  
2 460, chapter 461, s. 464.012, or chapter 466 who practices  
3 exclusively as an officer, employee, or agent of the Federal  
4 Government or of the state or its agencies or its  
5 subdivisions. For the purposes of this paragraph ~~subsection~~,  
6 an agent of the state, its agencies, or its subdivisions is a  
7 person who is eligible for coverage under any self-insurance  
8 or insurance program authorized by the provisions of s.  
9 768.28(14) or who is a volunteer under s. 110.501(1).

10           (b) Any person whose license ~~or certification~~ has  
11 become inactive under chapter 457, chapter 460, chapter 461,  
12 chapter 464, or chapter 466 and who is not practicing in this  
13 state. Any person applying for reactivation of a license must  
14 show either that such licensee maintained tail insurance  
15 coverage which provided liability coverage for incidents that  
16 occurred on or after October 1, 1993, or the initial date of  
17 licensure in this state, whichever is later, and incidents  
18 that occurred before the date on which the license became  
19 inactive; or such licensee must submit an affidavit stating  
20 that such licensee has no unsatisfied medical malpractice  
21 judgments or settlements at the time of application for  
22 reactivation.

23           (c) Any person holding a limited license pursuant to  
24 s. 455.424 ~~455.214~~, and practicing under the scope of such  
25 limited license.

26           (d) Any person licensed ~~or certified~~ under chapter  
27 457, chapter 460, chapter 461, s. 464.012, or chapter 466 who  
28 practices only in conjunction with his teaching duties at an  
29 accredited school or in its main teaching hospitals. Such  
30 person may engage in the practice of medicine to the extent  
31

1 that such practice is incidental to and a necessary part of  
2 duties in connection with the teaching position in the school.

3 (e) Any person holding an active license ~~or~~  
4 ~~certification~~ under chapter 457, chapter 460, chapter 461, s.  
5 464.012, or chapter 466 who is not practicing in this state.  
6 If such person initiates or resumes practice in this state, he  
7 must notify the department of such activity.

8 (f) Any person who can demonstrate to the board that  
9 he has no malpractice exposure in the state.

10 (3) Notwithstanding the provisions of this section,  
11 the financial responsibility requirements of ss. 458.320 and  
12 459.0085 shall continue to apply to practitioners licensed  
13 under those chapters.

14 Section 58. Section 455.247, Florida Statutes, 1996  
15 Supplement, is renumbered as section 455.464, Florida  
16 Statutes, to read:

17 455.464 ~~455.247~~ Health care practitioners; reports on  
18 professional liability claims and actions.--

19 (1) Any practitioner of medicine licensed pursuant to  
20 the provisions of chapter 458, practitioner of osteopathic  
21 medicine licensed pursuant to the provisions of chapter 459,  
22 podiatrist licensed pursuant to the provisions of chapter 461,  
23 or dentist licensed pursuant to the provisions of chapter 466  
24 shall report to the department any claim or action for damages  
25 for personal injury alleged to have been caused by error,  
26 omission, or negligence in the performance of such licensee's  
27 professional services or based on a claimed performance of  
28 professional services without consent if the claim was not  
29 covered by an insurer required to report under s. 627.912 and  
30 the claim resulted in:

31 (a) A final judgment in any amount.

- 1           (b) A settlement in any amount.
- 2           (c) A final disposition not resulting in payment on  
3 behalf of the licensee.
- 4
- 5 Reports shall be filed with the department no later than 60  
6 days following the occurrence of any event listed in paragraph  
7 (a), paragraph (b), or paragraph (c).
- 8           (2) Reports shall contain:
- 9           (a) The name and address of the licensee.
- 10          (b) The date of the occurrence which created the  
11 claim.
- 12          (c) The date the claim was reported to the licensee.
- 13          (d) The name and address of the injured person. This  
14 information is confidential and exempt from s. 119.07(1) and  
15 shall not be disclosed by the department without the injured  
16 person's consent. This information may be used by the  
17 department for purposes of identifying multiple or duplicate  
18 claims arising out of the same occurrence.
- 19          (e) The date of suit, if filed.
- 20          (f) The injured person's age and sex.
- 21          (g) The total number and names of all defendants  
22 involved in the claim.
- 23          (h) The date and amount of judgment or settlement, if  
24 any, including the itemization of the verdict, together with a  
25 copy of the settlement or judgment.
- 26          (i) In the case of a settlement, such information as  
27 the department may require with regard to the injured person's  
28 incurred and anticipated medical expense, wage loss, and other  
29 expenses.
- 30          (j) The loss adjustment expense paid to defense  
31 counsel, and all other allocated loss adjustment expense paid.

1 (k) The date and reason for final disposition, if no  
2 judgment or settlement.

3 (l) A summary of the occurrence which created the  
4 claim, which shall include:

5 1. The name of the institution, if any, and the  
6 location within such institution, at which the injury  
7 occurred.

8 2. The final diagnosis for which treatment was sought  
9 or rendered, including the patient's actual condition.

10 3. A description of the misdiagnosis made, if any, of  
11 the patient's actual condition.

12 4. The operation or the diagnostic or treatment  
13 procedure causing the injury.

14 5. A description of the principal injury giving rise  
15 to the claim.

16 6. The safety management steps that have been taken by  
17 the licensee to make similar occurrences or injuries less  
18 likely in the future.

19 (m) Any other information required by the department  
20 to analyze and evaluate the nature, causes, location, cost,  
21 and damages involved in professional liability cases.

22 Section 59. Section 455.465, Florida Statutes, is  
23 created to read:

24 455.465 Impaired Health Care Practitioners Committee;  
25 duties.--

26 (1) There is created the Impaired Health Care  
27 Practitioners Committee to be composed of one representative  
28 appointed by the Boards of Medicine, Osteopathic Medicine,  
29 Pharmacy, Dentistry, and Nursing and the Council on  
30 Respiratory Therapy under the jurisdiction of the Division of  
31 Medical Quality Assurance. The committee shall also consist

1 of one addictionologist and two lay members having an  
2 appropriate background in the area of impairment, each to be  
3 appointed by the secretary of the department, and one  
4 representative of the department, to be appointed by the  
5 secretary of the department. Section 455.415 applies to the  
6 activities of the committee. Boards not represented on the  
7 committee may serve in an advisory capacity to the committee.

8 (2) The committee shall:

9 (a) Establish policies and guidelines to be used in  
10 approving treatment providers for preventive and  
11 rehabilitative programs directed to impaired health care  
12 practitioners;

13 (b) Act as liaison between approved treatment  
14 providers and the department;

15 (c) Advise the department on the continuation and  
16 expansion of treatment programs for impaired health care  
17 practitioners; and

18 (d) Disseminate information concerning the impairment  
19 program.

20 Section 60. Section 455.466, Florida Statutes, is  
21 created to read:

22 455.466 Treatment programs for impaired health care  
23 practitioners.--

24 (1) For health care professions which do not have  
25 impaired practitioner programs provided for in their practice  
26 acts, the department shall, by rule, designate approved  
27 treatment programs under this section. The department may  
28 adopt rules setting forth appropriate criteria for approval of  
29 treatment providers based on the policies and guidelines  
30 established by the Impaired Health Care Practitioners  
31 Committee. The department shall not compel any impaired

1 practitioner program in existence on October 1, 1992, to serve  
2 additional professions.

3 (2) The department shall retain one or more impaired  
4 practitioner consultants as recommended by the committee. A  
5 consultant shall be a licensee or recovered licensee under the  
6 jurisdiction of the Division of Medical Quality Assurance  
7 within the department, and at least one consultant must be a  
8 practitioner or recovered practitioner licensed under chapter  
9 458, chapter 459, or chapter 464. The consultant shall assist  
10 the probable cause panel and department in carrying out the  
11 responsibilities of this section. This shall include working  
12 with department investigators to determine whether a health  
13 care practitioner is, in fact, impaired.

14 (3)(a) Whenever the department receives a written or  
15 oral legally sufficient complaint alleging that a licensee  
16 under the jurisdiction of the Division of Medical Quality  
17 Assurance within the department is impaired as a result of the  
18 misuse or abuse of alcohol or drugs, or both, or due to a  
19 mental or physical condition which could affect the licensee's  
20 ability to practice with skill and safety, and no complaint  
21 against the licensee other than impairment exists, the  
22 reporting of such information shall not constitute a complaint  
23 within the meaning of s. 455.442 if the probable cause panel  
24 of the appropriate board, or the department when there is no  
25 board, finds:

26 1. The licensee has acknowledged the impairment  
27 problem.

28 2. The licensee has voluntarily enrolled in an  
29 appropriate, approved treatment program.

30 3. The licensee has voluntarily withdrawn from  
31 practice or limited the scope of practice as determined by the



1 panel, or the department when there is no board, in each case,  
2 until such time as the panel, or the department when there is  
3 no board, is satisfied the licensee has successfully completed  
4 an approved treatment program.

5 4. The licensee has executed releases for medical  
6 records, authorizing the release of all records of  
7 evaluations, diagnoses, and treatment of the licensee,  
8 including records of treatment for emotional or mental  
9 conditions, to the consultant. The consultant shall make no  
10 copies or reports of records that do not regard the issue of  
11 the licensee's impairment and his or her participation in a  
12 treatment program.

13 (b) If, however, the licensee agrees to withdraw from  
14 practice until such time as the consultant determines the  
15 licensee has satisfactorily completed an approved treatment  
16 program or evaluation, the probable cause panel, or the  
17 department when there is no board, shall not become involved  
18 in the licensee's case.

19 (c) Inquiries related to impairment treatment programs  
20 designed to provide information to the licensee and others and  
21 which do not indicate that the licensee presents a danger to  
22 the public shall not constitute a complaint within the meaning  
23 of s. 455.442 and shall be exempt from the provisions of this  
24 subsection.

25 (d) Whenever the department receives a legally  
26 sufficient complaint alleging that a licensee is impaired as  
27 described in paragraph (a) and no complaint against the  
28 licensee other than impairment exists, the department shall  
29 forward all information in its possession regarding the  
30 impaired licensee to the consultant. For the purposes of this  
31

1 section, a suspension from hospital staff privileges due to  
2 the impairment does not constitute a complaint.

3 (e) The probable cause panel, or the department when  
4 there is no board, shall work directly with the consultant,  
5 and all information concerning a health care practitioner  
6 obtained from the consultant by the panel, or the department  
7 when there is no board, shall remain confidential and exempt  
8 from the provisions of s. 119.07(1), subject to the provisions  
9 of subsections (5) and (6).

10 (f) A finding of probable cause shall not be made as  
11 long as the panel, or the department when there is no board,  
12 is satisfied, based upon information it receives from the  
13 consultant and the department, that the licensee is  
14 progressing satisfactorily in an approved treatment program.

15 (4) In any disciplinary action for a violation other  
16 than impairment in which a licensee establishes the violation  
17 for which the licensee is being prosecuted was due to or  
18 connected with impairment and further establishes the licensee  
19 is satisfactorily progressing through or has successfully  
20 completed an approved treatment program pursuant to this  
21 section, such information may be considered by the board, or  
22 the department when there is no board, as a mitigating factor  
23 in determining the appropriate penalty. This subsection does  
24 not limit mitigating factors the board may consider.

25 (5)(a) An approved treatment provider shall, upon  
26 request, disclose to the consultant all information in its  
27 possession regarding the issue of a licensee's impairment and  
28 participation in the treatment program. All information  
29 obtained by the consultant and department pursuant to this  
30 section is confidential and exempt from the provisions of s.  
31 119.07(1), subject to the provisions of this subsection and

1 subsection (6). Failure to provide such information to the  
2 consultant is grounds for withdrawal of approval of such  
3 program or provider.

4 (b) If in the opinion of the consultant, after  
5 consultation with the treatment provider, an impaired licensee  
6 has not progressed satisfactorily in a treatment program, all  
7 information regarding the issue of a licensee's impairment and  
8 participation in a treatment program in the consultant's  
9 possession shall be disclosed to the department. Such  
10 disclosure shall constitute a complaint pursuant to the  
11 general provisions of s. 455.442. Whenever the consultant  
12 concludes that impairment affects a licensee's practice and  
13 constitutes an immediate, serious danger to the public health,  
14 safety, or welfare, that conclusion shall be communicated to  
15 the secretary of the department.

16 (6) A consultant, licensee, or approved treatment  
17 provider who makes a disclosure pursuant to this section is  
18 not subject to civil liability for such disclosure or its  
19 consequences. The provisions of s. 766.101 apply to any  
20 officer, employee, or agent of the department or the board and  
21 to any officer, employee, or agent of any entity with which  
22 the department has contracted pursuant to this section.

23 Section 61. Section 455.467, Florida Statutes, is  
24 created to read:

25 455.467 Inactive and delinquent status.--

26 (1) A licensee may practice a profession only if the  
27 licensee has an active status license. A licensee who  
28 practices a profession without an active status license is in  
29 violation of this section and s. 455.443, and the board, or  
30 the department when there is no board, may impose discipline  
31 on the licensee.

1       (2) Each board, or the department when there is no  
2 board, shall permit a licensee to choose, at the time of  
3 licensure renewal, an active or inactive status. However, a  
4 licensee who changes from inactive to active status is not  
5 eligible to return to inactive status until the licensee  
6 thereafter completes a licensure cycle on active status.

7       (3) Each board, or the department when there is no  
8 board, shall, by rule, impose a fee for an inactive status  
9 license which is no greater than the fee for an active status  
10 license.

11       (4) An inactive status licensee may change to active  
12 status at any time, provided the licensee meets all  
13 requirements for active status, pays any additional licensure  
14 fees necessary to equal those imposed on an active status  
15 licensee, pays any applicable reactivation fees as set by the  
16 board, or the department when there is no board, and meets all  
17 continuing education requirements as specified in this  
18 section.

19       (5) A licensee shall apply with a complete  
20 application, as defined by rule of the board, or the  
21 department when there is no board, to renew an active or  
22 inactive status license before the license expires. Failure of  
23 a licensee to renew before the license expires shall cause the  
24 license to become delinquent in the license cycle following  
25 expiration.

26       (6) A delinquent status licensee must affirmatively  
27 apply with a complete application, as defined by rule of the  
28 board, or the department when there is no board, for active or  
29 inactive status during the licensure cycle in which a licensee  
30 becomes delinquent. Failure by a delinquent status licensee to  
31 become active or inactive before the expiration of the current

1 licensure cycle shall render the license null without any  
2 further action by the board or the department. Any subsequent  
3 licensure shall be as a result of applying for and meeting all  
4 requirements imposed on an applicant for new licensure. Any  
5 applicant for licensure pursuant to this section whose  
6 previously issued license has become null and void must meet  
7 the requirements of subsection (10).

8 (7) Each board, or the department when there is no  
9 board, shall, by rule, impose an additional delinquency fee,  
10 not to exceed the biennial renewal fee for an active status  
11 license, on a delinquent status licensee when such licensee  
12 applies for active or inactive status.

13 (8) Each board, or the department when there is no  
14 board, shall, by rule, impose an additional fee, not to exceed  
15 the biennial renewal fee for an active status license, for  
16 processing a licensee's request to change licensure status at  
17 any time other than at the beginning of a licensure cycle.

18 (9) Each board, or the department when there is no  
19 board, may, by rule, impose reasonable conditions, excluding  
20 full reexamination but including part of a national  
21 examination or a special purpose examination to assess current  
22 competency, necessary to ensure that a licensee who has been  
23 on inactive status for more than two consecutive biennial  
24 licensure cycles and who applies for active status can  
25 practice with the care and skill sufficient to protect the  
26 health, safety, and welfare of the public. Reactivation  
27 requirements may differ depending on the length of time  
28 licensees are inactive. The costs to meet reactivation  
29 requirements shall be borne by licensees requesting  
30 reactivation.

31

1       (10) Before reactivation, an inactive or delinquent  
2 licensee shall meet the same continuing education  
3 requirements, if any, imposed on an active status licensee for  
4 all biennial licensure periods in which the licensee was  
5 inactive or delinquent.

6       (11) The status or a change in status of a licensee  
7 shall not alter in any way the board's, or the department's  
8 when there is no board, right to impose discipline or to  
9 enforce discipline previously imposed on a licensee for acts  
10 or omissions committed by the licensee while holding a  
11 license, whether active, inactive, or delinquent.

12       Section 62. Section 455.468, Florida Statutes, is  
13 created to read:

14       455.468 Renewal and cancellation notices.--

15       (1) At least 90 days before the end of a licensure  
16 cycle, the department shall:

17       (a) Forward a licensure renewal notification to an  
18 active or inactive licensee at the licensee's last known  
19 address of record with the department.

20       (b) Forward a notice of pending cancellation of  
21 licensure to a delinquent status licensee at the licensee's  
22 last known address of record with the department.

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

1           Section 63. Section 455.469, Florida Statutes, is  
2 created to read:

3           455.469 Address of record.--

4           (1) Each licensee of the department is solely  
5 responsible for notifying the department in writing of the  
6 licensee's current mailing address and primary place of  
7 practice, as defined by rule of the board or of the department  
8 when there is no board. A licensee's failure to notify the  
9 department of a change of address constitutes a violation of  
10 this section, and the licensee may be disciplined by the board  
11 or by the department when there is no board.

12           (2) Notwithstanding any other provision of law,  
13 service by regular mail to a licensee's last known address of  
14 record with the department constitutes adequate and sufficient  
15 notice to the licensee for any official communication to the  
16 licensee by the board or the department except when other  
17 service is required pursuant to s. 455.442.

18           Section 64. Sections 455.01 through 455.2775, Florida  
19 Statutes, are designated as part I of chapter 455, Florida  
20 Statutes, and entitled "Department of Business and  
21 Professional Regulation: Regulation of Professions."

22           Section 65. Section 455.01, Florida Statutes, 1996  
23 Supplement, is amended to read:

24           455.01 Definitions.--As used in this part ~~chapter~~, the  
25 term:

26           (1) "Board" means any board or commission, or other  
27 statutorily created entity to the extent such entity is  
28 authorized to exercise regulatory or rulemaking functions,  
29 within the department, including the Florida Real Estate  
30 Commission; except that, for ss. 455.201-455.261, "board"  
31 means only a board, or other statutorily created entity to the

1 extent such entity is authorized to exercise regulatory or  
2 rulemaking functions, within the Division of Certified Public  
3 Accounting, ~~the Division of Medical Quality Assurance,~~ the  
4 Division of Professions, or the Division of Real Estate.

5 (2) "Consumer member" means a person appointed to  
6 serve on a specific board or who has served on a specific  
7 board, who is not, and never has been, a member or  
8 practitioner of the profession, or of any closely related  
9 profession, regulated by such board.

10 (3) "Department" means the Department of Business and  
11 Professional Regulation.

12 ~~(4) "Health care practitioner" means any person~~  
13 ~~licensed under chapter 457; chapter 458; chapter 459; chapter~~  
14 ~~460; chapter 461; chapter 462; chapter 463; chapter 464;~~  
15 ~~chapter 465; chapter 466; part I, part III, part V, or part X~~  
16 ~~of chapter 468; chapter 474; chapter 484; chapter 486; chapter~~  
17 ~~490; or chapter 491.~~

18 (4)~~(5)~~ "License" means any permit, registration,  
19 certificate, or license issued by the department.

20 (5)~~(6)~~ "Licensee" means any person issued a permit,  
21 registration, certificate, or license by the department.

22 (6)~~(7)~~ "Profession" means any activity, occupation,  
23 profession, or vocation regulated by the department in the  
24 Divisions of Certified Public Accounting, ~~Medical Quality~~  
25 ~~Assurance,~~ Professions, Real Estate, and Regulation.

26 Section 66. Section 455.017, Florida Statutes, is  
27 amended to read:

28 455.017 Applicability of this part ~~chapter~~.--The  
29 provisions of this part ~~chapter~~ apply only to the regulation  
30 ~~by the department~~ of professions by the Department of Business  
31 and Professional Regulation.



1           Section 67. Section 455.10, Florida Statutes, is  
2 amended to read:

3           455.10 Restriction on requirement of citizenship.--No  
4 person shall be disqualified from practicing an occupation or  
5 profession regulated by the state under this part solely  
6 because the person ~~he~~ is not a United States citizen.

7           Section 68. Section 455.203, Florida Statutes, 1996  
8 Supplement, is amended to read:

9           455.203 Department of Business and Professional  
10 Regulation; ~~Agency for Health Care Administration~~ powers and  
11 duties.--The department ~~and the Agency for Health Care~~  
12 ~~Administration~~, for the boards under its jurisdiction ~~their~~  
13 ~~respective jurisdictions~~, shall:

14           (1) Adopt rules establishing a procedure for the  
15 biennial renewal of licenses; provided, however, the  
16 department ~~or the Agency for Health Care Administration~~ may  
17 issue up to a 4-year license to selected licensees  
18 notwithstanding any other provisions of law to the contrary.  
19 Fees for such renewal shall not exceed the fee caps for  
20 individual professions on an annualized basis as authorized by  
21 law.

22           (2) Appoint the executive director of each board,  
23 subject to the approval of the board.

24           (3) Submit an annual budget to the Legislature at a  
25 time and in the manner provided by law.

26           (4) Develop a training program for persons newly  
27 appointed to membership on any board. The program shall  
28 familiarize such persons with the substantive and procedural  
29 laws and rules and fiscal information relating to the  
30 regulation of the appropriate profession and with the

31

1 structure of the department ~~or the Agency for Health Care~~  
2 ~~Administration.~~

3 (5) Adopt all rules necessary to administer this part  
4 ~~chapter.~~

5 (6) Establish by rules procedures by which the  
6 department ~~and the Agency for Health Care Administration~~ shall  
7 use the expert or technical advice of the appropriate board  
8 for the purposes of investigation, inspection, evaluation of  
9 applications, other duties of the department, or any other  
10 areas the department may deem appropriate.

11 (7) Require all proceedings of any board or panel  
12 thereof and all formal or informal proceedings conducted by  
13 the department, the Agency for Health Care Administration, an  
14 administrative law judge, or a hearing officer with respect to  
15 licensing or discipline to be electronically recorded in a  
16 manner sufficient to assure the accurate transcription of all  
17 matters so recorded.

18 (8) Select only those investigators, or consultants  
19 who undertake investigations, who meet criteria established  
20 with the advice of the respective boards.

21 (9) Allow applicants for new or renewal licenses and  
22 current licensees to be screened by the Title IV-D child  
23 support agency pursuant to s. 409.2598 to assure compliance  
24 with a support obligation. The purpose of this subsection is  
25 to promote the public policy of this state as established in  
26 s. 409.2551. The department shall, when directed by the court,  
27 suspend or deny the license of any licensee found to have a  
28 delinquent support obligation. The department shall issue or  
29 reinstate the license without additional charge to the  
30 licensee when notified by the court that the licensee has  
31 complied with the terms of the court order. The department

1 shall not be held liable for any license denial or suspension  
2 resulting from the discharge of its duties under this  
3 subsection.

4 Section 69. Section 455.205, Florida Statutes, is  
5 amended to read:

6 455.205 Contacting boards through department ~~or~~  
7 ~~agency.~~--Each board under the jurisdiction of the department  
8 may be contacted through the headquarters of the department in  
9 the City of Tallahassee or at any regional office of the  
10 department. ~~Each board under the jurisdiction of the Agency~~  
11 ~~for Health Care Administration may be contacted through the~~  
12 ~~headquarters of the Agency for Health Care Administration in~~  
13 ~~the City of Tallahassee.~~

14 Section 70. Subsections (1) and (3) of section  
15 455.207, Florida Statutes, are amended to read:

16 455.207 Boards; organization; meetings; compensation  
17 and travel expenses.--

18 (1) Each board within the department ~~and each board~~  
19 ~~within the Agency for Health Care Administration~~ shall comply  
20 with the provisions of this section.

21 (3) The board shall meet at least once annually and  
22 may meet as often as is necessary. The chairperson or a quorum  
23 of the board shall have the authority to call other meetings.  
24 A quorum shall be necessary for the conduct of official  
25 business by the board or any committee thereof. Unless  
26 otherwise provided by law, 51 percent or more of the appointed  
27 members of the board or any committee, when applicable, shall  
28 constitute a quorum. The membership of committees of the  
29 board, except as otherwise authorized pursuant to this part  
30 ~~chapter~~ or the applicable practice act, shall be composed of  
31 currently appointed members of the board. The vote of a

1 majority of the members of the quorum shall be necessary for  
2 any official action by the board or committee. Three  
3 consecutive unexcused absences or absences constituting 50  
4 percent or more of the board's meetings within any 12-month  
5 period shall cause the board membership of the member in  
6 question to become void, and the position shall be considered  
7 vacant. The board, or the department when there is no board,  
8 shall, by rule, define unexcused absences.

9           Section 71. Section 455.208, Florida Statutes, is  
10 amended to read:

11           455.208 Publication of information.--The department,  
12 ~~the Agency for Health Care Administration,~~and the boards  
13 shall have the authority to advise licensees periodically,  
14 through the publication of a newsletter, about information  
15 that the department, ~~the Agency for Health Care~~  
16 ~~Administration,~~or the board determines is of interest to the  
17 industry. Unless otherwise prohibited by law, the department  
18 and the boards shall publish a summary of final orders  
19 resulting in fines, suspensions, or revocations, and any other  
20 information the department or the board determines is of  
21 interest to the public.

22           Section 72. Subsection (2) of section 455.209, Florida  
23 Statutes, is amended to read:

24           455.209 Accountability and liability of board  
25 members.--

26           (2) Each board member and each former board member  
27 serving on a probable cause panel shall be exempt from civil  
28 liability for any act or omission when acting in the member's  
29 official capacity, and the department ~~or the Agency for Health~~  
30 ~~Care Administration, as appropriate,~~or the Department of  
31 Legal Affairs shall defend any such member in any action

1 against any board or member of a board arising from any such  
2 act or omission. In addition, the department or the Department  
3 of Legal Affairs may defend the member's company or business  
4 in any action against the company or business if the  
5 department or the Department of Legal Affairs determines that  
6 the actions from which the suit arises are actions taken by  
7 the member in the member's official capacity and were not  
8 beyond the member's statutory authority. In providing such  
9 defense, the department, ~~the agency,~~ or the Department of  
10 Legal Affairs may employ or utilize the legal services of  
11 outside counsel.

12 Section 73. Subsections (1) and (2) of section  
13 455.211, Florida Statutes, 1996 Supplement, are amended to  
14 read:

15 455.211 Board rules; final agency action;  
16 challenges.--

17 (1) The secretary of the department shall have  
18 standing to challenge any rule or proposed rule of a board  
19 under its jurisdiction pursuant to s. 120.56. ~~The Director of~~  
20 ~~Health Care Administration shall have standing to challenge~~  
21 ~~any rule or proposed rule of any board under its jurisdiction,~~  
22 ~~pursuant to s. 120.56.~~ In addition to challenges for any  
23 invalid exercise of delegated legislative authority, the  
24 administrative law judge, upon such a challenge by the  
25 secretary ~~or the Director of Health Care Administration,~~ may  
26 declare all or part of a rule or proposed rule invalid if it:

27 (a) Does not protect the public from any significant  
28 and discernible harm or damages;

29 (b) Unreasonably restricts competition or the  
30 availability of professional services in the state or in a  
31 significant part of the state; or

1 (c) Unnecessarily increases the cost of professional  
2 services without a corresponding or equivalent public benefit.

3  
4 However, there shall not be created a presumption of the  
5 existence of any of the conditions cited in this subsection in  
6 the event that the rule or proposed rule is challenged.

7 (2) In addition, either the secretary, ~~the Director of~~  
8 ~~Health Care Administration,~~ or the board shall be a  
9 substantially interested party for purposes of s. 120.54(7).  
10 The board may, as an adversely affected party, initiate and  
11 maintain an action pursuant to s. 120.68 challenging the final  
12 agency action.

13 Section 74. Subsections (1), (3), (7), and (8) of  
14 section 455.213, Florida Statutes, 1996 Supplement, are  
15 amended to read:

16 455.213 General licensing provisions.--

17 (1) Any person desiring to be licensed in a profession  
18 within the jurisdiction of the department shall apply to the  
19 department in writing to take the appropriate examination. The  
20 application shall be made on a form prepared and furnished by  
21 the department and shall be supplemented as needed to reflect  
22 any material change in any circumstance or condition stated in  
23 the application which takes place between the initial filing  
24 of the application and the final grant or denial of the  
25 license and which might affect the decision of the agency.

26 (3) The board, or the department when there is no  
27 board, may refuse to issue an initial license to any applicant  
28 who is under investigation or prosecution in any jurisdiction  
29 for an action that would constitute a violation of this part  
30 ~~chapter~~ or the professional practice acts administered by the  
31

1 department and the boards, until such time as the  
2 investigation or prosecution is complete.

3 (7) Notwithstanding anything to the contrary, any  
4 elected official who is licensed pursuant to any practice act  
5 within the purview of this part ~~chapter~~ may hold employment  
6 for compensation with any public agency concurrent with such  
7 public service. Such dual service shall be disclosed  
8 according to any disclosure required by applicable law.

9 (8) In any instance in which a licensee or applicant  
10 to the department ~~or the Agency for Health Care Administration~~  
11 is required to be in compliance with a particular provision  
12 by, on, or before a certain date, and if that date occurs on a  
13 Saturday, Sunday, or a legal holiday, then the licensee or  
14 applicant is deemed to be in compliance with the specific date  
15 requirement if the required action occurs on the first  
16 succeeding day which is not a Saturday, Sunday, or legal  
17 holiday.

18 Section 75. Subsections (3), (6), and (7) of section  
19 455.214, Florida Statutes, are amended to read:

20 455.214 Limited licenses.--

21 (3) The board, or the department when there is no  
22 board, may deny limited licensure to an applicant who has  
23 committed, or is under investigation or prosecution for, any  
24 act which would constitute the basis for discipline pursuant  
25 to the provisions of this part ~~chapter~~ or the applicable  
26 practice act.

27 (6) Each applicant granted a limited license is  
28 subject to all the provisions of this part ~~chapter~~ and the  
29 respective practice act under which the limited license is  
30 issued which are not in conflict with this section.

31

1           ~~(7) This section does not apply to chapter 458 or~~  
2 ~~chapter 459.~~

3           Section 76. Paragraph (e) of subsection (1) of section  
4 455.217, Florida Statutes, 1996 Supplement, is amended to  
5 read:

6           455.217 Examinations.--

7           (1) The Division of Technology, Licensure, and Testing  
8 of the Department of Business and Professional Regulation  
9 shall provide services for the preparation and administration  
10 of all examinations.

11           (e) If the professional board with jurisdiction over  
12 an examination concurs, the department may, for a fee, share  
13 with any other state's licensing authority an examination  
14 developed by or for the department unless prohibited by a  
15 contract entered into by the department for development or  
16 purchase of the examination. The department, with the  
17 concurrence of the appropriate board, shall establish  
18 guidelines that ensure security of a shared exam and shall  
19 require that any other state's licensing authority comply with  
20 those guidelines. Those guidelines shall be approved by the  
21 appropriate professional board. All fees paid by the user  
22 shall be applied to the department's examination and  
23 development program for professions regulated by this part  
24 ~~chapter~~. All fees paid by the user for professions not  
25 regulated by this part ~~chapter~~ shall be applied to offset the  
26 fees for the development and administration of that  
27 professionals examination.

28           Section 77. Section 455.2175, Florida Statutes, is  
29 amended to read:

30           455.2175 Penalty for theft or reproduction of an  
31 examination.--In addition to, or in lieu of, any other



1 discipline imposed pursuant to s. 455.227, the theft of an  
2 examination in whole or in part or the act of reproducing or  
3 copying any examination administered by the department ~~or the~~  
4 ~~Agency for Health Care Administration~~, whether said  
5 examination is reproduced or copied in part or in whole and by  
6 any means, shall constitute a felony of the third degree,  
7 punishable as provided in s. 775.082, s. 775.083, or s.  
8 775.084.

9 Section 78. Section 455.218, Florida Statutes, is  
10 amended to read:

11 455.218 Foreign-trained professionals; special  
12 examination and license provisions.--

13 (1) When not otherwise provided by law, ~~within their~~  
14 ~~respective jurisdictions, the Agency for Health Care~~  
15 ~~Administration and the department shall by rule provide~~  
16 procedures under which exiled professionals may be examined  
17 within each practice act. A person shall be eligible for such  
18 examination if the person:

19 (a) Immigrated to the United States after leaving the  
20 person's home country because of political reasons, provided  
21 such country is located in the Western Hemisphere and lacks  
22 diplomatic relations with the United States;

23 (b) Applies to the department ~~or the Agency for Health~~  
24 ~~Care Administration, as appropriate, and submits a fee;~~

25 (c) Was a Florida resident immediately preceding the  
26 person's application;

27 (d) Demonstrates to the department ~~or the Agency for~~  
28 ~~Health Care Administration, through submission of~~  
29 documentation verified by the applicant's respective  
30 professional association in exile, that the applicant was  
31 graduated with an appropriate professional or occupational

1 degree from a college or university; however, the department  
2 ~~or the Agency for Health Care Administration~~ may not require  
3 receipt of any documentation from the Republic of Cuba as a  
4 condition of eligibility under this section;

5 (e) Lawfully practiced the profession for at least 3  
6 years;

7 (f) Prior to 1980, successfully completed an approved  
8 course of study pursuant to chapters 74-105 and 75-177, Laws  
9 of Florida; and

10 (g) Presents a certificate demonstrating the  
11 successful completion of a continuing education program which  
12 offers a course of study that will prepare the applicant for  
13 the examination offered under subsection (2). The department  
14 ~~and the Agency for Health Care Administration~~ shall develop  
15 rules for the approval of such programs for the their  
16 respective boards under its jurisdiction.

17 (2) Upon request of a person who meets the  
18 requirements of subsection (1) and submits an examination fee,  
19 the department ~~or the Agency for Health Care Administration,~~  
20 ~~for their respective boards,~~ shall provide a written practical  
21 examination which tests the person's current ability to  
22 practice the profession competently in accordance with the  
23 actual practice of the profession. Evidence of meeting the  
24 requirements of subsection (1) shall be treated by the  
25 department ~~or the Agency for Health Care Administration~~ as  
26 evidence of the applicant's preparation in the academic and  
27 preprofessional fundamentals necessary for successful  
28 professional practice, and the applicant shall not be examined  
29 by the department ~~or the Agency for Health Care Administration~~  
30 on such fundamentals.

31

1           (3) The fees charged for the examinations offered  
2 under subsection (2) shall be established by the department  
3 ~~and the Agency for Health Care Administration, for their~~  
4 ~~respective boards,~~ by rule and shall be sufficient to develop  
5 or to contract for the development of the examination and its  
6 administration, grading, and grade reviews.

7           (4) The department ~~and the Agency for Health Care~~  
8 ~~Administration~~ shall examine any applicant who meets the  
9 requirements of subsections (1) and (2). Upon passing the  
10 examination and the issuance of the license, a licensee is  
11 subject to the administrative requirements of this part  
12 ~~chapter~~ and the respective practice act under which the  
13 license is issued. Each applicant so licensed is subject to  
14 all provisions of this part ~~chapter~~ and the respective  
15 practice act under which the license was issued.

16           (5) Upon a request by an applicant otherwise qualified  
17 under this section, the examinations offered under subsection  
18 (2) may be given in the applicant's native language, provided  
19 that any translation costs are borne by the applicant.

20           (6) The department ~~and the Agency for Health Care~~  
21 ~~Administration, for their respective boards,~~ shall not issue  
22 an initial license to, or renew a license of, any applicant or  
23 licensee who is under investigation or prosecution in any  
24 jurisdiction for an action which would constitute a violation  
25 of this part ~~chapter~~ or the professional practice acts  
26 administered by the department ~~or agency~~ and the boards until  
27 such time as the investigation or prosecution is complete, at  
28 which time the provisions of the professional practice acts  
29 shall apply.

30           Section 79. Subsection (4) of section 455.219, Florida  
31 Statutes, is amended to read:

1           455.219 Fees; receipts; disposition; periodic  
2 management reports.--  
3           (4) All moneys collected by the department from fees  
4 or fines or from costs awarded to the department by a court  
5 shall be paid into the Professional Regulation Trust Fund,  
6 which fund is created in the department. The department may  
7 contract with public and private entities to receive and  
8 deposit revenue pursuant to this section. The Legislature  
9 shall appropriate funds from this trust fund sufficient to  
10 carry out the provisions of this part ~~chapter~~ and the  
11 provisions of law with respect to professions regulated by the  
12 department and any board within the department. The department  
13 shall maintain separate accounts in the Professional  
14 Regulation Trust Fund for every profession within the  
15 department. To the maximum extent possible, the department  
16 shall directly charge all expenses to the account of each  
17 regulated profession. For the purpose of this subsection,  
18 direct charge expenses shall include, but not be limited to,  
19 costs for investigations, examinations, and legal services.  
20 For expenses that cannot be charged directly, the department  
21 shall provide for the proportionate allocation among the  
22 accounts of expenses incurred by the department in the  
23 performance of its duties with respect to each regulated  
24 profession. The department shall not expend funds from the  
25 account of a profession to pay for the expenses incurred on  
26 behalf of another profession. The department shall maintain  
27 adequate records to support its allocation of department  
28 expenses. The department shall provide any board with  
29 reasonable access to these records upon request. Each board  
30 shall be provided an annual report of revenue and direct and  
31 allocated expenses related to the operation of that

1 profession. These reports and the department's adopted  
2 long-range plan shall be used by the board to determine the  
3 amount of license fees. A condensed version of this  
4 information, with the department's recommendations, shall be  
5 included in the annual report to the Legislature prepared  
6 pursuant to s. 455.2285.

7 Section 80. Section 455.220, Florida Statutes, is  
8 repealed.

9 Section 81. Section 455.2205, Florida Statutes, 1996  
10 Supplement, is renumbered as section 20.425, Florida Statutes,  
11 and amended to read:

12 20.425 ~~455.2205~~ Health Care Trust Fund; moneys to be  
13 deposited therein.--

14 (1) There is hereby created in the State Treasury a  
15 special fund to be designated as the Health Care Trust Fund  
16 which shall be used in the operation of the Agency for Health  
17 Care Administration in the performance of the various  
18 functions and duties required of it by law.

19 (2) All ~~fees, license fees, and other~~ charges  
20 collected by the agency shall be deposited in the State  
21 Treasury to the credit of the Health Care Trust Fund, to be  
22 used in the operation of the agency as authorized by the  
23 Legislature. However, penalties and interest assessed and  
24 collected by the agency shall not be deposited in the trust  
25 fund but shall be deposited in the General Revenue Fund. The  
26 Health Care Trust Fund shall be subject to the service charge  
27 imposed pursuant to chapter 215.

28 ~~(3) The agency shall maintain separate revenue and~~  
29 ~~expenditure accounts in the Health Care Trust Fund for every~~  
30 ~~profession regulated and provider licensed by the agency.~~

31

1           ~~(4) The agency shall, to the extent practicable,~~  
2 ~~provide for the proportionate allocation among the accounts of~~  
3 ~~expenses incurred by the agency in the performance of its~~  
4 ~~duties with respect to each regulated profession. The agency~~  
5 ~~shall provide each board with an annual report of revenue~~  
6 ~~expenditures and allocated expenses related to the regulation~~  
7 ~~of that profession, and these reports shall be used by the~~  
8 ~~board to determine the amount of licensing fees for each~~  
9 ~~profession regulated by the agency.~~

10           (3)~~(5)~~ All other moneys in the Health Care Trust Fund  
11 shall be for the use of the agency in the performance of its  
12 functions and duties as provided by law, subject to the fiscal  
13 and budgetary provisions of general law and the General  
14 Appropriations Act.

15           Section 82. Subsections (1) and (2) of section  
16 455.221, Florida Statutes, are amended to read:

17           455.221 Legal and investigative services.--

18           (1) A board shall retain, through the department's  
19 contract procedures, board counsel from the Department of  
20 Legal Affairs. The Department of Legal Affairs shall provide  
21 legal services to each board within the Department of Business  
22 and Professional Regulation ~~or the Agency for Health Care~~  
23 ~~Administration~~, but the primary responsibility of the  
24 Department of Legal Affairs shall be to represent the  
25 interests of the citizens of the state by vigorously  
26 counseling the boards with respect to their obligations under  
27 the laws of the state. A board shall provide for the periodic  
28 review and evaluation of the services provided by its board  
29 counsel. Subject to the prior approval of the Attorney  
30 General, any board may retain, through the department's  
31 contract procedures, independent legal counsel to provide

1 legal advice to the board on a specific matter. Fees and costs  
2 of such counsel by the Department of Legal Affairs or  
3 independent legal counsel approved by the Attorney General  
4 shall be paid from the Professional Regulation Trust Fund or  
5 the Health Care Trust Fund, as appropriate. All contracts for  
6 independent counsel shall provide for periodic review and  
7 evaluation by the board and the department of services  
8 provided.

9 (2) The Department of Business and Professional  
10 Regulation ~~or the Agency for Health Care Administration~~ may  
11 employ or utilize the legal services of outside counsel and  
12 the investigative services of outside personnel. However, no  
13 attorney employed or utilized by the department ~~or the Agency~~  
14 ~~for Health Care Administration~~ shall prosecute a matter and  
15 provide legal services to the board with respect to the same  
16 matter.

17 Section 83. Section 455.2226, Florida Statutes, is  
18 repealed.

19 Section 84. Subsections (1) and (4) of section  
20 455.2228, Florida Statutes, are amended to read:

21 455.2228 Requirement for instruction on human  
22 immunodeficiency virus and acquired immune deficiency  
23 syndrome.--

24 (1) The board, or the department where there is no  
25 board, shall require each person licensed ~~or certified~~ under  
26 chapter 470, chapter 476, or chapter 477, chapter 480, or part  
27 ~~XIV of chapter 468~~ to complete a continuing educational course  
28 approved by the board, or the department where there is no  
29 board, on human immunodeficiency virus and acquired immune  
30 deficiency syndrome as part of biennial relicensure ~~or~~  
31 ~~recertification~~. The course shall consist of education on

1 modes of transmission, infection control procedures, clinical  
2 management, and prevention of human immunodeficiency virus and  
3 acquired immune deficiency syndrome, with an emphasis on  
4 appropriate behavior and attitude change.

5 (4) ~~As of December 31, 1992,~~The board, or the  
6 department where there is no board, shall require, as a  
7 condition of granting a license under any of the chapters ~~or~~  
8 ~~parts thereof~~ specified in subsection (1), that an applicant  
9 making initial application for licensure complete an  
10 educational course acceptable to the board, or the department  
11 where there is no board, on human immunodeficiency virus and  
12 acquired immune deficiency syndrome. An applicant who has not  
13 taken a course at the time of licensure shall, upon an  
14 affidavit showing good cause, be allowed 6 months to complete  
15 this requirement.

16 Section 85. The introductory paragraph and subsection  
17 (1) of section 455.225, Florida Statutes, 1996 Supplement, are  
18 amended to read:

19 455.225 Disciplinary proceedings.--Disciplinary  
20 proceedings for each board shall be within the jurisdiction of  
21 the department ~~or the Agency for Health Care Administration,~~  
22 ~~as appropriate.~~

23 (1) The department ~~or the Agency for Health Care~~  
24 ~~Administration,~~ for the boards under its jurisdiction ~~their~~  
25 ~~respective jurisdictions,~~ shall cause to be investigated any  
26 complaint that is filed before it if the complaint is in  
27 writing, signed by the complainant, and legally sufficient. A  
28 complaint is legally sufficient if it contains ultimate facts  
29 that show that a violation of this part ~~chapter,~~ of any of the  
30 practice acts relating to the professions regulated by the  
31 department ~~or the agency,~~ or of any rule adopted by the



1 department, ~~the agency~~, or a regulatory board in the  
2 department ~~or the agency~~ has occurred. In order to determine  
3 legal sufficiency, the department ~~or the agency~~ may require  
4 supporting information or documentation. The department ~~or the~~  
5 ~~agency~~ may investigate, and the department, ~~the agency~~, or the  
6 appropriate board may take appropriate final action on, a  
7 complaint even though the original complainant withdraws it or  
8 otherwise indicates a desire not to cause the complaint to be  
9 investigated or prosecuted to completion. The department ~~or~~  
10 ~~the agency~~ may investigate an anonymous complaint if the  
11 complaint is in writing and is legally sufficient, if the  
12 alleged violation of law or rules is substantial, and if the  
13 department ~~or the agency~~ has reason to believe, after  
14 preliminary inquiry, that the alleged violations in the  
15 complaint are true. The department ~~or the agency~~ may  
16 investigate a complaint made by a confidential informant if  
17 the complaint is legally sufficient, if the alleged violation  
18 of law or rule is substantial, and if the department ~~or the~~  
19 ~~agency~~ has reason to believe, after preliminary inquiry, that  
20 the allegations of the complainant are true. The department ~~or~~  
21 ~~the agency~~ may initiate an investigation if it has reasonable  
22 cause to believe that a licensee or a group of licensees has  
23 violated a Florida statute, a rule of the department, ~~a rule~~  
24 ~~of the agency~~, or a rule of a board. ~~Except as provided in ss.~~  
25 ~~458.331(9), 459.015(9), 460.413(5), and 461.013(6),~~ When an  
26 investigation of any subject is undertaken, the department ~~or~~  
27 ~~the agency~~ shall promptly furnish to the subject or the  
28 subject's attorney a copy of the complaint or document that  
29 resulted in the initiation of the investigation. The subject  
30 may submit a written response to the information contained in  
31 such complaint or document within 20 days after service to the

1 subject of the complaint or document. The subject's written  
2 response shall be considered by the probable cause panel. The  
3 right to respond does not prohibit the issuance of a summary  
4 emergency order if necessary to protect the public. However,  
5 if the secretary, or the secretary's designee, and the  
6 chairman of the respective board or the chairman of its  
7 probable cause panel agree in writing that such notification  
8 would be detrimental to the investigation, the department ~~or~~  
9 ~~the agency~~ may withhold notification. The department ~~or the~~  
10 ~~agency~~ may conduct an investigation without notification to  
11 any subject if the act under investigation is a criminal  
12 offense.

13 Section 86. Paragraphs (d), (i), (j), (n), and (q) of  
14 subsection (1) and subsection (4) of section 455.227, Florida  
15 Statutes, are amended to read:

16 455.227 Grounds for discipline; penalties;  
17 enforcement.--

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

21 (d) Using a Class III or a Class IV laser device or  
22 product, as defined by federal regulations, without having  
23 complied with the rules adopted pursuant to s. 501.122(2)  
24 governing the registration of such devices with the Department  
25 of Health ~~and Rehabilitative Services~~.

26 (i) ~~Except as provided in s. 465.016,~~Failing to  
27 report to the department any person who the licensee knows is  
28 in violation of this part ~~chapter~~, the chapter regulating the  
29 alleged violator, or the rules of the department or the board.

30 (j) Aiding, assisting, procuring, employing, or  
31 advising any unlicensed person or entity to practice a

1 profession contrary to this part ~~chapter~~, the chapter  
2 regulating the profession, or the rules of the department or  
3 the board.

4 (n) Exercising influence on the ~~patient or~~ client for  
5 the purpose of financial gain of the licensee or a third  
6 party.

7 (q) Violating any provision of this part ~~chapter~~, the  
8 applicable professional practice act, a rule of the department  
9 or the board, or a lawful order of the department or the  
10 board, or failing to comply with a lawfully issued subpoena of  
11 the department.

12 (4) In addition to, or in lieu of, any other remedy or  
13 criminal prosecution, the department ~~or the Agency for Health~~  
14 ~~Care Administration, as appropriate,~~ may file a proceeding in  
15 the name of the state seeking issuance of an injunction or a  
16 writ of mandamus against any person who violates any of the  
17 provisions of this part ~~chapter~~, or any provision of law with  
18 respect to professions regulated by the department ~~or the~~  
19 ~~agency~~, or any board therein, or the rules adopted pursuant  
20 thereto.

21 Section 87. Subsections (1), (5), and (6) of section  
22 455.2273, Florida Statutes, 1996 Supplement, are amended to  
23 read:

24 455.2273 Disciplinary guidelines.--

25 (1) Each board, or the department when there is no  
26 board, shall adopt, by rule, and periodically review the  
27 disciplinary guidelines applicable to each ground for  
28 disciplinary action which may be imposed by the board, or the  
29 department when there is no board, pursuant to this part  
30 ~~chapter~~, the respective practice acts, and any rule of the  
31 board or department.

1           ~~(5) The rules provided for in this section shall be~~  
2 ~~promulgated no later than January 1, 1993.~~

3           (5)~~(6)~~ The administrative law judge, in recommending  
4 penalties in any recommended order, must follow the penalty  
5 guidelines established by the board or department and must  
6 state in writing the mitigating or aggravating circumstances  
7 upon which the recommended penalty is based.

8           Section 88. Section 455.2275, Florida Statutes, is  
9 amended to read:

10           455.2275 Penalty for giving false information.--In  
11 addition to, or in lieu of, any other discipline imposed  
12 pursuant to s. 455.227, the act of knowingly giving false  
13 information in the course of applying for or obtaining a  
14 license from the department ~~or the Agency for Health Care~~  
15 ~~Administration~~, or any board thereunder, with intent to  
16 mislead a public servant in the performance of his official  
17 duties, or the act of attempting to obtain or obtaining a  
18 license from ~~either~~ the department ~~or the agency~~, or any board  
19 thereunder, to practice a profession by knowingly misleading  
20 statements or knowing misrepresentations constitutes a felony  
21 of the third degree, punishable as provided in s. 775.082, s.  
22 775.083, or s. 775.084.

23           Section 89. Subsections (1), (2), and (5) of section  
24 455.228, Florida Statutes, 1996 Supplement, are amended to  
25 read:

26           455.228 Unlicensed practice of a profession; cease and  
27 desist notice; civil penalty; enforcement; citations;  
28 allocation of moneys collected.--

29           (1) When the department ~~or the Agency for Health Care~~  
30 ~~Administration~~ has probable cause to believe that any person  
31 not licensed by the department ~~or the agency~~, or the

1 appropriate regulatory board within the department ~~or the~~  
2 ~~agency~~, has violated any provision of this part chapter or any  
3 statute that relates to the practice of a profession regulated  
4 by the department ~~or the agency~~, or any rule adopted pursuant  
5 thereto, the department ~~or the agency~~ may issue and deliver to  
6 such person a notice to cease and desist from such violation.  
7 In addition, the department ~~or the agency~~ may issue and  
8 deliver a notice to cease and desist to any person who aids  
9 and abets the unlicensed practice of a profession by employing  
10 such unlicensed person. The issuance of a notice to cease and  
11 desist shall not constitute agency action for which a hearing  
12 under ss. 120.569 and 120.57 may be sought. For the purpose of  
13 enforcing a cease and desist order, the department ~~or the~~  
14 ~~agency~~ may file a proceeding in the name of the state seeking  
15 issuance of an injunction or a writ of mandamus against any  
16 person who violates any provisions of such order. In addition  
17 to the foregoing remedies, the department ~~or the agency~~ may  
18 impose an administrative penalty not to exceed \$5,000 per  
19 incident pursuant to the provisions of chapter 120 or may  
20 issue a citation pursuant to the provisions of subsection (3).  
21 If the department ~~or the agency~~ is required to seek  
22 enforcement of the agency order for a penalty pursuant to s.  
23 120.569, it shall be entitled to collect its attorney's fees  
24 and costs, together with any cost of collection.

25 (2) In addition to or in lieu of any remedy provided  
26 in subsection (1), the department ~~or the agency~~ may seek the  
27 imposition of a civil penalty through the circuit court for  
28 any violation for which the department ~~or the agency~~ may issue  
29 a notice to cease and desist under subsection (1). The civil  
30 penalty shall be no less than \$500 and no more than \$5,000 for  
31 each offense. The court may also award to the prevailing party

1 court costs and reasonable attorney fees and, in the event the  
2 department ~~or the agency~~ prevails, may also award reasonable  
3 costs of investigation.

4 (5) The provisions of this section apply only to the  
5 provisions of s. 455.217 and the professional practice acts  
6 administered by the department ~~or the Agency for Health Care~~  
7 ~~Administration~~.

8 Section 90. Section 455.2285, Florida Statutes, is  
9 amended to read:

10 455.2285 Annual report concerning finances,  
11 administrative complaints, disciplinary actions, and  
12 recommendations.--The department is and the ~~Agency for Health~~  
13 ~~Care Administration are each~~ directed to prepare and submit a  
14 report to the President of the Senate and Speaker of the House  
15 of Representatives by November 1 of each year. In addition to  
16 finances and any other information the Legislature may  
17 require, the report shall include statistics and relevant  
18 information, profession by profession, detailing:

19 (1) The revenues, expenditures, and cash balances for  
20 the prior year, and a review of the adequacy of existing fees.

21 (2) The number of complaints received and  
22 investigated.

23 (3) The number of findings of probable cause made.

24 (4) The number of findings of no probable cause made.

25 (5) The number of administrative complaints filed.

26 (6) The disposition of all administrative complaints.

27 (7) A description of disciplinary actions taken.

28 (8) The status of the development and implementation  
29 of rules providing for disciplinary guidelines pursuant to s.  
30 455.2273.

31

1           (9) Such recommendations for administrative and  
2 statutory changes necessary to facilitate efficient and  
3 cost-effective operation of the department and the various  
4 boards.

5           Section 91. Section 455.229, Florida Statutes, 1996  
6 Supplement, is amended to read:

7           455.229 Public inspection of information required from  
8 applicants; exceptions; examination hearing.--

9           (1) All information required by the department ~~or the~~  
10 ~~Agency for Health Care Administration~~ of any applicant shall  
11 be a public record and shall be open to public inspection  
12 pursuant to s. 119.07, except financial information, medical  
13 information, school transcripts, examination questions,  
14 answers, papers, grades, and grading keys, which are  
15 confidential and exempt from s. 119.07(1) and shall not be  
16 discussed with or made accessible to anyone except members of  
17 the board, the department ~~or the Agency for Health Care~~  
18 ~~Administration~~, and staff thereof, who have a bona fide need  
19 to know such information. Any information supplied to the  
20 department ~~or the Agency for Health Care Administration~~ by any  
21 other agency which is exempt from the provisions of chapter  
22 119 or is confidential shall remain exempt or confidential  
23 pursuant to applicable law while in the custody of the  
24 department ~~or the agency~~.

25           (2) The department ~~or the Agency for Health Care~~  
26 ~~Administration~~ shall establish by rule the procedure by which  
27 an applicant, and the applicant's attorney, may review  
28 examination questions and answers. Examination questions and  
29 answers are not subject to discovery but may be introduced  
30 into evidence and considered only in camera in any  
31 administrative proceeding under chapter 120. If an

1 administrative hearing is held, the department ~~or the agency~~  
2 shall provide challenged examination questions and answers to  
3 the administrative law judge. The examination questions and  
4 answers provided at the hearing are confidential and exempt  
5 from s. 119.07(1), unless invalidated by the administrative  
6 law judge.

7 (3) Unless an applicant notifies the department ~~or the~~  
8 ~~agency~~ at least 5 days prior to an examination hearing of the  
9 applicant's inability to attend, or unless an applicant can  
10 demonstrate an extreme emergency for failing to attend, the  
11 department ~~or the agency~~ may require an applicant who fails to  
12 attend to pay reasonable attorney's fees, costs, and court  
13 costs of the department ~~or the agency~~ for the examination  
14 hearing.

15 Section 92. Section 455.232, Florida Statutes, is  
16 amended to read:

17 455.232 Disclosure of confidential information.--

18 (1) No officer, employee, or person under contract  
19 with the department ~~or the Agency for Health Care~~  
20 ~~Administration~~, or any board therein, or any subject of an  
21 investigation shall convey knowledge or information to any  
22 person who is not lawfully entitled to such knowledge or  
23 information about any public meeting or public record, which  
24 at the time such knowledge or information is conveyed is  
25 exempt from the provisions of s. 119.01, s. 119.07(1), or s.  
26 286.011.

27 (2) Any person who willfully violates any provision of  
28 this section commits ~~is guilty of~~ a misdemeanor of the first  
29 degree, punishable as provided in s. 775.082 or s. 775.083,  
30 and may be subject to discipline pursuant to s. 455.227, and,  
31



1 if applicable, shall be removed from office, employment, or  
2 the contractual relationship.

3 Section 93. Section 455.24, Florida Statutes, is  
4 renumbered as section 474.2163, Florida Statutes, and amended  
5 to read:

6 474.2163 ~~455.24~~ Advertisement by a veterinarian ~~health~~  
7 ~~care provider~~ of free or discounted services; required  
8 statement.--In any advertisement for a free, discounted fee,  
9 or reduced fee service, examination, or treatment by a  
10 veterinarian ~~health care provider~~ licensed under this chapter  
11 ~~458, chapter 459, chapter 460, chapter 461, chapter 462,~~  
12 ~~chapter 463, chapter 464, chapter 466, chapter 474, or chapter~~  
13 ~~486~~, the following statement shall appear in capital letters  
14 clearly distinguishable from the rest of the text: ~~THE~~  
15 ~~PATIENT AND ANY OTHER PERSON RESPONSIBLE FOR PAYMENT HAS A~~  
16 ~~RIGHT TO REFUSE TO PAY, CANCEL PAYMENT, OR BE REIMBURSED FOR~~  
17 ~~PAYMENT FOR ANY OTHER SERVICE, EXAMINATION, OR TREATMENT WHICH~~  
18 ~~IS PERFORMED AS A RESULT OF AND WITHIN 72 HOURS OF RESPONDING~~  
19 ~~TO THE ADVERTISEMENT FOR THE FREE, DISCOUNTED FEE, OR REDUCED~~  
20 ~~FEE SERVICE, EXAMINATION, OR TREATMENT. However, the required~~  
21 ~~statement shall not be necessary as an accompaniment to an~~  
22 ~~advertisement of a licensed veterinarian ~~health care provider~~~~  
23 ~~defined by this section~~ if the advertisement appears in a  
24 classified directory the primary purpose of which is to  
25 provide products and services at free, reduced, or discounted  
26 prices to consumers and in which the statement prominently  
27 appears in at least one place.

28 Section 94. Section 455.242, Florida Statutes, is  
29 renumbered as section 474.2167, Florida Statutes, and amended  
30 to read:

31

1           474.2167 ~~455.242~~ Disposition of records of deceased  
2 veterinarians practitioners or veterinarians practitioners  
3 relocating or terminating practice.--~~The Each board created~~  
4 ~~under the provisions of chapter 457, chapter 458, chapter 459,~~  
5 ~~chapter 460, chapter 461, chapter 463, chapter 464, chapter~~  
6 ~~465, chapter 466, chapter 474, part I of chapter 484, chapter~~  
7 ~~486, chapter 490, or chapter 491, and the department under the~~  
8 ~~provisions of chapter 462,~~shall provide by rule for the  
9 disposition, ~~under said chapter,~~of the medical records or  
10 ~~records of a psychological nature of veterinarians~~  
11 ~~practitioners~~ which are in existence at the time the  
12 veterinarian practitioner dies, terminates practice, or  
13 relocates and is no longer available to patients and which  
14 records pertain to the veterinarian's practitioner's patients.  
15 The rules shall provide that the records be retained for at  
16 least 2 years after the veterinarian's practitioner's death,  
17 termination of practice, or relocation. In the case of the  
18 death of the veterinarian practitioner, the rules shall  
19 provide for the disposition of such records by the estate of  
20 the veterinarian practitioner.

21           Section 95. Section 455.243, Florida Statutes, is  
22 renumbered as section 474.2147, Florida Statutes, and amended  
23 to read:

24           474.2147 ~~455.243~~ Authority to inspect.--In addition to  
25 the authority specified in s. 465.017, duly authorized agents  
26 and employees of the department ~~and the Agency for Health Care~~  
27 ~~Administration~~ shall have the power to inspect, in a lawful  
28 manner at all reasonable hours, +

29           (1) ~~Any pharmacy; or~~

30  
31

1           ~~(2)~~ any establishment at which the services of a  
2 veterinarian licensee authorized to prescribe controlled  
3 substances specified in chapter 893 are offered,  
4  
5 for the purpose of determining if any of the provisions of  
6 this chapter ~~or any practice act of a profession or any rule~~  
7 promulgated thereunder is being violated~~or for the purpose~~  
8 of securing such other evidence as may be needed for  
9 prosecution.

10           Section 96. Section 455.245, Florida Statutes, is  
11 renumbered as section 474.2143, Florida Statutes, and amended  
12 to read:

13           474.2143 ~~455.245~~ Certain felonies ~~health care~~  
14 ~~practitioners~~; immediate suspension of license.--

15           ~~(1)~~ The department ~~or the Agency for Health Care~~  
16 ~~Administration~~ shall issue an emergency order suspending the  
17 license of any person licensed under this chapter ~~458, chapter~~  
18 ~~459, chapter 460, chapter 461, chapter 462, chapter 463,~~  
19 ~~chapter 464, chapter 465, chapter 466, chapter 474, or chapter~~  
20 ~~484~~ who pleads guilty to, is convicted or found guilty of, or  
21 who enters a plea of nolo contendere to, regardless of  
22 adjudication, a felony under chapter 409 or chapter 893 or  
23 under 21 U.S.C. ss. 801-970 or under 42 U.S.C. ss. 1395-1396.

24           ~~(2)~~ If the board has previously found any physician or  
25 osteopathic physician in violation of the provisions of s.  
26 ~~458.331(1)(t) or s. 459.015(1)(x), in regard to his treatment~~  
27 ~~of three or more patients, and the probable cause panel of the~~  
28 ~~board finds probable cause of an additional violation of that~~  
29 ~~section, then the Director of Health Care Administration shall~~  
30 ~~review the matter to determine if an emergency suspension or~~  
31 ~~restriction order is warranted. Nothing in this section shall~~

1 ~~be construed so as to limit the authority of the secretary of~~  
2 ~~the department or the Director of Health Care Administration~~  
3 ~~to issue an emergency order.~~

4 Section 97. Section 455.25, Florida Statutes, is  
5 amended to read:

6 455.25 Disclosure of financial interest by a physician  
7 or other health care provider ~~production.~~--

8 (1) A physician or other health care provider shall  
9 not refer a patient to an entity in which such physician or  
10 health care provider is an investor unless, prior to the  
11 referral, the physician or health care provider furnishes the  
12 patient with a written disclosure form, informing the patient  
13 of:

14 (a) The existence of the investment interest.

15 (b) The name and address of each applicable entity in  
16 which the referring physician or health care provider is an  
17 investor.

18 (c) The patient's right to obtain the items or  
19 services for which the patient has been referred at the  
20 location or from the physician or health care provider or  
21 supplier of the patient's choice, including the entity in  
22 which the referring physician or health care provider is an  
23 investor.

24 (d) The names and addresses of at least two  
25 alternative sources of such items or services available to the  
26 patient.

27 ~~(2) An entity may not provide items or services to a~~  
28 ~~patient unless, before providing the item or service, the~~  
29 ~~entity obtains the signature of the patient on a written~~  
30 ~~disclosure form informing the patient of:~~

31

1           ~~(a) The existence or nonexistence of any financial~~  
2 ~~relationship with the health care provider who referred the~~  
3 ~~patient;~~

4           ~~(b) A schedule of typical fees for items or services~~  
5 ~~usually provided by the entity or, if impracticable because of~~  
6 ~~the nature of the treatment, a written estimate specific to~~  
7 ~~the patient;~~

8           ~~(c) The patient's right to obtain the items or~~  
9 ~~services for which the patient has been referred at a location~~  
10 ~~or from a supplier of the patient's choice, including an~~  
11 ~~entity with which the referring health care provider may have~~  
12 ~~a financial relationship; and~~

13           ~~(d) The names, addresses, and telephone numbers of at~~  
14 ~~least two reasonable alternative sources of such items or~~  
15 ~~services available to the patient.~~

16           ~~(2)(3) The physician or health care provider ~~and the~~~~  
17 ~~entity shall post a copy of the ~~their respective~~ disclosure~~  
18 ~~form forms in a conspicuous public place ~~places~~ in his or her~~  
19 ~~office the offices.~~

20           ~~(3)(4) A violation of this section shall constitute a~~  
21 ~~misdemeanor of the first degree, punishable as provided in s.~~  
22 ~~775.082 or s. 775.083. In addition to any other penalties or~~  
23 ~~remedies provided, a violation of this section shall be~~  
24 ~~grounds for disciplinary action by the respective board.~~

25           Section 98. Section 455.26, Florida Statutes, is  
26 amended to read:

27           455.26 Impaired Professionals ~~Practitioners~~ Committee;  
28 duties.--

29           (1) There is created the Impaired Professionals  
30 ~~Practitioners~~ Committee to be composed of one representative  
31 appointed by each board under the jurisdiction of the

1 ~~department~~ Division of Medical Quality Assurance, of one  
2 addictionologist, and one lay member having an appropriate  
3 background in the area of impairment, each to be appointed by  
4 the agency head of the agency having jurisdiction over the  
5 professions; one representative of the Agency for Health Care  
6 Administration, to be appointed by the Director of Health Care  
7 Administration; and of one representative of the department  
8 appointed by the secretary of the department. Section 455.207  
9 applies to the activities of the committee.

10 (2) The committee shall:

11 (a) Establish policies and guidelines to be used in  
12 approving treatment providers for preventive and  
13 rehabilitative programs directed to impaired professionals  
14 ~~practitioners~~;

15 (b) Act as liaison between approved treatment  
16 providers and the department ~~and the Agency for Health Care~~  
17 ~~Administration~~;

18 (c) Advise the department ~~and the agency~~ on the  
19 continuation and expansion of treatment programs for impaired  
20 professionals ~~practitioners~~; and

21 (d) Disseminate information concerning the impairment  
22 program.

23 Section 99. Subsections (1), (2), and (3) of section  
24 455.261, Florida Statutes, 1996 Supplement, are amended to  
25 read:

26 455.261 Treatment programs for impaired professionals  
27 ~~practitioners~~.--

28 (1) For professions which do not have impaired  
29 professional ~~practitioner~~ programs provided for in their  
30 practice acts, the department shall, by rule, designate  
31 approved treatment programs under this section. The

1 department may adopt rules setting forth appropriate criteria  
2 for approval of treatment providers based on the policies and  
3 guidelines established by the Impaired Professionals  
4 ~~Practitioners~~ Committee. The department shall not compel any  
5 impaired professional practitioner program in existence on  
6 October 1, 1992, to serve additional professions.

7 (2) The department shall retain one or more impaired  
8 professional practitioner consultants as recommended by the  
9 committee. A consultant shall be a licensee or recovered  
10 licensee under the jurisdiction of the Division of Medical  
11 Quality Assurance within the Department of Health, and at  
12 least one consultant must be a practitioner or recovered  
13 practitioner licensed under chapter 458, chapter 459, or  
14 chapter 464. The consultant shall assist the probable cause  
15 panel and department in carrying out the responsibilities of  
16 this section. This shall include working with department  
17 investigators to determine whether a professional practitioner  
18 is, in fact, impaired.

19 (3)(a) Whenever the department receives a written or  
20 oral legally sufficient complaint alleging that a licensee  
21 ~~under the jurisdiction of the Division of Medical Quality~~  
22 ~~Assurance within~~ the department is impaired as a result of the  
23 misuse or abuse of alcohol or drugs, or both, or due to a  
24 mental or physical condition which could affect the licensee's  
25 ability to practice with skill and safety, and no complaint  
26 against the licensee other than impairment exists, the  
27 reporting of such information shall not constitute a complaint  
28 within the meaning of s. 455.225 if the probable cause panel  
29 of the appropriate board, or the department when there is no  
30 board, finds:

31

- 1           1. The licensee has acknowledged the impairment  
2 problem.
- 3           2. The licensee has voluntarily enrolled in an  
4 appropriate, approved treatment program.
- 5           3. The licensee has voluntarily withdrawn from  
6 practice or limited the scope of practice as determined by the  
7 panel, or the department when there is no board, in each case,  
8 until such time as the panel, or the department when there is  
9 no board, is satisfied the licensee has successfully completed  
10 an approved treatment program.
- 11           4. The licensee has executed releases for medical  
12 records, authorizing the release of all records of  
13 evaluations, diagnoses, and treatment of the licensee,  
14 including records of treatment for emotional or mental  
15 conditions, to the consultant. The consultant shall make no  
16 copies or reports of records that do not regard the issue of  
17 the licensee's impairment and his participation in a treatment  
18 program.
- 19           (b) If, however, the licensee agrees to withdraw from  
20 practice until such time as the consultant determines the  
21 licensee has satisfactorily completed an approved treatment  
22 program or evaluation, the probable cause panel, or the  
23 department when there is no board, shall not become involved  
24 in the licensee's case.
- 25           (c) Inquiries related to impairment treatment programs  
26 designed to provide information to the licensee and others and  
27 which do not indicate that the licensee presents a danger to  
28 the public shall not constitute a complaint within the meaning  
29 of s. 455.225 and shall be exempt from the provisions of this  
30 subsection.
- 31



1 (d) Whenever the department receives a legally  
2 sufficient complaint alleging that a licensee is impaired as  
3 described in paragraph (a) and no complaint against the  
4 licensee other than impairment exists, the department shall  
5 forward all information in its possession regarding the  
6 impaired licensee to the consultant. ~~For the purposes of this~~  
7 ~~section, a suspension from hospital staff privileges due to~~  
8 ~~the impairment does not constitute a complaint.~~

9 (e) The probable cause panel, or the department when  
10 there is no board, shall work directly with the consultant,  
11 and all information concerning a professional practitioner  
12 obtained from the consultant by the panel, or the department  
13 when there is no board, shall remain confidential and exempt  
14 from the provisions of s. 119.07(1), subject to the provisions  
15 of subsections (5) and (6).

16 (f) A finding of probable cause shall not be made as  
17 long as the panel, or the department when there is no board,  
18 is satisfied, based upon information it receives from the  
19 consultant and the department, that the licensee is  
20 progressing satisfactorily in an approved treatment program.

21 Section 100. Subsection (1) of section 455.273,  
22 Florida Statutes, is amended to read:

23 455.273 Renewal and cancellation notices.--

24 (1) At least 90 days before the end of a licensure  
25 cycle, the department ~~of Business and Professional Regulation~~  
26 shall:

27 (a) Forward a licensure renewal notification to an  
28 active or inactive licensee at the licensee's last known  
29 address of record with the department.

30  
31

1 (b) Forward a notice of pending cancellation of  
2 licensure to a delinquent status licensee at the licensee's  
3 last known address of record with the department.

4 Section 101. Paragraph (b) of subsection (4) of  
5 section 120.80, Florida Statutes, 1996 Supplement, is amended,  
6 and subsection (15) is added to said section, to read:

7 120.80 Exceptions and special requirements;  
8 agencies.--

9 (4) DEPARTMENT OF BUSINESS AND PROFESSIONAL  
10 REGULATION.--

11 (b) Professional regulation.--Notwithstanding s.  
12 120.57(1)(a), formal hearings may not be conducted by the  
13 Secretary of Business and Professional Regulation, ~~the~~  
14 ~~director of the Agency for Health Care Administration,~~ or a  
15 board or member of a board within the Department of Business  
16 and Professional Regulation ~~or the Agency for Health Care~~  
17 ~~Administration~~ for matters relating to the regulation of  
18 professions, as defined by part I of chapter 455.

19 (15) DEPARTMENT OF HEALTH.--Notwithstanding s.  
20 120.57(1)(a), formal hearings may not be conducted by the  
21 Secretary of Health , the director of the Agency for Health  
22 Care Administration, or a board or member of a board within  
23 the Department of Health or the Agency for Health Care  
24 Administration for matters relating to the regulation of  
25 health care practitioners, as defined by part II of chapter  
26 455.

27 Section 102. Paragraph (o)2.d. of subsection (7) of  
28 section 212.08, Florida Statutes, 1996 Supplement, is amended  
29 to read:

30 212.08 Sales, rental, use, consumption, distribution,  
31 and storage tax; specified exemptions.--The sale at retail,

1 the rental, the use, the consumption, the distribution, and  
2 the storage to be used or consumed in this state of the  
3 following are hereby specifically exempt from the tax imposed  
4 by this part.

5 (7) MISCELLANEOUS EXEMPTIONS.--

6 (o) Religious, charitable, scientific, educational,  
7 and veterans' institutions and organizations.--

8 2. The provisions of this section authorizing  
9 exemptions from tax shall be strictly defined, limited, and  
10 applied in each category as follows:

11 d. "Educational institutions" means state  
12 tax-supported or parochial, church and nonprofit private  
13 schools, colleges, or universities which conduct regular  
14 classes and courses of study required for accreditation by, or  
15 membership in, the Southern Association of Colleges and  
16 Schools, the Department of Education, the Florida Council of  
17 Independent Schools, or the Florida Association of Christian  
18 Colleges and Schools, Inc., or nonprofit private schools which  
19 conduct regular classes and courses of study accepted for  
20 continuing education credit by a Board of the Division of  
21 Medical Quality Assurance of the Department of Health Business  
22 ~~and Professional Regulation~~ or which conduct regular classes  
23 and courses of study accepted for continuing education credit  
24 by the American Medical Association. Nonprofit libraries, art  
25 galleries, and museums open to the public are defined as  
26 educational institutions and are eligible for exemption. The  
27 term "educational institutions" includes private nonprofit  
28 organizations the purpose of which is to raise funds for  
29 schools teaching grades kindergarten through high school,  
30 colleges, and universities. The term "educational  
31 institutions" includes any nonprofit newspaper of free or paid

1 circulation primarily on university or college campuses which  
2 holds a current exemption from federal income tax under s.  
3 501(c)(3) of the Internal Revenue Code, and any educational  
4 television or radio network or system established pursuant to  
5 s. 229.805 or s. 229.8051 and any nonprofit television or  
6 radio station which is a part of such network or system and  
7 which holds a current exemption from federal income tax under  
8 s. 501(c)(3) of the Internal Revenue Code. The term  
9 "educational institutions" also includes state, district, or  
10 other governing or administrative offices the function of  
11 which is to assist or regulate the customary activities of  
12 educational organizations or members. The term "educational  
13 institutions" also includes a nonprofit educational cable  
14 consortium which holds a current exemption from federal income  
15 tax under s. 501(c)(3) of the Internal Revenue Code of 1986,  
16 as amended, whose primary purpose is the delivery of  
17 educational and instructional cable television programming and  
18 whose members are composed exclusively of educational  
19 organizations which hold a valid consumer certificate of  
20 exemption and which are either an educational institution as  
21 defined in this sub-subparagraph, or qualified as a nonprofit  
22 organization pursuant to s. 501(c)(3) of the Internal Revenue  
23 Code of 1986, as amended.

24 Section 103. Subsections (1), (2), and (4) of section  
25 215.37, Florida Statutes, are amended to read:

26 215.37 Department of Business and Professional  
27 Regulation and the boards to be financed from fees collected;  
28 moneys deposited in trust fund; service charge imposed and  
29 deposited into the General Revenue Fund; appropriation.--

30 (1) All fees, licenses, and other charges assessed to  
31 practitioners of professions, as defined in part I of chapter

1 455, by the Department of Business and Professional Regulation  
2 or a board within the department shall be collected by the  
3 department and shall be deposited in the State Treasury into  
4 the Professional Regulation Trust Fund to the credit of the  
5 department.

6 (2) The regulation by the department of professions,  
7 as defined in part I of chapter 455, shall be financed solely  
8 from revenue collected by it from fees and other charges and  
9 deposited in the Professional Regulation Trust Fund, and all  
10 such revenue is hereby appropriated to the department.  
11 However, it is legislative intent that each profession shall  
12 operate within its anticipated fees.

13 (4) The department shall submit a balanced legislative  
14 budget for its regulation of professions, as defined in part I  
15 of chapter 455, by division and operating budgets as required  
16 of all governmental subdivisions in chapters 215 and 216, to  
17 be based upon anticipated revenues. Prior to development of  
18 the department's budget request to the Legislature, the  
19 department shall request that each board submit its proposed  
20 budget for the operation of the board, the board's office, and  
21 other activities or expanded programs of the board for  
22 possible inclusion in the department's budget request. Prior  
23 to submission of the department's budget request to the  
24 Legislature, each board, at a regularly scheduled board  
25 meeting, shall review the proposed request related to its  
26 regulation of a profession, as defined in part I of chapter  
27 455, and either approve the proposed request or submit to the  
28 secretary written exceptions to the department's proposed  
29 budget. Any board making such exceptions must specify its  
30 objections, the reasons for such exceptions, and proposed  
31 alternatives to the department's request. The secretary shall

1 consider all exceptions. When a majority of boards agree on an  
2 exception, the secretary shall make adjustments to the  
3 department's budget request related to its regulation of  
4 professions, as defined in part I of chapter 455, to reflect  
5 the majority position. If appropriate, the secretary shall  
6 file an exception on behalf of the department. The secretary  
7 shall submit to the Legislature the department's amended  
8 budget request along with any unresolved exceptions.

9 Section 104. Subsection (3) of section 240.215,  
10 Florida Statutes, 1996 Supplement, is amended to read:

11 240.215 Payment of costs of civil action against  
12 employees or members of the Board of Regents.--

13 (3) All faculty physicians employed by the Board of  
14 Regents who are subject to the requirements of s. 455.423  
15 ~~455.2141~~ shall complete their risk management continuing  
16 education on issues specific to academic medicine. Such  
17 continuing education shall include instruction for the  
18 supervision of resident physicians as required by the  
19 Accreditation Council for Graduate Medical Education. The  
20 boards described in s. 455.423 ~~455.2141~~ shall adopt rules to  
21 implement the provisions of this subsection.

22 Section 105. Subsections (1) and (2) and paragraphs  
23 (a) and (c) of subsection (3) of section 310.102, Florida  
24 Statutes, 1996 Supplement, are amended to read:

25 310.102 Treatment programs for impaired pilots and  
26 deputy pilots.--

27 (1) The department shall, by rule, designate approved  
28 treatment programs for pilots and deputy pilots under this  
29 section. The department may adopt rules setting forth  
30 appropriate criteria for approval of treatment providers based  
31

1 on the policies and guidelines established by the Impaired  
2 Professionals ~~Practitioners~~ Committee.

3 (2) The department shall retain one or more impaired  
4 professional ~~practitioner~~ consultants as recommended by the  
5 committee. A consultant shall be a licensee under the  
6 jurisdiction of the Division of Medical Quality Assurance  
7 ~~within the department~~, and at least one consultant must be a  
8 practitioner licensed under chapter 458, chapter 459, or  
9 chapter 464. The consultant shall assist the probable cause  
10 panel and department in carrying out the responsibilities of  
11 this section. This shall include working with department  
12 investigators to determine whether a pilot or deputy pilot is,  
13 in fact, impaired.

14 (3)(a) Whenever the department receives a written or  
15 oral legally sufficient complaint alleging that a pilot or  
16 deputy pilot licensed or certificated by the department is  
17 impaired as a result of the misuse or abuse of alcohol or  
18 drugs, or both, or due to a mental or physical condition which  
19 could affect the pilot's or deputy pilot's ability to practice  
20 with skill and safety, and no complaint against the pilot or  
21 deputy pilot other than impairment exists, the reporting of  
22 such information shall not constitute a complaint within the  
23 meaning of s. 455.225 ~~455.255~~ if the probable cause panel  
24 finds:

25 1. The pilot or deputy pilot has acknowledged the  
26 impairment problem.

27 2. The pilot or deputy pilot has voluntarily enrolled  
28 in an appropriate, approved treatment program.

29 3. The pilot or deputy pilot has voluntarily withdrawn  
30 from piloting or limited the scope of piloting as determined  
31 by the panel, in each case, until such time as the panel is

1 satisfied the pilot or deputy pilot has successfully completed  
2 an approved treatment program.

3 4. The pilot or deputy pilot has executed releases for  
4 medical records, authorizing the release of all records of  
5 evaluations, diagnoses, and treatment of the pilot or deputy  
6 pilot, including records of treatment for emotional or mental  
7 conditions, to the consultant. The consultant shall make no  
8 copies or reports of records that do not regard the issue of  
9 the pilot's or deputy pilot's impairment and his or her  
10 participation in a treatment program.

11 (c) Inquiries related to impairment treatment programs  
12 designed to provide information to the pilot or deputy pilot  
13 and others and which do not indicate that the pilot or deputy  
14 pilot presents a danger to the public shall not constitute a  
15 complaint within the meaning of s. 455.225 ~~455.255~~ and shall  
16 be exempt from the provisions of this subsection.

17 Section 106. Subsections (2) and (3) of section  
18 337.162, Florida Statutes, 1996 Supplement, are amended to  
19 read:

20 337.162 Professional services.--Professional services  
21 provided to the department that fall below acceptable  
22 professional standards may result in transportation project  
23 delays, overruns, and reduced facility life. To minimize these  
24 effects and ensure that quality services are received, the  
25 Legislature hereby declares that licensed professionals shall  
26 be held accountable for the quality of the services they  
27 provide to the department.

28 (2) Any person who is employed by the department and  
29 who is licensed by the Department of Business and Professional  
30 Regulation and who, through the course of his or her  
31 employment, has knowledge or reason to believe that any person



1 has violated the provisions of state professional licensing  
2 laws or rules shall submit a complaint about the violations to  
3 the Department of Business and Professional Regulation.  
4 Failure to submit a complaint about the violations may be  
5 grounds for disciplinary action pursuant to part I of chapter  
6 455 and the state licensing law applicable to that licensee.  
7 The complaint submitted to the Department of Business and  
8 Professional Regulation and maintained by the department is  
9 confidential and exempt from s. 119.07(1).

10 (3) Any complaints submitted to the Department of  
11 Business and Professional Regulation pursuant to subsections  
12 (1) and (2) are confidential and exempt from s. 119.07(1)  
13 pursuant to part I of chapter 455 and applicable state law.

14 Section 107. Section 381.0039, Florida Statutes, is  
15 amended to read:

16 381.0039 Oversight of acquired immune deficiency  
17 syndrome education programs.--The Department of Education, the  
18 Department of Health ~~and Rehabilitative Services~~, and the  
19 Department of Business and Professional Regulation are  
20 directed to establish an interagency agreement to oversee the  
21 quality and cost efficiency of acquired immune deficiency  
22 syndrome education programs being administered in the state  
23 pursuant to chapters 381, ~~455~~, 943, and 945 and part II of  
24 chapter 455. The interagency agreement shall also include  
25 development, where appropriate, of methods for coordinating  
26 educational programs for various professional groups.

27 Section 108. Subsection (3) of section 383.32, Florida  
28 Statutes, 1996 Supplement, is amended to read:

29 383.32 Clinical records.--

30 (3) Clinical records shall be kept confidential in  
31 accordance with s. 455.454 ~~455.241~~ and exempt from the

1 provisions of s. 119.07(1). A client's clinical records shall  
2 be open to inspection only under the following conditions:

3 (a) A consent to release information has been signed  
4 by the client; or

5 (b) The review is made by the department for a  
6 licensure survey or complaint investigation.

7 Section 109. Subsections (1) and (4) of section  
8 395.0193, Florida Statutes, 1996 Supplement, are amended to  
9 read:

10 395.0193 Licensed facilities; peer review;  
11 disciplinary powers; agency or partnership with physicians.--

12 (1) It is the intent of the Legislature that good  
13 faith participants in the process of investigating and  
14 disciplining physicians pursuant to the state-mandated peer  
15 review process shall, in addition to receiving immunity from  
16 retaliatory tort suits pursuant to s. 455.442(12) ~~455.225(12)~~,  
17 be protected from federal antitrust suits filed under the  
18 Sherman Anti-Trust Act, 15 U.S.C.A. ss. 1 et seq. Such intent  
19 is within the public policy of the state to secure the  
20 provision of quality medical services to the public.

21 (4) All final disciplinary actions taken under  
22 subsection (3) shall be reported within 10 working days to the  
23 Division of Health Quality Assurance of the agency in writing  
24 and shall specify the disciplinary action taken and the  
25 specific grounds therefor. The division shall review each  
26 report and determine whether it potentially involved conduct  
27 by the licensee that is subject to disciplinary action, in  
28 which case s. 455.442 ~~455.225~~ shall apply. The report shall  
29 not be subject to inspection under s. 119.07(1) even if the  
30 division's investigation results in a finding of probable  
31 cause.

1           Section 110. Paragraph (b) of subsection (5) and  
2 subsections (6) and (11) of section 395.0197, Florida  
3 Statutes, 1996 Supplement, are amended to read:

4           395.0197 Internal risk management program.--

5           (5)

6           (b) The information reported to the agency pursuant to  
7 paragraph (a) which relates to persons licensed under chapter  
8 458, chapter 459, chapter 461, or chapter 466 shall be  
9 reviewed by the agency. The agency shall determine whether  
10 any of the incidents potentially involved conduct by a health  
11 care professional who is subject to disciplinary action, in  
12 which case the provisions of s. 455.442 ~~455.225~~ shall apply.

13           (6) If an adverse or untoward incident, whether  
14 occurring in the licensed facility or arising from health care  
15 prior to admission in the licensed facility, results in:

16           (a) The death of a patient;

17           (b) Brain or spinal damage to a patient;

18           (c) The performance of a surgical procedure on the  
19 wrong patient; or

20           (d) A surgical procedure unrelated to the patient's  
21 diagnosis or medical needs being performed on any patient,  
22 including the surgical repair of injuries or damage resulting  
23 from the planned surgical procedure, wrong site or wrong  
24 procedure surgeries, and procedures to remove foreign objects  
25 remaining from surgical procedures,

26  
27 the licensed facility shall report this incident to the agency  
28 within 15 calendar days after its occurrence. The agency may  
29 require an additional, final report. These reports shall not  
30 be available to the public pursuant to s. 119.07(1) or any  
31 other law providing access to public records, nor be

1 discoverable or admissible in any civil or administrative  
2 action, except in disciplinary proceedings by the agency or  
3 the appropriate regulatory board, nor shall they be available  
4 to the public as part of the record of investigation for and  
5 prosecution in disciplinary proceedings made available to the  
6 public by the agency or the appropriate regulatory board.  
7 However, the agency or the appropriate regulatory board shall  
8 make available, upon written request by a health care  
9 professional against whom probable cause has been found, any  
10 such records which form the basis of the determination of  
11 probable cause. The agency may investigate, as it deems  
12 appropriate, any such incident and prescribe measures that  
13 must or may be taken in response to the incident. The agency  
14 shall review each incident and determine whether it  
15 potentially involved conduct by the health care professional  
16 who is subject to disciplinary action, in which case the  
17 provisions of s. 455.442 ~~455.225~~ shall apply.

18 (11) The agency shall have access to all licensed  
19 facility records necessary to carry out the provisions of this  
20 section. The records obtained are not available to the public  
21 under s. 119.07(1), nor shall they be discoverable or  
22 admissible in any civil or administrative action, except in  
23 disciplinary proceedings by the agency or the appropriate  
24 regulatory board, nor shall records obtained pursuant to s.  
25 455.438 ~~455.223~~ be available to the public as part of the  
26 record of investigation for and prosecution in disciplinary  
27 proceedings made available to the public by the agency or the  
28 appropriate regulatory board. However, the agency or the  
29 appropriate regulatory board shall make available, upon  
30 written request by a health care professional against whom  
31 probable cause has been found, any such records which form the

1 basis of the determination of probable cause, except that,  
2 with respect to medical review committee records, s. 766.101  
3 controls.

4 Section 111. Paragraph (e) of subsection (4) of  
5 section 395.3025, Florida Statutes, 1996 Supplement, is  
6 amended to read:

7 395.3025 Patient and personnel records; copies;  
8 examination.--

9 (4) Patient records are confidential and must not be  
10 disclosed without the consent of the person to whom they  
11 pertain, but appropriate disclosure may be made without such  
12 consent to:

13 (e) The agency or the Department of Health Business  
14 ~~and Professional Regulation~~ upon subpoena issued pursuant to  
15 s. 455.438 ~~455.223~~, but the records obtained thereby must be  
16 used solely for the purpose of the agency or the Department of  
17 Health Business and Professional Regulation and the  
18 appropriate professional board in its investigation,  
19 prosecution, and appeal of disciplinary proceedings. If the  
20 agency or the Department of Health Business and Professional  
21 ~~Regulation~~ requests copies of the records, the facility shall  
22 charge no more than its actual copying costs, including  
23 reasonable staff time. The records must be sealed and must not  
24 be available to the public pursuant to s. 119.07(1) or any  
25 other statute providing access to records, nor may they be  
26 available to the public as part of the record of investigation  
27 for and prosecution in disciplinary proceedings made available  
28 to the public by the agency, the Department of Health Business  
29 ~~and Professional Regulation~~, or the appropriate regulatory  
30 board. However, the agency or the Department of Health  
31 ~~Business and Professional Regulation~~ must make available, upon

1 written request by a practitioner against whom probable cause  
2 has been found, any such records that form the basis of the  
3 determination of probable cause.

4 Section 112. Section 400.491, Florida Statutes, is  
5 amended to read:

6 400.491 Clinical records.--The home health agency must  
7 maintain for each patient a clinical record that includes the  
8 services the home health agency provides directly and those  
9 provided through arrangement with another health care  
10 provider, except for those services provided by persons  
11 referred under s. 400.509. Such records must contain  
12 pertinent past and current medical, nursing, social and other  
13 therapeutic information, the plan of treatment, and other such  
14 information as is necessary for the safe and adequate care of  
15 the patient. When home health services are terminated, the  
16 record must show the date and reason for termination. Such  
17 records are considered patient records under s. 455.454  
18 ~~400.241~~, and must be maintained by the home health agency for  
19 5 years following termination of services. If a patient  
20 transfers to another home health agency, a copy of his or her  
21 record must be provided to the other home health agency upon  
22 request.

23 Section 113. Subsection (9) of section 408.061,  
24 Florida Statutes, 1996 Supplement, is amended to read:

25 408.061 Data collection; uniform systems of financial  
26 reporting; information relating to physician charges;  
27 confidentiality of patient records; immunity.--

28 (9) The identity of any health care provider, health  
29 care facility, or health insurer who submits any data which is  
30 proprietary business information to the agency pursuant to the  
31 provisions of this section shall remain confidential and

1 exempt from the provisions of s. 119.07(1) and s. 24(a), Art.  
2 I of the State Constitution. As used in this section,  
3 "proprietary business information" shall include, but not be  
4 limited to, information relating to specific provider contract  
5 reimbursement information; information relating to security  
6 measures, systems, or procedures; and information concerning  
7 bids or other contractual data, the disclosure of which would  
8 impair efforts to contract for goods or services on favorable  
9 terms or would injure the affected entity's ability to compete  
10 in the marketplace. Notwithstanding the provisions of this  
11 subsection, any information obtained or generated pursuant to  
12 the provisions of s. 407.61, either by the Health Care Cost  
13 Containment Board or by the Agency for Health Care  
14 Administration upon transfer to that agency of the duties and  
15 functions of the Health Care Cost Containment Board, is not  
16 confidential and exempt from the provisions of s. 119.07(1)  
17 and s. 24(a), Art. I of the State Constitution. Such  
18 proprietary business information may be used in published  
19 analyses and reports or otherwise made available for public  
20 disclosure in such manner as to preserve the confidentiality  
21 of the identity of the provider. This exemption shall not  
22 limit the use of any information used in conjunction with  
23 investigation or enforcement purposes under the provisions of  
24 s. 455.442 ~~455.225~~.

25 Section 114. Paragraph (b) of subsection (5) of  
26 section 408.704, Florida Statutes, 1996 Supplement, is amended  
27 to read:

28 408.704 Agency duties and responsibilities related to  
29 community health purchasing alliances.--The agency shall  
30 assist in developing a statewide system of community health  
31

1 purchasing alliances. To this end, the agency is responsible  
2 for:

3 (5) Establishing a data system for accountable health  
4 partnerships.

5 (b) The advisory data committee shall issue a report  
6 and recommendations on each of the following subjects as each  
7 is completed. A final report covering all subjects must be  
8 included in the final Florida Health Plan to be submitted to  
9 the Legislature on December 31, 1993. The report shall  
10 include recommendations regarding:

11 1. Types of data to be collected. Careful  
12 consideration shall be given to other data collection projects  
13 and standards for electronic data interchanges already in  
14 process in this state and nationally, to evaluating and  
15 recommending the feasibility and cost-effectiveness of various  
16 data collection activities, and to ensuring that data  
17 reporting is necessary to support the evaluation of providers  
18 with respect to cost containment, access, quality, control of  
19 expensive technologies, and customer satisfaction analysis.  
20 Data elements to be collected from providers include prices,  
21 utilization, patient outcomes, quality, and patient  
22 satisfaction. The completion of this task is the first  
23 priority of the advisory data committee. The agency shall  
24 begin implementing these data collection activities  
25 immediately upon receipt of the recommendations, but no later  
26 than January 1, 1994. The data shall be submitted by  
27 hospitals, other licensed health care facilities, pharmacists,  
28 and group practices as defined in s. 455.236(3)(f)~~(g)~~.

29 2. A standard data set, a standard cost-effective  
30 format for collecting the data, and a standard methodology for  
31 reporting the data to the agency, or its designee, and to the



1 alliances. The reporting mechanisms must be designed to  
2 minimize the administrative burden and cost to health care  
3 providers and carriers. A methodology shall be developed for  
4 aggregating data in a standardized format for making  
5 comparisons between accountable health partnerships which  
6 takes advantage of national models and activities.

7 3. Methods by which the agency should collect,  
8 process, analyze, and distribute the data.

9 4. Standards for data interpretation. The advisory  
10 data committee shall actively solicit broad input from the  
11 provider community, carriers, the business community, and the  
12 general public.

13 5. Structuring the data collection process to:

14 a. Incorporate safeguards to ensure that the health  
15 care services utilization data collected is reviewed by  
16 experienced, practicing physicians licensed to practice  
17 medicine in this state;

18 b. Require that carrier customer satisfaction data  
19 conclusions are validated by the agency;

20 c. Protect the confidentiality of medical information  
21 to protect the patient's identity and to protect the privacy  
22 of individual physicians and patients. Proprietary data  
23 submitted by insurers, providers, and purchasers are  
24 confidential pursuant to s. 408.061; and

25 d. Afford all interested professional medical and  
26 hospital associations and carriers a minimum of 60 days to  
27 review and comment before data is released to the public.

28 6. Developing a data collection implementation  
29 schedule, based on the data collection capabilities of  
30 carriers and providers.

31

1 (c) In developing data recommendations, the advisory  
2 data committee shall assess the cost-effectiveness of  
3 collecting data from individual physician providers. The  
4 initial emphasis must be placed on collecting data from those  
5 providers with whom the highest percentages of the health care  
6 dollars are spent: hospitals, large physician group practices,  
7 outpatient facilities, and pharmacies.

8 (d) The agency shall, to the maximum extent possible,  
9 adopt and implement the recommendations of the advisory data  
10 committee. The agency shall report all recommendations of the  
11 advisory data committee to the Legislature and submit an  
12 implementation plan.

13 (e) The travel expenses of the participants of the  
14 advisory data committee must be paid by the participant or by  
15 the organization that nominated the participant.

16 Section 115. Paragraph (g) of subsection (1) of  
17 section 415.1055, Florida Statutes, is amended to read:

18 415.1055 Notification to administrative entities,  
19 subjects, and reporters; notification to law enforcement and  
20 state attorneys.--

21 (1) NOTIFICATION TO ADMINISTRATIVE ENTITIES.--

22 (g) If at any time during a protective investigation  
23 the department has reasonable cause to believe that  
24 professional licensure violations have occurred, the  
25 department shall notify the Division of Medical Quality  
26 Assurance within the Department of Health ~~Agency for Health~~  
27 ~~Care Administration~~. This notification must be in writing.

28 (h) When a report has been classified as proposed  
29 confirmed, the department shall notify the state attorney  
30 having jurisdiction in the county in which the abuse, neglect,  
31 or exploitation occurred. The department may submit a report

1 that has been closed without classification if evidence  
2 indicates that further criminal investigation is warranted.  
3 This notification must be in writing.

4 (i) At the conclusion of a protective investigation at  
5 a facility, the department shall notify either the human  
6 rights advocacy committee or long-term care ombudsman council  
7 of the results of the investigation. This notification must  
8 be in writing.

9 (j) At the conclusion of a protective investigation,  
10 the department shall notify the Agency for Health Care  
11 Administration when a licensee or a certified nursing  
12 assistant has been named as perpetrator in a report that has  
13 been classified as proposed confirmed or confirmed. This  
14 notification must be in writing.

15 (k) When a report has been classified as proposed  
16 confirmed in cases involving a guardian of the person or  
17 property, or both, the department shall notify the probate  
18 court having jurisdiction over the guardianship of the  
19 proposed confirmed report. This notification must be in  
20 writing.

21 Section 116. Subsection (3) of section 415.5055,  
22 Florida Statutes, 1996 Supplement, is amended to read:

23 415.5055 Child protection teams; services; eligible  
24 cases.--The department shall develop, maintain, and coordinate  
25 the services of one or more multidisciplinary child protection  
26 teams in each of the service districts of the department.  
27 Such teams may be composed of representatives of appropriate  
28 health, mental health, social service, legal service, and law  
29 enforcement agencies.

30 (3) All records and reports of the child protection  
31 team are confidential and exempt from the provisions of ss.

1 119.07(1) and 455.454 ~~455.241~~, and shall not be disclosed,  
2 except, upon request, to the state attorney, law enforcement,  
3 the department, and necessary professionals, in furtherance of  
4 the treatment or additional evaluative needs of the child or  
5 by order of the court.

6 Section 117. Subsection (5) of section 415.51, Florida  
7 Statutes, 1996 Supplement, is amended to read:

8 415.51 Confidentiality of reports and records in cases  
9 of child abuse or neglect.--

10 (5) All records and reports of the child protection  
11 team are confidential and exempt from the provisions of ss.  
12 119.07(1) and 455.454 ~~455.241~~, and shall not be disclosed,  
13 except, upon request, to the state attorney, law enforcement,  
14 the department, and necessary professionals, in furtherance of  
15 the treatment or additional evaluative needs of the child or  
16 by order of the court.

17 Section 118. Paragraph (c) of subsection (4) of  
18 section 440.13, Florida Statutes, 1996 Supplement, is amended  
19 to read:

20 440.13 Medical services and supplies; penalty for  
21 violations; limitations.--

22 (4) NOTICE OF TREATMENT TO CARRIER; FILING WITH  
23 DIVISION.--

24 (c) It is the policy for the administration of the  
25 workers' compensation system that there be reasonable access  
26 to medical information by all parties to facilitate the  
27 self-executing features of the law. Notwithstanding the  
28 limitations in s. 455.454 ~~455.241~~ and subject to the  
29 limitations in s. 381.004, upon the request of the employer,  
30 the carrier, or the attorney for either of them, the medical  
31 records of an injured employee must be furnished to those

1 persons and the medical condition of the injured employee must  
2 be discussed with those persons, if the records and the  
3 discussions are restricted to conditions relating to the  
4 workplace injury. Any such discussions may be held before or  
5 after the filing of a claim without the knowledge, consent, or  
6 presence of any other party or his agent or representative. A  
7 health care provider who willfully refuses to provide medical  
8 records or to discuss the medical condition of the injured  
9 employee, after a reasonable request is made for such  
10 information pursuant to this subsection, shall be subject by  
11 the division to one or more of the penalties set forth in  
12 paragraph (8)(b).

13 Section 119. Subsection (2) of section 457.103,  
14 Florida Statutes, is amended to read:

15 457.103 Board of Acupuncture; membership; appointment  
16 and terms.--

17 (2) All provisions of part II of chapter 455 relating  
18 to the board shall apply.

19 Section 120. Paragraph (b) of subsection (2) and  
20 subsection (6) of section 458.307, Florida Statutes, are  
21 amended to read:

22 458.307 Board of Medicine.--

23 (2)

24 (b) The board shall establish at least one, but not  
25 more than two, probable cause panels to meet the  
26 responsibilities set out in s. 455.442(4)~~455.225(4)~~. Each  
27 probable cause panel shall be composed of three members, one  
28 of whom shall be a lay member. One physician member may, if  
29 provided for in administrative rule, be a past board member  
30 who is not currently appointed to the board.

31

1           (6) All provisions of part II of chapter 455 relating  
2 to activities of the board shall apply.

3           Section 121. Paragraph (c) of subsection (1) of  
4 section 458.3115, Florida Statutes, 1996 Supplement, as  
5 created by chapter 96-197, Laws of Florida, and paragraph (a)  
6 of subsection (3) of said section, are amended to read:

7           458.3115 Restricted license; certain foreign-licensed  
8 physicians; United States Medical Licensing Examination  
9 (USMLE) or agency-developed examination; restrictions on  
10 practice; full licensure.--

11           (1)

12           (c) A person shall be eligible to take such  
13 examination for restricted licensure if the person:

14           1. Has taken, upon approval by the board, and  
15 completed, in November 1990 or November 1992, one of the  
16 special preparatory medical update courses authorized by the  
17 board and the University of Miami Medical School and  
18 subsequently passed the final course examination; or upon  
19 approval by the board to take the course completed in 1990 or  
20 in 1992, has a certificate of successful completion of that  
21 course from the University of Miami or the Stanley H. Kaplan  
22 course;

23           2. Applies to the agency and submits an application  
24 fee that is nonrefundable and equivalent to the fee required  
25 for full licensure;

26           3. Documents no less than 2 years of the active  
27 practice of medicine in another jurisdiction;

28           4. Submits an examination fee that is nonrefundable  
29 and equivalent to the fee required for full licensure plus the  
30 actual per-applicant cost to the agency to provide either  
31 examination described in this section;

1           5. Has not committed any act or offense in this or any  
2 other jurisdiction that would constitute a substantial basis  
3 for disciplining a physician under this chapter or part II of  
4 chapter 455; and

5           6. Is not under discipline, investigation, or  
6 prosecution in this or any other jurisdiction for an act that  
7 would constitute a violation of this chapter or part II of  
8 chapter 455 and that substantially threatened or threatens the  
9 public health, safety, or welfare.

10           (3)(a) A restricted license issued by the agency under  
11 this section is valid for 2 years unless sooner revoked or  
12 suspended, and a restricted licensee is subject to the  
13 requirements of this chapter, part II of chapter 455, and any  
14 other provision of law not in conflict with this section.  
15 Upon expiration of such restricted license, a restricted  
16 licensee shall become a full licensee if the restricted  
17 licensee:

18           1. Is not under discipline, investigation, or  
19 prosecution for a violation which poses a substantial threat  
20 to the public health, safety, or welfare; and

21           2. Pays all renewal fees required of a full licensee.

22           Section 122. Paragraph (e) of subsection (1) and  
23 subsection (6) of section 458.331, Florida Statutes, 1996  
24 Supplement, are amended to read:

25           458.331 Grounds for disciplinary action; action by the  
26 board and department.--

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

30           (e) Failing to report to the department any person who  
31 the licensee knows is in violation of this chapter or of the

1 rules of the department or the board. A treatment provider  
2 approved pursuant to s. 455.466 ~~455.261~~ shall provide the  
3 department or consultant with information in accordance with  
4 the requirements of s. 455.466(3), (4), (5), and (6)  
5 ~~455.261(3), (4), (5), and (6)~~.

6 (6) Upon the department's receipt from an insurer or  
7 self-insurer of a report of a closed claim against a physician  
8 pursuant to s. 627.912 or from a health care practitioner of a  
9 report pursuant to s. 455.464 ~~455.247~~, or upon the receipt  
10 from a claimant of a presuit notice against a physician  
11 pursuant to s. 766.106, the department shall review each  
12 report and determine whether it potentially involved conduct  
13 by a licensee that is subject to disciplinary action, in which  
14 case the provisions of s. 455.442 ~~455.225~~ shall apply.  
15 However, if it is reported that a physician has had three or  
16 more claims with indemnities exceeding \$25,000 each within the  
17 previous 5-year period, the department shall investigate the  
18 occurrences upon which the claims were based and determine if  
19 action by the department against the physician is warranted.

20 Section 123. Section 458.343, Florida Statutes, is  
21 amended to read:

22 458.343 Subpoena of certain records.--Notwithstanding  
23 the provisions of s. 455.454 ~~455.241~~, the department may issue  
24 subpoenas duces tecum requiring the names and addresses of  
25 some or all of the patients of a physician against whom a  
26 complaint has been filed pursuant to s. 455.442 ~~455.225~~.

27 Section 124. Paragraph (g) of subsection (7) and  
28 subsections (10) and (16) of section 458.347, Florida  
29 Statutes, 1996 Supplement, are amended to read:

30 458.347 Physician assistants.--

31 (7) PHYSICIAN ASSISTANT CERTIFICATION.--



1 (g) The Board of Medicine may impose any of the  
2 penalties specified in ss. 455.443 ~~455.227~~ and 458.331(2) upon  
3 a physician assistant if the physician assistant or the  
4 supervising physician has been found guilty of or is being  
5 investigated for any act that constitutes a violation of this  
6 chapter or part II of chapter 455.

7 (10) INACTIVE AND DELINQUENT STATUS.--A certificate on  
8 inactive or delinquent status may be reactivated only as  
9 provided in s. 455.467 ~~455.271~~.

10 (16) LEGAL SERVICES.--The Department of Legal Affairs  
11 shall provide legal services to the council as authorized in  
12 s. 455.433(1) ~~455.221(1)~~.

13 Section 125. Subsection (4) of section 459.004,  
14 Florida Statutes, is amended to read:

15 459.004 Board of Osteopathic Medicine.--

16 (4) All provisions of part II of chapter 455 relating  
17 to activities of the board shall apply.

18 Section 126. Paragraph (e) of subsection (1) and  
19 subsection (6) of section 459.015, Florida Statutes, 1996  
20 Supplement, are amended to read:

21 459.015 Grounds for disciplinary action by the  
22 board.--

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

26 (e) Failing to report to the department or the  
27 department's impaired professional consultant any person who  
28 the licensee or certificateholder knows is in violation of  
29 this chapter or of the rules of the department or the board.  
30 A treatment provider, approved pursuant to s. 455.466 ~~455.261~~,  
31 shall provide the department or consultant with information in

1 accordance with the requirements of s. 455.466(3), (4), (5),  
2 and (6)~~455.261(3), (4), (5), and (6)~~.

3 (6) Upon the department's receipt from an insurer or  
4 self-insurer of a report of a closed claim against an  
5 osteopathic physician pursuant to s. 627.912 or from a health  
6 care practitioner of a report pursuant to s. 455.464 ~~455.247~~,  
7 or upon the receipt from a claimant of a presuit notice  
8 against an osteopathic physician pursuant to s. 766.106, the  
9 department shall review each report and determine whether it  
10 potentially involved conduct by a licensee that is subject to  
11 disciplinary action, in which case the provisions of s.  
12 455.442 ~~455.225~~ shall apply. However, if it is reported that  
13 an osteopathic physician has had three or more claims with  
14 indemnities exceeding \$25,000 each within the previous 5-year  
15 period, the department shall investigate the occurrences upon  
16 which the claims were based and determine if action by the  
17 department against the osteopathic physician is warranted.

18 Section 127. Section 459.019, Florida Statutes, is  
19 amended to read:

20 459.019 Subpoena of certain records.--Notwithstanding  
21 the provisions of s. 455.454 ~~455.241~~, the department may issue  
22 subpoenas duces tecum requiring the names and addresses of  
23 some or all of the patients of an osteopathic physician  
24 against whom a complaint has been filed pursuant to s. 455.442  
25 ~~455.225~~.

26 Section 128. Paragraph (f) of subsection (7) and  
27 subsections (10) and (16) of section 459.022, Florida  
28 Statutes, 1996 Supplement, are amended to read:

29 459.022 Physician assistants.--

30 (7) PHYSICIAN ASSISTANT CERTIFICATION.--

31

1 (f) The Board of Osteopathic Medicine may impose any  
2 of the penalties specified in ss. 455.443 ~~455.227~~ and  
3 459.015(2) upon a physician assistant if the physician  
4 assistant or the supervising physician has been found guilty  
5 of or is being investigated for any act that constitutes a  
6 violation of this chapter or part II of chapter 455.

7 (10) INACTIVE AND DELINQUENT STATUS.--A certificate on  
8 inactive or delinquent status may be reactivated only as  
9 provided in s. 455.467 ~~455.271~~.

10 (16) LEGAL SERVICES.--The Department of Legal Affairs  
11 shall provide legal services to the council as authorized in  
12 s. 455.433(1) ~~455.221(1)~~.

13 Section 129. Subsection (4) of section 460.404,  
14 Florida Statutes, is amended to read:

15 460.404 Board of Chiropractic; membership;  
16 appointment; terms.--

17 (4) All provisions of part II of chapter 455 relating  
18 to the board shall apply.

19 Section 130. Paragraph (c) of subsection (1) of  
20 section 460.4061, Florida Statutes, is amended to read:

21 460.4061 Restricted license.--

22 (1) An applicant for licensure as a chiropractic  
23 physician may apply to the department for a restricted license  
24 without undergoing a state or national written or clinical  
25 competency examination for licensure if the applicant  
26 initially applies not later than October 31, 1994, for the  
27 restricted license and:

28 (c) Has never been disciplined for an offense that  
29 would be a violation under this chapter or part II of chapter  
30 455, imposed by another jurisdiction on the applicant's  
31 license to practice as a chiropractic physician.

1           Section 131. Subsection (4) of section 461.004,  
2 Florida Statutes, is amended to read:

3           461.004 Board of Podiatric Medicine; membership;  
4 appointment; terms.--

5           (4) All provisions of part II of chapter 455 relating  
6 to the board shall apply. However, notwithstanding the  
7 requirement of s. ~~455.442(4)~~~~455.225(4)~~ that the board provide  
8 by rule for the determination of probable cause by a panel  
9 composed of its members or by the department, the board may  
10 provide by rule that its probable cause panel may be composed  
11 of one current member of the board and one past member of the  
12 board, as long as the past member is a licensed podiatrist in  
13 good standing. The past board member must be appointed to the  
14 panel by the chairman of the board with the approval of the  
15 secretary for a maximum of 2 years.

16           Section 132. Paragraph (w) of subsection (1) and  
17 paragraph (a) of subsection (5) of section 461.013, Florida  
18 Statutes, are amended to read:

19           461.013 Grounds for disciplinary action; action by the  
20 board; investigations by department.--

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

24           (w) Violating any provision of this chapter or part II  
25 of chapter 455, any rule of the board or department, or a  
26 lawful order of the board or department previously entered in  
27 a disciplinary hearing or failing to comply with a lawfully  
28 issued subpoena of the board or department.

29           (5)(a) Upon the department's receipt from an insurer  
30 or self-insurer of a report of a closed claim against a  
31 podiatrist pursuant to s. 627.912, or upon the receipt from a

1 claimant of a presuit notice against a podiatrist pursuant to  
2 s. 766.106, the department shall review each report and  
3 determine whether it potentially involved conduct by a  
4 licensee that is subject to disciplinary action, in which case  
5 the provisions of s. 455.422 ~~455.225~~ shall apply. However, if  
6 it is reported that a podiatrist has had three or more claims  
7 with indemnities exceeding \$25,000 each within the previous  
8 5-year period, the department shall investigate the  
9 occurrences upon which the claims were based and determine if  
10 action by the department against the podiatrist is warranted.

11 Section 133. Subsection (4) of section 463.003,  
12 Florida Statutes, is amended to read:

13 463.003 Board of Optometry.--

14 (4) All applicable provisions of part II of chapter  
15 455 relating to activities of regulatory boards shall apply.

16 Section 134. Paragraph (h) of subsection (1) of  
17 section 463.016, Florida Statutes, is amended to read:

18 463.016 Grounds for disciplinary action; action by the  
19 board.--

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

23 (h) A violation or repeated violations of provisions  
24 of this chapter, or of part II of chapter 455, and any rules  
25 promulgated pursuant thereto.

26 Section 135. Subsection (4) of section 464.004,  
27 Florida Statutes, 1996 Supplement, is amended to read:

28 464.004 Board of Nursing; membership; appointment;  
29 terms.--

30 (4) All provisions of part II of chapter 455 relating  
31 to activities of the board shall apply.

1           Section 136. Subsection (4) of section 465.004,  
2 Florida Statutes, is amended to read:  
3           465.004 Board of Pharmacy.--  
4           (4) All provisions of part II of chapter 455 relating  
5 to activities of the board shall apply.  
6           Section 137. Section 465.006, Florida Statutes, is  
7 amended to read:  
8           465.006 Disposition of fees; expenditures.--All moneys  
9 received under this chapter shall be deposited and expended  
10 pursuant to the provisions of s. 455.432 ~~215.37~~. All  
11 expenditures for duties of the board authorized by this  
12 chapter shall be paid upon presentation of vouchers approved  
13 by the executive director of the board.  
14           Section 138. Subsections (4) and (6) of section  
15 466.004, Florida Statutes, 1996 Supplement, are amended to  
16 read:  
17           466.004 Board of Dentistry.--  
18           (4) The board is authorized to adopt all rules  
19 necessary to carry out the provisions of this chapter and part  
20 II of chapter 455, including the establishment of a fee to  
21 defray the cost of duplicating any license certification or  
22 permit, not to exceed \$10 per duplication.  
23           (6) All provisions of part II of chapter 455 relating  
24 to the board shall apply.  
25           Section 139. Paragraph (b) of subsection (4) of  
26 section 466.007, Florida Statutes, 1996 Supplement, is amended  
27 to read:  
28           466.007 Examination of dental hygienists.--  
29           (4) To be licensed as a dental hygienist in this  
30 state, an applicant must successfully complete the following:  
31

1           (b) A practical or clinical examination. The  
2 practical or clinical examination shall test competency in  
3 areas to be established by rule of the board which shall  
4 include testing the ability to adequately perform a  
5 prophylaxis. On or after October 1, 1986, every applicant who  
6 is otherwise qualified shall be eligible to take the  
7 examination a total of three times, notwithstanding the number  
8 of times the applicant has previously failed. If an applicant  
9 fails the examination three times, the applicant shall no  
10 longer be eligible to take the examination unless he obtains  
11 additional educational requirements established by the board.  
12 The department shall require a mandatory standardization  
13 exercise pursuant to s. 455.426(1)(b)~~455.217(1)(b)~~ for all  
14 examiners prior to each practical or clinical examination and  
15 shall retain for employment only those dentists and dental  
16 hygienists who have substantially adhered to the standard of  
17 grading established at such exercise. It is the intent of the  
18 Legislature that the examinations relate to those procedures  
19 which are actually performed by a dental hygienist in general  
20 practice.

21           Section 140. Subsection (1) of section 466.018,  
22 Florida Statutes, is amended to read:

23           466.018 Dentist of record; patient records.--

24           (1) Each patient shall have a dentist of record. The  
25 dentist of record shall remain primarily responsible for all  
26 dental treatment on such patient regardless of whether the  
27 treatment is rendered by the dentist himself or by another  
28 dentist, dental hygienist, or dental assistant rendering such  
29 treatment in conjunction with, at the direction or request of,  
30 or under the supervision of such dentist of record. The  
31 dentist of record shall be identified in the record of the

1 patient. If treatment is rendered by a dentist other than the  
2 dentist of record or by a dental hygienist or assistant, the  
3 name or initials of such person shall be placed in the record  
4 of the patient. In any disciplinary proceeding brought  
5 pursuant to this chapter or part II of chapter 455, it shall  
6 be presumed as a matter of law that treatment was rendered by  
7 the dentist of record unless otherwise noted on the patient  
8 record pursuant to this section. The dentist of record and any  
9 other treating dentist are subject to discipline pursuant to  
10 this chapter or part II of chapter 455 for treatment rendered  
11 the patient and performed in violation of such chapter. One  
12 of the purposes of this section is to ensure that the  
13 responsibility for each patient is assigned to one dentist in  
14 a multidentist practice of any nature and to assign primary  
15 responsibility to the dentist for treatment rendered by a  
16 dental hygienist or assistant under his supervision. This  
17 section shall not be construed to assign any responsibility to  
18 a dentist of record for treatment rendered pursuant to a  
19 proper referral to another dentist not in practice with the  
20 dentist of record or to prohibit a patient from voluntarily  
21 selecting a new dentist without permission of the dentist of  
22 record.

23 Section 141. Subsection (1) of section 466.022,  
24 Florida Statutes, 1996 Supplement, is amended to read:

25 466.022 Peer review; records; immunity.--

26 (1) The Legislature finds that effective peer review  
27 of consumer complaints by professional associations of  
28 dentists is a valuable service to the public. In performing  
29 such service, any member of a peer review organization or  
30 committee shall, pursuant to s. 466.028(1)(f), report to the  
31 department the name of any licensee who he believes has



1 violated this chapter. Any such peer review committee member  
2 shall be afforded the privileges and immunities of any other  
3 complainant or witness which are provided by s. 455.442(11)  
4 ~~455.225(11)~~. Furthermore, a professional organization or  
5 association of dentists which sponsors, sanctions, or  
6 otherwise operates or participates in peer review activities  
7 is hereby afforded the same privileges and immunities afforded  
8 to any member of a duly constituted medical review committee  
9 by s. 766.101(3).

10 Section 142. Paragraph (aa) of subsection (1) and  
11 subsections (6) and (7) of section 466.028, Florida Statutes,  
12 are amended to read:

13 466.028 Grounds for disciplinary action; action by the  
14 board.--

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

18 (aa) The violation or the repeated violation of this  
19 chapter, part II of chapter 455, or any rule promulgated  
20 pursuant to part II of chapter 455 or this chapter; the  
21 violation of a lawful order of the board or department  
22 previously entered in a disciplinary hearing; or failure to  
23 comply with a lawfully issued subpoena of the board or  
24 department.

25 (6) Upon the department's receipt from an insurer or  
26 self-insurer of a report of a closed claim against a dentist  
27 pursuant to s. 627.912 or upon the receipt from a claimant of  
28 a presuit notice against a dentist pursuant to s. 766.106 the  
29 department shall review each report and determine whether it  
30 potentially involved conduct by a licensee that is subject to  
31 disciplinary action, in which case the provisions of s.

1 455.442 ~~455.225~~ shall apply. However, if it is reported that  
2 a dentist has had any indemnity paid in excess of \$25,000 in a  
3 judgment or settlement or has had three or more claims for  
4 dental malpractice within the previous 5-year period which  
5 resulted in indemnity being paid, the department shall  
6 investigate the occurrence upon which the claims were based  
7 and determine if action by the department against the dentist  
8 is warranted.

9 (7) Subject to the authority and conditions  
10 established in s. 455.442 ~~455.225~~, the probable cause panel of  
11 the board may recommend that the department seek a specified  
12 penalty in cases in which probable cause has been found and  
13 the panel has directed that an administrative complaint be  
14 filed. If the department seeks a penalty other than that  
15 recommended by the probable cause panel, the department shall  
16 provide the board with a written statement which sets forth  
17 the reasons therefor. Nothing in this subsection shall  
18 preclude a probable cause panel of any other board under the  
19 jurisdiction of the department from making similar  
20 recommendations as penalties.

21 Section 143. Subsection (5) of section 468.1135,  
22 Florida Statutes, is amended to read:

23 468.1135 Board of Speech-Language Pathology and  
24 Audiology.--

25 (5) All provisions of part II of chapter 455 relating  
26 to activities of regulatory boards shall apply to the board.

27 Section 144. Subsection (10) of section 468.1145,  
28 Florida Statutes, is amended to read:

29 468.1145 Fees; establishment; disposition.--  
30  
31

1           (10) All moneys derived from fees and fines imposed  
2 pursuant to this part shall be deposited as required by s.  
3 455.432 ~~215.37~~.

4           Section 145. Subsection (4) of section 468.1185,  
5 Florida Statutes, is amended to read:

6           468.1185 Licensure.--

7           (4) The board may refuse to certify any applicant who  
8 is under investigation in any jurisdiction for an act which  
9 would constitute a violation of this part or part II of  
10 chapter 455 until the investigation is complete and  
11 disciplinary proceedings have been terminated.

12           Section 146. Subsection (1) of section 468.1295,  
13 Florida Statutes, is amended to read:

14           468.1295 Disciplinary proceedings.--

15           (1) The following acts constitute grounds for both  
16 disciplinary actions as set forth in subsection (2) and cease  
17 and desist or other related actions by the department as set  
18 forth in s. 455.447 ~~455.228~~.

19           (a) Attempting to procure a license by bribery, by  
20 fraudulent misrepresentation, or through an error of the  
21 department or the board.

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

25           (c) Being convicted or found guilty of, or entering a  
26 plea of nolo contendere to, regardless of adjudication, a  
27 crime in any jurisdiction which directly relates to the  
28 practice of speech-language pathology or audiology.

29           (d) Making or filing a report or record which the  
30 licensee knows to be false, intentionally or negligently  
31 failing to file a report or records required by state or

1 federal law, willfully impeding or obstructing such filing, or  
2 inducing another person to impede or obstruct such filing.  
3 Such report or record shall include only those reports or  
4 records which are signed in one's capacity as a licensed  
5 speech-language pathologist or audiologist.

6 (e) Advertising goods or services in a manner which is  
7 fraudulent, false, deceptive, or misleading in form or  
8 content.

9 (f) Being proven guilty of fraud or deceit or of  
10 negligence, incompetency, or misconduct in the practice of  
11 speech-language pathology or audiology.

12 (g) Violating a lawful order of the board or  
13 department previously entered in a disciplinary hearing, or  
14 failing to comply with a lawfully issued subpoena of the board  
15 or department.

16 (h) Practicing with a revoked, suspended, inactive, or  
17 delinquent license.

18 (i) Using, or causing or promoting the use of, any  
19 advertising matter, promotional literature, testimonial,  
20 guarantee, warranty, label, brand, insignia, or other  
21 representation, however disseminated or published, which is  
22 misleading, deceiving, or untruthful.

23 (j) Showing or demonstrating or, in the event of sale,  
24 delivery of a product unusable or impractical for the purpose  
25 represented or implied by such action.

26 (k) Failing to submit to the board on an annual basis,  
27 or such other basis as may be provided by rule, certification  
28 of testing and calibration of such equipment as designated by  
29 the board and on the form approved by the board.

30 (l) Aiding, assisting, procuring, or advising any  
31 licensed person to practice speech-language pathology or

1 audiology contrary to this part or to a rule of the department  
2 or the board.

3 (m) Violation or repeated violation of this part or  
4 part II of chapter 455, or any rules adopted pursuant thereto.

5 (n) Misrepresentation of professional services  
6 available in the fitting, sale, adjustment, service, or repair  
7 of a hearing aid, or use of any other term or title which  
8 might connote the availability of professional services when  
9 such use is not accurate.

10 (o) Representation, advertisement, or implication that  
11 a hearing aid or its repair is guaranteed without providing  
12 full disclosure of the identity of the guarantor; the nature,  
13 extent, and duration of the guarantee; and the existence of  
14 conditions or limitations imposed upon the guarantee.

15 (p) Representing, directly or by implication, that a  
16 hearing aid utilizing bone conduction has certain specified  
17 features, such as the absence of anything in the ear or  
18 leading to the ear, or the like, without disclosing clearly  
19 and conspicuously that the instrument operates on the bone  
20 conduction principle and that in many cases of hearing loss  
21 this type of instrument may not be suitable.

22 (q) Stating or implying that the use of any hearing  
23 aid will improve or preserve hearing or prevent or retard the  
24 progression of a hearing impairment or that it will have any  
25 similar or opposite effect.

26 (r) Making any statement regarding the cure of the  
27 cause of a hearing impairment by the use of a hearing aid.

28 (s) Representing or implying that a hearing aid is or  
29 will be "custom-made," "made to order," or  
30 "prescription-made," or in any other sense specially  
31

1 fabricated for an individual person, when such is not the  
2 case.

3 (t) Canvassing from house to house or by telephone  
4 either in person or by an agent for the purpose of selling a  
5 hearing aid, except that contacting persons who have evidenced  
6 an interest in hearing aids, or have been referred as in need  
7 of hearing aids, shall not be considered canvassing.

8 (u) Failure to submit to the board on an annual basis,  
9 or such other basis as may be provided by rule, certification  
10 of testing and calibration of audiometric testing equipment on  
11 the form approved by the board.

12 (v) Failing to provide all information as described in  
13 s. 468.1245(1).

14 (w) Exercising influence on a client in such a manner  
15 as to exploit the client for financial gain of the licensee or  
16 of a third party.

17 Section 147. Subsection (4) of section 468.1665,  
18 Florida Statutes, is amended to read:

19 468.1665 Board of Nursing Home Administrators;  
20 membership; appointment; terms.--

21 (4) All provisions of part II of chapter 455 relating  
22 to activities of regulatory boards shall apply.

23 Section 148. Paragraphs (a) and (h) of subsection (1)  
24 of section 468.1755, Florida Statutes, are amended to read:

25 468.1755 Disciplinary proceedings.--

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

28 (a) Violation of any provision of s. 455.443(1)  
29 ~~455.227(1)~~ or s. 468.1745(1).

30  
31

1 (h) A violation or repeated violations of this part,  
2 part II of chapter 455, or any rules promulgated pursuant  
3 thereto.

4 Section 149. Section 468.1756, Florida Statutes, is  
5 amended to read:

6 468.1756 Statute of limitations.--An administrative  
7 complaint may only be filed pursuant to s. 455.442 ~~455.225~~ for  
8 an act listed in paragraphs (1)(c)-(p) of s. 468.1755 within 4  
9 years from the time of the incident giving rise to the  
10 complaint, or within 4 years from the time the incident is  
11 discovered or should have been discovered.

12 Section 150. Section 468.205, Florida Statutes, is  
13 amended to read:

14 468.205 Occupational Therapy Council.--There is  
15 created an Occupational Therapy Council under the supervision  
16 of the board. The board shall appoint licensed occupational  
17 therapists as members of the council for terms of 4 years  
18 each. The board may delegate such powers and duties to the  
19 council as it may deem proper, including the examination of  
20 applicants and the carrying out of the mechanics and  
21 procedures necessary to effectuate this act. No occupational  
22 therapist shall serve more than two successive terms. Any  
23 time there is a vacancy to be filled by the appointment of an  
24 occupational therapist, the Florida Occupational Therapy  
25 Association shall recommend persons to fill the vacancy to the  
26 board in a number at least twice the number of vacancies to be  
27 filled, and the board may appoint from the submitted list, in  
28 its discretion, any of those persons so recommended. However,  
29 the board shall, insofar as possible, appoint persons from  
30 different geographical areas and persons who represent various  
31 areas of occupational therapy treatment. The board shall fix

1 their compensation and pay their expenses in the same manner  
2 as provided in s. 455.415 ~~455.207~~.

3 Section 151. Subsection (1) of section 468.219,  
4 Florida Statutes, is amended to read:

5 468.219 Renewal of license; continuing education.--

6 (1) Licenses issued under this part are subject to  
7 biennial renewal as provided in s. 455.409 ~~455.203~~.

8 Section 152. Subsection (3) of section 468.364,  
9 Florida Statutes, is amended to read:

10 468.364 Fees; establishment; disposition.--

11 (3) All moneys collected by the department under this  
12 part shall be deposited as required by s. 455.432 ~~215.37~~.

13 Section 153. Paragraph (j) of subsection (1) of  
14 section 468.365, Florida Statutes, is amended to read:

15 468.365 Disciplinary grounds and actions.--

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

18 (j) Violation of any rule adopted pursuant to this  
19 part or part II of chapter 455.

20 Section 154. Paragraph (b) of subsection (1) of  
21 section 468.402, Florida Statutes, is amended to read:

22 468.402 Duties of the department; authority to issue  
23 and revoke license; adoption of rules.--

24 (1) The department may take any one or more of the  
25 actions specified in subsection (5) against any person who  
26 has:

27 (b) Violated any provision of this part, part I of  
28 chapter 455, any lawful disciplinary order of the department,  
29 or any rule of the department.

30 Section 155. Subsection (3) of section 468.4315,  
31 Florida Statutes, 1996 Supplement, is amended to read:



1           468.4315 Regulatory Council of Community Association  
2 Managers.--

3           (3) To the extent the council is authorized to  
4 exercise functions otherwise exercised by a board pursuant to  
5 part I of chapter 455, the provisions of part I of chapter 455  
6 and s. 20.165 relating to regulatory boards shall apply,  
7 including, but not limited to, provisions relating to board  
8 rules and the accountability and liability of board members.  
9 All proceedings and actions of the council are subject to the  
10 provisions of chapter 120. In addition, the provisions of  
11 part I of chapter 455 and s. 20.165 shall apply to the  
12 department in carrying out the duties and authorities  
13 conferred upon the department by this part.

14           Section 156. Paragraphs (c) and (d) of subsection (2)  
15 of section 468.453, Florida Statutes, are amended to read:

16           468.453 Licensure required; qualifications;  
17 examination; bond.--

18           (2) A person shall be licensed as an athlete agent if  
19 the applicant:

20           (c) Passes an examination provided by the department  
21 which tests the applicant's proficiency to practice as an  
22 athlete agent, including, but not limited to, knowledge of the  
23 laws and rules of this state relating to athlete agents, this  
24 part, and part I of chapter 455.

25           (d) Has completed the application form and remitted an  
26 application fee not to exceed \$500, an examination fee not to  
27 exceed the actual cost for the examination plus \$500, an  
28 active licensure fee not to exceed \$2,000, and all other  
29 applicable fees provided for in this part or in part I of  
30 chapter 455.

31

1           Section 157. Paragraph (a) of subsection (1) of  
2 section 468.456, Florida Statutes, is amended to read:

3           468.456 Prohibited acts.--

4           (1) The following acts shall be grounds for the  
5 disciplinary actions provided for in subsection (3):

6           (a) A violation of any law relating to the practice as  
7 an athlete agent including, but not limited to, violations of  
8 this part and part I of chapter 455 and any rules promulgated  
9 thereunder.

10          Section 158. Subsection (1) of section 468.4571,  
11 Florida Statutes, is amended to read:

12          468.4571 Saving clauses.--

13          (1) An athlete agent registration valid on October 1,  
14 1995, shall remain in full force and effect until the  
15 expiration of the registration. Upon expiration of such valid  
16 registration, the registrant shall be entitled to licensure  
17 pursuant to this part, provided that any discipline in effect  
18 pursuant to that registration shall be continued as discipline  
19 under the new license. All regulation of athlete agents and  
20 all licenses or permits for athlete agents shall be applied  
21 for and renewed in accordance with this part and part I of  
22 chapter 455.

23          Section 159. Section 468.506, Florida Statutes, 1996  
24 Supplement, is amended to read:

25          468.506 Dietetics and Nutrition Practice

26 Council.--There is created the Dietetics and Nutrition  
27 Practice Council under the supervision of the board. The  
28 council shall consist of four persons licensed under this part  
29 and one consumer who is 60 years of age or older. Council  
30 members shall be appointed by the board. Licensed members  
31 shall be appointed based on the proportion of licensees within

1 each of the respective disciplines. Members shall be  
2 appointed for 4-year staggered terms. In order to be eligible  
3 for appointment, each licensed member must have been a  
4 licensee under this part for at least 3 years prior to his or  
5 her appointment. No council member shall serve more than two  
6 successive terms. The board may delegate such powers and  
7 duties to the council as it may deem proper to carry out the  
8 operations and procedures necessary to effectuate the  
9 provisions of this part. However, the powers and duties  
10 delegated to the council by the board must encompass both  
11 dietetics and nutrition practice and nutrition counseling. Any  
12 time there is a vacancy on the council, any professional  
13 association composed of persons licensed under this part may  
14 recommend licensees to fill the vacancy to the board in a  
15 number at least twice the number of vacancies to be filled,  
16 and the board may appoint from the submitted list, in its  
17 discretion, any of those persons so recommended. Any  
18 professional association composed of persons licensed under  
19 this part may file an appeal regarding a council appointment  
20 with the director of the agency, whose decision shall be  
21 final. The board shall fix council members' compensation and  
22 pay their expenses in the same manner as provided in s.  
23 455.415 ~~455.207~~.

24 Section 160. Section 468.507, Florida Statutes, 1996  
25 Supplement, is amended to read:

26 468.507 Authority to adopt rules.--The board may adopt  
27 such rules not inconsistent with law as may be necessary to  
28 carry out the duties and authority conferred upon the board by  
29 this part and part II of chapter 455. The powers and duties  
30 of the board as set forth in this part shall in no way limit  
31 or interfere with the powers and duties of the board as set

1 forth in chapter 458. All powers and duties of the board set  
2 forth in this part shall be supplemental and additional powers  
3 and duties to those conferred upon the board by chapter 458.

4 Section 161. Subsection (3) of section 468.513,  
5 Florida Statutes, 1996 Supplement, is amended to read:

6 468.513 Dietitian/nutritionist; licensure by  
7 endorsement.--

8 (3) The agency shall not issue a license by  
9 endorsement under this section to any applicant who is under  
10 investigation in any jurisdiction for any act which would  
11 constitute a violation of this part or part II of chapter 455  
12 until such time as the investigation is complete and  
13 disciplinary proceedings have been terminated.

14 Section 162. Section 468.523, Florida Statutes, is  
15 amended to read:

16 468.523 Applicability of s. 20.165 and pt. I of ch.  
17 455.--All provisions of s. 20.165 and part I of chapter 455  
18 relating to activities of regulatory boards shall apply.

19 Section 163. Subsection (3) of section 468.526,  
20 Florida Statutes, is amended to read:

21 468.526 License required; fees.--

22 (3) Each employee leasing company and employee leasing  
23 company group licensee shall pay to the department upon the  
24 initial issuance of a license and upon each renewal thereafter  
25 a license fee not to exceed \$2,500 to be established by the  
26 board. In addition to the license fee, the board shall  
27 establish an annual assessment for each employee leasing  
28 company and each employee leasing company group sufficient to  
29 cover all costs for regulation of the profession pursuant to  
30 this chapter, part I of chapter 455, and any other applicable  
31 provisions of law. The annual assessment shall:

1 (a) Be due and payable upon initial licensure and  
2 subsequent renewals thereof and 1 year before the expiration  
3 of any licensure period; and

4 (b) Be based on a fixed percentage, variable classes,  
5 or a combination of both, as determined by the board, of gross  
6 Florida payroll for employees leased to clients by the  
7 applicant or licensee during the period beginning five  
8 quarters before and ending one quarter before each assessment.  
9 It is the intent of the Legislature that the greater weight of  
10 total fees for licensure and assessments should be on larger  
11 companies and groups.

12 Section 164. Paragraph (i) of subsection (1) of  
13 section 468.532, Florida Statutes, is amended to read:

14 468.532 Discipline.--

15 (1) The following constitute grounds for which  
16 disciplinary action against a licensee may be taken by the  
17 board:

18 (i) Violating any provision of this part or any lawful  
19 order or rule issued under the provisions of this part or part  
20 I of chapter 455.

21 Section 165. Subsection (1) of section 468.535,  
22 Florida Statutes, is amended to read:

23 468.535 Investigations; audits; review.--

24 (1) The department may make investigations, audits, or  
25 reviews within or outside this state as it deems necessary:

26 (a) To determine whether a person or company has  
27 violated or is in danger of violating any provision of this  
28 part, part I of chapter 455, or any rule or order thereunder;  
29 or

30 (b) To aid in the enforcement of this part or part I  
31 of chapter 455.

1           Section 166. Subsections (2) and (4) of section  
2 468.703, Florida Statutes, are amended to read:  
3           468.703 Council of Athletic Training.--  
4           (2) Four members of the council shall be licensed  
5 athletic trainers. One member of the council shall be a  
6 physician licensed under chapter 458 or chapter 459. One  
7 member of the council shall be a physician licensed under  
8 chapter 460 and certified in the specialty of sports medicine  
9 by the Chiropractic Council on Sports Medicine. One member of  
10 the council shall be a resident of this state who has never  
11 worked as an athletic trainer, who has no financial interest  
12 in the practice of athletic training, and who has never been a  
13 licensed health care practitioner as defined in s. 455.402(5)  
14 ~~455.01(4)~~. Members of the council shall serve staggered 4-year  
15 terms as determined by rule of the department; however, no  
16 member may serve more than two consecutive terms.  
17           (4) Members of the council shall be entitled to  
18 compensation and reimbursement for expenses in the same manner  
19 as board members are compensated and reimbursed under s.  
20 455.415 ~~455.207~~.  
21           Section 167. Subsection (2) of section 468.707,  
22 Florida Statutes, is amended to read:  
23           468.707 Licensure by examination; requirements.--  
24           (2) Pursuant to the requirements of s. 455.436  
25 ~~455.2228~~, each applicant shall complete a continuing education  
26 course on human immunodeficiency virus and acquired immune  
27 deficiency syndrome as part of initial licensure.  
28           Section 168. Subsections (1) and (3) of section  
29 468.711, Florida Statutes, are amended to read:  
30           468.711 Renewal of license; continuing education.--  
31

1           (1) The department shall renew a license upon receipt  
2 of the renewal application and fee, provided the applicant is  
3 in compliance with the provisions of this part, part II of  
4 chapter 455, and rules promulgated pursuant thereto.

5           (3) Pursuant to the requirements of s. 455.436  
6 ~~455.2228~~, each licensee shall complete a continuing education  
7 course on human immunodeficiency virus and acquired immune  
8 deficiency syndrome as part of biennial relicensure.

9           Section 169. Paragraph (a) of subsection (1) and  
10 subsection (2) of section 468.719, Florida Statutes, are  
11 amended to read:

12           468.719 Disciplinary actions.--

13           (1) The following acts shall be grounds for  
14 disciplinary actions provided for in subsection (2):

15           (a) A violation of any law relating to the practice of  
16 athletic training, including, but not limited to, any  
17 violation of this part, s. 455.443 ~~455.227~~, or any rule  
18 adopted pursuant thereto.

19           (2) When the department finds any person guilty of any  
20 of the acts set forth in subsection (1), the department may  
21 enter an order imposing one or more of the penalties provided  
22 in s. 455.443 ~~455.227~~.

23           Section 170. Paragraph (b) of subsection (1) of  
24 section 469.009, Florida Statutes, is amended to read:

25           469.009 License revocation, suspension, and denial of  
26 issuance or renewal.--

27           (1) The department may revoke, suspend, or deny the  
28 issuance or renewal of a license; reprimand, censure, or place  
29 on probation any contractor, consultant, financially  
30 responsible officer, or business organization; require  
31 financial restitution to a consumer; impose an administrative

1 fine not to exceed \$5,000 per violation; require continuing  
2 education; or assess costs associated with any investigation  
3 and prosecution if the contractor or consultant, or business  
4 organization or officer or agent thereof, is found guilty of  
5 any of the following acts:

6 (b) Violating any provision of part I of chapter 455.  
7

8 For the purposes of this subsection, construction is  
9 considered to be commenced when the contract is executed and  
10 the contractor has accepted funds from the customer or lender.

11 Section 171. Subsection (4) of section 470.003,  
12 Florida Statutes, is amended to read:

13 470.003 Board of Funeral Directors and Embalmers;  
14 membership; appointment; terms.--

15 (4) All provisions of part I of chapter 455 and s.  
16 20.165 relating to activities of regulatory boards shall  
17 apply.

18 Section 172. Paragraph (h) of subsection (1) of  
19 section 470.036, Florida Statutes, is amended to read:

20 470.036 Disciplinary proceedings.--

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

23 (h) A violation or repeated violation of this chapter  
24 or part I of chapter 455 and any rules promulgated pursuant  
25 thereto.

26 Section 173. Section 471.008, Florida Statutes, is  
27 amended to read:

28 471.008 Rules of the board.--The board may adopt such  
29 rules not inconsistent with law as may be necessary to carry  
30 out the duties and authority conferred upon the board by this  
31 chapter or part I of chapter 455.



1           Section 174. Subsection (4) of section 471.015,  
2 Florida Statutes, is amended to read:

3           471.015 Licensure.--

4           (4) The department shall not issue a license by  
5 endorsement to any applicant who is under investigation in  
6 another state for any act that would constitute a violation of  
7 ss. 471.001-471.037 or of part I of chapter 455 until such  
8 time as the investigation is complete and disciplinary  
9 proceedings have been terminated.

10          Section 175. Paragraphs (c) and (h) of subsection (1)  
11 of section 471.033, Florida Statutes, are amended to read:

12          471.033 Disciplinary proceedings.--

13          (1) The following acts constitute grounds for which  
14 the disciplinary actions in subsection (3) may be taken:

15           (c) Having a license to practice engineering revoked,  
16 suspended, or otherwise acted against, including the denial of  
17 licensure, by the licensing authority of another state,  
18 territory, or country, for any act that would constitute a  
19 violation of this chapter or part I of chapter 455.

20           (h) Violating part I of chapter 455.

21          Section 176. Subsection (4) of section 472.015,  
22 Florida Statutes, is amended to read:

23          472.015 Licensure.--

24          (4) The department shall not issue a license by  
25 endorsement to any applicant who is under investigation in  
26 another state for any act that would constitute a violation of  
27 ss. 472.001-472.041 or of part I of chapter 455 until such  
28 time as the investigation is complete and disciplinary  
29 proceedings have been terminated.

30          Section 177. Subsection (1) of section 473.3035,  
31 Florida Statutes, is amended to read:

1           473.3035 Division of Certified Public Accounting.--

2           (1) All services concerning this chapter, including,  
3 but not limited to, recordkeeping services, examination  
4 services, legal services, and investigative services, and  
5 those services in part I of chapter 455 necessary to perform  
6 the duties of this chapter shall be provided by the Division  
7 of Certified Public Accounting. The board may, by majority  
8 vote, delegate a duty or duties to the appropriate division  
9 within the department. The board may, by majority vote,  
10 rescind any such delegation of duties at any time.

11           Section 178. Subsection (4) of section 473.308,  
12 Florida Statutes, is amended to read:

13           473.308 Licensure.--

14           (5) The board may refuse to certify for licensure any  
15 applicant who is under investigation in another state for any  
16 act which would constitute a violation of this act or part I  
17 of chapter 455, until such time as the investigation is  
18 complete and disciplinary proceedings have been terminated.

19           Section 179. Subsection (1) of section 473.311,  
20 Florida Statutes, is amended to read:

21           473.311 Renewal of license.--

22           (1) The department shall renew a license upon receipt  
23 of the renewal application and fee and upon certification by  
24 the board that the licensee has satisfactorily completed the  
25 continuing education requirements of s. 473.312 and has passed  
26 an examination approved by the board on part I of chapter 455  
27 and this chapter and the related administrative rules.

28           Section 180. Paragraph (h) of subsection (1) of  
29 section 473.323, Florida Statutes, 1996 Supplement, is amended  
30 to read:

31           473.323 Disciplinary proceedings.--

1           (1) The following acts constitute grounds for which  
2 the disciplinary actions in subsection (3) may be taken:

3           (h) Violation of any rule adopted pursuant to this  
4 chapter or part I of chapter 455.

5           Section 181. Subsection (3) of section 474.204,  
6 Florida Statutes, is amended to read:

7           474.204 Board of Veterinary Medicine.--

8           (3) All provisions of part I of chapter 455 relating  
9 to activities of regulatory boards shall apply.

10          Section 182. Paragraph (f) of subsection (1) of  
11 section 474.214, Florida Statutes, is amended to read:

12          474.214 Disciplinary proceedings.--

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

15          (f) Violating any provision of this chapter or part I  
16 of chapter 455, a rule of the board or department, or a lawful  
17 order of the board or department previously entered in a  
18 disciplinary hearing, or failing to comply with a lawfully  
19 issued subpoena of the department.

20          Section 183. Section 474.2145, Florida Statutes, is  
21 amended to read:

22          474.2145 Subpoena of certain records.--Notwithstanding  
23 any provision of law to the contrary ~~the provisions of s.~~  
24 ~~455.241~~, the department may issue subpoenas duces tecum  
25 requiring the names and addresses of some or all the clients  
26 of a licensed veterinarian against whom a complaint has been  
27 filed pursuant to s. 455.225 when the information has been  
28 deemed necessary and relevant to the investigation as  
29 determined by the secretary of the department.

30          Section 184. Subsection (1) of section 475.021,  
31 Florida Statutes, is amended to read:

1           475.021 Division of Real Estate.--

2           (1) All services concerning this chapter, including,  
3 but not limited to, recordkeeping services, examination  
4 services, legal services, and investigative services, and  
5 those services in part I of chapter 455 necessary to perform  
6 the duties of this chapter shall be provided by the Division  
7 of Real Estate. The commission may, by majority vote,  
8 delegate a duty or duties to the appropriate division within  
9 the department. The commission may, by majority vote, rescind  
10 any such delegation of duties at any time.

11           Section 185. Subsection (3) of section 475.181,  
12 Florida Statutes, is amended to read:

13           475.181 Licensure.--

14           (3) The department may not issue a license to any  
15 applicant who is under investigation in any other state,  
16 territory, or jurisdiction of the United States or any foreign  
17 national jurisdiction for any act that would constitute a  
18 violation of this part or part I of chapter 455 until such  
19 time as the investigation is complete and disciplinary  
20 proceedings have been terminated.

21           Section 186. Paragraph (e) of subsection (1) of  
22 section 475.25, Florida Statutes, is amended to read:

23           475.25 Discipline.--

24           (1) The commission may deny an application for  
25 licensure, registration, or permit, or renewal thereof; may  
26 place a licensee, registrant, or permittee on probation; may  
27 suspend a license, registration, or permit for a period not  
28 exceeding 10 years; may revoke a license, registration, or  
29 permit; may impose an administrative fine not to exceed \$1,000  
30 for each count or separate offense; and may issue a reprimand,

31

1 and any or all of the foregoing, if it finds that the  
2 licensee, registrant, permittee, or applicant:

3 (e) Has violated any of the provisions of this chapter  
4 or any lawful order or rule made or issued under the  
5 provisions of this chapter or part I of chapter 455.

6 Section 187. Subsection (4) of section 475.624,  
7 Florida Statutes, is amended to read:

8 475.624 Discipline.--The board may deny an application  
9 for registration, licensure, or certification; investigate the  
10 actions of any appraiser registered, licensed, or certified  
11 under this section; and may reprimand, fine, revoke, or  
12 suspend, for a period not to exceed 10 years, the  
13 registration, license, or certification of any such appraiser,  
14 or place any such appraiser on probation if it finds that the  
15 registrant, licensee, or certificateholder:

16 (4) Has violated any of the provisions of this section  
17 or any lawful order or rule issued under the provisions of  
18 this section or part I of chapter 455.

19 Section 188. Paragraph (i) of subsection (1) of  
20 section 476.204, Florida Statutes, is amended to read:

21 476.204 Penalties.--

22 (1) It is unlawful for any person to:

23 (i) Violate or refuse to comply with any provision of  
24 this chapter or part I of chapter 455 or a rule or final order  
25 of the board.

26 Section 189. Paragraph (i) of subsection (1) of  
27 section 477.029, Florida Statutes, is amended to read:

28 477.029 Penalty.--

29 (1) It is unlawful for any person to:  
30  
31

1 (i) Violate or refuse to comply with any provision of  
2 this chapter or part I of chapter 455 or a rule or final order  
3 of the board or the department.

4 Section 190. Subsection (5) of section 480.044,  
5 Florida Statutes, is amended to read:

6 480.044 Fees; disposition.--

7 (5) All moneys collected by the department from fees  
8 authorized by this act shall be paid into the Medical Quality  
9 Assurance Professional Regulation Trust Fund in the department  
10 and shall be applied in accordance with the provisions of s.  
11 455.432 ~~ss. 215.37 and 455.219~~. The Legislature may  
12 appropriate any excess moneys from this fund to the General  
13 Revenue Fund.

14 Section 191. Section 481.2055, Florida Statutes, is  
15 amended to read:

16 481.2055 Authority to make rules.--The board may adopt  
17 such rules, not inconsistent with law, as may be necessary to  
18 carry out the duties and authority conferred upon the board by  
19 this part and part I of chapter 455.

20 Section 192. Subsection (5) of section 481.213,  
21 Florida Statutes, is amended to read:

22 481.213 Licensure.--

23 (5) The board may refuse to certify any applicant who  
24 is under investigation in any jurisdiction for any act which  
25 would constitute a violation of this part or part I of chapter  
26 455 until such time as the investigation is complete and  
27 disciplinary proceedings have been terminated.

28 Section 193. Paragraphs (a) and (c) of subsection (1)  
29 of section 481.225, Florida Statutes, are amended to read:

30 481.225 Disciplinary proceedings against registered  
31 architects.--

1           (1) The following acts constitute grounds for which  
2 the disciplinary actions in subsection (3) may be taken:

3           (a) Violating any provision of s. 455.227(1), s.  
4 481.221, or s. 481.223, or any rule of the board or department  
5 lawfully adopted pursuant to this part or part I of chapter  
6 455.

7           (c) Having a license to practice architecture revoked,  
8 suspended, or otherwise acted against, including the denial of  
9 licensure, by the licensing authority of another state,  
10 territory, or country, for any act that would constitute a  
11 violation of this part or part I of chapter 455.

12           Section 194. Paragraph (b) of subsection (1) of  
13 section 481.2251, Florida Statutes, is amended to read:

14           481.2251 Disciplinary proceedings against registered  
15 interior designers.--

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

19           (b) Having a license to practice interior design  
20 revoked, suspended, or otherwise acted against, including the  
21 denial of licensure, by the licensing authority of another  
22 jurisdiction for any act which would constitute a violation of  
23 this part or part I of chapter 455;

24           Section 195. Section 481.306, Florida Statutes, is  
25 amended to read:

26           481.306 Authority to make rules.--The board may adopt  
27 such rules, not inconsistent with law, as may be necessary to  
28 carry out the duties and authority conferred upon the board by  
29 this chapter and part I of chapter 455.

30           Section 196. Subsection (5) of section 481.311,  
31 Florida Statutes, is amended to read:

1           481.311 Licensure.--

2           (5) The board may refuse to certify any applicant who  
3 is under investigation in any jurisdiction for any act which  
4 would constitute a violation of this act or part I of chapter  
5 455, until the investigation is complete and disciplinary  
6 proceedings have been terminated.

7           Section 197. Paragraph (h) of subsection (1) of  
8 section 481.325, Florida Statutes, is amended to read:

9           481.325 Disciplinary proceedings.--

10          (1) The following acts constitute grounds for which  
11 the disciplinary actions in subsection (3) may be taken:

12          (h) Violation of any rule adopted pursuant to this  
13 part or part I of chapter 455.

14          Section 198. Subsection (5) of section 483.805,  
15 Florida Statutes, is amended to read:

16          483.805 Board of Clinical Laboratory Personnel.--

17          (5) All provisions of part II of chapter 455 relating  
18 to activities of regulatory boards shall apply to the board.

19          Section 199. Subsection (10) of section 483.807,  
20 Florida Statutes, is amended to read:

21          483.807 Fees; establishment; disposition.--

22          (10) All fees shall be established, collected, and  
23 deposited in accordance with s. 455.432 ~~455.219~~.

24          Section 200. Paragraph (j) of subsection (4),  
25 paragraph (b) of subsection (5), and paragraph (b) of  
26 subsection (10) of section 468.901, Florida Statutes, are  
27 amended to read:

28          483.901 Medical physicists; definitions; licensure.--

29          (4) COUNCIL.--The Advisory Council of Medical  
30 Physicists is created in the Agency for Health Care

31



1 Administration to regulate the practice of medical physics in  
2 this state.

3 (j) A council member may be removed from the council  
4 if the member:

5 1. Did not have the required qualifications at the  
6 time of appointment;

7 2. Does not maintain the required qualifications while  
8 serving on the council; or

9 3. Fails to attend the regularly scheduled council  
10 meetings in a calendar year as required by s. 455.415 ~~455.207~~.

11 (5) POWERS OF COUNCIL.--The council shall:

12 (b) Recommend practice standards for the practice of  
13 medical physics which are consistent with the Guidelines for  
14 Ethical Practice for Medical Physicists prepared by the  
15 American Association of Physicists in Medicine and  
16 disciplinary guidelines adopted under s. 455.444 ~~455.2273~~.

17 (10) PENALTIES.--

18 (b) The agency may modify, deny, suspend, or revoke a  
19 license, or may impose an administrative fine not to exceed  
20 \$1,000 per violation, for the violation of any provision of  
21 this section, rule adopted under this section, or terms or  
22 conditions of any license issued by the agency. The agency  
23 shall develop specific disciplinary guidelines in accordance  
24 with s. 455.444 ~~455.2273~~.

25 1. In determining the amount of a fine that is to be  
26 levied for a violation, the following factors must be  
27 considered:

28 a. The severity of the violation and the extent to  
29 which this section, any rule adopted under this section, or  
30 any term or condition of any license was violated.

31

1           b. Any action taken by the licensee to correct the  
2 violation.

3           c. Any previous violation by the licensee.

4           2. All amounts collected under this section must be  
5 deposited in the Health Care Trust Fund.

6           Section 201. Subsection (1) of section 484.014,  
7 Florida Statutes, is amended to read:

8           484.014 Disciplinary actions.--

9           (1) The following acts relating to the practice of  
10 opticianry shall be grounds for both disciplinary action  
11 against an optician as set forth in this section and cease and  
12 desist or other related action by the department as set forth  
13 in s. 455.447 ~~455.228~~ against any person operating an optical  
14 establishment who engages in, aids, or abets any such  
15 violation:

16           (a) Procuring or attempting to procure a license by  
17 misrepresentation, bribery, or fraud or through an error of  
18 the department or the board.

19           (b) Procuring or attempting to procure a license for  
20 any other person by making or causing to be made any false  
21 representation.

22           (c) Making or filing a report or record which the  
23 licensee knows to be false, intentionally or negligently  
24 failing to file a report or record required by federal or  
25 state law, willfully impeding or obstructing such filing, or  
26 inducing another person to do so. Such reports or records  
27 shall include only those which the person is required to make  
28 or file as an optician.

29           (d) Failing to make fee or price information readily  
30 available by providing such information upon request or upon  
31 the presentation of a prescription.

- 1           (e) Advertising goods or services in a manner which is  
2 fraudulent, false, deceptive, or misleading in form or  
3 content.
- 4           (f) Fraud or deceit, or negligence, incompetency, or  
5 misconduct, in the authorized practice of opticianry.
- 6           (g) Violation or repeated violation of this part or  
7 part II of chapter 455 or any rules promulgated pursuant  
8 thereto.
- 9           (h) Practicing with a revoked, suspended, inactive, or  
10 delinquent license.
- 11           (i) Violation of a lawful order of the board or  
12 department previously entered in a disciplinary hearing or  
13 failing to comply with a lawfully issued subpoena of the  
14 department.
- 15           (j) Violation of any provision of s. 484.012.
- 16           (k) Conspiring with another licensee or with any  
17 person to commit an act, or committing an act, which would  
18 coerce, intimidate, or preclude another licensee from lawfully  
19 advertising his services.
- 20           (l) Willfully submitting to any third-party payor a  
21 claim for services which were not provided to a patient.
- 22           (m) Failing to keep written prescription files.
- 23           (n) Willfully failing to report any person who the  
24 licensee knows is in violation of this part or of rules of the  
25 department or the board.
- 26           (o) Exercising influence on a client in such a manner  
27 as to exploit the client for financial gain of the licensee or  
28 of a third party.
- 29           (p) Gross or repeated malpractice.
- 30           (q) Permitting any person not licensed as an optician  
31 in this state to fit or dispense any lenses, spectacles,

1 eyeglasses, or other optical devices which are part of the  
2 practice of opticianry.

3 (r) Being convicted or found guilty of, or entering a  
4 plea of nolo contendere to, regardless of adjudication, in a  
5 court of this state or other jurisdiction, a crime which  
6 relates to the ability to practice opticianry or to the  
7 practice of opticianry.

8 (s) Having been disciplined by a regulatory agency in  
9 another state for any offense that would constitute a  
10 violation of Florida law or rules regulating opticianry.

11 (t) Being unable to practice opticianry with  
12 reasonable skill and safety by reason of illness or use of  
13 drugs, narcotics, chemicals, or any other type of material or  
14 as a result of any mental or physical condition. An optician  
15 affected under this paragraph shall at reasonable intervals be  
16 afforded an opportunity to demonstrate that he can resume the  
17 competent practice of opticianry with reasonable skill and  
18 safety to his customers.

19 Section 202. Subsection (4) of section 484.042,  
20 Florida Statutes, is amended to read:

21 484.042 Board of Hearing Aid Specialists; membership,  
22 appointment, terms.--

23 (4) All provisions of part II of chapter 455 relating  
24 to activities of regulatory boards apply to the board.  
25 However, notwithstanding the requirement of s. 455.442(4)  
26 ~~455.225(4)~~ that the board provide by rule for the  
27 determination of probable cause by a panel composed of its  
28 members or by the department, the board may provide by rule  
29 that its probable cause panel may be composed of one current  
30 member of the board and one past member of the board, as long  
31 as the past member is a licensed hearing aid specialist in

1 good standing. The past board member shall be appointed to  
2 the panel for a maximum of 2 years by the chairman of the  
3 board with the approval of the secretary.

4 Section 203. Subsection (1) of section 484.056,  
5 Florida Statutes, is amended to read:

6 484.056 Disciplinary proceedings.--

7 (1) The following acts relating to the practice of  
8 dispensing hearing aids shall be grounds for both disciplinary  
9 action against a hearing aid specialist as set forth in this  
10 section and cease and desist or other related action by the  
11 department as set forth in s. 455.447 ~~455.228~~ against any  
12 person owning or operating a hearing aid establishment who  
13 engages in, aids, or abets any such violation:

14 (a) Violation of any provision of s. 455.443(1)  
15 ~~455.227(1)~~ or s. 484.053.

16 (b) Attempting to procure a license to dispense  
17 hearing aids by bribery, by fraudulent misrepresentations, or  
18 through an error of the department or the board.

19 (c) Having a license to dispense hearing aids revoked,  
20 suspended, or otherwise acted against, including the denial of  
21 licensure, by the licensing authority of another state,  
22 territory, or country.

23 (d) Being convicted or found guilty of, or entering a  
24 plea of nolo contendere to, regardless of adjudication, a  
25 crime in any jurisdiction which directly relates to the  
26 practice of dispensing hearing aids or the ability to practice  
27 dispensing hearing aids, including violations of any federal  
28 laws or regulations regarding hearing aids.

29 (e) Making or filing a report or record which the  
30 licensee knows to be false, intentionally or negligently  
31 failing to file a report or record required by state or

1 federal law, willfully impeding or obstructing such filing, or  
2 inducing another person to impede or obstruct such filing.  
3 Such reports or records shall include only those reports or  
4 records which are signed in one's capacity as a licensed  
5 hearing aid specialist.

6 (f) Advertising goods or services in a manner which is  
7 fraudulent, false, deceptive, or misleading in form or  
8 content.

9 (g) Proof that the licensee is guilty of fraud or  
10 deceit or of negligence, incompetency, or misconduct in the  
11 practice of dispensing hearing aids.

12 (h) Violation or repeated violation of this part or  
13 part II of chapter 455, or any rules promulgated pursuant  
14 thereto.

15 (i) Violation of a lawful order of the board or  
16 department previously entered in a disciplinary hearing or  
17 failure to comply with a lawfully issued subpoena of the board  
18 or department.

19 (j) Practicing with a revoked, suspended, inactive, or  
20 delinquent license.

21 (k) Using, or causing or promoting the use of, any  
22 advertising matter, promotional literature, testimonial,  
23 guarantee, warranty, label, brand, insignia, or other  
24 representation, however disseminated or published, which is  
25 misleading, deceiving, or untruthful.

26 (l) Showing or demonstrating, or, in the event of  
27 sale, delivery of, a product unusable or impractical for the  
28 purpose represented or implied by such action.

29 (m) Misrepresentation of professional services  
30 available in the fitting, sale, adjustment, service, or repair  
31 of a hearing aid, or use of the terms "doctor," "clinic,"

1 "clinical," "medical audiologist," "clinical audiologist,"  
2 "research audiologist," or "audiologic" or any other term or  
3 title which might connote the availability of professional  
4 services when such use is not accurate.

5 (n) Representation, advertisement, or implication that  
6 a hearing aid or its repair is guaranteed without providing  
7 full disclosure of the identity of the guarantor; the nature,  
8 extent, and duration of the guarantee; and the existence of  
9 conditions or limitations imposed upon the guarantee.

10 (o) Representing, directly or by implication, that a  
11 hearing aid utilizing bone conduction has certain specified  
12 features, such as the absence of anything in the ear or  
13 leading to the ear, or the like, without disclosing clearly  
14 and conspicuously that the instrument operates on the bone  
15 conduction principle and that in many cases of hearing loss  
16 this type of instrument may not be suitable.

17 (p) Making any predictions or prognostications as to  
18 the future course of a hearing impairment, either in general  
19 terms or with reference to an individual person.

20 (q) Stating or implying that the use of any hearing  
21 aid will improve or preserve hearing or prevent or retard the  
22 progression of a hearing impairment or that it will have any  
23 similar or opposite effect.

24 (r) Making any statement regarding the cure of the  
25 cause of a hearing impairment by the use of a hearing aid.

26 (s) Representing or implying that a hearing aid is or  
27 will be "custom-made," "made to order," or "prescription-made"  
28 or in any other sense specially fabricated for an individual  
29 person when such is not the case.

30 (t) Canvassing from house to house or by telephone  
31 either in person or by an agent for the purpose of selling a

1 hearing aid, except that contacting persons who have evidenced  
2 an interest in hearing aids, or have been referred as in need  
3 of hearing aids, shall not be considered canvassing.

4 (u) Failure to submit to the board on an annual basis,  
5 or such other basis as may be provided by rule, certification  
6 of testing and calibration of audiometric testing equipment on  
7 the form approved by the board.

8 (v) Failing to provide all information as described in  
9 s. 484.051(1).

10 (w) Exercising influence on a client in such a manner  
11 as to exploit the client for financial gain of the licensee or  
12 of a third party.

13 Section 204. Subsection (5) of section 486.023,  
14 Florida Statutes, is amended to read:

15 486.023 Board of Physical Therapy Practice.--

16 (5) All provisions of part II of chapter 455 relating  
17 to activities of the board shall apply.

18 Section 205. Section 486.115, Florida Statutes, is  
19 amended to read:

20 486.115 Disposition of fees.--All moneys collected by  
21 the department under this chapter shall be deposited and  
22 expended pursuant to the provisions of s. 455.432 ~~215.37~~.

23 Section 206. Section 486.172, Florida Statutes, is  
24 amended to read:

25 486.172 Application of s. 455.406 ~~455.11~~.--The  
26 provisions of s. 455.406 ~~455.11~~ shall also be applicable to  
27 the provisions of this chapter.

28 Section 207. Paragraph (c) of subsection (1) and  
29 paragraph (a) of subsection (11) of section 489.129, Florida  
30 Statutes, 1996 Supplement, are amended to read:

31 489.129 Disciplinary proceedings.--



1           (1) The board may take any of the following actions  
2 against any certificateholder or registrant: place on  
3 probation or reprimand the licensee, revoke, suspend, or deny  
4 the issuance or renewal of the certificate or registration,  
5 require financial restitution to a consumer for financial harm  
6 directly related to a violation of a provision of this part,  
7 impose an administrative fine not to exceed \$5,000 per  
8 violation, require continuing education, or assess costs  
9 associated with investigation and prosecution, if the  
10 contractor, financially responsible officer, or business  
11 organization for which the contractor is a primary qualifying  
12 agent, a financially responsible officer, or a secondary  
13 qualifying agent responsible under s. 489.1195 is found guilty  
14 of any of the following acts:

15           (c) Violating any provision of part I of chapter 455.  
16

17 For the purposes of this subsection, construction is  
18 considered to be commenced when the contract is executed and  
19 the contractor has accepted funds from the customer or lender.

20           (11)(a) Notwithstanding the provisions of chapter  
21 ~~chapters~~ 120 and part I of chapter 455, upon receipt of a  
22 legally sufficient consumer complaint alleging a violation of  
23 this part, the department may provide by rule for binding  
24 arbitration between the complainant and the certificateholder  
25 or registrant, provided the following conditions exist:

26           1. There is evidence that the complainant has suffered  
27 or is likely to suffer monetary damages resulting from the  
28 violation of this part;

29           2. The certificateholder or registrant does not have a  
30 history of repeated or similar violations;  
31

1           3. Reasonable grounds exist to believe that the public  
2 interest will be better served by arbitration than by  
3 disciplinary action; and

4           4. The complainant and certificateholder or registrant  
5 have not previously entered into private arbitration, and no  
6 civil court action based on the same transaction has been  
7 filed.

8           Section 208. Paragraph (a) of subsection (1) and  
9 paragraphs (a) and (e) of subsection (7) of section 489.533,  
10 Florida Statutes, 1996 Supplement, are amended to read:

11           489.533 Disciplinary proceedings.--

12           (1) The following acts shall constitute grounds for  
13 disciplinary actions as provided in subsection (2):

14           (a) Violating any provision of s. 489.531 or part I of  
15 chapter 455.

16  
17 For the purposes of this subsection, construction is  
18 considered to be commenced when the contract is executed and  
19 the contractor has accepted funds from the customer or lender.

20           (7)(a) The department may, by rule, provide for a  
21 mediation process for the complainant and the licensee.  
22 Notwithstanding the provisions of ~~chapter chapters~~ 120 and  
23 part I of chapter 455, upon receipt of a legally sufficient  
24 consumer complaint alleging a violation of this part, both the  
25 licensee and the complainant may consent in writing to  
26 mediation within 15 days following notification of this  
27 process by the department. The department may suspend all  
28 action in the matter for 45 days when notice of consent to  
29 mediation is received by the department. If the mediation  
30 process is successfully concluded within the 60-day period,  
31 the department may close the case file with a notation of the

1 disposition and the licensee's record shall reflect only that  
2 a complaint was filed and resolved through mediation. If  
3 mediation is rejected by either the complainant or licensee,  
4 or should said parties fail to reach a mediated solution  
5 within the 60-day period, the department shall process the  
6 complaint in the manner required by chapter ~~chapters~~ 120 and  
7 part I of chapter 455. The mediator shall provide a written  
8 report to the department of the mediation results within 10  
9 days of the conclusion of the mediation process as provided by  
10 rule.

11 (e) The department, in conjunction with the board,  
12 shall determine by rule the types of cases which may be  
13 included in the mediation process. The department may initiate  
14 or continue disciplinary action, pursuant to part I of chapter  
15 455 and this chapter against the licensee as determined by  
16 rule.

17 Section 209. Subsection (5) of section 490.004,  
18 Florida Statutes, is amended to read:

19 490.004 Board of Psychology.--

20 (5) All applicable provisions of part II of chapter  
21 455 relating to activities of regulatory boards shall apply to  
22 the board.

23 Section 210. Paragraph (q) of subsection (2) of  
24 section 490.009, Florida Statutes, 1996 Supplement, is amended  
25 to read:

26 490.009 Discipline.--

27 (2) The following acts of a licensee or applicant are  
28 grounds for which the disciplinary actions listed in  
29 subsection (1) may be taken:

30 (q) Violating provisions of this chapter, or of part  
31 II of chapter 455, or any rules adopted pursuant thereto.

1           Section 211. Subsection (1) of section 490.015,  
2 Florida Statutes, is amended to read:

3           490.015 Duties of the department.--

4           (1) All functions reserved to boards under part II of  
5 chapter 455 shall be exercised by the department with respect  
6 to the regulation of school psychologists and in a manner  
7 consistent with the exercise of its regulatory functions.

8           Section 212. Subsection (6) of section 491.004,  
9 Florida Statutes, is amended to read:

10           491.004 Board of Clinical Social Work, Marriage and  
11 Family Therapy, and Mental Health Counseling.--

12           (6) All applicable provisions of part II of chapter  
13 455 relating to activities of regulatory boards shall apply to  
14 the board.

15           Section 213. Paragraph (q) of subsection (2) of  
16 section 491.009, Florida Statutes, 1996 Supplement, is amended  
17 to read:

18           491.009 Discipline.--

19           (2) The following acts of a licensee,  
20 certificateholder, or applicant are grounds for which the  
21 disciplinary actions listed in subsection (1) may be taken:

22           (q) Violating provisions of this chapter, or of part  
23 II of chapter 455, or any rules adopted pursuant thereto.

24           Section 214. Subsection (1) of section 491.015,  
25 Florida Statutes, is amended to read:

26           491.015 Duties of the department as to certified  
27 master social workers.--

28           (1) All functions reserved to boards under part II of  
29 chapter 455 shall be exercised by the department with respect  
30 to the regulation of certified master social workers and in a  
31

1 manner consistent with the exercise of its regulatory  
2 functions.

3 Section 215. Subsection (2) of section 492.103,  
4 Florida Statutes, is amended to read:

5 492.103 Board of Professional Geologists.--

6 (2) All provisions of part I of chapter 455 relating  
7 to activities of the board shall apply.

8 Section 216. Paragraph (h) of subsection (1) of  
9 section 492.113, Florida Statutes, is amended to read:

10 492.113 Disciplinary proceedings.--

11 (1) The following acts constitute grounds for which  
12 the disciplinary actions in subsection (3) may be taken:

13 (h) Violation of part I of chapter 455.

14 Section 217. Subsection (3) of section 627.668,  
15 Florida Statutes, is amended to read:

16 627.668 Optional coverage for mental and nervous  
17 disorders required; exception.--

18 (3) Insurers must maintain strict confidentiality  
19 regarding psychiatric and psychotherapeutic records submitted  
20 to an insurer for the purpose of reviewing a claim for  
21 benefits payable under this section. These records submitted  
22 to an insurer are subject to the limitations of s. 455.454  
23 ~~455.241~~, relating to the furnishing of patient records.

24 Section 218. Paragraph (e) of subsection (2) and  
25 subsections (1) and (3) of section 627.912, Florida Statutes,  
26 1996 Supplement, are amended to read:

27 627.912 Professional liability claims and actions;  
28 reports by insurers.--

29 (1) Each self-insurer authorized under s. 627.357 and  
30 each insurer or joint underwriting association providing  
31 professional liability insurance to a practitioner of medicine

1 licensed pursuant to the provisions of chapter 458, to a  
2 practitioner of osteopathic medicine licensed pursuant to the  
3 provisions of chapter 459, to a podiatrist licensed pursuant  
4 to the provisions of chapter 461, to a dentist licensed  
5 pursuant to the provisions of chapter 466, to a hospital  
6 licensed pursuant to the provisions of chapter 395, to a  
7 crisis stabilization unit licensed under part IV of chapter  
8 394, to a health maintenance organization certificated under  
9 part I of chapter 641, to clinics included in chapter 390, to  
10 an ambulatory surgical center as defined in s. 395.002, or to  
11 a member of The Florida Bar shall report in duplicate to the  
12 Department of Insurance any claim or action for damages for  
13 personal injuries claimed to have been caused by error,  
14 omission, or negligence in the performance of such insured's  
15 professional services or based on a claimed performance of  
16 professional services without consent, if the claim resulted  
17 in:

- 18           (a) A final judgment in any amount.  
19           (b) A settlement in any amount.  
20           (c) A final disposition not resulting in payment on  
21 behalf of the insured.

22  
23 Reports shall be filed with the department and, if the insured  
24 party is licensed pursuant to chapter 458, chapter 459,  
25 chapter 461, or chapter 466, with the Department of Health  
26 ~~Business and Professional Regulation~~, no later than 60 days  
27 following the occurrence of any event listed in paragraph (a),  
28 paragraph (b), or paragraph (c). The Department of Health  
29 ~~Business and Professional Regulation~~ shall review each report  
30 and determine whether any of the incidents that resulted in  
31 the claim potentially involved conduct by the licensee that is

1 subject to disciplinary action, in which case the provisions  
2 of s. 455.442 ~~455.225~~ shall apply. The Department of Health  
3 ~~Business and Professional Regulation~~, as part of the annual  
4 report required by s. 455.449 ~~455.2285~~, shall publish annual  
5 statistics, without identifying licensees, on the reports it  
6 receives, including final action taken on such reports by the  
7 Department of Health ~~Business and Professional Regulation~~ or  
8 the appropriate regulatory board.

9 (2) The reports required by subsection (1) shall  
10 contain:

11 (e) The name and address of the injured person. This  
12 information is confidential and exempt from the provisions of  
13 s. 119.07(1), and must not be disclosed by the department  
14 without the injured person's consent, except for disclosure by  
15 the department to the Department of Health ~~Business and~~  
16 ~~Professional Regulation~~. This information may be used by the  
17 department for purposes of identifying multiple or duplicate  
18 claims arising out of the same occurrence.

19 (3) Upon request by the Department of Health ~~Business~~  
20 ~~and Professional Regulation~~, the department shall provide that  
21 department with any information received pursuant to this  
22 section related to persons licensed under chapter 458, chapter  
23 459, chapter 461, or chapter 466. For purposes of safety  
24 management, the department shall annually provide the  
25 Department of Health ~~and Rehabilitative Services~~ with copies  
26 of the reports in cases resulting in an indemnity being paid  
27 to the claimants.

28 Section 219. Section 636.039, Florida Statutes, is  
29 amended to read:

30 636.039 Examination by the department.--The department  
31 shall examine the affairs, transactions, accounts, business

1 records, and assets of any prepaid limited health service  
2 organization, in the same manner and subject to the same terms  
3 and conditions that apply to insurers under part II of chapter  
4 624, as often as it deems it expedient for the protection of  
5 the people of this state, but not less frequently than once  
6 every 3 years. In lieu of making its own financial  
7 examination, the department may accept an independent  
8 certified public accountant's audit report prepared on a  
9 statutory accounting basis consistent with this act. However,  
10 except when the medical records are requested and copies  
11 furnished pursuant to s. 455.454 ~~455.241~~, medical records of  
12 individuals and records of physicians providing service under  
13 contract to the prepaid limited health service organization  
14 are not subject to audit, but may be subject to subpoena by  
15 court order upon a showing of good cause. For the purpose of  
16 examinations, the department may administer oaths to and  
17 examine the officers and agents of a prepaid limited health  
18 service organization concerning its business and affairs. The  
19 expenses of examination of each prepaid limited health service  
20 organization by the department are subject to the same terms  
21 and conditions as apply to insurers under part II of chapter  
22 624. Expenses of all examinations of a prepaid limited health  
23 service organization may never exceed a maximum of \$20,000 for  
24 any 1-year period.

25 Section 220. Subsection (1) of section 641.27, Florida  
26 Statutes, is amended to read:

27 641.27 Examination by the department.--

28 (1) The department shall examine the affairs,  
29 transactions, accounts, business records, and assets of any  
30 health maintenance organization as often as it deems it  
31 expedient for the protection of the people of this state, but



1 not less frequently than once every 3 years. In lieu of  
2 making its own financial examination, the department may  
3 accept an independent certified public accountant's audit  
4 report prepared on a statutory accounting basis consistent  
5 with this part. However, except when the medical records are  
6 requested and copies furnished pursuant to s. 455.454 ~~455.241~~,  
7 medical records of individuals and records of physicians  
8 providing service under contract to the health maintenance  
9 organization shall not be subject to audit, although they may  
10 be subject to subpoena by court order upon a showing of good  
11 cause. For the purpose of examinations, the department may  
12 administer oaths to and examine the officers and agents of a  
13 health maintenance organization concerning its business and  
14 affairs. The examination of each health maintenance  
15 organization by the department shall be subject to the same  
16 terms and conditions as apply to insurers under chapter 624.  
17 In no event shall expenses of all examinations exceed a  
18 maximum of \$20,000 for any 1-year period. Any rehabilitation,  
19 liquidation, conservation, or dissolution of a health  
20 maintenance organization shall be conducted under the  
21 supervision of the department, which shall have all power with  
22 respect thereto granted to it under the laws governing the  
23 rehabilitation, liquidation, reorganization, conservation, or  
24 dissolution of life insurance companies.

25 Section 221. Paragraphs (b) and (c) of subsection (5)  
26 and subsections (6) and (8) of section 641.55, Florida  
27 Statutes, 1996 Supplement, are amended to read:

28 641.55 Internal risk management program.--

29 (5)

30 (b) The information reported to the agency under  
31 paragraph (a) which relates to providers licensed under

1 chapter 458, chapter 459, chapter 461, or chapter 466 must  
2 also be reported to the agency quarterly. The agency shall  
3 review the information and determine whether any of the  
4 incidents potentially involved conduct by a licensee that is  
5 subject to disciplinary action, in which case s. 455.442  
6 ~~455.225~~ applies.

7 (c) Except as otherwise provided in this subsection,  
8 any identifying information contained in the annual report and  
9 the quarterly reports under paragraphs (a) and (b) is  
10 confidential and exempt from s. 119.07(1). This information  
11 must not be available to the public as part of the record of  
12 investigation for and prosecution in disciplinary proceedings  
13 made available to the public by the agency or the appropriate  
14 regulatory board. However, the agency shall make available,  
15 upon written request by a practitioner against whom probable  
16 cause has been found, any such information contained in the  
17 records that form the basis of the determination of probable  
18 cause under s. 455.442 ~~455.225~~.

19 (6) If an adverse or untoward incident, whether  
20 occurring in the facilities of the organization or arising  
21 from health care prior to enrollment by the organization or  
22 admission to the facilities of the organization or in a  
23 facility of one of its providers, results in:

- 24 (a) The death of a patient;  
25 (b) Severe brain or spinal damage to a patient;  
26 (c) A surgical procedure being performed on the wrong  
27 patient; or  
28 (d) A surgical procedure unrelated to the patient's  
29 diagnosis or medical needs being performed on any patient,  
30

31

1 the organization must report this incident to the agency  
2 within 3 working days after its occurrence. A more detailed  
3 followup report must be submitted to the agency within 10 days  
4 after the first report. The agency may require an additional,  
5 final report. Reports under this subsection must be sent  
6 immediately by the agency to the appropriate regulatory board  
7 whenever they contain references to a provider licensed under  
8 chapter 458, chapter 459, chapter 461, or chapter 466. These  
9 reports are confidential and are exempt from s. 119.07(1).  
10 This information is not available to the public as part of the  
11 record of investigation for and prosecution in disciplinary  
12 proceedings made available to the public by the agency or the  
13 appropriate regulatory board. However, the agency shall make  
14 available, upon written request by a practitioner against whom  
15 probable cause has been found, any such information contained  
16 in the records that form the basis of the determination of  
17 probable cause under s. 455.442 ~~455.225~~. The agency may  
18 investigate, as it deems appropriate, any such incident and  
19 prescribe measures that must or may be taken by the  
20 organization in response to the incident. The agency shall  
21 review each incident and determine whether it potentially  
22 involved conduct by the licensee which is subject to  
23 disciplinary action, in which case s. 455.442 ~~455.225~~ applies.

24 (8) The agency and, upon subpoena issued under s.  
25 455.438 ~~455.223~~, the appropriate regulatory board must be  
26 given access to all organization records necessary to carry  
27 out the provisions of this section. Any identifying  
28 information contained in the records obtained under this  
29 section is confidential and exempt from s. 119.07(1). The  
30 identifying information contained in records obtained under s.  
31 455.438 ~~455.223~~ is exempt from s. 119.07(1) to the extent that

1 it is part of the record of investigation for and prosecution  
2 in disciplinary proceedings made available to the public by  
3 the agency or the appropriate regulatory board. However, the  
4 agency must make available, upon written request by a  
5 practitioner against whom probable cause has been found, any  
6 such information contained in the records that form the basis  
7 of the determination of probable cause under s. 455.442  
8 ~~455.225~~, except that, with respect to medical review committee  
9 records, s. 766.101 controls.

10

11 The gross data compiled under this section or s. 395.0197  
12 shall be furnished by the agency upon request to organizations  
13 to be utilized for risk management purposes. The agency shall  
14 adopt rules necessary to carry out the provisions of this  
15 section.

16 Section 222. Subsection (2) of section 766.106,  
17 Florida Statutes, 1996 Supplement, is amended to read:

18 766.106 Notice before filing action for medical  
19 malpractice; presuit screening period; offers for admission of  
20 liability and for arbitration; informal discovery; review.--

21 (2) After completion of presuit investigation pursuant  
22 to s. 766.203 and prior to filing a claim for medical  
23 malpractice, a claimant shall notify each prospective  
24 defendant and, if any prospective defendant is a health care  
25 provider licensed under chapter 458, chapter 459, chapter 460,  
26 chapter 461, or chapter 466, the Department of Health Business  
27 ~~and Professional Regulation~~ by certified mail, return receipt  
28 requested, of intent to initiate litigation for medical  
29 malpractice. Notice to the Department of Health Business and  
30 ~~Professional Regulation~~ must include the full name and address  
31 of the claimant; the full names and any known addresses of any

1 health care providers licensed under chapter 458, chapter 459,  
2 chapter 460, chapter 461, or chapter 466 who are prospective  
3 defendants identified at the time; the date and a summary of  
4 the occurrence giving rise to the claim; and a description of  
5 the injury to the claimant. The requirement for notice to the  
6 Department of Health ~~Business and Professional Regulation~~ does  
7 not impair the claimant's legal rights or ability to seek  
8 relief for his claim, and the notice provided to the  
9 department is not discoverable or admissible in any civil or  
10 administrative action. The Department of Health ~~Business and~~  
11 ~~Professional Regulation~~ shall review each incident and  
12 determine whether it involved conduct by a licensee which is  
13 potentially subject to disciplinary action, in which case the  
14 provisions of s. 455.442 ~~455.225~~ apply.

15 Section 223. Subsection (4) of section 766.305,  
16 Florida Statutes, 1996 Supplement, is amended to read:

17 766.305 Filing of claims and responses; medical  
18 disciplinary review.--

19 (4) Upon receipt of such petition, the Division of  
20 Medical Quality Assurance shall review the information therein  
21 and determine whether it involved conduct by a physician  
22 licensed under chapter 458 or an osteopathic physician  
23 licensed under chapter 459 that is subject to disciplinary  
24 action, in which case the provisions of s. 455.442 ~~455.225~~  
25 shall apply.

26 Section 224. Subsection (2) of section 766.308,  
27 Florida Statutes, 1996 Supplement, is amended to read:

28 766.308 Medical advisory panel review and  
29 recommendations; procedure.--

30 (2) The Department of Insurance shall develop a plan  
31 which provides the method and procedure for such medical

1 advisory panel review and shall develop such plan in  
2 coordination with the Division of Medical Quality Assurance of  
3 the Department of Health ~~Business and Professional Regulation~~  
4 ~~and the Children's Medical Services Program Office of the~~  
5 ~~Department of Health and Rehabilitative Services.~~

6 Section 225. Paragraph (b) of subsection (4) of  
7 section 766.314, Florida Statutes, 1996 Supplement, is amended  
8 to read:

9 766.314 Assessments; plan of operation.--

10 (4) The following persons and entities shall pay into  
11 the association an initial assessment in accordance with the  
12 plan of operation:

13 (b)1. On or before October 15, 1988, all physicians  
14 licensed pursuant to chapter 458 or chapter 459 as of October  
15 1, 1988, other than participating physicians, shall be  
16 assessed an initial assessment of \$250, which must be paid no  
17 later than December 1, 1988.

18 2. Any such physician who becomes licensed after  
19 September 30, 1988, and before January 1, 1989, shall pay into  
20 the association an initial assessment of \$250 upon licensure.

21 3. Any such physician who becomes licensed on or after  
22 January 1, 1989, shall pay an initial assessment equal to the  
23 most recent assessment made pursuant to this paragraph,  
24 paragraph (5)(a), or paragraph (7)(b).

25 4. However, if the physician is a physician specified  
26 in this subparagraph, the assessment is not applicable:

27 a. A resident physician, assistant resident physician,  
28 or intern in an approved postgraduate training program, as  
29 defined by the Board of Medicine or the Board of Osteopathic  
30 Medicine by rule;

31

1           b. A retired physician who has withdrawn from the  
2 practice of medicine but who maintains an active license as  
3 evidenced by an affidavit filed with the Department of Health  
4 ~~Business and Professional Regulation~~. Prior to reentering the  
5 practice of medicine in this state, a retired physician as  
6 herein defined must notify the Board of Medicine or the Board  
7 of Osteopathic Medicine and pay the appropriate assessments  
8 pursuant to this section;

9           c. A physician who holds a limited license pursuant to  
10 s. 458.317 and who is not being compensated for medical  
11 services;

12           d. A physician who is employed full time by the United  
13 States Department of Veterans Affairs and whose practice is  
14 confined to United States Department of Veterans Affairs  
15 hospitals; or

16           e. A physician who is a member of the Armed Forces of  
17 the United States and who meets the requirements of s. 455.402  
18 ~~455.02~~.

19           f. A physician who is employed full time by the State  
20 of Florida and whose practice is confined to state-owned  
21 correctional institutions and state-owned mental health  
22 facilities.

23           Section 226. Section 937.031, Florida Statutes, is  
24 amended to read:

25           937.031 Dental records of missing persons; access and  
26 use.--When a person has been reported missing and has not been  
27 located within 30 days after such report, the law enforcement  
28 agency conducting the investigation of the missing person  
29 shall request the family or next of kin to provide written  
30 consent to contact the dentist of the missing person and  
31 request that person's dental records. Notwithstanding the

1 provisions of s. 455.454 ~~455.241~~, a dentist, upon receipt of  
2 proof of written consent, shall release a copy of the dental  
3 records of the missing person to the law enforcement agency  
4 requesting such records, providing or encoding the dental  
5 records in a form requested by the Department of Law  
6 Enforcement. The law enforcement agency shall then enter the  
7 dental records into the criminal justice information system  
8 for the purpose of comparing such records to those of  
9 unidentified deceased persons.

10 Section 227. Paragraph (f) of subsection (3) of  
11 section 20.43, Florida Statutes, 1996 Supplement, is amended  
12 to read:

13 20.43 Department of Health.--There is created a  
14 Department of Health.

15 (3) The following divisions of the Department of  
16 Health are established:

17 (f) ~~Effective July 1, 1997,~~ Division of Medical  
18 Quality Assurance, which is responsible for the following  
19 boards and professions established within the division:

- 20 1. Nursing assistants, as provided under s. 400.211.
- 21 2. Health care services pools, as provided under s.  
22 402.48.
- 23 3. The Board of Acupuncture, created under chapter  
24 457.
- 25 4. The Board of Medicine, created under chapter 458.
- 26 5. The Board of Osteopathic Medicine, created under  
27 chapter 459.
- 28 6. The Board of Chiropractic, created under chapter  
29 460.
- 30 7. The Board of Podiatric Medicine, created under  
31 chapter 461.



- 1           8. Naturopathy, as provided under chapter 462.
- 2           9. The Board of Optometry, created under chapter 463.
- 3           10. The Board of Nursing, created under chapter 464.
- 4           11. The Board of Pharmacy, created under chapter 465.
- 5           12. The Board of Dentistry, created under chapter 466.
- 6           13. Midwifery, as provided under chapter 467.
- 7           14. The Board of Speech-Language Pathology and
- 8   Audiology, created under part I of chapter 468.
- 9           15. The Board of Nursing Home Administrators, created
- 10   under part II of chapter 468.
- 11           16. Occupational therapy, as provided under part III
- 12   of chapter 468.
- 13           17. Respiratory therapy, as provided under part V of
- 14   chapter 468.
- 15           18. Dietetics and nutrition practice, as provided
- 16   under part X of chapter 468.
- 17           19. Athletic trainers, as provided under part XIV of
- 18   chapter 468.
- 19           20. Electrolysis, as provided under chapter 478.
- 20           21. The Board of Massage, created under chapter 480.
- 21           22. The Board of Clinical Laboratory Personnel,
- 22   created under part III ~~IV~~ of chapter 483.
- 23           23. Medical physicists, as provided under part IV ~~V~~ of
- 24   chapter 483.
- 25           24. The Board of Opticianry, created under part I of
- 26   chapter 484.
- 27           25. The Board of Hearing Aid Specialists, created
- 28   under part II of chapter 484.
- 29           26. The Board of Physical Therapy Practice, created
- 30   under chapter 486.
- 31

1           27. The Board of Psychology, created under chapter  
2 490.

3           28. The Board of Clinical Social Work, Marriage and  
4 Family Therapy, and Mental Health Counseling, created under  
5 chapter 491.

6  
7 The department shall contract with the Agency for Health Care  
8 Administration who shall provide consumer complaint,  
9 investigative, and prosecutorial services required by the  
10 Division of Medical Quality Assurance, councils, or boards, as  
11 appropriate.

12           Section 228. Paragraph (b) of subsection (2) of  
13 section 381.81, Florida Statutes, is amended to read:

14           381.81 Minority Health Improvement Act.--

15           (2) DEFINITIONS.--As used in this section, the  
16 following words and terms shall have the following meanings,  
17 unless the context indicates another meaning or intent:

18           (b) "Health profession" means any regulated health  
19 profession, including occupational therapy, as regulated under  
20 part III of chapter 468; respiratory therapy, as regulated  
21 under part V of chapter 468; physical therapy, as regulated  
22 under chapter 486; midwifery, as regulated under chapter 467;  
23 dietetics and nutrition practice, as regulated under part X of  
24 chapter 468; electrolysis, as regulated under chapter 478;  
25 nursing assistants, as regulated under s. 400.211; and those  
26 professions regulated by: the Board of Medicine, created  
27 under chapter 458; the Board of Osteopathic Medicine, created  
28 under chapter 459; the Board of Acupuncture, created under  
29 chapter 457; the Board of Chiropractic, created under chapter  
30 460; the Board of Clinical Social Work, Marriage and Family  
31 Therapy, and Mental Health Counseling, created under chapter

1 491; the Board of Dentistry, created under chapter 466; the  
2 Board of Optometry, created under chapter 463; the Board of  
3 Podiatric Medicine, created under chapter 461; the Board of  
4 Nursing, created by chapter 464; the Board of Psychological  
5 Examiners, created under chapter 490; the Board of  
6 Speech-Language Pathology and Audiology, created under part I  
7 of chapter 468; the Board of Nursing Home Administrators,  
8 created under part II of chapter 468; the Board of Clinical  
9 Laboratory Personnel, created under part III ~~IV~~ of chapter  
10 483; and the Board of Opticianry, created under part I of  
11 chapter 484.

12 Section 229. Subsections (1) and (8) of section  
13 400.211, Florida Statutes, 1996 Supplement, are amended to  
14 read:

15 400.211 Persons employed as nursing assistants;  
16 certification requirement.--

17 (1) A person must be certified pursuant to this  
18 section, except a registered nurse or practical nurse licensed  
19 in accordance with the provisions of chapter 464 or an  
20 applicant for such licensure who is permitted to practice  
21 nursing in accordance with rules promulgated by the Board of  
22 Nursing pursuant to chapter 464, to serve as a nursing  
23 assistant in any nursing home. The Department of Health  
24 ~~Business and Professional Regulation~~ shall issue a certificate  
25 to any person who:

26 (a) Has successfully completed a nursing assistant  
27 program in a state-approved school and has achieved a minimum  
28 score of 75 percent on the written portion of the Florida  
29 Nursing Assistant Certification Test approved by the  
30 Department of Health ~~Business and Professional Regulation~~ and  
31 administered by state-approved test site personnel;

1           (b) Has achieved a minimum score of 75 percent on the  
2 written and performance portions of the Florida Nursing  
3 Assistant Certification Test approved by the Department of  
4 Health Business and Professional Regulation and administered  
5 by state-approved test site personnel; or

6           (c) Is currently certified in another state, is on  
7 that state's registry, has no findings of abuse, and has  
8 achieved a minimum score of 75 percent on the written portion  
9 of the Florida Nursing Assistant Certification Test approved  
10 by the Department of Health Business and Professional  
11 Regulation and administered by state-approved test site  
12 personnel.

13  
14 An oral examination shall be administered upon request.

15           (8) The Department of Health Business and Professional  
16 Regulation may adopt such rules as are necessary to carry out  
17 this section.

18           Section 230. Paragraph (a) of subsection (1) of  
19 section 402.48, Florida Statutes, 1996 Supplement, is amended  
20 to read:

21           402.48 Health care services pools.--

22           (1) As used in this section, the term:

23           (a) "Department" means the Department of Health  
24 Business and Professional Regulation.

25           Section 231. Subsection (5) of section 457.102,  
26 Florida Statutes, is amended to read:

27           457.102 Definitions.--As used in this chapter:

28           (5) "Department" means the Department of Health  
29 Business and Professional Regulation.

30           Section 232. Subsection (2) of section 458.305,  
31 Florida Statutes, is amended to read:

1           458.305 Definitions.--As used in this chapter:

2           (2) "Department" means the Department of Health  
3 ~~Business and Professional Regulation.~~

4           Section 233. Subsection (2) of section 459.003,  
5 Florida Statutes, is amended to read:

6           459.003 Definitions.--As used in this chapter:

7           (2) "Department" means the Department of Health  
8 ~~Business and Professional Regulation.~~

9           Section 234. Subsection (1) of section 460.403,  
10 Florida Statutes, 1996 Supplement, is amended to read:

11           460.403 Definitions.--As used in this chapter, the  
12 term:

13           (1) "Department" means the Department of Health  
14 ~~Business and Professional Regulation.~~

15           Section 235. Subsection (1) of section 461.003,  
16 Florida Statutes, is amended to read:

17           461.003 Definitions.--As used in this chapter:

18           (1) "Department" means the Department of Health  
19 ~~Business and Professional Regulation.~~

20           Section 236. Subsection (2) of section 462.01, Florida  
21 Statutes, is amended to read:

22           462.01 Definitions.--As used in this chapter:

23           (2) "Department" means the Department of Health  
24 ~~Business and Professional Regulation.~~

25           Section 237. Subsection (2) of section 463.002,  
26 Florida Statutes, is amended to read:

27           463.002 Definitions.--As used in this chapter, the  
28 term:

29           (2) "Department" means the Department of Health  
30 ~~Business and Professional Regulation.~~

31

1           Section 238. Subsection (4) of section 465.003,  
2 Florida Statutes, is amended to read:

3           465.003 Definitions.--As used in this chapter, the  
4 term:

5           (4) "Department" means the Department of Health  
6 ~~Business and Professional Regulation.~~

7           Section 239. Subsection (7) of section 466.003,  
8 Florida Statutes, is amended to read:

9           466.003 Definitions.--As used in this chapter:

10           (7) "Department" means the Department of Health  
11 ~~Business and Professional Regulation.~~

12           Section 240. Subsections (4) and (14) of section  
13 467.003, Florida Statutes, are amended to read:

14           467.003 Definitions.--As used in this chapter, unless  
15 the context otherwise requires:

16           (4) "Department" means the Department of Health  
17 ~~Business and Professional Regulation.~~

18           (14) " Secretary" means the Secretary of Health  
19 ~~Business and Professional Regulation.~~

20           Section 241. Subsection (5) of section 468.1125,  
21 Florida Statutes, is amended to read:

22           468.1125 Definitions.--As used in this part, the term:

23           (5) "Department" means the Department of Health  
24 ~~Business and Professional Regulation.~~

25           Section 242. Subsection (2) of section 468.1655,  
26 Florida Statutes, is amended to read:

27           468.1655 Definitions.--As used in this part:

28           (2) "Department" means the Department of Health  
29 ~~Business and Professional Regulation.~~

30           Section 243. Subsection (2) of section 468.352,  
31 Florida Statutes, is amended to read:

1           468.352 Definitions.--As used in this part, unless the  
2 context otherwise requires, the term:

3           (2) "Department" means the Department of Health  
4 ~~Business and Professional Regulation~~.

5           Section 244. Paragraph (a) of subsection (1) of  
6 section 468.518, Florida Statutes, 1996 Supplement, is amended  
7 to read:

8           468.518 Grounds for disciplinary action.--

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

11           (a) Violating any provision of this part, any board or  
12 agency rule adopted pursuant thereto, or any lawful order of  
13 the board or agency previously entered in a disciplinary  
14 hearing held pursuant to this part, or failing to comply with  
15 a lawfully issued subpoena of the agency. The provisions of  
16 this paragraph also apply to any order or subpoena previously  
17 issued by the Department of Health ~~Business and Professional~~  
18 ~~Regulation~~ during its period of regulatory control over this  
19 part.

20           Section 245. Subsections (7) and (9) of section  
21 468.701, Florida Statutes, are amended to read:

22           468.701 Definitions.--As used in this part, the term:

23           (7) "Department" means the Department of Health  
24 ~~Business and Professional Regulation~~.

25           (9) "Secretary" means the Secretary of Health ~~Business~~  
26 ~~and Professional Regulation~~.

27           Section 246. Subsection (3) of section 478.42, Florida  
28 Statutes, is amended to read:

29           478.42 Definitions.--As used in this chapter, the  
30 term:

31

1           (3) "Department" means the Department of Health  
2 ~~Business and Professional Regulation.~~  
3           Section 247. Subsection (2) of section 480.033,  
4 Florida Statutes, is amended to read:  
5           480.033 Definitions.--As used in this act:  
6           (2) "Department" means the Department of Health  
7 ~~Business and Professional Regulation.~~  
8           Section 248. Subsection (5) of section 483.803,  
9 Florida Statutes, is amended to read:  
10          483.803 Definitions.--As used in this part, the term:  
11          (5) "Department" means the Department of Health  
12 ~~Business and Professional Regulation.~~  
13          Section 249. Subsection (1) of section 484.002,  
14 Florida Statutes, is amended to read:  
15          484.002 Definitions.--As used in this part:  
16          (1) "Department" means the Department of Health  
17 ~~Business and Professional Regulation.~~  
18          Section 250. Subsection (1) of section 484.003,  
19 Florida Statutes, is amended to read:  
20          484.003 Board of Opticianry; membership; appointment;  
21 terms.--  
22          (1) The Board of Opticianry is created within the  
23 Department of Health ~~Business and Professional Regulation~~ and  
24 shall consist of seven members to be appointed by the Governor  
25 and confirmed by the Senate.  
26          Section 251. Subsection (2) of section 484.041,  
27 Florida Statutes, is amended to read:  
28          484.041 Definitions.--As used in this part, the term:  
29          (2) "Department" means the Department of Health  
30 ~~Business and Professional Regulation.~~  
31



1           Section 252. Subsection (1) of section 484.042,  
2 Florida Statutes, is amended to read:

3           484.042 Board of Hearing Aid Specialists; membership,  
4 appointment, terms.--

5           (1) The Board of Hearing Aid Specialists is created  
6 within the Department of Health ~~Business and Professional~~  
7 ~~Regulation~~ and shall consist of nine members to be appointed  
8 by the Governor and confirmed by the Senate.

9           Section 253. Subsection (2) of section 484.051,  
10 Florida Statutes, is amended to read:

11           484.051 Itemization of prices; delivery of hearing  
12 aid; receipt, packaging, disclaimer, guarantee.--

13           (2) Any person who fits and sells a hearing aid shall,  
14 at the time of delivery, provide the purchaser with a receipt  
15 containing the seller's signature, the address of his regular  
16 place of business, and his license or trainee registration  
17 number, if applicable, together with the brand, model,  
18 manufacturer or manufacturer's identification code, and serial  
19 number of the hearing aid furnished and the amount charged for  
20 the hearing aid. The receipt also shall specify whether the  
21 hearing aid is new, used, or rebuilt and shall specify the  
22 length of time and other terms of the guarantee and by whom  
23 the hearing aid is guaranteed. When the client has requested  
24 an itemized list of prices, the receipt shall also provide an  
25 itemization of the total purchase price, including, but not  
26 limited to, the cost of the aid, earmold, batteries and other  
27 accessories, and any services. Notice of the availability of  
28 this service shall be displayed in a conspicuous manner in the  
29 office. The receipt also shall state that any complaint  
30 concerning the hearing aid and guarantee therefor, if not  
31 reconciled with the licensee from whom the hearing aid was

1 purchased, should be directed by the purchaser to the  
2 Department of Health ~~Business and Professional Regulation~~. The  
3 address and telephone number of such office shall be stated on  
4 the receipt.

5 Section 254. Subsection (2) of section 486.021,  
6 Florida Statutes, is amended to read:

7 486.021 Definitions.--In this chapter, unless the  
8 context otherwise requires, the term:

9 (2) "Department" means the Department of Health  
10 ~~Business and Professional Regulation~~.

11 Section 255. Subsection (1) of section 490.003,  
12 Florida Statutes, is amended to read:

13 490.003 Definitions.--

14 (1) "Department" means the Department of Health  
15 ~~Business and Professional Regulation~~.

16 Section 256. Subsection (1) of section 491.003,  
17 Florida Statutes, is amended to read:

18 491.003 Definitions.--As used in this chapter:

19 (1) "Department" means the Department of Health  
20 ~~Business and Professional Regulation~~.

21 Section 257. Paragraph (hh) of subsection (4) of  
22 section 215.20, Florida Statutes, 1996 Supplement, is amended  
23 to read:

24 215.20 Certain income and certain trust funds to  
25 contribute to the General Revenue Fund.--

26 (4) The income of a revenue nature deposited in the  
27 following described trust funds, by whatever name designated,  
28 is that from which the deductions authorized by subsection (3)  
29 shall be made:

30 (hh) The Health Care Trust Fund established pursuant  
31 to s. 20.425 ~~455.2205~~.

1  
2 The enumeration of the foregoing moneys or trust funds shall  
3 not prohibit the applicability thereto of s. 215.24 should the  
4 Governor determine that for the reasons mentioned in s. 215.24  
5 the money or trust funds should be exempt herefrom, as it is  
6 the purpose of this law to exempt income from its force and  
7 effect when, by the operation of this law, federal matching  
8 funds or contributions or private grants to any trust fund  
9 would be lost to the state.

10 Section 258. Subsection (3) of section 391.208,  
11 Florida Statutes, is amended to read:

12 391.208 Administrative fines; disposition of fees and  
13 fines.--

14 (3) Fees and fines received by the agency under this  
15 part shall be deposited in the Health Care Trust Fund created  
16 in s. 20.425 ~~455.2205~~.

17 Section 259. Section 391.217, Florida Statutes, is  
18 amended to read:

19 391.217 Disposition of moneys from fines and  
20 fees.--All moneys received from administrative fines pursuant  
21 to s. 391.208 and all moneys received from fees collected  
22 pursuant to s. 391.205 shall be deposited in the Health Care  
23 Trust Fund created in s. 20.425 ~~455.2205~~.

24 Section 260. Section 400.5575, Florida Statutes, is  
25 amended to read:

26 400.5575 Disposition of fees and administrative  
27 fines.--Fees and fines received by the agency under this part  
28 shall be deposited in the Health Care Trust Fund established  
29 pursuant to s. 20.425 ~~455.2205~~. These funds may be used to  
30 offset the costs of the licensure program, including the costs

31

1 of conducting background investigations, verifying information  
2 submitted, and processing applications.

3 Section 261. Subsection (2) of section 408.20, Florida  
4 Statutes, 1996 Supplement, is amended to read:

5 408.20 Assessments; Health Care Trust Fund.--

6 (2) All moneys collected are to be deposited into the  
7 Health Care Trust Fund created pursuant to s. 20.425 ~~455.2205~~.  
8 ~~The Health Care Trust Fund shall be subject to the service~~  
9 ~~charge imposed pursuant to chapter 215.~~

10 Section 262. This act shall take effect July 1, 1997.

11  
12 \*\*\*\*\*

13 HOUSE SUMMARY

14  
15 Creates part II of chapter 455, F.S., to provide  
16 regulatory provisions applicable to the Department of  
17 Health that are separate from those applicable to the  
18 Department of Business and Professional Regulation.  
19 Transfers, amends, and repeals various existing  
20 provisions of chapter 455, F.S., and creates part I of  
21 the remaining provisions of the chapter, as amended, to  
22 conform. Corrects cross references and terminology in  
23 other statutory provisions, to conform. Provides  
24 legislative intent. Provides for a procedure for  
25 updating boards on major public health policy. Provides  
26 for appointment of a task force to develop uniform  
27 procedures to standardize the validation of health care  
28 practitioner credentials. Provides requirements with  
29 respect to examinations, including requirements for  
30 national, contracted, and shared examinations and  
31 translations of examinations. Restricts board meetings  
to those determined to be in the public interest.  
Provides for appointment of nonboard members to board  
committees under certain circumstances. Requires  
applicants for initial licensure to submit a full set of  
fingerprints. Provides additional grounds for  
disciplinary action relating to keeping legible records,  
payments on federally or state guaranteed educational  
loans or service-conditional scholarships, providing  
proper identification to patients, and reporting of  
disciplinary actions of another jurisdiction. Revises  
provisions relating to ownership and control of patient  
records. See bill for details.