

By the Committee on Health Care Standards & Regulatory Reform and Representatives 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           professions; amending s. 402.48, F.S., relating  
4           to health care services pools; increasing the  
5           period of registration; updating a definition  
6           and a provision relating to meeting financial  
7           responsibility requirements; amending s.  
8           457.102, F.S.; revising definitions applicable  
9           to the regulation of acupuncture; amending s.  
10          457.105, F.S.; revising qualifications for  
11          licensure to practice acupuncture; revising  
12          fees; conforming terminology; amending s.  
13          457.107, F.S.; revising licensure renewal fees;  
14          conforming terminology; amending s. 457.1085,  
15          F.S.; revising requirements on the adoption of  
16          rules relating to infection control and on the  
17          use of acupuncture needles; amending ss.  
18          457.103, 457.108, 457.109, and 457.116, F.S.,  
19          to conform; amending s. 458.303, F.S.;  
20          eliminating references to physician's trained  
21          assistants; amending s. 458.305, F.S.; updating  
22          the definition of "department"; amending s.  
23          458.307, F.S.; revising provisions relating to  
24          probable cause panels of the Board of Medicine;  
25          amending s. 455.206, F.S.; correcting a cross  
26          reference, to conform; amending s. 458.311,  
27          F.S.; revising requirements for licensure of  
28          physicians by examination; revising an  
29          educational and postgraduate training  
30          requirement; allowing certain applicants to  
31          complete a specified fellowship to partially

1 satisfy the licensing requirements; providing  
2 for additional remedial education or training  
3 upon failure to pass the licensing examination  
4 after a certain number of attempts; authorizing  
5 persons in certain training programs to take  
6 the examination under certain circumstances;  
7 amending s. 458.313, F.S.; revising  
8 requirements for licensure of physicians by  
9 endorsement; eliminating a provision  
10 authorizing oral examinations; providing for  
11 additional remedial education or training upon  
12 failure to pass the licensing examination after  
13 a certain number of attempts; authorizing  
14 additional requirements prior to certification  
15 of eligibility for licensure; correcting a  
16 cross reference; eliminating a provision  
17 authorizing licensure under a period of  
18 supervision; providing conditions for  
19 reactivation of certain licenses issued by  
20 endorsement; amending s. 458.317, F.S.,  
21 relating to limited licenses; eliminating the  
22 requirement that applicants for a limited  
23 license be retired from the practice of  
24 medicine; restricting certain limited licensees  
25 to noncompensated practice; requiring the  
26 payment of fees if a person receives  
27 compensation for the practice of medicine;  
28 amending s. 458.319, F.S.; clarifying  
29 requirements for renewal of license to practice  
30 medicine; revising recent-practice  
31 requirements; amending s. 458.320, F.S.;

1       correcting a cross reference; requiring  
2       physicians not carrying medical malpractice  
3       insurance to post notice and provide a written  
4       statement thereof; providing for acknowledgment  
5       that the patient has been so informed; amending  
6       s. 458.331, F.S.; revising and providing  
7       grounds for disciplinary action; providing  
8       penalties; creating s. 458.3312, F.S.;  
9       prohibiting physicians from falsely  
10       representing that they are board-certified  
11       specialists; amending s. 458.345, F.S.,  
12       relating to registration of resident  
13       physicians, interns, and fellows; providing for  
14       designation of a person responsible at each  
15       hospital using such residents for the  
16       hospital's semiannual reports to the  
17       department; requiring certain notice to the  
18       executive director of the board; providing that  
19       registrants are subject to specified  
20       disciplinary provisions; providing requirements  
21       for the prescribing of medicinal drugs and  
22       controlled substances; amending s. 458.346,  
23       F.S.; providing for meetings of the Public  
24       Sector Physician Advisory Committee; amending  
25       ss. 458.347 and 459.022, F.S.; revising  
26       requirements for certification as a physician  
27       assistant; updating terminology; amending s.  
28       458.3485, F.S.; requiring medical assistants to  
29       be under the direct supervision of a licensed  
30       physician; creating ss. 458.351 and 459.025,  
31       F.S.; requiring serious incident reports;

1 providing for rules; amending s. 459.003, F.S.;  
2 updating the definition of "department";  
3 providing that certain terms are equivalent;  
4 amending s. 459.021, F.S.; revising terminology  
5 relating to osteopathic medicine; revising  
6 provisions relating to registration of resident  
7 physicians, interns, and fellows; providing for  
8 designation of a person responsible at each  
9 hospital using such residents for the  
10 hospital's semiannual reports to the  
11 department; requiring certain notice to the  
12 executive director of the board; providing that  
13 registrants are subject to specified  
14 disciplinary provisions; amending s. 459.0075,  
15 F.S., relating to limited licenses; eliminating  
16 the requirement that applicants for a limited  
17 license be retired from the practice of  
18 osteopathic medicine; restricting certain  
19 limited licensees to noncompensated practice;  
20 requiring the payment of fees if a person  
21 receives compensation for the practice of  
22 osteopathic medicine; amending s. 459.0085,  
23 F.S.; correcting a cross reference; requiring  
24 osteopathic physicians not carrying medical  
25 malpractice insurance to post notice and  
26 provide a written statement thereof; providing  
27 for acknowledgment that the patient has been so  
28 informed; amending s. 459.015, F.S.; revising  
29 and providing grounds for disciplinary action;  
30 providing penalties; creating s. 459.0152,  
31 F.S.; prohibiting osteopathic physicians from

1           falsely representing that they are  
2           board-certified specialists; amending ss.  
3           240.4067, 390.011, 395.0191, 408.035, 409.905,  
4           415.102, 415.1034, 415.504, 440.106, 440.13,  
5           440.134, 440.15, 456.31, 459.006, 462.01,  
6           468.301, 468.302, 476.044, 477.0135, 483.291,  
7           621.03, 627.351, 627.357, 627.6482, 725.01,  
8           766.101, 766.103, 766.105, 766.110, 817.234,  
9           and 945.047, F.S.; conforming and correcting  
10          terminology relating to osteopathic medicine;  
11          amending s. 460.403, F.S.; updating the  
12          definition of "department"; amending s.  
13          460.413, F.S.; revising grounds for  
14          disciplinary action; providing penalties;  
15          providing criteria for determining the  
16          applicable penalty; providing certain  
17          evidentiary standards; providing authority and  
18          procedure to enjoin a chiropractor from  
19          providing medical services under certain  
20          circumstances; reenacting ss. 320.0848(9),  
21          455.236(4)(g), and 766.111(2), F.S., relating  
22          to parking permits for disabled persons,  
23          prohibited referrals to home health agencies,  
24          and unnecessary diagnostic testing, to  
25          incorporate the amendment to s. 460.413, F.S.,  
26          in references thereto; amending s. 460.4165,  
27          F.S.; revising a provision relating to the fee  
28          accompanying applications to supervise  
29          chiropractic physician's assistants; amending  
30          s. 461.003, F.S.; updating the definition of  
31          "department"; amending s. 461.013, F.S.;

1       revising a ground for disciplinary action;  
2       providing penalties; amending s. 461.018, F.S.;  
3       clarifying a provision relating to the limited  
4       practice of podiatry in designated areas of  
5       need; amending s. 464.003, F.S.; revising a  
6       definition to update authority over regulation  
7       of nursing; amending ss. 464.004, 464.008,  
8       464.009, 464.012, 464.013, and 464.014, F.S.,  
9       to conform; amending s. 464.018, F.S.; revising  
10       grounds for disciplinary action; providing  
11       penalties; conforming terminology; amending s.  
12       464.019, F.S., relating to approval of nursing  
13       programs; providing for a program review fee;  
14       conforming terminology; creating s. 464.0205,  
15       F.S.; providing for certification of retired  
16       volunteer nurses; providing requirements,  
17       qualifications, fees, and restrictions;  
18       amending s. 464.022, F.S.; providing an  
19       exemption from regulation relating to certain  
20       nurses accompanying and caring for patients  
21       temporarily residing in this state; amending s.  
22       465.003, F.S.; updating the definition of  
23       "department"; amending s. 465.004, F.S.;  
24       increasing the membership of the Board of  
25       Pharmacy; revising membership qualifications;  
26       amending s. 465.014, F.S.; increasing the  
27       number of pharmacy technicians who may be  
28       supervised by a licensed pharmacist; amending  
29       s. 465.0156, F.S.; revising information  
30       required for registration of nonresident  
31       pharmacies; amending s. 465.016, F.S.; revising

1 a ground for disciplinary action; providing  
2 penalties; amending s. 465.035, F.S.; allowing  
3 the dispensing of controlled substances based  
4 on electronic facsimiles of the original  
5 prescriptions; amending s. 466.003, F.S.;  
6 updating the definition of "department";  
7 amending s. 466.006, F.S., relating to the  
8 examination of dentists; revising prerequisites  
9 for certain applicants to take the examination;  
10 amending s. 466.017, F.S.; eliminating obsolete  
11 provisions relating to the utilization of  
12 general anesthesia and parenteral conscious  
13 sedation by licensed dentists; amending s.  
14 466.028, F.S.; revising grounds for  
15 disciplinary action; providing penalties;  
16 amending s. 468.1115, F.S.; revising and  
17 providing exemptions from regulation as a  
18 speech-language pathologist or audiologist;  
19 amending s. 468.1125, F.S.; updating the  
20 definition of "department"; amending s.  
21 468.1155, F.S.; revising provisional licensure  
22 requirements; providing requirements for  
23 cross-discipline licensure; amending s.  
24 468.1185, F.S.; revising licensure  
25 requirements; conforming a reference; amending  
26 s. 468.1195, F.S.; revising continuing  
27 education requirements; providing for adoption  
28 of standards of approval of continuing  
29 education providers; creating s. 468.1201,  
30 F.S.; requiring instruction on human  
31 immunodeficiency virus and acquired immune

1           deficiency syndrome as a condition of being  
2           granted a license or certificate to practice  
3           speech-language pathology or audiology;  
4           amending s. 468.1215, F.S.; revising  
5           requirements for certification as a  
6           speech-language pathology or audiology  
7           assistant; conforming a reference; amending s.  
8           468.1245, F.S.; revising language relating to  
9           certain complaints concerning hearing aids;  
10          amending s. 468.1295, F.S.; revising and  
11          providing grounds for disciplinary action;  
12          revising and providing penalties; creating s.  
13          468.1296, F.S.; prohibiting sexual misconduct  
14          in the practice of speech-language pathology  
15          and audiology, for which there are penalties;  
16          amending s. 468.1655, F.S.; updating the  
17          definition of "department"; amending s.  
18          468.1695, F.S.; reducing the number of times a  
19          year the examination for licensure as a nursing  
20          home administrator must be given; amending s.  
21          468.203, F.S.; revising definitions applicable  
22          to regulation of occupational therapy; amending  
23          s. 468.205, F.S.; replacing the Occupational  
24          Therapy Council with a Board of Occupational  
25          Therapy Practice; providing for qualifications,  
26          appointments, and terms of board members;  
27          providing for the filling of vacancies on the  
28          board; amending s. 468.209, F.S.; revising  
29          educational requirements for licensure as an  
30          occupational therapist or occupational therapy  
31          assistant; providing for licensure of certain



1 applicants without meeting such educational  
2 requirements; providing for certain temporary  
3 permits; requiring documentation of continuing  
4 education for certain applicants; amending s.  
5 468.211, F.S.; providing a restriction on the  
6 number of times an applicant may fail the  
7 examination and requiring remediation after a  
8 certain number; amending s. 468.213, F.S.;  
9 revising requirements for licensure by  
10 endorsement; amending s. 468.225, F.S.;  
11 providing exemptions from regulation of  
12 occupational therapy; amending ss. 468.351,  
13 468.352, 468.354, 468.355, 468.356, 468.357,  
14 468.358, 468.359, 468.36, 468.361, 468.363,  
15 468.364, 468.365, 468.366, and 468.368, F.S.,  
16 and transferring and amending s. 468.362, F.S.;  
17 providing for licensure of respiratory care  
18 practitioners and respiratory therapists;  
19 eliminating references to certification and  
20 registration; updating the definition of  
21 "department"; revising terminology; revising  
22 approval of educational programs; eliminating  
23 annual continuing education requirements for  
24 certain persons; providing penalties; amending  
25 s. 478.42, F.S.; updating the definition of  
26 "department"; amending s. 478.45, F.S.;  
27 revising requirements for licensure as an  
28 electrologist; amending s. 478.46, F.S.;  
29 revising requirements relating to issuance of  
30 temporary permits; correcting a cross reference  
31 and terminology; amending s. 478.47, F.S.;

1           revising requirements for licensure by  
2           endorsement; amending s. 478.52, F.S.;  
3           prohibiting the operation of unlicensed  
4           electrolysis facilities; providing penalties;  
5           amending s. 480.033, F.S.; revising the  
6           definition of "board"; updating the definition  
7           of "department"; amending s. 480.034, F.S.;  
8           eliminating an exemption from regulation  
9           applicable to certain skin treatments and  
10          weight-loss programs; amending s. 480.035,  
11          F.S.; renaming the Board of Massage as the  
12          Board of Massage Therapy; amending s. 480.041,  
13          F.S.; eliminating provisional licensure to  
14          practice massage therapy; amending s. 480.0415,  
15          F.S.; authorizing an increase in the number of  
16          classroom hours of continuing education that  
17          may be required for renewal of a license to  
18          practice massage therapy; amending s. 480.042,  
19          F.S.; revising what examinations must measure;  
20          repealing s. 480.0425, F.S., relating to  
21          inactive status; amending s. 480.043, F.S.;  
22          revising provisions relating to the transfer of  
23          licenses; amending s. 480.044, F.S.; revising  
24          provisions relating to fees; amending s.  
25          480.047, F.S.; prohibiting the practice of  
26          massage therapy without a license unless  
27          exempted from licensure; creating s. 480.0485,  
28          F.S.; prohibiting sexual misconduct in the  
29          practice of massage therapy, for which there  
30          are disciplinary actions; amending s. 20.43,  
31          F.S., relating to the Department of Health;

1 conforming terminology; updating a reference;  
2 amending s. 381.81, F.S., to conform; amending  
3 s. 483.800, F.S.; revising policy and purpose  
4 relating to regulation of clinical laboratory  
5 personnel; amending s. 483.801, F.S.; providing  
6 a regulatory exemption relating to advanced  
7 registered nurse practitioners; amending s.  
8 483.803, F.S.; updating the definition of  
9 "department"; providing definitions; amending  
10 s. 483.809, F.S.; revising licensing  
11 provisions; authorizing an alternative  
12 examination for public health laboratory  
13 scientists; creating s. 483.812, F.S.;  
14 providing for licensure of public health  
15 laboratory scientists; amending s. 483.813,  
16 F.S.; extending the period of a temporary  
17 license for clinical laboratory personnel;  
18 providing a period for a conditional license;  
19 amending s. 483.823, F.S.; revising provisions  
20 relating to qualifications of clinical  
21 laboratory personnel; amending s. 483.825,  
22 F.S.; revising and providing grounds for  
23 disciplinary action; providing penalties;  
24 creating s. 483.828, F.S.; providing penalties  
25 for specified violations; amending s. 483.901,  
26 F.S., the "Florida Medical Physicists Act";  
27 providing that the Advisory Council of Medical  
28 Physicists is an advisory rather than a  
29 regulatory body; increasing the number and  
30 terms of council members; clarifying initial  
31 and other appointment provisions; revising

1 provisions relating to council meetings;  
2 revising licensure requirements; clarifying  
3 that the required continuing education hours  
4 are to be satisfied biennially and that the  
5 organizations providing such education must be  
6 approved by the Department of Health; revising  
7 and providing grounds for disciplinary action;  
8 revising and providing criminal acts; providing  
9 an administrative fine; providing penalties;  
10 eliminating a provision authorizing a licensure  
11 exception; amending s. 484.041, F.S.; updating  
12 the definition of "department"; amending s.  
13 484.042, F.S.; updating a reference, to  
14 conform; amending s. 484.051, F.S.; updating a  
15 reference, to conform; amending s. 486.021,  
16 F.S.; updating the definition of "department";  
17 amending s. 486.023, F.S.; increasing the  
18 membership of the Board of Physical Therapy  
19 Practice; amending ss. 486.031 and 486.081,  
20 F.S.; providing an alternative licensure  
21 examination; revising accreditation provisions  
22 relating to licensure as a physical therapist;  
23 amending s. 486.041, F.S.; revising provisions  
24 relating to applying for a license as a  
25 physical therapist and to the fee therefor;  
26 amending s. 486.051, F.S.; revising provisions  
27 relating to examination of applicants for  
28 licensure as a physical therapist; amending s.  
29 486.102, F.S.; revising accreditation  
30 provisions relating to licensure as a physical  
31 therapist assistant; amending s. 486.103, F.S.;

1           revising provisions relating to applying for a  
2           license as a physical therapist assistant and  
3           to the fee therefor; amending s. 486.104, F.S.;  
4           revising provisions relating to examination of  
5           applicants for licensure as a physical  
6           therapist assistant; creating s. 486.123, F.S.;  
7           prohibiting sexual misconduct in the practice  
8           of physical therapy, for which there are  
9           disciplinary actions; amending s. 486.125,  
10          F.S.; providing for recovery of the actual  
11          costs of investigation and prosecution;  
12          amending s. 641.495, F.S.; requiring a health  
13          maintenance organization to designate as  
14          medical director a state-licensed physician or  
15          osteopathic physician; providing an effective  
16          date.

17

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

19

20           Section 1. Paragraph (a) of subsection (1), subsection  
21          (4), and paragraph (g) of subsection (8) of section 402.48,  
22          Florida Statutes, 1996 Supplement, are amended to read:

23           402.48 Health care services pools.--

24           (1) As used in this section, the term:

25           (a) "Department" means the Department of Health  
26          ~~Business and Professional Regulation.~~

27           (4) Each registration shall be for a period of 2 years  
28          ~~1 year~~. A new registration is required upon the sale of a  
29          controlling interest in a health care services pool.

30           (8)

31

1 (g) Meeting the financial responsibility requirements  
2 of this section must be established at the time of issuance or  
3 renewal of a certificate of registration ~~on or after January~~  
4 ~~1, 1991~~.

5 Section 2. Section 457.102, Florida Statutes, is  
6 amended to read:

7 457.102 Definitions.--As used in this chapter:

8 (1) "Acupuncture" means a form of primary health care,  
9 based on traditional Chinese medical concepts, that employs  
10 acupuncture diagnosis and treatment, as well as adjunctive  
11 therapies and diagnostic techniques, for the promotion,  
12 maintenance, and restoration of health and the prevention of  
13 disease. Acupuncture shall include, but not be limited to, the  
14 insertion of acupuncture needles and the application of  
15 moxibustion to specific areas of the human body.

16 (2) "Acupuncturist" means any person licensed  
17 ~~certified~~ as provided in this chapter to practice acupuncture  
18 as a primary health care provider.

19 (3) "Board" means the Board of Acupuncture.

20 (4) "License Certificate" means the document of  
21 authorization issued by the department for a person to engage  
22 in the practice of acupuncture.

23 (5) "Department" means the Department of Health  
24 ~~Business and Professional Regulation~~.

25 Section 3. Subsection (1) of section 457.103, Florida  
26 Statutes, is amended to read:

27 457.103 Board of Acupuncture; membership; appointment  
28 and terms.--

29 (1) The Board of Acupuncture is created within the  
30 department and shall consist of five members, to be appointed  
31 by the Governor and confirmed by the Senate. Three members of

1 the board must be licensed ~~certified~~ Florida acupuncturists.  
2 Two members must be laypersons who are not and who have never  
3 been acupuncturists or members of any closely related  
4 profession. Members shall be appointed for 4-year terms or for  
5 the remainder of the unexpired term of a vacancy.

6 Section 4. Section 457.105, Florida Statutes, is  
7 amended to read:

8 457.105 Licensure ~~Certification~~ qualifications and  
9 fees.--

10 (1) It is unlawful for any person to practice  
11 acupuncture in this state unless such person has been licensed  
12 ~~certified~~ by the board, is in a board-approved ~~tutorial~~  
13 ~~program or~~ course of study, or is otherwise exempted by this  
14 chapter.

15 (2) A person may become licensed ~~certified~~ to practice  
16 acupuncture if the person applies to the department and  
17 ~~applicant:~~

18 (a) Is 18 years of age or older ~~and meets one of the~~  
19 ~~following criteria:~~

- 20 1. ~~He is a citizen of the United States;~~  
21 2. ~~He is a permanent resident of the United States; or~~  
22 3. ~~He is a legal alien who has resided in the United~~  
23 ~~States for 6 months immediately prior to qualifying for~~  
24 ~~examination;~~

25 (b) Has completed 60 college credits from an  
26 accredited postsecondary institution as a prerequisite to  
27 enrollment in an authorized 3-year course of study in  
28 acupuncture, and has completed a 3-year course of study in  
29 acupuncture, and effective July 31, 2001, a 4-year course of  
30 study in acupuncture, which meets standards established by the  
31 board by rule, which standards include successful completion

1 of academic courses in western anatomy, western physiology,  
2 western pathology, and western biomedical terminology.

3 However, any person who enrolled in an authorized course of  
4 study in acupuncture before August 1, 1997, must have  
5 completed only the following:

6 ~~1.~~ a 2-year course of study which meets standards  
7 established by the board by rule, which standards must ~~shall~~  
8 include, but are not limited to, successful completion of  
9 academic courses in western anatomy, western physiology, and  
10 western pathology;

11 ~~2.~~ ~~A 2-year tutorial program which meets standards~~  
12 ~~established by the board by rule, which standards shall~~  
13 ~~include, but are not limited to, successful completion of~~  
14 ~~academic courses in western anatomy, western physiology, and~~  
15 ~~western pathology. Prior to entrance in a tutorial program, an~~  
16 ~~individual shall have been approved by the board, registered~~  
17 ~~with the department, and paid a registration fee not to exceed~~  
18 ~~\$200 as set by rule of the board. Such tutorial program shall~~  
19 ~~be of a continuous nature for not less than 2 years under the~~  
20 ~~supervision of an acupuncturist certified under this chapter~~  
21 ~~and shall have commenced after October 1, 1986. A person~~  
22 ~~enrolled in a tutorial program approved by the board prior to~~  
23 ~~October 1, 1986, may complete that program to meet the~~  
24 ~~requirement for such training; or~~

25 ~~3.~~ ~~At least 5 years of experience as an acupuncturist~~  
26 ~~pursuant to standards and criteria established by board rule;~~

27 (c) Has successfully completed a board-approved  
28 national certification process, is actively licensed in a  
29 state that which has examination requirements that are  
30 substantially equivalent to or more stringent than those of  
31 this state, or passes an examination administered by the



1 department, which examination tests the applicant's competency  
2 and knowledge of the practice of acupuncture. At the request  
3 of any applicant, oriental nomenclature for the points shall  
4 be used in the examination. The examination shall include a  
5 practical examination of the knowledge and skills required to  
6 practice acupuncture, covering diagnostic and treatment  
7 techniques and procedures; and

8 (d) Pays the required fees set by the board by rule  
9 not to exceed the following amounts:

10 1. Examination fee: \$500~~\$1,000~~ plus the actual per  
11 applicant cost to the department for purchase of the written  
12 and practical portions of the examination from ~~the National~~  
13 ~~Commission for the Certification of Acupuncturists~~ or a  
14 ~~similar~~ national organization approved by the board.

15 2. Application fee: \$300~~\$750~~.

16 3. Reexamination fee: \$500~~\$1,000~~ plus the actual per  
17 applicant cost to the department for purchase of the written  
18 and practical portions of the examination from ~~the National~~  
19 ~~Commission for the Certification of Acupuncturists~~ or a  
20 ~~similar~~ national organization approved by the board.

21 4. Initial biennial licensure certification fee:  
22 \$400, if licensed in the first half of the biennium, and \$200,  
23 if licensed in the second half of the biennium~~\$2,000~~.

24 Section 5. Section 457.107, Florida Statutes, is  
25 amended to read:

26 457.107 Renewal of licenses ~~certificates~~; continuing  
27 education.--

28 (1) The department shall renew a license ~~certificate~~  
29 upon receipt of the renewal application and the fee set by the  
30 board by rule, not to exceed \$700~~\$1,000~~.

31

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

3           (3) The board shall by rule prescribe continuing  
4 education requirements, not to exceed 30 hours biennially, as  
5 a condition for renewal of a license ~~certificate~~. The criteria  
6 for such programs or courses shall be approved by the board.  
7 In order to meet continuing education requirements, prior  
8 approval by the board of such programs or courses is required.  
9 All education programs that contribute to the advancement,  
10 extension, or enhancement of professional skills and knowledge  
11 related to the practice of acupuncture, whether conducted by a  
12 nonprofit or profitmaking entity, are eligible for approval.  
13 The board shall have the authority to set a fee, not to exceed  
14 \$100, for each continuing education provider or program  
15 submitted for approval.

16           Section 6. Section 457.108, Florida Statutes, is  
17 amended to read:

18           457.108 Inactive status; expiration; reactivation of  
19 licenses ~~certificates~~.--

20           (1) A license ~~certificate~~ that has become inactive may  
21 be reactivated under this section upon application to the  
22 department. The board shall prescribe by rule continuing  
23 education requirements as a condition of reactivating a  
24 license ~~certificate~~. The continuing education requirements for  
25 reactivating a license ~~certificate~~ must not exceed 10  
26 classroom hours for each year the license ~~certificate~~ was  
27 inactive, in addition to completion of the number of hours  
28 required for renewal on the date the license ~~certificate~~  
29 became inactive.

30           (2) The board shall adopt rules relating to  
31 application procedures for inactive status, renewal of

1 inactive licenses ~~certificates~~, and reactivation of licenses  
2 ~~certificates~~. The board shall prescribe by rule an application  
3 fee for inactive status, a renewal fee for inactive status, a  
4 delinquency fee, and a fee for the reactivation of a license  
5 ~~certificate~~. None of these fees may exceed the biennial  
6 renewal fee established by the board for an active license  
7 ~~certificate~~.

8 (3) The department shall not reactivate a license  
9 ~~certificate~~ unless the inactive or delinquent licensee  
10 ~~certificateholder~~ has paid any applicable biennial renewal or  
11 delinquency fee, or both, and a reactivation fee.

12 Section 7. Section 457.1085, Florida Statutes, is  
13 amended to read:

14 457.1085 Infection control.--Prior to November 1,  
15 1986, the board shall adopt rules relating to the prevention  
16 of infection, ~~the sterilization of needles and other equipment~~  
17 ~~or materials capable of transmitting possible infection,~~the  
18 safe disposal of any potentially infectious materials, and  
19 other requirements to protect the health, safety, and welfare  
20 of the public. Beginning October 1, 1997, all acupuncture  
21 needles that are to be used on a patient must be sterile and  
22 disposable, and each needle may be used only once. ~~Acupuncture~~  
23 ~~needles shall be thoroughly cleansed with an antiseptic~~  
24 ~~solution and hot water prior to sterilization by autoclave.~~  
25 ~~Presterilized, prewrapped, disposable needles may be used.~~

26 Section 8. Section 457.109, Florida Statutes, is  
27 amended to read:

28 457.109 Disciplinary actions; grounds; action by the  
29 board.--

30  
31

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

4           (a) Attempting to obtain, obtaining, or renewing a  
5 license ~~certificate~~ to practice acupuncture by bribery, by  
6 fraudulent misrepresentations, or through an error of the  
7 department.

8           (b) Having a license ~~certificate~~ to practice  
9 acupuncture revoked, suspended, or otherwise acted against,  
10 including the denial of licensure ~~certification~~, by the  
11 licensing authority of another state, territory, or country.

12           (c) Being convicted or found guilty, regardless of  
13 adjudication, in any jurisdiction of a crime which directly  
14 relates to the practice of acupuncture or to the ability to  
15 practice acupuncture. Any plea of nolo contendere shall be  
16 considered a conviction for purposes of this chapter.

17           (d) False, deceptive, or misleading advertising or  
18 advertising which claims that acupuncture is useful in curing  
19 any disease.

20           (e) Advertising, practicing, or attempting to practice  
21 under a name other than one's own.

22           (f) Failing to report to the department any person who  
23 the licensee ~~certificateholder~~ knows is in violation of this  
24 chapter or of the rules of the department.

25           (g) Aiding, assisting, procuring, employing, or  
26 advising any unlicensed ~~uncertified~~ person to practice  
27 acupuncture contrary to this chapter or to a rule of the  
28 department.

29           (h) Failing to perform any statutory or legal  
30 obligation placed upon a licensed ~~certified~~ acupuncturist.

31

1           (i) Making or filing a report which the licensee  
2 ~~certificateholder~~ knows to be false, intentionally or  
3 negligently failing to file a report or record required by  
4 state or federal law, willfully impeding or obstructing such  
5 filing or inducing another person to do so. Such reports or  
6 records shall include only those which are signed in the  
7 capacity as a licensed ~~certified~~ acupuncturist.

8           (j) Exercising influence within a  
9 patient-acupuncturist relationship for purposes of engaging a  
10 patient in sexual activity. A patient shall be presumed to be  
11 incapable of giving free, full, and informed consent to sexual  
12 activity with his acupuncturist.

13           (k) Making deceptive, untrue, or fraudulent  
14 representations in the practice of acupuncture or employing a  
15 trick or scheme in the practice of acupuncture when such  
16 scheme or trick fails to conform to the generally prevailing  
17 standards of treatment in the community.

18           (l) Soliciting patients, either personally or through  
19 an agent, through the use of fraud, intimidation, undue  
20 influence, or a form of overreaching or vexatious conduct. A  
21 solicitation is any communication which directly or implicitly  
22 requests an immediate oral response from the recipient.

23           (m) Failing to keep written medical records justifying  
24 the course of treatment of the patient.

25           (n) Exercising influence on the patient to exploit the  
26 patient for the financial gain of the licensee  
27 ~~certificateholder~~ or of a third party.

28           (o) Being unable to practice acupuncture with  
29 reasonable skill and safety to patients by reason of illness  
30 or use of alcohol, drugs, narcotics, chemicals, or any other  
31 type of material or as a result of any mental or physical

1 condition. In enforcing this paragraph, upon a finding of the  
2 secretary or his designee that probable cause exists to  
3 believe that the licensee ~~certificateholder~~ is unable to serve  
4 as an acupuncturist due to the reasons stated in this  
5 paragraph, the department shall have the authority to issue an  
6 order to compel the licensee ~~certificateholder~~ to submit to a  
7 mental or physical examination by a physician designated by  
8 the department. If the licensee ~~certificateholder~~ refuses to  
9 comply with such order, the department's order directing such  
10 examination may be enforced by filing a petition for  
11 enforcement in the circuit court where the licensee  
12 ~~certificateholder~~ resides or serves as an acupuncturist. The  
13 licensee ~~certificateholder~~ against whom the petition is filed  
14 shall not be named or identified by initials in any public  
15 court record or document, and the proceedings shall be closed  
16 to the public. The department shall be entitled to the summary  
17 procedure provided in s. 51.011. An acupuncturist affected  
18 under this paragraph shall at reasonable intervals be afforded  
19 an opportunity to demonstrate that he can resume the competent  
20 practice of acupuncture with reasonable skill and safety to  
21 patients. In any proceeding under this paragraph, neither the  
22 record of proceedings nor the orders entered by the department  
23 shall be used against an acupuncturist in any other  
24 proceeding.

25 (p) Gross or repeated malpractice or the failure to  
26 practice acupuncture with that level of care, skill, and  
27 treatment which is recognized by a reasonably prudent similar  
28 acupuncturist as being acceptable under similar conditions and  
29 circumstances.

30 (q) Practicing or offering to practice beyond the  
31 scope permitted by law or accepting and performing

1 professional responsibilities which the licensee  
2 ~~certificateholder~~ knows or has reason to know that he is not  
3 competent to perform.

4 (r) Delegating professional responsibilities to a  
5 person when the licensee ~~certificateholder~~ delegating such  
6 responsibilities knows or has reason to know that such person  
7 is not qualified by training, experience, or licensure  
8 ~~certification~~ to perform them.

9 (s) Violating any provision of this chapter, a rule of  
10 the department, or a lawful order of the department previously  
11 entered in a disciplinary hearing or failing to comply with a  
12 lawfully issued subpoena of the department.

13 (t) Conspiring with another to commit an act, or  
14 committing an act, which would tend to coerce, intimidate, or  
15 preclude another licensee ~~certificateholder~~ from lawfully  
16 advertising his services.

17 (u) Fraud or deceit or gross negligence, incompetence,  
18 or misconduct in the operation of a ~~tutorial program or a~~  
19 course of study.

20 (v) Failing to comply with state, county, or municipal  
21 regulations or reporting requirements relating to public  
22 health and the control of contagious and infectious diseases.

23 (w) Failing to comply with any rule of the board  
24 relating to health and safety, including, but not limited to,  
25 the sterilization of needles and equipment and the disposal of  
26 potentially infectious materials.

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

30 (a) Refusal to certify to the department an  
31 application for licensure.

- 1 (b) Revocation or suspension of a license ~~certificate~~.  
2 (c) Restriction of practice.  
3 (d) Imposition of an administrative fine not to exceed  
4 \$1,000 for each count or separate offense.  
5 (e) Issuance of a reprimand.  
6 (f) Placement of the acupuncturist on probation for a  
7 period of time and subject to such conditions as the board may  
8 specify.

9 (3) The department shall not reinstate the license  
10 ~~certificate~~ of an acupuncturist, or cause a license  
11 ~~certificate~~ to be issued to a person it has deemed to be  
12 unqualified, until such time as the board is satisfied that he  
13 has complied with all the terms and conditions set forth in  
14 the final order and that he is capable of safely engaging in  
15 the practice of acupuncture.

16 Section 9. Section 457.116, Florida Statutes, is  
17 amended to read:

18 457.116 Prohibited acts; penalty.--

19 (1) It is unlawful for any person to:

20 (a) Hold himself out as a certified or licensed  
21 acupuncturist unless licensed under this chapter ~~certified as~~  
22 ~~provided herein~~.

23 (b) Practice ~~acupuncture~~ or attempt to practice  
24 acupuncture without an active license ~~certificate~~ or as  
25 ~~otherwise permitted by board rule established under the~~  
26 ~~authority of s. 457.105(2)(b)~~ or as otherwise provided by this  
27 chapter.

28 (c) Obtain or attempt to obtain or obtain a license  
29 ~~certificate~~ to practice acupuncture by fraudulent  
30 misrepresentation.

31



1 (d) Permit an employed person to engage in the  
2 practice of acupuncture unless such person holds an active  
3 license ~~certificate~~ as an acupuncturist, except as otherwise  
4 provided by this chapter.

5 (2) Any person who violates any provision of this  
6 section commits ~~is guilty of~~ a misdemeanor of the second  
7 degree, punishable as provided in s. 775.082 or s. 775.083.

8 Section 10. Subsection (2) of section 458.303, Florida  
9 Statutes, is amended to read:

10 458.303 Provisions not applicable to other  
11 practitioners; exceptions, etc.--

12 (2) Nothing in s. 458.301, s. 458.303, s. 458.305, s.  
13 458.307, s. 458.309, s. 458.311, s. 458.313, s. 458.319, s.  
14 458.321, s. 458.327, s. 458.329, s. 458.331, s. 458.337, s.  
15 458.339, s. 458.341, s. 458.343, s. 458.345, or s. 458.347  
16 shall be construed to prohibit any service rendered by a  
17 ~~physician's trained assistant, a registered nurse, or a~~  
18 licensed practical nurse, if such service is rendered under  
19 the direct supervision and control of a licensed physician who  
20 provides specific direction for any service to be performed  
21 and gives final approval to all services performed. Further,  
22 nothing in this or any other chapter shall be construed to  
23 prohibit any service rendered by a medical assistant  
24 ~~physician's trained assistant~~ in accordance with the  
25 provisions of s. 458.3485 ~~this subsection~~.

26 Section 11. Subsection (2) of section 458.305, Florida  
27 Statutes, is amended to read:

28 458.305 Definitions.--As used in this chapter:

29 (2) "Department" means the Department of Health  
30 ~~Business and Professional Regulation~~.

31

1           Section 12. Subsections (2) and (5) of section  
2 458.307, Florida Statutes, are amended to read:

3           458.307 Board of Medicine.--

4           (2)~~(a)~~ Twelve members of the board must be licensed  
5 physicians in good standing in this state who are residents of  
6 the state and who have been engaged in the active practice or  
7 teaching of medicine for at least 4 years immediately  
8 preceding their appointment. One of the physicians must be on  
9 the full-time faculty of a medical school in this state, and  
10 one of the physicians must be in private practice and on the  
11 full-time staff of a statutory teaching hospital in this state  
12 as defined in s. 408.07. At least one of the physicians must  
13 be a graduate of a foreign medical school. The remaining  
14 three members must be residents of the state who are not, and  
15 never have been, licensed health care practitioners. One  
16 member must be a hospital risk manager certified under part IX  
17 of chapter 626. At least one member of the board must be 60  
18 years of age or older.

19           ~~(b) The board shall establish at least one, but not~~  
20 ~~more than two, probable cause panels to meet the~~  
21 ~~responsibilities set out in s. 455.225(4). Each probable cause~~  
22 ~~panel shall be composed of three members, one of whom shall be~~  
23 ~~a lay member. One physician member may, if provided for in~~  
24 ~~administrative rule, be a past board member who is not~~  
25 ~~currently appointed to the board.~~

26           (5) During the time members are appointed to a  
27 probable cause panel, they shall attempt to complete their  
28 work on every case presented to them. In the event that  
29 consideration of a case is begun but not completed during the  
30 term of those members on the panel, they may reconvene as a  
31 probable cause panel, ~~in addition to the panels established~~

1 ~~under paragraph (2)(b),~~ for the purpose of completing their  
2 deliberations on that case.

3 Section 13. Section 455.206, Florida Statutes, is  
4 amended to read:

5 455.206 Board members.--Notwithstanding any provision  
6 of law to the contrary, any person who otherwise meets the  
7 requirements of law for board membership and who is connected  
8 in any way with any medical college, dental college, or  
9 community college may be appointed to any board so long as  
10 that connection does not result in a relationship wherein such  
11 college represents the person's principal source of income.  
12 However, this section shall not apply to the physicians  
13 required by s. 458.307(2)~~(a)~~ to be on the faculty of a medical  
14 school in this state or on the full-time staff of a teaching  
15 hospital in this state.

16 Section 14. Paragraph (f) of subsection (1) and  
17 subsection (2) of section 458.311, Florida Statutes, 1996  
18 Supplement, are amended, and subsection (10) is added to said  
19 section, to read:

20 458.311 Licensure by examination; requirements;  
21 fees.--

22 (1) Any person desiring to be licensed as a physician  
23 shall apply to the department to take the licensure  
24 examination. The department shall examine each applicant whom  
25 the board certifies:

26 (f) Meets one of the following medical education and  
27 postgraduate training requirements:

28 1.a. Is a graduate of an allopathic medical school or  
29 allopathic college recognized and approved by an accrediting  
30 agency recognized by the United States Office of Education or  
31 is a graduate of an allopathic medical school or allopathic

1 college within a territorial jurisdiction of the United States  
2 recognized by the accrediting agency of the governmental body  
3 of that jurisdiction;

4           b. If the language of instruction of the medical  
5 school is other than English, has demonstrated competency in  
6 English through presentation of a satisfactory grade on the  
7 Test of Spoken English of the Educational Testing Service or a  
8 similar test approved by rule of the board; and

9           c. Has completed an approved residency of at least 1  
10 year.

11           2.a. Is a graduate of a foreign medical school  
12 registered with the World Health Organization and certified  
13 pursuant to s. 458.314 as having met the standards required to  
14 accredit medical schools in the United States or reasonably  
15 comparable standards;

16           b. If the language of instruction of the foreign  
17 medical school is other than English, has demonstrated  
18 competency in English through presentation of the Educational  
19 Commission for ~~on~~ Foreign Medical Graduates English  
20 proficiency certificate or by a satisfactory grade on the Test  
21 of Spoken English of the Educational Testing Service or a  
22 similar test approved by rule of the board; and

23           c. Has completed an approved residency of at least 1  
24 year.

25           3.a. Is a graduate of a foreign medical school which  
26 has not been certified pursuant to s. 458.314;

27           b. Has had his medical credentials evaluated by the  
28 Educational ~~Education~~ Commission for ~~on~~ Foreign Medical  
29 Graduates, holds an active, valid certificate issued by that  
30 commission, and has passed the examination utilized by that  
31 commission; and

1           c. Has completed an approved residency of at least 1  
2 year; however, after October 1, 1992, the applicant shall have  
3 completed an approved residency or fellowship of at least 2 3  
4 years in one specialty area. However, to be acceptable, the  
5 fellowship experience and training must be counted toward  
6 regular or subspecialty certification by a board recognized  
7 and certified by the American Board of Medical Specialties.

8           (2) As prescribed by board rule, the board may require  
9 an applicant who does not pass the licensing examination after  
10 five attempts to complete additional remedial education or  
11 training. The board shall prescribe the additional  
12 requirements in a manner that permits the applicant to  
13 complete the requirements and be reexamined within 2 years  
14 after the date the applicant petitions the board to retake the  
15 examination a sixth or subsequent time. ~~Every applicant who~~  
16 is otherwise qualified may take the licensing examination five  
17 times after October 1, 1986, notwithstanding the number of  
18 times the examination has been previously failed. If an  
19 applicant fails the examination taken after October 1, 1986,  
20 five times, he shall no longer be eligible for licensure.

21           (10) Notwithstanding any other provision of this  
22 section, the department shall examine any person who meets the  
23 criteria set forth in sub-subparagraph (1)(f)1.a.,  
24 sub-subparagraphs (1)(f)3.a. and b., or subsection (3), if the  
25 person:

26           (a) Submits proof of successful completion of Steps I  
27 and II of the United States Medical Licensing Examination or  
28 the equivalent, as defined by rule of the board;

29           (b) Is participating in an allocated slot in an  
30 allopathic training program in this state on a full-time basis  
31 at the time of examination;

1       (c) Makes a written request to the department that he  
2 or she be administered the examination without applying for a  
3 license as a physician in this state; and

4       (d) Remits a nonrefundable administration fee not to  
5 exceed \$50 and an examination fee not to exceed \$300 plus the  
6 actual cost per person to the department for the purchase of  
7 the examination from the Federation of State Medical Boards of  
8 the United States or a similar national organization. The  
9 examination fee is refundable if the person is found to be  
10 ineligible to take the examination.

11           Section 15. Section 458.313, Florida Statutes, 1996  
12 Supplement, is amended to read:

13           458.313 Licensure by endorsement; requirements;  
14 fees.--

15           (1) The department shall issue a license by  
16 endorsement to any applicant who, upon applying to the  
17 department and remitting a fee not to exceed \$500 set by the  
18 board, ~~demonstrates to the board~~ certifies that he:

19           (a) Has met the qualifications for licensure in s.  
20 458.311(1)(b)-(f);

21           (b) Has obtained a passing score, as established by  
22 rule of the board, on the licensure examination of the  
23 Federation of State Medical Boards of the United States, Inc.  
24 (FLEX), or of the United States Medical Licensing Examination  
25 (USMLE), or the examination of the National Board of Medical  
26 Examiners, or on a combination thereof, provided the board  
27 certifies as eligible for licensure by endorsement any  
28 applicant who took the required examinations more than 10  
29 years prior to application ~~that said examination or~~  
30 ~~combination of examinations required shall have been so taken~~

31

1 ~~within the 10 years immediately preceding the filing of his~~  
2 ~~application for licensure under this section; and~~  
3 (c) Has submitted ~~Shows~~ evidence of the active  
4 licensed practice of medicine in another jurisdiction, for at  
5 least 2 of the immediately preceding 4 years, or evidence of  
6 successful completion of either board-approved postgraduate  
7 training, or a board-approved clinical competency examination,  
8 within the year preceding the filing of an application for  
9 licensure. For purposes of this paragraph, "active licensed  
10 practice of medicine" means that practice of medicine by  
11 physicians, including those employed by any governmental  
12 entity in community or public health, as defined by this  
13 chapter, medical directors under s. 641.495(11) who are  
14 practicing medicine, and those on the active teaching faculty  
15 of an accredited medical school.  
16 (2)(a) As prescribed by board rule, the board may  
17 require an applicant who does not pass the licensing  
18 examination after five attempts to complete additional  
19 remedial education or training. The board shall prescribe the  
20 additional requirements in a manner that permits the applicant  
21 to complete the requirements and be reexamined within 2 years  
22 after the date the applicant petitions the board to retake the  
23 examination a sixth or subsequent time. The board may require  
24 oral examinations of any applicant under the provisions of  
25 this section. However, the applicant must be given adequate  
26 notice of the examination, both as to the time, place, nature,  
27 and scope thereof, as well as a statement of the reasons  
28 requiring such examination. Failure to successfully complete  
29 an oral examination, if required by the board, shall result in  
30 revocation of the license.  
31

1           (b) The board may require an applicant for licensure  
2 by endorsement to take and pass the appropriate licensure  
3 examination prior to certifying the applicant as eligible for  
4 licensure.

5           (3) The department and the board shall ensure ~~assure~~  
6 that applicants for licensure by endorsement meet applicable  
7 criteria in this chapter through an investigative process.  
8 When the investigative process is not completed within the  
9 time set out in s. 120.60(1) and the department or board has  
10 reason to believe that the applicant does not meet the  
11 criteria, the secretary or his designee may issue a 90-day  
12 licensure delay which shall be in writing and sufficient to  
13 notify the applicant of the reason for the delay. The  
14 provisions of this subsection shall control over any  
15 conflicting provisions of s. 120.60(1).

16           ~~(4) If the applicant has not actively practiced~~  
17 ~~medicine or been on the active teaching faculty of an~~  
18 ~~accredited medical school within the previous 4 years, the~~  
19 ~~board shall certify the applicant to the department for~~  
20 ~~licensure by endorsement subject to the condition that the~~  
21 ~~applicant work under the supervision of another physician for~~  
22 ~~a period, not to exceed 1 year, as determined by the board~~  
23 ~~based on its determination of the licensee's ability to~~  
24 ~~practice medicine. The supervising physician shall have had~~  
25 ~~no probable cause findings against him within the previous 3~~  
26 ~~years.~~

27           (4)(5) The board may promulgate rules and regulations,  
28 to be applied on a uniform and consistent basis, which may be  
29 necessary to carry out the provisions of this section.

30           (5)(6) Upon certification by the board, the department  
31 shall impose conditions, limitations, or restrictions on a



1 license by endorsement if the applicant is on probation in  
2 another jurisdiction for an act which would constitute a  
3 violation of this chapter.

4 (6)~~(7)~~ The department shall not issue a license by  
5 endorsement to any applicant who is under investigation in any  
6 jurisdiction for an act or offense which would constitute a  
7 violation of this chapter until such time as the investigation  
8 is complete, at which time the provisions of s. 458.331 shall  
9 apply. Furthermore, the department may not issue an  
10 unrestricted license to any individual who has committed any  
11 act or offense in any jurisdiction which would constitute the  
12 basis for disciplining a physician pursuant to s. 458.331.  
13 When the board finds that an individual has committed an act  
14 or offense in any jurisdiction which would constitute the  
15 basis for disciplining a physician pursuant to s. 458.331,  
16 ~~then~~ the board may enter an order imposing one or more of the  
17 terms set forth in subsection(7)~~(8)~~.

18 (7)~~(8)~~ When the board determines that any applicant  
19 for licensure by endorsement has failed to meet, to the  
20 board's satisfaction, each of the appropriate requirements set  
21 forth in this section, it may enter an order requiring one or  
22 more of the following terms:

23 (a) Refusal to certify to the department an  
24 application for licensure, certification, or registration;

25 (b) Certification to the department of an application  
26 for licensure, certification, or registration with  
27 restrictions on the scope of practice of the licensee; or

28 (c) Certification to the department of an application  
29 for licensure, certification, or registration with placement  
30 of the physician on probation for a period of time and subject  
31 to such conditions as the board may specify, including, but

1 not limited to, requiring the physician to submit to  
2 treatment, attend continuing education courses, submit to  
3 reexamination, or work under the supervision of another  
4 physician.

5 (8) The department shall reactivate the license of any  
6 physician whose license has become void by failure to practice  
7 in Florida for a period of 1 year within 3 years after  
8 issuance of the license by endorsement, if the physician was  
9 issued a license by endorsement prior to 1989, has actively  
10 practiced medicine in another state for the last 4 years,  
11 applies for licensure before October 1, 1998, pays the  
12 applicable fees, and otherwise meets any continuing education  
13 requirements for reactivation of the license as determined by  
14 the board.

15 Section 16. Paragraphs (a) and (b) of subsection (1)  
16 of section 458.317, Florida Statutes, are amended to read:

17 458.317 Limited licenses.--

18 (1)(a) Any person desiring to obtain a limited license  
19 shall:

20 1. Submit to the board, with an application and fee  
21 not to exceed \$300, an affidavit stating that he has been  
22 licensed to practice medicine in any jurisdiction in the  
23 United States for at least 10 years ~~and has retired or intends~~  
24 ~~to retire from the practice of medicine~~ and intends to  
25 practice only pursuant to the restrictions of a limited  
26 license granted pursuant to this section. However, a  
27 physician who is not fully retired in all jurisdictions, may  
28 use a limited license only for noncompensated practice. If  
29 the person applying for a limited license submits a notarized  
30 statement from the employing agency or institution stating  
31 that he will not receive ~~monetary~~ compensation for any service

1 involving the practice of medicine, the application fee and  
2 all licensure fees shall be waived. However, any person who  
3 receives a waiver of fees for a limited license shall pay such  
4 fees if the person receives compensation for the practice of  
5 medicine.

6 2. Meet the requirements in s. 458.311(1)(b)-(f) and  
7 (5). If the applicant graduated from medical school prior to  
8 1946, the board or its appropriate committee may accept  
9 military medical training or medical experience as a  
10 substitute for the approved 1-year residency requirement in s.  
11 458.311(1)(f).

12 (b) After approval of an application under this  
13 section, no license shall be issued until the applicant  
14 provides to the board an affidavit that ~~the applicant has in~~  
15 ~~fact retired from the practice of medicine in this or any~~  
16 ~~other jurisdiction in which the applicant holds a license and~~  
17 ~~that~~ there have been no substantial changes in status since  
18 initial application.

19  
20 Nothing herein limits in any way any policy by the board,  
21 otherwise authorized by law, to grant licenses to physicians  
22 duly licensed in other states under conditions less  
23 restrictive than the requirements of this section.

24 Notwithstanding the other provisions of this section, the  
25 board may refuse to authorize a physician otherwise qualified  
26 to practice in the employ of any agency or institution  
27 otherwise qualified if the agency or institution has caused or  
28 permitted violations of the provisions of this chapter which  
29 it knew or should have known were occurring.

30 Section 17. Subsection (1) of section 458.319, Florida  
31 Statutes, is amended to read:

1           458.319 Renewal of license.--

2           (1) The department shall renew a license upon receipt  
3 of the renewal application, evidence that the applicant has  
4 actively practiced medicine or has been on the active teaching  
5 faculty of an accredited medical school for at least 2 years  
6 of the immediately preceding ~~within the previous~~ 4 years, and  
7 a fee not to exceed \$500; provided, however, that if the  
8 licensee is either a resident physician, assistant resident  
9 physician, fellow, house physician, or intern in an approved  
10 postgraduate training program, as defined by the board by  
11 rule, the fee shall not exceed \$100 per annum. If the  
12 licensee has not actively practiced medicine for at least 2  
13 years of the immediately preceding ~~within the previous~~ 4  
14 years, the board shall require that the licensee successfully  
15 complete a board-approved clinical competency examination  
16 prior to renewal of the license. "Actively practiced medicine"  
17 means that practice of medicine by physicians, including those  
18 employed by any governmental entity in community or public  
19 health, as defined by this chapter, including physicians  
20 practicing administrative medicine.

21           Section 18. Paragraphs (a) and (g) of subsection (5)  
22 of section 458.320, Florida Statutes, 1996 Supplement, are  
23 amended to read:

24           458.320 Financial responsibility.--

25           (5) The requirements of subsections (1), (2), and (3)  
26 shall not apply to:

27           (a) Any person licensed under this chapter who  
28 practices medicine exclusively as an officer, employee, or  
29 agent of the Federal Government or of the state or its  
30 agencies or its subdivisions. For the purposes of this  
31 subsection, an agent of the state, its agencies, or its

1 subdivisions is a person who is eligible for coverage under  
2 any self-insurance or insurance program authorized by the  
3 provisions of s. 768.28(15)~~(14)~~.

4 (g) Any person holding an active license under this  
5 chapter who agrees to meet all of the following criteria:

6 1. Upon the entry of an adverse final judgment arising  
7 from a medical malpractice arbitration award, from a claim of  
8 medical malpractice either in contract or tort, or from  
9 noncompliance with the terms of a settlement agreement arising  
10 from a claim of medical malpractice either in contract or  
11 tort, the licensee shall pay the judgment creditor the lesser  
12 of the entire amount of the judgment with all accrued interest  
13 or either \$100,000, if the physician is licensed pursuant to  
14 this chapter but does not maintain hospital staff privileges,  
15 or \$250,000, if the physician is licensed pursuant to this  
16 chapter and maintains hospital staff privileges, within 60  
17 days after the date such judgment became final and subject to  
18 execution, unless otherwise mutually agreed to in writing by  
19 the parties. Such adverse final judgment shall include any  
20 cross-claim, counterclaim, or claim for indemnity or  
21 contribution arising from the claim of medical malpractice.  
22 Upon notification of the existence of an unsatisfied judgment  
23 or payment pursuant to this subparagraph, the department shall  
24 notify the licensee by certified mail that he shall be subject  
25 to disciplinary action unless, within 30 days from the date of  
26 mailing, he either:

27 a. Shows proof that the unsatisfied judgment has been  
28 paid in the amount specified in this subparagraph; or

29 b. Furnishes the department with a copy of a timely  
30 filed notice of appeal and either:

31

1 (I) A copy of a supersedeas bond properly posted in  
2 the amount required by law; or

3 (II) An order from a court of competent jurisdiction  
4 staying execution on the final judgment pending disposition of  
5 the appeal.

6 2. Upon the next meeting of the probable cause panel  
7 of the board following 30 days after the date of mailing the  
8 notice of disciplinary action to the licensee, the panel shall  
9 make a determination of whether probable cause exists to take  
10 disciplinary action against the licensee pursuant to  
11 subparagraph 1.

12 3. If the board determines that the factual  
13 requirements of subparagraph 1. are met, it shall take  
14 disciplinary action as it deems appropriate against the  
15 licensee. Such disciplinary action shall include, at a  
16 minimum, probation of the license with the restriction that  
17 the licensee must make payments to the judgment creditor on a  
18 schedule determined by the board to be reasonable and within  
19 the financial capability of the physician. Notwithstanding any  
20 other disciplinary penalty imposed, the disciplinary penalty  
21 may include suspension of the license for a period not to  
22 exceed 5 years. In the event that an agreement to satisfy a  
23 judgment has been met, the board shall remove any restriction  
24 on the license.

25 4. The licensee has completed a form supplying  
26 necessary information as required by the department.

27

28 A licensee who meets the requirements of this paragraph shall  
29 be required to ~~either~~ post notice in the form of a sign  
30 prominently displayed in the reception area and clearly  
31 noticeable by all patients and ~~or~~ provide a written statement

1 to any person to whom medical services are being provided. A  
2 copy of the written statement shall be given to each patient  
3 to sign, acknowledging receipt thereof, and the signed copy  
4 shall be maintained in the patient's file. If the patient  
5 refuses to sign or is unable to sign the written statement,  
6 the licensee shall so note it on the form. Such sign and ~~or~~  
7 statement shall state ~~that~~: "Under Florida law, physicians  
8 are generally required to carry medical malpractice insurance  
9 or otherwise demonstrate financial responsibility to cover  
10 potential claims for medical malpractice. YOUR DOCTOR HAS  
11 DECIDED NOT TO CARRY MEDICAL MALPRACTICE INSURANCE. This is  
12 permitted under Florida law subject to certain conditions.  
13 Florida law imposes penalties against noninsured physicians  
14 who fail to satisfy adverse judgments arising from claims of  
15 medical malpractice. This notice is provided pursuant to  
16 Florida law."

17 Section 19. Paragraphs (m), (cc), and (ii) of  
18 subsection (1) of section 458.331, Florida Statutes, 1996  
19 Supplement, are amended, and paragraph (ll) is added to said  
20 subsection, to read:

21 458.331 Grounds for disciplinary action; action by the  
22 board and department.--

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

26 (m) Failing to keep legible, as defined by department  
27 rule in consultation with the board,~~written~~ medical records  
28 that identify the licensed physician or the physician extender  
29 and supervising physician by name and professional title who  
30 is or are responsible for rendering, ordering, supervising, or  
31 billing for each diagnostic or treatment procedure and that

1 justify ~~justifying~~ the course of treatment of the patient,  
2 including, but not limited to, patient histories; examination  
3 results; test results; records of drugs prescribed, dispensed,  
4 or administered; and reports of consultations and  
5 hospitalizations.

6 (cc) Prescribing, ordering, dispensing, administering,  
7 supplying, selling, or giving any drug which is a Schedule II  
8 amphetamine or a Schedule II sympathomimetic amine drug or any  
9 compound thereof, pursuant to chapter 893, to or for any  
10 person except for:

11 1. The treatment of narcolepsy; hyperkinesis;  
12 behavioral syndrome ~~in children~~ characterized by the  
13 developmentally inappropriate symptoms of moderate to severe  
14 distractability, short attention span, hyperactivity,  
15 emotional lability, and impulsivity; or drug-induced brain  
16 dysfunction;

17 2. The differential diagnostic psychiatric evaluation  
18 of depression or the treatment of depression shown to be  
19 refractory to other therapeutic modalities; or

20 3. The clinical investigation of the effects of such  
21 drugs or compounds when an investigative protocol therefor is  
22 submitted to, reviewed, and approved by the board before such  
23 investigation is begun.

24 (ii) Failing to report to the department ~~Division of~~  
25 ~~Medical Quality Assurance~~ any licensee ~~physician licensed~~  
26 under this chapter or ~~osteopathic physician licensed~~ under  
27 chapter 459 who the physician or physician assistant knows has  
28 violated the grounds for disciplinary action set out in the  
29 law under which that person ~~physician or osteopathic physician~~  
30 is licensed and who provides health care services in a  
31 facility licensed under chapter 395, or a health maintenance



1 organization certificated under part I of chapter 641, in  
2 which the physician or physician assistant also provides  
3 services.

4 (11) Advertising or holding oneself out as a  
5 board-certified specialist, if not qualified under s.  
6 458.3312, in violation of this chapter.

7 Section 20. Section 458.3312, Florida Statutes, is  
8 created to read:

9 458.3312 Specialties.--A physician licensed under this  
10 chapter may not hold himself or herself out as a  
11 board-certified specialist unless the physician has received  
12 formal recognition as a specialist from a specialty board of  
13 the American Board of Medical Specialties or other recognizing  
14 agency approved by the board. However, a physician may  
15 indicate the services offered and may state that his or her  
16 practice is limited to one or more types of services when this  
17 accurately reflects the scope of practice of the physician.

18 Section 21. Section 458.345, Florida Statutes, is  
19 amended to read:

20 458.345 Registration of resident physicians, interns,  
21 and fellows; list of hospital employees; prescribing of  
22 medicinal drugs and controlled substances;penalty.--

23 (1) Any person desiring to practice as a resident  
24 physician, assistant resident physician, house physician,  
25 intern, or fellow in fellowship training which leads to  
26 subspecialty board certification in this state who does not  
27 hold a valid, active license issued under this chapter shall  
28 apply to the department to be registered and shall remit a fee  
29 not to exceed \$300 as set by the board. The department shall  
30 register any applicant the board certifies has met the  
31 following requirements:

1 (a) Is at least 21 years of age.

2 (b) Has not committed any act or offense within or  
3 without the state which would constitute the basis for refusal  
4 to certify an application for licensure pursuant to s.  
5 458.331.

6 (c) Is a graduate of a medical school or college as  
7 specified in s. 458.311(1)(f).

8 (2) The board shall not certify to the department for  
9 registration any applicant who is under investigation in any  
10 state or jurisdiction for an act which would constitute the  
11 basis for imposing a disciplinary penalty specified in s.  
12 458.331(2)(b) until such time as the investigation is  
13 completed, at which time the provisions of s. 458.331 shall  
14 apply.

15 (3) Every hospital employing or utilizing the services  
16 of a resident physician, assistant resident physician, house  
17 physician, intern, or fellow in fellowship training which  
18 leads to subspecialty board certification shall designate a  
19 person who shall, on January 1 and July 1 of each year,  
20 furnish the department with a list of the hospital's ~~its~~  
21 employees and such other information as the board may direct.  
22 The chief executive officer of each such hospital shall  
23 provide the executive director of the board with the name,  
24 title, and address of the person responsible for furnishing  
25 such reports.

26 (4) Registration under this section shall  
27 automatically expire after 2 years without further action by  
28 the board or the department unless an application for renewal  
29 is approved by the board. No person registered under this  
30 section may be employed or utilized as a house physician or  
31 act as a resident physician, an assistant resident physician,

1 an intern, or a fellow in fellowship training which leads to a  
2 subspecialty board certification in a hospital of this state  
3 for more than 2 years without a valid, active license or  
4 renewal of registration under this section. Requirements for  
5 renewal of registration shall be established by rule of the  
6 board. An application fee not to exceed \$300 as set by the  
7 board shall accompany the application for renewal, except that  
8 resident physicians, assistant resident physicians, interns,  
9 and fellows in fellowship training which leads to subspecialty  
10 board certification shall be exempt from payment of any  
11 renewal fees.

12 (5) Notwithstanding any provision of this section or  
13 s. 120.52 to the contrary, any person who is registered under  
14 this section is subject to the provisions of s. 458.331.

15 (6) A resident physician, assistant resident  
16 physician, house physician, intern, or fellow may prescribe  
17 medicinal drugs and controlled substances under the following  
18 circumstances:

19 (a) Such person is employed in a hospital and the  
20 hospital specifically grants such person controlled substance  
21 prescriptive authority;

22 (b) Such person is engaged in an accredited training  
23 program;

24 (c) Such person prescribes only in the normal course  
25 of his or her employment;

26 (d) Such person is the holder of a prescriber number  
27 issued by the hospital and the prescription involved has that  
28 number printed thereon;

29 (e) Internal control code numbers are issued to each  
30 such person who is granted prescriptive authority under this  
31 subsection; and

1           (f) Third-party payment procedures can accommodate the  
2 required numbering system which includes control codes.

3           ~~(7)(5)~~ Any person willfully violating this section  
4 commits a misdemeanor of the first degree, punishable as  
5 provided in s. 775.082 or s. 775.083.

6           Section 22. Subsection (2) of section 458.346, Florida  
7 Statutes, is amended to read:

8           458.346 Public Sector Physician Advisory Committee.--

9           (2) PUBLIC SECTOR PHYSICIAN ADVISORY COMMITTEE.--There  
10 is hereby created a Public Sector Physician Advisory Committee  
11 which shall be comprised of three physicians. One physician  
12 shall be appointed by the chair ~~chairman~~ of the Board of  
13 Medicine. The two remaining physicians shall be appointed by  
14 the secretary of the department from recommendations of the  
15 appropriate organization, if any, representing such physicians  
16 for the purpose of collective bargaining. The chair ~~chairman~~  
17 of the committee shall be one of the two public sector  
18 physicians who shall be elected by majority vote of the  
19 committee members. Members of the committee shall serve  
20 3-year terms and shall meet at least once each year or upon  
21 the call of the committee chair ~~on a quarterly basis~~. The  
22 initial term for one public sector physician shall be for 2  
23 years, and the other for 3 years. Members of the committee  
24 are subject to reappointment. Committee members shall receive  
25 reimbursement for per diem and travel expenses.

26           Section 23. Section 458.347, Florida Statutes, 1996  
27 Supplement, is amended to read:

28           458.347 Physician assistants.--

29           (1) LEGISLATIVE INTENT.--

30           (a) The purpose of this section is to encourage more  
31 effective utilization of the skills of physicians or groups of

1 physicians by enabling them to delegate health care tasks to  
2 qualified assistants when such delegation is consistent with  
3 the patient's health and welfare.

4 (b) In order that maximum skills may be obtained  
5 within a minimum time period of education, a physician  
6 assistant shall be specialized to the extent that he can  
7 operate efficiently and effectively in the specialty areas in  
8 which he has been trained or is experienced.

9 (c) The purpose of this section is to encourage the  
10 utilization of physician assistants by physicians and to allow  
11 for innovative development of programs for the education of  
12 physician assistants.

13 (2) DEFINITIONS.--As used in this section:

14 ~~(a) "Agency" means the Agency for Health Care~~  
15 ~~Administration.~~

16 (a)~~(b)~~ "Approved program" means a program, formally  
17 approved by the boards, for the education of physician  
18 assistants.

19 (b)~~(c)~~ "Boards" means the Board of Medicine and the  
20 Board of Osteopathic Medicine.

21 (c)~~(d)~~ "Council" means the Council on Physician  
22 Assistants.

23 (d)~~(e)~~ "Trainee" means a person who is currently  
24 enrolled in an approved program.

25 (e)~~(f)~~ "Physician assistant" means a person who is a  
26 graduate of an approved program or its equivalent or meets  
27 standards approved by the boards and is certified to perform  
28 medical services delegated by the supervising physician.

29 (f)~~(g)~~ "Supervision" means responsible supervision and  
30 control. Except in cases of emergency, supervision requires  
31 the easy availability or physical presence of the licensed

1 physician for consultation and direction of the actions of the  
2 physician assistant. For the purposes of this definition, the  
3 term "easy availability" includes the ability to communicate  
4 by way of telecommunication. The boards shall establish rules  
5 as to what constitutes responsible supervision of the  
6 physician assistant.

7 (g)~~(h)~~ "Proficiency examination" means an entry-level  
8 examination approved by the boards, including, but not limited  
9 to, those examinations administered by the National Commission  
10 on Certification of Physician Assistants.

11 (h)~~(i)~~ "Continuing medical education" means courses  
12 recognized and approved by the boards, the American Academy of  
13 Physician Assistants, the American Medical Association, the  
14 American Osteopathic Association, or the Accreditation Council  
15 on Continuing Medical Education.

16 (3) PERFORMANCE OF SUPERVISING PHYSICIAN.--Each  
17 physician or group of physicians supervising a certified  
18 physician assistant must be qualified in the medical areas in  
19 which the physician assistant is to perform and shall be  
20 individually or collectively responsible and liable for the  
21 performance and the acts and omissions of the physician  
22 assistant. A physician may not supervise more than four  
23 currently certified physician assistants at any one time.

24 (4) PERFORMANCE OF PHYSICIAN ASSISTANTS.--

25 (a) The boards shall adopt, by rule, the general  
26 principles that supervising physicians must use in developing  
27 the scope of practice of a physician assistant under direct  
28 supervision and under indirect supervision. These principles  
29 shall recognize the diversity of both specialty and practice  
30 settings in which physician assistants are used.

31

1 (b) This chapter does not prevent third-party payors  
2 from reimbursing employers of physician assistants for covered  
3 services rendered by certified physician assistants.

4 (c) Certified physician assistants may not be denied  
5 clinical hospital privileges, except for cause, so long as the  
6 supervising physician is a staff member in good standing.

7 (d) A supervisory physician may delegate to a  
8 certified physician assistant, pursuant to a written protocol,  
9 the authority to act according to s. 154.04(1)(c)(~~d~~). Such  
10 delegated authority is limited to the supervising physician's  
11 practice in connection with a county public health department  
12 ~~unit~~ as defined and established pursuant to chapter 154. The  
13 boards shall adopt rules governing the supervision of  
14 physician assistants by physicians in county public health  
15 departments ~~units~~.

16 (e) A supervisory physician may delegate to a fully  
17 certified physician assistant the authority to prescribe any  
18 medication used in the supervisory physician's practice if  
19 such medication is listed on the formulary created pursuant to  
20 paragraph (f). A fully certified physician assistant may only  
21 prescribe such medication under the following circumstances:

22 1. A physician assistant must clearly identify to the  
23 patient that he is a physician assistant. Furthermore, the  
24 physician assistant must inform the patient that the patient  
25 has the right to see the physician prior to any prescription  
26 being prescribed by the physician assistant.

27 2. The supervisory physician must notify the  
28 department ~~agency~~ of his intent to delegate, on a  
29 department-approved ~~an agency-approved~~ form, before delegating  
30 such authority and with each certification renewal application  
31 filed by the physician assistant.

1           3. The physician assistant must file with the  
2 department ~~agency~~, before commencing to prescribe, evidence  
3 that he has completed a continuing medical education course of  
4 at least 3 classroom hours in prescriptive practice, conducted  
5 by an accredited program approved by the boards, which course  
6 covers the limitations, responsibilities, and privileges  
7 involved in prescribing medicinal drugs, or evidence that he  
8 has received education comparable to the continuing education  
9 course as part of an accredited physician assistant training  
10 program.

11           4. The physician assistant must file with the  
12 department ~~agency~~, before commencing to prescribe, evidence  
13 that the physician assistant has a minimum of 3 months of  
14 clinical experience in the specialty area of the supervising  
15 physician.

16           5. The physician assistant must file with the  
17 department ~~agency~~ a signed affidavit that he has completed a  
18 minimum of 10 continuing medical education hours in the  
19 specialty practice in which the physician assistant has  
20 prescriptive privileges with each certification renewal  
21 application.

22           6. The department ~~agency~~ shall issue certification and  
23 a prescriber number to the physician assistant granting  
24 authority for the prescribing of medicinal drugs authorized  
25 within this paragraph upon completion of the foregoing  
26 requirements.

27           7. The prescription must be written in a form that  
28 complies with chapter 499 and must contain, in addition to the  
29 supervisory physician's name, address, and telephone number,  
30 the physician assistant's prescriber number. The prescription  
31 must be filled in a pharmacy permitted under chapter 465 and



1 must be dispensed in that pharmacy by a pharmacist licensed  
2 under chapter 465. The appearance of the prescriber number  
3 creates a presumption that the physician assistant is  
4 authorized to prescribe the medicinal drug and the  
5 prescription is valid.

6           8. The physician assistant must note the prescription  
7 in the appropriate medical record, and the supervisory  
8 physician must review and sign each notation. For dispensing  
9 purposes only, the failure of the supervisory physician to  
10 comply with these requirements does not affect the validity of  
11 the prescription.

12           9. This paragraph does not prohibit a supervisory  
13 physician from delegating to a physician assistant the  
14 authority to order medication for a hospitalized patient of  
15 the supervisory physician.

16  
17 This paragraph does not apply to facilities licensed pursuant  
18 to chapter 395.

19           (f)1. There is created a five-member committee  
20 appointed by the Director of Health Care Administration. The  
21 committee must be composed of one fully certified physician  
22 assistant certified pursuant to this section or s. 459.022  
23 ~~458.022~~, two physicians licensed pursuant to this chapter, one  
24 of whom supervises a fully licensed physician assistant, one  
25 osteopathic physician licensed pursuant to chapter 459, and  
26 one pharmacist licensed pursuant to chapter 465 who is not  
27 licensed pursuant to this chapter or chapter 459. The  
28 committee shall establish a formulary of medicinal drugs for  
29 which a fully certified physician assistant may prescribe.  
30 The formulary may not include controlled substances as defined  
31 in chapter 893, antineoplastics, antipsychotics,

1 radiopharmaceuticals, general anesthetics or radiographic  
2 contrast materials, or any parenteral preparations except  
3 insulin and epinephrine.

4           2. Only the committee shall add to, delete from, or  
5 modify the formulary. Any person who requests an addition,  
6 deletion, or modification of a medicinal drug listed on such  
7 formulary has the burden of proof to show cause why such  
8 addition, deletion, or modification should be made.

9           3. The boards shall adopt the formulary required by  
10 this paragraph, and each addition, deletion, or modification  
11 to the formulary, by rule. Notwithstanding any provision of  
12 chapter 120 to the contrary, the formulary rule shall be  
13 effective 60 days after the date it is filed with the  
14 Secretary of State. Upon adoption of the formulary, the  
15 department ~~agency~~ shall mail a copy of such formulary to each  
16 fully certified physician assistant and to each pharmacy  
17 licensed by the state. The boards shall establish, by rule, a  
18 fee not to exceed \$200 to fund the provisions of this  
19 paragraph and paragraph (e).

20           (5) PERFORMANCE BY TRAINEES.--Notwithstanding any  
21 other law, a trainee may perform medical services when such  
22 services are rendered within the scope of an approved program.

23           (6) PROGRAM APPROVAL.--

24           (a) The boards shall approve programs, based on  
25 recommendations by the council, for the education and training  
26 of physician assistants which meet standards established by  
27 rule of the boards. The council may recommend only those  
28 physician assistant programs that hold full accreditation or  
29 provisional accreditation from the Commission on Accreditation  
30 of Allied Health Programs or its successor organization. Any  
31 educational institution offering a physician assistant program

1 approved by the boards pursuant to this paragraph may also  
2 offer the physician assistant program authorized in paragraph  
3 (c) for unlicensed physicians.

4 (b) The boards shall adopt and publish standards to  
5 ensure that such programs operate in a manner that does not  
6 endanger the health or welfare of the patients who receive  
7 services within the scope of the programs. The boards shall  
8 review the quality of the curricula, faculties, and facilities  
9 of such programs and take whatever other action is necessary  
10 to determine that the purposes of this section are being met.

11 (c) Any community college with the approval of the  
12 State Board of Community Colleges may conduct a physician  
13 assistant program which shall apply for national accreditation  
14 through the American Medical Association's Committee on Allied  
15 Health, Education, and Accreditation, or its successor  
16 organization, and which may admit unlicensed physicians, as  
17 authorized in subsection (7), who are graduates of foreign  
18 medical schools listed with the World Health Organization.  
19 The unlicensed physician must have been a resident of this  
20 state for a minimum of 12 months immediately prior to  
21 admission to the program. An evaluation of knowledge base by  
22 examination shall be required to grant advanced academic  
23 credit and to fulfill the necessary requirements to graduate.  
24 A minimum of one 16-week semester of supervised clinical and  
25 didactic education, which may be completed simultaneously,  
26 shall be required before graduation from the program. All  
27 other provisions of this section shall remain in effect.

28 (7) PHYSICIAN ASSISTANT CERTIFICATION.--

29 (a) Any person desiring to be certified as a physician  
30 assistant must apply to the department ~~agency~~. The department

31

1 ~~agency~~ shall issue a certificate to any person certified by  
2 the council as having met the following requirements:  
3       1. Is at least 18 years of age.  
4       2. Has satisfactorily passed a proficiency examination  
5 by an acceptable score established by the National Commission  
6 on Certification of Physician Assistants. If an applicant  
7 does not hold a current certificate issued by the National  
8 Commission on Certification of Physician Assistants and has  
9 not actively practiced as a physician assistant within the  
10 immediately preceding 4 years, the applicant must retake and  
11 successfully complete the entry-level examination of the  
12 National Commission on Certification of Physician Assistants  
13 to be eligible for certification.  
14       3. Has completed the application form and remitted an  
15 application fee not to exceed \$300 as set by the boards. An  
16 application for certification made by a physician assistant  
17 must include:  
18       a. A certificate of completion of a physician  
19 assistant training program specified in subsection (6).  
20       b. A sworn statement of any prior felony convictions.  
21       c. A sworn statement of any previous revocation or  
22 denial of licensure or certification in any state.  
23       d. Two letters of recommendation.  
24       (b)1. Notwithstanding subparagraph (a)2. and  
25 sub-subparagraph (a)3.a., the department ~~agency~~ shall examine  
26 each applicant who the Board of Medicine certifies:  
27       a. Has completed the application form and remitted a  
28 nonrefundable application fee not to exceed \$500 and an  
29 examination fee not to exceed \$300, plus the actual cost to  
30 the department ~~agency~~ to provide the examination. The  
31 examination fee is refundable if the applicant is found to be

1 ineligible to take the examination. The department ~~agency~~  
2 shall translate the examination into the native language of  
3 any applicant who requests and agrees to pay all costs of such  
4 translation, provided the applicant demonstrates to the  
5 department ~~agency~~ the ability to communicate orally in basic  
6 English.

7           b. Is an unlicensed physician who graduated from a  
8 foreign medical school listed with the World Health  
9 Organization who has not previously taken and failed the  
10 examination of the National Commission on Certification of  
11 Physician Assistants and who has been certified by the Board  
12 of Medicine as having met the requirements for licensure as a  
13 medical doctor by examination as set forth in s. 458.311(1),  
14 (3), (4), and (5), with the exception that the applicant is  
15 not required to have completed an approved residency of at  
16 least 1 year and the applicant is not required to have passed  
17 the licensing examination specified under s. 458.311 or hold a  
18 valid, active certificate issued by the Educational Commission  
19 for Foreign Medical Graduates.

20           c. Was eligible and made initial application for  
21 certification as a physician assistant in this state between  
22 July 1, 1990, and June 30, 1991.

23           d. Was a resident of this state on July 1, 1990, or  
24 was licensed or certified in any state in the United States as  
25 a physician assistant on July 1, 1990.

26           2. The department ~~agency~~ may grant temporary  
27 certification to an applicant who meets the requirements of  
28 subparagraph 1. Between meetings of the council, the  
29 department ~~agency~~ may grant temporary certification to  
30 practice based on the completion of all temporary  
31 certification requirements. All such administratively issued

1 certifications shall be reviewed and acted on at the next  
2 regular meeting of the council. A temporary certificate  
3 expires upon receipt and notice of scores to the  
4 certificateholder from the first available examination  
5 specified in subparagraph 1. following certification by the  
6 department ~~agency~~. An applicant who fails the proficiency  
7 examination is no longer temporarily certified, but may apply  
8 for a one-time extension of temporary certification after  
9 reapplying for the next available examination. Extended  
10 certification shall expire upon failure of the  
11 certificateholder to sit for the next available examination or  
12 upon receipt and notice of scores to the certificateholder  
13 from such examination.

14           3. Notwithstanding any other provision of law, the  
15 examination specified pursuant to subparagraph 1. shall be  
16 administered by the department ~~agency~~ only five times.  
17 Applicants certified by the board for examination shall  
18 receive at least 6 months' notice of eligibility prior to the  
19 administration of the initial examination. Subsequent  
20 examinations shall be administered at intervals determined by  
21 the department ~~agency~~ after the reporting of the scores of the  
22 first examination. For the purposes of this paragraph, the  
23 department ~~agency~~ may develop, contract for the development  
24 of, purchase, or approve an examination, including a practical  
25 component, that adequately measures an applicant's ability to  
26 practice with reasonable skill and safety. The minimum  
27 passing score on the examination shall be established by the  
28 department ~~agency~~, with the advice of the board. Those  
29 applicants failing to pass that examination or any subsequent  
30 examination shall receive notice of the administration of the  
31 next examination with the notice of scores following such

1 examination. Any applicant who passes the examination and  
2 meets the requirements of this section shall be certified as a  
3 physician assistant with all rights defined thereby.

4 (c) The certification must be renewed biennially.  
5 Each renewal must include:

6 1. A renewal fee not to exceed \$500 as set by the  
7 boards.

8 2. A sworn statement of no felony convictions in the  
9 previous 2 years.

10 (d) Each certified physician assistant shall  
11 biennially complete 100 hours of continuing medical education  
12 or shall hold a current certificate issued by the National  
13 Commission on Certification of Physician Assistants.

14 (e) Upon employment as a physician assistant, a  
15 certified physician assistant must notify the department  
16 ~~agency~~ in writing within 30 days after such employment or  
17 after any subsequent changes in the supervising physician. The  
18 notification must include the full name, Florida medical  
19 license number, specialty, and address of the supervising  
20 physician.

21 (f) Notwithstanding subparagraph (a)2., the department  
22 ~~agency~~ may grant to a recent graduate of an approved program,  
23 as specified in subsection (6), temporary certification to  
24 expire upon receipt of scores of the proficiency examination  
25 administered by the National Commission on Certification of  
26 Physician Assistants. Between meetings of the council, the  
27 department ~~agency~~ may grant temporary certification to  
28 practice based on the completion of all temporary  
29 certification requirements. All such administratively issued  
30 certifications shall be reviewed and acted on at the next  
31 regular meeting of the council. The recent graduate may be

1 certified prior to employment, but must comply with paragraph  
2 (e). An applicant who has passed the proficiency examination  
3 may be granted permanent certification. An applicant failing  
4 the proficiency examination is no longer temporarily  
5 certified, but may reapply for a 1-year extension of temporary  
6 certification. An applicant may not be granted more than two  
7 temporary certificates and may not be certified as a physician  
8 assistant until he passes the examination administered by the  
9 National Commission on Certification of Physician Assistants.  
10 As prescribed by board rule, the council may require an  
11 applicant who does not pass the licensing examination after  
12 five or more attempts to complete additional remedial  
13 education or training. The council shall prescribe the  
14 additional requirements in a manner that permits the applicant  
15 to complete the requirements and be reexamined within 2 years  
16 after the date the applicant petitions the council to retake  
17 the examination a sixth or subsequent time.

18 (g) The Board of Medicine may impose any of the  
19 penalties specified in ss. 455.227 and 458.331(2) upon a  
20 physician assistant if the physician assistant or the  
21 supervising physician has been found guilty of or is being  
22 investigated for any act that constitutes a violation of this  
23 chapter or chapter 455.

24 (8) DELEGATION OF POWERS AND DUTIES.--The boards may  
25 delegate such powers and duties to the council as they may  
26 deem proper.

27 (9) COUNCIL ON PHYSICIAN ASSISTANTS.--The Council on  
28 Physician Assistants is created within the department ~~Agency~~  
29 ~~for Health Care Administration.~~

30 (a) The council shall consist of five members  
31 appointed as follows:



1           1. The chairperson of the Board of Medicine shall  
2 appoint three members who are physicians and members of the  
3 Board of Medicine. One of the physicians must supervise a  
4 physician assistant in the physician's practice.

5           2. The chairperson of the Board of Osteopathic  
6 Medicine shall appoint one member who is a physician,  
7 ~~supervises a physician assistant in the physician's practice,~~  
8 and is a member of the Board of Osteopathic Medicine.

9           3. The secretary of the department ~~head of the agency~~  
10 or his designee shall appoint a fully certified physician  
11 assistant licensed under this chapter or chapter 459.

12           (b) Two of the members appointed to the council must  
13 be physicians who supervise physician assistants in their  
14 practice. Members shall be appointed to terms of 4 years,  
15 except that of the initial appointments, two members shall be  
16 appointed to terms of 2 years, two members shall be appointed  
17 to terms of 3 years, and one member shall be appointed to a  
18 term of 4 years, as established by rule of the boards.  
19 Council members may not serve more than two consecutive terms.  
20 The council shall annually elect a chairperson from among its  
21 members.

22           (c) The council shall:

23           1. Recommend to the department ~~agency~~ the  
24 certification of physician assistants.

25           2. Develop all rules regulating the use of physician  
26 assistants by physicians under this chapter and chapter 459,  
27 except for rules relating to the formulary developed under  
28 paragraph (4)(f). The council shall also develop rules to  
29 ensure that the continuity of supervision is maintained in  
30 each practice setting. The boards shall consider adopting a  
31 proposed rule developed by the council at the regularly

1 scheduled meeting immediately following the submission of the  
2 proposed rule by the council. A proposed rule submitted by  
3 the council may not be adopted by either board unless both  
4 boards have accepted and approved the identical language  
5 contained in the proposed rule. The language of all proposed  
6 rules submitted by the council must be approved by both boards  
7 pursuant to each respective board's guidelines and standards  
8 regarding the adoption of proposed rules. If either board  
9 rejects the council's proposed rule, that board must specify  
10 its objection to the council with particularity and include  
11 any recommendations it may have for the modification of the  
12 proposed rule.

13 3. Make recommendations to the boards regarding all  
14 matters relating to physician assistants.

15 4. Address concerns and problems of practicing  
16 physician assistants in order to improve safety in the  
17 clinical practices of certified physician assistants.

18 (10) INACTIVE AND DELINQUENT STATUS.--A certificate on  
19 inactive or delinquent status may be reactivated only as  
20 provided in s. 455.271.

21 (11) PENALTY.--Any person who has not been certified  
22 by the council and approved by the department ~~agency~~ and who  
23 holds himself out as a physician assistant or who uses any  
24 other term in indicating or implying that he is a physician  
25 assistant commits a felony of the third degree, punishable as  
26 provided in s. 775.082 or s. 775.084 or by a fine not  
27 exceeding \$5,000.

28 (12) DENIAL, SUSPENSION, OR REVOCATION OF  
29 CERTIFICATION.--The boards may deny, suspend, or revoke a  
30 physician assistant certification if a board determines that  
31 the physician assistant has violated this chapter.

1           (13) RULES.--The boards shall adopt rules to implement  
2 this section, including rules detailing the contents of the  
3 application for certification and notification pursuant to  
4 subsection (7) and rules to ensure both the continued  
5 competency of physician assistants and the proper utilization  
6 of them by physicians or groups of physicians.

7           (14) EXISTING PROGRAMS.--This section does not  
8 eliminate or supersede existing laws relating to other  
9 paramedical professions or services and is supplemental to all  
10 such existing laws relating to the certification and practice  
11 of paramedical professions.

12           (15) LIABILITY.--Each supervising physician using a  
13 physician assistant is liable for any acts or omissions of the  
14 physician assistant acting under the physician's supervision  
15 and control.

16           (16) LEGAL SERVICES.--The Department of Legal Affairs  
17 shall provide legal services to the council as authorized in  
18 s. 455.221(1).

19           (17) FEES.--The department ~~agency~~ shall allocate the  
20 fees collected under this section to the council.

21           Section 24. Subsections (1) and (2) of section  
22 458.3485, Florida Statutes, are amended to read:

23           458.3485 Medical assistant.--

24           (1) DEFINITION.--As used in this section, "medical  
25 assistant" means a professional multiskilled person dedicated  
26 to assisting in all aspects of medical practice under the  
27 direct supervision and responsibility of a physician. This  
28 practitioner assists with patient care management, executes  
29 administrative and clinical procedures, and often performs  
30 managerial and supervisory functions. Competence in the field  
31 also requires that a medical assistant adhere to ethical and

1 legal standards of professional practice, recognize and  
2 respond to emergencies, and demonstrate professional  
3 characteristics.  
4 (2) DUTIES.--Under the direct supervision and  
5 responsibility of a licensed physician,~~the duties of a~~  
6 medical assistant may undertake the following duties ~~are to:~~  
7 (a) Performing ~~Perform~~ clinical procedures, to  
8 include:  
9 1. Performing aseptic procedures.  
10 2. Taking vital signs.  
11 3. Preparing patients for the physician's care.  
12 4. Performing venipunctures and nonintravenous  
13 injections.  
14 5. Observing and reporting patients' signs or  
15 symptoms.  
16 (b) Administering basic first aid.  
17 (c) Assisting with patient examinations or treatments.  
18 (d) Operating office medical equipment.  
19 (e) Collecting routine laboratory specimens as  
20 directed by the physician.  
21 (f) Administering medication as directed by the  
22 physician.  
23 (g) Performing basic laboratory procedures.  
24 (h) Performing office procedures including all general  
25 administrative duties required by the physician.  
26 (i) Performing ~~Perform~~ dialysis procedures, including  
27 home dialysis.  
28 Section 25. Section 458.351, Florida Statutes, is  
29 created to read:  
30 458.351 Incident reports.--  
31

1           (1) Effective January 1, 1998, any physician  
2 practicing in this state must notify the board in writing, by  
3 certified mail, of any serious incident which occurs in the  
4 physician's office. In the case of a group practice, the  
5 chief administrative officer must notify the board in writing,  
6 by certified mail, of any serious incident which occurs in any  
7 of the offices of the physicians of that practice. The  
8 required notification must be postmarked within 30 days after  
9 the physician becomes aware of the incident. Incidents which  
10 must be reported include: the death of a patient; severe  
11 brain or spinal damage to a patient; a surgical procedure  
12 being performed on the wrong patient; or a surgical procedure  
13 unrelated to the patient's diagnosis or medical needs being  
14 performed on any patient.

15           (2) The board may adopt rules necessary to carry out  
16 the provisions of this section.

17           Section 26. Subsection (2) of section 459.003, Florida  
18 Statutes, is amended, and subsection (5) is added to said  
19 section, to read:

20           459.003 Definitions.--As used in this chapter:

21           (2) "Department" means the Department of Health  
22 ~~Business and Professional Regulation.~~

23           (5) "Doctor of Osteopathy" and "Doctor of Osteopathic  
24 Medicine," when referring to degrees, shall be construed to be  
25 equivalent and equal degrees.

26           Section 27. Subsections (1) and (3) and paragraph (b)  
27 of subsection (5) of section 459.021, Florida Statutes, are  
28 amended, and subsection (8) is added to said section, to read:

29           459.021 Registration of resident physicians, interns,  
30 and fellows; list of hospital employees; penalty.--

31

1           (1) Any person who holds a degree of Doctor of  
2 Osteopathic Medicine ~~Osteopathy~~ from a college of osteopathic  
3 medicine recognized and approved by the American Osteopathic  
4 Association who desires to practice as a resident physician,  
5 assistant resident physician, house physician, intern, or  
6 fellow in fellowship training which leads to subspecialty  
7 board certification in this state who does not hold an active  
8 license issued under this chapter shall apply to the  
9 department to be registered, on an application provided by the  
10 department, within 30 days of commencing such a training  
11 program and shall remit a fee not to exceed \$300 as set by the  
12 board.

13           (3) Every hospital having employed or contracted with  
14 or utilized the services of a person who holds a degree of  
15 Doctor of Osteopathic Medicine ~~Osteopathy~~ from a college of  
16 osteopathic medicine recognized and approved by the American  
17 Osteopathic Association as a resident physician, assistant  
18 resident physician, house physician, intern, or fellow in  
19 fellowship training which leads to subspecialty board  
20 certification shall designate a person who shall furnish, in  
21 January and July of each year, to the department a list of all  
22 such persons who have served in the hospital during the  
23 preceding 6-month period. The chief executive officer of each  
24 such hospital shall provide the executive director of the  
25 board with the name, title, and address of the person  
26 responsible for furnishing such reports.

27           (5) It is a misdemeanor of the second degree,  
28 punishable as provided in s. 775.082 or s. 775.083 for any  
29 hospital, and also for the superintendent, administrator, and  
30 other person or persons having administrative authority in a  
31 hospital:

1 (b) To fail to furnish to the department the list and  
2 information required by subsection (3).

3 (8) Notwithstanding any provision of this section or  
4 s. 120.52 to the contrary, any person who is registered under  
5 this section is subject to the provisions of s. 459.015.

6 Section 28. Subsection (1) of section 459.0075,  
7 Florida Statutes, is amended to read:

8 459.0075 Limited licenses.--

9 (1) Any person desiring to obtain a limited license  
10 shall:

11 (a) Submit to the board a licensure application and  
12 fee required by this chapter. However, an osteopathic  
13 physician who is not fully retired in all jurisdictions, may  
14 use a limited license only for noncompensated practice.

15 ~~However,~~ If the person applying for a limited license submits  
16 a notarized statement from the employing agency or institution  
17 stating that he will not receive monetary compensation for any  
18 service involving the practice of osteopathic medicine, the  
19 application fee and all licensure fees shall be waived.  
20 However, any person who receives a waiver of fees for a  
21 limited license shall pay such fees if the person receives  
22 compensation for the practice of osteopathic medicine.

23 (b) Submit an affidavit that such osteopathic  
24 physician has been licensed to practice osteopathic medicine  
25 in any jurisdiction in the United States in good standing and  
26 pursuant to law for at least 10 years ~~and has now retired and~~  
27 ~~that he was in good standing at the time of his retirement.~~

28 (c) Complete an amount of continuing education  
29 established by the board.  
30  
31

1           Section 29. Paragraphs (a) and (g) of subsection (5)  
2 of section 459.0085, Florida Statutes, 1996 Supplement, are  
3 amended to read:

4           459.0085 Financial responsibility.--

5           (5) The requirements of subsections (1), (2), and (3)  
6 shall not apply to:

7           (a) Any person licensed under this chapter who  
8 practices medicine exclusively as an officer, employee, or  
9 agent of the Federal Government or of the state or its  
10 agencies or its subdivisions. For the purposes of this  
11 subsection, an agent of the state, its agencies, or its ~~and~~  
12 subdivisions is a person who is eligible for coverage under  
13 any self-insurance or insurance program authorized by the  
14 provisions of s. 768.28(15)~~(14)~~.

15           (g) Any person holding an active license under this  
16 chapter who agrees to meet all of the following criteria:

17           1. Upon the entry of an adverse final judgment arising  
18 from a medical malpractice arbitration award, from a claim of  
19 medical malpractice either in contract or tort, or from  
20 noncompliance with the terms of a settlement agreement arising  
21 from a claim of medical malpractice either in contract or  
22 tort, the licensee shall pay the judgment creditor the lesser  
23 of the entire amount of the judgment with all accrued interest  
24 or either \$100,000, if the osteopathic physician is licensed  
25 pursuant to this chapter but does not maintain hospital staff  
26 privileges, or \$250,000, if the osteopathic physician is  
27 licensed pursuant to this chapter and maintains hospital staff  
28 privileges, within 60 days after the date such judgment became  
29 final and subject to execution, unless otherwise mutually  
30 agreed to in writing by the parties. Such adverse final  
31 judgment shall include any cross-claim, counterclaim, or claim



1 for indemnity or contribution arising from the claim of  
2 medical malpractice. Upon notification of the existence of an  
3 unsatisfied judgment or payment pursuant to this subparagraph,  
4 the department shall notify the licensee by certified mail  
5 that he shall be subject to disciplinary action unless, within  
6 30 days from the date of mailing, he either:

7       a. Shows proof that the unsatisfied judgment has been  
8 paid in the amount specified in this subparagraph; or  
9       b. Furnishes the department with a copy of a timely  
10 filed notice of appeal and either:

11           (I) A copy of a supersedeas bond properly posted in  
12 the amount required by law; or  
13           (II) An order from a court of competent jurisdiction  
14 staying execution on the final judgment, pending disposition  
15 of the appeal.

16       2. Upon the next meeting of the probable cause panel  
17 of the board following 30 days after the date of mailing the  
18 notice of disciplinary action to the licensee, the panel shall  
19 make a determination of whether probable cause exists to take  
20 disciplinary action against the licensee pursuant to  
21 subparagraph 1.

22       3. If the board determines that the factual  
23 requirements of subparagraph 1. are met, it shall take  
24 disciplinary action as it deems appropriate against the  
25 licensee. Such disciplinary action shall include, at a  
26 minimum, probation of the license with the restriction that  
27 the licensee must make payments to the judgment creditor on a  
28 schedule determined by the board to be reasonable and within  
29 the financial capability of the osteopathic physician.  
30 Notwithstanding any other disciplinary penalty imposed, the  
31 disciplinary penalty may include suspension of the license for

1 a period not to exceed 5 years. In the event that an  
2 agreement to satisfy a judgment has been met, the board shall  
3 remove any restriction on the license.

4 4. The licensee has completed a form supplying  
5 necessary information as required by the department.

6  
7 A licensee who meets the requirements of this paragraph shall  
8 be required to ~~either~~ post notice in the form of a sign  
9 prominently displayed in the reception area and clearly  
10 noticeable by all patients and ~~or~~ provide a written statement  
11 to any person to whom medical services are being provided. A  
12 copy of the written statement shall be given to each patient  
13 to sign, acknowledging receipt thereof, and the signed copy  
14 shall be maintained in the patient's file. If the patient  
15 refuses to sign or is unable to sign the written statement,  
16 the licensee shall so note it on the form. Such sign and ~~or~~  
17 statement shall state ~~that~~: "Under Florida law, osteopathic  
18 physicians are generally required to carry medical malpractice  
19 insurance or otherwise demonstrate financial responsibility to  
20 cover potential claims for medical malpractice. YOUR  
21 OSTEOPATHIC PHYSICIAN HAS DECIDED NOT TO CARRY MEDICAL  
22 MALPRACTICE INSURANCE. This is permitted under Florida law  
23 subject to certain conditions. Florida law imposes strict  
24 penalties against noninsured osteopathic physicians who fail  
25 to satisfy adverse judgments arising from claims of medical  
26 malpractice. This notice is provided pursuant to Florida  
27 law."

28 Section 30. Paragraphs (o), (gg), and (ll) of  
29 subsection (1) of section 459.015, Florida Statutes, 1996  
30 Supplement, are amended, and paragraph (nn) is added to said  
31 subsection, to read:

1           459.015 Grounds for disciplinary action by the  
2 board.--  
3           (1) The following acts shall constitute grounds for  
4 which the disciplinary actions specified in subsection (2) may  
5 be taken:  
6           (o) Failing to keep legible, as defined by department  
7 rule in consultation with the board,~~written~~ medical records  
8 that identify the licensed osteopathic physician or the  
9 osteopathic physician extender and supervising osteopathic  
10 physician by name and professional title who is or are  
11 responsible for rendering, ordering, supervising, or billing  
12 for each diagnostic or treatment procedure and that justify  
13 ~~justifying~~ the course of treatment of the patient, including,  
14 but not limited to, patient histories; examination results;  
15 test results; records of drugs prescribed, dispensed, or  
16 administered; and reports of consultations and  
17 hospitalizations.  
18           (gg) Prescribing, ordering, dispensing, administering,  
19 supplying, selling, or giving any drug which is a Schedule II  
20 amphetamine or Schedule II sympathomimetic amine drug or any  
21 compound thereof, pursuant to chapter 893, to or for any  
22 person except for:  
23           1. The treatment of narcolepsy; hyperkinesia;  
24 behavioral syndrome ~~in children~~ characterized by the  
25 developmentally inappropriate symptoms of moderate to severe  
26 distractibility, short attention span, hyperactivity,  
27 emotional lability, and impulsivity; or drug-induced brain  
28 dysfunction;  
29           2. The differential diagnostic psychiatric evaluation  
30 of depression or the treatment of depression shown to be  
31 refractory to other therapeutic modalities; or

1           3. The clinical investigation of the effects of such  
2 drugs or compounds when an investigative protocol therefor is  
3 submitted to, reviewed, and approved by the board before such  
4 investigation is begun.

5           (11) Failing to report to the department ~~Division of~~  
6 ~~Medical Quality Assurance~~ any licensee ~~physician licensed~~  
7 under chapter 458 or ~~osteopathic physician licensed~~ under this  
8 chapter who the osteopathic physician or physician assistant  
9 knows has violated the grounds for disciplinary action set out  
10 in the law under which that person ~~physician or osteopathic~~  
11 ~~physician~~ is licensed and who provides health care services in  
12 a facility licensed under chapter 395, or a health maintenance  
13 organization certificated under part I of chapter 641, in  
14 which the osteopathic physician or physician assistant also  
15 provides services.

16           (nn) Advertising or holding oneself out as a  
17 board-certified specialist in violation of this chapter.

18           Section 31. Section 459.0152, Florida Statutes, is  
19 created to read:

20           459.0152 Specialties.--An osteopathic physician  
21 licensed under this chapter may not hold himself or herself  
22 out as a board-certified specialist unless the osteopathic  
23 physician has successfully completed the requirements for  
24 certification by the American Osteopathic Association or the  
25 Accreditation Council on Graduate Medical Education and is  
26 certified as a specialist by a certifying agency approved by  
27 the board. However, an osteopathic physician may indicate the  
28 services offered and may state that his or her practice is  
29 limited to one or more types of services when this accurately  
30 reflects the scope of practice of the osteopathic physician.

31

1 Section 32. Section 459.022, Florida Statutes, 1996  
2 Supplement, is amended to read:

3 459.022 Physician assistants.--

4 (1) LEGISLATIVE INTENT.--

5 (a) The purpose of this section is to encourage more  
6 effective utilization of the skills of osteopathic physicians  
7 or groups of osteopathic physicians by enabling them to  
8 delegate health care tasks to qualified assistants when such  
9 delegation is consistent with the patient's health and  
10 welfare.

11 (b) In order that maximum skills may be obtained  
12 within a minimum time period of education, a physician  
13 assistant shall be specialized to the extent that he can  
14 operate efficiently and effectively in the specialty areas in  
15 which he has been trained or is experienced.

16 (c) The purpose of this section is to encourage the  
17 utilization of physician assistants by osteopathic physicians  
18 and to allow for innovative development of programs for the  
19 education of physician assistants.

20 (2) DEFINITIONS.--As used in this section:

21 ~~(a) "Agency" means the Agency for Health Care~~  
22 ~~Administration.~~

23 (a)~~(b)~~ "Approved program" means a program, formally  
24 approved by the boards, for the education of physician  
25 assistants.

26 (b)~~(c)~~ "Boards" means the Board of Medicine and the  
27 Board of Osteopathic Medicine.

28 (c)~~(d)~~ "Council" means the Council on Physician  
29 Assistants.

30 (d)~~(e)~~ "Trainee" means a person who is currently  
31 enrolled in an approved program.

1        (e)~~(f)~~ "Physician assistant" means a person who is a  
2 graduate of an approved program or its equivalent or meets  
3 standards approved by the boards and is certified to perform  
4 medical services delegated by the supervising physician.

5        (f)~~(g)~~ "Supervision" means responsible supervision and  
6 control. Except in cases of emergency, supervision requires  
7 the easy availability or physical presence of the licensed  
8 physician for consultation and direction of the actions of the  
9 physician assistant. For the purposes of this definition, the  
10 term "easy availability" includes the ability to communicate  
11 by way of telecommunication. The boards shall establish rules  
12 as to what constitutes responsible supervision of the  
13 physician assistant.

14        (g)~~(h)~~ "Proficiency examination" means an entry-level  
15 examination approved by the boards, including, but not limited  
16 to, those examinations administered by the National Commission  
17 on Certification of Physician Assistants.

18        (h)~~(i)~~ "Continuing medical education" means courses  
19 recognized and approved by the boards, the American Academy of  
20 Physician Assistants, the American Medical Association, the  
21 American Osteopathic Association, or the Accreditation Council  
22 on Continuing Medical Education.

23        (3) PERFORMANCE OF SUPERVISING PHYSICIAN.--Each  
24 physician or group of physicians supervising a certified  
25 physician assistant must be qualified in the medical areas in  
26 which the physician assistant is to perform and shall be  
27 individually or collectively responsible and liable for the  
28 performance and the acts and omissions of the physician  
29 assistant. A physician may not supervise more than four  
30 currently certified physician assistants at any one time.

31        (4) PERFORMANCE OF PHYSICIAN ASSISTANTS.--

1 (a) The boards shall adopt, by rule, the general  
2 principles that supervising physicians must use in developing  
3 the scope of practice of a physician assistant under direct  
4 supervision and under indirect supervision. These principles  
5 shall recognize the diversity of both specialty and practice  
6 settings in which physician assistants are used.

7 (b) This chapter does not prevent third-party payors  
8 from reimbursing employers of physician assistants for covered  
9 services rendered by certified physician assistants.

10 (c) Certified physician assistants may not be denied  
11 clinical hospital privileges, except for cause, so long as the  
12 supervising physician is a staff member in good standing.

13 (d) A supervisory physician may delegate to a  
14 certified physician assistant, pursuant to a written protocol,  
15 the authority to act according to s. 154.04(1)~~(c)(d)~~. Such  
16 delegated authority is limited to the supervising physician's  
17 practice in connection with a county ~~public health~~ department  
18 ~~unit~~ as defined and established pursuant to chapter 154. The  
19 boards shall adopt rules governing the supervision of  
20 physician assistants by physicians in county ~~public health~~  
21 departments ~~units~~.

22 (e) A supervisory physician may delegate to a fully  
23 certified physician assistant the authority to prescribe any  
24 medication used in the supervisory physician's practice if  
25 such medication is listed on the formulary created pursuant to  
26 s. 458.347. A fully certified physician assistant may only  
27 prescribe such medication under the following circumstances:

28 1. A physician assistant must clearly identify to the  
29 patient that he is a physician assistant. Furthermore, the  
30 physician assistant must inform the patient that the patient  
31

1 has the right to see the physician prior to any prescription  
2 being prescribed by the physician assistant.

3           2. The supervisory physician must notify the  
4 department ~~agency~~ of his intent to delegate, on a  
5 department-approved ~~an agency-approved~~ form, before delegating  
6 such authority and with each certification renewal application  
7 filed by the physician assistant.

8           3. The physician assistant must file with the  
9 department ~~agency~~, before commencing to prescribe, evidence  
10 that he has completed a continuing medical education course of  
11 at least 3 classroom hours in prescriptive practice, conducted  
12 by an accredited program approved by the boards, which course  
13 covers the limitations, responsibilities, and privileges  
14 involved in prescribing medicinal drugs, or evidence that he  
15 has received education comparable to the continuing education  
16 course as part of an accredited physician assistant training  
17 program.

18           4. The physician assistant must file with the  
19 department ~~agency~~, before commencing to prescribe, evidence  
20 that the physician assistant has a minimum of 3 months of  
21 clinical experience in the specialty area of the supervising  
22 physician.

23           5. The physician assistant must file with the  
24 department ~~agency~~ a signed affidavit that he has completed a  
25 minimum of 10 continuing medical education hours in the  
26 specialty practice in which the physician assistant has  
27 prescriptive privileges with each certification renewal  
28 application.

29           6. The department ~~agency~~ shall issue certification and  
30 a prescriber number to the physician assistant granting  
31 authority for the prescribing of medicinal drugs authorized



1 within this paragraph upon completion of the foregoing  
2 requirements.

3           7. The prescription must be written in a form that  
4 complies with chapter 499 and must contain, in addition to the  
5 supervisory physician's name, address, and telephone number,  
6 the physician assistant's prescriber number. The prescription  
7 must be filled in a pharmacy permitted under chapter 465, and  
8 must be dispensed in that pharmacy by a pharmacist licensed  
9 under chapter 465. The appearance of the prescriber number  
10 creates a presumption that the physician assistant is  
11 authorized to prescribe the medicinal drug and the  
12 prescription is valid.

13           8. The physician assistant must note the prescription  
14 in the appropriate medical record, and the supervisory  
15 physician must review and sign each notation. For dispensing  
16 purposes only, the failure of the supervisory physician to  
17 comply with these requirements does not affect the validity of  
18 the prescription.

19           9. This paragraph does not prohibit a supervisory  
20 physician from delegating to a physician assistant the  
21 authority to order medication for a hospitalized patient of  
22 the supervisory physician.

23  
24 This paragraph does not apply to facilities licensed pursuant  
25 to chapter 395.

26           (f)1. There is created a five-member committee  
27 appointed by the Director of Health Care Administration. The  
28 committee must be composed of one fully certified physician  
29 assistant certified pursuant to this section or s. 458.347,  
30 two physicians licensed pursuant to chapter 458, one of whom  
31 supervises a fully licensed physician assistant, one

1 osteopathic physician licensed pursuant to this chapter, and  
2 one pharmacist licensed pursuant to chapter 465 who is not  
3 licensed pursuant to this chapter or chapter 458. The  
4 committee shall establish a formulary of medicinal drugs for  
5 which a fully certified physician assistant may prescribe.  
6 The formulary may not include controlled substances as defined  
7 in chapter 893, antineoplastics, antipsychotics,  
8 radiopharmaceuticals, general anesthetics or radiographic  
9 contrast materials, or any parenteral preparations except  
10 insulin and epinephrine.

11 2. Only the committee shall add to, delete from, or  
12 modify the formulary. Any person who requests an addition,  
13 deletion, or modification of a medicinal drug listed on such  
14 formulary has the burden of proof to show cause why such  
15 addition, deletion, or modification should be made.

16 3. The boards shall adopt the formulary required by  
17 this paragraph, and each addition, deletion, or modification  
18 to the formulary, by rule. Notwithstanding any provision of  
19 chapter 120 to the contrary, the formulary rule shall be  
20 effective 60 days after the date it is filed with the  
21 Secretary of State. Upon adoption of the formulary, the  
22 department ~~agency~~ shall mail a copy of such formulary to each  
23 fully certified physician assistant and to each pharmacy  
24 licensed by the state. The boards shall establish, by rule, a  
25 fee not to exceed \$200 to fund the provisions of this  
26 paragraph and paragraph (e).

27 (5) PERFORMANCE BY TRAINEES.--Notwithstanding any  
28 other law, a trainee may perform medical services when such  
29 services are rendered within the scope of an approved program.

30 (6) PROGRAM APPROVAL.--

31

1           (a) The boards shall approve programs, based on  
2 recommendations by the council, for the education and training  
3 of physician assistants which meet standards established by  
4 rule of the boards. The council may recommend only those  
5 physician assistant programs that hold full accreditation or  
6 provisional accreditation from the Commission on Accreditation  
7 of Allied Health Programs or its successor organization.

8           (b) The boards shall adopt and publish standards to  
9 ensure that such programs operate in a manner that does not  
10 endanger the health or welfare of the patients who receive  
11 services within the scope of the programs. The boards shall  
12 review the quality of the curricula, faculties, and facilities  
13 of such programs and take whatever other action is necessary  
14 to determine that the purposes of this section are being met.

15           (7) PHYSICIAN ASSISTANT CERTIFICATION.--

16           (a) Any person desiring to be certified as a physician  
17 assistant must apply to the department ~~agency~~. The department  
18 ~~agency~~ shall issue a certificate to any person certified by  
19 the council as having met the following requirements:

- 20           1. Is at least 18 years of age.
- 21           2. Has satisfactorily passed a proficiency examination  
22 by an acceptable score established by the National Commission  
23 on Certification of Physician Assistants. If an applicant  
24 does not hold a current certificate issued by the National  
25 Commission on Certification of Physician Assistants and has  
26 not actively practiced as a physician assistant within the  
27 immediately preceding 4 years, the applicant must retake and  
28 successfully complete the entry-level examination of the  
29 National Commission on Certification of Physician Assistants  
30 to be eligible for certification.

31

1           3. Has completed the application form and remitted an  
2 application fee not to exceed \$300 as set by the boards. An  
3 application for certification made by a physician assistant  
4 must include:

5           a. A certificate of completion of a physician  
6 assistant training program specified in subsection (6).

7           b. A sworn statement of any prior felony convictions.

8           c. A sworn statement of any previous revocation or  
9 denial of licensure or certification in any state.

10          d. Two letters of recommendation.

11          (b) The certification must be renewed biennially.

12 Each renewal must include:

13          1. A renewal fee not to exceed \$500 as set by the  
14 boards.

15          2. A sworn statement of no felony convictions in the  
16 previous 2 years.

17          (c) Each certified physician assistant shall  
18 biennially complete 100 hours of continuing medical education  
19 or shall hold a current certificate issued by the National  
20 Commission on Certification of Physician Assistants.

21          (d) Upon employment as a physician assistant, a  
22 certified physician assistant must notify the department  
23 ~~agency~~ in writing within 30 days after such employment or  
24 after any subsequent changes in the supervising physician.  
25 The notification must include the full name, Florida medical  
26 license number, specialty, and address of the supervising  
27 physician.

28          (e) Notwithstanding subparagraph (a)2., the department  
29 ~~agency~~ may grant to a recent graduate of an approved program,  
30 as specified in subsection (6), temporary certification to  
31 expire upon receipt of scores of the proficiency examination

1 administered by the National Commission on Certification of  
2 Physician Assistants. Between meetings of the council, the  
3 department ~~agency~~ may grant temporary certification to  
4 practice to physician assistant applicants based on the  
5 completion of all temporary certification requirements. All  
6 such administratively issued certifications shall be reviewed  
7 and acted on at the next regular meeting of the council. The  
8 recent graduate may be certified prior to employment, but must  
9 comply with paragraph (d). An applicant who has passed the  
10 proficiency examination may be granted permanent  
11 certification. An applicant failing the proficiency  
12 examination is no longer temporarily certified, but may  
13 reapply for a 1-year extension of temporary certification. An  
14 applicant may not be granted more than two temporary  
15 certificates and may not be certified as a physician assistant  
16 until he passes the examination administered by the National  
17 Commission on Certification of Physician Assistants. As  
18 prescribed by board rule, the council may require an applicant  
19 who does not pass the licensing examination after five or more  
20 attempts to complete additional remedial education or  
21 training. The council shall prescribe the additional  
22 requirements in a manner that permits the applicant to  
23 complete the requirements and be reexamined within 2 years  
24 after the date the applicant petitions the council to retake  
25 the examination a sixth or subsequent time.

26 (f) The Board of Osteopathic Medicine may impose any  
27 of the penalties specified in ss. 455.227 and 459.015(2) upon  
28 a physician assistant if the physician assistant or the  
29 supervising physician has been found guilty of or is being  
30 investigated for any act that constitutes a violation of this  
31 chapter or chapter 455.

1           (8) DELEGATION OF POWERS AND DUTIES.--The boards may  
2 delegate such powers and duties to the council as they may  
3 deem proper.

4           (9) COUNCIL ON PHYSICIAN ASSISTANTS.--The Council on  
5 Physician Assistants is created within the department ~~Agency~~  
6 ~~for Health Care Administration.~~

7           (a) The council shall consist of five members  
8 appointed as follows:

9           1. The chairperson of the Board of Medicine shall  
10 appoint three members who are physicians and members of the  
11 Board of Medicine. One of the physicians must supervise a  
12 physician assistant in the physician's practice.

13           2. The chairperson of the Board of Osteopathic  
14 Medicine shall appoint one member who is a physician,  
15 ~~supervises a physician assistant in the physician's practice,~~  
16 and ~~is~~ a member of the Board of Osteopathic Medicine.

17           3. The secretary of the department ~~head of the agency~~  
18 or his designee shall appoint a fully certified physician  
19 assistant licensed under chapter 458 or this chapter.

20           (b) Two of the members appointed to the council must  
21 be physicians who supervise physician assistants in their  
22 practice. Members shall be appointed to terms of 4 years,  
23 except that of the initial appointments, two members shall be  
24 appointed to terms of 2 years, two members shall be appointed  
25 to terms of 3 years, and one member shall be appointed to a  
26 term of 4 years, as established by rule of the boards.  
27 Council members may not serve more than two consecutive terms.  
28 The council shall annually elect a chairperson from among its  
29 members.

30           (c) The council shall:  
31

1           1. Recommend to the department ~~agency~~ the  
2 certification of physician assistants.

3           2. Develop all rules regulating the use of physician  
4 assistants by physicians under chapter 458 and this chapter,  
5 except for rules relating to the formulary developed under s.  
6 458.347(4)(f). The council shall also develop rules to ensure  
7 that the continuity of supervision is maintained in each  
8 practice setting. The boards shall consider adopting a  
9 proposed rule developed by the council at the regularly  
10 scheduled meeting immediately following the submission of the  
11 proposed rule by the council. A proposed rule submitted by  
12 the council may not be adopted by either board unless both  
13 boards have accepted and approved the identical language  
14 contained in the proposed rule. The language of all proposed  
15 rules submitted by the council must be approved by both boards  
16 pursuant to each respective board's guidelines and standards  
17 regarding the adoption of proposed rules. If either board  
18 rejects the council's proposed rule, that board must specify  
19 its objection to the council with particularity and include  
20 any recommendations it may have for the modification of the  
21 proposed rule.

22           3. Make recommendations to the boards regarding all  
23 matters relating to physician assistants.

24           4. Address concerns and problems of practicing  
25 physician assistants in order to improve safety in the  
26 clinical practices of certified physician assistants.

27           (10) INACTIVE AND DELINQUENT STATUS.--A certificate on  
28 inactive or delinquent status may be reactivated only as  
29 provided in s. 455.271.

30           (11) PENALTY.--Any person who has not been certified  
31 by the council and approved by the department ~~agency~~ and who

1 holds himself out as a physician assistant or who uses any  
2 other term in indicating or implying that he is a physician  
3 assistant commits a felony of the third degree, punishable as  
4 provided in s. 775.082 or s. 775.084 or by a fine not  
5 exceeding \$5,000.

6 (12) DENIAL, SUSPENSION, OR REVOCATION OF  
7 CERTIFICATION.--The boards may deny, suspend, or revoke a  
8 physician assistant certification if a board determines that  
9 the physician assistant has violated this chapter.

10 (13) RULES.--The boards shall adopt rules to implement  
11 this section, including rules detailing the contents of the  
12 application for certification and notification pursuant to  
13 subsection (7) and rules to ensure both the continued  
14 competency of physician assistants and the proper utilization  
15 of them by physicians or groups of physicians.

16 (14) EXISTING PROGRAMS.--This section does not  
17 eliminate or supersede existing laws relating to other  
18 paramedical professions or services and is supplemental to all  
19 such existing laws relating to the certification and practice  
20 of paramedical professions.

21 (15) LIABILITY.--Each supervising physician using a  
22 physician assistant is liable for any acts or omissions of the  
23 physician assistant acting under the physician's supervision  
24 and control.

25 (16) LEGAL SERVICES.--The Department of Legal Affairs  
26 shall provide legal services to the council as authorized in  
27 s. 455.221(1).

28 (17) FEES.--The department ~~agency~~ shall allocate the  
29 fees collected under this section to the council.

30 Section 33. Section 459.025, Florida Statutes, is  
31 created to read:



1           459.025 Incident reports.--  
2           (1) Effective January 1, 1998, any physician  
3 practicing in this state must notify the board in writing, by  
4 certified mail, of any serious incident which occurs in the  
5 physician's office. In the case of a group practice, the  
6 chief administrative officer must notify the board in writing,  
7 by certified mail, of any serious incident which occurs in any  
8 of the offices of the physicians of that practice. The  
9 required notification must be postmarked within 30 days after  
10 the physician becomes aware of the incident. Incidents which  
11 must be reported include: the death of a patient; severe  
12 brain or spinal damage to a patient; a surgical procedure  
13 being performed on the wrong patient; or a surgical procedure  
14 unrelated to the patient's diagnosis or medical needs being  
15 performed on any patient.

16           (2) The board may adopt rules necessary to carry out  
17 the provisions of this section.

18           Section 34. Subsection (1) of section 240.4067,  
19 Florida Statutes, is amended to read:

20           240.4067 Medical Education Reimbursement and Loan  
21 Repayment Program.--

22           (1) To encourage qualified medical professionals to  
23 practice in underserved locations where there are shortages of  
24 such personnel, there is established the Medical Education  
25 Reimbursement and Loan Repayment Program. The function of the  
26 program is to make payments that offset loans and educational  
27 expenses incurred by students for studies leading to a medical  
28 or nursing degree, medical or nursing licensure, or advanced  
29 registered nurse practitioner or physician's assistant  
30 certification. The following licensed or certified health  
31 care professionals are eligible to participate in this

1 program: medical doctors with primary care specialties,  
2 doctors of osteopathic medicine ~~osteopathy~~ with primary care  
3 specialties, physician's assistants, licensed practical nurses  
4 and registered nurses, and advanced registered nurse  
5 practitioners with primary care specialties such as certified  
6 nurse midwives. Primary care medical specialties for  
7 physicians include obstetrics, gynecology, general and family  
8 practice, internal medicine, pediatrics, and other specialties  
9 which may be identified by the Department of Health and  
10 Rehabilitative Services.

11 Section 35. Subsection (5) of section 390.011, Florida  
12 Statutes, is amended to read:

13 390.011 Definitions.--As used in this act:

14 (5) "Physician" means a physician licensed under  
15 chapter 458 or chapter 459 or a physician practicing medicine  
16 or osteopathic medicine ~~osteopathy~~ in the employment of the  
17 United States or this state.

18 Section 36. Subsection (1) of section 395.0191,  
19 Florida Statutes, is amended to read:

20 395.0191 Staff membership and clinical privileges.--

21 (1) No licensed facility, in considering and acting  
22 upon an application for staff membership or clinical  
23 privileges, shall deny the application of a qualified doctor  
24 of medicine licensed under chapter 458, a doctor of  
25 osteopathic medicine ~~osteopathy~~ licensed under chapter 459, a  
26 doctor of dentistry licensed under chapter 466, a doctor of  
27 podiatry licensed under chapter 461, or a psychologist  
28 licensed under chapter 490 for such staff membership or  
29 clinical privileges within the scope of his or her respective  
30 licensure solely because the applicant is licensed under any  
31 of such chapters.

1           Section 37. Paragraph (g) of subsection (1) of section  
2 408.035, Florida Statutes, is amended to read:

3           408.035 Review criteria.--

4           (1) The agency shall determine the reviewability of  
5 applications and shall review applications for  
6 certificate-of-need determinations for health care facilities  
7 and services, hospices, and health maintenance organizations  
8 in context with the following criteria:

9           (g) The need for research and educational facilities,  
10 including, but not limited to, institutional training programs  
11 and community training programs for health care practitioners  
12 and for doctors of osteopathic medicine ~~osteopathy~~ and  
13 medicine at the student, internship, and residency training  
14 levels.

15           Section 38. Subsection (9) of section 409.905, Florida  
16 Statutes, 1996 Supplement, is amended to read:

17           409.905 Mandatory Medicaid services.--The agency may  
18 make payments for the following services, which are required  
19 of the state by Title XIX of the Social Security Act,  
20 furnished by Medicaid providers to recipients who are  
21 determined to be eligible on the dates on which the services  
22 were provided. Any service under this section shall be  
23 provided only when medically necessary and in accordance with  
24 state and federal law. Nothing in this section shall be  
25 construed to prevent or limit the agency from adjusting fees,  
26 reimbursement rates, lengths of stay, number of visits, number  
27 of services, or any other adjustments necessary to comply with  
28 the availability of moneys and any limitations or directions  
29 provided for in the General Appropriations Act or chapter 216.

30           (9) PHYSICIAN SERVICES.--The agency shall pay for  
31 covered services and procedures rendered to a recipient by, or

1 under the personal supervision of, a person licensed under  
2 state law to practice medicine or osteopathic medicine  
3 ~~osteopathy~~. These services may be furnished in the  
4 physician's office, the Medicaid recipient's home, a hospital,  
5 a nursing facility, or elsewhere, but shall be medically  
6 necessary for the treatment of an injury, illness, or disease  
7 within the scope of the practice of medicine or osteopathic  
8 medicine ~~osteopathy~~ as defined by state law. The agency shall  
9 not pay for services that are clinically unproven,  
10 experimental, or for purely cosmetic purposes.

11 Section 39. Subsection (33) of section 415.102,  
12 Florida Statutes, is amended to read:

13 415.102 Definitions of terms used in ss.

14 415.101-415.113.--As used in ss. 415.101-415.113, the term:

15 (33) "Specified medical personnel" means licensed or  
16 certified physicians, osteopathic physicians ~~osteopaths~~,  
17 nurses, paramedics, advanced registered nurse practitioners,  
18 psychologists, psychiatrists, mental health professionals, or  
19 any other licensed or certified medical personnel.

20 Section 40. Paragraph (a) of subsection (1) of section  
21 415.1034, Florida Statutes, is amended to read:

22 415.1034 Mandatory reporting of abuse, neglect, or  
23 exploitation of disabled adults or elderly persons; mandatory  
24 reports of death.--

25 (1) MANDATORY REPORTING.--

26 (a) Any person, including, but not limited to, any:

27 1. Physician, osteopathic physician ~~osteopath~~, medical  
28 examiner, chiropractor, nurse, or hospital personnel engaged  
29 in the admission, examination, care, or treatment of disabled  
30 adults or elderly persons;

31

1           2. Health professional or mental health professional  
2 other than one listed in subparagraph 1.;  
3           3. Practitioner who relies solely on spiritual means  
4 for healing;  
5           4. Nursing home staff; assisted living facility staff;  
6 adult day care center staff; adult family-care home staff;  
7 social worker; or other professional adult care, residential,  
8 or institutional staff;  
9           5. State, county, or municipal criminal justice  
10 employee or law enforcement officer;  
11           6. Human rights advocacy committee or long-term care  
12 ombudsman council member; or  
13           7. Bank, savings and loan, or credit union officer,  
14 trustee, or employee,  
15  
16 who knows, or has reasonable cause to suspect, that a disabled  
17 adult or an elderly person has been or is being abused,  
18 neglected, or exploited shall immediately report such  
19 knowledge or suspicion to the central abuse registry and  
20 tracking system on the single statewide toll-free telephone  
21 number.  
22           Section 41. Paragraph (a) of subsection (1) of section  
23 415.504, Florida Statutes, 1996 Supplement, is amended to  
24 read:  
25           415.504 Mandatory reports of child abuse or neglect;  
26 mandatory reports of death; central abuse hotline.--  
27           (1) Any person, including, but not limited to, any:  
28           (a) Physician, osteopathic physician ~~osteopath~~,  
29 medical examiner, chiropractor, nurse, or hospital personnel  
30 engaged in the admission, examination, care, or treatment of  
31 persons;

1  
2 who knows, or has reasonable cause to suspect, that a child is  
3 an abused, abandoned, or neglected child shall report such  
4 knowledge or suspicion to the department in the manner  
5 prescribed in subsection (2).

6 Section 42. Subsection (2) of section 440.106, Florida  
7 Statutes, is amended to read:

8 440.106 Civil remedies; administrative penalties.--

9 (2) Whenever a physician, osteopathic physician  
10 ~~osteopath~~, chiropractor, podiatrist, or other practitioner is  
11 determined to have violated s. 440.105, the Board of Medicine  
12 ~~Medical Examiners~~ as set forth in chapter 458, the Board of  
13 Osteopathic Medicine ~~Medical Examiners~~ as set forth in chapter  
14 459, the Board of Chiropractic as set forth in chapter 460,  
15 the Board of Podiatric Medicine as set forth in chapter 461,  
16 or other appropriate licensing authority, shall hold an  
17 administrative hearing to consider the imposition of  
18 administrative sanctions as provided by law against said  
19 physician, osteopathic physician ~~osteopath~~, chiropractor, or  
20 other practitioner.

21 Section 43. Paragraph (r) of subsection (1) of section  
22 440.13, Florida Statutes, 1996 Supplement, is amended to read:

23 440.13 Medical services and supplies; penalty for  
24 violations; limitations.--

25 (1) DEFINITIONS.--As used in this section, the term:

26 (r) "Physician" or "doctor" means ~~a medical doctor or~~  
27 ~~doctor of osteopathy licensed under chapter 458,~~ a physician  
28 licensed under chapter 458, an osteopathic physician ~~osteopath~~  
29 licensed under chapter 459, a chiropractor licensed under  
30 chapter 460, a podiatrist licensed under chapter 461, an  
31 optometrist licensed under chapter 463, or a dentist licensed

1 under chapter 466, each of whom must be certified by the  
2 division as a health care provider.

3 Section 44. Paragraphs (i) and (k) of subsection (1)  
4 of section 440.134, Florida Statutes, are amended to read:

5 440.134 Workers' compensation managed care  
6 arrangement.--

7 (1) As used in this section, the term:

8 (i) "Medical care coordinator" means a primary care  
9 provider within a provider network who is responsible for  
10 managing the medical care of an injured worker including  
11 determining other health care providers and health care  
12 facilities to which the injured employee will be referred for  
13 evaluation or treatment. A medical care coordinator shall be a  
14 physician licensed under chapter 458 or an osteopathic  
15 physician osteopath licensed under chapter 459.

16 (k) "Primary care provider" means, except in the case  
17 of emergency treatment, the initial treating physician and,  
18 when appropriate, continuing treating physician, who may be a  
19 family practitioner, general practitioner, or internist  
20 physician licensed under chapter 458; a family practitioner,  
21 general practitioner, or internist osteopathic physician  
22 ~~osteopath~~ licensed under chapter 459; a chiropractor licensed  
23 under chapter 460; a podiatrist licensed under chapter 461; an  
24 optometrist licensed under chapter 463; or a dentist licensed  
25 under chapter 466.

26 Section 45. Paragraph (a) of subsection (3) of section  
27 440.15, Florida Statutes, 1996 Supplement, is amended to read:

28 440.15 Compensation for disability.--Compensation for  
29 disability shall be paid to the employee, subject to the  
30 limits provided in s. 440.12(2), as follows:

31 (3) PERMANENT IMPAIRMENT AND WAGE-LOSS BENEFITS.--

1 (a) Impairment benefits.--

2 1. Once the employee has reached the date of maximum  
3 medical improvement, impairment benefits are due and payable  
4 within 20 days after the carrier has knowledge of the  
5 impairment.

6 2. The three-member panel, in cooperation with the  
7 division, shall establish and use a uniform permanent  
8 impairment rating schedule. This schedule must be based on  
9 medically or scientifically demonstrable findings as well as  
10 the systems and criteria set forth in the American Medical  
11 Association's Guides to the Evaluation of Permanent  
12 Impairment; the Snellen Charts, published by American Medical  
13 Association Committee for Eye Injuries; and the Minnesota  
14 Department of Labor and Industry Disability Schedules. The  
15 schedule should be based upon objective findings. The schedule  
16 shall be more comprehensive than the AMA Guides to the  
17 Evaluation of Permanent Impairment and shall expand the areas  
18 already addressed and address additional areas not currently  
19 contained in the guides. On August 1, 1979, and pending the  
20 adoption, by rule, of a permanent schedule, Guides to the  
21 Evaluation of Permanent Impairment, copyright 1977, 1971,  
22 1988, by the American Medical Association, shall be the  
23 temporary schedule and shall be used for the purposes hereof.  
24 For injuries after July 1, 1990, pending the adoption by  
25 division rule of a uniform disability rating schedule, the  
26 Minnesota Department of Labor and Industry Disability Schedule  
27 shall be used unless that schedule does not address an injury.  
28 In such case, the Guides to the Evaluation of Permanent  
29 Impairment by the American Medical Association shall be used.  
30 Determination of permanent impairment under this schedule must  
31 be made by a physician licensed under chapter 458, a doctor of



1 osteopathic medicine ~~osteopathy~~ licensed under chapters 458  
2 and 459, a chiropractor licensed under chapter 460, a  
3 podiatrist licensed under chapter 461, an optometrist licensed  
4 under chapter 463, or a dentist licensed under chapter 466, as  
5 appropriate considering the nature of the injury. No other  
6 persons are authorized to render opinions regarding the  
7 existence of or the extent of permanent impairment.

8           3. All impairment income benefits shall be based on an  
9 impairment rating using the impairment schedule referred to in  
10 subparagraph 2. Impairment income benefits are paid weekly at  
11 the rate of 50 percent of the employee's average weekly  
12 temporary total disability benefit not to exceed the maximum  
13 weekly benefit under s. 440.12. An employee's entitlement to  
14 impairment income benefits begins the day after the employee  
15 reaches maximum medical improvement or the expiration of  
16 temporary benefits, whichever occurs earlier, and continues  
17 until the earlier of:

18           a. The expiration of a period computed at the rate of  
19 3 weeks for each percentage point of impairment; or

20           b. The death of the employee.

21           4. After the employee has been certified by a doctor  
22 as having reached maximum medical improvement or 6 weeks  
23 before the expiration of temporary benefits, whichever occurs  
24 earlier, the certifying doctor shall evaluate the condition of  
25 the employee and assign an impairment rating, using the  
26 impairment schedule referred to in subparagraph 2.

27 Compensation is not payable for the mental, psychological, or  
28 emotional injury arising out of depression from being out of  
29 work. If the certification and evaluation are performed by a  
30 doctor other than the employee's treating doctor, the  
31 certification and evaluation must be submitted to the treating

1 doctor, and the treating doctor must indicate agreement or  
2 disagreement with the certification and evaluation. The  
3 certifying doctor shall issue a written report to the  
4 division, the employee, and the carrier certifying that  
5 maximum medical improvement has been reached, stating the  
6 impairment rating, and providing any other information  
7 required by the division. If the employee has not been  
8 certified as having reached maximum medical improvement before  
9 the expiration of 102 weeks after the date temporary total  
10 disability benefits begin to accrue, the carrier shall notify  
11 the treating doctor of the requirements of this section.

12 5. The carrier shall pay the employee impairment  
13 income benefits for a period based on the impairment rating.

14 Section 46. Subsection (2) of section 456.31, Florida  
15 Statutes, is amended to read:

16 456.31 Legislative intent.--

17 (2) It is the intent of the Legislature to provide for  
18 certain practitioners of the healing arts, such as a trained  
19 and qualified dentist, to use hypnosis for hypnoanesthesia or  
20 for the allaying of anxiety in relation to dental work;  
21 however, under no circumstances shall it be legal or proper  
22 for the dentist or the individual to whom the dentist may  
23 refer the patient, to use hypnosis for the treatment of the  
24 neurotic difficulties of a patient. The same applies to the  
25 optometrist, podiatrist, chiropractor, osteopathic physician  
26 ~~osteopath~~, or physician of medicine.

27 Section 47. Subsection (1) of section 459.006, Florida  
28 Statutes, is amended to read:

29 459.006 Licensure by examination.--Any person desiring  
30 to be licensed by examination shall:

31

1           (1) Have successfully completed a resident internship  
2 of not less than 12 months in a hospital approved for this  
3 purpose by the Board of Trustees of the American Osteopathic  
4 Association or any other internship program approved by the  
5 board upon a showing of good cause by the applicant. This  
6 requirement may be waived for applicants who matriculated in a  
7 college of osteopathic medicine ~~osteopathy~~ during or before  
8 1948.

9           Section 48. Subsection (1) of section 462.01, Florida  
10 Statutes, is amended to read:

11           462.01 Definitions.--As used in this chapter:

12           (1) "Natureopathy" and "Naturopathy" shall be  
13 construed as synonymous terms and mean the use and practice of  
14 psychological, mechanical, and material health sciences to aid  
15 in purifying, cleansing, and normalizing human tissues for the  
16 preservation or restoration of health, according to the  
17 fundamental principles of anatomy, physiology, and applied  
18 psychology, as may be required. Naturopathic practice  
19 employs, among other agencies, phytotherapy, dietetics,  
20 psychotherapy, suggestotherapy, hydrotherapy, zone therapy,  
21 biochemistry, external applications, electrotherapy,  
22 mechanotherapy, mechanical and electrical appliances, hygiene,  
23 first aid, sanitation, and heliotherapy; provided, however,  
24 that nothing in this chapter shall be held or construed to  
25 authorize any naturopathic physician licensed hereunder to  
26 practice materia medica or surgery or chiropractic, nor shall  
27 the provisions of this law in any manner apply to or affect  
28 the practice of osteopathic medicine ~~osteopathy~~, chiropractic,  
29 Christian Science, or any other treatment authorized and  
30 provided for by law for the cure or prevention of disease and  
31 ailments.

1           Section 49. Subsection (10) of section 468.301,  
2 Florida Statutes, is amended to read:

3           468.301 Definitions.--As used in this part, the term:

4           (10) "Licensed practitioner" means a person who is  
5 licensed or otherwise authorized by law to practice medicine,  
6 podiatry, chiropody, osteopathic medicine ~~osteopathy~~,  
7 naturopathy, or chiropractic in this state.

8           Section 50. Paragraph (a) of subsection (6) of section  
9 468.302, Florida Statutes, 1996 Supplement, is amended to  
10 read:

11           468.302 Use of radiation; identification of certified  
12 persons; limitations; exceptions.--

13           (6) Requirement for certification does not apply to:

14           (a) A hospital resident who is not a licensed  
15 practitioner in this state or a student enrolled in and  
16 attending a school or college of medicine, osteopathic  
17 medicine ~~osteopathy~~, chiropody, podiatry, or chiropractic or a  
18 radiologic technology educational program and who applies  
19 radiation to a human being while under the direct supervision  
20 of a licensed practitioner.

21           Section 51. Subsection (1) of section 476.044, Florida  
22 Statutes, is amended to read:

23           476.044 Exemptions.--This chapter does not apply to  
24 the following persons when practicing pursuant to their  
25 professional responsibilities and duties:

26           (1) Persons authorized under the laws of this state to  
27 practice medicine, surgery, osteopathic medicine ~~osteopathy~~,  
28 chiropractic, naturopathy, or podiatry;

29           Section 52. Paragraph (a) of subsection (1) of section  
30 477.0135, Florida Statutes, is amended to read:

31           477.0135 Exemptions.--

1           (1) This chapter does not apply to the following  
2 persons when practicing pursuant to their professional or  
3 occupational responsibilities and duties:

4           (a) Persons authorized under the laws of this state to  
5 practice medicine, surgery, osteopathic medicine ~~osteopathy~~,  
6 chiropractic, massage, naturopathy, or podiatry.

7           Section 53. Paragraph (a) of subsection (8) of section  
8 483.291, Florida Statutes, is amended to read:

9           483.291 Powers and duties of the agency; rules.--The  
10 agency shall adopt rules to implement this part, which rules  
11 must include the following:

12           (8) PERSONNEL.--The agency shall prescribe minimum  
13 qualifications for center personnel. A center may employ as a  
14 medical assistant a person who has at least one of the  
15 following qualifications:

16           (a) Prior experience of not less than 6 months as a  
17 medical assistant in the office of a licensed medical doctor  
18 or osteopathic physician ~~osteopath~~ or in a hospital, an  
19 ambulatory surgical center, a home health agency, or a health  
20 maintenance organization.

21           Section 54. Subsection (1) of section 621.03, Florida  
22 Statutes, is amended to read:

23           621.03 Definitions.--As used in this act the following  
24 words shall have the meaning indicated:

25           (1) The term "professional service" means any type of  
26 personal service to the public which requires as a condition  
27 precedent to the rendering of such service the obtaining of a  
28 license or other legal authorization. By way of example and  
29 without limiting the generality thereof, the personal services  
30 which come within the provisions of this act are the personal  
31 services rendered by certified public accountants, public

1 accountants, chiropractors, dentists, osteopathic physicians  
2 ~~osteopaths~~, physicians and surgeons, doctors of medicine,  
3 doctors of dentistry, podiatrists, chiropodists, architects,  
4 veterinarians, attorneys at law, and life insurance agents.

5 Section 55. Paragraph (h) of subsection (4) of section  
6 627.351, Florida Statutes, 1996 Supplement, is amended to  
7 read:

8 627.351 Insurance risk apportionment plans.--

9 (4) MEDICAL MALPRACTICE RISK APPORTIONMENT.--

10 (h) As used in this subsection:

11 1. "Health care provider" means hospitals licensed  
12 under chapter 395; physicians licensed under chapter 458;  
13 osteopathic physicians ~~osteopaths~~ licensed under chapter 459;  
14 podiatrists licensed under chapter 461; dentists licensed  
15 under chapter 466; chiropractors licensed under chapter 460;  
16 naturopaths licensed under chapter 462; nurses licensed under  
17 chapter 464; midwives licensed under chapter 467; clinical  
18 laboratories registered under chapter 483; physician  
19 assistants certified under chapter 458; physical therapists  
20 and physical therapist assistants licensed under chapter 486;  
21 health maintenance organizations certificated under part I of  
22 chapter 641; ambulatory surgical centers licensed under  
23 chapter 395; other medical facilities as defined in  
24 subparagraph 2.; blood banks, plasma centers, industrial  
25 clinics, and renal dialysis facilities; or professional  
26 associations, partnerships, corporations, joint ventures, or  
27 other associations for professional activity by health care  
28 providers.

29 2. "Other medical facility" means a facility the  
30 primary purpose of which is to provide human medical  
31 diagnostic services or a facility providing nonsurgical human

1 medical treatment, to which facility the patient is admitted  
2 and from which facility the patient is discharged within the  
3 same working day, and which facility is not part of a  
4 hospital. However, a facility existing for the primary  
5 purpose of performing terminations of pregnancy or an office  
6 maintained by a physician or dentist for the practice of  
7 medicine shall not be construed to be an "other medical  
8 facility."

9           3. "Health care facility" means any hospital licensed  
10 under chapter 395, health maintenance organization  
11 certificated under part I of chapter 641, ambulatory surgical  
12 center licensed under chapter 395, or other medical facility  
13 as defined in subparagraph 2.

14           Section 56. Paragraph (b) of subsection (1) of section  
15 627.357, Florida Statutes, is amended to read:

16           627.357 Medical malpractice self-insurance.--

17           (1) DEFINITIONS.--As used in this section, the term:

18           (b) "Health care provider" means any:

19           1. Hospital licensed under chapter 395.

20           2. Physician licensed, or physician assistant  
21 certified, under chapter 458.

22           3. Osteopathic physician ~~Osteopath~~ licensed under  
23 chapter 459.

24           4. Podiatrist licensed under chapter 461.

25           5. Health maintenance organization certificated under  
26 part I of chapter 641.

27           6. Ambulatory surgical center licensed under chapter  
28 395.

29           7. Chiropractor licensed under chapter 460.

30           8. Psychologist licensed under chapter 490.

31           9. Optometrist licensed under chapter 463.

1           10. Dentist licensed under chapter 466.  
2           11. Pharmacist licensed under chapter 465.  
3           12. Registered nurse, licensed practical nurse, or  
4 advanced registered nurse practitioner licensed or registered  
5 under chapter 464.

6           13. Other medical facility.

7           14. Professional association, partnership,  
8 corporation, joint venture, or other association established  
9 by the individuals set forth in subparagraphs 2., 3., 4., 7.,  
10 8., 9., 10., 11., and 12. for professional activity.

11           Section 57. Subsection (10) of section 627.6482,  
12 Florida Statutes, is amended to read:

13           627.6482 Definitions.--As used in ss.  
14 627.648-627.6498, the term:

15           (10) "Physician" means a physician licensed under  
16 chapter 458; an osteopathic physician ~~osteopath~~ licensed under  
17 chapter 459; a chiropractor licensed under chapter 460; a  
18 podiatrist licensed under chapter 461; or, for purposes of  
19 oral surgery only, a dental surgeon licensed under chapter  
20 466.

21           Section 58. Section 725.01, Florida Statutes, is  
22 amended to read:

23           725.01 Promise to pay another's debt, etc.--No action  
24 shall be brought whereby to charge any executor or  
25 administrator upon any special promise to answer or pay any  
26 debt or damages out of his own estate, or whereby to charge  
27 the defendant upon any special promise to answer for the debt,  
28 default or miscarriage of another person or to charge any  
29 person upon any agreement made upon consideration of marriage,  
30 or upon any contract for the sale of lands, tenements or  
31 hereditaments, or of any uncertain interest in or concerning



1 them, or for any lease thereof for a period longer than 1  
2 year, or upon any agreement that is not to be performed within  
3 the space of 1 year from the making thereof, or whereby to  
4 charge any health care provider upon any guarantee, warranty,  
5 or assurance as to the results of any medical, surgical, or  
6 diagnostic procedure performed by any physician licensed under  
7 chapter 458, osteopathic physician ~~osteopath~~ licensed under  
8 chapter 459, chiropractor licensed under chapter 460,  
9 podiatrist licensed under chapter 461, or dentist licensed  
10 under chapter 466, unless the agreement or promise upon which  
11 such action shall be brought, or some note or memorandum  
12 thereof shall be in writing and signed by the party to be  
13 charged therewith or by some other person by him thereunto  
14 lawfully authorized.

15 Section 59. Paragraph (b) of subsection (1) of section  
16 766.101, Florida Statutes, 1996 Supplement, is amended to  
17 read:

18 766.101 Medical review committee, immunity from  
19 liability.--

20 (1) As used in this section:

21 (b) The term "health care providers" means physicians  
22 licensed under chapter 458, osteopathic physicians ~~osteopaths~~  
23 licensed under chapter 459, podiatrists licensed under chapter  
24 461, optometrists licensed under chapter 463, dentists  
25 licensed under chapter 466, chiropractors licensed under  
26 chapter 460, pharmacists licensed under chapter 465, or  
27 hospitals or ambulatory surgical centers licensed under  
28 chapter 395.

29 Section 60. Subsection (3) of section 766.103, Florida  
30 Statutes, is amended to read:

31 766.103 Florida Medical Consent Law.--

1           (3) No recovery shall be allowed in any court in this  
2 state against any physician licensed under chapter 458,  
3 osteopathic physician ~~osteopath~~ licensed under chapter 459,  
4 chiropractor licensed under chapter 460, podiatrist licensed  
5 under chapter 461, or dentist licensed under chapter 466 in an  
6 action brought for treating, examining, or operating on a  
7 patient without his informed consent when:

8           (a)1. The action of the physician, osteopathic  
9 physician ~~osteopath~~, chiropractor, podiatrist, or dentist in  
10 obtaining the consent of the patient or another person  
11 authorized to give consent for the patient was in accordance  
12 with an accepted standard of medical practice among members of  
13 the medical profession with similar training and experience in  
14 the same or similar medical community; and

15           2. A reasonable individual, from the information  
16 provided by the physician, osteopathic physician ~~osteopath~~,  
17 chiropractor, podiatrist, or dentist, under the circumstances,  
18 would have a general understanding of the procedure, the  
19 medically acceptable alternative procedures or treatments, and  
20 the substantial risks and hazards inherent in the proposed  
21 treatment or procedures, which are recognized among other  
22 physicians, osteopathic physicians ~~osteopaths~~, chiropractors,  
23 podiatrists, or dentists in the same or similar community who  
24 perform similar treatments or procedures; or

25           (b) The patient would reasonably, under all the  
26 surrounding circumstances, have undergone such treatment or  
27 procedure had he been advised by the physician, osteopathic  
28 physician ~~osteopath~~, chiropractor, podiatrist, or dentist in  
29 accordance with the provisions of paragraph (a).

30  
31

1           Section 61. Paragraphs (b) and (i) of subsection (1)  
2 and paragraph (e) of subsection (2) of section 766.105,  
3 Florida Statutes, 1996 Supplement, are amended to read:

4           766.105 Florida Patient's Compensation Fund.--

5           (1) DEFINITIONS.--The following definitions apply in  
6 the interpretation and enforcement of this section:

7           (b) The term "health care provider" means any:

8           1. Hospital licensed under chapter 395.

9           2. Physician licensed, or physician assistant  
10 certified, under chapter 458.

11           3. Osteopathic physician ~~osteopath~~ licensed under  
12 chapter 459.

13           4. Podiatrist licensed under chapter 461.

14           5. Health maintenance organization certificated under  
15 part I of chapter 641.

16           6. Ambulatory surgical center licensed under chapter  
17 395.

18           7. "Other medical facility" as defined in paragraph  
19 (c).

20           8. Professional association, partnership, corporation,  
21 joint venture, or other association by the individuals set  
22 forth in subparagraphs 2., 3., and 4. for professional  
23 activity.

24           (i) The term "house physician" means any physician,  
25 osteopathic physician ~~osteopath~~, podiatrist, or dentist  
26 except: a physician, osteopathic physician ~~osteopath~~,  
27 podiatrist, or dentist with staff privileges at a hospital; a  
28 physician, osteopathic physician ~~osteopath~~, podiatrist, or  
29 dentist providing emergency room services; an  
30 anesthesiologist, pathologist, or radiologist; or a physician,  
31

1 osteopathic physician ~~osteopath~~, podiatrist, or dentist who  
2 performs a service for a fee.  
3 (2) COVERAGE.--  
4 (e) The coverage afforded by the fund for a  
5 participating hospital or ambulatory surgical center shall  
6 apply to the officers, trustees, volunteer workers, trainees,  
7 committee members (including physicians, osteopathic  
8 physicians ~~osteopaths~~, podiatrists, and dentists), and  
9 employees of the hospital or ambulatory surgical center, other  
10 than employed physicians licensed under chapter 458, physician  
11 assistants licensed under chapter 458, osteopathic physicians  
12 ~~osteopaths~~ licensed under chapter 459, dentists licensed under  
13 chapter 466, and podiatrists licensed under chapter 461.  
14 However, the coverage afforded by the fund for a participating  
15 hospital shall apply to house physicians, interns, employed  
16 physician residents in a resident training program, or  
17 physicians performing purely administrative duties for the  
18 participating hospitals other than the treatment of patients.  
19 This coverage shall apply to the hospital or ambulatory  
20 surgical center and those included in this subsection as one  
21 health care provider.

22 Section 62. Subsection (2) of section 766.110, Florida  
23 Statutes, is amended to read:

24 766.110 Liability of health care facilities.--

25 (2) Every hospital licensed under chapter 395 may  
26 carry liability insurance or adequately insure itself in an  
27 amount of not less than \$1.5 million per claim, \$5 million  
28 annual aggregate to cover all medical injuries to patients  
29 resulting from negligent acts or omissions on the part of  
30 those members of its medical staff who are covered thereby in  
31 furtherance of the requirements of ss. 458.320 and 459.0085.

1 Self-insurance coverage extended hereunder to a member of a  
2 hospital's medical staff meets the financial responsibility  
3 requirements of ss. 458.320 and 459.0085 if the physician's  
4 coverage limits are not less than the minimum limits  
5 established in ss. 458.320 and 459.0085 and the hospital is a  
6 verified trauma center as of July 1, 1990, that has extended  
7 self-insurance coverage continuously to members of its medical  
8 staff for activities both inside and outside of the hospital  
9 since January 1, 1987. Any insurer authorized to write  
10 casualty insurance may make available, but shall not be  
11 required to write, such coverage. The hospital may assess on  
12 an equitable and pro rata basis the following professional  
13 health care providers for a portion of the total hospital  
14 insurance cost for this coverage: physicians licensed under  
15 chapter 458, osteopathic physicians ~~osteopaths~~ licensed under  
16 chapter 459, podiatrists licensed under chapter 461, dentists  
17 licensed under chapter 466, and nurses licensed under chapter  
18 464. The hospital may provide for a deductible amount to be  
19 applied against any individual health care provider found  
20 liable in a law suit in tort or for breach of contract. The  
21 legislative intent in providing for the deductible to be  
22 applied to individual health care providers found negligent or  
23 in breach of contract is to instill in each individual health  
24 care provider the incentive to avoid the risk of injury to the  
25 fullest extent and ensure that the citizens of this state  
26 receive the highest quality health care obtainable.

27 Section 63. Subsection (2) of section 817.234, Florida  
28 Statutes, is amended to read:

29 817.234 False and fraudulent insurance claims.--

30 (2) Any physician licensed under chapter 458,  
31 osteopathic physician ~~osteopath~~ licensed under chapter 459,

1 chiropractor licensed under chapter 460, or other practitioner  
2 licensed under the laws of this state who knowingly and  
3 willfully assists, conspires with, or urges any insured party  
4 to fraudulently violate any of the provisions of this section  
5 or part XI of chapter 627, or any person who, due to such  
6 assistance, conspiracy, or urging by said physician,  
7 osteopathic physician ~~osteopath~~, chiropractor, or  
8 practitioner, knowingly and willfully benefits from the  
9 proceeds derived from the use of such fraud, is guilty of a  
10 felony of the third degree, punishable as provided in s.  
11 775.082, s. 775.083, or s. 775.084. In the event that a  
12 physician, osteopathic physician ~~osteopath~~, chiropractor, or  
13 practitioner is adjudicated guilty of a violation of this  
14 section, the Board of Medicine as set forth in chapter 458,  
15 the Board of Osteopathic Medicine as set forth in chapter 459,  
16 the Board of Chiropractic as set forth in chapter 460, or  
17 other appropriate licensing authority shall hold an  
18 administrative hearing to consider the imposition of  
19 administrative sanctions as provided by law against said  
20 physician, osteopathic physician ~~osteopath~~, chiropractor, or  
21 practitioner.

22 Section 64. Subsection (1) of section 945.047, Florida  
23 Statutes, is amended to read:

24 945.047 Licensing requirements for physicians,  
25 osteopathic physicians, and chiropractors employed by the  
26 department.--

27 (1) The Department of Corrections shall employ only  
28 physicians, osteopathic physicians, or chiropractic physicians  
29 holding licenses in good standing to practice medicine in this  
30 state, except that, by October 1, 1980, no more than 10  
31 percent of the total number of such physicians employed by the

1 department may be exempted from the provisions of this  
2 subsection. Each such exempted physician shall hold a valid  
3 license to practice medicine, osteopathic medicine ~~osteopathy~~,  
4 or chiropractic in another state and shall have been certified  
5 by the appropriate board as eligible for admission for  
6 examination in this state under chapter 458, chapter 459, or  
7 chapter 460, as applicable. The appropriate board shall not  
8 certify as eligible for admission for examination any person  
9 who has been adjudged unqualified or guilty of any of the acts  
10 enumerated in the disciplinary provisions contained in chapter  
11 458, chapter 459, or chapter 460, as applicable.

12 Section 65. Subsection (1) of section 460.403, Florida  
13 Statutes, 1996 Supplement, is amended to read:

14 460.403 Definitions.--As used in this chapter, the  
15 term:

16 (1) "Department" means the Department of Health  
17 ~~Business and Professional Regulation~~.

18 Section 66. Paragraphs (q) and (gg) of subsection (1)  
19 and subsection (2) of section 460.413, Florida Statutes, 1996  
20 Supplement, are amended, and subsections (6) and (7) are added  
21 to said section, to read:

22 460.413 Grounds for disciplinary action; action by the  
23 board.--

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

27 (q) Being unable to practice chiropractic with  
28 reasonable skill and safety to patients by reason of illness  
29 or use of alcohol, drugs, narcotics, chemicals, or any other  
30 type of material or as a result of any mental or physical  
31 condition. In enforcing this paragraph, upon a finding by the

1 secretary of the department, or his or her designee, or the  
2 probable cause panel of the board that probable cause exists  
3 to believe that the licensee is unable to practice the  
4 profession because of reasons stated in this paragraph, the  
5 department shall have the authority to compel a licensee to  
6 submit to a mental or physical examination by a physician  
7 designated by the department. If the licensee refuses to  
8 comply with the department's order, the department may file a  
9 petition for enforcement in the circuit court of the circuit  
10 in which the licensee resides or does business. The licensee  
11 shall not be named or identified by initials in any other  
12 public court records or documents and the enforcement  
13 proceedings shall be closed to the public. The department  
14 shall be entitled to the summary procedure provided in s.  
15 51.011. The record of proceedings to obtain a compelled  
16 mental or physical examination shall not be used against a  
17 licensee in any other proceedings. A chiropractic physician  
18 affected under this paragraph shall at reasonable intervals be  
19 afforded an opportunity to demonstrate that he can resume the  
20 competent practice of chiropractic with reasonable skill and  
21 safety to patients.

22 (gg) Failing to report to the department ~~Division of~~  
23 ~~Medical Quality Assurance~~ any licensee ~~physician licensed~~  
24 ~~under chapter 458 or osteopathic physician licensed~~ under  
25 ~~chapter 459~~ who the chiropractic physician or chiropractic  
26 physician's assistant knows has violated the grounds for  
27 disciplinary action set out in the law under which that person  
28 ~~physician or osteopathic physician~~ is licensed and who  
29 provides health care services in a facility licensed under  
30 chapter 395, or a health maintenance organization certificated  
31 under part I of chapter 641, in which the chiropractic



1 physician or chiropractic physician's assistant also provides  
2 services.

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

6 (a) Refusal to certify to the department an  
7 application for licensure.

8 (b) Revocation or suspension of a license.

9 (c) Restriction of practice.

10 (d) Imposition of an administrative fine not to exceed  
11 \$2,000 for each count or separate offense.

12 (e) Issuance of a reprimand.

13 (f) Placement of the chiropractic physician on  
14 probation for a period of time and subject to such conditions  
15 as the board may specify, including requiring the chiropractic  
16 physician to submit to treatment, to attend continuing  
17 education courses, to submit to reexamination, or to work  
18 under the supervision of another chiropractic physician.

19 (g) Imposition of costs of the investigation and  
20 prosecution.

21 (h) Requirement that the chiropractic physician  
22 undergo remedial education.

23 (i) Issuance of a letter of concern.

24 (j) Corrective action.

25 (k) Refund of fees billed to and collected from the  
26 patient or a third party.

27  
28 In determining what action is appropriate, the board must  
29 first consider what sanctions are necessary to protect the  
30 public or to compensate the patient. Only after those  
31 sanctions have been imposed may the disciplining authority

1 consider and include in the order requirements designed to  
2 rehabilitate the chiropractic physician. All costs associated  
3 with compliance with orders issued under this subsection are  
4 the obligation of the chiropractic physician.

5 (6) In any administrative action against a  
6 chiropractic physician which does not involve revocation or  
7 suspension of license, the department shall have the burden,  
8 by the greater weight of the evidence, to establish the  
9 existence of grounds for disciplinary action. The department  
10 shall establish grounds for revocation or suspension of  
11 license by clear and convincing evidence.

12 (7) If any chiropractic physician is guilty of such  
13 unprofessional conduct, negligence, or mental or physical  
14 incapacity or impairment that the department determines that  
15 the chiropractic physician is unable to practice with  
16 reasonable skill and safety and presents a danger to patients,  
17 the department shall be authorized to maintain an action in  
18 circuit court enjoining such chiropractic physician from  
19 providing medical services to the public until the  
20 chiropractic physician demonstrates the ability to practice  
21 with reasonable skill and safety and without danger to  
22 patients.

23 Section 67. For the purpose of incorporating the  
24 amendment to section 460.413, Florida Statutes, 1996  
25 Supplement, in references thereto, the sections or  
26 subdivisions of Florida Statutes set forth below are reenacted  
27 to read:

28 320.0848 Persons who have disabilities; issuance of  
29 disabled parking permits; temporary permits; permits for  
30 certain providers of transportation services to persons who  
31 have disabilities.--

1 (9) A violation of this section is grounds for  
2 disciplinary action under s. 458.331, s. 459.015, s. 460.413,  
3 or s. 461.013, as applicable.

4 455.236 Financial arrangements between referring  
5 health care providers and providers of health care services.--

6 (4) PROHIBITED REFERRALS AND CLAIMS FOR  
7 PAYMENT.--Except as provided in this section:

8 (g) A violation of this section by a health care  
9 provider shall constitute grounds for disciplinary action to  
10 be taken by the applicable board pursuant to s. 458.331(2), s.  
11 459.015(2), s. 460.413(2), s. 461.013(2), s. 463.016(2), or s.  
12 466.028(2). Any hospital licensed under chapter 395 found in  
13 violation of this section shall be subject to the rules  
14 adopted by the Department of Health and Rehabilitative  
15 Services pursuant to s. 395.0185(2).

16 766.111 Engaging in unnecessary diagnostic testing;  
17 penalties.--

18 (2) A violation of this section shall be grounds for  
19 disciplinary action pursuant to s. 458.331, s. 459.015, s.  
20 460.413, s. 461.013, or s. 466.028, as applicable.

21 Section 68. Paragraph (a) of subsection (8) of section  
22 460.4165, Florida Statutes, is amended to read:

23 460.4165 Chiropractic physician's assistants.--

24 (8) FEES.--

25 (a) A fee not to exceed \$100 set by the board shall  
26 accompany the ~~annual~~ application by a chiropractic physician  
27 ~~or group of chiropractic physicians~~ for authorization to  
28 supervise a certified chiropractic physician's assistant.

29 Section 69. Subsection (1) of section 461.003, Florida  
30 Statutes, is amended to read:

31 461.003 Definitions.--As used in this chapter:

1 (1) "Department" means the Department of Health  
2 ~~Business and Professional Regulation~~.

3 Section 70. Paragraph (aa) of subsection (1) of  
4 section 461.013, Florida Statutes, is amended to read:

5 461.013 Grounds for disciplinary action; action by the  
6 board; investigations by department.--

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

10 (aa) Failing to report to the department ~~Division of~~  
11 ~~Medical Quality Assurance~~ any licensee ~~physician licensed~~  
12 under chapter 458 or ~~osteopathic physician licensed under~~  
13 chapter 459 who the podiatrist knows has violated the grounds  
14 for disciplinary action set out in the law under which that  
15 person ~~physician or osteopathic physician~~ is licensed and who  
16 provides health care services in a facility licensed under  
17 chapter 395, or a health maintenance organization certificated  
18 under part I of chapter 641, in which the podiatrist also  
19 provides services.

20 Section 71. Section 461.018, Florida Statutes, 1996  
21 Supplement, is amended to read:

22 461.018 Limited scope of practice; area of  
23 need.--Those persons holding valid certificates on October 1,  
24 1991, who were certified pursuant to chapters 88-205 and  
25 88-392, Laws of Florida, and who have been practicing under a  
26 board-approved protocol for at least 2 years are eligible to  
27 receive a podiatry license to practice without supervision  
28 under their present limited scope of practice of the  
29 nonsurgical treatment of corns, calluses, and ingrown toenails  
30 in a specially designated area of need as provided by rule of  
31 the board.

1           Section 72. Subsection (1) and paragraph (c) of  
2 subsection (3) of section 464.003, Florida Statutes, 1996  
3 Supplement, are amended to read:  
4           464.003 Definitions.--As used in this chapter:  
5           (1) "Department Agency" means the Department of Agency  
6 ~~for Health Care Administration.~~  
7           (3)  
8           (c) "Advanced or specialized nursing practice" means,  
9 in addition to the practice of professional nursing, the  
10 performance of advanced-level nursing acts approved by the  
11 board which, by virtue of postbasic specialized education,  
12 training, and experience, are proper to be performed by an  
13 advanced registered nurse practitioner. Within the context of  
14 advanced or specialized nursing practice, the advanced  
15 registered nurse practitioner may perform acts of nursing  
16 diagnosis and nursing treatment of alterations of the health  
17 status. The advanced registered nurse practitioner may also  
18 perform acts of medical diagnosis and treatment, prescription,  
19 and operation which are identified and approved by a joint  
20 committee composed of three members appointed by the Board of  
21 Nursing, two of whom shall be advanced registered nurse  
22 practitioners; three members appointed by the Board of  
23 Medicine, two of whom shall have had work experience with  
24 advanced registered nurse practitioners; and the secretary  
25 ~~director~~ of the department agency or the secretary's  
26 ~~director's~~ designee. Each committee member appointed by a  
27 board shall be appointed to a term of 4 years unless a shorter  
28 term is required to establish or maintain staggered terms. The  
29 Board of Nursing shall adopt rules authorizing the performance  
30 of any such acts approved by the joint committee. Unless  
31 otherwise specified by the joint committee, such acts shall be

1 performed under the general supervision of a practitioner  
2 licensed under chapter 458, chapter 459, or chapter 466 within  
3 the framework of standing protocols which identify the medical  
4 acts to be performed and the conditions for their performance.  
5 The department ~~agency~~ may, by rule, require that a copy of the  
6 protocol be filed with the department ~~agency~~ along with the  
7 notice required by s. 458.348.

8 Section 73. Subsection (1) of section 464.004, Florida  
9 Statutes, 1996 Supplement, is amended to read:

10 464.004 Board of Nursing; membership; appointment;  
11 terms.--

12 (1) The Board of Nursing is created within the  
13 department ~~agency~~ and shall consist of 13 members to be  
14 appointed by the Governor and confirmed by the Senate.

15 Section 74. Subsection (1) of section 464.008, Florida  
16 Statutes, 1996 Supplement, is amended to read:

17 464.008 Licensure by examination.--

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

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

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

1 (c) Is in good mental and physical health, is a  
2 recipient of a high school diploma or the equivalent, and has  
3 completed the requirements for graduation from an approved  
4 program for the preparation of registered nurses or licensed  
5 practical nurses, whichever is applicable. Courses  
6 successfully completed in a professional nursing program which  
7 are at least equivalent to a practical nursing program may be  
8 used to satisfy the education requirements for licensure as a  
9 licensed practical nurse.

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

13 Section 75. Subsections (1) and (3) of section  
14 464.009, Florida Statutes, 1996 Supplement, are amended to  
15 read:

16 464.009 Licensure by endorsement.--

17 (1) The department ~~agency~~ shall issue the appropriate  
18 license by endorsement to practice professional or practical  
19 nursing to an applicant who, upon applying to the department  
20 ~~agency~~ and remitting a fee set by the board not to exceed  
21 \$100, demonstrates to the board that he:

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

28 (b) Meets the qualifications for licensure in s.  
29 464.008 and has successfully completed a state, regional, or  
30 national examination which is substantially equivalent to or  
31

1 more stringent than the examination given by the department  
2 ~~agency~~.

3 (3) The department ~~agency~~ shall not issue a license by  
4 endorsement to any applicant who is under investigation in  
5 another state for an act which would constitute a violation of  
6 this chapter until such time as the investigation is complete,  
7 at which time the provisions of s. 464.018 shall apply.

8 Section 76. Subsections (1) and (5) of section  
9 464.012, Florida Statutes, 1996 Supplement, are amended to  
10 read:

11 464.012 Certification of advanced registered nurse  
12 practitioners; fees.--

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

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

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

30 (c) Graduation from a program leading to a master's  
31 degree in a nursing clinical specialty area with preparation



1 in specialized practitioner skills. For applicants graduating  
2 on or after October 1, 1998, graduation from a master's degree  
3 program shall be required for initial certification as a nurse  
4 practitioner under paragraph (4)(c). For applicants  
5 graduating on or after October 1, 2001, graduation from a  
6 master's degree program shall be required for initial  
7 certification as a registered nurse anesthetist under  
8 paragraph (4)(a).

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

16 Section 77. Subsections (1) and (2) of section  
17 464.013, Florida Statutes, 1996 Supplement, are amended to  
18 read:

19 464.013 Renewal of license or certificate.--

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

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

24 Section 78. Subsection (2) of section 464.014, Florida  
25 Statutes, 1996 Supplement, is amended to read:

26 464.014 Inactive status.--

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

31

1           Section 79. Paragraphs (a), (c), (j), (k), (l), and  
2 (m) of subsection (1) and paragraph (a) of subsection (2) of  
3 section 464.018, Florida Statutes, 1996 Supplement, are  
4 amended to read:

5           464.018 Disciplinary actions.--

6           (1) The following acts shall be grounds for  
7 disciplinary action set forth in this section:

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

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

16           (j) Being unable to practice nursing with reasonable  
17 skill and safety to patients by reason of illness or use of  
18 alcohol, drugs, narcotics, or chemicals or any other type of  
19 material or as a result of any mental or physical condition.  
20 In enforcing this paragraph, the department ~~agency~~ shall have,  
21 upon a finding of the secretary ~~director~~ or the secretary's  
22 ~~his~~ designee that probable cause exists to believe that the  
23 licensee is unable to practice nursing because of the reasons  
24 stated in this paragraph, the authority to issue an order to  
25 compel a licensee to submit to a mental or physical  
26 examination by physicians designated by the department ~~agency~~.  
27 If the licensee refuses to comply with such order, the  
28 department's ~~agency's~~ order directing such examination may be  
29 enforced by filing a petition for enforcement in the circuit  
30 court where the licensee resides or does business. The  
31 licensee against whom the petition is filed shall not be named

1 or identified by initials in any public court records or  
2 documents, and the proceedings shall be closed to the public.  
3 The department ~~agency~~ shall be entitled to the summary  
4 procedure provided in s. 51.011. A nurse affected by the  
5 provisions of this paragraph shall at reasonable intervals be  
6 afforded an opportunity to demonstrate that he can resume the  
7 competent practice of nursing with reasonable skill and safety  
8 to patients.

9 (k) Failing to report to the department ~~agency~~ any  
10 person who the licensee knows is in violation of this chapter  
11 or of the rules of the department ~~agency~~ or the board;  
12 however, if the licensee verifies that such person is actively  
13 participating in a board-approved program for the treatment of  
14 a physical or mental condition, the licensee is required to  
15 report such person only to an impaired professionals  
16 consultant.

17 (l) Knowingly violating any provision of this chapter,  
18 a rule of the board or the department ~~agency~~, or a lawful  
19 order of the board or department ~~agency~~ previously entered in  
20 a disciplinary proceeding or failing to comply with a lawfully  
21 issued subpoena of the department ~~agency~~.

22 (m) Failing to report to the department ~~Division of~~  
23 ~~Health Quality Assurance~~ any licensee ~~physician~~ licensed under  
24 chapter 458 or ~~osteopathic physician~~ licensed under chapter  
25 459 who the nurse knows has violated the grounds for  
26 disciplinary action set out in the law under which that person  
27 ~~physician or osteopathic physician~~ is licensed and who  
28 provides health care services in a facility licensed under  
29 chapter 395, or a health maintenance organization certificated  
30 under part I of chapter 641, in which the nurse also provides  
31 services.

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

4           (a) Refusal to certify to the department ~~agency~~ an  
5 application for licensure.

6           Section 80. Subsections (1), (3), and (4) of section  
7 464.019, Florida Statutes, 1996 Supplement, are amended to  
8 read:

9           464.019 Approval of nursing programs.--

10           (1) An institution desiring to conduct an approved  
11 program for the education of professional or practical nurses  
12 shall apply to the department ~~agency~~ and submit such evidence  
13 as may be required to show that it complies with the  
14 provisions of this chapter and with the rules of the board.  
15 The application shall include a program review fee, as set by  
16 the board, not to exceed \$1,000.

17           (3) The department ~~agency~~ shall survey each  
18 institution applying for approval and submit its findings to  
19 the board. If the board is satisfied that the program meets  
20 the requirements of this chapter and rules pursuant thereto,  
21 it shall certify the program for approval and the department  
22 ~~agency~~ shall approve the program.

23           (4) If the board, through an investigation by the  
24 department ~~agency~~, finds that an approved program no longer  
25 meets the required standards, it may place the program on  
26 probationary status until such time as the standards are  
27 restored. If a program fails to correct these conditions  
28 within a specified period of time, the board may rescind the  
29 approval. Any program having its approval rescinded shall  
30 have the right to reapply.

31

1           Section 81. Section 464.0205, Florida Statutes, is  
2 created to read:  
3           464.0205 Retired volunteer nurse certificate.--  
4           (1) Any retired practical or registered nurse desiring  
5 to serve indigent, underserved, or critical need populations  
6 in this state may apply to the department for a retired  
7 volunteer nurse certificate by providing:  
8           (a) A complete application.  
9           (b) An application and processing fee of \$25.  
10           (c) Verification that the applicant had been licensed  
11 to practice nursing in any jurisdiction in the United States  
12 for at least 10 years, had retired or plans to retire, intends  
13 to practice nursing only pursuant to the limitations provided  
14 by the retired volunteer nurse certificate, and has not  
15 committed any act that would constitute a violation under s.  
16 464.018(1).  
17           (d) Proof that the applicant meets the requirements  
18 for licensure under s. 464.008 or s. 464.009.  
19           (2) All related administrative costs shall be borne by  
20 the applicant.  
21           (3) The board may deny a retired volunteer nurse  
22 certificate to any applicant who has committed, or who is  
23 under investigation or prosecution for, any act that would  
24 constitute a ground for disciplinary action under s. 464.018.  
25           (4) A retired volunteer nurse receiving certification  
26 from the board shall:  
27           (a) Work under the direct supervision of the director  
28 of a county health department, a physician working under a  
29 limited license issued pursuant to s. 458.317 or s. 459.0075,  
30 a physician licensed under chapter 458 or chapter 459, an  
31 advanced registered nurse practitioner certified under s.

1 464.012, or a registered nurse licensed under s. 464.008 or s.  
2 464.009.  
3 (b) Comply with the minimum standards of practice for  
4 nurses and be subject to disciplinary action for violations of  
5 s. 464.018, except that the scope of practice for certified  
6 volunteers shall be limited to primary and preventive health  
7 care, or as further defined by board rule.  
8 (c) Work only in a setting for which there are  
9 provisions for professional liability coverage for acts or  
10 omissions of the retired volunteer nurse.  
11 (d) Provide services under the certificate only in  
12 settings whose sponsors have been approved by the board.  
13 (5) A retired volunteer nurse receiving certification  
14 from the board shall not:  
15 (a) Administer controlled substances.  
16 (b) Supervise other nurses.  
17 (c) Receive monetary compensation.  
18 (6) A retired volunteer nurse certified under this  
19 section may practice only in board-approved settings in public  
20 agencies or institutions or in nonprofit agencies or  
21 institutions meeting the requirements of s. 501(c)(3) of the  
22 Internal Revenue Code, which agencies or institutions are  
23 located in areas of critical nursing need as determined by the  
24 board. Determination of underserved areas shall be made by  
25 the board after consultation with the Department of Health,  
26 the Department of Children and Family Services, the Agency for  
27 Health Care Administration, and the Department of Elderly  
28 Affairs; however, such determination shall include, but not be  
29 limited to, health manpower shortage areas designated by the  
30 United States Department of Health and Human Services. The  
31 sponsoring agencies desiring to use certified retired

1 volunteer nurses shall submit to the board verification of  
2 their status under s. 501(c)(3) of the Internal Revenue Code,  
3 the sites at which such volunteer nurses would work, the  
4 duties and scope of practice intended for such volunteer  
5 nurses, and the training or skills validation for such  
6 volunteer nurses.

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

14 Section 82. Subsection (12) is added to section  
15 464.022, Florida Statutes, to read:

16 464.022 Exceptions.--No provision of this chapter  
17 shall be construed to prohibit:

18 (12) The practice of nursing by any legally qualified  
19 nurse of another state whose employment requires the nurse to  
20 accompany and care for a patient temporarily residing in this  
21 state for not more than 30 consecutive days, provided the  
22 patient is not in an inpatient setting, the board is notified  
23 prior to arrival of the patient and nurse, the nurse has the  
24 standing physician orders and current medical status of the  
25 patient available, and prearrangements with the appropriate  
26 licensed health care providers in this state have been made in  
27 case the patient needs placement in an inpatient setting.

28 Section 83. Subsection (4) of section 465.003, Florida  
29 Statutes, is amended to read:

30 465.003 Definitions.--As used in this chapter, the  
31 term:

1           (4) "Department" means the Department of Health  
2 ~~Business and Professional Regulation~~.

3           Section 84. Subsections (1) and (2) of section  
4 465.004, Florida Statutes, are amended to read:

5           465.004 Board of Pharmacy.--

6           (1) The Board of Pharmacy is created within the  
7 department and shall consist of nine ~~seven~~ members to be  
8 appointed by the Governor and confirmed by the Senate.

9           (2) Seven ~~Five~~ members of the board must be licensed  
10 pharmacists who are residents of this state and who have been  
11 engaged in the practice of the profession of pharmacy in this  
12 state for at least 4 years and, to the extent practicable,  
13 represent the various pharmacy practice settings. Of the  
14 pharmacist members, one must be on the full-time faculty of a  
15 pharmacy school in this state, one must be currently engaged  
16 in the practice of pharmacy in a community pharmacy, one must  
17 be currently engaged in the practice of pharmacy in a Class II  
18 institutional pharmacy or a Modified Class II institutional  
19 pharmacy, and four shall be pharmacists licensed in this state  
20 irrespective of practice setting. The remaining two members  
21 must be residents of the state who have never been licensed as  
22 pharmacists and who are in no way connected with the practice  
23 of the profession of pharmacy. No person may be appointed as  
24 a consumer ~~lay~~ member who is in any way connected with a drug  
25 manufacturer or wholesaler. At least one member of the board  
26 must be 60 years of age or older.

27           Section 85. Section 465.014, Florida Statutes, is  
28 amended to read:

29           465.014 Pharmacy technician.--No person other than a  
30 licensed pharmacist or pharmacy intern may engage in the  
31 practice of the profession of pharmacy, except that a licensed



1 pharmacist may delegate to nonlicensed pharmacy technicians  
2 those duties, tasks, and functions which do not fall within  
3 the purview of s. 465.003(12). All such delegated acts shall  
4 be performed under the direct supervision of a licensed  
5 pharmacist who shall be responsible for all such acts  
6 performed by persons under his supervision. No licensed  
7 pharmacist shall supervise more than one pharmacy technician  
8 unless otherwise permitted by the guidelines adopted by the  
9 board. The board shall establish guidelines to be followed by  
10 licensees or permittees in determining the circumstances under  
11 which a licensed pharmacist may supervise more than one but  
12 not more than three ~~two~~ pharmacy technicians.

13 Section 86. Subsection (1) of section 465.0156,  
14 Florida Statutes, is amended to read:

15 465.0156 Registration of nonresident pharmacies.--

16 (1) Any pharmacy which is located outside this state  
17 and which ships, mails, or delivers, in any manner, a  
18 dispensed medicinal drug into this state shall be considered a  
19 nonresident pharmacy, shall be registered with the board,  
20 shall provide pharmacy services at a high level of protection  
21 and competence, and shall disclose to the board the following  
22 specific information:

23 (a) That it maintains at all times a valid, unexpired  
24 license, permit, or registration to operate the pharmacy in  
25 compliance with the laws of the state in which the dispensing  
26 facility is located and from which the medicinal drugs shall  
27 be dispensed;

28 (b) The location, names, and titles of all principal  
29 corporate officers and the pharmacist who serves as the  
30 prescription department manager for ~~all pharmacists who are~~  
31 dispensing medicinal drugs to residents of this state. This

1 disclosure shall be made ~~on an annual basis~~ and within 30 days  
2 after any change of ~~office~~ location, corporate officer, or  
3 pharmacist serving as the prescription department manager for  
4 dispensing medicinal drugs to residents of this state;

5 (c) That it complies with all lawful directions and  
6 requests for information from the regulatory or licensing  
7 agency of all states in which it is licensed as well as with  
8 all requests for information made by the board pursuant to  
9 this section. It shall respond directly to all communications  
10 from the board concerning emergency circumstances arising from  
11 errors in the dispensing of medicinal drugs to the residents  
12 of this state;

13 (d) That it maintains its records of medicinal drugs  
14 dispensed to patients in this state so that the records are  
15 readily retrievable from the other business records of the  
16 pharmacy and from the records of other medicinal drugs  
17 dispensed; and

18 (e) That during its regular hours of operation but not  
19 less than 6 days per week, for a minimum of 40 hours per week,  
20 a toll-free telephone service shall be provided to facilitate  
21 communication between patients in this state and a pharmacist  
22 at the pharmacy who has access to the patient's records. This  
23 toll-free number must be disclosed on the label affixed to  
24 each container of dispensed medicinal drugs.

25 Section 87. Paragraph (o) of subsection (1) of section  
26 465.016, Florida Statutes, is amended to read:

27 465.016 Disciplinary actions.--

28 (1) The following acts shall be grounds for  
29 disciplinary action set forth in this section:

30 (o) Failing to report to the department ~~Division of~~  
31 ~~Medical Quality Assurance~~ any licensee ~~physician licensed~~

1 under chapter 458 or ~~osteopathic physician licensed~~ under  
2 chapter 459 who the pharmacist knows has violated the grounds  
3 for disciplinary action set out in the law under which that  
4 person ~~physician or osteopathic physician~~ is licensed and who  
5 provides health care services in a facility licensed under  
6 chapter 395, or a health maintenance organization certificated  
7 under part I of chapter 641, in which the pharmacist also  
8 provides services.

9 Section 88. Section 465.035, Florida Statutes, is  
10 amended to read:

11 465.035 Dispensing of medicinal ~~medical~~ drugs pursuant  
12 to facsimile of prescription.--

13 (1) Notwithstanding any other provision of this  
14 chapter, it is lawful for a pharmacy to dispense medicinal  
15 drugs, including controlled substances authorized under  
16 subsection (2), based on reception of an electronic facsimile  
17 of the original prescription if all of the following  
18 conditions are met:

19 (a) In the course of the transaction the pharmacy  
20 complies with laws and administrative rules relating to  
21 pharmacies and pharmacists.

22 (b) Except in the case of the transmission of a  
23 prescription by a person authorized by law to prescribe  
24 medicinal drugs:

25 1. The facsimile system making the transmission  
26 provides the pharmacy receiving the transmission with audio  
27 communication via telephonic, electronic, or similar means  
28 with the person presenting the prescription.

29 2. At the time of the delivery of the medicinal drugs,  
30 the pharmacy has in its possession the original prescription  
31 for the medicinal drug involved.

1           3. The recipient of the prescription shall sign a log  
2 and shall indicate the name and address of both the recipient  
3 and the patient for whom the medicinal drug was prescribed.

4           ~~(2) This section does not apply to the dispensing of~~  
5 Controlled substances listed in Schedule II as defined in s.  
6 893.03(2) may be dispensed as provided in this section to the  
7 extent allowed by 21 C.F.R. s. 1306.11.

8           Section 89. Subsection (7) of section 466.003, Florida  
9 Statutes, is amended to read:

10           466.003 Definitions.--As used in this chapter:

11           (7) "Department" means the Department of Health  
12 ~~Business and Professional Regulation.~~

13           Section 90. Subsection (3) of section 466.006, Florida  
14 Statutes, is amended to read:

15           466.006 Examination of dentists.--

16           (3) If an applicant is a graduate of a dental college  
17 or school not accredited in accordance with paragraph (2)(b)  
18 or of a dental college or school not approved by the board, he  
19 shall not be entitled to take the examinations required in  
20 this section to practice dentistry until he ~~meets the~~  
21 ~~following requirements:~~

22           ~~(a) Furnishes evidence to the board of a score on the~~  
23 ~~examination of the National Board of Dental Examiners taken~~  
24 ~~within 10 years of the date of application, which score is at~~  
25 ~~least equal to the minimum score required for certification by~~  
26 ~~that board. If the applicant fails to attain the score needed~~  
27 ~~for certification on part I of the national board examination~~  
28 ~~in two attempts, or fails to attain the score needed for~~  
29 ~~certification on part II of the national board examination in~~  
30 ~~two attempts, he shall not be entitled to take the laboratory~~  
31 ~~model examination authorized in paragraph (c).~~

1           ~~(b) Submits, upon meeting the requirements of~~  
2 ~~paragraph (a), the following credentials for review by the~~  
3 ~~board:~~

- 4           ~~1. Transcripts of predental education and dental~~  
5 ~~education totaling 7 academic years of postsecondary~~  
6 ~~education, including 4 academic years of dental education; and~~  
7           ~~2. A dental school diploma.~~

8  
9           ~~The board shall not review the credentials specified in this~~  
10 ~~paragraph until the applicant has furnished to the board~~  
11 ~~evidence of satisfactory completion of the National Board of~~  
12 ~~Dental Examiners examination as required by paragraph (a).~~  
13 ~~Such credentials shall be submitted in a manner provided by~~  
14 ~~rule of the board. The board shall approve those credentials~~  
15 ~~which comply with this paragraph and with rules of the board~~  
16 ~~adopted pursuant hereto. The provisions of this paragraph~~  
17 ~~notwithstanding, an applicant who cannot produce the~~  
18 ~~credentials required by this paragraph as a result of~~  
19 ~~political or other conditions in the country in which he~~  
20 ~~received his education may seek approval by the board of his~~  
21 ~~educational background prior to complying with the provisions~~  
22 ~~of paragraph (a) by submitting such other reasonable and~~  
23 ~~reliable evidence as may be set forth by rule of the board in~~  
24 ~~lieu of the credentials required in this paragraph. The board~~  
25 ~~shall not accept such alternative evidence until it has made a~~  
26 ~~reasonable attempt to obtain the credentials required by this~~  
27 ~~paragraph from the educational institutions the applicant is~~  
28 ~~alleged to have attended, unless the board is otherwise~~  
29 ~~satisfied that such credentials cannot be obtained.~~

30           ~~(c) satisfies one of the following:~~  
31

1           (a)1. Completes a program of study, as defined by the  
2 board by rule, at an accredited American dental school and  
3 demonstrates receipt of a D.D.S. or D.M.D. from said school;  
4 or  
5           (b)2. Completes a 2-year supplemental dental education  
6 program at an accredited dental school and receives a dental  
7 diploma, degree, or certificate as evidence of program  
8 completion. ~~7 or~~  
9           ~~3. Exhibits manual skills on a laboratory model~~  
10 ~~pursuant to rules of the board. The board may charge a~~  
11 ~~reasonable fee, not to exceed \$250, to cover the costs of~~  
12 ~~administering the exhibition of competency in manual skills.~~  
13 ~~If the applicant fails to exhibit competent clinical skills in~~  
14 ~~two attempts, he shall not be entitled to take the~~  
15 ~~examinations authorized in subsection (4). Effective December~~  
16 ~~31, 1991, no applicant may fulfill the requirements of this~~  
17 ~~paragraph by taking the laboratory model exam. On or after~~  
18 ~~said date, applicants must complete the educational~~  
19 ~~requirements set forth in subparagraph 1. or subparagraph 2.~~  
20  
21 ~~The provisions of paragraph (a) and subparagraph (c)3.~~  
22 ~~notwithstanding, an applicant who is a graduate of a dental~~  
23 ~~college or school not accredited in accordance with paragraph~~  
24 ~~(2)(b) and who has failed to pass part I or part II of the~~  
25 ~~national board examination in two attempts may take the~~  
26 ~~laboratory model exam required in subparagraph (c)3. if the~~  
27 ~~board finds that he has taken remedial training in the subject~~  
28 ~~areas in which he tested below standard on said national board~~  
29 ~~examination and that he has subsequently passed that part of~~  
30 ~~such exam which he had previously failed, provided that no~~  
31 ~~applicant shall be entitled to this exception who fails either~~

1 ~~part of the national board examination a total of three times.~~  
2 ~~Further, an applicant who has failed to pass the laboratory~~  
3 ~~model exam required in subparagraph (c)3. in two attempts may~~  
4 ~~be allowed by the board to make a third and final attempt if~~  
5 ~~the board finds that he has taken remedial training in~~  
6 ~~clinical subjects in which he tested below standard. Upon~~  
7 ~~passing said laboratory model exam, the applicant may take the~~  
8 ~~licensure examinations required in subsection (4). Further,~~  
9 ~~the educational requirements found in subparagraph (b)1. do~~  
10 ~~not apply to persons who began dental education prior to~~  
11 ~~October 1, 1983, and such persons shall be governed by the~~  
12 ~~educational requirements in existence on September 30, 1983.~~

13 Section 91. Section 466.017, Florida Statutes, is  
14 amended to read:

15 466.017 Prescription of drugs; anesthesia.--

16 (1) A dentist shall have the right to prescribe drugs  
17 or medicine, subject to limitations imposed by law; perform  
18 surgical operations within the scope of his practice and  
19 training; administer general or local anesthesia or sedation,  
20 subject to limitations imposed by law; and use such appliances  
21 as may be necessary to the proper practice of dentistry.

22 (2) Pharmacists licensed pursuant to chapter 465 may  
23 fill prescriptions of legally licensed dentists in this state  
24 for any drugs necessary for the practice of dentistry.

25 (3) The board shall adopt rules which:

26 (a) Define general anesthesia.

27 (b) Specify which methods of general or local  
28 anesthesia or sedation, if any, are limited or prohibited for  
29 use by dentists.

30 (c) Establish minimal training, education, experience,  
31 or certification for a dentist to use general anesthesia or

1 sedation, which rules may exclude, in the board's discretion,  
2 those dentists using general anesthesia or sedation in a  
3 competent and effective manner as of the effective date of the  
4 rules.

5 (d) Establish further requirements relating to the use  
6 of general anesthesia or sedation, including, but not limited  
7 to, office equipment and the training of dental assistants or  
8 dental hygienists who work with dentists using general  
9 anesthesia or sedation.

10 (e) Establish an administrative mechanism enabling the  
11 board to verify compliance with training, education,  
12 experience, equipment, or certification requirements of  
13 dentists, dental hygienists, and dental assistants adopted  
14 pursuant to this subsection. The board may charge a fee to  
15 defray the cost of verifying compliance with requirements  
16 adopted pursuant to this paragraph.

17 ~~(4)(a) A licensed dentist who has been utilizing~~  
18 ~~general anesthesia on a regular and routine basis in a~~  
19 ~~competent and effective manner for a 10-year period preceding~~  
20 ~~January 1, 1980, shall be deemed to have fulfilled the~~  
21 ~~training requirements required by subsection (3) for general~~  
22 ~~anesthesia.~~

23 ~~(b) A licensed dentist who has been utilizing~~  
24 ~~parenteral conscious sedation on an outpatient basis on a~~  
25 ~~regular and routine basis in a competent and effective manner~~  
26 ~~for the 3-year period preceding January 1, 1980, shall be~~  
27 ~~deemed to have fulfilled the training requirements required by~~  
28 ~~subsection (3) for parenteral conscious sedation.~~

29 (4)(5) A dentist who administers or employs the use of  
30 any form of anesthesia must possess a certification in either  
31 basic cardiopulmonary resuscitation for health professionals



1 or advanced cardiac life support approved by the American  
2 Heart Association or the American Red Cross or an equivalent  
3 agency-sponsored course with recertification every 2 years.  
4 Each dental office which uses any form of anesthesia must have  
5 immediately available and in good working order such  
6 resuscitative equipment, oxygen, and other resuscitative drugs  
7 as are specified by rule of the board in order to manage  
8 possible adverse reactions.

9       (5)~~(6)~~ A licensed dentist may utilize an X-ray  
10 machine, expose dental X-ray films, and interpret or read such  
11 films. The provisions of part IV of chapter 468 to the  
12 contrary notwithstanding, a licensed dentist may authorize or  
13 direct a dental assistant to operate such equipment and expose  
14 such films under his direction and supervision, pursuant to  
15 rules adopted by the board in accordance with s. 466.024 which  
16 ensure that said assistant is competent by reason of training  
17 and experience to operate said equipment in a safe and  
18 efficient manner. The board may charge a fee not to exceed  
19 \$35 to defray the cost of verifying compliance with  
20 requirements adopted pursuant to this section.

21       (6)~~(7)~~ The provisions of s. 465.0276 notwithstanding,  
22 a dentist need not register with the board or comply with the  
23 continuing education requirements of that section if the  
24 dentist confines his dispensing activity to the dispensing of  
25 fluorides and chlorohexidine rinse solutions; provided that  
26 the dentist complies with and is subject to all laws and rules  
27 applicable to pharmacists and pharmacies, including, but not  
28 limited to, chapters 465, 499, and 893, and all applicable  
29 federal laws and regulations, when dispensing such products.

30       Section 92. Paragraphs (r) and (hh) of subsection (1)  
31 of section 466.028, Florida Statutes, are amended to read:

1           466.028 Grounds for disciplinary action; action by the  
2 board.--

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

6           (r) Prescribing, procuring, ordering, dispensing,  
7 administering, supplying, selling, or giving any drug which is  
8 a Schedule II ~~an~~ amphetamine or a Schedule II sympathomimetic  
9 amine drug or a compound thereof ~~designated as a Schedule II~~  
10 ~~controlled substance~~, pursuant to chapter 893, to or for any  
11 person except for the clinical investigation of the effects of  
12 such drugs or compounds when an investigative protocol  
13 therefor is submitted to, and reviewed and approved by, the  
14 board before such investigation is begun.

15           (hh) Failing to report to the department ~~Division of~~  
16 ~~Medical Quality Assurance~~ any licensee ~~physician licensed~~  
17 under chapter 458 or ~~osteopathic physician licensed under~~  
18 chapter 459 who the dentist knows has violated the grounds for  
19 disciplinary action set out in the law under which that person  
20 ~~physician or osteopathic physician~~ is licensed and who  
21 provides health care services in a facility licensed under  
22 chapter 395, or a health maintenance organization certificated  
23 under part I of chapter 641, in which the dentist also  
24 provides services.

25           Section 93. Subsection (2) of section 468.1115,  
26 Florida Statutes, is amended to read:

27           468.1115 Exemptions.--

28           (2) The provisions of this part shall not apply to:

29           (a) Students actively engaged in a training program,  
30 if such persons are acting under the direct supervision of a  
31

1 licensed speech-language pathologist or a licensed  
2 audiologist.

3 (b) Persons practicing a licensed profession or  
4 operating within the scope of their profession, such as  
5 doctors of medicine, clinical psychologists, nurses, or  
6 hearing aid specialists, who are properly licensed under the  
7 laws of this state.

8 (c) Persons certified in the areas of speech-language  
9 impairment or hearing impairment ~~A person licensed~~ in this  
10 state under chapter 231 when engaging in the profession for  
11 which they are certified ~~he is licensed~~, or any person under  
12 the direct supervision of such a certified person, or of a  
13 licensee under this chapter, when the person under such  
14 supervision is performing hearing screenings in a school  
15 setting for prekindergarten through grade 12 ~~the licensee when~~  
16 ~~rendering services within the scope of the profession of the~~  
17 ~~licensee.~~

18 (d) Laryngectomized individuals, rendering guidance  
19 and instruction to other laryngectomized individuals, who are  
20 under the supervision of a speech-language pathologist  
21 licensed under this part or of a physician licensed under  
22 chapter 458 or chapter 459 and qualified to perform this  
23 surgical procedure.

24 (e) Persons licensed by another state as a  
25 speech-language pathologist or audiologist who provide  
26 services within the applicable scope of practice set forth in  
27 s. 468.1125(6) or (7) for no more than 5 calendar days per  
28 month or 15 calendar days per year under the direct  
29 supervision of a Florida-licensed speech-language pathologist  
30 or audiologist. A person whose state of residence does not  
31 license speech-language pathologists or audiologists may also

1 qualify for this exemption, if the person holds a certificate  
2 of clinical competence from the American Speech-Language and  
3 Hearing Association and meets all other requirements of this  
4 paragraph. In either case, the board shall hold the  
5 supervising Florida licensee fully accountable for the  
6 services provided by the out-of-state licensee.

7 (f) Nonlicensed persons working in a hospital setting  
8 who provide newborn infant hearing screenings, so long as  
9 training, clinical interpretation of the screenings, and the  
10 protocol for followup of infants who fail in-hospital  
11 screenings are provided by a licensed audiologist.

12 Section 94. Subsection (5) of section 468.1125,  
13 Florida Statutes, is amended to read:

14 468.1125 Definitions.--As used in this part, the term:

15 (5) "Department" means the Department of Health  
16 ~~Business and Professional Regulation.~~

17 Section 95. Section 468.1155, Florida Statutes, is  
18 amended to read:

19 468.1155 Provisional license; requirements.--

20 (1)(a) A provisional license shall be required of all  
21 applicants who cannot document 9 months of supervised  
22 professional employment experience and a passing score on the  
23 national examination.

24 (b) Individuals who are required to hold a provisional  
25 license under paragraph (a) shall apply to the department and  
26 be certified by the board for licensure prior to initiating  
27 the professional employment experience required pursuant to s.  
28 468.1165. ~~Any person desiring a provisional license to~~  
29 ~~practice speech-language pathology or audiology shall apply to~~  
30 ~~the department.~~

31

1           (2) The department shall issue a provisional license  
2 to practice speech-language pathology to each applicant who  
3 ~~whom~~ the board certifies has:

4           (a) Completed the application form and remitted the  
5 required fees, including a nonrefundable application fee.

6           (b) Received a master's degree with a major emphasis  
7 in speech-language pathology from an institution of higher  
8 learning which, at the time the applicant was enrolled and  
9 graduated, was accredited by an accrediting agency recognized  
10 by the Commission on Recognition of Postsecondary  
11 Accreditation or from an institution which is publicly  
12 recognized as a member in good standing with the Association  
13 of Universities and Colleges of Canada. An applicant who  
14 graduated from a program at a university or college outside  
15 the United States or Canada must ~~shall~~ present documentation  
16 of the determination of equivalency to standards established  
17 ~~programs accredited~~ by the Commission on Recognition of  
18 Postsecondary Accreditation in order to qualify. The  
19 applicant must ~~shall~~ have completed ~~a total of~~ 60 semester  
20 hours that ~~which~~ include:

21           1. Fundamental information applicable to the normal  
22 development and use of speech, hearing, and language; ~~and~~  
23 information about training in management of speech, hearing,  
24 and language disorders; ~~and which provide~~ information  
25 supplementary to these fields.

26           2. Six semester hours in audiology.

27           3. Thirty of the required 60 ~~these~~ semester hours  
28 ~~shall be~~ in courses acceptable toward a graduate degree by the  
29 college or university in which these courses were taken, ~~of~~  
30 which ~~these 30 semester hours,~~ 24 semester hours must ~~shall~~ be  
31 in speech-language pathology.

1           (c) Completed 300 supervised clinical clock hours ~~of~~  
2 ~~supervised clinical practice~~ with 200 clock hours in the area  
3 of speech-language pathology. The supervised clinical clock  
4 hours practice shall be completed within the training  
5 institution or one of its cooperating programs.

6           (3) The department shall issue a provisional license  
7 to practice audiology to each applicant who ~~whom~~ the board  
8 certifies has:

9           (a) Completed the application form and remitted the  
10 required fees, including a nonrefundable application fee.

11           (b) Received a master's degree with a major emphasis  
12 in audiology from an institution of higher learning which at  
13 the time the applicant was enrolled and graduated was  
14 accredited by an accrediting agency recognized by the  
15 Commission on Recognition of Postsecondary Accreditation or  
16 from an institution which is publicly recognized as a member  
17 in good standing with the Association of Universities and  
18 Colleges of Canada. An applicant who graduated from a program  
19 at a university or college outside the United States or Canada  
20 must shall present documentation of the determination of  
21 equivalency to standards established ~~programs accredited~~ by  
22 the Commission on Recognition of Postsecondary Accreditation  
23 in order to qualify. The applicant must shall have completed  
24 ~~a total of~~ 60 semester hours that ~~which~~ include:

25           1. Fundamental information applicable to the normal  
26 development and use of speech, hearing, and language; ~~and~~  
27 information about training in management of speech, hearing,  
28 and language disorders; ~~and which provide~~ information  
29 supplementary to these fields.

30           2. Six semester hours in speech-language pathology.

31

1           3. Thirty of the required 60 ~~these~~ semester hours  
2 ~~shall be~~ in courses acceptable toward a graduate degree by the  
3 college or university in which these courses were taken, ~~of~~  
4 which these 30 semester hours, 24 semester hours must ~~shall~~ be  
5 in audiology.

6           (c) Completed 300 supervised clinical clock hours ~~of~~  
7 ~~supervised clinical practice~~ with 200 clock hours in the area  
8 of audiology. The supervised clinical clock hours ~~practice~~  
9 shall be completed within the training institution or one of  
10 its cooperating programs.

11           (4) An applicant for a provisional license who has  
12 received a master's degree with a major emphasis in  
13 speech-language pathology as provided in subsection (2), or  
14 audiology as provided in subsection (3), and who seeks  
15 licensure in the area in which the applicant is not currently  
16 licensed, must have completed 30 semester hours in courses  
17 acceptable toward a graduate degree and 200 supervised  
18 clinical clock hours in the second discipline from an  
19 accredited institution.

20           (5)~~(4)~~ The board, by rule, shall establish  
21 requirements for the renewal of a provisional license.  
22 However, ~~no person shall obtain~~ a provisional license may not  
23 exceed for a period of ~~which exceeds~~ 24 months.

24           Section 96. Paragraph (a) of subsection (2) and  
25 paragraph (a) of subsection (3) of section 468.1185, Florida  
26 Statutes, are amended to read:

27           468.1185 Licensure.--

28           (2) The board shall certify for licensure any  
29 applicant who has:

30           (a) Satisfied the education and supervised clinical  
31 clock hour ~~practice~~ requirements of s. 468.1155.

1           (3) The board shall certify as qualified for a license  
2 by endorsement as a speech-language pathologist or audiologist  
3 an applicant who:

4           (a) Holds a valid license or certificate in another  
5 state or territory of the United States to practice the  
6 profession for which the application for licensure is made, if  
7 the criteria for issuance of such license were substantially  
8 equivalent to or more stringent than the licensure criteria  
9 which existed in this state at the time the license was  
10 issued; or

11           Section 97. Section 468.1195, Florida Statutes, is  
12 amended to read:

13           468.1195 Renewal of license or certificate; continuing  
14 education requirements; standards for approval of continuing  
15 education providers.--

16           (1) The department shall renew a license or  
17 certificate upon receipt of the renewal application, renewal  
18 fee, and proof satisfactory to the board that, ~~during the 2~~  
19 ~~years prior to the application for renewal,~~ the licensee or  
20 certificateholder has completed the ~~participated in not less~~  
21 ~~than 20 hours of continuing education~~ requirements established  
22 by the board in each area of licensure or certification. A  
23 licensee or certificateholder who receives initial licensure  
24 or certification 6 months or less before the end of the  
25 biennial licensure cycle is exempt from the continuing  
26 education requirements for the first renewal of the license or  
27 certificate.

28           (2) The department shall adopt rules establishing a  
29 procedure for the biennial renewal of licenses and  
30 certificates.

31



1           (3) The board may prescribe ~~shall~~ by rule prescribe  
2 continuing education, not to exceed 60 hours biennially in  
3 each area of licensure or certification, as a condition for  
4 renewal of a license or a certificate. The board may  
5 establish by rule standards for the approval of such  
6 continuing education activities. The board may make exception  
7 from the requirements of continuing education in emergency or  
8 hardship cases.

9           (4) The board may establish by rule standards for the  
10 approval of providers of continuing education activities.

11           Section 98. Section 468.1201, Florida Statutes, is  
12 created to read:

13           468.1201 Requirement for instruction on human  
14 immunodeficiency virus and acquired immune deficiency  
15 syndrome.--The board shall require, as a condition of granting  
16 a license under this part, that an applicant making initial  
17 application for licensure complete an education course  
18 acceptable to the board on human immunodeficiency virus and  
19 acquired immune deficiency syndrome. An applicant who has not  
20 taken a course at the time of licensure shall, upon submission  
21 of an affidavit showing good cause, be allowed 6 months to  
22 complete this requirement.

23           Section 99. Subsections (2), (3), and (4) of section  
24 468.1215, Florida Statutes, are amended to read:

25           468.1215 Speech-language pathology assistant and  
26 audiology assistant; certification.--

27           (2) The department shall issue a certificate as a  
28 speech-language pathology assistant or as an audiology  
29 assistant to each applicant who ~~whom~~ the board certifies has:

30           (a) Completed the application form and remitted the  
31 required fees, including a nonrefundable application fee.

1 (b) Completed at least 24 semester hours of coursework  
2 as approved by the board at an institution accredited by an  
3 accrediting agency recognized by the Commission on Recognition  
4 of Postsecondary Accreditation.

5 (3) The board, by rule, shall establish minimum  
6 education and on-the-job training and supervision requirements  
7 for certification as a speech-language pathology assistant or  
8 audiology assistant.

9 (4) The provisions of this section shall not apply to  
10 any student, intern, or trainee performing speech-language  
11 pathology or audiology services while completing the  
12 supervised clinical clock hours ~~experience~~ as required in s.  
13 468.1155.

14 Section 100. Subsection (2) of section 468.1245,  
15 Florida Statutes, is amended to read:

16 468.1245 Itemized listing of prices; delivery of  
17 hearing aid; receipt ~~contract~~; guarantee; packaging;  
18 disclaimer.--

19 (2) Any licensee who fits and sells a hearing aid  
20 shall, at the time of delivery, provide the purchaser with a  
21 receipt ~~contract~~ containing the seller's signature, the  
22 address of his regular place of business, and his license or  
23 certification number, if applicable, together with the brand,  
24 model, manufacturer or manufacturer's identification code, and  
25 serial number of the hearing aid furnished and the amount  
26 charged for the hearing aid. The receipt ~~contract~~ also shall  
27 specify whether the hearing aid is new, used, or rebuilt, and  
28 shall specify the length of time and other terms of the  
29 guarantee and by whom the hearing aid is guaranteed. When the  
30 client has requested an itemized list of prices, the receipt  
31 ~~contract~~ shall also provide an itemization of the total

1 purchase price, including, but not limited to, the cost of the  
2 aid, ear mold, batteries, and other accessories, and the cost  
3 of any services. Notice of the availability of this service  
4 must ~~shall~~ be displayed in a conspicuous manner in the office.  
5 The receipt also shall state that any complaint concerning the  
6 hearing aid and its guarantee ~~therefor~~, if not reconciled with  
7 the licensee from whom the hearing aid was purchased, should  
8 be directed by the purchaser to the department ~~Agency for~~  
9 ~~Health Care Administration~~. The address and telephone number  
10 of such office shall be stated on the receipt ~~contract~~.

11 Section 101. Section 468.1295, Florida Statutes, is  
12 amended to read:

13 468.1295 Disciplinary proceedings.--

14 (1) The following acts constitute grounds for both  
15 disciplinary actions as set forth in subsection (2) and cease  
16 and desist or other related actions by the department as set  
17 forth in s. 455.228:--

18 (a) Procuring or attempting to procure a license by  
19 bribery, by fraudulent misrepresentation, or through an error  
20 of the department or the board.

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

24 (c) Being convicted or found guilty of, or entering a  
25 plea of nolo contendere to, regardless of adjudication, a  
26 crime in any jurisdiction which directly relates to the  
27 practice of speech-language pathology or audiology.

28 (d) Making or filing a report or record which the  
29 licensee knows to be false, intentionally or negligently  
30 failing to file a report or records required by state or  
31 federal law, willfully impeding or obstructing such filing, or

1 inducing another person to impede or obstruct such filing.  
2 Such report or record shall include only those reports or  
3 records which are signed in one's capacity as a licensed  
4 speech-language pathologist or audiologist.

5 (e) Advertising goods or services in a manner which is  
6 fraudulent, false, deceptive, or misleading in form or  
7 content.

8 (f) Being proven guilty of fraud or deceit or of  
9 negligence, incompetency, or misconduct in the practice of  
10 speech-language pathology or audiology.

11 (g) Violating 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 board  
14 or department.

15 (h) Practicing with a revoked, suspended, inactive, or  
16 delinquent license.

17 (i) Using, or causing or promoting the use of, any  
18 advertising matter, promotional literature, testimonial,  
19 guarantee, warranty, label, brand, insignia, or other  
20 representation, however disseminated or published, which is  
21 misleading, deceiving, or untruthful.

22 (j) Showing or demonstrating or, in the event of sale,  
23 delivery of a product unusable or impractical for the purpose  
24 represented or implied by such action.

25 (k) Failing to submit to the board on an annual basis,  
26 or such other basis as may be provided by rule, certification  
27 of testing and calibration of such equipment as designated by  
28 the board and on the form approved by the board.

29 (l) Aiding, assisting, procuring, employing, or  
30 advising any licensee or business entity ~~licensed person~~ to  
31 practice speech-language pathology or audiology contrary to

1 this part, chapter 455, or any to a rule adopted pursuant  
2 thereto of the department or the board.  
3 (m) Violating any provision ~~Violation or repeated~~  
4 ~~violation~~ of this part or ~~of~~ chapter 455, or any rule ~~rules~~  
5 adopted pursuant thereto.  
6 (n) Misrepresenting the ~~Misrepresentation of~~  
7 professional services available in the fitting, sale,  
8 adjustment, service, or repair of a hearing aid, or using ~~use~~  
9 ~~of~~ any other term or title which might connote the  
10 availability of professional services when such use is not  
11 accurate.  
12 (o) Representing, advertising, or implying  
13 ~~Representation, advertisement, or implication~~ that a hearing  
14 aid or its repair is guaranteed without providing full  
15 disclosure of the identity of the guarantor; the nature,  
16 extent, and duration of the guarantee; and the existence of  
17 conditions or limitations imposed upon the guarantee.  
18 (p) Representing, directly or by implication, that a  
19 hearing aid utilizing bone conduction has certain specified  
20 features, such as the absence of anything in the ear or  
21 leading to the ear, or the like, without disclosing clearly  
22 and conspicuously that the instrument operates on the bone  
23 conduction principle and that in many cases of hearing loss  
24 this type of instrument may not be suitable.  
25 (q) Stating or implying that the use of any hearing  
26 aid will improve or preserve hearing or prevent or retard the  
27 progression of a hearing impairment or that it will have any  
28 similar or opposite effect.  
29 (r) Making any statement regarding the cure of the  
30 cause of a hearing impairment by the use of a hearing aid.  
31

1           (s) Representing or implying that a hearing aid is or  
2 will be "custom-made," "made to order," or  
3 "prescription-made," or in any other sense specially  
4 fabricated for an individual ~~person~~, when such is not the  
5 case.

6           (t) Canvassing from house to house or by telephone,  
7 either in person or by an agent, for the purpose of selling a  
8 hearing aid, except that contacting persons who have evidenced  
9 an interest in hearing aids, or have been referred as in need  
10 of hearing aids, shall not be considered canvassing.

11           (u) Failing to notify the department in writing of a  
12 change in current mailing and place-of-practice address within  
13 30 days after such change ~~Failure to submit to the board on an~~  
14 ~~annual basis, or such other basis as may be provided by rule,~~  
15 ~~certification of testing and calibration of audiometric~~  
16 ~~testing equipment on the form approved by the board.~~

17           (v) Failing to provide all information as described in  
18 ~~ss. s.468.1225(5)(b), 468.1245(1), and 468.1246.~~

19           (w) Exercising influence on a client in such a manner  
20 as to exploit the client for financial gain of the licensee or  
21 of a third party.

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

27           (y) Aiding, assisting, procuring, or employing any  
28 unlicensed person to practice speech-language pathology or  
29 audiology.

30           (z) Delegating or contracting for the performance of  
31 professional responsibilities by a person when the licensee

1 delegating or contracting for performance of such  
2 responsibilities knows, or has reason to know, such person is  
3 not qualified by training, experience, and authorization to  
4 perform them.  
5 (aa) Committing any act upon a patient or client which  
6 would constitute sexual battery or which would constitute  
7 sexual misconduct as defined pursuant to s. 468.1296.  
8 (bb) Being unable to practice the profession for which  
9 he or she is licensed or certified under this chapter with  
10 reasonable skill or competence as a result of any mental or  
11 physical condition or by reason of illness, drunkenness, or  
12 use of drugs, narcotics, chemicals, or any other substance.  
13 In enforcing this paragraph, upon a finding by the secretary,  
14 his or her designee, or the board that probable cause exists  
15 to believe that the licensee or certificateholder is unable to  
16 practice the profession because of the reasons stated in this  
17 paragraph, the department shall have the authority to compel a  
18 licensee or certificateholder to submit to a mental or  
19 physical examination by a physician, psychologist, clinical  
20 social worker, marriage and family therapist, or mental health  
21 counselor designated by the department or board. If the  
22 licensee or certificateholder refuses to comply with the  
23 department's order directing the examination, such order may  
24 be enforced by filing a petition for enforcement in the  
25 circuit court in the circuit in which the licensee or  
26 certificateholder resides or does business. The licensee or  
27 certificateholder against whom the petition is filed shall not  
28 be named or identified by initials in any public court records  
29 or documents, and the proceedings shall be closed to the  
30 public. The department shall be entitled to the summary  
31 procedure provided in s. 51.011. A licensee or

1 certificateholder affected under this paragraph shall at  
2 reasonable intervals be afforded an opportunity to demonstrate  
3 that he or she can resume the competent practice for which he  
4 or she is licensed or certified with reasonable skill and  
5 safety to patients.

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

9 (a) Refusal to certify, or to certify with  
10 restrictions, ~~Denial of~~ an application for licensure.

11 (b) ~~Revocation or~~ Suspension or permanent revocation  
12 of a license.

13 (c)~~(d)~~ Issuance of a reprimand.

14 (d)~~(f)~~ Restriction of the authorized scope of  
15 practice.

16 (e)~~(e)~~ Imposition of an administrative fine not to  
17 exceed \$1,000 for each count or separate offense.

18 (f)~~(e)~~ Placement of the licensee or certificateholder  
19 on probation for a period of time and subject to such  
20 conditions as the board may specify. Those conditions may  
21 include, but are not limited to, including requiring the  
22 licensee or certificateholder ~~speech-language pathologist or~~  
23 audiologist to undergo treatment, attend continuing education  
24 courses, submit to be reexamined, or to work under the  
25 supervision of another licensee, or satisfy any terms which  
26 are reasonably tailored to the violation found ~~speech-language~~  
27 pathologist or audiologist.

28 (g) Corrective action.

29 (3) The department shall reissue the license or  
30 certificate which ~~of a speech-language pathologist or~~  
31 ~~audiologist who~~ has been suspended or revoked ~~disciplined~~ upon



1 certification by the board that the licensee or  
2 certificateholder ~~person~~ has complied with all of the terms  
3 and conditions set forth in the final order.

4 Section 102. Section 468.1296, Florida Statutes, is  
5 created to read:

6 468.1296 Sexual misconduct.--Sexual misconduct by any  
7 person licensed or certified under this chapter, in the  
8 practice of his profession, is prohibited. Sexual misconduct  
9 shall be defined by rule of the board.

10 Section 103. Subsection (2) of section 468.1655,  
11 Florida Statutes, is amended to read:

12 468.1655 Definitions.--As used in this part:

13 (2) "Department" means the Department of Health  
14 ~~Business and Professional Regulation.~~

15 Section 104. Subsection (1) of section 468.1695,  
16 Florida Statutes, is amended to read:

17 468.1695 Licensure by examination.--

18 (1) Any person desiring to be licensed as a nursing  
19 home administrator shall apply to the department to take the  
20 licensure examination. The examination shall be given at  
21 least two ~~four~~ times a year and shall include, but not be  
22 limited to, questions on the subjects of nursing home  
23 administration such as:

24 (a) Applicable standards of nursing home health and  
25 safety;

26 (b) Federal, state, and local health and safety laws  
27 and rules;

28 (c) General administration;

29 (d) Psychology of patient care;

30 (e) Principles of medical care;

31 (f) Personal and social care;

1 (g) Therapeutic and supportive care and services in  
2 long-term care;

3 (h) Departmental organization and management;

4 (i) Community interrelationships; and

5 (j) Terminology.  
6

7 The board may, by rule, adopt use of a national examination in  
8 lieu of part or all of the examination required by this part.

9 Section 105. Subsections (2), (4), and (5) of section  
10 468.203, Florida Statutes, are amended to read:

11 468.203 Definitions.--As used in this act, the term:

12 (2) "Board" means the Board of Occupational Therapy  
13 Practice ~~Medicine~~.

14 (4) "Occupational therapy" means the use of purposeful  
15 activity or interventions to achieve functional outcomes.

16 (a) For the purposes of this subsection:

17 1. "Achieving functional outcomes" means to maximize  
18 the independence and the maintenance of health of any  
19 individual who is limited by a physical injury or illness, a  
20 cognitive impairment, a psychosocial dysfunction, a mental  
21 illness, a developmental or a learning disability, or an  
22 adverse environmental condition.

23 2. "Assessment" means the use of skilled observation  
24 or the administration and interpretation of standardized or  
25 nonstandardized tests and measurements to identify areas for  
26 occupational therapy services.

27 (b) Occupational therapy services include, but are not  
28 limited to:

29 1. The assessment, treatment, and education of or  
30 consultation with the individual, family, or other persons.  
31

1           2. Interventions directed toward developing daily  
2 living skills, work readiness or work performance, play skills  
3 or leisure capacities, or enhancing educational performance  
4 skills.

5           3. Providing for the development of: sensory-motor,  
6 perceptual, or neuromuscular functioning; range of motion; or  
7 emotional, motivational, cognitive, or psychosocial components  
8 of performance.

9  
10 These services may require assessment of the need for use of  
11 interventions such as the design, development, adaptation,  
12 application, or training in the use of assistive technology  
13 devices; the design, fabrication, or application of  
14 rehabilitative technology such as selected orthotic devices;  
15 training in the use of assistive technology; orthotic or  
16 prosthetic devices; the application of physical agent  
17 modalities as an adjunct to or in preparation for purposeful  
18 activity; the use of ergonomic principles; the adaptation of  
19 environments and processes to enhance functional performance;  
20 or the promotion of health and wellness ~~the evaluation and~~  
21 ~~treatment of individuals whose ability to cope with the tasks~~  
22 ~~of living are threatened or impaired by developmental~~  
23 ~~deficits, the aging process, poverty and cultural differences,~~  
24 ~~physical injury or illness, or psychological and social~~  
25 ~~disability. The treatment utilizes task-oriented activities~~  
26 ~~to prevent or correct physical or emotional deficits or to~~  
27 ~~minimize the disabling effect of these deficits in the life of~~  
28 ~~the individual. Specific occupational therapy techniques~~  
29 ~~include, but are not limited to, activities of daily living~~  
30 ~~(ADL), the fabrication and application of splints,~~  
31 ~~perceptual-motor activities, the use of specifically designed~~

1 ~~crafts, guidance in the selection and use of adaptive~~  
2 ~~equipment, exercises to enhance functional performance, and~~  
3 ~~prevocational evaluation and treatment. Such techniques are~~  
4 ~~applied in the treatment of individual patients or clients, in~~  
5 ~~groups, or through social systems.~~

6 (c) The use of devices subject to 21 C.F.R. s. 801.109  
7 and identified by the board is expressly prohibited except by  
8 an occupational therapist or occupational therapy assistant  
9 who has received training as specified by the board. The  
10 board shall adopt rules to carry out the purpose of this  
11 provision.

12 (5) "Occupational therapy aide" means a person who  
13 assists in the practice of occupational therapy, who works  
14 under the direct supervision of a ~~person~~ licensed occupational  
15 therapist or to practice occupational therapy assistant, and  
16 whose activities require a general an understanding of  
17 occupational therapy pursuant to board rules ~~but do not~~  
18 ~~require professional or advanced training in the basic~~  
19 ~~anatomical, biological, psychological, and social sciences~~  
20 ~~involved in the practice of occupational therapy.~~

21 Section 106. Section 468.205, Florida Statutes, is  
22 amended to read:

23 (Substantial rewording of section. See  
24 s. 468.205, F.S., for present text.)

25 468.205 Board of Occupational Therapy Practice.--

26 (1) There is created within the department the Board  
27 of Occupational Therapy Practice, composed of seven members  
28 appointed by the Governor, subject to confirmation by the  
29 Senate.

30 (2) Four members shall be licensed occupational  
31 therapists in good standing in this state who are residents of

1 this state and have been engaged in the practice of  
2 occupational therapy for at least 4 years immediately prior to  
3 their appointment. One member shall be a licensed occupational  
4 therapy assistant in good standing in this state who is a  
5 resident of the state and has been engaged in the practice of  
6 occupational therapy for at least 4 years immediately prior to  
7 the appointment. Two members shall be consumers who are  
8 residents of the state who are not connected with the practice  
9 of occupational therapy.

10 (3) Within 90 days after the effective date of this  
11 act, the Governor shall appoint the board as follows:

12 (a) Two members for terms of 2 years each.

13 (b) Two members for terms of 3 years each.

14 (c) Three members for terms of 4 years each.

15 (4) As the terms of the members expire, the Governor  
16 shall appoint successors for terms of 4 years and such members  
17 shall serve until their successors are appointed.

18 (5) All provisions of chapter 455 relating to  
19 activities of the board shall apply.

20 Section 107. Section 468.209, Florida Statutes, is  
21 amended to read:

22 468.209 Requirements for licensure.--

23 (1) An applicant applying for a license as an  
24 occupational therapist or as an occupational therapy assistant  
25 shall file a written application, accompanied by the  
26 application for licensure fee prescribed in s. 468.221, on  
27 forms provided by the department board, showing to the  
28 satisfaction of the board that he:

29 (a) Is of good moral character.

30 (b) Has successfully completed the academic  
31 requirements of an educational program in occupational therapy

1 recognized by the board, with concentration in biologic or  
2 physical science, psychology, and sociology, and with  
3 education in selected manual skills. ~~For an occupational~~  
4 ~~therapist,~~Such a program shall be accredited by the American  
5 ~~Medical Association in collaboration with the American~~  
6 Occupational Therapy Association's Accreditation Council for  
7 Occupational Therapy Education, or its successor Association.  
8 ~~For an occupational therapy assistant, such a program shall be~~  
9 ~~approved by the American Occupational Therapy Association.~~  
10 (c) Has successfully completed a period of supervised  
11 fieldwork experience at a recognized educational institution  
12 or a training program approved by the educational institution  
13 where he met the academic requirements. For an occupational  
14 therapist, a minimum of 6 months of supervised fieldwork  
15 experience is required. For an occupational therapy assistant,  
16 a minimum of 2 months of supervised fieldwork experience is  
17 required.  
18 (d) Has passed an examination conducted or adopted by  
19 the board as provided in s. 468.211.  
20 (2) An applicant who has practiced as a state-licensed  
21 or American Occupational Therapy Association-certified  
22 occupational therapy assistant for 4 years and who, prior to  
23 January 24, 1988,~~has~~ completed a minimum of 6 months of  
24 supervised occupational-therapist-level fieldwork experience  
25 may take the examination to be licensed as an occupational  
26 therapist without meeting the educational requirements for  
27 occupational therapists made otherwise applicable under  
28 paragraph (1)(b).  
29 (3) If the board determines that an applicant is  
30 qualified to be licensed by endorsement under s. 468.213, the  
31 board may issue the applicant a temporary permit to practice

1 occupational therapy until the next board meeting at which  
2 license applications are to be considered, but not for a  
3 longer period of time. Only one temporary permit by  
4 endorsement shall be issued to an applicant, and it shall not  
5 be renewable.

6 (4) If the board determines that the applicant has not  
7 passed an examination, which examination is recognized by the  
8 board, to determine competence to practice occupational  
9 therapy and is not qualified to be licensed by endorsement,  
10 but has otherwise met all the requirements of this section and  
11 has made application for the next scheduled examination, the  
12 board may issue the applicant a temporary permit allowing him  
13 to practice occupational therapy under the supervision of a  
14 licensed occupational therapist until notification of the  
15 results of the examination. An individual who has passed the  
16 examination may continue to practice occupational therapy  
17 under his temporary permit until the next meeting of the  
18 board. An individual who has failed the examination shall not  
19 continue to practice occupational therapy under his temporary  
20 permit; and such permit shall be deemed revoked upon  
21 notification to the board of the examination results and the  
22 subsequent, immediate notification by the board to the  
23 applicant of the revocation. Only one temporary permit by  
24 examination shall be issued to an applicant, and it shall not  
25 be renewable. However, applicants enrolled in a full-time  
26 advanced master's occupational therapy education program who  
27 have completed all requirements for licensure except  
28 examination shall, upon written request, be granted a  
29 temporary permit valid for 6 months even if that period  
30 extends beyond the next examination, provided the applicant  
31 has not failed the examination. This permit shall remain

1 valid only while the applicant remains a full-time student  
2 and, upon written request, shall be renewed once for an  
3 additional 6 months.

4 (5) An applicant seeking reentry into the profession  
5 who has not been in active practice within the last 5 years  
6 must, prior to applying for licensure, submit to the board  
7 documentation of continuing education as prescribed by rule.

8 Section 108. Subsection (6) is added to section  
9 468.211, Florida Statutes, to read:

10 468.211 Examination for licensure.--

11 (6) If an applicant fails to pass the examination in  
12 three attempts, the applicant shall not be eligible for  
13 reexamination unless the applicant completes additional  
14 education or training requirements prescribed by the board.  
15 An applicant who has completed the additional education or  
16 training requirements prescribed by the board may take the  
17 examination on two more occasions. If the applicant has  
18 failed to pass the examination after five attempts, the  
19 applicant is no longer eligible to take the examination.

20 Section 109. Section 468.213, Florida Statutes, is  
21 amended to read:

22 468.213 Licensure by endorsement.--

23 (1) The board may waive the examination and grant a  
24 license to any person who presents proof of current  
25 certification as an occupational therapist or occupational  
26 therapy assistant by the National Board for Certification in  
27 ~~American Occupational Therapy Association~~ if the board  
28 determines the requirements for such certification to be  
29 equivalent to the requirements for licensure in this act.

30 (2) The board may waive the examination and grant a  
31 license to any applicant who presents proof of current



1 licensure as an occupational therapist or occupational therapy  
2 assistant in another state, the District of Columbia, or any a  
3 territory or jurisdiction of the United States or foreign  
4 national jurisdiction which requires standards for licensure  
5 determined by the board to be equivalent to the requirements  
6 for licensure in this act.

7 Section 110. Section 468.225, Florida Statutes, is  
8 amended to read:

9 468.225 Exemptions ~~Persons and practices not~~  
10 ~~affected.--~~

11 (1) Nothing in this act shall be construed as  
12 preventing or restricting the practice, services, or  
13 activities of:

14 (a) Any person licensed in this state by any other law  
15 from engaging in the profession or occupation for which he is  
16 licensed.

17 (b) Any person employed as an occupational therapist  
18 or occupational therapy assistant by the United States, if  
19 such person provides occupational therapy solely under the  
20 direction or control of the organization by which he is  
21 employed.

22 (c) Any person pursuing a course of study leading to a  
23 degree or certificate in occupational therapy at an accredited  
24 or approved educational program, if such activities and  
25 services constitute a part of a supervised course of study and  
26 if such a person is designated by a title which clearly  
27 indicates his or her status as a student or trainee.

28 (d) Any person fulfilling the supervised fieldwork  
29 experience requirements of s. 468.209, if such activities and  
30 services constitute a part of the experience necessary to meet  
31 the requirements of that section.

1           ~~(e) Any person employed by, or working under the~~  
2 ~~direct supervision of, an occupational therapist as an~~  
3 ~~occupational therapy aide.~~

4           (2) No provision of this act shall be construed to  
5 prohibit physicians, physician assistants, nurses, physical  
6 therapists, osteopathic physicians or surgeons, ~~or~~ clinical  
7 psychologists, speech-language pathologists, or audiologists  
8 from using occupational therapy as a part of or incidental to  
9 their profession, when they practice their profession under  
10 the statutes applicable to their profession.

11           Section 111. Section 468.351, Florida Statutes, is  
12 amended to read:

13           468.351 Purpose and intent; application.--

14           (1)(a) The purpose in enacting this part is to provide  
15 for the licensure ~~certification and registration~~ of persons  
16 who deliver respiratory care services and who meet certain  
17 requirements. The delivery of respiratory care services by  
18 persons licensed ~~certified or registered~~ pursuant to this part  
19 shall not be construed to permit the practice of medicine.

20           (b) It is the finding of the Legislature that the  
21 delivery of respiratory care services by unskilled and  
22 incompetent persons presents a danger to the public health and  
23 safety. Because it is difficult for the public to make  
24 informed choices related to respiratory care services and  
25 since the consequences of wrong choices can seriously endanger  
26 public health and safety, it is the intent of the Legislature  
27 to prohibit the delivery of respiratory care services by  
28 persons who are determined to possess less than minimum  
29 competencies or who otherwise present a danger to the public.

30           (2) It is the intent of the Legislature that the  
31 department ~~of Health and Rehabilitative Services shall~~

1 ~~continue to~~ regulate blood gas laboratories and that the  
2 supervision of health ~~respiratory~~ care practitioners, ~~clinical~~  
3 ~~laboratory personnel, and other persons~~ performing blood gas  
4 analysis and specimen collection for the purpose of such  
5 analysis be specified in rules pursuant to the applicable  
6 practice act ~~chapter 483~~. Further, it is the intent of the  
7 Legislature that personnel licensed ~~certified or registered~~  
8 pursuant to this part shall be exempt from the licensure  
9 provisions of chapter 483.

10 Section 112. Subsections (2), (8), and (9) of section  
11 468.352, Florida Statutes, are amended to read:

12 468.352 Definitions.--As used in this part, unless the  
13 context otherwise requires, the term:

14 (2) "Department" means the Department of Health  
15 ~~Business and Professional Regulation~~.

16 (8) "Respiratory therapist" means any person licensed  
17 ~~registered~~ pursuant to this part who is employed to deliver  
18 respiratory care services under the order of a physician  
19 licensed pursuant to chapter 458 or chapter 459, and in  
20 accordance with protocols established by a hospital, other  
21 health care provider, or the board, and who functions in  
22 situations of unsupervised patient contact requiring  
23 individual judgment.

24 (9) "Respiratory care practitioner" means any person  
25 licensed ~~certified~~ pursuant to this part who is employed to  
26 deliver respiratory care services under the order of a  
27 physician licensed pursuant to chapter 458 or chapter 459, and  
28 in accordance with protocols established by a hospital, other  
29 health care provider, or the board.

30 Section 113. Paragraph (a) of subsection (5) of  
31 section 468.354, Florida Statutes, is amended to read:

1           468.354 Advisory Council on Respiratory Care;  
2 organization; function.--

3           (5)(a) The council shall recommend to the department a  
4 code of ethics for those persons licensed ~~certified or~~  
5 ~~registered~~ pursuant to this part.

6           Section 114. Section 468.355, Florida Statutes, is  
7 amended to read:

8           468.355 Eligibility for licensure ~~certification or~~  
9 ~~registration~~; temporary licensure ~~certification~~.--

10           (1) To be eligible for licensure ~~certification~~ by the  
11 board as a respiratory care practitioner, an applicant must:

12           (a) Be at least 18 years old.

13           (b) Possess a high school diploma or a graduate  
14 equivalency diploma.

15           (c) Meet at least one of the following criteria:

16           1. The applicant has successfully completed a training  
17 program for respiratory therapy technicians or respiratory  
18 therapists approved by the Commission ~~Committee~~ on  
19 Accreditation of Allied Health Education Programs ~~and~~  
20 ~~Accreditation of the American Medical Association~~, or the  
21 equivalent thereof, as accepted by the board.

22           2. The applicant is currently a "Certified Respiratory  
23 Therapy Technician" certified by the National Board for  
24 Respiratory Care, or the equivalent thereof, as accepted by  
25 the board.

26           3. The applicant is currently a "Registered  
27 Respiratory Therapist" registered by the National Board for  
28 Respiratory Care, or the equivalent thereof, as accepted by  
29 the board.

30  
31

1           4. The applicant is currently employed in this state  
2 as a respiratory care practitioner or respiratory therapist on  
3 October 1, 1984.

4  
5 The criteria set forth in subparagraphs 2. and 3.  
6 notwithstanding, the board shall annually review the  
7 examinations and standards of the National Board for  
8 Respiratory Care and may reject those examinations and  
9 standards if they are deemed inappropriate.

10           (2) To be eligible for licensure ~~registration~~ by the  
11 board as a respiratory therapist, an applicant must:

12           (a) Be at least 18 years old.

13           (b) Possess a high school diploma or a graduate  
14 equivalency diploma.

15           (c) Meet at least one of the following criteria:

16           1. The applicant has successfully completed a training  
17 program for respiratory therapists approved by the Commission  
18 ~~Committee~~ on Accreditation of Allied Health Education Programs  
19 ~~and Accreditation of the American Medical Association~~, or the  
20 equivalent thereof, as accepted by the board.

21           2. The applicant is currently a "Registered  
22 Respiratory Therapist" registered by the National Board for  
23 Respiratory Care, or the equivalent thereof, as accepted by  
24 the board.

25  
26 The criteria set forth in subparagraphs 1. and 2.  
27 notwithstanding, the board shall annually review the  
28 examinations and standards of the National Board for  
29 Respiratory Care and may reject those examinations and  
30 standards if they are deemed inappropriate.

31

1           (3) With respect to the delivery of respiratory care  
2 services, the board shall establish procedures for temporary  
3 licensure ~~certification~~ of eligible individuals entering the  
4 state and temporary licensure ~~certification~~ of those persons  
5 who have graduated from a program approved by the board. Such  
6 temporary licensure ~~certification~~ shall be for a period not to  
7 exceed 1 year.

8           Section 115. Section 468.356, Florida Statutes, is  
9 amended to read:

10           468.356 Approval of educational programs.--

11           (1) Approval of educational programs shall be in  
12 accordance with the Joint Review Committee for Respiratory  
13 Therapy Education through the Commission ~~Committee~~ on  
14 Accreditation of Allied Health Education Programs, or other  
15 accrediting agency recognized by the United States Office of  
16 Education and Accreditation of the American Medical  
17 Association.

18           (2) In the event that an educational program has not  
19 yet received full American Medical Association approval, the  
20 board, at its discretion, may require appropriate  
21 documentation of the intent to achieve full accreditation  
22 within a specified time period. Temporary approval for  
23 graduates of such programs to sit for state licensure  
24 ~~certification or registration~~ examinations may then be granted  
25 by the board.

26           Section 116. Section 468.357, Florida Statutes, is  
27 amended to read:

28           468.357 Licensure ~~Certification~~ by examination.--

29           (1) A person who desires to be licensed ~~certified~~ as a  
30 respiratory care practitioner may submit an application to the  
31

1 <U>department board to take the examination to be administered by  
2 the department.

3 (a) The department shall examine each applicant who is  
4 determined by the board to have:

5 1. Completed the application form and remitted the  
6 applicable application fee set by the board;

7 2. Submitted required documentation as required in s.  
8 468.355; and

9 3. Remitted an examination fee set by the board.

10 (b) The department shall conduct examinations for  
11 licensure certification of respiratory care practitioners no  
12 less than two times a year in such geographical locations as  
13 are deemed advantageous to the majority of the applicants.  
14 ~~However, the examination shall be conducted no less than three~~  
15 ~~times a year through 1988 and in such geographical locations~~  
16 ~~as are deemed advantageous to the majority of the applicants.~~

17 (c) The examination given for respiratory care  
18 practitioners shall be the same as that given by the National  
19 Board for Respiratory Care for entry-level certification of  
20 respiratory therapy technicians. However, an equivalent  
21 examination may be accepted by the board in lieu of that  
22 examination.

23 (2) Each applicant who passes the examination shall be  
24 entitled to licensure certification as a respiratory care  
25 practitioner, and the department shall issue a license  
26 ~~certificate~~ pursuant to this part to any applicant who  
27 successfully completes the examination in accordance with this  
28 section. However, the department shall not issue a license  
29 ~~certificate~~ to any applicant who is under investigation in  
30 another jurisdiction for an offense which would constitute a  
31 violation of this part. Upon completion of such an

1 investigation, if the applicant is found guilty of such an  
2 offense, the applicable provisions of s. 468.365 will apply.

3       (3)~~(a)~~ Any person who was employed in this state on or  
4 before September 30, 1983, as a respiratory therapy technician  
5 or respiratory therapist, and who has performed services in  
6 such professional capacity for 4 years or more by October 1,  
7 1987, under the supervision of a licensed physician or in a  
8 hospital or licensed health care facility, shall be issued a  
9 license ~~certificate~~ without examination, if such person  
10 provides acceptable documentation of performance of such  
11 services to the board. Such documentation shall include  
12 certification by a physician licensed pursuant to chapter 458  
13 or chapter 459 who has direct knowledge of the practice of, or  
14 who has supervised, the person. If such person is not  
15 determined to have performed critical care respiratory  
16 services for at least 4 years, the board may limit the license  
17 ~~certificate~~ of such person to the performance of noncritical  
18 care respiratory services. ~~Any person issued a certificate~~  
19 ~~pursuant to this paragraph shall complete at least 20 contact~~  
20 ~~hours of continuing education each year.~~

21       ~~(b) Any person first employed in this state as a~~  
22 ~~respiratory therapy technician or respiratory therapist on or~~  
23 ~~after October 1, 1984, and prior to October 1, 1987, shall~~  
24 ~~have until December 31, 1988, to pass the examination for~~  
25 ~~certification under this part if the person has applied to~~  
26 ~~take the examination before March 1, 1988, and such person~~  
27 ~~shall be permitted to continue to perform respiratory care~~  
28 ~~services until December 31, 1988.~~

29       Section 117. Section 468.358, Florida Statutes, is  
30 amended to read:  
31



1           468.358 Licensure ~~Certification or registration~~ by  
2 endorsement.--  
3           (1) Licensure ~~Certification~~ as a respiratory care  
4 practitioner shall be granted by endorsement to an individual  
5 who holds the "Certified Respiratory Therapy Technician"  
6 credential issued by the National Board for Respiratory Care  
7 or an equivalent credential acceptable to the board. Licensure  
8 ~~Certification~~ by this mechanism requires verification by oath  
9 and submission of evidence satisfactory to the board that such  
10 credential is held.  
11           (2) Licensure ~~Registration~~ as a respiratory therapist  
12 shall be granted by endorsement to an individual who holds the  
13 "Registered Respiratory Therapist" credential issued by the  
14 National Board for Respiratory Care or an equivalent  
15 credential acceptable to the board. Licensure ~~Registration~~ by  
16 this mechanism requires verification by oath and submission of  
17 evidence satisfactory to the board that such credential is  
18 held.  
19           (3) An individual who has been granted licensure,  
20 certification, registration, or other authority, by whatever  
21 name known, to deliver respiratory care services in another  
22 state or country may petition the board for consideration for  
23 licensure ~~certification or registration~~ in this state and,  
24 upon verification by oath and submission of evidence of  
25 licensure, certification, registration, or other authority  
26 acceptable to the board, may be granted licensure  
27 ~~certification or registration~~ by endorsement.  
28           (4) Licensure ~~Certification or registration~~ shall not  
29 be granted by endorsement as provided in this section without  
30 the submission of a proper application and the payment of the  
31 requisite fees therefor.

1           Section 118. Subsections (1), (2), and (5) of section  
2 468.359, Florida Statutes, are amended to read:

3           468.359 Assumption of title and use of  
4 abbreviations.--

5           (1) Only persons who are licensed ~~certified~~ pursuant  
6 to this part as respiratory care practitioners have the right  
7 to use the title "Respiratory Care Practitioner" and the  
8 abbreviation "RCP."

9           (2) Only persons who are licensed ~~registered~~ pursuant  
10 to this part as respiratory therapists have the right to use  
11 the title "Registered Respiratory Therapist" and the  
12 abbreviation "RRT," provided such persons have passed the  
13 Registry Examination for Respiratory Therapists given by the  
14 National Board for Respiratory Care.

15           (5) No person in this state shall deliver respiratory  
16 care services; advertise as, or assume the title of,  
17 respiratory care practitioner or respiratory therapist; or use  
18 the abbreviation "RCP" or take any other action that would  
19 lead the public to believe that such person is licensed  
20 ~~certified or registered~~ pursuant to this part unless such  
21 person is so licensed ~~certified or registered~~.

22           Section 119. Section 468.36, Florida Statutes, is  
23 amended to read:

24           468.36 Primary place of service delivery; notice of  
25 address or change of address.--Every licensee  
26 ~~certificateholder or registrant~~ shall file with the department  
27 the licensee's current residence address as defined by board  
28 rule of his primary place of service delivery within the state  
29 ~~prior to engaging in such service delivery. Prior to changing~~  
30 ~~such address, he shall notify the department of the address of~~  
31

1 ~~his new primary place of service delivery, whether or not~~  
2 ~~within the state.~~

3 Section 120. Section 468.361, Florida Statutes, is  
4 amended, and section 468.362, Florida Statutes, is transferred  
5 to said section and amended, to read:

6 468.361 Renewal of licensure ~~certification or~~  
7 ~~registration~~; continuing education.--

8 (1) The department shall provide by rule a method for  
9 the biennial renewal of licensure ~~certification or~~  
10 ~~registration~~ at fees set by the board.

11 (2) The board shall prescribe by rule continuing  
12 education requirements, not to exceed 24 hours biennially, as  
13 a condition for renewal of licensure ~~certification or~~  
14 ~~registration~~. The program criteria with respect thereto shall  
15 be approved by the board.

16 ~~468.362 Continuing education.--~~

17 ~~(1) A renewal of a certificate or registration shall~~  
18 ~~not be issued by the department until the certificateholder or~~  
19 ~~registrant submits proof satisfactory to the board that,~~  
20 ~~during the 2 years prior to his application for renewal, he~~  
21 ~~has participated in no fewer than 24 hours of continuing~~  
22 ~~professional respiratory care education in courses approved by~~  
23 ~~the board.~~

24 (3)~~(2)~~ The board shall approve continuing education  
25 courses which may be accepted in meeting the requirements of  
26 this part. Providers of such courses shall also be approved  
27 by the board.

28 (4)~~(3)~~ The board may make exceptions from the  
29 requirements of this section in emergency or hardship cases.

30  
31

1           ~~(4) The board may adopt rules, within the requirements~~  
2 ~~of this section, that are necessary for the implementation of~~  
3 ~~this section.~~

4           Section 121. Section 468.363, Florida Statutes, is  
5 amended to read:

6           468.363   Reactivation of licensure ~~certification or~~  
7 ~~registration~~; continuing education.--The board shall prescribe  
8 by rule continuing education requirements as a condition of  
9 reactivating a license ~~certificate or registration~~. The  
10 continuing education requirements for reactivating a license  
11 ~~certificate or registration~~ may not exceed 12 classroom hours  
12 for each year the license ~~certificate or registration~~ was  
13 inactive.

14           Section 122. Subsection (1) of section 468.364,  
15 Florida Statutes, is amended to read:

16           468.364   Fees; establishment; disposition.--

17           (1) The board shall establish by rule fees for the  
18 following purposes:

19           (a) Application, fee ~~+~~ a fee not to exceed \$50.

20           (b) Examination, fee ~~+~~ a fee not to exceed \$125 plus  
21 the actual per applicant cost to the department for purchase  
22 of the examination from the National Board for Respiratory  
23 Care or a similar national organization.

24           (c) Initial licensure, ~~certification or registration~~  
25 ~~fee~~ ~~+~~ a fee not to exceed \$200.

26           (d) Renewal of licensure, ~~certification or~~  
27 ~~registration~~ ~~fee~~ ~~+~~ a fee not to exceed \$200 biennially.

28           (e) Renewal of inactive licensure, ~~certification or~~  
29 ~~registration~~ ~~+~~ a fee not to exceed \$50.

30           (f) Reactivation, fee ~~+~~ a fee not to exceed \$50.

31

1           Section 123. Section 468.365, Florida Statutes, is  
2 amended to read:

3           468.365 Disciplinary grounds and actions.--

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

6           (a) Procuring, attempting to procure, or renewing a  
7 license ~~certificate or registration~~ as provided by this part  
8 by bribery, by fraudulent misrepresentation, or through an  
9 error of the department or the board.

10          (b) Having licensure, certification, registration, or  
11 other authority, by whatever name known, to deliver  
12 respiratory care services revoked, suspended, or otherwise  
13 acted against, including the denial of licensure,  
14 certification, registration, or other authority to deliver  
15 respiratory care services by the licensing authority of  
16 another state, territory, or country.

17          (c) Being convicted or found guilty of, or entering a  
18 plea of nolo contendere to, regardless of adjudication, ~~of~~ a  
19 crime in any jurisdiction which directly relates to  
20 respiratory care services or to the ability to deliver such  
21 services.

22          (d) Willfully making or filing a false report or  
23 record, willfully failing to file a report or record required  
24 by state or federal law, or willfully impeding or obstructing  
25 such filing or inducing another person to do so. Such reports  
26 or records include only those reports or records which require  
27 the signature of a ~~certified~~ respiratory care practitioner or  
28 ~~a~~ respiratory therapist licensed ~~registered~~ pursuant to this  
29 part.

30          (e) Circulating false, misleading, or deceptive  
31 advertising.

1           (f) Unprofessional conduct, which includes, but is not  
2 limited to, any departure from, or failure to conform to,  
3 acceptable standards related to the delivery of respiratory  
4 care services, as set forth by the board and the Advisory  
5 Council on Respiratory Care in rules adopted pursuant to this  
6 part.

7           (g) Engaging or attempting to engage in the  
8 possession, sale, or distribution of controlled substances, as  
9 set forth by law, for any purpose other than a legitimate  
10 purpose.

11           (h) Willfully failing to report any violation of this  
12 part.

13           (i) Willfully or repeatedly violating a rule of the  
14 board or the department or a lawful order of the board or  
15 department previously entered in a disciplinary hearing.

16           (j) Violation of any rule adopted pursuant to this  
17 part or chapter 455.

18           (k) Engaging in the delivery of respiratory care  
19 services with a revoked, suspended, or inactive license  
20 ~~certificate or registration~~.

21           (l) Permitting, aiding, assisting, procuring, or  
22 advising any person who is not licensed ~~certified or~~  
23 ~~registered~~ pursuant to this part, contrary to this part or to  
24 any rule of the department or the board.

25           (m) Failing to perform any statutory or legal  
26 obligation placed upon a ~~certified~~ respiratory care  
27 practitioner or a respiratory therapist licensed ~~registered~~  
28 pursuant to this part.

29           (n) Accepting and performing professional  
30 responsibilities which the licensee ~~certificateholder or~~  
31

1 ~~registrant~~ knows, or has reason to know, he is not competent  
2 to perform.

3 (o) Delegating professional responsibilities to a  
4 person when the licensee ~~certificateholder or registrant~~  
5 delegating such responsibilities knows, or has reason to know,  
6 that such person is not qualified by training, experience, or  
7 licensure ~~certification or registration~~ to perform them.

8 (p) Gross or repeated malpractice or the failure to  
9 deliver respiratory care services with that level of care,  
10 skill, and treatment which is recognized by a reasonably  
11 prudent respiratory care practitioner or respiratory therapist  
12 with similar professional training as being acceptable under  
13 similar conditions and circumstances.

14 (q) Paying or receiving any commission, bonus,  
15 kickback, or rebate to or from, or engaging in any split-fee  
16 arrangement in any form whatsoever with, a person,  
17 organization, or agency, either directly or indirectly, for  
18 goods or services rendered to patients referred by or to  
19 providers of health care goods and services, including, but  
20 not limited to, hospitals, nursing homes, clinical  
21 laboratories, ambulatory surgical centers, or pharmacies. The  
22 provisions of this paragraph shall not be construed to prevent  
23 the licensee ~~certificateholder or registrant~~ from receiving a  
24 fee for professional consultation services.

25 (r) Exercising influence within a respiratory care  
26 relationship for the purpose of engaging a patient in sexual  
27 activity. A patient is presumed to be incapable of giving  
28 free, full, and informed consent to sexual activity with the  
29 patient's respiratory care practitioner or respiratory  
30 therapist.

31

- 1           (s) Making deceptive, untrue, or fraudulent  
2 representations in the delivery of respiratory care services  
3 or employing a trick or scheme in the delivery of respiratory  
4 care services if such a scheme or trick fails to conform to  
5 the generally prevailing standards of other licensees  
6 ~~certificateholders or registrants~~ within the community.
- 7           (t) Soliciting patients, either personally or through  
8 an agent, through the use of fraud, deception, or otherwise  
9 misleading statements or through the exercise of intimidation  
10 or undue influence.
- 11           (u) Failing to keep written respiratory care records  
12 justifying the reason for the action taken by the licensee  
13 ~~certificateholder or registrant~~.
- 14           (v) Exercising influence on the patient in such a  
15 manner as to exploit the patient for the financial gain of the  
16 licensee ~~certificateholder or registrant~~ or a third party,  
17 which includes, but is not limited to, the promoting or  
18 selling of services, goods, appliances, or drugs.
- 19           (w) Performing professional services which have not  
20 been duly ordered by a physician licensed pursuant to chapter  
21 458 or chapter 459 and which are not in accordance with  
22 protocols established by the hospital, other health care  
23 provider, or the board, except as provided in ss. 743.064,  
24 766.103, and 768.13.
- 25           (x) Being unable to deliver respiratory care services  
26 with reasonable skill and safety to patients by reason of  
27 illness or use of alcohol, drugs, narcotics, chemicals, or any  
28 other type of material as a result of any mental or physical  
29 condition. In enforcing this paragraph, the department shall,  
30 upon probable cause, have authority to compel a respiratory  
31 care practitioner or respiratory therapist to submit to a



1 mental or physical examination by physicians designated by the  
2 department. The cost of examination shall be borne by the  
3 licensee ~~certificateholder or registrant~~ being examined. The  
4 failure of a respiratory care practitioner or respiratory  
5 therapist to submit to such an examination when so directed  
6 constitutes an admission of the allegations against him, upon  
7 which a default and a final order may be entered without the  
8 taking of testimony or presentation of evidence, unless the  
9 failure was due to circumstances beyond his control. A  
10 respiratory care practitioner or respiratory therapist  
11 affected under this paragraph shall at reasonable intervals be  
12 afforded an opportunity to demonstrate that he can resume the  
13 competent delivery of respiratory care services with  
14 reasonable skill and safety to his patients. In any  
15 proceeding under this paragraph, neither the record of  
16 proceedings nor the orders entered by the board shall be used  
17 against a respiratory care practitioner or respiratory  
18 therapist in any other proceeding.

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

22 (a) Denial of an application for licensure  
23 ~~certification or registration~~.

24 (b) Revocation or suspension of licensure  
25 ~~certification or registration~~.

26 (c) Imposition of an administrative fine not to exceed  
27 \$1,000 for each count or separate offense.

28 (d) Placement of the respiratory care practitioner or  
29 respiratory therapist on probation for such period of time and  
30 subject to such conditions as the board may specify,  
31 including, but not limited to, requiring the respiratory care

1 practitioner or respiratory therapist to submit to treatment,  
2 to attend continuing education courses, or to work under the  
3 supervision of another respiratory care practitioner or  
4 respiratory therapist.

5 (e) Issuance of a reprimand.

6 (3) The board shall not reinstate licensure  
7 ~~certification or registration~~, or cause a license certificate  
8 ~~or registration~~ to be issued to a person it has deemed  
9 unqualified, until such time as it is satisfied that such  
10 person has complied with all the terms and conditions set  
11 forth in the final order and that the respiratory care  
12 practitioner or respiratory therapist is capable of safely  
13 engaging in the delivery of respiratory care services.

14 (4) The board may, by rule, establish guidelines for  
15 the disposition of disciplinary cases involving specific types  
16 of violations. Such guidelines may include minimum and  
17 maximum fines, periods of supervision on probation, or  
18 conditions upon probation or reissuance of a license  
19 ~~certificate or registration~~.

20 Section 124. Subsection (1) of section 468.366,  
21 Florida Statutes, is amended to read:

22 468.366 Penalties for violations.--

23 (1) It is a violation of law for any person, including  
24 any firm, association, or corporation, to:

25 (a) Sell or fraudulently obtain, attempt to obtain, or  
26 furnish to any person a diploma, license, ~~certificate,~~  
27 ~~registration,~~ or record, or aid or abet in the sale,  
28 procurement, or attempted procurement thereof.

29 (b) Deliver respiratory care services, as defined by  
30 this part or by rule of the board, under cover of any diploma,  
31 license, ~~certificate,~~ ~~registration,~~ or record that was

1 illegally or fraudulently obtained or signed or issued  
2 unlawfully or under fraudulent representation.

3 (c) Deliver respiratory care services, as defined by  
4 this part or by rule of the board, unless such person is duly  
5 licensed ~~certified or registered~~ to do so under the provisions  
6 of this part or unless such person is exempted pursuant to s.  
7 468.368.

8 (d) Use, in connection with his name, any designation  
9 tending to imply that he is a respiratory care practitioner or  
10 a respiratory therapist, duly licensed ~~certified or registered~~  
11 under the provisions of this part, unless he is so licensed  
12 ~~certified or registered~~.

13 (e) Advertise an educational program as meeting the  
14 requirements of this part, or conduct an educational program  
15 for the preparation of respiratory care practitioners or  
16 respiratory therapists, unless such program has been approved  
17 by the board.

18 (f) Knowingly employ unlicensed ~~uncertified or~~  
19 ~~unregistered~~ persons in the delivery of respiratory care  
20 services, unless exempted by this part.

21 (g) Knowingly conceal information relative to any  
22 violation of this part.

23 Section 125. Subsection (8) of section 468.368,  
24 Florida Statutes, is amended to read:

25 468.368 Exemptions.--Nothing in this part shall be  
26 construed to prohibit:

27 (8) The employment by a health care facility of a  
28 student enrolled in the clinical portion of an approved  
29 respiratory care educational program (who has demonstrated  
30 such enrollment to the board by submission of evidence  
31 satisfactory to the board) to deliver limited respiratory care

1 support services under the supervision of personnel licensed  
2 ~~certified or registered~~ pursuant to this part. Such exemption  
3 shall also apply to the graduates of such programs until the  
4 receipt of temporary licensure ~~certification~~ issued pursuant  
5 to the provisions of s. 468.355(3). However, such employees  
6 shall not perform invasive procedures or procedures related to  
7 critical respiratory care, including therapeutic, diagnostic,  
8 and palliative procedures, nor shall they participate in  
9 delivering certain services requiring unsupervised patient  
10 contact, as determined by the board.

11 Section 126. Subsection (3) of section 478.42, Florida  
12 Statutes, is amended to read:

13 478.42 Definitions.--As used in this chapter, the  
14 term:

15 (3) "Department" means the Department of Health  
16 ~~Business and Professional Regulation~~.

17 Section 127. Section 478.45, Florida Statutes, is  
18 amended to read:

19 478.45 Requirements for licensure.--

20 (1) An applicant applying for licensure as an  
21 electrologist shall file a written application, accompanied by  
22 the application for licensure fee prescribed in s. 478.55, on  
23 a form provided by the board, showing to the satisfaction of  
24 the board that the applicant:

25 (a) Is at least 18 years old.

26 (b) Is of good moral character.

27 ~~(c) Is a resident of the state.~~

28 (c)~~(d)~~ Possesses a high school diploma or a graduate  
29 equivalency diploma.

30  
31

1            (d)~~(e)~~ Has not committed an act in any jurisdiction  
2 which would constitute grounds for disciplining an  
3 electrologist in this state.

4            (e)~~(f)~~1. Has successfully completed the academic  
5 requirements of an electrolysis training program, not to  
6 exceed 120 hours, and the practical application thereof as  
7 approved by the board; ~~or~~

8            ~~2. Was engaged in the practice of electrology prior to~~  
9 ~~October 1, 1991, and filed an application for licensure within~~  
10 ~~90 days after the date established by the board or by February~~  
11 ~~1, 1995, whichever comes last.~~

12            (2) Each applicant for licensure shall successfully  
13 pass a written examination developed by the department or a  
14 national examination that has, ~~both of which have~~ been  
15 approved by the board. The examinations shall test the  
16 applicant's knowledge relating to the practice of electrology,  
17 including the applicant's professional skills and judgment in  
18 the use of electrolysis techniques and methods, and any other  
19 subjects which are useful to determine the applicant's fitness  
20 to practice.

21            (3) The department, upon approval of the board, may  
22 adopt a ~~the American Electrology Association examination or~~  
23 ~~any other~~ national examination in lieu of any part of the  
24 examination required by this section. The board, with the  
25 assistance of the council, shall establish standards for  
26 acceptable performance.

27            (4) The department shall issue a license to practice  
28 electrology to any applicant who passes the examination, pays  
29 the licensure fee as set forth in s. 478.55, and otherwise  
30 meets the requirements of this chapter.

31

1           (5) The department shall conduct licensure  
2 examinations at least two times a year ~~biannually at locations~~  
3 ~~set by the board. However, such examinations may be conducted~~  
4 ~~at least three times each year through 1995.~~ The department  
5 ~~board~~ shall give public notice of the time and place of each  
6 examination at least 60 days before it is administered and  
7 shall mail notice of such examination to each applicant whose  
8 application is timely filed, pursuant to board rule.

9           (6) The department may not issue a license to any  
10 applicant who is under investigation in another jurisdiction  
11 for an offense which would be a violation of this chapter,  
12 until such investigation is complete. Upon completion of such  
13 investigation, if the applicant is found guilty of such  
14 offense, the board shall apply the applicable provisions of s.  
15 478.52.

16           Section 128. Subsection (1) of section 478.46, Florida  
17 Statutes, is amended to read:

18           478.46 Temporary permits.--

19           (1) If the department ~~executive director of the board~~  
20 determines that an applicant is qualified to be licensed under  
21 s. 478.47 ~~478.45~~, the department ~~board~~ may issue the applicant  
22 a temporary permit to practice electrolysis ~~electrology~~ until  
23 the next board meeting at which license applications are to be  
24 considered, but not for a longer period of time. Only one  
25 temporary permit shall be issued to an applicant, and it shall  
26 not be renewable.

27           Section 129. Section 478.47, Florida Statutes, is  
28 amended to read:

29           478.47 Licensure by endorsement.--The department shall  
30 issue a license by endorsement to any applicant who submits an  
31 application and the required fees as set forth in s. 478.55

1 and who ~~the board certifies has met the qualifications of s.~~  
2 ~~478.45(1) or who~~ holds an active license or other authority to  
3 practice electrology in a jurisdiction whose licensure  
4 requirements are determined by the board to be equivalent to  
5 the requirements for licensure in this state.

6 Section 130. Paragraph (d) of subsection (2) of  
7 section 478.52, Florida Statutes, is amended, and paragraph  
8 (u) is added to subsection (1) of said section, to read:

9 478.52 Disciplinary proceedings.--

10 (1) The following acts are grounds for which the  
11 disciplinary actions in subsection (2) may be taken:

12 (u) Operating any electrolysis facility unless it has  
13 been duly licensed as provided in this chapter.

14 (2) When the board finds any person guilty of any of  
15 the grounds set forth in subsection (1), including conduct  
16 that would constitute a substantial violation of subsection  
17 (1) which occurred prior to licensure, it may enter an order  
18 imposing one or more of the following penalties:

19 (d) Place the licensee on probation for a specified  
20 time and subject the licensee to such conditions as the board  
21 determines necessary, including, but not limited to, requiring  
22 treatment, continuing education courses, reexamination, or  
23 working under the supervision of another licensee.

24 Section 131. Subsections (1) and (2) of section  
25 480.033, Florida Statutes, are amended to read:

26 480.033 Definitions.--As used in this act:

27 (1) "Board" means the Board of Massage Therapy.

28 (2) "Department" means the Department of Health  
29 ~~Business and Professional Regulation~~.

30 Section 132. Section 480.034, Florida Statutes, is  
31 amended to read:

1           480.034 Exemptions.--

2           (1) Nothing in this act shall modify or repeal any  
3 provision of chapters 458-464, inclusive, or of chapter 476,  
4 chapter 477, or chapter 486.

5           (2) Athletic trainers employed by or on behalf of a  
6 professional athletic team performing or training within this  
7 state shall be exempt from the provisions of this act.

8           (3) The state and its political subdivisions are  
9 exempt from the registration requirements of this act.

10          ~~(4) Treatments for the purpose of cleansing and~~  
11 ~~beautifying the skin or in conjunction with a weight loss~~  
12 ~~program, including herbal wraps, body scrubs, paraffin wax~~  
13 ~~treatments, and seaweed wraps, shall be exempt from the~~  
14 ~~provisions of this act.~~

15          (4)~~(5)~~ An exemption granted is effective to the extent  
16 that an exempted person's practice or profession overlaps with  
17 the practice of massage.

18          Section 133. Subsection (1) of section 480.035,  
19 Florida Statutes, is amended to read:

20          480.035 Board of Massage Therapy.--

21          (1) The Board of Massage Therapy is created within the  
22 department. The board shall consist of seven members, who  
23 shall be appointed by the Governor and whose function it shall  
24 be to carry out the provisions of this act.

25          Section 134. Section 480.041, Florida Statutes, is  
26 amended to read:

27          480.041 Massage therapists; qualifications; licensure;  
28 endorsement; ~~provisional licensure~~.--

29          (1) Any person is qualified for licensure as a massage  
30 therapist under this act who:

31



1           (a) Is at least 18 years of age or has received a high  
2 school diploma or graduate equivalency diploma;

3           (b) Has completed a course of study at a  
4 board-approved massage school or has completed an  
5 apprenticeship program that meets standards adopted by the  
6 board; and

7           (c) Has received a passing grade on an examination  
8 administered by the department.

9           (2) Every person desiring to be examined for licensure  
10 as a massage therapist shall apply to the department in  
11 writing upon forms prepared and furnished by the department.  
12 Such applicants shall be subject to the provisions of s.  
13 480.046(1). Applicants may take an examination administered by  
14 the department only upon meeting the requirements of this  
15 section as determined by the board.

16           (3) Upon an applicant's passing the examination and  
17 paying the initial licensure fee, the department shall issue  
18 to the applicant a license, valid until the next scheduled  
19 renewal date, to practice massage.

20           ~~(4)(a) The board may issue to an applicant, without~~  
21 ~~examination, a provisional license to practice massage,~~  
22 ~~provided such applicant meets all other conditions and~~  
23 ~~requirements relating to qualification for licensure and~~  
24 ~~submits a fee pursuant to s. 480.044. Such applicant for a~~  
25 ~~provisional license shall be associated with a licensed~~  
26 ~~massage therapist and shall practice only under the~~  
27 ~~supervision of such licensed massage therapist at a licensed~~  
28 ~~establishment.~~

29           ~~(b) The provisional license, when granted, shall~~  
30 ~~include the name and address of the licensed massage therapist~~  
31 ~~with whom the applicant is associated. No licensed massage~~

1 ~~therapist may supervise more than one provisional~~  
2 ~~licenseholder at the same time.~~

3 ~~(c) The applicant must appear at the next examination~~  
4 ~~for licensure for which the applicant can be scheduled~~  
5 ~~according to the rules of the board and department. The~~  
6 ~~provisional license shall expire upon written notification by~~  
7 ~~the department that the applicant has failed the examination~~  
8 ~~or on the date of the scheduled examination, should the~~  
9 ~~applicant fail to appear. Acceptance of a provisional license~~  
10 ~~by an applicant shall be deemed to be consent for expiration~~  
11 ~~of that license in accordance with the provisions of this~~  
12 ~~chapter.~~

13 ~~(d) No more than one provisional license may be issued~~  
14 ~~to an individual. No provisional license shall be issued to~~  
15 ~~an applicant who has previously failed the examination.~~

16 (4)~~(5)~~ The board shall adopt rules:

17 (a) Establishing a minimum training program for  
18 apprentices.

19 ~~(b) Specifying standards and procedures for issuance~~  
20 ~~of a provisional license.~~

21 (b)~~(c)~~ Providing for educational standards,  
22 examination, and certification for the practice of colonic  
23 irrigation, as defined in s. 480.033(6), by massage  
24 therapists.

25 (c)~~(d)~~ Specifying licensing procedures for  
26 practitioners desiring to be licensed in this state who hold  
27 an active license and have practiced in any other state,  
28 territory, or jurisdiction of the United States or any foreign  
29 national jurisdiction which has licensing standards  
30 substantially similar to, equivalent to, or more stringent  
31 than the standards of this state.

1           Section 135. Section 480.0415, Florida Statutes, is  
2 amended to read:  
3           480.0415 License renewal.--The board shall prescribe  
4 by rule the method for renewal of biennial licensure which  
5 shall include continuing education requirements not to exceed  
6 25 ~~12~~ classroom hours per biennium. The board shall by rule  
7 establish criteria for the approval of continuing education  
8 programs or courses. The programs or courses approved by the  
9 board may include correspondence courses that meet the  
10 criteria for continuing education courses held in a classroom  
11 setting.

12           Section 136. Subsection (1) of section 480.042,  
13 Florida Statutes, is amended to read:

14           480.042 Examinations.--

15           (1) The board shall specify by rule the general areas  
16 of competency to be covered by examinations for licensure.  
17 These rules shall include the relative weight assigned in  
18 grading each area, the grading criteria to be used by the  
19 examiner, and the score necessary to achieve a passing grade.  
20 The board shall ensure that examinations adequately measure  
21 ~~both an applicant's competency and his knowledge of related~~  
22 ~~statutory requirements.~~ Professional testing services may be  
23 utilized to formulate the examinations.

24           Section 137. Section 480.0425, Florida Statutes, as  
25 amended by chapter 94-119, Laws of Florida, is repealed.

26           Section 138. Subsection (7) of section 480.043,  
27 Florida Statutes, is amended to read:

28           480.043 Massage establishments; requisites; licensure;  
29 inspection.--

30  
31

1           (7)(a) Once issued, no license for operation of a  
2 massage establishment may be transferred from one owner  
3 ~~person, corporation, name, or location~~ to another.

4           (b) A license may be transferred from one location to  
5 another only after inspection and approval by the board and  
6 receipt of an application and inspection fee set by rule of  
7 the board, not to exceed \$125.

8           (c) A license may be transferred from one business  
9 name to another after approval by the board and receipt of an  
10 application fee set by rule of the board, not to exceed \$25.

11           Section 139. Subsection (1) of section 480.044,  
12 Florida Statutes, is amended to read:

13           480.044 Fees; disposition.--

14           (1) The board shall set fees according to the  
15 following schedule:

16           (a) Massage therapist application and examination fee:  
17 not to exceed \$250.

18           (b) Massage therapist initial licensure fee: not to  
19 exceed \$150.

20           (c) Establishment application fee: not to exceed  
21 \$200.

22           (d) Establishment licensure fee: not to exceed \$150.

23           (e) Biennial establishment renewal fee: not to exceed  
24 \$150.

25           (f) Biennial massage therapist licensure renewal fee:  
26 not to exceed \$200.

27           (g) Massage therapist reexamination fee: not to  
28 exceed \$250.

29           (h) Fee for apprentice: not to exceed \$100.

30           (i) Colonics examination fee: not to exceed \$100.

31           (j) Colonics reexamination fee: not to exceed \$100.

1           ~~(k)~~ Application and provisional licensure fee: not to  
2 ~~exceed \$50.~~

3           (k)~~(l)~~ Application and reactivation for inactive  
4 status of a massage therapist license fee: not to exceed  
5 \$250.

6           (l)~~(m)~~ Renewal fee for inactive status: not to exceed  
7 \$250.

8           Section 140. Paragraph (a) of subsection (1) of  
9 section 480.047, Florida Statutes, is amended to read:

10           480.047 Penalties.--

11           (1) It is unlawful for any person to:

12           (a) Hold himself or herself out as a massage therapist  
13 <U>or to practice massage unless duly licensed under this chapter  
14 or unless otherwise specifically exempted from licensure under  
15 this chapter as provided herein.

16           Section 141. Section 480.0485, Florida Statutes, is  
17 created to read:

18           480.0485 Sexual misconduct in the practice of massage  
19 therapy.--The massage therapist-patient relationship is  
20 founded on mutual trust. Sexual misconduct in the practice of  
21 massage therapy means violation of the massage  
22 therapist-patient relationship through which the massage  
23 therapist uses that relationship to induce or attempt to  
24 induce the patient to engage, or to engage or attempt to  
25 engage the patient, in sexual activity outside the scope of  
26 practice or the scope of generally accepted examination or  
27 treatment of the patient. Sexual misconduct in the practice  
28 of massage therapy is prohibited.

29           Section 142. Paragraph (f) of subsection (3) of  
30 section 20.43, Florida Statutes, 1996 Supplement, is amended  
31 to read:

1           20.43 Department of Health.--There is created a  
2 Department of Health.  
3           (3) The following divisions of the Department of  
4 Health are established:  
5           (f) ~~Effective July 1, 1997,~~Division of Medical  
6 Quality Assurance, which is responsible for the following  
7 boards and professions established within the division:  
8           1. Nursing assistants, as provided under s. 400.211.  
9           2. Health care services pools, as provided under s.  
10 402.48.  
11           3. The Board of Acupuncture, created under chapter  
12 457.  
13           4. The Board of Medicine, created under chapter 458.  
14           5. The Board of Osteopathic Medicine, created under  
15 chapter 459.  
16           6. The Board of Chiropractic, created under chapter  
17 460.  
18           7. The Board of Podiatric Medicine, created under  
19 chapter 461.  
20           8. Naturopathy, as provided under chapter 462.  
21           9. The Board of Optometry, created under chapter 463.  
22           10. The Board of Nursing, created under chapter 464.  
23           11. The Board of Pharmacy, created under chapter 465.  
24           12. The Board of Dentistry, created under chapter 466.  
25           13. Midwifery, as provided under chapter 467.  
26           14. The Board of Speech-Language Pathology and  
27 Audiology, created under part I of chapter 468.  
28           15. The Board of Nursing Home Administrators, created  
29 under part II of chapter 468.  
30           16. Occupational therapy, as provided under part III  
31 of chapter 468.

- 1           17. Respiratory therapy, as provided under part V of  
2 chapter 468.
- 3           18. Dietetics and nutrition practice, as provided  
4 under part X of chapter 468.
- 5           19. Athletic trainers, as provided under part XIV of  
6 chapter 468.
- 7           20. Electrolysis, as provided under chapter 478.
- 8           21. The Board of Massage Therapy, created under  
9 chapter 480.
- 10           22. The Board of Clinical Laboratory Personnel,  
11 created under part III ~~IV~~ of chapter 483.
- 12           23. Medical physicists, as provided under part IV ~~V~~ of  
13 chapter 483.
- 14           24. The Board of Opticianry, created under part I of  
15 chapter 484.
- 16           25. The Board of Hearing Aid Specialists, created  
17 under part II of chapter 484.
- 18           26. The Board of Physical Therapy Practice, created  
19 under chapter 486.
- 20           27. The Board of Psychology, created under chapter  
21 490.
- 22           28. The Board of Clinical Social Work, Marriage and  
23 Family Therapy, and Mental Health Counseling, created under  
24 chapter 491.
- 25
- 26 The department shall contract with the Agency for Health Care  
27 Administration who shall provide consumer complaint,  
28 investigative, and prosecutorial services required by the  
29 Division of Medical Quality Assurance, councils, or boards, as  
30 appropriate.
- 31

1           Section 143. Paragraph (b) of subsection (2) of  
2 section 381.81, Florida Statutes, is amended to read:

3           381.81 Minority Health Improvement Act.--

4           (2) DEFINITIONS.--As used in this section, the  
5 following words and terms shall have the following meanings,  
6 unless the context indicates another meaning or intent:

7           (b) "Health profession" means any regulated health  
8 profession, including occupational therapy, as regulated under  
9 part III of chapter 468; respiratory therapy, as regulated  
10 under part V of chapter 468; physical therapy, as regulated  
11 under chapter 486; midwifery, as regulated under chapter 467;  
12 dietetics and nutrition practice, as regulated under part X of  
13 chapter 468; electrolysis, as regulated under chapter 478;  
14 nursing assistants, as regulated under s. 400.211; and those  
15 professions regulated by: the Board of Medicine, created  
16 under chapter 458; the Board of Osteopathic Medicine, created  
17 under chapter 459; the Board of Acupuncture, created under  
18 chapter 457; the Board of Chiropractic, created under chapter  
19 460; the Board of Clinical Social Work, Marriage and Family  
20 Therapy, and Mental Health Counseling, created under chapter  
21 491; the Board of Dentistry, created under chapter 466; the  
22 Board of Optometry, created under chapter 463; the Board of  
23 Podiatric Medicine, created under chapter 461; the Board of  
24 Nursing, created by chapter 464; the Board of Psychological  
25 Examiners, created under chapter 490; the Board of  
26 Speech-Language Pathology and Audiology, created under part I  
27 of chapter 468; the Board of Nursing Home Administrators,  
28 created under part II of chapter 468; the Board of Clinical  
29 Laboratory Personnel, created under part III ~~IV~~ of chapter  
30 483; ~~and~~ the Board of Opticianry, created under part I of  
31



1 chapter 484; and the Board of Hearing Aid Specialists, created  
2 under part II of chapter 484.

3 Section 144. Section 483.800, Florida Statutes, is  
4 amended to read:

5 483.800 Declaration of policy and statement of  
6 purpose.--The purpose of this part is to protect the public  
7 health, safety, and welfare of the people of this state from  
8 the hazards of improper performance by clinical laboratory  
9 personnel. Clinical laboratories provide essential services  
10 to practitioners of the healing arts by furnishing vital  
11 information that is essential to a determination of the  
12 nature, cause, and extent of the condition involved.  
13 Unreliable and inaccurate reports may cause unnecessary  
14 anxiety, suffering, and financial burdens and may even  
15 contribute directly to death. The protection of public and  
16 individual health requires the licensure of clinical  
17 laboratory personnel who meet minimum requirements for safe  
18 practice. The Legislature finds that laboratory testing  
19 technology continues to advance rapidly. The Legislature also  
20 finds that a hospital training program under the direction of  
21 the hospital clinical laboratory director offers an  
22 opportunity for individuals already trained in health care  
23 professions to expand the scope of their careers. The  
24 Legislature further finds that there is an immediate need for  
25 properly trained personnel to ensure patient access to  
26 testing. Therefore, the Legislature recognizes the  
27 patient-focused benefits of hospital-based training for  
28 laboratory and nonlaboratory personnel for testing within  
29 hospitals and commercial laboratories ~~the laboratory and at~~  
30 ~~alternate sites~~, and recognizes the benefits of a training  
31 program approved by the Board of Clinical Laboratory Personnel

1 under the direction of the hospital clinical laboratory  
2 director.

3 Section 145. Subsection (3) is added to section  
4 483.801, Florida Statutes, to read:

5 483.801 Exemptions.--This part applies to all clinical  
6 laboratories and clinical laboratory personnel within this  
7 state, except:

8 (3) Advanced registered nurse practitioners licensed  
9 under chapter 464 who perform provider-performed microscopy  
10 procedures (PPMP) in an exclusive-use laboratory setting.

11 Section 146. Section 483.803, Florida Statutes, is  
12 amended to read:

13 483.803 Definitions.--As used in this part, the term:

14 (1) "Board" means the Board of Clinical Laboratory  
15 Personnel.

16 (2) "Clinical laboratory" means a clinical laboratory  
17 as defined in s. 483.041(2).

18 (3) "Clinical laboratory examination" means an  
19 examination performed on materials or specimens of the human  
20 body to provide information or materials for use in the  
21 diagnosis, prevention, or treatment of a disease or the  
22 identification or assessment of a medical or physical  
23 condition.

24 (4)~~(3)~~ "Clinical laboratory personnel" includes a  
25 clinical laboratory director, supervisor, technologist, blood  
26 gas analyst, or technician who performs or is responsible for  
27 laboratory test procedures, but the term does not include  
28 trainees, persons who perform screening for blood banks or  
29 plasmapheresis centers, phlebotomists, or persons employed by  
30 a clinical laboratory to perform manual pretesting duties or  
31 clerical, personnel, or other administrative responsibilities.

1           ~~(5)(4)~~ "Clinical laboratory trainee" means any person  
2 having qualifying education who is enrolled in a clinical  
3 laboratory training program approved pursuant to s. 483.811  
4 and who is seeking experience required to meet minimum  
5 qualifications for licensing in this state. Trainees may  
6 perform procedures under direct and responsible supervision of  
7 duly licensed clinical laboratory personnel, but they may not  
8 report test results.

9           ~~(6)(5)~~ "Department" means the Department of Health  
10 ~~Business and Professional Regulation.~~

11           ~~(7)(6)~~ "Licensed practitioner of the healing arts"  
12 means a physician licensed pursuant to chapter 458, chapter  
13 459, or chapter 460; a dentist licensed pursuant to chapter  
14 466; or a person licensed pursuant to chapter 461 or chapter  
15 462.

16           ~~(8)~~ "Public health laboratory scientist" means any  
17 licensed director, supervisor, technologist, or technician  
18 engaged in laboratory testing of human specimens in a state,  
19 county, or municipal public health laboratory.

20           Section 147. Subsections (1) and (2) of section  
21 483.809, Florida Statutes, are amended to read:

22           483.809 Licensure; examinations; registration of  
23 trainees; approval of curricula.--

24           (1) ~~LICENSING; QUALIFICATIONS.--~~

25           ~~(a)~~ The department shall provide biennial licensure of  
26 all clinical laboratory personnel who the board certifies have  
27 met meeting the requirements of this part ~~and shall prescribe~~  
28 ~~the qualifications necessary for such licensure.~~ The license  
29 of any person who fails to pay a required fee or otherwise  
30 fails to qualify within 60 days after the date of expiration  
31 of such license shall be automatically canceled without notice

1 or further proceedings unless the individual has made  
2 application for inactive status pursuant to s. 483.819.

3 ~~(b) Personnel qualifications may require appropriate~~  
4 ~~education, training, or experience or the passing of an~~  
5 ~~examination in appropriate subjects or any combination of~~  
6 ~~these, but no practitioner of the healing arts licensed to~~  
7 ~~practice in this state is required to obtain any license under~~  
8 ~~this part or to pay any fee hereunder except the fee required~~  
9 ~~for clinical laboratory licensure.~~

10 (2) EXAMINATIONS.--The department shall conduct  
11 examinations required by board rules to determine in part the  
12 qualification of clinical laboratory personnel for licensure.  
13 An approved national certification examination may be accepted  
14 in lieu of state examination for public health scientists.

15 Section 148. Section 483.812, Florida Statutes, is  
16 created to read:

17 483.812 Public health laboratory scientists;  
18 licensure.--

19 (1) Applicants at the director and supervisor level in  
20 the category of public health who are registered by the  
21 National Registry of Clinical Chemistry Certification or the  
22 American Society of Microbiology may qualify under board rules  
23 by passing the appropriate supervision and administration  
24 examination.

25 (2)(a) A technologist applicant for licensure in the  
26 category of public health microbiology, with a baccalaureate  
27 degree in one of the biological sciences from an accredited  
28 institution, may use the American Society of Microbiology or  
29 the National Registry of Microbiology Certification in Public  
30 Health Microbiology to qualify for a technologist license in  
31

1 public health microbiology. Such a technologist may work in a  
2 public health microbiology laboratory.

3 (b) A technologist applicant for licensure in the  
4 category of public health chemistry, with a baccalaureate  
5 degree in one of the chemical, biological, or physical  
6 sciences from an accredited institution, may use the National  
7 Registry of Clinical Chemistry Certification to qualify for a  
8 technologist license in public health chemistry. Such a  
9 technologist may work in a public health chemistry laboratory.

10 (c) A technician applicant for licensure in the  
11 category of public health, with a baccalaureate degree in one  
12 of the chemical or biological sciences from an accredited  
13 institution, may obtain a one-time, 3-year, conditional public  
14 health technician license pending national certification by  
15 the American Society of Microbiology or the National Registry  
16 of Clinical Chemistry Certification. Such a technician may  
17 perform testing only under the direct supervision of a  
18 licensed pathologist, director, supervisor, or technologist.

19 (3) A person licensed by the Board of Clinical  
20 Laboratory Personnel may work in a public health laboratory at  
21 the appropriate level and specialty.

22 Section 149. Section 483.813, Florida Statutes, is  
23 amended to read:

24 483.813 Clinical laboratory personnel license.--A  
25 person may not conduct a clinical laboratory examination or  
26 report the results of such examination unless such person is  
27 licensed under this part to perform such procedures. However,  
28 this provision does not apply to any practitioner of the  
29 healing arts authorized to practice in this state. The  
30 department may grant a temporary license to any candidate it  
31 deems properly qualified, for a period not to exceed 1 year,

1 or a conditional license for a period not to exceed 3 years 6  
2 ~~months.~~

3 Section 150. Section 483.823, Florida Statutes, is  
4 amended to read:

5 483.823 Qualifications of clinical laboratory  
6 personnel.--

7 (1) The board shall prescribe minimal qualifications  
8 for clinical laboratory personnel and shall issue a license to  
9 any person who meets the minimum qualifications and who  
10 demonstrates that he possesses the character, training, and  
11 ability to qualify in those areas for which the license is  
12 sought.

13 (2) Personnel qualifications may require appropriate  
14 education, training, or experience or the passing of an  
15 examination in appropriate subjects or any combination of  
16 these, but no practitioner of the healing arts licensed to  
17 practice in this state is required to obtain any license under  
18 this part or to pay any fee hereunder except the fee required  
19 for clinical laboratory licensure.

20 Section 151. Section 483.825, Florida Statutes, is  
21 amended to read:

22 483.825 Grounds for disciplinary action ~~against~~  
23 ~~clinical laboratory personnel.~~--The following acts constitute  
24 grounds for which disciplinary actions specified in s. 483.827  
25 may be taken against applicants, registrants, and licensees  
26 under this part clinical laboratory personnel:

27 (1) Attempting to obtain, obtaining, or renewing a  
28 license or registration under this part by bribery, by  
29 fraudulent misrepresentation, or through an error of the  
30 department or the board ~~Making a fraudulent statement on an~~  
31

1 ~~application for a license or any other document required by~~  
2 ~~the department.~~

3 (2) Engaging in or attempting to engage in, or  
4 representing himself as entitled to perform, any clinical  
5 laboratory procedure or category of procedures not authorized  
6 pursuant to his license.

7 (3) Demonstrating incompetence or making consistent  
8 errors in the performance of clinical laboratory examinations  
9 or procedures or erroneous reporting.

10 (4) Performing a test and rendering a report thereon  
11 to a person not authorized by law to receive such services.

12 (5) Having been convicted of a felony or of any crime  
13 involving moral turpitude under the laws of any state or of  
14 the United States. The record of conviction or a certified  
15 copy thereof shall be conclusive evidence of such conviction.

16 (6) Having been adjudged mentally or physically  
17 incompetent.

18 (7) Violating or aiding and abetting in the violation  
19 of any provision of this part or the rules adopted hereunder.

20 (8) Reporting a test result when no laboratory test  
21 was performed on a clinical specimen.

22 (9) Knowingly advertising false services or  
23 credentials.

24 (10) Having a license revoked, suspended, or otherwise  
25 acted against, including the denial of licensure, by the  
26 licensing authority of another jurisdiction. The licensing  
27 authority's acceptance of a relinquishment of a license,  
28 stipulation, consent order, or other settlement, offered in  
29 response to or in anticipation of the filing of administrative  
30 charges against the licensee, shall be construed as action  
31 against the licensee.

1           (11) Failing to report to the board, in writing,  
2 within 30 days if action under subsection (10) has been taken  
3 against one's license to practice as clinical laboratory  
4 personnel in another state, territory, or country.

5           (12) Being unable to perform or report clinical  
6 laboratory examinations with reasonable skill and safety to  
7 patients by reason of illness or use of alcohol, drugs,  
8 narcotics, chemicals, or any other type of material or as a  
9 result of any mental or physical condition. In enforcing this  
10 paragraph, the department shall have, upon a finding of the  
11 secretary or his or her designee that probable cause exists to  
12 believe that the licensee is unable to practice because of the  
13 reasons stated in this paragraph, the authority to issue an  
14 order to compel a licensee to submit to a mental or physical  
15 examination by physicians designated by the department. If  
16 the licensee refuses to comply with such order, the  
17 department's order directing such examination may be enforced  
18 by filing a petition for enforcement in the circuit court  
19 where the licensee resides or does business. The licensee  
20 against whom the petition is filed may not be named or  
21 identified by initials in any public court records or  
22 documents, and the proceedings shall be closed to the public.  
23 The department shall be entitled to the summary procedure  
24 provided in s. 51.011. A licensee affected under this  
25 paragraph shall at reasonable intervals be afforded an  
26 opportunity to demonstrate that he or she can resume competent  
27 practice with reasonable skill and safety to patients.

28           (13) Delegating professional responsibilities to a  
29 person when the licensee delegating such responsibilities  
30 knows, or has reason to know, that such person is not  
31



1 qualified by training, experience, or licensure to perform  
2 them.

3 Section 152. Section 483.828, Florida Statutes, is  
4 created to read:

5 483.828 Penalty for violations.--

6 (1) Each of the following acts constitutes a felony of  
7 the third degree, punishable as provided in s. 775.082, s.  
8 775.083, or s. 775.084:

9 (a) Practicing as clinical laboratory personnel  
10 without an active license.

11 (b) Using or attempting to use a license to practice  
12 as clinical laboratory personnel which is suspended or  
13 revoked.

14 (c) Attempting to obtain or obtaining a license to  
15 practice as clinical laboratory personnel by knowing  
16 misrepresentation.

17 (2) Each of the following act constitutes a  
18 misdemeanor of the first degree, punishable as provided in s.  
19 775.082 or s. 775.083:

20 (a) Knowingly concealing information relating to  
21 violations of this part.

22 (b) Making any willfully false oath or affirmation  
23 whenever an oath or affirmation is required by this part.

24 (c) Leading the public to believe that one is licensed  
25 as clinical laboratory personnel, or is engaged in licensed  
26 practice as clinical laboratory personnel, without holding a  
27 valid, active license.

28 Section 153. Section 483.901, Florida Statutes, is  
29 amended to read:

30 483.901 Medical physicists; definitions; licensure.--  
31

1           (1) SHORT TITLE.--This section may be cited as the  
2 "Florida Medical Physicists Act."  
3           (2) DECLARATION OF LEGISLATIVE POLICY.--The  
4 Legislature finds that the practice of medical physics by  
5 incompetent persons is a threat to the public health and  
6 safety. It is, therefore, the responsibility of this state to  
7 protect the public health and safety from the harmful effects  
8 of excessive and unnecessary radiation by ensuring that the  
9 practice of medical physics is entrusted only to persons who  
10 are licensed under this section.  
11           (3) DEFINITIONS.--As used in this section, the term:  
12           ~~(a) "Agency" means the Agency for Health Care~~  
13 ~~Administration or its successor.~~  
14           (a)~~(b)~~ "Council" means the Advisory Council of Medical  
15 Physicists in the Department of Health ~~Agency for Health Care~~  
16 ~~Administration.~~  
17           (b) "Department" means the Department of Health.  
18           (c) "Diagnostic radiological physics" means the  
19 specialty of medical physics which deals with the diagnostic  
20 application and safe use of X rays, gamma rays from sealed  
21 sources, ultrasonic radiation, radio frequency radiation, or  
22 magnetic fields, and the use of equipment associated with the  
23 production, use, measurement, and evaluation of the radiation  
24 and the quality of the diagnostic image resulting from its  
25 production and use.  
26           (d) "License" means a certificate issued by the  
27 department ~~agency~~ which authorizes the holder to practice  
28 medical physics.  
29           (e) "Licensed medical physicist" means a person who  
30 holds a license issued under this section.  
31

1           (f) "Medical health physics" means the specialty of  
2 medical physics which deals with the safe use of X rays, gamma  
3 rays, electron or other charged particle beams, neutrons,  
4 radionuclides, and radiation from sealed sources, for both  
5 diagnostic and therapeutic purposes in human beings and the  
6 use of equipment required to perform appropriate tests and  
7 measurements that do not involve the direct application of  
8 radiation to humans for diagnostic or therapeutic procedures.

9           (g) "Medical nuclear radiological physics" means the  
10 specialty of medical physics which deals with the therapeutic  
11 and diagnostic application and safe use of radionuclides,  
12 except those used in sealed sources for therapeutic purposes,  
13 and the use of equipment associated with the production, use,  
14 measurement, and evaluation of radionuclides.

15           (h) "Medical physics" means the branch of physics  
16 which is associated with the practice of medicine. It  
17 includes the fields of diagnostic radiological physics,  
18 therapeutic radiological physics, medical nuclear radiological  
19 physics, and medical health physics.

20           (i) "Physician" means a doctor of medicine,  
21 osteopathic medicine ~~osteopathy~~, podiatry, dentistry, or  
22 chiropractic who is licensed in this state and who prescribes  
23 a radiological procedure.

24           (j) "Practice of medical physics" means the use of  
25 principles and accepted protocols of physics to ensure ~~assure~~  
26 the correct quality, quantity, and placement of radiation  
27 during the performance of a radiological procedure prescribed  
28 by a physician which will protect the patient and others from  
29 harmful excessive radiation. The term includes radiation beam  
30 calibration and characterization quality assurance, instrument  
31 specification, acceptance testing, shielding design,

1 protection analysis on radiation-emitting equipment and  
2 radiopharmaceuticals, and consultation with a physician to  
3 ensure ~~assure~~ accurate radiation dosage to a specific patient.

4 (k) "Radiation" means ionizing or nonionizing  
5 radiation above background levels which is used to perform a  
6 diagnostic or therapeutic medical or dental radiological  
7 procedure.

8 (l) "Radiological procedure" means a test,  
9 measurement, calculation, or radiation exposure used in the  
10 diagnosis or treatment of diseases or other medical or dental  
11 conditions in human beings that includes therapeutic  
12 radiation, diagnostic radiation, nuclear magnetic resonance,  
13 or nuclear medicine procedures.

14 (m) "Therapeutic radiological physics" means that  
15 specialty of medical physics which deals with the therapeutic  
16 application and safe use of X rays, gamma rays, electron or  
17 other charged particle beams, neutrons, or radiation from  
18 radionuclide sources, and the use of equipment associated with  
19 the production, use, measurement, and evaluation of that  
20 radiation.

21 (4) COUNCIL.--The Advisory Council of Medical  
22 Physicists is created in the Department of Health ~~Agency for~~  
23 ~~Health Care Administration~~ to advise the department in  
24 regulating ~~regulate~~ the practice of medical physics in this  
25 state.

26 (a) The council shall be composed of nine ~~seven~~  
27 members appointed by the secretary of the department ~~director~~  
28 as follows:

29 1. A licensed medical physicist who specializes in  
30 diagnostic radiological physics.

31

1           2. A licensed medical physicist who specializes in  
2 therapeutic radiological physics.

3           3. A licensed medical physicist who specializes in  
4 medical nuclear radiological physics.

5           4. A physician who is board certified by the American  
6 Board of Radiology or its equivalent.

7           5. A physician who is board certified by the American  
8 Osteopathic Board of Radiology or its equivalent.

9           6. A physician who is board certified by the American  
10 Chiropractic Radiology Board of ~~Chiropractic Radiology~~ or its  
11 equivalent.

12           7. Three ~~A~~ consumer members ~~member~~ who are ~~is~~ not, and  
13 have ~~has~~ never been, licensed as a medical physicist or  
14 licensed in any closely related profession.

15           (b) The secretary of the department ~~director~~ shall  
16 appoint the medical physicist members of the council from a  
17 list of candidates who are licensed to practice medical  
18 physics.

19           (c) The secretary of the department ~~director~~ shall  
20 appoint the physician members ~~member~~ of the council from a  
21 list of candidates who are licensed to practice medicine in  
22 this state and are board certified in diagnostic radiology,  
23 therapeutic radiology, or radiation oncology.

24           (d) The secretary of the department ~~director~~ shall  
25 appoint the public members ~~member~~ of the council.

26           (e) As the term of each member expires, the secretary  
27 of the department ~~director~~ shall appoint the successor for a  
28 term of 4 ~~3~~ years. A member shall serve until the member's  
29 ~~his~~ successor is appointed, unless physically unable to do so.

30           (f) An individual is ineligible to serve more than two  
31 full consecutive 4-year ~~3-year~~ terms.

1 (g) If a vacancy on the council occurs, the director  
2 shall appoint a member to serve for a 4-year ~~3-year~~ term.

3 (h) A council member must be a United States citizen  
4 and must have been a resident of this state for 2 consecutive  
5 years immediately before being appointed.

6 1. A member of the council who is a medical physicist  
7 must have practiced for at least 6 years before being  
8 appointed or be board certified for the specialty in which the  
9 member practices.

10 2. A member of the council who is a physician must be  
11 licensed to practice medicine in this state and must have  
12 practiced diagnostic radiology or radiation oncology in this  
13 state for at least 2 years before being appointed.

14 3. The public ~~members~~ member of the council must not  
15 have a financial interest in any endeavor related to the  
16 practice of medical physics.

17 (i) Notwithstanding any other provision of this  
18 subsection, no later than January 1, 1996, the secretary of  
19 the department ~~director~~ shall make the initial appointments to  
20 the council as follows:

21 1. One member who is engaged in the practice of  
22 medical physics, one physician member, and one public member,  
23 each of whom is to be appointed to serve until June 30, 1996;

24 2. One member who is engaged in the practice of  
25 medical physics and one physician member, each of whom is to  
26 be appointed to serve until June 30, 1997; and

27 3. One member who is engaged in the practice of  
28 medical physics and one physician member, each of whom is to  
29 be appointed to serve until June 30, 1998.

30 (j) A council member may be removed from the council  
31 if the member:

- 1           1. Did not have the required qualifications at the  
2 time of appointment;
- 3           2. Does not maintain the required qualifications while  
4 serving on the council; or
- 5           3. Fails to attend the regularly scheduled council  
6 meetings in a calendar year as required by s. 455.207.
- 7           (k) Members of the council may not receive  
8 compensation for their services; however, they are entitled to  
9 reimbursement, from funds deposited in the Medical Quality  
10 Assurance Health Care Trust Fund, for necessary travel  
11 expenses as specified in s. 112.061 for each day they engage  
12 in the business of the council.
- 13           (1) At the first regularly scheduled meeting of each  
14 calendar year, the council shall elect a presiding officer and  
15 an assistant presiding officer from among its members. The  
16 council shall meet at least once each year and at other times  
17 in accordance with department requirements ~~agency rules~~.
- 18           (m) The department ~~agency~~ shall provide administrative  
19 support to the council for all licensing activities.
- 20           (n) The council may conduct its meetings  
21 electronically.
- 22           (5) POWERS OF COUNCIL.--The council shall:
- 23           (a) Recommend rules to administer this section.
- 24           (b) Recommend practice standards for the practice of  
25 medical physics which are consistent with the Guidelines for  
26 Ethical Practice for Medical Physicists prepared by the  
27 American Association of Physicists in Medicine and  
28 disciplinary guidelines adopted under s. 455.2273.
- 29           (c) Develop and recommend continuing education  
30 requirements for licensed medical physicists.
- 31

1           (6) LICENSE REQUIRED.--An individual may not engage in  
2 the practice of medical physics, including the specialties of  
3 diagnostic radiological physics, therapeutic radiological  
4 physics, medical nuclear radiological physics, or medical  
5 health physics, without a license issued by the department  
6 ~~agency~~ for the appropriate specialty.

7           (a) The department ~~agency~~ shall adopt rules to  
8 administer this section which specify license application and  
9 renewal fees, continuing education requirements, and standards  
10 for practicing medical physics. The council shall recommend  
11 to the department ~~agency~~ continuing education requirements  
12 that shall be a condition of license renewal. The department  
13 ~~agency~~ shall require a minimum of 24 hours per biennium of  
14 continuing education offered by an organization recommended by  
15 the council and approved by the department. The department,  
16 upon recommendation of the council, may adopt rules to specify  
17 continuing education requirements for persons who hold a  
18 license in more than one specialty.

19           (b) In order to apply for a medical physicist license  
20 in one or more specialties, a person must file an individual  
21 application for each specialty with the department ~~agency~~.  
22 The application must be on a form prescribed by the department  
23 ~~agency~~ and must be accompanied by a nonrefundable application  
24 fee for each specialty.

25           (c) The department may issue a license to an eligible  
26 applicant if the applicant meets all license requirements. At  
27 any time before the department ~~agency~~ issues ~~or renews~~ a  
28 license, the applicant may request in writing that the  
29 application be withdrawn. To reapply, the applicant must  
30 submit a new application and an additional nonrefundable  
31



1 application fee and must meet all current licensure  
2 requirements.

3 (d) The department ~~agency~~ shall review each completed  
4 application for a license which the department ~~agency~~  
5 receives.

6 ~~(e) The agency may issue a license to an eligible  
7 applicant if the applicant meets all license requirements.~~

8 1. ~~Licenses must be uniform and must include:~~

9 a. ~~The name of the licensee;~~

10 b. ~~The medical physics specialty that the licensee may  
11 practice; and~~

12 c. ~~The expiration date of the license.~~

13 2. ~~A license certificate is the property of the agency  
14 and must be surrendered on demand.~~

15 3. ~~The agency shall adopt rules establishing a  
16 procedure for the biennial renewal of licenses.~~

17 4. ~~A person may renew an unexpired license by meeting  
18 the renewal requirements, paying the nonrefundable renewal fee  
19 before the expiration of the license, and meeting continuing  
20 education requirements.~~

21 5. ~~The cost to renew a license within 90 days after  
22 the license has expired is the normal renewal fee plus a  
23 penalty in the amount of half the renewal fee.~~

24 6. ~~The cost to renew a license that has been expired  
25 for more than 90 days but less than 2 years is the normal  
26 renewal fee plus a penalty in the amount of the renewal fee.~~

27 7. ~~A license may not be renewed after it has been  
28 expired for more than 2 years. To be relicensed, a person  
29 must comply with all current application requirements to  
30 practice medical physics and must submit a new application and  
31 nonrefundable application fee to the agency.~~

1           ~~(e)(f)~~ On receipt of an application and fee as  
2 specified in this section, the department ~~agency~~ may issue a  
3 license to practice medical physics in this state:

4           1. Until October 1, 1997, to a person who meets any of  
5 the following requirements:

6           a. Earned from an accredited college or university a  
7 doctoral degree in physics, medical physics, biophysics,  
8 radiological physics, medical health physics, or nuclear  
9 engineering and has at least 2 years' experience in the  
10 practice of the medical physics specialty for which  
11 application is made.

12           b. Earned from an accredited college or university a  
13 master's degree in physics, medical physics, biophysics,  
14 radiological physics, medical health physics, or nuclear  
15 engineering and has at least 3 years' experience in the  
16 practice of the medical physics specialty for which  
17 application is made.

18           c. Earned from an accredited college or university a  
19 bachelor's degree in physics and has at least 5 years'  
20 experience in the practice of the medical physics specialty  
21 for which application is made.

22           d. Has at least 8 years' experience in the practice of  
23 the medical physics specialty for which application is made, 2  
24 years of which must have been earned within the 4 years  
25 immediately preceding application for licensure.

26           e. Is board certified in the medical physics specialty  
27 in which the applicant applies to practice by the American  
28 Board of Radiology for diagnostic radiological physics,  
29 therapeutic radiological physics, or medical nuclear  
30 radiological physics; by the American Board of Medical Physics  
31 or the Canadian Board of Medical Physics for diagnostic

1 radiological physics, therapeutic radiological physics, or  
2 medical nuclear radiological physics; or by the American Board  
3 of Health Physics or an equivalent certifying body approved by  
4 the agency.

5 ~~1. Until October 1, 1997, to a person who has earned~~  
6 ~~from an accredited college or university a master's degree or~~  
7 ~~doctoral degree in physics, medical physics, biophysics,~~  
8 ~~radiological physics, medical health physics, or nuclear~~  
9 ~~engineering, and has at least 2 years of experience in the~~  
10 ~~practice of the medical physics specialty for which~~  
11 ~~application is made during the 4 years immediately before the~~  
12 ~~application is made.~~

13 2. On or after October 1, 1997, to a person who:

14 a. ~~Holds a license to practice medical physics in this~~  
15 ~~state; or~~

16 b. is board certified in the medical physics specialty  
17 in which the applicant applies to practice by the American  
18 Board of Radiology for diagnostic radiological physics,  
19 therapeutic radiological physics, or medical nuclear  
20 radiological physics; by the American Board of Medical Physics  
21 for diagnostic radiological physics, therapeutic radiological  
22 physics, or medical nuclear radiological physics; or by the  
23 American Board of Health Physics or an equivalent certifying  
24 body approved by the department agency.

25 ~~(f)(g)~~ A licensee shall:

26 1. Display the license in a place accessible to the  
27 public; and

28 2. Report immediately any change in the licensee's  
29 address or name to the department agency.

30 (g) The following acts are grounds for which the  
31 disciplinary actions in paragraph (h) may be taken:

- 1           1. Obtaining or attempting to obtain a license by  
2 bribery, fraud, knowing misrepresentation, or concealment of  
3 material fact or through an error of the department.
- 4           2. Having a license denied, revoked, suspended, or  
5 otherwise acted against in another jurisdiction.
- 6           3. Being convicted or found guilty of, or entering a  
7 plea of nolo contendere to, regardless of adjudication, a  
8 crime in any jurisdiction which relates to the practice of, or  
9 the ability to practice, the profession of medical physics.
- 10          4. Willfully failing to file a report or record  
11 required for medical physics or willfully impeding or  
12 obstructing the filing of a report or record required by this  
13 section or inducing another person to do so.
- 14          5. Making misleading, deceptive, or fraudulent  
15 representations in or related to the practice of medical  
16 physics.
- 17          6. Willfully failing to report any known violation of  
18 this section or any rule adopted thereunder.
- 19          7. Willfully or repeatedly violating a rule adopted  
20 under this section or an order of the department.
- 21          8. Failing to perform any statutory or legal  
22 obligation placed upon a licensee.
- 23          9. Aiding, assisting, procuring, employing, or  
24 advising any unlicensed person to practice medical physics  
25 contrary to this section or any rule adopted thereunder.
- 26          10. Delegating or contracting for the performance of  
27 professional responsibilities by a person when the licensee  
28 delegating or contracting such responsibilities knows, or has  
29 reason to know, such person is not qualified by training,  
30 experience, and authorization to perform them.
- 31

1           11. Practicing or offering to practice beyond the  
2 scope permitted by law or accepting and performing  
3 professional responsibilities the licensee knows, or has  
4 reason to know, the licensee is not competent to perform.

5           12. Gross or repeated malpractice or the inability to  
6 practice medical physics with reasonable skill and safety.

7           13. Judicially determined mental incompetency.

8           14. Being unable to practice medical physics with  
9 reasonable skill and safety because of a mental or physical  
10 condition or illness or the use of alcohol, controlled  
11 substances, or any other substance which impairs one's ability  
12 to practice.

13           a. The department may, upon probable cause, compel a  
14 licensee to submit to a mental or physical examination by  
15 physicians designated by the department. The cost of an  
16 examination shall be borne by the licensee, and the licensee's  
17 failure to submit to such an examination constitutes an  
18 admission of the allegations against the licensee, consequent  
19 upon which a default and a final order may be entered without  
20 the taking of testimony or presentation of evidence, unless  
21 the failure was due to circumstances beyond the licensee's  
22 control.

23           b. A licensee who is disciplined under this  
24 subparagraph shall, at reasonable intervals, be afforded an  
25 opportunity to demonstrate that the licensee can resume the  
26 practice of medical physics with reasonable skill and safety.

27           c. With respect to any proceeding under this  
28 subparagraph, the record of proceedings or the orders entered  
29 by the department may not be used against a licensee in any  
30 other proceeding.

31

1           (h) When the department finds any person guilty of any  
2 of the grounds set forth in paragraph (g), including conduct  
3 that would constitute a substantial violation of paragraph (g)  
4 which occurred prior to licensure, it may enter an order  
5 imposing one or more of the following penalties:

6           1. Deny the application for licensure.

7           2. Revoke or suspend the license.

8           3. Impose an administrative fine for each count or  
9 separate offense.

10           4. Place the licensee on probation for a specified  
11 time and subject the licensee to such conditions as the  
12 department determines necessary, including requiring  
13 treatment, continuing education courses, or working under the  
14 monitoring or supervision of another licensee.

15           5. Restrict a licensee's practice.

16           6. Issue a reprimand to the licensee.

17           (i) The department may not issue or reinstate a  
18 license to a person it has deemed unqualified until it is  
19 satisfied that such person has complied with the terms and  
20 conditions of the final order and that the licensee can safely  
21 practice medical physics.

22           ~~(h) The agency may refuse to issue or renew a license,~~  
23 ~~suspend or revoke a license, or reprimand the licensee for the~~  
24 ~~following:~~

25           ~~1. Obtaining or renewing a license by means of fraud,~~  
26 ~~misrepresentation, or concealment of material fact;~~

27           ~~2. Having made an application for or held a license~~  
28 ~~issued by the licensing authority of another state, territory,~~  
29 ~~or jurisdiction which was denied, suspended, or revoked by~~  
30 ~~that licensing authority without so informing the agency;~~

31

1           3. ~~Engaging in unprofessional conduct related to the~~  
2 ~~practice of medical physics that has endangered or is likely~~  
3 ~~to endanger the health, safety, or welfare of the public;~~

4           4. ~~Violating this section, a rule of the agency, or~~  
5 ~~the practice standards for medical physics; or~~

6           5. ~~Being convicted of a felony or of a misdemeanor~~  
7 ~~that directly relates to a person's duties and~~  
8 ~~responsibilities as a licensed medical physicist.~~

9           (j)(i) The department agency may issue a temporary  
10 license to an applicant pending completion of the application  
11 process.

12           (7) FEES.--The fee for the initial license application  
13 shall be \$500 and is nonrefundable. The fee for license  
14 renewal may not be more than \$500. These fees may cover only  
15 the costs incurred by the department agency and the council to  
16 administer this section. By July 1 each year, the department  
17 agency shall advise the council if the fees are insufficient  
18 to administer this section.

19           (8) DISPOSITION OF FEES.--The department agency shall  
20 deposit all funds received into the Health Care Trust Fund.

21           (9) PENALTY FOR VIOLATIONS.--It is a felony of the  
22 third degree, punishable as provided in s. 775.082, s.  
23 775.083, or s. 775.084, to:

24           (a) Practice or attempt to practice medical physics or  
25 hold oneself out to be a licensed medical physicist without  
26 holding an active license.

27           (b) Practice or attempt to practice medical physics  
28 under a name other than one's own.

29           (c) Use or attempt to use a revoked or suspended  
30 license or the license of another.

31

1           ~~(9) OFFENSES.--A person is in violation of this~~  
2 ~~section if the person intentionally or knowingly:~~  
3           ~~(a) Practices medical physics in violation of this~~  
4 ~~section; or~~  
5           ~~(b) Uses letters, terminology, symbols, or signs to~~  
6 ~~indicate or imply qualifications or licensure to practice~~  
7 ~~medical physics in any manner for which the person is not~~  
8 ~~licensed.~~  
9           ~~(10) PENALTIES.--~~  
10           ~~(a) A person who violates this section or any rule~~  
11 ~~adopted under this section is guilty of a felony of the third~~  
12 ~~degree, punishable as provided in s. 775.082, s. 775.083, or~~  
13 ~~s. 775.084.~~  
14           ~~(b) The agency may modify, deny, suspend, or revoke a~~  
15 ~~license, or may impose an administrative fine not to exceed~~  
16 ~~\$1,000 per violation, for the violation of any provision of~~  
17 ~~this section, rule adopted under this section, or terms or~~  
18 ~~conditions of any license issued by the agency. The agency~~  
19 ~~shall develop specific disciplinary guidelines in accordance~~  
20 ~~with s. 455.2273.~~  
21           ~~1. In determining the amount of a fine that is to be~~  
22 ~~levied for a violation, the following factors must be~~  
23 ~~considered:~~  
24           ~~a. The severity of the violation and the extent to~~  
25 ~~which this section, any rule adopted under this section, or~~  
26 ~~any term or condition of any license was violated.~~  
27           ~~b. Any action taken by the licensee to correct the~~  
28 ~~violation.~~  
29           ~~c. Any previous violation by the licensee.~~  
30           ~~2. All amounts collected under this section must be~~  
31 ~~deposited in the Health Care Trust Fund.~~



1           ~~(c) If the agency determines that the licensee~~  
2 ~~presents a clear and present danger to the public health or~~  
3 ~~safety, the agency may issue an emergency order that~~  
4 ~~immediately suspends or revokes his license.~~

5           (10)~~(11)~~ EXEMPTIONS.--This section does not apply to:

6           (a) A physician who is licensed by this state to the  
7 extent that the physician ~~he~~ practices within the scope of the  
8 physician's ~~his~~ training, education, and licensure;

9           (b) A person who is licensed under part IV of chapter  
10 468 to the extent that the person ~~he~~ practices within the  
11 scope of the person's ~~his~~ training, education, and licensure;

12           (c) A person who performs beam calibration and  
13 characterization, quality assurance, instrument specification,  
14 acceptance testing, shielding design, or protection analysis  
15 on radiation-emitting equipment or radiopharmaceuticals in  
16 connection with procedures that are not involved with the  
17 diagnosis or treatment of disease or other medical or dental  
18 conditions in humans;

19           (d) A person who is employed by a federal or state  
20 regulatory agency and is performing duties within the scope of  
21 the person's employment;

22           (e) A student or intern who practices medical physics  
23 in conjunction with a program at an accredited college or  
24 university to the extent that the student or intern is  
25 adequately supervised by a licensed medical physicist or  
26 licensed physician; or

27           (f) A dentist or any person working under the  
28 dentist's ~~his~~ supervision pursuant to chapter 466 to the  
29 extent that the dentist or the person supervised by the  
30 dentist is practicing within the scope of his or her training,  
31 education, and licensure.

1           ~~(12) LICENSURE EXCEPTION.--Notwithstanding the~~  
2 ~~provisions of subsections (1)-(11), any medical physicist who,~~  
3 ~~as of July 1, 1995, has practiced medical physics for 5 years~~  
4 ~~or longer is entitled to continue to so practice and need not~~  
5 ~~be licensed as a medical physicist.~~

6           Section 154. Subsection (2) of section 484.041,  
7 Florida Statutes, is amended to read:

8           484.041 Definitions.--As used in this part, the term:

9           (2) "Department" means the Department of Health  
10 ~~Business and Professional Regulation.~~

11           Section 155. Subsection (1) of section 484.042,  
12 Florida Statutes, is amended to read:

13           484.042 Board of Hearing Aid Specialists; membership,  
14 appointment, terms.--

15           (1) The Board of Hearing Aid Specialists is created  
16 within the Department of Health ~~Business and Professional~~  
17 ~~Regulation~~ and shall consist of nine members to be appointed  
18 by the Governor and confirmed by the Senate.

19           Section 156. Subsection (2) of section 484.051,  
20 Florida Statutes, is amended to read:

21           484.051 Itemization of prices; delivery of hearing  
22 aid; receipt, packaging, disclaimer, guarantee.--

23           (2) Any person who fits and sells a hearing aid shall,  
24 at the time of delivery, provide the purchaser with a receipt  
25 containing the seller's signature, the address of his regular  
26 place of business, and his license or trainee registration  
27 number, if applicable, together with the brand, model,  
28 manufacturer or manufacturer's identification code, and serial  
29 number of the hearing aid furnished and the amount charged for  
30 the hearing aid. The receipt also shall specify whether the  
31 hearing aid is new, used, or rebuilt and shall specify the

1 length of time and other terms of the guarantee and by whom  
2 the hearing aid is guaranteed. When the client has requested  
3 an itemized list of prices, the receipt shall also provide an  
4 itemization of the total purchase price, including, but not  
5 limited to, the cost of the aid, earmold, batteries and other  
6 accessories, and any services. Notice of the availability of  
7 this service shall be displayed in a conspicuous manner in the  
8 office. The receipt also shall state that any complaint  
9 concerning the hearing aid and guarantee therefor, if not  
10 reconciled with the licensee from whom the hearing aid was  
11 purchased, should be directed by the purchaser to the  
12 Department of Health ~~Business and Professional Regulation~~. The  
13 address and telephone number of such office shall be stated on  
14 the receipt.

15 Section 157. Subsection (2) of section 486.021,  
16 Florida Statutes, is amended to read:

17 486.021 Definitions.--In this chapter, unless the  
18 context otherwise requires, the term:

19 (2) "Department" means the Department of Health  
20 ~~Business and Professional Regulation~~.

21 Section 158. Section 486.023, Florida Statutes, is  
22 amended to read:

23 486.023 Board of Physical Therapy Practice.--

24 (1) There is created within the department the Board  
25 of Physical Therapy Practice, composed of nine ~~seven~~ members,  
26 ~~recommended by the Florida Physical Therapy Association and~~  
27 appointed by the Governor, subject to confirmation by the  
28 Senate.

29 (2) Four ~~Five~~ board members shall be licensed physical  
30 therapists, and one board member shall be a licensed physical  
31 therapist assistant, in good standing in this state who are

1 residents of this state and have been engaged in the practice  
2 of physical therapy for at least 4 years immediately prior to  
3 their appointment. One licensed physical therapist board  
4 member may be a full-time faculty member teaching in a  
5 physical therapy curriculum in an educational institution in  
6 this state. Three ~~One~~ of the four ~~two~~ remaining members shall  
7 be residents ~~a resident~~ of this state who have ~~has~~ never been  
8 ~~a~~ licensed health care practitioners ~~practitioner~~. ~~One of The~~  
9 ~~two~~ remaining member ~~members~~ shall be a health care  
10 practitioner licensed under chapter 458 or chapter 459 who is  
11 a resident of this state and has been engaged as a licensed  
12 health care practitioner for at least 4 years immediately  
13 prior to his or her appointment.

14 ~~(3) Within 90 days after October 1, 1989, the Governor~~  
15 ~~shall appoint the board as follows:~~

16 ~~(a) Two members for terms of 2 years each.~~

17 ~~(b) Two members for terms of 3 years each.~~

18 ~~(c) Three members for terms of 4 years each.~~

19 (3)~~(4)~~ As the terms of the members expire, the  
20 Governor shall appoint successors for terms of 4 years, and  
21 such members shall serve until their successors are appointed.

22 (4)~~(5)~~ All provisions of chapter 455 relating to  
23 activities of the board shall apply.

24 Section 159. Section 486.031, Florida Statutes, is  
25 amended to read:

26 486.031 Physical therapist; licensing  
27 requirements.--To be eligible for licensing as a physical  
28 therapist, an applicant must:

29 (1) Be at least 18 years old;

30 (2) Be of good moral character; and

31

1           (3)(a) Have been graduated from a school of physical  
2 therapy which has been approved for the educational  
3 preparation of physical therapists by the appropriate  
4 accrediting agency recognized by the Commission on Recognition  
5 of Postsecondary Accreditation(~~formerly the National~~  
6 ~~Commission on Accrediting and the Federation of Regional~~  
7 ~~Accrediting Commissions of Higher Education~~)or the United  
8 States Department of Education at the time of his graduation  
9 and have passed, to the satisfaction of the board, the  
10 American Registry Examination prior to 1971 or a national an  
11 examination approved administered by the board department to  
12 determine his fitness for practice as a physical therapist as  
13 hereinafter provided; ~~or~~

14           (b) Have received a diploma from a program in physical  
15 therapy in a foreign country and have educational credentials  
16 deemed equivalent to those required for the educational  
17 preparation of physical therapists in this country, as  
18 recognized by the appropriate agency as identified by the  
19 board, and have passed to the satisfaction of the board an  
20 examination ~~administered by the department~~ to determine his  
21 fitness for practice as a physical therapist as hereinafter  
22 provided; or

23           (c) Be entitled to licensure without examination as  
24 provided in s. 486.081.

25           Section 160. Section 486.041, Florida Statutes, is  
26 amended to read:

27           486.041 Physical therapist; application for license;  
28 fee; temporary permit.--

29           (1) A person who desires to be licensed as a physical  
30 therapist shall apply to the department board in writing on a  
31 form furnished by the department. He shall embody in that

1 application evidence under oath, satisfactory to the board, of  
2 his possessing the qualifications preliminary to examination  
3 required by s. 486.031. He shall pay to the department at the  
4 time of filing his application a fee not to exceed \$100, as  
5 fixed by the board, ~~plus the actual per applicant cost to the~~  
6 ~~department for purchase of the examination from the~~  
7 ~~Professional Examination Services for the American Physical~~  
8 ~~Therapist's Association or a similar national organization.~~  
9 ~~If an applicant is deemed ineligible to take the examination,~~  
10 ~~that part of his application fee which is to be used for~~  
11 ~~examination expenses shall be returned.~~

12 (2) If a person desires to practice physical therapy  
13 before becoming licensed through examination, he shall apply  
14 ~~to the board~~ for a temporary permit in accordance with rules  
15 adopted pursuant to this chapter.

16 (a) A temporary permit shall only be issued for a  
17 limited period of time, not to exceed 1 year, and shall not be  
18 renewable. A temporary permit shall automatically expire if an  
19 applicant fails the examination.

20 (b) An applicant for licensure by examination and  
21 practicing under a temporary permit shall do so only under the  
22 direct supervision of a licensed physical therapist.

23 Section 161. Section 486.051, Florida Statutes, is  
24 amended to read:

25 486.051 Physical therapist; examination of  
26 applicant.--~~The department shall provide for examination of~~  
27 ~~applicants for licensing as physical therapists at least once~~  
28 ~~a year, and more often at the discretion of the board, at a~~  
29 ~~time and place to be determined by the department.~~ The  
30 examinations of an applicant for licensing as a physical  
31 therapist shall be ~~administered by the department, in~~

1 accordance with rules adopted by the board, to test the  
2 applicant's qualifications and shall include the taking of a  
3 ~~written~~ test by the applicant. If an applicant fails to pass  
4 the examination in three attempts, he shall not be eligible  
5 for reexamination unless he completes additional educational  
6 or training requirements prescribed by the board. An  
7 applicant who has completed the additional educational or  
8 training requirements prescribed by the board may take the  
9 examination on two more occasions. If the applicant has  
10 failed to pass the examination after five attempts, he is no  
11 longer eligible to take the examination.

12 Section 162. Section 486.081, Florida Statutes, is  
13 amended to read:

14 486.081 Physical therapist; issuance of license  
15 without examination to person passing examination of another  
16 authorized examining board; temporary permit; fee.--

17 (1) The board may cause a license to be issued through  
18 the department without examination to any applicant who  
19 presents evidence satisfactory to the board of having passed  
20 the American Registry Examination prior to 1971 or an  
21 examination in physical therapy before a similar lawfully  
22 authorized examining board of another state, the District of  
23 Columbia, a territory, or a foreign country, if the standards  
24 for licensure in physical therapy in such other state,  
25 district, territory, or foreign country are determined by the  
26 board to be as high as those of this state, as established by  
27 rules adopted pursuant to this chapter. Any person who holds a  
28 license pursuant to this section may use the words "physical  
29 therapist" or "physiotherapist," or the letters "P.T.," in  
30 connection with his name or place of business to denote his  
31 licensure hereunder.

1           (2) At the time of making application for licensure  
2 without examination pursuant to the terms of this section, the  
3 applicant shall pay to the department a fee not to exceed \$175  
4 as fixed by the board, no part of which will be returned.

5           (3) If a person desires to practice physical therapy  
6 before becoming licensed through endorsement, he shall apply  
7 to the board for a temporary permit in accordance with rules  
8 adopted pursuant to this chapter. A temporary permit shall  
9 only be issued for a limited period of time, not to exceed 1  
10 year, and shall not be renewable.

11           Section 163. Section 486.102, Florida Statutes, is  
12 amended to read:

13           486.102 Physical therapist assistant; licensing  
14 requirements.--To be eligible for licensing by the board as a  
15 physical therapist assistant, an applicant must:

16           (1) Be at least 18 years old;

17           (2) Be of good moral character; and

18           (3)(a) Have been graduated from a school giving a  
19 course of not less than 2 years for physical therapist  
20 assistants, which has been approved for the educational  
21 preparation of physical therapist assistants by the  
22 appropriate accrediting agency recognized by the Commission on  
23 Recognition of Postsecondary Accreditation(~~formerly the~~  
24 ~~National Commission on Accrediting and the Federation of~~  
25 ~~Regional Accrediting Commissions of Higher Education~~)or the  
26 United States Department of Education at the time of his  
27 graduation and have passed to the satisfaction of the board an  
28 examination ~~administered by the department~~ to determine his  
29 fitness for practice as a physical therapist assistant as  
30 hereinafter provided; ~~or~~

31



1 (b) Have been graduated from a school giving a course  
2 for physical therapist assistants in a foreign country and  
3 have educational credentials deemed equivalent to those  
4 required for the educational preparation of physical therapist  
5 assistants in this country, as recognized by the appropriate  
6 agency as identified by the board, and passed to the  
7 satisfaction of the board an examination ~~conducted by the~~  
8 ~~department~~ to determine his fitness for practice as a physical  
9 therapist assistant as hereinafter provided; or

10 (c) Be entitled to licensure without examination as  
11 provided in s. 486.107.

12 Section 164. Section 486.103, Florida Statutes, is  
13 amended to read:

14 486.103 Physical therapist assistant; application for  
15 license; fee; temporary permit.--

16 (1) A person who desires to be licensed as a physical  
17 therapist assistant shall apply to the department board in  
18 writing on a form furnished by the department. He shall  
19 embody in that application evidence under oath, satisfactory  
20 to the board, of his possessing the qualifications preliminary  
21 to examination required by s. 486.104. He shall pay to the  
22 department at the time of filing his application a fee not to  
23 exceed \$100, as fixed by the board, ~~plus the actual per~~  
24 ~~applicant cost to the department for purchase of the~~  
25 ~~examination from the Professional Examination Services for the~~  
26 ~~American Physical Therapist's Association or a similar~~  
27 ~~national organization. If an applicant is deemed ineligible~~  
28 ~~to take the examination, that part of his application fee~~  
29 ~~which is to be used for examination expenses shall be~~  
30 returned.

31

1           (2) If a person desires to work as a physical  
2 therapist assistant before being licensed through examination,  
3 he shall apply for a temporary permit in accordance with rules  
4 adopted pursuant to this chapter.

5           (a) A temporary permit shall only be issued for a  
6 limited period of time, not to exceed 1 year, and shall not be  
7 renewable. A temporary permit shall automatically expire if an  
8 applicant fails the examination.

9           (b) An applicant for licensure by examination who is  
10 practicing under a temporary permit shall do so only under the  
11 direct supervision of a licensed physical therapist.

12           Section 165. Section 486.104, Florida Statutes, is  
13 amended to read:

14           486.104 Physical therapist assistant; examination of  
15 applicant.--~~The department shall provide for examination of~~  
16 ~~applicants for licensing as physical therapist assistants at~~  
17 ~~least once a year, and more often at the discretion of the~~  
18 ~~board, at a time and place to be determined by the department.~~  
19 The examination of an applicant for licensing as a physical  
20 therapist assistant shall be provided by the department, in  
21 accordance with rules adopted by the board, to test the  
22 applicant's qualifications and shall include the taking of a  
23 written test by the applicant. If an applicant fails to pass  
24 the examination in three attempts, he shall not be eligible  
25 for reexamination unless he completes additional educational  
26 or training requirements prescribed by the board. An  
27 applicant who has completed the additional educational or  
28 training requirements prescribed by the board may take the  
29 examination on two more occasions. If the applicant has  
30 failed to pass the examination after five attempts, he is no  
31 longer eligible to take the examination.

1           Section 166. Section 486.123, Florida Statutes, is  
2 created to read:  
3           486.123 Sexual misconduct in the practice of physical  
4 therapy.--The physical therapist-patient relationship is  
5 founded on mutual trust. Sexual misconduct in the practice of  
6 physical therapy means violation of the physical  
7 therapist-patient relationship through which the physical  
8 therapist uses that relationship to induce or attempt to  
9 induce the patient to engage, or to engage or attempt to  
10 engage the patient, in sexual activity outside the scope of  
11 practice or the scope of generally accepted examination or  
12 treatment of the patient. Sexual misconduct in the practice  
13 of physical therapy is prohibited.

14           Section 167. Paragraph (g) is added to subsection (2)  
15 of section 486.125, Florida Statutes, to read:

16           486.125 Refusal, revocation, or suspension of license;  
17 administrative fines and other disciplinary measures.--

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

21           (g) Recovery of actual costs of investigation and  
22 prosecution.

23           Section 168. Subsection (11) is added to section  
24 641.495, Florida Statutes, 1996 Supplement, to read:

25           641.495 Requirements for issuance and maintenance of  
26 certificate.--

27           (11) The organization shall designate a medical  
28 director who is a physician licensed under chapter 458 or  
29 chapter 459.

30           Section 169. This act shall take effect July 1, 1997.

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HOUSE SUMMARY

Amends, creates, or repeals various provisions of law relating to health care services pools, acupuncture, medicine, osteopathic medicine, chiropractic medicine, podiatry, nursing, pharmacy, dentistry, speech-language pathology and audiology, nursing home administration, occupational therapy, respiratory therapy, electrolysis, massage therapy, clinical laboratory personnel, medical physicists, fitting and dispensing of hearing aids, physical therapy, and health maintenance organizations. See bill for details.