

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; amending s. 499.012,  
16 F.S.; clarifying and providing for additional  
17 wholesale distribution exceptions; providing an  
18 effective date.

19

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

21

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

25 402.48 Health care services pools.--

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

27 (a) "Department" means the Department of Health  
28 ~~Business and Professional Regulation~~.

29 (4) Each registration shall be for a period of 2 years  
30 ~~<0>1 year~~. A new registration is required upon the sale of a  
31 controlling interest in a health care services pool.

1 (8)

2 (g) Meeting the financial responsibility requirements  
3 of this section must be established at the time of issuance or  
4 renewal of a certificate of registration ~~on or after January~~  
5 ~~1, 1991~~.

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

8 457.102 Definitions.--As used in this chapter:

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

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

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

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

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

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

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

30 (1) The Board of Acupuncture is created within the  
31 department and shall consist of five members, to be appointed

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

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

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

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

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

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

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

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

1 board by rule, which standards include successful completion  
2 of academic courses in western anatomy, western physiology,  
3 western pathology, and western biomedical terminology.

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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; hyperkinesia;  
12 behavioral syndrome ~~in children~~ characterized by the  
13 developmentally inappropriate symptoms of moderate to severe  
14 distractibility, 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 (9) A person registered as a resident physician under  
7 this section may in the normal course of his or her employment  
8 prescribe medicinal drugs described in schedules set out in  
9 chapter 893 when:

10 (a) The person prescribes such medicinal drugs through  
11 use of a Drug Enforcement Administration number issued to the  
12 hospital by which the person is employed or at which the  
13 person's services are used;

14 (b) The person is identified by a discrete suffix to  
15 the identification number issued to the hospital; and

16 (c) The use of the institutional identification number  
17 and individual suffixes conforms to the requirements of the  
18 federal Drug Enforcement Administration.

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

21 459.0075 Limited licenses.--

22 (1) Any person desiring to obtain a limited license  
23 shall:

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

28 ~~However,~~ If the person applying for a limited license submits  
29 a notarized statement from the employing agency or institution  
30 stating that he will not receive monetary compensation for any  
31 service involving the practice of osteopathic medicine, the

1 application fee and all licensure fees shall be waived.

2 However, any person who receives a waiver of fees for a  
3 limited license shall pay such fees if the person receives  
4 compensation for the practice of osteopathic medicine.

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

10 (c) Complete an amount of continuing education  
11 established by the board.

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

15 459.0085 Financial responsibility.--

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

18 (a) Any person licensed under this chapter who  
19 practices medicine exclusively as an officer, employee, or  
20 agent of the Federal Government or of the state or its  
21 agencies or its subdivisions. For the purposes of this  
22 subsection, an agent of the state, its agencies, or its ~~and~~  
23 subdivisions is a person who is eligible for coverage under  
24 any self-insurance or insurance program authorized by the  
25 provisions of s. 768.28(15)~~(14)~~.

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

28 1. Upon the entry of an adverse final judgment arising  
29 from a medical malpractice arbitration award, from a claim of  
30 medical malpractice either in contract or tort, or from  
31 noncompliance with the terms of a settlement agreement arising



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

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

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

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

24 (II) An order from a court of competent jurisdiction  
25 staying execution on the final judgment, pending disposition  
26 of the appeal.

27 2. Upon the next meeting of the probable cause panel  
28 of the board following 30 days after the date of mailing the  
29 notice of disciplinary action to the licensee, the panel shall  
30 make a determination of whether probable cause exists to take  
31

1 disciplinary action against the licensee pursuant to  
2 subparagraph 1.

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

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

18  
19 A licensee who meets the requirements of this paragraph shall  
20 be required to ~~either~~ post notice in the form of a sign  
21 prominently displayed in the reception area and clearly  
22 noticeable by all patients and ~~or~~ provide a written statement  
23 to any person to whom medical services are being provided. A  
24 copy of the written statement shall be given to each patient  
25 to sign, acknowledging receipt thereof, and the signed copy  
26 shall be maintained in the patient's file. If the patient  
27 refuses to sign or is unable to sign the written statement,  
28 the licensee shall so note it on the form. Such sign and ~~or~~  
29 statement shall state ~~that~~: "Under Florida law, osteopathic  
30 physicians are generally required to carry medical malpractice  
31 insurance or otherwise demonstrate financial responsibility to

1 cover potential claims for medical malpractice. YOUR  
2 OSTEOPATHIC PHYSICIAN HAS DECIDED NOT TO CARRY MEDICAL  
3 MALPRACTICE INSURANCE. This is permitted under Florida law  
4 subject to certain conditions. Florida law imposes strict  
5 penalties against noninsured osteopathic physicians who fail  
6 to satisfy adverse judgments arising from claims of medical  
7 malpractice. This notice is provided pursuant to Florida  
8 law."

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

13 459.015 Grounds for disciplinary action by the  
14 board.--

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

18 (o) Failing to keep legible, as defined by department  
19 rule in consultation with the board,~~written~~ medical records  
20 that identify the licensed osteopathic physician or the  
21 osteopathic physician extender and supervising osteopathic  
22 physician by name and professional title who is or are  
23 responsible for rendering, ordering, supervising, or billing  
24 for each diagnostic or treatment procedure and that justify  
25 ~~justifying~~ the course of treatment of the patient, including,  
26 but not limited to, patient histories; examination results;  
27 test results; records of drugs prescribed, dispensed, or  
28 administered; and reports of consultations and  
29 hospitalizations.

30 (gg) Prescribing, ordering, dispensing, administering,  
31 supplying, selling, or giving any drug which is a Schedule II

1 amphetamine or Schedule II sympathomimetic amine drug or any  
2 compound thereof, pursuant to chapter 893, to or for any  
3 person except for:

4 1. The treatment of narcolepsy; hyperkinesia;  
5 behavioral syndrome ~~in children~~ characterized by the  
6 developmentally inappropriate symptoms of moderate to severe  
7 distractibility, short attention span, hyperactivity,  
8 emotional lability, and impulsivity; or drug-induced brain  
9 dysfunction;

10 2. The differential diagnostic psychiatric evaluation  
11 of depression or the treatment of depression shown to be  
12 refractory to other therapeutic modalities; or

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

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

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

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

1           459.0152 Specialties.--An osteopathic physician  
2 licensed under this chapter may not hold himself or herself  
3 out as a board-certified specialist unless the osteopathic  
4 physician has successfully completed the requirements for  
5 certification by the American Osteopathic Association or the  
6 Accreditation Council on Graduate Medical Education and is  
7 certified as a specialist by a certifying agency approved by  
8 the board. However, an osteopathic physician may indicate the  
9 services offered and may state that his or her practice is  
10 limited to one or more types of services when this accurately  
11 reflects the scope of practice of the osteopathic physician.

12           Section 32. Section 459.022, Florida Statutes, 1996  
13 Supplement, is amended to read:

14           459.022 Physician assistants.--

15           (1) LEGISLATIVE INTENT.--

16           (a) The purpose of this section is to encourage more  
17 effective utilization of the skills of osteopathic physicians  
18 or groups of osteopathic physicians by enabling them to  
19 delegate health care tasks to qualified assistants when such  
20 delegation is consistent with the patient's health and  
21 welfare.

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

27           (c) The purpose of this section is to encourage the  
28 utilization of physician assistants by osteopathic physicians  
29 and to allow for innovative development of programs for the  
30 education of physician assistants.

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

1           ~~(a)~~ "Agency" means the Agency for Health Care  
2 Administration.

3           (a)~~(b)~~ "Approved program" means a program, formally  
4 approved by the boards, for the education of physician  
5 assistants.

6           (b)~~(c)~~ "Boards" means the Board of Medicine and the  
7 Board of Osteopathic Medicine.

8           (c)~~(d)~~ "Council" means the Council on Physician  
9 Assistants.

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

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

16           (f)~~(g)~~ "Supervision" means responsible supervision and  
17 control. Except in cases of emergency, supervision requires  
18 the easy availability or physical presence of the licensed  
19 physician for consultation and direction of the actions of the  
20 physician assistant. For the purposes of this definition, the  
21 term "easy availability" includes the ability to communicate  
22 by way of telecommunication. The boards shall establish rules  
23 as to what constitutes responsible supervision of the  
24 physician assistant.

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

29           (h)~~(i)~~ "Continuing medical education" means courses  
30 recognized and approved by the boards, the American Academy of  
31 Physician Assistants, the American Medical Association, the

1 American Osteopathic Association, or the Accreditation Council  
2 on Continuing Medical Education.

3 (3) PERFORMANCE OF SUPERVISING PHYSICIAN.--Each  
4 physician or group of physicians supervising a certified  
5 physician assistant must be qualified in the medical areas in  
6 which the physician assistant is to perform and shall be  
7 individually or collectively responsible and liable for the  
8 performance and the acts and omissions of the physician  
9 assistant. A physician may not supervise more than four  
10 currently certified physician assistants at any one time.

11 (4) PERFORMANCE OF PHYSICIAN ASSISTANTS.--

12 (a) The boards shall adopt, by rule, the general  
13 principles that supervising physicians must use in developing  
14 the scope of practice of a physician assistant under direct  
15 supervision and under indirect supervision. These principles  
16 shall recognize the diversity of both specialty and practice  
17 settings in which physician assistants are used.

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

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

24 (d) A supervisory physician may delegate to a  
25 certified physician assistant, pursuant to a written protocol,  
26 the authority to act according to s. 154.04(1)(c)~~(d)~~. Such  
27 delegated authority is limited to the supervising physician's  
28 practice in connection with a county ~~public~~ health department  
29 ~~unit~~ as defined and established pursuant to chapter 154. The  
30 boards shall adopt rules governing the supervision of  
31

1 physician assistants by physicians in county ~~public~~ health  
2 departments ~~units~~.

3 (e) A supervisory physician may delegate to a fully  
4 certified physician assistant the authority to prescribe any  
5 medication used in the supervisory physician's practice if  
6 such medication is listed on the formulary created pursuant to  
7 s. 458.347. A fully certified physician assistant may only  
8 prescribe such medication under the following circumstances:

9 1. A physician assistant must clearly identify to the  
10 patient that he is a physician assistant. Furthermore, the  
11 physician assistant must inform the patient that the patient  
12 has the right to see the physician prior to any prescription  
13 being prescribed by the physician assistant.

14 2. The supervisory physician must notify the  
15 department ~~agency~~ of his intent to delegate, on a  
16 department-approved ~~an agency-approved~~ form, before delegating  
17 such authority and with each certification renewal application  
18 filed by the physician assistant.

19 3. The physician assistant must file with the  
20 department ~~agency~~, before commencing to prescribe, evidence  
21 that he has completed a continuing medical education course of  
22 at least 3 classroom hours in prescriptive practice, conducted  
23 by an accredited program approved by the boards, which course  
24 covers the limitations, responsibilities, and privileges  
25 involved in prescribing medicinal drugs, or evidence that he  
26 has received education comparable to the continuing education  
27 course as part of an accredited physician assistant training  
28 program.

29 4. The physician assistant must file with the  
30 department ~~agency~~, before commencing to prescribe, evidence  
31 that the physician assistant has a minimum of 3 months of



1 clinical experience in the specialty area of the supervising  
2 physician.

3           5. The physician assistant must file with the  
4 department ~~agency~~ a signed affidavit that he has completed a  
5 minimum of 10 continuing medical education hours in the  
6 specialty practice in which the physician assistant has  
7 prescriptive privileges with each certification renewal  
8 application.

9           6. The department ~~agency~~ shall issue certification and  
10 a prescriber number to the physician assistant granting  
11 authority for the prescribing of medicinal drugs authorized  
12 within this paragraph upon completion of the foregoing  
13 requirements.

14           7. The prescription must be written in a form that  
15 complies with chapter 499 and must contain, in addition to the  
16 supervisory physician's name, address, and telephone number,  
17 the physician assistant's prescriber number. The prescription  
18 must be filled in a pharmacy permitted under chapter 465, and  
19 must be dispensed in that pharmacy by a pharmacist licensed  
20 under chapter 465. The appearance of the prescriber number  
21 creates a presumption that the physician assistant is  
22 authorized to prescribe the medicinal drug and the  
23 prescription is valid.

24           8. The physician assistant must note the prescription  
25 in the appropriate medical record, and the supervisory  
26 physician must review and sign each notation. For dispensing  
27 purposes only, the failure of the supervisory physician to  
28 comply with these requirements does not affect the validity of  
29 the prescription.

30           9. This paragraph does not prohibit a supervisory  
31 physician from delegating to a physician assistant the

1 authority to order medication for a hospitalized patient of  
2 the supervisory physician.

3  
4 This paragraph does not apply to facilities licensed pursuant  
5 to chapter 395.

6 (f)1. There is created a five-member committee  
7 appointed by the Director of Health Care Administration. The  
8 committee must be composed of one fully certified physician  
9 assistant certified pursuant to this section or s. 458.347,  
10 two physicians licensed pursuant to chapter 458, one of whom  
11 supervises a fully licensed physician assistant, one  
12 osteopathic physician licensed pursuant to this chapter, and  
13 one pharmacist licensed pursuant to chapter 465 who is not  
14 licensed pursuant to this chapter or chapter 458. The  
15 committee shall establish a formulary of medicinal drugs for  
16 which a fully certified physician assistant may prescribe.  
17 The formulary may not include controlled substances as defined  
18 in chapter 893, antineoplastics, antipsychotics,  
19 radiopharmaceuticals, general anesthetics or radiographic  
20 contrast materials, or any parenteral preparations except  
21 insulin and epinephrine.

22 2. Only the committee shall add to, delete from, or  
23 modify the formulary. Any person who requests an addition,  
24 deletion, or modification of a medicinal drug listed on such  
25 formulary has the burden of proof to show cause why such  
26 addition, deletion, or modification should be made.

27 3. The boards shall adopt the formulary required by  
28 this paragraph, and each addition, deletion, or modification  
29 to the formulary, by rule. Notwithstanding any provision of  
30 chapter 120 to the contrary, the formulary rule shall be  
31 effective 60 days after the date it is filed with the

1 Secretary of State. Upon adoption of the formulary, the  
2 ~~department agency~~ shall mail a copy of such formulary to each  
3 fully certified physician assistant and to each pharmacy  
4 licensed by the state. The boards shall establish, by rule, a  
5 fee not to exceed \$200 to fund the provisions of this  
6 paragraph and paragraph (e).

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

10 (6) PROGRAM APPROVAL.--

11 (a) The boards shall approve programs, based on  
12 recommendations by the council, for the education and training  
13 of physician assistants which meet standards established by  
14 rule of the boards. The council may recommend only those  
15 physician assistant programs that hold full accreditation or  
16 provisional accreditation from the Commission on Accreditation  
17 of Allied Health Programs or its successor organization.

18 (b) The boards shall adopt and publish standards to  
19 ensure that such programs operate in a manner that does not  
20 endanger the health or welfare of the patients who receive  
21 services within the scope of the programs. The boards shall  
22 review the quality of the curricula, faculties, and facilities  
23 of such programs and take whatever other action is necessary  
24 to determine that the purposes of this section are being met.

25 (7) PHYSICIAN ASSISTANT CERTIFICATION.--

26 (a) Any person desiring to be certified as a physician  
27 assistant must apply to the ~~department agency~~. The department  
28 ~~agency~~ shall issue a certificate to any person certified by  
29 the council as having met the following requirements:

- 30 1. Is at least 18 years of age.

31

1           2. Has satisfactorily passed a proficiency examination  
2 by an acceptable score established by the National Commission  
3 on Certification of Physician Assistants. If an applicant  
4 does not hold a current certificate issued by the National  
5 Commission on Certification of Physician Assistants and has  
6 not actively practiced as a physician assistant within the  
7 immediately preceding 4 years, the applicant must retake and  
8 successfully complete the entry-level examination of the  
9 National Commission on Certification of Physician Assistants  
10 to be eligible for certification.

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

- 15           a. A certificate of completion of a physician  
16 assistant training program specified in subsection (6).  
17           b. A sworn statement of any prior felony convictions.  
18           c. A sworn statement of any previous revocation or  
19 denial of licensure or certification in any state.  
20           d. Two letters of recommendation.

21           (b) The certification must be renewed biennially.  
22 Each renewal must include:

- 23           1. A renewal fee not to exceed \$500 as set by the  
24 boards.  
25           2. A sworn statement of no felony convictions in the  
26 previous 2 years.

27           (c) Each certified physician assistant shall  
28 biennially complete 100 hours of continuing medical education  
29 or shall hold a current certificate issued by the National  
30 Commission on Certification of Physician Assistants.

31

1 (d) Upon employment as a physician assistant, a  
 2 certified physician assistant must notify the department  
 3 ~~agency~~ in writing within 30 days after such employment or  
 4 after any subsequent changes in the supervising physician.  
 5 The notification must include the full name, Florida medical  
 6 license number, specialty, and address of the supervising  
 7 physician.

8 (e) Notwithstanding subparagraph (a)2., the department  
 9 ~~agency~~ may grant to a recent graduate of an approved program,  
 10 as specified in subsection (6), temporary certification to  
 11 expire upon receipt of scores of the proficiency examination  
 12 administered by the National Commission on Certification of  
 13 Physician Assistants. Between meetings of the council, the  
 14 department ~~agency~~ may grant temporary certification to  
 15 practice to physician assistant applicants based on the  
 16 completion of all temporary certification requirements. All  
 17 such administratively issued certifications shall be reviewed  
 18 and acted on at the next regular meeting of the council. The  
 19 recent graduate may be certified prior to employment, but must  
 20 comply with paragraph (d). An applicant who has passed the  
 21 proficiency examination may be granted permanent  
 22 certification. An applicant failing the proficiency  
 23 examination is no longer temporarily certified, but may  
 24 reapply for a 1-year extension of temporary certification. An  
 25 applicant may not be granted more than two temporary  
 26 certificates and may not be certified as a physician assistant  
 27 until he passes the examination administered by the National  
 28 Commission on Certification of Physician Assistants. As  
 29 prescribed by board rule, the council may require an applicant  
 30 who does not pass the licensing examination after five or more  
 31 attempts to complete additional remedial education or

1 training. The council shall prescribe the additional  
2 requirements in a manner that permits the applicant to  
3 complete the requirements and be reexamined within 2 years  
4 after the date the applicant petitions the council to retake  
5 the examination a sixth or subsequent time.

6 (f) The Board of Osteopathic Medicine may impose any  
7 of the penalties specified in ss. 455.227 and 459.015(2) upon  
8 a physician assistant if the physician assistant or the  
9 supervising physician has been found guilty of or is being  
10 investigated for any act that constitutes a violation of this  
11 chapter or chapter 455.

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

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

18 (a) The council shall consist of five members  
19 appointed as follows:

20 1. The chairperson of the Board of Medicine shall  
21 appoint three members who are physicians and members of the  
22 Board of Medicine. One of the physicians must supervise a  
23 physician assistant in the physician's practice.

24 2. The chairperson of the Board of Osteopathic  
25 Medicine shall appoint one member who is a physician,  
26 ~~supervises a physician assistant in the physician's practice,~~  
27 and ~~is~~ a member of the Board of Osteopathic Medicine.

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

31

1           (b) Two of the members appointed to the council must  
2 be physicians who supervise physician assistants in their  
3 practice. Members shall be appointed to terms of 4 years,  
4 except that of the initial appointments, two members shall be  
5 appointed to terms of 2 years, two members shall be appointed  
6 to terms of 3 years, and one member shall be appointed to a  
7 term of 4 years, as established by rule of the boards.  
8 Council members may not serve more than two consecutive terms.  
9 The council shall annually elect a chairperson from among its  
10 members.

11           (c) The council shall:

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

14           2. Develop all rules regulating the use of physician  
15 assistants by physicians under chapter 458 and this chapter,  
16 except for rules relating to the formulary developed under s.  
17 458.347(4)(f). The council shall also develop rules to ensure  
18 that the continuity of supervision is maintained in each  
19 practice setting. The boards shall consider adopting a  
20 proposed rule developed by the council at the regularly  
21 scheduled meeting immediately following the submission of the  
22 proposed rule by the council. A proposed rule submitted by  
23 the council may not be adopted by either board unless both  
24 boards have accepted and approved the identical language  
25 contained in the proposed rule. The language of all proposed  
26 rules submitted by the council must be approved by both boards  
27 pursuant to each respective board's guidelines and standards  
28 regarding the adoption of proposed rules. If either board  
29 rejects the council's proposed rule, that board must specify  
30 its objection to the council with particularity and include  
31

1 any recommendations it may have for the modification of the  
2 proposed rule.

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

5 4. Address concerns and problems of practicing  
6 physician assistants in order to improve safety in the  
7 clinical practices of certified physician assistants.

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

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

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

22 (13) RULES.--The boards shall adopt rules to implement  
23 this section, including rules detailing the contents of the  
24 application for certification and notification pursuant to  
25 subsection (7) and rules to ensure both the continued  
26 competency of physician assistants and the proper utilization  
27 of them by physicians or groups of physicians.

28 (14) EXISTING PROGRAMS.--This section does not  
29 eliminate or supersede existing laws relating to other  
30 paramedical professions or services and is supplemental to all  
31



1 such existing laws relating to the certification and practice  
2 of paramedical professions.

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

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

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

12 Section 33. Section 459.025, Florida Statutes, is  
13 created to read:

14 459.025 Incident reports.--

15 (1) Effective January 1, 1998, any physician  
16 practicing in this state must notify the board in writing, by  
17 certified mail, of any serious incident which occurs in the  
18 physician's office. In the case of a group practice, the  
19 chief administrative officer must notify the board in writing,  
20 by certified mail, of any serious incident which occurs in any  
21 of the offices of the physicians of that practice. The  
22 required notification must be postmarked within 30 days after  
23 the physician becomes aware of the incident. Incidents which  
24 must be reported include: the death of a patient; severe  
25 brain or spinal damage to a patient; a surgical procedure  
26 being performed on the wrong patient; or a surgical procedure  
27 unrelated to the patient's diagnosis or medical needs being  
28 performed on any patient.

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

31

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

3           240.4067 Medical Education Reimbursement and Loan  
4 Repayment Program.--

5           (1) To encourage qualified medical professionals to  
6 practice in underserved locations where there are shortages of  
7 such personnel, there is established the Medical Education  
8 Reimbursement and Loan Repayment Program. The function of the  
9 program is to make payments that offset loans and educational  
10 expenses incurred by students for studies leading to a medical  
11 or nursing degree, medical or nursing licensure, or advanced  
12 registered nurse practitioner or physician's assistant  
13 certification. The following licensed or certified health  
14 care professionals are eligible to participate in this  
15 program: medical doctors with primary care specialties,  
16 doctors of osteopathic medicine ~~osteopathy~~ with primary care  
17 specialties, physician's assistants, licensed practical nurses  
18 and registered nurses, and advanced registered nurse  
19 practitioners with primary care specialties such as certified  
20 nurse midwives. Primary care medical specialties for  
21 physicians include obstetrics, gynecology, general and family  
22 practice, internal medicine, pediatrics, and other specialties  
23 which may be identified by the Department of Health and  
24 Rehabilitative Services.

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

27           390.011 Definitions.--As used in this act:

28           (5) "Physician" means a physician licensed under  
29 chapter 458 or chapter 459 or a physician practicing medicine  
30 or osteopathic medicine ~~osteopathy~~ in the employment of the  
31 United States or this state.

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

3 395.0191 Staff membership and clinical privileges.--

4 (1) No licensed facility, in considering and acting  
5 upon an application for staff membership or clinical  
6 privileges, shall deny the application of a qualified doctor  
7 of medicine licensed under chapter 458, a doctor of  
8 osteopathic medicine ~~osteopathy~~ licensed under chapter 459, a  
9 doctor of dentistry licensed under chapter 466, a doctor of  
10 podiatry licensed under chapter 461, or a psychologist  
11 licensed under chapter 490 for such staff membership or  
12 clinical privileges within the scope of his or her respective  
13 licensure solely because the applicant is licensed under any  
14 of such chapters.

15 Section 37. Paragraph (g) of subsection (1) of section  
16 408.035, Florida Statutes, is amended to read:

17 408.035 Review criteria.--

18 (1) The agency shall determine the reviewability of  
19 applications and shall review applications for  
20 certificate-of-need determinations for health care facilities  
21 and services, hospices, and health maintenance organizations  
22 in context with the following criteria:

23 (g) The need for research and educational facilities,  
24 including, but not limited to, institutional training programs  
25 and community training programs for health care practitioners  
26 and for doctors of osteopathic medicine ~~osteopathy~~ and  
27 medicine at the student, internship, and residency training  
28 levels.

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

31

1           409.905 Mandatory Medicaid services.--The agency may  
 2 make payments for the following services, which are required  
 3 of the state by Title XIX of the Social Security Act,  
 4 furnished by Medicaid providers to recipients who are  
 5 determined to be eligible on the dates on which the services  
 6 were provided. Any service under this section shall be  
 7 provided only when medically necessary and in accordance with  
 8 state and federal law. Nothing in this section shall be  
 9 construed to prevent or limit the agency from adjusting fees,  
 10 reimbursement rates, lengths of stay, number of visits, number  
 11 of services, or any other adjustments necessary to comply with  
 12 the availability of moneys and any limitations or directions  
 13 provided for in the General Appropriations Act or chapter 216.

14           (9) PHYSICIAN SERVICES.--The agency shall pay for  
 15 covered services and procedures rendered to a recipient by, or  
 16 under the personal supervision of, a person licensed under  
 17 state law to practice medicine or osteopathic medicine  
 18 ~~osteopathy~~. These services may be furnished in the  
 19 physician's office, the Medicaid recipient's home, a hospital,  
 20 a nursing facility, or elsewhere, but shall be medically  
 21 necessary for the treatment of an injury, illness, or disease  
 22 within the scope of the practice of medicine or osteopathic  
 23 medicine ~~osteopathy~~ as defined by state law. The agency shall  
 24 not pay for services that are clinically unproven,  
 25 experimental, or for purely cosmetic purposes.

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

28           415.102 Definitions of terms used in ss.  
 29 415.101-415.113.--As used in ss. 415.101-415.113, the term:

30           (33) "Specified medical personnel" means licensed or  
 31 certified physicians, osteopathic physicians ~~osteopaths~~,

1 nurses, paramedics, advanced registered nurse practitioners,  
2 psychologists, psychiatrists, mental health professionals, or  
3 any other licensed or certified medical personnel.

4 Section 40. Paragraph (a) of subsection (1) of section  
5 415.1034, Florida Statutes, is amended to read:

6 415.1034 Mandatory reporting of abuse, neglect, or  
7 exploitation of disabled adults or elderly persons; mandatory  
8 reports of death.--

9 (1) MANDATORY REPORTING.--

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

11 1. Physician, osteopathic physician ~~osteopath~~, medical  
12 examiner, chiropractor, nurse, or hospital personnel engaged  
13 in the admission, examination, care, or treatment of disabled  
14 adults or elderly persons;

15 2. Health professional or mental health professional  
16 other than one listed in subparagraph 1.;

17 3. Practitioner who relies solely on spiritual means  
18 for healing;

19 4. Nursing home staff; assisted living facility staff;  
20 adult day care center staff; adult family-care home staff;  
21 social worker; or other professional adult care, residential,  
22 or institutional staff;

23 5. State, county, or municipal criminal justice  
24 employee or law enforcement officer;

25 6. Human rights advocacy committee or long-term care  
26 ombudsman council member; or

27 7. Bank, savings and loan, or credit union officer,  
28 trustee, or employee,

29  
30 who knows, or has reasonable cause to suspect, that a disabled  
31 adult or an elderly person has been or is being abused,

1 neglected, or exploited shall immediately report such  
2 knowledge or suspicion to the central abuse registry and  
3 tracking system on the single statewide toll-free telephone  
4 number.

5 Section 41. Paragraph (a) of subsection (1) of section  
6 415.504, Florida Statutes, 1996 Supplement, is amended to  
7 read:

8 415.504 Mandatory reports of child abuse or neglect;  
9 mandatory reports of death; central abuse hotline.--

10 (1) Any person, including, but not limited to, any:

11 (a) Physician, osteopathic physician ~~osteopath~~,  
12 medical examiner, chiropractor, nurse, or hospital personnel  
13 engaged in the admission, examination, care, or treatment of  
14 persons;

15  
16 who knows, or has reasonable cause to suspect, that a child is  
17 an abused, abandoned, or neglected child shall report such  
18 knowledge or suspicion to the department in the manner  
19 prescribed in subsection (2).

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

22 440.106 Civil remedies; administrative penalties.--

23 (2) Whenever a physician, osteopathic physician  
24 ~~osteopath~~, chiropractor, podiatrist, or other practitioner is  
25 determined to have violated s. 440.105, the Board of Medicine  
26 ~~Medical Examiners~~ as set forth in chapter 458, the Board of  
27 Osteopathic Medicine ~~Medical Examiners~~ as set forth in chapter  
28 459, the Board of Chiropractic as set forth in chapter 460,  
29 the Board of Podiatric Medicine as set forth in chapter 461,  
30 or other appropriate licensing authority, shall hold an  
31 administrative hearing to consider the imposition of

1 administrative sanctions as provided by law against said  
2 physician, osteopathic physician ~~osteopath~~, chiropractor, or  
3 other practitioner.

4 Section 43. Paragraph (r) of subsection (1) of section  
5 440.13, Florida Statutes, 1996 Supplement, is amended to read:

6 440.13 Medical services and supplies; penalty for  
7 violations; limitations.--

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

9 (r) "Physician" or "doctor" means ~~a medical doctor or~~  
10 ~~doctor of osteopathy licensed under chapter 458,~~ a physician  
11 licensed under chapter 458, an osteopathic physician ~~osteopath~~  
12 licensed under chapter 459, a chiropractor licensed under  
13 chapter 460, a podiatrist licensed under chapter 461, an  
14 optometrist licensed under chapter 463, or a dentist licensed  
15 under chapter 466, each of whom must be certified by the  
16 division as a health care provider.

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

19 440.134 Workers' compensation managed care  
20 arrangement.--

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

22 (i) "Medical care coordinator" means a primary care  
23 provider within a provider network who is responsible for  
24 managing the medical care of an injured worker including  
25 determining other health care providers and health care  
26 facilities to which the injured employee will be referred for  
27 evaluation or treatment. A medical care coordinator shall be a  
28 physician licensed under chapter 458 or an osteopathic  
29 physician ~~osteopath~~ licensed under chapter 459.

30 (k) "Primary care provider" means, except in the case  
31 of emergency treatment, the initial treating physician and,

1 when appropriate, continuing treating physician, who may be a  
2 family practitioner, general practitioner, or internist  
3 physician licensed under chapter 458; a family practitioner,  
4 general practitioner, or internist osteopathic physician  
5 ~~osteopath~~ licensed under chapter 459; a chiropractor licensed  
6 under chapter 460; a podiatrist licensed under chapter 461; an  
7 optometrist licensed under chapter 463; or a dentist licensed  
8 under chapter 466.

9 Section 45. Paragraph (a) of subsection (3) of section  
10 440.15, Florida Statutes, 1996 Supplement, is amended to read:

11 440.15 Compensation for disability.--Compensation for  
12 disability shall be paid to the employee, subject to the  
13 limits provided in s. 440.12(2), as follows:

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

15 (a) Impairment benefits.--

16 1. Once the employee has reached the date of maximum  
17 medical improvement, impairment benefits are due and payable  
18 within 20 days after the carrier has knowledge of the  
19 impairment.

20 2. The three-member panel, in cooperation with the  
21 division, shall establish and use a uniform permanent  
22 impairment rating schedule. This schedule must be based on  
23 medically or scientifically demonstrable findings as well as  
24 the systems and criteria set forth in the American Medical  
25 Association's Guides to the Evaluation of Permanent  
26 Impairment; the Snellen Charts, published by American Medical  
27 Association Committee for Eye Injuries; and the Minnesota  
28 Department of Labor and Industry Disability Schedules. The  
29 schedule should be based upon objective findings. The schedule  
30 shall be more comprehensive than the AMA Guides to the  
31 Evaluation of Permanent Impairment and shall expand the areas



1 already addressed and address additional areas not currently  
 2 contained in the guides. On August 1, 1979, and pending the  
 3 adoption, by rule, of a permanent schedule, Guides to the  
 4 Evaluation of Permanent Impairment, copyright 1977, 1971,  
 5 1988, by the American Medical Association, shall be the  
 6 temporary schedule and shall be used for the purposes hereof.  
 7 For injuries after July 1, 1990, pending the adoption by  
 8 division rule of a uniform disability rating schedule, the  
 9 Minnesota Department of Labor and Industry Disability Schedule  
 10 shall be used unless that schedule does not address an injury.  
 11 In such case, the Guides to the Evaluation of Permanent  
 12 Impairment by the American Medical Association shall be used.  
 13 Determination of permanent impairment under this schedule must  
 14 be made by a physician licensed under chapter 458, a doctor of  
 15 osteopathic medicine ~~osteopathy~~ licensed under chapters 458  
 16 and 459, a chiropractor licensed under chapter 460, a  
 17 podiatrist licensed under chapter 461, an optometrist licensed  
 18 under chapter 463, or a dentist licensed under chapter 466, as  
 19 appropriate considering the nature of the injury. No other  
 20 persons are authorized to render opinions regarding the  
 21 existence of or the extent of permanent impairment.

22         3. All impairment income benefits shall be based on an  
 23 impairment rating using the impairment schedule referred to in  
 24 subparagraph 2. Impairment income benefits are paid weekly at  
 25 the rate of 50 percent of the employee's average weekly  
 26 temporary total disability benefit not to exceed the maximum  
 27 weekly benefit under s. 440.12. An employee's entitlement to  
 28 impairment income benefits begins the day after the employee  
 29 reaches maximum medical improvement or the expiration of  
 30 temporary benefits, whichever occurs earlier, and continues  
 31 until the earlier of:

1           a. The expiration of a period computed at the rate of  
2 3 weeks for each percentage point of impairment; or  
3           b. The death of the employee.  
4           4. After the employee has been certified by a doctor  
5 as having reached maximum medical improvement or 6 weeks  
6 before the expiration of temporary benefits, whichever occurs  
7 earlier, the certifying doctor shall evaluate the condition of  
8 the employee and assign an impairment rating, using the  
9 impairment schedule referred to in subparagraph 2.  
10 Compensation is not payable for the mental, psychological, or  
11 emotional injury arising out of depression from being out of  
12 work. If the certification and evaluation are performed by a  
13 doctor other than the employee's treating doctor, the  
14 certification and evaluation must be submitted to the treating  
15 doctor, and the treating doctor must indicate agreement or  
16 disagreement with the certification and evaluation. The  
17 certifying doctor shall issue a written report to the  
18 division, the employee, and the carrier certifying that  
19 maximum medical improvement has been reached, stating the  
20 impairment rating, and providing any other information  
21 required by the division. If the employee has not been  
22 certified as having reached maximum medical improvement before  
23 the expiration of 102 weeks after the date temporary total  
24 disability benefits begin to accrue, the carrier shall notify  
25 the treating doctor of the requirements of this section.  
26           5. The carrier shall pay the employee impairment  
27 income benefits for a period based on the impairment rating.  
28           Section 46. Subsection (2) of section 456.31, Florida  
29 Statutes, is amended to read:  
30           456.31 Legislative intent.--  
31

1           (2) It is the intent of the Legislature to provide for  
2 certain practitioners of the healing arts, such as a trained  
3 and qualified dentist, to use hypnosis for hypnoanesthesia or  
4 for the allaying of anxiety in relation to dental work;  
5 however, under no circumstances shall it be legal or proper  
6 for the dentist or the individual to whom the dentist may  
7 refer the patient, to use hypnosis for the treatment of the  
8 neurotic difficulties of a patient. The same applies to the  
9 optometrist, podiatrist, chiropractor, osteopathic physician  
10 ~~osteopath~~, or physician of medicine.

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

13           459.006 Licensure by examination.--Any person desiring  
14 to be licensed by examination shall:

15           (1) Have successfully completed a resident internship  
16 of not less than 12 months in a hospital approved for this  
17 purpose by the Board of Trustees of the American Osteopathic  
18 Association or any other internship program approved by the  
19 board upon a showing of good cause by the applicant. This  
20 requirement may be waived for applicants who matriculated in a  
21 college of osteopathic medicine ~~osteopathy~~ during or before  
22 1948.

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

25           462.01 Definitions.--As used in this chapter:

26           (1) "Natureopathy" and "Naturopathy" shall be  
27 construed as synonymous terms and mean the use and practice of  
28 psychological, mechanical, and material health sciences to aid  
29 in purifying, cleansing, and normalizing human tissues for the  
30 preservation or restoration of health, according to the  
31 fundamental principles of anatomy, physiology, and applied

1 psychology, as may be required. Naturopathic practice  
2 employs, among other agencies, phytotherapy, dietetics,  
3 psychotherapy, suggestotherapy, hydrotherapy, zone therapy,  
4 biochemistry, external applications, electrotherapy,  
5 mechanotherapy, mechanical and electrical appliances, hygiene,  
6 first aid, sanitation, and heliotherapy; provided, however,  
7 that nothing in this chapter shall be held or construed to  
8 authorize any naturopathic physician licensed hereunder to  
9 practice materia medica or surgery or chiropractic, nor shall  
10 the provisions of this law in any manner apply to or affect  
11 the practice of osteopathic medicine ~~osteopathy~~, chiropractic,  
12 Christian Science, or any other treatment authorized and  
13 provided for by law for the cure or prevention of disease and  
14 ailments.

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

17 468.301 Definitions.--As used in this part, the term:

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

22 Section 50. Paragraph (a) of subsection (6) of section  
23 468.302, Florida Statutes, 1996 Supplement, is amended to  
24 read:

25 468.302 Use of radiation; identification of certified  
26 persons; limitations; exceptions.--

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

28 (a) A hospital resident who is not a licensed  
29 practitioner in this state or a student enrolled in and  
30 attending a school or college of medicine, osteopathic  
31 medicine ~~osteopathy~~, chiropody, podiatry, or chiropractic or a

1 radiologic technology educational program and who applies  
2 radiation to a human being while under the direct supervision  
3 of a licensed practitioner.

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

6 476.044 Exemptions.--This chapter does not apply to  
7 the following persons when practicing pursuant to their  
8 professional responsibilities and duties:

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

12 Section 52. Paragraph (a) of subsection (1) of section  
13 477.0135, Florida Statutes, is amended to read:

14 477.0135 Exemptions.--

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

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

21 Section 53. Paragraph (a) of subsection (8) of section  
22 483.291, Florida Statutes, is amended to read:

23 483.291 Powers and duties of the agency; rules.--The  
24 agency shall adopt rules to implement this part, which rules  
25 must include the following:

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

30 (a) Prior experience of not less than 6 months as a  
31 medical assistant in the office of a licensed medical doctor

1 or osteopathic physician ~~osteopath~~ or in a hospital, an  
2 ambulatory surgical center, a home health agency, or a health  
3 maintenance organization.

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

6 621.03 Definitions.--As used in this act the following  
7 words shall have the meaning indicated:

8 (1) The term "professional service" means any type of  
9 personal service to the public which requires as a condition  
10 precedent to the rendering of such service the obtaining of a  
11 license or other legal authorization. By way of example and  
12 without limiting the generality thereof, the personal services  
13 which come within the provisions of this act are the personal  
14 services rendered by certified public accountants, public  
15 accountants, chiropractors, dentists, osteopathic physicians  
16 ~~osteopaths~~, physicians and surgeons, doctors of medicine,  
17 doctors of dentistry, podiatrists, chiropodists, architects,  
18 veterinarians, attorneys at law, and life insurance agents.

19 Section 55. Paragraph (h) of subsection (4) of section  
20 627.351, Florida Statutes, 1996 Supplement, is amended to  
21 read:

22 627.351 Insurance risk apportionment plans.--

23 (4) MEDICAL MALPRACTICE RISK APPORTIONMENT.--

24 (h) As used in this subsection:

25 1. "Health care provider" means hospitals licensed  
26 under chapter 395; physicians licensed under chapter 458;  
27 osteopathic physicians ~~osteopaths~~ licensed under chapter 459;  
28 podiatrists licensed under chapter 461; dentists licensed  
29 under chapter 466; chiropractors licensed under chapter 460;  
30 naturopaths licensed under chapter 462; nurses licensed under  
31 chapter 464; midwives licensed under chapter 467; clinical

1 laboratories registered under chapter 483; physician  
2 assistants certified under chapter 458; physical therapists  
3 and physical therapist assistants licensed under chapter 486;  
4 health maintenance organizations certificated under part I of  
5 chapter 641; ambulatory surgical centers licensed under  
6 chapter 395; other medical facilities as defined in  
7 subparagraph 2.; blood banks, plasma centers, industrial  
8 clinics, and renal dialysis facilities; or professional  
9 associations, partnerships, corporations, joint ventures, or  
10 other associations for professional activity by health care  
11 providers.

12           2. "Other medical facility" means a facility the  
13 primary purpose of which is to provide human medical  
14 diagnostic services or a facility providing nonsurgical human  
15 medical treatment, to which facility the patient is admitted  
16 and from which facility the patient is discharged within the  
17 same working day, and which facility is not part of a  
18 hospital. However, a facility existing for the primary  
19 purpose of performing terminations of pregnancy or an office  
20 maintained by a physician or dentist for the practice of  
21 medicine shall not be construed to be an "other medical  
22 facility."

23           3. "Health care facility" means any hospital licensed  
24 under chapter 395, health maintenance organization  
25 certificated under part I of chapter 641, ambulatory surgical  
26 center licensed under chapter 395, or other medical facility  
27 as defined in subparagraph 2.

28           Section 56. Paragraph (b) of subsection (1) of section  
29 627.357, Florida Statutes, is amended to read:

30           627.357 Medical malpractice self-insurance.--

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

- 1 (b) "Health care provider" means any:  
2 1. Hospital licensed under chapter 395.  
3 2. Physician licensed, or physician assistant  
4 certified, under chapter 458.  
5 3. Osteopathic physician ~~Osteopath~~ licensed under  
6 chapter 459.  
7 4. Podiatrist licensed under chapter 461.  
8 5. Health maintenance organization certificated under  
9 part I of chapter 641.  
10 6. Ambulatory surgical center licensed under chapter  
11 395.  
12 7. Chiropractor licensed under chapter 460.  
13 8. Psychologist licensed under chapter 490.  
14 9. Optometrist licensed under chapter 463.  
15 10. Dentist licensed under chapter 466.  
16 11. Pharmacist licensed under chapter 465.  
17 12. Registered nurse, licensed practical nurse, or  
18 advanced registered nurse practitioner licensed or registered  
19 under chapter 464.  
20 13. Other medical facility.  
21 14. Professional association, partnership,  
22 corporation, joint venture, or other association established  
23 by the individuals set forth in subparagraphs 2., 3., 4., 7.,  
24 8., 9., 10., 11., and 12. for professional activity.  
25 Section 57. Subsection (10) of section 627.6482,  
26 Florida Statutes, is amended to read:  
27 627.6482 Definitions.--As used in ss.  
28 627.648-627.6498, the term:  
29 (10) "Physician" means a physician licensed under  
30 chapter 458; an osteopathic physician ~~osteopath~~ licensed under  
31 chapter 459; a chiropractor licensed under chapter 460; a



1 podiatrist licensed under chapter 461; or, for purposes of  
2 oral surgery only, a dental surgeon licensed under chapter  
3 466.

4 Section 58. Section 725.01, Florida Statutes, is  
5 amended to read:

6 725.01 Promise to pay another's debt, etc.--No action  
7 shall be brought whereby to charge any executor or  
8 administrator upon any special promise to answer or pay any  
9 debt or damages out of his own estate, or whereby to charge  
10 the defendant upon any special promise to answer for the debt,  
11 default or miscarriage of another person or to charge any  
12 person upon any agreement made upon consideration of marriage,  
13 or upon any contract for the sale of lands, tenements or  
14 hereditaments, or of any uncertain interest in or concerning  
15 them, or for any lease thereof for a period longer than 1  
16 year, or upon any agreement that is not to be performed within  
17 the space of 1 year from the making thereof, or whereby to  
18 charge any health care provider upon any guarantee, warranty,  
19 or assurance as to the results of any medical, surgical, or  
20 diagnostic procedure performed by any physician licensed under  
21 chapter 458, osteopathic physician ~~osteopath~~ licensed under  
22 chapter 459, chiropractor licensed under chapter 460,  
23 podiatrist licensed under chapter 461, or dentist licensed  
24 under chapter 466, unless the agreement or promise upon which  
25 such action shall be brought, or some note or memorandum  
26 thereof shall be in writing and signed by the party to be  
27 charged therewith or by some other person by him thereunto  
28 lawfully authorized.

29 Section 59. Paragraph (b) of subsection (1) of section  
30 766.101, Florida Statutes, 1996 Supplement, is amended to  
31 read:

1           766.101 Medical review committee, immunity from  
2 liability.--

3           (1) As used in this section:

4           (b) The term "health care providers" means physicians  
5 licensed under chapter 458, osteopathic physicians ~~osteopaths~~  
6 licensed under chapter 459, podiatrists licensed under chapter  
7 461, optometrists licensed under chapter 463, dentists  
8 licensed under chapter 466, chiropractors licensed under  
9 chapter 460, pharmacists licensed under chapter 465, or  
10 hospitals or ambulatory surgical centers licensed under  
11 chapter 395.

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

14           766.103 Florida Medical Consent Law.--

15           (3) No recovery shall be allowed in any court in this  
16 state against any physician licensed under chapter 458,  
17 osteopathic physician ~~osteopath~~ licensed under chapter 459,  
18 chiropractor licensed under chapter 460, podiatrist licensed  
19 under chapter 461, or dentist licensed under chapter 466 in an  
20 action brought for treating, examining, or operating on a  
21 patient without his informed consent when:

22           (a)1. The action of the physician, osteopathic  
23 physician ~~osteopath~~, chiropractor, podiatrist, or dentist in  
24 obtaining the consent of the patient or another person  
25 authorized to give consent for the patient was in accordance  
26 with an accepted standard of medical practice among members of  
27 the medical profession with similar training and experience in  
28 the same or similar medical community; and

29           2. A reasonable individual, from the information  
30 provided by the physician, osteopathic physician ~~osteopath~~,  
31 chiropractor, podiatrist, or dentist, under the circumstances,

1 would have a general understanding of the procedure, the  
2 medically acceptable alternative procedures or treatments, and  
3 the substantial risks and hazards inherent in the proposed  
4 treatment or procedures, which are recognized among other  
5 physicians, osteopathic physicians ~~osteopaths~~, chiropractors,  
6 podiatrists, or dentists in the same or similar community who  
7 perform similar treatments or procedures; or

8 (b) The patient would reasonably, under all the  
9 surrounding circumstances, have undergone such treatment or  
10 procedure had he been advised by the physician, osteopathic  
11 physician ~~osteopath~~, chiropractor, podiatrist, or dentist in  
12 accordance with the provisions of paragraph (a).

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

16 766.105 Florida Patient's Compensation Fund.--

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

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

- 20 1. Hospital licensed under chapter 395.
- 21 2. Physician licensed, or physician assistant  
22 certified, under chapter 458.
- 23 3. Osteopathic physician ~~Osteopath~~ licensed under  
24 chapter 459.
- 25 4. Podiatrist licensed under chapter 461.
- 26 5. Health maintenance organization certificated under  
27 part I of chapter 641.
- 28 6. Ambulatory surgical center licensed under chapter  
29 395.
- 30 7. "Other medical facility" as defined in paragraph  
31 (c).

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

5           (i) The term "house physician" means any physician,  
6 osteopathic physician ~~osteopath~~, podiatrist, or dentist  
7 except: a physician, osteopathic physician ~~osteopath~~,  
8 podiatrist, or dentist with staff privileges at a hospital; a  
9 physician, osteopathic physician ~~osteopath~~, podiatrist, or  
10 dentist providing emergency room services; an  
11 anesthesiologist, pathologist, or radiologist; or a physician,  
12 osteopathic physician ~~osteopath~~, podiatrist, or dentist who  
13 performs a service for a fee.

14           (2) COVERAGE.--

15           (e) The coverage afforded by the fund for a  
16 participating hospital or ambulatory surgical center shall  
17 apply to the officers, trustees, volunteer workers, trainees,  
18 committee members (including physicians, osteopathic  
19 physicians ~~osteopaths~~, podiatrists, and dentists), and  
20 employees of the hospital or ambulatory surgical center, other  
21 than employed physicians licensed under chapter 458, physician  
22 assistants licensed under chapter 458, osteopathic physicians  
23 ~~osteopaths~~ licensed under chapter 459, dentists licensed under  
24 chapter 466, and podiatrists licensed under chapter 461.  
25 However, the coverage afforded by the fund for a participating  
26 hospital shall apply to house physicians, interns, employed  
27 physician residents in a resident training program, or  
28 physicians performing purely administrative duties for the  
29 participating hospitals other than the treatment of patients.  
30 This coverage shall apply to the hospital or ambulatory  
31

1 surgical center and those included in this subsection as one  
2 health care provider.

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

5 766.110 Liability of health care facilities.--

6 (2) Every hospital licensed under chapter 395 may  
7 carry liability insurance or adequately insure itself in an  
8 amount of not less than \$1.5 million per claim, \$5 million  
9 annual aggregate to cover all medical injuries to patients  
10 resulting from negligent acts or omissions on the part of  
11 those members of its medical staff who are covered thereby in  
12 furtherance of the requirements of ss. 458.320 and 459.0085.  
13 Self-insurance coverage extended hereunder to a member of a  
14 hospital's medical staff meets the financial responsibility  
15 requirements of ss. 458.320 and 459.0085 if the physician's  
16 coverage limits are not less than the minimum limits  
17 established in ss. 458.320 and 459.0085 and the hospital is a  
18 verified trauma center as of July 1, 1990, that has extended  
19 self-insurance coverage continuously to members of its medical  
20 staff for activities both inside and outside of the hospital  
21 since January 1, 1987. Any insurer authorized to write  
22 casualty insurance may make available, but shall not be  
23 required to write, such coverage. The hospital may assess on  
24 an equitable and pro rata basis the following professional  
25 health care providers for a portion of the total hospital  
26 insurance cost for this coverage: physicians licensed under  
27 chapter 458, osteopathic physicians ~~osteopaths~~ licensed under  
28 chapter 459, podiatrists licensed under chapter 461, dentists  
29 licensed under chapter 466, and nurses licensed under chapter  
30 464. The hospital may provide for a deductible amount to be  
31 applied against any individual health care provider found

1 liable in a law suit in tort or for breach of contract. The  
 2 legislative intent in providing for the deductible to be  
 3 applied to individual health care providers found negligent or  
 4 in breach of contract is to instill in each individual health  
 5 care provider the incentive to avoid the risk of injury to the  
 6 fullest extent and ensure that the citizens of this state  
 7 receive the highest quality health care obtainable.

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

10 817.234 False and fraudulent insurance claims.--

11 (2) Any physician licensed under chapter 458,  
 12 osteopathic physician ~~osteopath~~ licensed under chapter 459,  
 13 chiropractor licensed under chapter 460, or other practitioner  
 14 licensed under the laws of this state who knowingly and  
 15 willfully assists, conspires with, or urges any insured party  
 16 to fraudulently violate any of the provisions of this section  
 17 or part XI of chapter 627, or any person who, due to such  
 18 assistance, conspiracy, or urging by said physician,  
 19 osteopathic physician ~~osteopath~~, chiropractor, or  
 20 practitioner, knowingly and willfully benefits from the  
 21 proceeds derived from the use of such fraud, is guilty of a  
 22 felony of the third degree, punishable as provided in s.  
 23 775.082, s. 775.083, or s. 775.084. In the event that a  
 24 physician, osteopathic physician ~~osteopath~~, chiropractor, or  
 25 practitioner is adjudicated guilty of a violation of this  
 26 section, the Board of Medicine as set forth in chapter 458,  
 27 the Board of Osteopathic Medicine as set forth in chapter 459,  
 28 the Board of Chiropractic as set forth in chapter 460, or  
 29 other appropriate licensing authority shall hold an  
 30 administrative hearing to consider the imposition of  
 31 administrative sanctions as provided by law against said

1 physician, osteopathic physician ~~osteopath~~, chiropractor, or  
2 practitioner.

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

5 945.047 Licensing requirements for physicians,  
6 osteopathic physicians, and chiropractors employed by the  
7 department.--

8 (1) The Department of Corrections shall employ only  
9 physicians, osteopathic physicians, or chiropractic physicians  
10 holding licenses in good standing to practice medicine in this  
11 state, except that, by October 1, 1980, no more than 10  
12 percent of the total number of such physicians employed by the  
13 department may be exempted from the provisions of this  
14 subsection. Each such exempted physician shall hold a valid  
15 license to practice medicine, osteopathic medicine ~~osteopathy~~,  
16 or chiropractic in another state and shall have been certified  
17 by the appropriate board as eligible for admission for  
18 examination in this state under chapter 458, chapter 459, or  
19 chapter 460, as applicable. The appropriate board shall not  
20 certify as eligible for admission for examination any person  
21 who has been adjudged unqualified or guilty of any of the acts  
22 enumerated in the disciplinary provisions contained in chapter  
23 458, chapter 459, or chapter 460, as applicable.

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

26 460.403 Definitions.--As used in this chapter, the  
27 term:

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

30 Section 66. Paragraphs (q) and (gg) of subsection (1)  
31 and subsection (2) of section 460.413, Florida Statutes, 1996

1 Supplement, are amended, and subsections (6) and (7) are added  
2 to said section, to read:

3 460.413 Grounds for disciplinary action; action by the  
4 board.--

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

8 (q) Being unable to practice chiropractic with  
9 reasonable skill and safety to patients by reason of illness  
10 or use of alcohol, drugs, narcotics, chemicals, or any other  
11 type of material or as a result of any mental or physical  
12 condition. In enforcing this paragraph, upon a finding by the  
13 secretary of the department, or his or her designee, or the  
14 probable cause panel of the board that probable cause exists  
15 to believe that the licensee is unable to practice the  
16 profession because of reasons stated in this paragraph, the  
17 department shall have the authority to compel a licensee to  
18 submit to a mental or physical examination by a physician  
19 designated by the department. If the licensee refuses to  
20 comply with the department's order, the department may file a  
21 petition for enforcement in the circuit court of the circuit  
22 in which the licensee resides or does business. The licensee  
23 shall not be named or identified by initials in any other  
24 public court records or documents and the enforcement  
25 proceedings shall be closed to the public. The department  
26 shall be entitled to the summary procedure provided in s.  
27 51.011. The record of proceedings to obtain a compelled  
28 mental or physical examination shall not be used against a  
29 licensee in any other proceedings. A chiropractic physician  
30 affected under this paragraph shall at reasonable intervals be  
31 afforded an opportunity to demonstrate that he can resume the



1 competent practice of chiropractic with reasonable skill and  
2 safety to patients.

3 (gg) Failing to report to the department ~~Division of~~  
4 ~~Medical Quality Assurance~~ any licensee ~~physician licensed~~  
5 under chapter 458 or ~~osteopathic physician licensed~~ under  
6 chapter 459 who the chiropractic physician or chiropractic  
7 physician's assistant knows has violated the grounds for  
8 disciplinary action set out in the law under which that person  
9 ~~physician or osteopathic physician~~ is licensed and who  
10 provides health care services in a facility licensed under  
11 chapter 395, or a health maintenance organization certificated  
12 under part I of chapter 641, in which the chiropractic  
13 physician or chiropractic physician's assistant also provides  
14 services.

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

18 (a) Refusal to certify to the department an  
19 application for licensure.

20 (b) Revocation or suspension of a license.

21 (c) Restriction of practice.

22 (d) Imposition of an administrative fine not to exceed  
23 \$2,000 for each count or separate offense.

24 (e) Issuance of a reprimand.

25 (f) Placement of the chiropractic physician on  
26 probation for a period of time and subject to such conditions  
27 as the board may specify, including requiring the chiropractic  
28 physician to submit to treatment, to attend continuing  
29 education courses, to submit to reexamination, or to work  
30 under the supervision of another chiropractic physician.

31

1           (g) Imposition of costs of the investigation and  
2 prosecution.

3           (h) Requirement that the chiropractic physician  
4 undergo remedial education.

5           (i) Issuance of a letter of concern.

6           (j) Corrective action.

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

9  
10 In determining what action is appropriate, the board must  
11 first consider what sanctions are necessary to protect the  
12 public or to compensate the patient. Only after those  
13 sanctions have been imposed may the disciplining authority  
14 consider and include in the order requirements designed to  
15 rehabilitate the chiropractic physician. All costs associated  
16 with compliance with orders issued under this subsection are  
17 the obligation of the chiropractic physician.

18           (6) In any administrative action against a  
19 chiropractic physician which does not involve revocation or  
20 suspension of license, the department shall have the burden,  
21 by the greater weight of the evidence, to establish the  
22 existence of grounds for disciplinary action. The department  
23 shall establish grounds for revocation or suspension of  
24 license by clear and convincing evidence.

25           (7) If any chiropractic physician is guilty of such  
26 unprofessional conduct, negligence, or mental or physical  
27 incapacity or impairment that the department determines that  
28 the chiropractic physician is unable to practice with  
29 reasonable skill and safety and presents a danger to patients,  
30 the department shall be authorized to maintain an action in  
31 circuit court enjoining such chiropractic physician from

1 providing medical services to the public until the  
2 chiropractic physician demonstrates the ability to practice  
3 with reasonable skill and safety and without danger to  
4 patients.

5 Section 67. For the purpose of incorporating the  
6 amendment to section 460.413, Florida Statutes, 1996  
7 Supplement, in references thereto, the sections or  
8 subdivisions of Florida Statutes set forth below are reenacted  
9 to read:

10 320.0848 Persons who have disabilities; issuance of  
11 disabled parking permits; temporary permits; permits for  
12 certain providers of transportation services to persons who  
13 have disabilities.--

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

17 455.236 Financial arrangements between referring  
18 health care providers and providers of health care services.--

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

21 (g) A violation of this section by a health care  
22 provider shall constitute grounds for disciplinary action to  
23 be taken by the applicable board pursuant to s. 458.331(2), s.  
24 459.015(2), s. 460.413(2), s. 461.013(2), s. 463.016(2), or s.  
25 466.028(2). Any hospital licensed under chapter 395 found in  
26 violation of this section shall be subject to the rules  
27 adopted by the Department of Health and Rehabilitative  
28 Services pursuant to s. 395.0185(2).

29 766.111 Engaging in unnecessary diagnostic testing;  
30 penalties.--

31

1 (2) A violation of this section shall be grounds for  
2 disciplinary action pursuant to s. 458.331, s. 459.015, s.  
3 460.413, s. 461.013, or s. 466.028, as applicable.

4 Section 68. Paragraph (a) of subsection (8) of section  
5 460.4165, Florida Statutes, is amended to read:

6 460.4165 Chiropractic physician's assistants.--

7 (8) FEES.--

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

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

14 461.003 Definitions.--As used in this chapter:

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

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

19 461.013 Grounds for disciplinary action; action by the  
20 board; investigations by department.--

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

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

1 under part I of chapter 641, in which the podiatrist also  
2 provides services.

3 Section 71. Section 461.018, Florida Statutes, 1996  
4 Supplement, is amended to read:

5 461.018 Limited scope of practice; area of  
6 need.--Those persons holding valid certificates on October 1,  
7 1991, who were certified pursuant to chapters 88-205 and  
8 88-392, Laws of Florida, and who have been practicing under a  
9 board-approved protocol for at least 2 years are eligible to  
10 receive a podiatry license to practice without supervision  
11 under their present limited scope of practice of the  
12 nonsurgical treatment of corns, calluses, and ingrown toenails  
13 in a specially designated area of need as provided by rule of  
14 the board.

15 Section 72. Subsection (1) and paragraph (c) of  
16 subsection (3) of section 464.003, Florida Statutes, 1996  
17 Supplement, are amended to read:

18 464.003 Definitions.--As used in this chapter:

19 (1) "Department Agency" means the Department of Agency  
20 ~~for Health Care Administration.~~

21 (3)

22 (c) "Advanced or specialized nursing practice" means,  
23 in addition to the practice of professional nursing, the  
24 performance of advanced-level nursing acts approved by the  
25 board which, by virtue of postbasic specialized education,  
26 training, and experience, are proper to be performed by an  
27 advanced registered nurse practitioner. Within the context of  
28 advanced or specialized nursing practice, the advanced  
29 registered nurse practitioner may perform acts of nursing  
30 diagnosis and nursing treatment of alterations of the health  
31 status. The advanced registered nurse practitioner may also

1 perform acts of medical diagnosis and treatment, prescription,  
 2 and operation which are identified and approved by a joint  
 3 committee composed of three members appointed by the Board of  
 4 Nursing, two of whom shall be advanced registered nurse  
 5 practitioners; three members appointed by the Board of  
 6 Medicine, two of whom shall have had work experience with  
 7 advanced registered nurse practitioners; and the secretary  
 8 ~~director~~ of the department ~~agency~~ or the secretary's  
 9 ~~director's~~ designee. Each committee member appointed by a  
 10 board shall be appointed to a term of 4 years unless a shorter  
 11 term is required to establish or maintain staggered terms. The  
 12 Board of Nursing shall adopt rules authorizing the performance  
 13 of any such acts approved by the joint committee. Unless  
 14 otherwise specified by the joint committee, such acts shall be  
 15 performed under the general supervision of a practitioner  
 16 licensed under chapter 458, chapter 459, or chapter 466 within  
 17 the framework of standing protocols which identify the medical  
 18 acts to be performed and the conditions for their performance.  
 19 The department ~~agency~~ may, by rule, require that a copy of the  
 20 protocol be filed with the department ~~agency~~ along with the  
 21 notice required by s. 458.348.

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

24 464.004 Board of Nursing; membership; appointment;  
 25 terms.--

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

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

31 464.008 Licensure by examination.--

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

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

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

15           (c) Is in good mental and physical health, is a  
16 recipient of a high school diploma or the equivalent, and has  
17 completed the requirements for graduation from an approved  
18 program for the preparation of registered nurses or licensed  
19 practical nurses, whichever is applicable. Courses  
20 successfully completed in a professional nursing program which  
21 are at least equivalent to a practical nursing program may be  
22 used to satisfy the education requirements for licensure as a  
23 licensed practical nurse.

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

27           Section 75. Subsections (1) and (3) of section  
28 464.009, Florida Statutes, 1996 Supplement, are amended to  
29 read:

30           464.009 Licensure by endorsement.--

31

1           (1) The department ~~agency~~ shall issue the appropriate  
2 license by endorsement to practice professional or practical  
3 nursing to an applicant who, upon applying to the department  
4 ~~agency~~ and remitting a fee set by the board not to exceed  
5 \$100, demonstrates to the board that he:

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

12           (b) Meets the qualifications for licensure in s.  
13 464.008 and has successfully completed a state, regional, or  
14 national examination which is substantially equivalent to or  
15 more stringent than the examination given by the department  
16 ~~agency~~.

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

22           Section 76. Subsections (1) and (5) of section  
23 464.012, Florida Statutes, 1996 Supplement, are amended to  
24 read:

25           464.012 Certification of advanced registered nurse  
26 practitioners; fees.--

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



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

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

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

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

30  
31

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

4           464.013 Renewal of license or certificate.--

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

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

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

11           464.014 Inactive status.--

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

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

20           464.018 Disciplinary actions.--

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

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

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

31

1           (j) Being unable to practice nursing with reasonable  
2 skill and safety to patients by reason of illness or use of  
3 alcohol, drugs, narcotics, or chemicals or any other type of  
4 material or as a result of any mental or physical condition.  
5 In enforcing this paragraph, the department ~~agency~~ shall have,  
6 upon a finding of the secretary ~~director~~ or the secretary's  
7 ~~his~~ designee that probable cause exists to believe that the  
8 licensee is unable to practice nursing because of the reasons  
9 stated in this paragraph, the authority to issue an order to  
10 compel a licensee to submit to a mental or physical  
11 examination by physicians designated by the department ~~agency~~.  
12 If the licensee refuses to comply with such order, the  
13 department's ~~agency's~~ order directing such examination may be  
14 enforced by filing a petition for enforcement in the circuit  
15 court where the licensee resides or does business. The  
16 licensee against whom the petition is filed shall not be named  
17 or identified by initials in any public court records or  
18 documents, and the proceedings shall be closed to the public.  
19 The department ~~agency~~ shall be entitled to the summary  
20 procedure provided in s. 51.011. A nurse affected by the  
21 provisions of this paragraph shall at reasonable intervals be  
22 afforded an opportunity to demonstrate that he can resume the  
23 competent practice of nursing with reasonable skill and safety  
24 to patients.

25           (k) Failing to report to the department ~~agency~~ any  
26 person who the licensee knows is in violation of this chapter  
27 or of the rules of the department ~~agency~~ or the board;  
28 however, if the licensee verifies that such person is actively  
29 participating in a board-approved program for the treatment of  
30 a physical or mental condition, the licensee is required to  
31

1 report such person only to an impaired professionals  
2 consultant.

3 (1) Knowingly violating any provision of this chapter,  
4 a rule of the board or the department ~~agency~~, or a lawful  
5 order of the board or department ~~agency~~ previously entered in  
6 a disciplinary proceeding or failing to comply with a lawfully  
7 issued subpoena of the department ~~agency~~.

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

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

23 Section 80. Subsections (1), (3), and (4) of section  
24 464.019, Florida Statutes, 1996 Supplement, are amended to  
25 read:

26 464.019 Approval of nursing programs.--

27 (1) An institution desiring to conduct an approved  
28 program for the education of professional or practical nurses  
29 shall apply to the department ~~agency~~ and submit such evidence  
30 as may be required to show that it complies with the  
31 provisions of this chapter and with the rules of the board.

1 The application shall include a program review fee, as set by  
2 the board, not to exceed \$1,000.

3 (3) The department ~~agency~~ shall survey each  
4 institution applying for approval and submit its findings to  
5 the board. If the board is satisfied that the program meets  
6 the requirements of this chapter and rules pursuant thereto,  
7 it shall certify the program for approval and the department  
8 ~~agency~~ shall approve the program.

9 (4) If the board, through an investigation by the  
10 department ~~agency~~, finds that an approved program no longer  
11 meets the required standards, it may place the program on  
12 probationary status until such time as the standards are  
13 restored. If a program fails to correct these conditions  
14 within a specified period of time, the board may rescind the  
15 approval. Any program having its approval rescinded shall  
16 have the right to reapply.

17 Section 81. Section 464.0205, Florida Statutes, is  
18 created to read:

19 464.0205 Retired volunteer nurse certificate.--

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

24 (a) A complete application.

25 (b) An application and processing fee of \$25.

26 (c) Verification that the applicant had been licensed  
27 to practice nursing in any jurisdiction in the United States  
28 for at least 10 years, had retired or plans to retire, intends  
29 to practice nursing only pursuant to the limitations provided  
30 by the retired volunteer nurse certificate, and has not

31

1 committed any act that would constitute a violation under s.  
2 464.018(1).

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

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

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

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

13 (a) Work under the direct supervision of the director  
14 of a county health department, a physician working under a  
15 limited license issued pursuant to s. 458.317 or s. 459.0075,  
16 a physician licensed under chapter 458 or chapter 459, an  
17 advanced registered nurse practitioner certified under s.  
18 464.012, or a registered nurse licensed under s. 464.008 or s.  
19 464.009.

20 (b) Comply with the minimum standards of practice for  
21 nurses and be subject to disciplinary action for violations of  
22 s. 464.018, except that the scope of practice for certified  
23 volunteers shall be limited to primary and preventive health  
24 care, or as further defined by board rule.

25 (c) Work only in a setting for which there are  
26 provisions for professional liability coverage for acts or  
27 omissions of the retired volunteer nurse.

28 (d) Provide services under the certificate only in  
29 settings whose sponsors have been approved by the board.

30 (5) A retired volunteer nurse receiving certification  
31 from the board shall not:

- 1           (a) Administer controlled substances.  
2           (b) Supervise other nurses.  
3           (c) Receive monetary compensation.  
4           (6) A retired volunteer nurse certified under this  
5 section may practice only in board-approved settings in public  
6 agencies or institutions or in nonprofit agencies or  
7 institutions meeting the requirements of s. 501(c)(3) of the  
8 Internal Revenue Code, which agencies or institutions are  
9 located in areas of critical nursing need as determined by the  
10 board. Determination of underserved areas shall be made by  
11 the board after consultation with the Department of Health,  
12 the Department of Children and Family Services, the Agency for  
13 Health Care Administration, and the Department of Elderly  
14 Affairs; however, such determination shall include, but not be  
15 limited to, health manpower shortage areas designated by the  
16 United States Department of Health and Human Services. The  
17 sponsoring agencies desiring to use certified retired  
18 volunteer nurses shall submit to the board verification of  
19 their status under s. 501(c)(3) of the Internal Revenue Code,  
20 the sites at which such volunteer nurses would work, the  
21 duties and scope of practice intended for such volunteer  
22 nurses, and the training or skills validation for such  
23 volunteer nurses.  
24           (7) The retired volunteer nurse certificate shall be  
25 valid for 2 years, and a certificateholder may reapply for a  
26 certificate so long as the certificateholder continues to meet  
27 the eligibility requirements of this section. Any  
28 legislatively mandated continuing education on specific topics  
29 must be completed by the certificateholder prior to renewal;  
30 otherwise, the provisions of s. 464.013 do not apply.  
31

1 Section 82. Subsection (12) is added to section  
2 464.022, Florida Statutes, to read:

3 464.022 Exceptions.--No provision of this chapter  
4 shall be construed to prohibit:

5 (12) The practice of nursing by any legally qualified  
6 nurse of another state whose employment requires the nurse to  
7 accompany and care for a patient temporarily residing in this  
8 state for not more than 30 consecutive days, provided the  
9 patient is not in an inpatient setting, the board is notified  
10 prior to arrival of the patient and nurse, the nurse has the  
11 standing physician orders and current medical status of the  
12 patient available, and prearrangements with the appropriate  
13 licensed health care providers in this state have been made in  
14 case the patient needs placement in an inpatient setting.

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

17 465.003 Definitions.--As used in this chapter, the  
18 term:

19 (4) "Department" means the Department of Health  
20 ~~Business and Professional Regulation~~.

21 Section 84. Subsections (1) and (2) of section  
22 465.004, Florida Statutes, are amended to read:

23 465.004 Board of Pharmacy.--

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

27 (2) Seven ~~Five~~ members of the board must be licensed  
28 pharmacists who are residents of this state and who have been  
29 engaged in the practice of the profession of pharmacy in this  
30 state for at least 4 years and, to the extent practicable,  
31 represent the various pharmacy practice settings. Of the



1 pharmacist members, one must be on the full-time faculty of a  
 2 pharmacy school in this state, one must be currently engaged  
 3 in the practice of pharmacy in a community pharmacy, one must  
 4 be currently engaged in the practice of pharmacy in a Class II  
 5 institutional pharmacy or a Modified Class II institutional  
 6 pharmacy, and four shall be pharmacists licensed in this state  
 7 irrespective of practice setting. The remaining two members  
 8 must be residents of the state who have never been licensed as  
 9 pharmacists and who are in no way connected with the practice  
 10 of the profession of pharmacy. No person may be appointed as  
 11 a consumer ~~lay~~ member who is in any way connected with a drug  
 12 manufacturer or wholesaler. At least one member of the board  
 13 must be 60 years of age or older.

14 Section 85. Section 465.014, Florida Statutes, is  
 15 amended to read:

16 465.014 Pharmacy technician.--No person other than a  
 17 licensed pharmacist or pharmacy intern may engage in the  
 18 practice of the profession of pharmacy, except that a licensed  
 19 pharmacist may delegate to nonlicensed pharmacy technicians  
 20 those duties, tasks, and functions which do not fall within  
 21 the purview of s. 465.003(12). All such delegated acts shall  
 22 be performed under the direct supervision of a licensed  
 23 pharmacist who shall be responsible for all such acts  
 24 performed by persons under his supervision. No licensed  
 25 pharmacist shall supervise more than one pharmacy technician  
 26 unless otherwise permitted by the guidelines adopted by the  
 27 board. The board shall establish guidelines to be followed by  
 28 licensees or permittees in determining the circumstances under  
 29 which a licensed pharmacist may supervise more than one but  
 30 not more than three ~~two~~ pharmacy technicians.

31

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

3 465.0156 Registration of nonresident pharmacies.--

4 (1) Any pharmacy which is located outside this state  
5 and which ships, mails, or delivers, in any manner, a  
6 dispensed medicinal drug into this state shall be considered a  
7 nonresident pharmacy, shall be registered with the board,  
8 shall provide pharmacy services at a high level of protection  
9 and competence, and shall disclose to the board the following  
10 specific information:

11 (a) That it maintains at all times a valid, unexpired  
12 license, permit, or registration to operate the pharmacy in  
13 compliance with the laws of the state in which the dispensing  
14 facility is located and from which the medicinal drugs shall  
15 be dispensed;

16 (b) The location, names, and titles of all principal  
17 corporate officers and the pharmacist who serves as the  
18 prescription department manager for all pharmacists who are  
19 dispensing medicinal drugs to residents of this state. This  
20 disclosure shall be made ~~on an annual basis and~~ within 30 days  
21 after any change of ~~office~~ location, corporate officer, or  
22 pharmacist serving as the prescription department manager for  
23 dispensing medicinal drugs to residents of this state;

24 (c) That it complies with all lawful directions and  
25 requests for information from the regulatory or licensing  
26 agency of all states in which it is licensed as well as with  
27 all requests for information made by the board pursuant to  
28 this section. It shall respond directly to all communications  
29 from the board concerning emergency circumstances arising from  
30 errors in the dispensing of medicinal drugs to the residents  
31 of this state;

1 (d) That it maintains its records of medicinal drugs  
2 dispensed to patients in this state so that the records are  
3 readily retrievable from the other business records of the  
4 pharmacy and from the records of other medicinal drugs  
5 dispensed; and

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

13 Section 87. Paragraph (o) of subsection (1) of section  
14 465.016, Florida Statutes, is amended to read:

15 465.016 Disciplinary actions.--

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

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

28 Section 88. Section 465.035, Florida Statutes, is  
29 amended to read:

30 465.035 Dispensing of medicinal ~~medical~~ drugs pursuant  
31 to facsimile of prescription.--

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

7           (a) In the course of the transaction the pharmacy  
8 complies with laws and administrative rules relating to  
9 pharmacies and pharmacists.

10           (b) Except in the case of the transmission of a  
11 prescription by a person authorized by law to prescribe  
12 medicinal drugs:

13           1. The facsimile system making the transmission  
14 provides the pharmacy receiving the transmission with audio  
15 communication via telephonic, electronic, or similar means  
16 with the person presenting the prescription.

17           2. At the time of the delivery of the medicinal drugs,  
18 the pharmacy has in its possession the original prescription  
19 for the medicinal drug involved.

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

23           (2) ~~This section does not apply to the dispensing of~~  
24 ~~Controlled substances listed in Schedule II as defined in s.~~  
25 ~~893.03(2) may be dispensed as provided in this section to the~~  
26 ~~extent allowed by 21 C.F.R. s. 1306.11.~~

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

29           466.003 Definitions.--As used in this chapter:

30           (7) "Department" means the Department of Health  
31 ~~Business and Professional Regulation.~~

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

3           466.006 Examination of dentists.--

4           (3) If an applicant is a graduate of a dental college  
5 or school not accredited in accordance with paragraph (2)(b)  
6 or of a dental college or school not approved by the board, he  
7 shall not be entitled to take the examinations required in  
8 this section to practice dentistry until he ~~meets the~~  
9 ~~following requirements:~~

10           ~~(a) Furnishes evidence to the board of a score on the~~  
11 ~~examination of the National Board of Dental Examiners taken~~  
12 ~~within 10 years of the date of application, which score is at~~  
13 ~~least equal to the minimum score required for certification by~~  
14 ~~that board. If the applicant fails to attain the score needed~~  
15 ~~for certification on part I of the national board examination~~  
16 ~~in two attempts, or fails to attain the score needed for~~  
17 ~~certification on part II of the national board examination in~~  
18 ~~two attempts, he shall not be entitled to take the laboratory~~  
19 ~~model examination authorized in paragraph (c).~~

20           ~~(b) Submits, upon meeting the requirements of~~  
21 ~~paragraph (a), the following credentials for review by the~~  
22 ~~board:~~

- 23           ~~1. Transcripts of predental education and dental~~  
24 ~~education totaling 7 academic years of postsecondary~~  
25 ~~education, including 4 academic years of dental education; and~~  
26           ~~2. A dental school diploma.~~

27  
28 ~~The board shall not review the credentials specified in this~~  
29 ~~paragraph until the applicant has furnished to the board~~  
30 ~~evidence of satisfactory completion of the National Board of~~  
31 ~~Dental Examiners examination as required by paragraph (a).~~

1 ~~Such credentials shall be submitted in a manner provided by~~  
 2 ~~rule of the board. The board shall approve those credentials~~  
 3 ~~which comply with this paragraph and with rules of the board~~  
 4 ~~adopted pursuant hereto. The provisions of this paragraph~~  
 5 ~~notwithstanding, an applicant who cannot produce the~~  
 6 ~~credentials required by this paragraph as a result of~~  
 7 ~~political or other conditions in the country in which he~~  
 8 ~~received his education may seek approval by the board of his~~  
 9 ~~educational background prior to complying with the provisions~~  
 10 ~~of paragraph (a) by submitting such other reasonable and~~  
 11 ~~reliable evidence as may be set forth by rule of the board in~~  
 12 ~~lieu of the credentials required in this paragraph. The board~~  
 13 ~~shall not accept such alternative evidence until it has made a~~  
 14 ~~reasonable attempt to obtain the credentials required by this~~  
 15 ~~paragraph from the educational institutions the applicant is~~  
 16 ~~alleged to have attended, unless the board is otherwise~~  
 17 ~~satisfied that such credentials cannot be obtained.~~

18 ~~(c)~~ satisfies one of the following:

19 (a)~~1.~~ Completes a program of study, as defined by the  
 20 board by rule, at an accredited American dental school and  
 21 demonstrates receipt of a D.D.S. or D.M.D. from said school;  
 22 or

23 (b)~~2.~~ Completes a 2-year supplemental dental education  
 24 program at an accredited dental school and receives a dental  
 25 diploma, degree, or certificate as evidence of program  
 26 completion. ~~or~~

27 ~~3.~~ Exhibits manual skills on a laboratory model  
 28 pursuant to rules of the board. The board may charge a  
 29 reasonable fee, not to exceed \$250, to cover the costs of  
 30 administering the exhibition of competency in manual skills.  
 31 ~~If the applicant fails to exhibit competent clinical skills in~~

1 ~~two attempts, he shall not be entitled to take the~~  
 2 ~~examinations authorized in subsection (4). Effective December~~  
 3 ~~31, 1991, no applicant may fulfill the requirements of this~~  
 4 ~~paragraph by taking the laboratory model exam. On or after~~  
 5 ~~said date, applicants must complete the educational~~  
 6 ~~requirements set forth in subparagraph 1. or subparagraph 2.~~  
 7  
 8 ~~The provisions of paragraph (a) and subparagraph (c)3.~~  
 9 ~~notwithstanding, an applicant who is a graduate of a dental~~  
 10 ~~college or school not accredited in accordance with paragraph~~  
 11 ~~(2)(b) and who has failed to pass part I or part II of the~~  
 12 ~~national board examination in two attempts may take the~~  
 13 ~~laboratory model exam required in subparagraph (c)3. if the~~  
 14 ~~board finds that he has taken remedial training in the subject~~  
 15 ~~areas in which he tested below standard on said national board~~  
 16 ~~examination and that he has subsequently passed that part of~~  
 17 ~~such exam which he had previously failed, provided that no~~  
 18 ~~applicant shall be entitled to this exception who fails either~~  
 19 ~~part of the national board examination a total of three times.~~  
 20 ~~Further, an applicant who has failed to pass the laboratory~~  
 21 ~~model exam required in subparagraph (c)3. in two attempts may~~  
 22 ~~be allowed by the board to make a third and final attempt if~~  
 23 ~~the board finds that he has taken remedial training in~~  
 24 ~~clinical subjects in which he tested below standard. Upon~~  
 25 ~~passing said laboratory model exam, the applicant may take the~~  
 26 ~~licensure examinations required in subsection (4). Further,~~  
 27 ~~the educational requirements found in subparagraph (b)1. do~~  
 28 ~~not apply to persons who began dental education prior to~~  
 29 ~~October 1, 1983, and such persons shall be governed by the~~  
 30 ~~educational requirements in existence on September 30, 1983.~~  
 31

1           Section 91. Section 466.017, Florida Statutes, is  
2 amended to read:

3           466.017 Prescription of drugs; anesthesia.--

4           (1) A dentist shall have the right to prescribe drugs  
5 or medicine, subject to limitations imposed by law; perform  
6 surgical operations within the scope of his practice and  
7 training; administer general or local anesthesia or sedation,  
8 subject to limitations imposed by law; and use such appliances  
9 as may be necessary to the proper practice of dentistry.

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

13          (3) The board shall adopt rules which:

14           (a) Define general anesthesia.

15           (b) Specify which methods of general or local  
16 anesthesia or sedation, if any, are limited or prohibited for  
17 use by dentists.

18           (c) Establish minimal training, education, experience,  
19 or certification for a dentist to use general anesthesia or  
20 sedation, which rules may exclude, in the board's discretion,  
21 those dentists using general anesthesia or sedation in a  
22 competent and effective manner as of the effective date of the  
23 rules.

24           (d) Establish further requirements relating to the use  
25 of general anesthesia or sedation, including, but not limited  
26 to, office equipment and the training of dental assistants or  
27 dental hygienists who work with dentists using general  
28 anesthesia or sedation.

29           (e) Establish an administrative mechanism enabling the  
30 board to verify compliance with training, education,  
31 experience, equipment, or certification requirements of



1 dentists, dental hygienists, and dental assistants adopted  
 2 pursuant to this subsection. The board may charge a fee to  
 3 defray the cost of verifying compliance with requirements  
 4 adopted pursuant to this paragraph.

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

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

17 (4)(5) A dentist who administers or employs the use of  
 18 any form of anesthesia must possess a certification in either  
 19 basic cardiopulmonary resuscitation for health professionals  
 20 or advanced cardiac life support approved by the American  
 21 Heart Association or the American Red Cross or an equivalent  
 22 agency-sponsored course with recertification every 2 years.  
 23 Each dental office which uses any form of anesthesia must have  
 24 immediately available and in good working order such  
 25 resuscitative equipment, oxygen, and other resuscitative drugs  
 26 as are specified by rule of the board in order to manage  
 27 possible adverse reactions.

28 (5)(6) A licensed dentist may utilize an X-ray  
 29 machine, expose dental X-ray films, and interpret or read such  
 30 films. The provisions of part IV of chapter 468 to the  
 31 contrary notwithstanding, a licensed dentist may authorize or

1 direct a dental assistant to operate such equipment and expose  
2 such films under his direction and supervision, pursuant to  
3 rules adopted by the board in accordance with s. 466.024 which  
4 ensure that said assistant is competent by reason of training  
5 and experience to operate said equipment in a safe and  
6 efficient manner. The board may charge a fee not to exceed  
7 \$35 to defray the cost of verifying compliance with  
8 requirements adopted pursuant to this section.

9 (6)~~(7)~~ The provisions of s. 465.0276 notwithstanding,  
10 a dentist need not register with the board or comply with the  
11 continuing education requirements of that section if the  
12 dentist confines his dispensing activity to the dispensing of  
13 fluorides and chlorohexidine rinse solutions; provided that  
14 the dentist complies with and is subject to all laws and rules  
15 applicable to pharmacists and pharmacies, including, but not  
16 limited to, chapters 465, 499, and 893, and all applicable  
17 federal laws and regulations, when dispensing such products.

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

20 466.028 Grounds for disciplinary action; action by the  
21 board.--

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

25 (r) Prescribing, procuring, ordering, dispensing,  
26 administering, supplying, selling, or giving any drug which is  
27 a Schedule II ~~an~~ amphetamine or a Schedule II sympathomimetic  
28 amine drug or a compound thereof ~~designated as a Schedule II~~  
29 ~~controlled substance~~, pursuant to chapter 893, to or for any  
30 person except for the clinical investigation of the effects of  
31 such drugs or compounds when an investigative protocol

1 therefor is submitted to, and reviewed and approved by, the  
2 board before such investigation is begun.

3 (hh) Failing to report to the department ~~Division of~~  
4 ~~Medical Quality Assurance~~ any licensee ~~physician licensed~~  
5 under chapter 458 or ~~osteopathic physician licensed under~~  
6 chapter 459 who the dentist knows has violated the grounds for  
7 disciplinary action set out in the law under which that person  
8 ~~physician or osteopathic physician~~ is licensed and who  
9 provides health care services in a facility licensed under  
10 chapter 395, or a health maintenance organization certificated  
11 under part I of chapter 641, in which the dentist also  
12 provides services.

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

15 468.1115 Exemptions.--

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

17 (a) Students actively engaged in a training program,  
18 if such persons are acting under the direct supervision of a  
19 licensed speech-language pathologist or a licensed  
20 audiologist.

21 (b) Persons practicing a licensed profession or  
22 operating within the scope of their profession, such as  
23 doctors of medicine, clinical psychologists, nurses, or  
24 hearing aid specialists, who are properly licensed under the  
25 laws of this state.

26 (c) Persons certified in the areas of speech-language  
27 impairment or hearing impairment ~~A person licensed~~ in this  
28 state under chapter 231 when engaging in the profession for  
29 which they are certified ~~he is licensed~~, or any person under  
30 the direct supervision of such a certified person, or of a  
31 licensee under this chapter, when the person under such

1 supervision is performing hearing screenings in a school  
2 setting for prekindergarten through grade 12 ~~the licensee when~~  
3 ~~rendering services within the scope of the profession of the~~  
4 ~~licensee.~~

5 (d) Laryngectomized individuals, rendering guidance  
6 and instruction to other laryngectomized individuals, who are  
7 under the supervision of a speech-language pathologist  
8 licensed under this part or of a physician licensed under  
9 chapter 458 or chapter 459 and qualified to perform this  
10 surgical procedure.

11 (e) Persons licensed by another state as a  
12 speech-language pathologist or audiologist who provide  
13 services within the applicable scope of practice set forth in  
14 s. 468.1125(6) or (7) for no more than 5 calendar days per  
15 month or 15 calendar days per year under the direct  
16 supervision of a Florida-licensed speech-language pathologist  
17 or audiologist. A person whose state of residence does not  
18 license speech-language pathologists or audiologists may also  
19 qualify for this exemption, if the person holds a certificate  
20 of clinical competence from the American Speech-Language and  
21 Hearing Association and meets all other requirements of this  
22 paragraph. In either case, the board shall hold the  
23 supervising Florida licensee fully accountable for the  
24 services provided by the out-of-state licensee.

25 (f) Nonlicensed persons working in a hospital setting  
26 who provide newborn infant hearing screenings, so long as  
27 training, clinical interpretation of the screenings, and the  
28 protocol for followup of infants who fail in-hospital  
29 screenings are provided by a licensed audiologist.

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

1           468.1125 Definitions.--As used in this part, the term:

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

4           Section 95. Section 468.1155, Florida Statutes, is  
5 amended to read:

6           468.1155 Provisional license; requirements.--

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

11           (b) Individuals who are required to hold a provisional  
12 license under paragraph (a) shall apply to the department and  
13 be certified by the board for licensure prior to initiating  
14 the professional employment experience required pursuant to s.  
15 468.1165. ~~Any person desiring a provisional license to~~  
16 ~~practice speech-language pathology or audiology shall apply to~~  
17 ~~the department.~~

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

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

23           (b) Received a master's degree with a major emphasis  
24 in speech-language pathology from an institution of higher  
25 learning which, at the time the applicant was enrolled and  
26 graduated, was accredited by an accrediting agency recognized  
27 by the Commission on Recognition of Postsecondary  
28 Accreditation or from an institution which is publicly  
29 recognized as a member in good standing with the Association  
30 of Universities and Colleges of Canada. An applicant who  
31 graduated from a program at a university or college outside

1 the United States or Canada must ~~shall~~ present documentation  
2 of the determination of equivalency to standards established  
3 ~~programs accredited~~ by the Commission on Recognition of  
4 Postsecondary Accreditation in order to qualify. The  
5 applicant must ~~shall~~ have completed ~~a total of~~ 60 semester  
6 hours that ~~which~~ include:

7 1. Fundamental information applicable to the normal  
8 development and use of speech, hearing, and language; ~~and~~  
9 information about training in management of speech, hearing,  
10 and language disorders; ~~and which provide~~ information  
11 supplementary to these fields.

12 2. Six semester hours in audiology.

13 3. Thirty of the required 60 ~~these~~ semester hours  
14 ~~shall be~~ in courses acceptable toward a graduate degree by the  
15 college or university in which these courses were taken, ~~of~~  
16 which these 30 semester hours, 24 semester hours must ~~shall~~ be  
17 in speech-language pathology.

18 (c) Completed 300 supervised clinical clock hours ~~of~~  
19 ~~supervised clinical practice~~ with 200 clock hours in the area  
20 of speech-language pathology. The supervised clinical clock  
21 hours practice shall be completed within the training  
22 institution or one of its cooperating programs.

23 (3) The department shall issue a provisional license  
24 to practice audiology to each applicant who ~~whom~~ the board  
25 certifies has:

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

28 (b) Received a master's degree with a major emphasis  
29 in audiology from an institution of higher learning which at  
30 the time the applicant was enrolled and graduated was  
31 accredited by an accrediting agency recognized by the

1 Commission on Recognition of Postsecondary Accreditation or  
 2 from an institution which is publicly recognized as a member  
 3 in good standing with the Association of Universities and  
 4 Colleges of Canada. An applicant who graduated from a program  
 5 at a university or college outside the United States or Canada  
 6 ~~must shall~~ present documentation of the determination of  
 7 equivalency to standards established ~~programs accredited~~ by  
 8 the Commission on Recognition of Postsecondary Accreditation  
 9 in order to qualify. The applicant ~~must shall~~ have completed  
 10 ~~a total of~~ 60 semester hours that ~~which~~ include:

11 1. Fundamental information applicable to the normal  
 12 development and use of speech, hearing, and language; ~~and~~  
 13 information about training in management of speech, hearing,  
 14 and language disorders; ~~and which provide~~ information  
 15 supplementary to these fields.

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

17 3. Thirty of the required 60 ~~these~~ semester hours  
 18 ~~shall be~~ in courses acceptable toward a graduate degree by the  
 19 college or university in which these courses were taken, ~~of~~  
 20 which ~~these 30 semester hours,~~ 24 semester hours ~~must shall~~ be  
 21 in audiology.

22 (c) Completed 300 supervised clinical clock hours ~~of~~  
 23 ~~supervised clinical practice~~ with 200 clock hours in the area  
 24 of audiology. The supervised clinical clock hours ~~practice~~  
 25 shall be completed within the training institution or one of  
 26 its cooperating programs.

27 (4) An applicant for a provisional license who has  
 28 received a master's degree with a major emphasis in  
 29 speech-language pathology as provided in subsection (2), or  
 30 audiology as provided in subsection (3), and who seeks  
 31 licensure in the area in which the applicant is not currently

1 licensed, must have completed 30 semester hours in courses  
2 acceptable toward a graduate degree and 200 supervised  
3 clinical clock hours in the second discipline from an  
4 accredited institution.

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

9 Section 96. Paragraph (a) of subsection (2) and  
10 paragraph (a) of subsection (3) of section 468.1185, Florida  
11 Statutes, are amended to read:

12 468.1185 Licensure.--

13 (2) The board shall certify for licensure any  
14 applicant who has:

15 (a) Satisfied the education and supervised clinical  
16 clock hour practice requirements of s. 468.1155.

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

20 (a) Holds a valid license or certificate in another  
21 state or territory of the United States to practice the  
22 profession for which the application for licensure is made, if  
23 the criteria for issuance of such license were substantially  
24 equivalent to or more stringent than the licensure criteria  
25 which existed in this state at the time the license was  
26 issued; or

27 Section 97. Section 468.1195, Florida Statutes, is  
28 amended to read:

29 468.1195 Renewal of license or certificate; continuing  
30 education requirements; standards for approval of continuing  
31 education providers.--



1           (1) The department shall renew a license or  
2 certificate upon receipt of the renewal application, renewal  
3 fee, and proof satisfactory to the board that, ~~during the 2~~  
4 ~~years prior to the application for renewal,~~ the licensee or  
5 certificateholder has completed the ~~participated in not less~~  
6 ~~than 20 hours of~~ continuing education requirements established  
7 by the board in each area of licensure or certification. A  
8 licensee or certificateholder who receives initial licensure  
9 or certification 6 months or less before the end of the  
10 biennial licensure cycle is exempt from the continuing  
11 education requirements for the first renewal of the license or  
12 certificate.

13           (2) The department shall adopt rules establishing a  
14 procedure for the biennial renewal of licenses and  
15 certificates.

16           (3) The board may prescribe ~~shall~~ by rule ~~prescribe~~  
17 continuing education, not to exceed 60 hours biennially in  
18 each area of licensure or certification, as a condition for  
19 renewal of a license or a certificate. The board may  
20 establish by rule standards for the approval of such  
21 continuing education activities. The board may make exception  
22 from the requirements of continuing education in emergency or  
23 hardship cases.

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

26           Section 98. Section 468.1201, Florida Statutes, is  
27 created to read:

28           468.1201 Requirement for instruction on human  
29 immunodeficiency virus and acquired immune deficiency  
30 syndrome.--The board shall require, as a condition of granting  
31 a license under this part, that an applicant making initial

1 application for licensure complete an education course  
2 acceptable to the board on human immunodeficiency virus and  
3 acquired immune deficiency syndrome. An applicant who has not  
4 taken a course at the time of licensure shall, upon submission  
5 of an affidavit showing good cause, be allowed 6 months to  
6 complete this requirement.

7 Section 99. Subsections (2), (3), and (4) of section  
8 468.1215, Florida Statutes, are amended to read:

9 468.1215 Speech-language pathology assistant and  
10 audiology assistant; certification.--

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

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

16 (b) Completed at least 24 semester hours of coursework  
17 as approved by the board at an institution accredited by an  
18 accrediting agency recognized by the Commission on Recognition  
19 of Postsecondary Accreditation.

20 (3) The board, by rule, shall establish minimum  
21 education and on-the-job training and supervision requirements  
22 for certification as a speech-language pathology assistant or  
23 audiology assistant.

24 (4) The provisions of this section shall not apply to  
25 any student, intern, or trainee performing speech-language  
26 pathology or audiology services while completing the  
27 supervised clinical clock hours ~~experience~~ as required in s.  
28 468.1155.

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

31

1           468.1245 Itemized listing of prices; delivery of  
2 hearing aid; receipt ~~contract~~; guarantee; packaging;  
3 disclaimer.--

4           (2) Any licensee who fits and sells a hearing aid  
5 shall, at the time of delivery, provide the purchaser with a  
6 receipt ~~contract~~ containing the seller's signature, the  
7 address of his regular place of business, and his license or  
8 certification number, if applicable, together with the brand,  
9 model, manufacturer or manufacturer's identification code, and  
10 serial number of the hearing aid furnished and the amount  
11 charged for the hearing aid. The receipt ~~contract~~ also shall  
12 specify whether the hearing aid is new, used, or rebuilt, and  
13 shall specify the length of time and other terms of the  
14 guarantee and by whom the hearing aid is guaranteed. When the  
15 client has requested an itemized list of prices, the receipt  
16 ~~contract~~ shall also provide an itemization of the total  
17 purchase price, including, but not limited to, the cost of the  
18 aid, ear mold, batteries, and other accessories, and the cost  
19 of any services. Notice of the availability of this service  
20 must ~~shall~~ be displayed in a conspicuous manner in the office.  
21 The receipt also shall state that any complaint concerning the  
22 hearing aid and its guarantee ~~therefor~~, if not reconciled with  
23 the licensee from whom the hearing aid was purchased, should  
24 be directed by the purchaser to the department ~~Agency for~~  
25 ~~Health Care Administration~~. The address and telephone number  
26 of such office shall be stated on the receipt ~~contract~~.

27           Section 101. Section 468.1295, Florida Statutes, is  
28 amended to read:

29           468.1295 Disciplinary proceedings.--

30           (1) The following acts constitute grounds for both  
31 disciplinary actions as set forth in subsection (2) and cease

1 and desist or other related actions by the department as set  
2 forth in s. 455.228:—

3 (a) Procuring or attempting to procure a license by  
4 bribery, by fraudulent misrepresentation, or through an error  
5 of the department or the board.

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

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

13 (d) Making or filing a report or record which the  
14 licensee knows to be false, intentionally or negligently  
15 failing to file a report or records required by state or  
16 federal law, willfully impeding or obstructing such filing, or  
17 inducing another person to impede or obstruct such filing.  
18 Such report or record shall include only those reports or  
19 records which are signed in one's capacity as a licensed  
20 speech-language pathologist or audiologist.

21 (e) Advertising goods or services in a manner which is  
22 fraudulent, false, deceptive, or misleading in form or  
23 content.

24 (f) Being proven guilty of fraud or deceit or of  
25 negligence, incompetency, or misconduct in the practice of  
26 speech-language pathology or audiology.

27 (g) Violating a lawful order of the board or  
28 department previously entered in a disciplinary hearing, or  
29 failing to comply with a lawfully issued subpoena of the board  
30 or department.

31

1 (h) Practicing with a revoked, suspended, inactive, or  
2 delinquent license.

3 (i) Using, or causing or promoting the use of, any  
4 advertising matter, promotional literature, testimonial,  
5 guarantee, warranty, label, brand, insignia, or other  
6 representation, however disseminated or published, which is  
7 misleading, deceiving, or untruthful.

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

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

15 (l) Aiding, assisting, procuring, employing, or  
16 advising any licensee or business entity ~~licensed person~~ to  
17 practice speech-language pathology or audiology contrary to  
18 this part, chapter 455, or any to a rule adopted pursuant  
19 thereto of the department or the board.

20 (m) Violating any provision ~~Violation or repeated~~  
21 ~~violation~~ of this part or ~~of chapter 455,~~ or any rule ~~rules~~  
22 adopted pursuant thereto.

23 (n) Misrepresenting the ~~Misrepresentation of~~  
24 professional services available in the fitting, sale,  
25 adjustment, service, or repair of a hearing aid, or using ~~use~~  
26 ~~of~~ any other term or title which might connote the  
27 availability of professional services when such use is not  
28 accurate.

29 (o) Representing, advertising, or implying  
30 ~~Representation, advertisement, or implication~~ that a hearing  
31 aid or its repair is guaranteed without providing full

1 disclosure of the identity of the guarantor; the nature,  
2 extent, and duration of the guarantee; and the existence of  
3 conditions or limitations imposed upon the guarantee.

4 (p) Representing, directly or by implication, that a  
5 hearing aid utilizing bone conduction has certain specified  
6 features, such as the absence of anything in the ear or  
7 leading to the ear, or the like, without disclosing clearly  
8 and conspicuously that the instrument operates on the bone  
9 conduction principle and that in many cases of hearing loss  
10 this type of instrument may not be suitable.

11 (q) Stating or implying that the use of any hearing  
12 aid will improve or preserve hearing or prevent or retard the  
13 progression of a hearing impairment or that it will have any  
14 similar or opposite effect.

15 (r) Making any statement regarding the cure of the  
16 cause of a hearing impairment by the use of a hearing aid.

17 (s) Representing or implying that a hearing aid is or  
18 will be "custom-made," "made to order," or  
19 "prescription-made," or in any other sense specially  
20 fabricated for an individual ~~person~~, when such is not the  
21 case.

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

27 (u) Failing to notify the department in writing of a  
28 change in current mailing and place-of-practice address within  
29 30 days after such change ~~Failure to submit to the board on an~~  
30 ~~annual basis, or such other basis as may be provided by rule,~~

31

1 ~~certification of testing and calibration of audiometric~~  
2 ~~testing equipment on the form approved by the board.~~

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

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

8 (x) Practicing or offering to practice beyond the  
9 scope permitted by law or accepting and performing  
10 professional responsibilities the licensee or  
11 certificateholder knows, or has reason to know, the licensee  
12 or certificateholder is not competent to perform.

13 (y) Aiding, assisting, procuring, or employing any  
14 unlicensed person to practice speech-language pathology or  
15 audiology.

16 (z) Delegating or contracting for the performance of  
17 professional responsibilities by a person when the licensee  
18 delegating or contracting for performance of such  
19 responsibilities knows, or has reason to know, such person is  
20 not qualified by training, experience, and authorization to  
21 perform them.

22 (aa) Committing any act upon a patient or client which  
23 would constitute sexual battery or which would constitute  
24 sexual misconduct as defined pursuant to s. 468.1296.

25 (bb) Being unable to practice the profession for which  
26 he or she is licensed or certified under this chapter with  
27 reasonable skill or competence as a result of any mental or  
28 physical condition or by reason of illness, drunkenness, or  
29 use of drugs, narcotics, chemicals, or any other substance.  
30 In enforcing this paragraph, upon a finding by the secretary,  
31 his or her designee, or the board that probable cause exists

1 to believe that the licensee or certificateholder is unable to  
 2 practice the profession because of the reasons stated in this  
 3 paragraph, the department shall have the authority to compel a  
 4 licensee or certificateholder to submit to a mental or  
 5 physical examination by a physician, psychologist, clinical  
 6 social worker, marriage and family therapist, or mental health  
 7 counselor designated by the department or board. If the  
 8 licensee or certificateholder refuses to comply with the  
 9 department's order directing the examination, such order may  
 10 be enforced by filing a petition for enforcement in the  
 11 circuit court in the circuit in which the licensee or  
 12 certificateholder resides or does business. The licensee or  
 13 certificateholder against whom the petition is filed shall not  
 14 be named or identified by initials in any public court records  
 15 or documents, and the proceedings shall be closed to the  
 16 public. The department shall be entitled to the summary  
 17 procedure provided in s. 51.011. A licensee or  
 18 certificateholder affected under this paragraph shall at  
 19 reasonable intervals be afforded an opportunity to demonstrate  
 20 that he or she can resume the competent practice for which he  
 21 or she is licensed or certified with reasonable skill and  
 22 safety to patients.

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

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

28 (b) Revocation or Suspension or permanent revocation  
 29 of a license.

30 (c)~~(d)~~ Issuance of a reprimand.  
 31



1            ~~(d)(f)~~ Restriction of the authorized scope of  
2 practice.

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

5            ~~(f)(e)~~ Placement of the licensee or certificateholder  
6 on probation for a period of time and subject to such  
7 conditions as the board may specify. Those conditions may  
8 include, but are not limited to, including requiring the  
9 licensee or certificateholder ~~speech-language pathologist or~~  
10 ~~audiologist~~ to undergo treatment, attend continuing education  
11 courses, submit to be reexamined, or to work under the  
12 supervision of another licensee, or satisfy any terms which  
13 are reasonably tailored to the violation found ~~speech-language~~  
14 ~~pathologist or audiologist.~~

15            (g) Corrective action.

16            (3) The department shall reissue the license or  
17 certificate which ~~of a speech-language pathologist or~~  
18 ~~audiologist who~~ has been suspended or revoked ~~disciplined~~ upon  
19 certification by the board that the licensee or  
20 certificateholder ~~person~~ has complied with all of the terms  
21 and conditions set forth in the final order.

22            Section 102. Section 468.1296, Florida Statutes, is  
23 created to read:

24            468.1296 Sexual misconduct.--Sexual misconduct by any  
25 person licensed or certified under this chapter, in the  
26 practice of his profession, is prohibited. Sexual misconduct  
27 shall be defined by rule of the board.

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

30            468.1655 Definitions.--As used in this part:

31

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

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

5           468.1695 Licensure by examination.--

6           (1) Any person desiring to be licensed as a nursing  
7 home administrator shall apply to the department to take the  
8 licensure examination. The examination shall be given at  
9 least two ~~four~~ times a year and shall include, but not be  
10 limited to, questions on the subjects of nursing home  
11 administration such as:

12           (a) Applicable standards of nursing home health and  
13 safety;

14           (b) Federal, state, and local health and safety laws  
15 and rules;

16           (c) General administration;

17           (d) Psychology of patient care;

18           (e) Principles of medical care;

19           (f) Personal and social care;

20           (g) Therapeutic and supportive care and services in  
21 long-term care;

22           (h) Departmental organization and management;

23           (i) Community interrelationships; and

24           (j) Terminology.

25  
26 The board may, by rule, adopt use of a national examination in  
27 lieu of part or all of the examination required by this part.

28           Section 105. Subsections (2), (4), and (5) of section  
29 468.203, Florida Statutes, are amended to read:

30           468.203 Definitions.--As used in this act, the term:  
31

1           (2) "Board" means the Board of Occupational Therapy  
2 Practice Medicine.

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

5           (a) For the purposes of this subsection:

6           1. "Achieving functional outcomes" means to maximize  
7 the independence and the maintenance of health of any  
8 individual who is limited by a physical injury or illness, a  
9 cognitive impairment, a psychosocial dysfunction, a mental  
10 illness, a developmental or a learning disability, or an  
11 adverse environmental condition.

12           2. "Assessment" means the use of skilled observation  
13 or the administration and interpretation of standardized or  
14 nonstandardized tests and measurements to identify areas for  
15 occupational therapy services.

16           (b) Occupational therapy services include, but are not  
17 limited to:

18           1. The assessment, treatment, and education of or  
19 consultation with the individual, family, or other persons.

20           2. Interventions directed toward developing daily  
21 living skills, work readiness or work performance, play skills  
22 or leisure capacities, or enhancing educational performance  
23 skills.

24           3. Providing for the development of: sensory-motor,  
25 perceptual, or neuromuscular functioning; range of motion; or  
26 emotional, motivational, cognitive, or psychosocial components  
27 of performance.

28  
29 These services may require assessment of the need for use of  
30 interventions such as the design, development, adaptation,  
31 application, or training in the use of assistive technology

1 devices; the design, fabrication, or application of  
 2 rehabilitative technology such as selected orthotic devices;  
 3 training in the use of assistive technology; orthotic or  
 4 prosthetic devices; the application of physical agent  
 5 modalities as an adjunct to or in preparation for purposeful  
 6 activity; the use of ergonomic principles; the adaptation of  
 7 environments and processes to enhance functional performance;  
 8 or the promotion of health and wellness ~~the evaluation and~~  
 9 ~~treatment of individuals whose ability to cope with the tasks~~  
 10 ~~of living are threatened or impaired by developmental~~  
 11 ~~deficits, the aging process, poverty and cultural differences,~~  
 12 ~~physical injury or illness, or psychological and social~~  
 13 ~~disability. The treatment utilizes task-oriented activities~~  
 14 ~~to prevent or correct physical or emotional deficits or to~~  
 15 ~~minimize the disabling effect of these deficits in the life of~~  
 16 ~~the individual. Specific occupational therapy techniques~~  
 17 ~~include, but are not limited to, activities of daily living~~  
 18 ~~(ADL), the fabrication and application of splints,~~  
 19 ~~perceptual-motor activities, the use of specifically designed~~  
 20 ~~crafts, guidance in the selection and use of adaptive~~  
 21 ~~equipment, exercises to enhance functional performance, and~~  
 22 ~~prevocational evaluation and treatment. Such techniques are~~  
 23 ~~applied in the treatment of individual patients or clients, in~~  
 24 ~~groups, or through social systems.~~

25       (c) The use of devices subject to 21 C.F.R. s. 801.109  
 26 and identified by the board is expressly prohibited except by  
 27 an occupational therapist or occupational therapy assistant  
 28 who has received training as specified by the board. The  
 29 board shall adopt rules to carry out the purpose of this  
 30 provision.

31

1           (5) "Occupational therapy aide" means a person who  
2 assists in the practice of occupational therapy, who works  
3 under the direct supervision of a ~~person~~ licensed occupational  
4 therapist or to practice occupational therapy assistant, and  
5 whose activities require a general ~~an~~ understanding of  
6 occupational therapy pursuant to board rules ~~but do not~~  
7 ~~require professional or advanced training in the basic~~  
8 ~~anatomical, biological, psychological, and social sciences~~  
9 ~~involved in the practice of occupational therapy.~~

10           Section 106. Section 468.205, Florida Statutes, is  
11 amended to read:

12           (Substantial rewording of section. See  
13           s. 468.205, F.S., for present text.)

14           468.205 Board of Occupational Therapy Practice.--

15           (1) There is created within the department the Board  
16 of Occupational Therapy Practice, composed of seven members  
17 appointed by the Governor, subject to confirmation by the  
18 Senate.

19           (2) Four members shall be licensed occupational  
20 therapists in good standing in this state who are residents of  
21 this state and have been engaged in the practice of  
22 occupational therapy for at least 4 years immediately prior to  
23 their appointment. One member shall be a licensed occupational  
24 therapy assistant in good standing in this state who is a  
25 resident of the state and has been engaged in the practice of  
26 occupational therapy for at least 4 years immediately prior to  
27 the appointment. Two members shall be consumers who are  
28 residents of the state who are not connected with the practice  
29 of occupational therapy.

30           (3) Within 90 days after the effective date of this  
31 act, the Governor shall appoint the board as follows:

- 1           (a) Two members for terms of 2 years each.  
2           (b) Two members for terms of 3 years each.  
3           (c) Three members for terms of 4 years each.  
4           (4) As the terms of the members expire, the Governor  
5 shall appoint successors for terms of 4 years and such members  
6 shall serve until their successors are appointed.

7           (5) All provisions of chapter 455 relating to  
8 activities of the board shall apply.

9           Section 107. Section 468.209, Florida Statutes, is  
10 amended to read:

11           468.209 Requirements for licensure.--

12           (1) An applicant applying for a license as an  
13 occupational therapist or as an occupational therapy assistant  
14 shall file a written application, accompanied by the  
15 application for licensure fee prescribed in s. 468.221, on  
16 forms provided by the department board, showing to the  
17 satisfaction of the board that he:

18           (a) Is of good moral character.

19           (b) Has successfully completed the academic  
20 requirements of an educational program in occupational therapy  
21 recognized by the board, with concentration in biologic or  
22 physical science, psychology, and sociology, and with  
23 education in selected manual skills. ~~For an occupational~~  
24 ~~therapist, Such a program shall be accredited by the American~~  
25 ~~Medical Association in collaboration with the American~~  
26 Occupational Therapy Association's Accreditation Council for  
27 Occupational Therapy Education, or its successor Association.  
28 ~~For an occupational therapy assistant, such a program shall be~~  
29 ~~approved by the American Occupational Therapy Association.~~

30           (c) Has successfully completed a period of supervised  
31 fieldwork experience at a recognized educational institution

1 or a training program approved by the educational institution  
2 where he met the academic requirements. For an occupational  
3 therapist, a minimum of 6 months of supervised fieldwork  
4 experience is required. For an occupational therapy assistant,  
5 a minimum of 2 months of supervised fieldwork experience is  
6 required.

7 (d) Has passed an examination conducted or adopted by  
8 the board as provided in s. 468.211.

9 (2) An applicant who has practiced as a state-licensed  
10 or American Occupational Therapy Association-certified  
11 occupational therapy assistant for 4 years and who, prior to  
12 January 24, 1988,~~has~~ completed a minimum of 6 months of  
13 supervised occupational-therapist-level fieldwork experience  
14 may take the examination to be licensed as an occupational  
15 therapist without meeting the educational requirements for  
16 occupational therapists made otherwise applicable under  
17 paragraph (1)(b).

18 (3) If the board determines that an applicant is  
19 qualified to be licensed by endorsement under s. 468.213, the  
20 board may issue the applicant a temporary permit to practice  
21 occupational therapy until the next board meeting at which  
22 license applications are to be considered, but not for a  
23 longer period of time. Only one temporary permit by  
24 endorsement shall be issued to an applicant, and it shall not  
25 be renewable.

26 (4) If the board determines that the applicant has not  
27 passed an examination, which examination is recognized by the  
28 board, to determine competence to practice occupational  
29 therapy and is not qualified to be licensed by endorsement,  
30 but has otherwise met all the requirements of this section and  
31 has made application for the next scheduled examination, the

1 board may issue the applicant a temporary permit allowing him  
 2 to practice occupational therapy under the supervision of a  
 3 licensed occupational therapist until notification of the  
 4 results of the examination. An individual who has passed the  
 5 examination may continue to practice occupational therapy  
 6 under his temporary permit until the next meeting of the  
 7 board. An individual who has failed the examination shall not  
 8 continue to practice occupational therapy under his temporary  
 9 permit; and such permit shall be deemed revoked upon  
 10 notification to the board of the examination results and the  
 11 subsequent, immediate notification by the board to the  
 12 applicant of the revocation. Only one temporary permit by  
 13 examination shall be issued to an applicant, and it shall not  
 14 be renewable. However, applicants enrolled in a full-time  
 15 advanced master's occupational therapy education program who  
 16 have completed all requirements for licensure except  
 17 examination shall, upon written request, be granted a  
 18 temporary permit valid for 6 months even if that period  
 19 extends beyond the next examination, provided the applicant  
 20 has not failed the examination. This permit shall remain  
 21 valid only while the applicant remains a full-time student  
 22 and, upon written request, shall be renewed once for an  
 23 additional 6 months.

24 (5) An applicant seeking reentry into the profession  
 25 who has not been in active practice within the last 5 years  
 26 must, prior to applying for licensure, submit to the board  
 27 documentation of continuing education as prescribed by rule.

28 Section 108. Subsection (6) is added to section  
 29 468.211, Florida Statutes, to read:

30 468.211 Examination for licensure.--  
 31



1           (6) If an applicant fails to pass the examination in  
2 three attempts, the applicant shall not be eligible for  
3 reexamination unless the applicant completes additional  
4 education or training requirements prescribed by the board.  
5 An applicant who has completed the additional education or  
6 training requirements prescribed by the board may take the  
7 examination on two more occasions. If the applicant has  
8 failed to pass the examination after five attempts, the  
9 applicant is no longer eligible to take the examination.

10           Section 109. Section 468.213, Florida Statutes, is  
11 amended to read:

12           468.213 Licensure by endorsement.--

13           (1) The board may waive the examination and grant a  
14 license to any person who presents proof of current  
15 certification as an occupational therapist or occupational  
16 therapy assistant by a national certifying organization ~~the~~  
17 ~~American Occupational Therapy Association~~ if the board  
18 determines the requirements for such certification to be  
19 equivalent to the requirements for licensure in this act.

20           (2) The board may waive the examination and grant a  
21 license to any applicant who presents proof of current  
22 licensure as an occupational therapist or occupational therapy  
23 assistant in another state, the District of Columbia, or any a  
24 territory or jurisdiction of the United States or foreign  
25 national jurisdiction which requires standards for licensure  
26 determined by the board to be equivalent to the requirements  
27 for licensure in this act.

28           Section 110. Section 468.225, Florida Statutes, is  
29 amended to read:

30           468.225 Exemptions ~~Persons and practices not~~  
31 ~~affected.~~--

1           (1) Nothing in this act shall be construed as  
2 preventing or restricting the practice, services, or  
3 activities of:

4           (a) Any person licensed in this state by any other law  
5 from engaging in the profession or occupation for which he is  
6 licensed.

7           (b) Any person employed as an occupational therapist  
8 or occupational therapy assistant by the United States, if  
9 such person provides occupational therapy solely under the  
10 direction or control of the organization by which he is  
11 employed.

12           (c) Any person pursuing a course of study leading to a  
13 degree or certificate in occupational therapy at an accredited  
14 or approved educational program, if such activities and  
15 services constitute a part of a supervised course of study and  
16 if such a person is designated by a title which clearly  
17 indicates his or her status as a student or trainee.

18           (d) Any person fulfilling the supervised fieldwork  
19 experience requirements of s. 468.209, if such activities and  
20 services constitute a part of the experience necessary to meet  
21 the requirements of that section.

22           ~~(e) Any person employed by, or working under the~~  
23 ~~direct supervision of, an occupational therapist as an~~  
24 ~~occupational therapy aide.~~

25           (2) No provision of this act shall be construed to  
26 prohibit physicians, physician assistants, nurses, physical  
27 therapists, osteopathic physicians or surgeons, ~~or~~ clinical  
28 psychologists, speech-language pathologists, or audiologists  
29 from using occupational therapy as a part of or incidental to  
30 their profession, when they practice their profession under  
31 the statutes applicable to their profession.

1           Section 111. Section 468.351, Florida Statutes, is  
2 amended to read:

3           468.351 Purpose and intent; application.--

4           (1)(a) The purpose in enacting this part is to provide  
5 for the licensure ~~certification and registration~~ of persons  
6 who deliver respiratory care services and who meet certain  
7 requirements. The delivery of respiratory care services by  
8 persons licensed ~~certified or registered~~ pursuant to this part  
9 shall not be construed to permit the practice of medicine.

10           (b) It is the finding of the Legislature that the  
11 delivery of respiratory care services by unskilled and  
12 incompetent persons presents a danger to the public health and  
13 safety. Because it is difficult for the public to make  
14 informed choices related to respiratory care services and  
15 since the consequences of wrong choices can seriously endanger  
16 public health and safety, it is the intent of the Legislature  
17 to prohibit the delivery of respiratory care services by  
18 persons who are determined to possess less than minimum  
19 competencies or who otherwise present a danger to the public.

20           (2) It is the intent of the Legislature that the  
21 department ~~of Health and Rehabilitative Services shall~~  
22 ~~continue to~~ regulate blood gas laboratories and that the  
23 supervision of health ~~respiratory care practitioners, clinical~~  
24 ~~laboratory personnel, and other persons~~ performing blood gas  
25 analysis and specimen collection for the purpose of such  
26 analysis be specified in rules pursuant to the applicable  
27 practice act ~~chapter 483~~. Further, it is the intent of the  
28 Legislature that personnel licensed ~~certified or registered~~  
29 pursuant to this part shall be exempt from the licensure  
30 provisions of chapter 483.

31

1           Section 112. Subsections (2), (8), and (9) of section  
2 468.352, Florida Statutes, are amended to read:

3           468.352 Definitions.--As used in this part, unless the  
4 context otherwise requires, the term:

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

7           (8) "Respiratory therapist" means any person licensed  
8 ~~registered~~ pursuant to this part who is employed to deliver  
9 respiratory care services under the order of a physician  
10 licensed pursuant to chapter 458 or chapter 459, and in  
11 accordance with protocols established by a hospital, other  
12 health care provider, or the board, and who functions in  
13 situations of unsupervised patient contact requiring  
14 individual judgment.

15           (9) "Respiratory care practitioner" means any person  
16 licensed ~~certified~~ pursuant to this part who is employed to  
17 deliver respiratory care services under the order of a  
18 physician licensed pursuant to chapter 458 or chapter 459, and  
19 in accordance with protocols established by a hospital, other  
20 health care provider, or the board.

21           Section 113. Paragraph (a) of subsection (5) of  
22 section 468.354, Florida Statutes, is amended to read:

23           468.354 Advisory Council on Respiratory Care;  
24 organization; function.--

25           (5)(a) The council shall recommend to the department a  
26 code of ethics for those persons licensed ~~certified or~~  
27 ~~registered~~ pursuant to this part.

28           Section 114. Section 468.355, Florida Statutes, is  
29 amended to read:

30           468.355 Eligibility for licensure ~~certification or~~  
31 ~~registration~~; temporary licensure ~~certification~~.--

1           (1) To be eligible for licensure ~~certification~~ by the  
2 board as a respiratory care practitioner, an applicant must:

3           (a) Be at least 18 years old.

4           (b) Possess a high school diploma or a graduate  
5 equivalency diploma.

6           (c) Meet at least one of the following criteria:

7           1. The applicant has successfully completed a training  
8 program for respiratory therapy technicians or respiratory  
9 therapists approved by the Commission ~~Committee~~ on  
10 Accreditation of Allied Health Education Programs and  
11 ~~Accreditation of the American Medical Association~~, or the  
12 equivalent thereof, as accepted by the board.

13           2. The applicant is currently a "Certified Respiratory  
14 Therapy Technician" certified by the National Board for  
15 Respiratory Care, or the equivalent thereof, as accepted by  
16 the board.

17           3. The applicant is currently a "Registered  
18 Respiratory Therapist" registered by the National Board for  
19 Respiratory Care, or the equivalent thereof, as accepted by  
20 the board.

21           4. The applicant is currently employed in this state  
22 as a respiratory care practitioner or respiratory therapist on  
23 October 1, 1984.

24  
25 The criteria set forth in subparagraphs 2. and 3.  
26 notwithstanding, the board shall annually review the  
27 examinations and standards of the National Board for  
28 Respiratory Care and may reject those examinations and  
29 standards if they are deemed inappropriate.

30           (2) To be eligible for licensure ~~registration~~ by the  
31 board as a respiratory therapist, an applicant must:

1 (a) Be at least 18 years old.

2 (b) Possess a high school diploma or a graduate  
3 equivalency diploma.

4 (c) Meet at least one of the following criteria:

5 1. The applicant has successfully completed a training  
6 program for respiratory therapists approved by the Commission  
7 ~~Committee~~ on Accreditation of Allied Health Education Programs  
8 ~~and Accreditation of the American Medical Association~~, or the  
9 equivalent thereof, as accepted by the board.

10 2. The applicant is currently a "Registered  
11 Respiratory Therapist" registered by the National Board for  
12 Respiratory Care, or the equivalent thereof, as accepted by  
13 the board.

14

15 The criteria set forth in subparagraphs 1. and 2.  
16 notwithstanding, the board shall annually review the  
17 examinations and standards of the National Board for  
18 Respiratory Care and may reject those examinations and  
19 standards if they are deemed inappropriate.

20 (3) With respect to the delivery of respiratory care  
21 services, the board shall establish procedures for temporary  
22 licensure ~~certification~~ of eligible individuals entering the  
23 state and temporary licensure ~~certification~~ of those persons  
24 who have graduated from a program approved by the board. Such  
25 temporary licensure ~~certification~~ shall be for a period not to  
26 exceed 1 year.

27 Section 115. Section 468.356, Florida Statutes, is  
28 amended to read:

29 468.356 Approval of educational programs.--

30 (1) Approval of educational programs shall be in  
31 accordance with the Joint Review Committee for Respiratory

1 Therapy Education through the Commission ~~Committee~~ on  
2 Accreditation of Allied Health Education Programs, or other  
3 accrediting agency recognized by the United States Office of  
4 Education and Accreditation of the American Medical  
5 Association.

6 (2) In the event that an educational program has not  
7 yet received full American Medical Association approval, the  
8 board, at its discretion, may require appropriate  
9 documentation of the intent to achieve full accreditation  
10 within a specified time period. Temporary approval for  
11 graduates of such programs to sit for state licensure  
12 ~~certification or registration~~ examinations may then be granted  
13 by the board.

14 Section 116. Section 468.357, Florida Statutes, is  
15 amended to read:

16 468.357 Licensure ~~Certification~~ by examination.--

17 (1) A person who desires to be licensed ~~certified~~ as a  
18 respiratory care practitioner may submit an application to the  
19 ~~department board~~ department to take the examination to be administered by  
20 the department.

21 (a) The department shall examine each applicant who is  
22 determined by the board to have:

23 1. Completed the application form and remitted the  
24 applicable ~~application~~ fee set by the board;

25 2. Submitted required documentation as required in s.  
26 468.355; and

27 3. Remitted an examination fee set by the board.

28 (b) The department shall conduct examinations for  
29 licensure ~~certification~~ of respiratory care practitioners no  
30 less than two times a year in such geographical locations as  
31 are deemed advantageous to the majority of the applicants.

1 ~~However, the examination shall be conducted no less than three~~  
2 ~~times a year through 1988 and in such geographical locations~~  
3 ~~as are deemed advantageous to the majority of the applicants.~~

4 (c) The examination given for respiratory care  
5 practitioners shall be the same as that given by the National  
6 Board for Respiratory Care for entry-level certification of  
7 respiratory therapy technicians. However, an equivalent  
8 examination may be accepted by the board in lieu of that  
9 examination.

10 (2) Each applicant who passes the examination shall be  
11 entitled to licensure ~~certification~~ as a respiratory care  
12 practitioner, and the department shall issue a license  
13 ~~certificate~~ pursuant to this part to any applicant who  
14 successfully completes the examination in accordance with this  
15 section. However, the department shall not issue a license  
16 ~~certificate~~ to any applicant who is under investigation in  
17 another jurisdiction for an offense which would constitute a  
18 violation of this part. Upon completion of such an  
19 investigation, if the applicant is found guilty of such an  
20 offense, the applicable provisions of s. 468.365 will apply.

21 (3)~~(a)~~ Any person who was employed in this state on or  
22 before September 30, 1983, as a respiratory therapy technician  
23 or respiratory therapist, and who has performed services in  
24 such professional capacity for 4 years or more by October 1,  
25 1987, under the supervision of a licensed physician or in a  
26 hospital or licensed health care facility, shall be issued a  
27 license ~~certificate~~ without examination, if such person  
28 provides acceptable documentation of performance of such  
29 services to the board. Such documentation shall include  
30 certification by a physician licensed pursuant to chapter 458  
31 or chapter 459 who has direct knowledge of the practice of, or



1 who has supervised, the person. If such person is not  
2 determined to have performed critical care respiratory  
3 services for at least 4 years, the board may limit the license  
4 ~~certificate~~ of such person to the performance of noncritical  
5 care respiratory services. ~~Any person issued a certificate~~  
6 ~~pursuant to this paragraph shall complete at least 20 contact~~  
7 ~~hours of continuing education each year.~~

8 (b) ~~Any person first employed in this state as a~~  
9 ~~respiratory therapy technician or respiratory therapist on or~~  
10 ~~after October 1, 1984, and prior to October 1, 1987, shall~~  
11 ~~have until December 31, 1988, to pass the examination for~~  
12 ~~certification under this part if the person has applied to~~  
13 ~~take the examination before March 1, 1988, and such person~~  
14 ~~shall be permitted to continue to perform respiratory care~~  
15 ~~services until December 31, 1988.~~

16 Section 117. Section 468.358, Florida Statutes, is  
17 amended to read:

18 468.358 Licensure ~~Certification or registration~~ by  
19 endorsement.--

20 (1) Licensure ~~Certification~~ as a respiratory care  
21 practitioner shall be granted by endorsement to an individual  
22 who holds the "Certified Respiratory Therapy Technician"  
23 credential issued by the National Board for Respiratory Care  
24 or an equivalent credential acceptable to the board. Licensure  
25 ~~Certification~~ by this mechanism requires verification by oath  
26 and submission of evidence satisfactory to the board that such  
27 credential is held.

28 (2) Licensure ~~Registration~~ as a respiratory therapist  
29 shall be granted by endorsement to an individual who holds the  
30 "Registered Respiratory Therapist" credential issued by the  
31 National Board for Respiratory Care or an equivalent

1 credential acceptable to the board. Licensure ~~Registration~~ by  
2 this mechanism requires verification by oath and submission of  
3 evidence satisfactory to the board that such credential is  
4 held.

5 (3) An individual who has been granted licensure,  
6 certification, registration, or other authority, by whatever  
7 name known, to deliver respiratory care services in another  
8 state or country may petition the board for consideration for  
9 licensure ~~certification or registration~~ in this state and,  
10 upon verification by oath and submission of evidence of  
11 licensure, certification, registration, or other authority  
12 acceptable to the board, may be granted licensure  
13 ~~certification or registration~~ by endorsement.

14 (4) Licensure ~~Certification or registration~~ shall not  
15 be granted by endorsement as provided in this section without  
16 the submission of a proper application and the payment of the  
17 requisite fees therefor.

18 Section 118. Subsections (1), (2), and (5) of section  
19 468.359, Florida Statutes, are amended to read:

20 468.359 Assumption of title and use of  
21 abbreviations.--

22 (1) Only persons who are licensed ~~certified~~ pursuant  
23 to this part as respiratory care practitioners have the right  
24 to use the title "Respiratory Care Practitioner" and the  
25 abbreviation "RCP."

26 (2) Only persons who are licensed ~~registered~~ pursuant  
27 to this part as respiratory therapists have the right to use  
28 the title "Registered Respiratory Therapist" and the  
29 abbreviation "RRT," provided such persons have passed the  
30 Registry Examination for Respiratory Therapists given by the  
31 National Board for Respiratory Care.

1           (5) No person in this state shall deliver respiratory  
2 care services; advertise as, or assume the title of,  
3 respiratory care practitioner or respiratory therapist; or use  
4 the abbreviation "RCP" or take any other action that would  
5 lead the public to believe that such person is licensed  
6 ~~certified or registered~~ pursuant to this part unless such  
7 person is so licensed ~~certified or registered~~.

8           Section 119. Section 468.36, Florida Statutes, is  
9 amended to read:

10           468.36 Primary place of service delivery; notice of  
11 address or change of address.--Every licensee  
12 ~~certificateholder or registrant~~ shall file with the department  
13 the licensee's current residence address as defined by board  
14 rule of his primary place of service delivery within the state  
15 prior to engaging in such service delivery. Prior to changing  
16 such address, he shall notify the department of the address of  
17 his new primary place of service delivery, whether or not  
18 within the state.

19           Section 120. Section 468.361, Florida Statutes, is  
20 amended, and section 468.362, Florida Statutes, is transferred  
21 to said section and amended, to read:

22           468.361 Renewal of licensure ~~certification or~~  
23 ~~registration~~; continuing education.--

24           (1) The department shall provide by rule a method for  
25 the biennial renewal of licensure ~~certification or~~  
26 ~~registration~~ at fees set by the board.

27           (2) The board shall prescribe by rule continuing  
28 education requirements, not to exceed 24 hours biennially, as  
29 a condition for renewal of licensure ~~certification or~~  
30 ~~registration~~. The program criteria with respect thereto shall  
31 be approved by the board.

1           ~~468.362 Continuing education.--~~

2           ~~(1) A renewal of a certificate or registration shall~~  
3 ~~not be issued by the department until the certificateholder or~~  
4 ~~registrant submits proof satisfactory to the board that,~~  
5 ~~during the 2 years prior to his application for renewal, he~~  
6 ~~has participated in no fewer than 24 hours of continuing~~  
7 ~~professional respiratory care education in courses approved by~~  
8 ~~the board.~~

9           ~~(3)~~(2) The board shall approve continuing education  
10 courses which may be accepted in meeting the requirements of  
11 this part. Providers of such courses shall also be approved  
12 by the board.

13           ~~(4)~~(3) The board may make exceptions from the  
14 requirements of this section in emergency or hardship cases.

15           ~~(4) The board may adopt rules, within the requirements~~  
16 ~~of this section, that are necessary for the implementation of~~  
17 ~~this section.~~

18           Section 121. Section 468.363, Florida Statutes, is  
19 amended to read:

20           468.363 Reactivation of licensure ~~certification or~~  
21 ~~registration~~; continuing education.--The board shall prescribe  
22 by rule continuing education requirements as a condition of  
23 reactivating a license ~~certificate or registration~~. The  
24 continuing education requirements for reactivating a license  
25 ~~certificate or registration~~ may not exceed 12 classroom hours  
26 for each year the license ~~certificate or registration~~ was  
27 inactive.

28           Section 122. Subsection (1) of section 468.364,  
29 Florida Statutes, is amended to read:

30           468.364 Fees; establishment; disposition.--

31

1           (1) The board shall establish by rule fees for the  
2 following purposes:

3           (a) Application, fee+ a fee not to exceed \$50.

4           (b) Examination, fee+ a fee not to exceed \$125 plus  
5 the actual per applicant cost to the department for purchase  
6 of the examination from the National Board for Respiratory  
7 Care or a similar national organization.

8           (c) Initial licensure, certification or registration  
9 ~~fee~~+ a fee not to exceed \$200.

10           (d) Renewal of licensure, certification or  
11 ~~registration fee~~+ a fee not to exceed \$200 biennially.

12           (e) Renewal of inactive licensure, certification or  
13 ~~registration~~+ a fee not to exceed \$50.

14           (f) Reactivation, fee+ a fee not to exceed \$50.

15           Section 123. Section 468.365, Florida Statutes, is  
16 amended to read:

17           468.365 Disciplinary grounds and actions.--

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

20           (a) Procuring, attempting to procure, or renewing a  
21 license certificate or registration as provided by this part  
22 by bribery, by fraudulent misrepresentation, or through an  
23 error of the department or the board.

24           (b) Having licensure, certification, registration, or  
25 other authority, by whatever name known, to deliver  
26 respiratory care services revoked, suspended, or otherwise  
27 acted against, including the denial of licensure,  
28 certification, registration, or other authority to deliver  
29 respiratory care services by the licensing authority of  
30 another state, territory, or country.

31

1           (c) Being convicted or found guilty of, or entering a  
2 plea of nolo contendere to, regardless of adjudication, ~~of~~ a  
3 crime in any jurisdiction which directly relates to  
4 respiratory care services or to the ability to deliver such  
5 services.

6           (d) Willfully making or filing a false report or  
7 record, willfully failing to file a report or record required  
8 by state or federal law, or willfully impeding or obstructing  
9 such filing or inducing another person to do so. Such reports  
10 or records include only those reports or records which require  
11 the signature of a ~~certified~~ respiratory care practitioner or  
12 ~~a~~ respiratory therapist licensed ~~registered~~ pursuant to this  
13 part.

14           (e) Circulating false, misleading, or deceptive  
15 advertising.

16           (f) Unprofessional conduct, which includes, but is not  
17 limited to, any departure from, or failure to conform to,  
18 acceptable standards related to the delivery of respiratory  
19 care services, as set forth by the board and the Advisory  
20 Council on Respiratory Care in rules adopted pursuant to this  
21 part.

22           (g) Engaging or attempting to engage in the  
23 possession, sale, or distribution of controlled substances, as  
24 set forth by law, for any purpose other than a legitimate  
25 purpose.

26           (h) Willfully failing to report any violation of this  
27 part.

28           (i) Willfully or repeatedly violating a rule of the  
29 board or the department or a lawful order of the board or  
30 department previously entered in a disciplinary hearing.

31

1 (j) Violation of any rule adopted pursuant to this  
2 part or chapter 455.

3 (k) Engaging in the delivery of respiratory care  
4 services with a revoked, suspended, or inactive license  
5 ~~certificate or registration~~.

6 (l) Permitting, aiding, assisting, procuring, or  
7 advising any person who is not licensed ~~certified or~~  
8 ~~registered~~ pursuant to this part, contrary to this part or to  
9 any rule of the department or the board.

10 (m) Failing to perform any statutory or legal  
11 obligation placed upon a ~~certified~~ respiratory care  
12 practitioner or a respiratory therapist licensed ~~registered~~  
13 pursuant to this part.

14 (n) Accepting and performing professional  
15 responsibilities which the licensee ~~certificateholder or~~  
16 ~~registrant~~ knows, or has reason to know, he is not competent  
17 to perform.

18 (o) Delegating professional responsibilities to a  
19 person when the licensee ~~certificateholder or registrant~~  
20 delegating such responsibilities knows, or has reason to know,  
21 that such person is not qualified by training, experience, or  
22 licensure ~~certification or registration~~ to perform them.

23 (p) Gross or repeated malpractice or the failure to  
24 deliver respiratory care services with that level of care,  
25 skill, and treatment which is recognized by a reasonably  
26 prudent respiratory care practitioner or respiratory therapist  
27 with similar professional training as being acceptable under  
28 similar conditions and circumstances.

29 (q) Paying or receiving any commission, bonus,  
30 kickback, or rebate to or from, or engaging in any split-fee  
31 arrangement in any form whatsoever with, a person,

1 organization, or agency, either directly or indirectly, for  
2 goods or services rendered to patients referred by or to  
3 providers of health care goods and services, including, but  
4 not limited to, hospitals, nursing homes, clinical  
5 laboratories, ambulatory surgical centers, or pharmacies. The  
6 provisions of this paragraph shall not be construed to prevent  
7 the licensee ~~certificateholder or registrant~~ from receiving a  
8 fee for professional consultation services.

9 (r) Exercising influence within a respiratory care  
10 relationship for the purpose of engaging a patient in sexual  
11 activity. A patient is presumed to be incapable of giving  
12 free, full, and informed consent to sexual activity with the  
13 patient's respiratory care practitioner or respiratory  
14 therapist.

15 (s) Making deceptive, untrue, or fraudulent  
16 representations in the delivery of respiratory care services  
17 or employing a trick or scheme in the delivery of respiratory  
18 care services if such a scheme or trick fails to conform to  
19 the generally prevailing standards of other licensees  
20 ~~certificateholders or registrants~~ within the community.

21 (t) Soliciting patients, either personally or through  
22 an agent, through the use of fraud, deception, or otherwise  
23 misleading statements or through the exercise of intimidation  
24 or undue influence.

25 (u) Failing to keep written respiratory care records  
26 justifying the reason for the action taken by the licensee  
27 ~~certificateholder or registrant~~.

28 (v) Exercising influence on the patient in such a  
29 manner as to exploit the patient for the financial gain of the  
30 licensee ~~certificateholder or registrant~~ or a third party,  
31



1 which includes, but is not limited to, the promoting or  
2 selling of services, goods, appliances, or drugs.

3 (w) Performing professional services which have not  
4 been duly ordered by a physician licensed pursuant to chapter  
5 458 or chapter 459 and which are not in accordance with  
6 protocols established by the hospital, other health care  
7 provider, or the board, except as provided in ss. 743.064,  
8 766.103, and 768.13.

9 (x) Being unable to deliver respiratory care services  
10 with reasonable skill and safety to patients by reason of  
11 illness or use of alcohol, drugs, narcotics, chemicals, or any  
12 other type of material as a result of any mental or physical  
13 condition. In enforcing this paragraph, the department shall,  
14 upon probable cause, have authority to compel a respiratory  
15 care practitioner or respiratory therapist to submit to a  
16 mental or physical examination by physicians designated by the  
17 department. The cost of examination shall be borne by the  
18 licensee ~~certificateholder or registrant~~ being examined. The  
19 failure of a respiratory care practitioner or respiratory  
20 therapist to submit to such an examination when so directed  
21 constitutes an admission of the allegations against him, upon  
22 which a default and a final order may be entered without the  
23 taking of testimony or presentation of evidence, unless the  
24 failure was due to circumstances beyond his control. A  
25 respiratory care practitioner or respiratory therapist  
26 affected under this paragraph shall at reasonable intervals be  
27 afforded an opportunity to demonstrate that he can resume the  
28 competent delivery of respiratory care services with  
29 reasonable skill and safety to his patients. In any  
30 proceeding under this paragraph, neither the record of  
31 proceedings nor the orders entered by the board shall be used

1 against a respiratory care practitioner or respiratory  
2 therapist in any other proceeding.

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

6 (a) Denial of an application for licensure  
7 ~~certification or registration~~.

8 (b) Revocation or suspension of licensure  
9 ~~certification or registration~~.

10 (c) Imposition of an administrative fine not to exceed  
11 \$1,000 for each count or separate offense.

12 (d) Placement of the respiratory care practitioner or  
13 respiratory therapist on probation for such period of time and  
14 subject to such conditions as the board may specify,  
15 including, but not limited to, requiring the respiratory care  
16 practitioner or respiratory therapist to submit to treatment,  
17 to attend continuing education courses, or to work under the  
18 supervision of another respiratory care practitioner or  
19 respiratory therapist.

20 (e) Issuance of a reprimand.

21 (3) The board shall not reinstate licensure  
22 ~~certification or registration~~, or cause a license certificate  
23 ~~or registration~~ to be issued to a person it has deemed  
24 unqualified, until such time as it is satisfied that such  
25 person has complied with all the terms and conditions set  
26 forth in the final order and that the respiratory care  
27 practitioner or respiratory therapist is capable of safely  
28 engaging in the delivery of respiratory care services.

29 (4) The board may, by rule, establish guidelines for  
30 the disposition of disciplinary cases involving specific types  
31 of violations. Such guidelines may include minimum and

1 maximum fines, periods of supervision on probation, or  
2 conditions upon probation or reissuance of a license  
3 ~~certificate or registration~~.

4 Section 124. Subsection (1) of section 468.366,  
5 Florida Statutes, is amended to read:

6 468.366 Penalties for violations.--

7 (1) It is a violation of law for any person, including  
8 any firm, association, or corporation, to:

9 (a) Sell or fraudulently obtain, attempt to obtain, or  
10 furnish to any person a diploma, license, ~~certificate,~~  
11 ~~registration,~~ or record, or aid or abet in the sale,  
12 procurement, or attempted procurement thereof.

13 (b) Deliver respiratory care services, as defined by  
14 this part or by rule of the board, under cover of any diploma,  
15 license, ~~certificate, registration,~~ or record that was  
16 illegally or fraudulently obtained or signed or issued  
17 unlawfully or under fraudulent representation.

18 (c) Deliver respiratory care services, as defined by  
19 this part or by rule of the board, unless such person is duly  
20 licensed ~~certified or registered~~ to do so under the provisions  
21 of this part or unless such person is exempted pursuant to s.  
22 468.368.

23 (d) Use, in connection with his name, any designation  
24 tending to imply that he is a respiratory care practitioner or  
25 a respiratory therapist, duly licensed ~~certified or registered~~  
26 under the provisions of this part, unless he is so licensed  
27 ~~certified or registered~~.

28 (e) Advertise an educational program as meeting the  
29 requirements of this part, or conduct an educational program  
30 for the preparation of respiratory care practitioners or  
31

1 respiratory therapists, unless such program has been approved  
2 by the board.

3 (f) Knowingly employ unlicensed ~~uncertified or~~  
4 ~~unregistered~~ persons in the delivery of respiratory care  
5 services, unless exempted by this part.

6 (g) Knowingly conceal information relative to any  
7 violation of this part.

8 Section 125. Subsection (8) of section 468.368,  
9 Florida Statutes, is amended to read:

10 468.368 Exemptions.--Nothing in this part shall be  
11 construed to prohibit:

12 (8) The employment by a health care facility of a  
13 student enrolled in the clinical portion of an approved  
14 respiratory care educational program (who has demonstrated  
15 such enrollment to the board by submission of evidence  
16 satisfactory to the board) to deliver limited respiratory care  
17 support services under the supervision of personnel licensed  
18 ~~certified or registered~~ pursuant to this part. Such exemption  
19 shall also apply to the graduates of such programs until the  
20 receipt of temporary licensure ~~certification~~ issued pursuant  
21 to the provisions of s. 468.355(3). However, such employees  
22 shall not perform invasive procedures or procedures related to  
23 critical respiratory care, including therapeutic, diagnostic,  
24 and palliative procedures, nor shall they participate in  
25 delivering certain services requiring unsupervised patient  
26 contact, as determined by the board.

27 Section 126. Subsection (3) of section 478.42, Florida  
28 Statutes, is amended to read:

29 478.42 Definitions.--As used in this chapter, the  
30 term:

31

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

3 Section 127. Section 478.45, Florida Statutes, is  
4 amended to read:

5 478.45 Requirements for licensure.--

6 (1) An applicant applying for licensure as an  
7 electrologist shall file a written application, accompanied by  
8 the application for licensure fee prescribed in s. 478.55, on  
9 a form provided by the board, showing to the satisfaction of  
10 the board that the applicant:

11 (a) Is at least 18 years old.

12 (b) Is of good moral character.

13 ~~(c) Is a resident of the state.~~

14 (c)~~(d)~~ Possesses a high school diploma or a graduate  
15 equivalency diploma.

16 (d)~~(e)~~ Has not committed an act in any jurisdiction  
17 which would constitute grounds for disciplining an  
18 electrologist in this state.

19 (e)~~(f)~~1. Has successfully completed the academic  
20 requirements of an electrolysis training program, not to  
21 exceed 120 hours, and the practical application thereof as  
22 approved by the board; ~~or~~

23 ~~2. Was engaged in the practice of electrology prior to~~  
24 ~~October 1, 1991, and filed an application for licensure within~~  
25 ~~90 days after the date established by the board or by February~~  
26 ~~1, 1995, whichever comes last.~~

27 (2) Each applicant for licensure shall successfully  
28 pass a written examination developed by the department or a  
29 national examination that has, ~~both of which have~~ been  
30 approved by the board. The examinations shall test the  
31 applicant's knowledge relating to the practice of electrology,

1 including the applicant's professional skills and judgment in  
2 the use of electrolysis techniques and methods, and any other  
3 subjects which are useful to determine the applicant's fitness  
4 to practice.

5 (3) The department, upon approval of the board, may  
6 adopt a ~~the American Electrology Association examination or~~  
7 ~~any other~~ national examination in lieu of any part of the  
8 examination required by this section. The board, with the  
9 assistance of the council, shall establish standards for  
10 acceptable performance.

11 (4) The department shall issue a license to practice  
12 electrology to any applicant who passes the examination, pays  
13 the licensure fee as set forth in s. 478.55, and otherwise  
14 meets the requirements of this chapter.

15 (5) The department shall conduct licensure  
16 examinations at least two times a year ~~biannually at locations~~  
17 ~~set by the board. However, such examinations may be conducted~~  
18 ~~at least three times each year through 1995.~~ The department  
19 ~~board~~ shall give public notice of the time and place of each  
20 examination at least 60 days before it is administered and  
21 shall mail notice of such examination to each applicant whose  
22 application is timely filed, pursuant to board rule.

23 (6) The department may not issue a license to any  
24 applicant who is under investigation in another jurisdiction  
25 for an offense which would be a violation of this chapter,  
26 until such investigation is complete. Upon completion of such  
27 investigation, if the applicant is found guilty of such  
28 offense, the board shall apply the applicable provisions of s.  
29 478.52.

30 Section 128. Subsection (1) of section 478.46, Florida  
31 Statutes, is amended to read:

1           478.46 Temporary permits.--

2           (1) If the department ~~executive director of the board~~  
3 determines that an applicant is qualified to be licensed under  
4 s. 478.47 ~~478.45~~, the department ~~board~~ may issue the applicant  
5 a temporary permit to practice electrolysis ~~electrology~~ until  
6 the next board meeting at which license applications are to be  
7 considered, but not for a longer period of time. Only one  
8 temporary permit shall be issued to an applicant, and it shall  
9 not be renewable.

10           Section 129. Section 478.47, Florida Statutes, is  
11 amended to read:

12           478.47 Licensure by endorsement.--The department shall  
13 issue a license by endorsement to any applicant who submits an  
14 application and the required fees as set forth in s. 478.55  
15 and who ~~the board certifies has met the qualifications of s.~~  
16 ~~478.45(1) or who~~ holds an active license or other authority to  
17 practice electrology in a jurisdiction whose licensure  
18 requirements are determined by the board to be equivalent to  
19 the requirements for licensure in this state.

20           Section 130. Paragraph (d) of subsection (2) of  
21 section 478.52, Florida Statutes, is amended, and paragraph  
22 (u) is added to subsection (1) of said section, to read:

23           478.52 Disciplinary proceedings.--

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

26           (u) Operating any electrolysis facility unless it has  
27 been duly licensed as provided in this chapter.

28           (2) When the board finds any person guilty of any of  
29 the grounds set forth in subsection (1), including conduct  
30 that would constitute a substantial violation of subsection  
31

1 (1) which occurred prior to licensure, it may enter an order  
2 imposing one or more of the following penalties:

3 (d) Place the licensee on probation for a specified  
4 time and subject the licensee to such conditions as the board  
5 determines necessary, including, but not limited to, requiring  
6 treatment, continuing education courses, reexamination, or  
7 working under the supervision of another licensee.

8 Section 131. Subsections (1) and (2) of section  
9 480.033, Florida Statutes, are amended to read:

10 480.033 Definitions.--As used in this act:

11 (1) "Board" means the Board of Massage Therapy.

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

14 Section 132. Section 480.034, Florida Statutes, is  
15 amended to read:

16 480.034 Exemptions.--

17 (1) Nothing in this act shall modify or repeal any  
18 provision of chapters 458-464, inclusive, or of chapter 476,  
19 chapter 477, or chapter 486.

20 (2) Athletic trainers employed by or on behalf of a  
21 professional athletic team performing or training within this  
22 state shall be exempt from the provisions of this act.

23 (3) The state and its political subdivisions are  
24 exempt from the registration requirements of this act.

25 ~~(4) Treatments for the purpose of cleansing and~~  
26 ~~beautifying the skin or in conjunction with a weight loss~~  
27 ~~program, including herbal wraps, body scrubs, paraffin wax~~  
28 ~~treatments, and seaweed wraps, shall be exempt from the~~  
29 ~~provisions of this act.~~

30  
31



1           ~~(4)(5)~~ An exemption granted is effective to the extent  
2 that an exempted person's practice or profession overlaps with  
3 the practice of massage.

4           Section 133. Subsection (1) of section 480.035,  
5 Florida Statutes, is amended to read:

6           480.035 Board of Massage Therapy.--

7           (1) The Board of Massage Therapy is created within the  
8 department. The board shall consist of seven members, who  
9 shall be appointed by the Governor and whose function it shall  
10 be to carry out the provisions of this act.

11           Section 134. Section 480.041, Florida Statutes, is  
12 amended to read:

13           480.041 Massage therapists; qualifications; licensure;  
14 endorsement; ~~provisional licensure~~.--

15           (1) Any person is qualified for licensure as a massage  
16 therapist under this act who:

17           (a) Is at least 18 years of age or has received a high  
18 school diploma or graduate equivalency diploma;

19           (b) Has completed a course of study at a  
20 board-approved massage school or has completed an  
21 apprenticeship program that meets standards adopted by the  
22 board; and

23           (c) Has received a passing grade on an examination  
24 administered by the department.

25           (2) Every person desiring to be examined for licensure  
26 as a massage therapist shall apply to the department in  
27 writing upon forms prepared and furnished by the department.  
28 Such applicants shall be subject to the provisions of s.  
29 480.046(1). Applicants may take an examination administered by  
30 the department only upon meeting the requirements of this  
31 section as determined by the board.

1           (3) Upon an applicant's passing the examination and  
2 paying the initial licensure fee, the department shall issue  
3 to the applicant a license, valid until the next scheduled  
4 renewal date, to practice massage.

5           ~~(4)(a) The board may issue to an applicant, without~~  
6 ~~examination, a provisional license to practice massage,~~  
7 ~~provided such applicant meets all other conditions and~~  
8 ~~requirements relating to qualification for licensure and~~  
9 ~~submits a fee pursuant to s. 480.044. Such applicant for a~~  
10 ~~provisional license shall be associated with a licensed~~  
11 ~~massage therapist and shall practice only under the~~  
12 ~~supervision of such licensed massage therapist at a licensed~~  
13 ~~establishment.~~

14           ~~(b) The provisional license, when granted, shall~~  
15 ~~include the name and address of the licensed massage therapist~~  
16 ~~with whom the applicant is associated. No licensed massage~~  
17 ~~therapist may supervise more than one provisional~~  
18 ~~licenseholder at the same time.~~

19           ~~(c) The applicant must appear at the next examination~~  
20 ~~for licensure for which the applicant can be scheduled~~  
21 ~~according to the rules of the board and department. The~~  
22 ~~provisional license shall expire upon written notification by~~  
23 ~~the department that the applicant has failed the examination~~  
24 ~~or on the date of the scheduled examination, should the~~  
25 ~~applicant fail to appear. Acceptance of a provisional license~~  
26 ~~by an applicant shall be deemed to be consent for expiration~~  
27 ~~of that license in accordance with the provisions of this~~  
28 ~~chapter.~~

29           ~~(d) No more than one provisional license may be issued~~  
30 ~~to an individual. No provisional license shall be issued to~~  
31 ~~an applicant who has previously failed the examination.~~

1           ~~(4)~~(5) The board shall adopt rules:

2           (a) Establishing a minimum training program for  
3 apprentices.

4           ~~(b) Specifying standards and procedures for issuance  
5 of a provisional license.~~

6           (b)~~(c)~~ Providing for educational standards,  
7 examination, and certification for the practice of colonic  
8 irrigation, as defined in s. 480.033(6), by massage  
9 therapists.

10           ~~(c)~~(d) Specifying licensing procedures for  
11 practitioners desiring to be licensed in this state who hold  
12 an active license and have practiced in any other state,  
13 territory, or jurisdiction of the United States or any foreign  
14 national jurisdiction which has licensing standards  
15 substantially similar to, equivalent to, or more stringent  
16 than the standards of this state.

17           Section 135. Section 480.0415, Florida Statutes, is  
18 amended to read:

19           480.0415 License renewal.--The board shall prescribe  
20 by rule the method for renewal of biennial licensure which  
21 shall include continuing education requirements not to exceed  
22 25 ~~12~~ classroom hours per biennium. The board shall by rule  
23 establish criteria for the approval of continuing education  
24 programs or courses. The programs or courses approved by the  
25 board may include correspondence courses that meet the  
26 criteria for continuing education courses held in a classroom  
27 setting.

28           Section 136. Subsection (1) of section 480.042,  
29 Florida Statutes, is amended to read:

30           480.042 Examinations.--

31

1           (1) The board shall specify by rule the general areas  
2 of competency to be covered by examinations for licensure.  
3 These rules shall include the relative weight assigned in  
4 grading each area, the grading criteria to be used by the  
5 examiner, and the score necessary to achieve a passing grade.  
6 The board shall ensure that examinations adequately measure  
7 ~~both an applicant's competency and his knowledge of related~~  
8 ~~statutory requirements~~. Professional testing services may be  
9 utilized to formulate the examinations.

10           Section 137. Section 480.0425, Florida Statutes, as  
11 amended by chapter 94-119, Laws of Florida, is repealed.

12           Section 138. Subsection (7) of section 480.043,  
13 Florida Statutes, is amended to read:

14           480.043 Massage establishments; requisites; licensure;  
15 inspection.--

16           (7)(a) Once issued, no license for operation of a  
17 massage establishment may be transferred from one owner  
18 ~~person, corporation, name, or location~~ to another.

19           (b) A license may be transferred from one location to  
20 another only after inspection and approval by the board and  
21 receipt of an application and inspection fee set by rule of  
22 the board, not to exceed \$125.

23           (c) A license may be transferred from one business  
24 name to another after approval by the board and receipt of an  
25 application fee set by rule of the board, not to exceed \$25.

26           Section 139. Subsection (1) of section 480.044,  
27 Florida Statutes, is amended to read:

28           480.044 Fees; disposition.--

29           (1) The board shall set fees according to the  
30 following schedule:

31

1 (a) Massage therapist application and examination fee:  
2 not to exceed \$250.

3 (b) Massage therapist initial licensure fee: not to  
4 exceed \$150.

5 (c) Establishment application fee: not to exceed  
6 \$200.

7 (d) Establishment licensure fee: not to exceed \$150.

8 (e) Biennial establishment renewal fee: not to exceed  
9 \$150.

10 (f) Biennial massage therapist licensure renewal fee:  
11 not to exceed \$200.

12 (g) Massage therapist reexamination fee: not to  
13 exceed \$250.

14 (h) Fee for apprentice: not to exceed \$100.

15 (i) Colonics examination fee: not to exceed \$100.

16 (j) Colonics reexamination fee: not to exceed \$100.

17 ~~(k) Application and provisional licensure fee: not to~~  
18 ~~exceed \$50.~~

19 (k)(l) Application and reactivation for inactive  
20 status of a massage therapist license fee: not to exceed  
21 \$250.

22 (l)(m) Renewal fee for inactive status: not to exceed  
23 \$250.

24 Section 140. Paragraph (a) of subsection (1) of  
25 section 480.047, Florida Statutes, is amended to read:

26 480.047 Penalties.--

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

28 (a) Hold himself or herself out as a massage therapist  
29 <U>or to practice massage unless duly licensed under this chapter  
30 or unless otherwise specifically exempted from licensure under  
31 this chapter as provided herein.

1           Section 141. Section 480.0485, Florida Statutes, is  
2 created to read:

3           480.0485 Sexual misconduct in the practice of massage  
4 therapy.--The massage therapist-patient relationship is  
5 founded on mutual trust. Sexual misconduct in the practice of  
6 massage therapy means violation of the massage  
7 therapist-patient relationship through which the massage  
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 massage therapy is prohibited.

14           Section 142. Paragraph (f) of subsection (3) of  
15 section 20.43, Florida Statutes, 1996 Supplement, is amended  
16 to read:

17           20.43 Department of Health.--There is created a  
18 Department of Health.

19           (3) The following divisions of the Department of  
20 Health are established:

21           (f) ~~Effective July 1, 1997,~~ Division of Medical  
22 Quality Assurance, which is responsible for the following  
23 boards and professions established within the division:

- 24           1. Nursing assistants, as provided under s. 400.211.
- 25           2. Health care services pools, as provided under s.  
26 402.48.
- 27           3. The Board of Acupuncture, created under chapter  
28 457.
- 29           4. The Board of Medicine, created under chapter 458.
- 30           5. The Board of Osteopathic Medicine, created under  
31 chapter 459.

- 1           6. The Board of Chiropractic, created under chapter
- 2 460.
- 3           7. The Board of Podiatric Medicine, created under
- 4 chapter 461.
- 5           8. Naturopathy, as provided under chapter 462.
- 6           9. The Board of Optometry, created under chapter 463.
- 7           10. The Board of Nursing, created under chapter 464.
- 8           11. The Board of Pharmacy, created under chapter 465.
- 9           12. The Board of Dentistry, created under chapter 466.
- 10          13. Midwifery, as provided under chapter 467.
- 11          14. The Board of Speech-Language Pathology and
- 12 Audiology, created under part I of chapter 468.
- 13          15. The Board of Nursing Home Administrators, created
- 14 under part II of chapter 468.
- 15          16. Occupational therapy, as provided under part III
- 16 of chapter 468.
- 17          17. Respiratory therapy, as provided under part V of
- 18 chapter 468.
- 19          18. Dietetics and nutrition practice, as provided
- 20 under part X of chapter 468.
- 21          19. Athletic trainers, as provided under part XIV of
- 22 chapter 468.
- 23          20. Electrolysis, as provided under chapter 478.
- 24          21. The Board of Massage Therapy, created under
- 25 chapter 480.
- 26          22. The Board of Clinical Laboratory Personnel,
- 27 created under part III ~~IV~~ of chapter 483.
- 28          23. Medical physicists, as provided under part IV ~~V~~ of
- 29 chapter 483.
- 30          24. The Board of Opticianry, created under part I of
- 31 chapter 484.

1           25. The Board of Hearing Aid Specialists, created  
2 under part II of chapter 484.

3           26. The Board of Physical Therapy Practice, created  
4 under chapter 486.

5           27. The Board of Psychology, created under chapter  
6 490.

7           28. The Board of Clinical Social Work, Marriage and  
8 Family Therapy, and Mental Health Counseling, created under  
9 chapter 491.

10  
11 The department shall contract with the Agency for Health Care  
12 Administration who shall provide consumer complaint,  
13 investigative, and prosecutorial services required by the  
14 Division of Medical Quality Assurance, councils, or boards, as  
15 appropriate.

16           Section 143. Paragraph (b) of subsection (2) of  
17 section 381.81, Florida Statutes, is amended to read:

18           381.81 Minority Health Improvement Act.--

19           (2) DEFINITIONS.--As used in this section, the  
20 following words and terms shall have the following meanings,  
21 unless the context indicates another meaning or intent:

22           (b) "Health profession" means any regulated health  
23 profession, including occupational therapy, as regulated under  
24 part III of chapter 468; respiratory therapy, as regulated  
25 under part V of chapter 468; physical therapy, as regulated  
26 under chapter 486; midwifery, as regulated under chapter 467;  
27 dietetics and nutrition practice, as regulated under part X of  
28 chapter 468; electrolysis, as regulated under chapter 478;  
29 nursing assistants, as regulated under s. 400.211; and those  
30 professions regulated by: the Board of Medicine, created  
31 under chapter 458; the Board of Osteopathic Medicine, created



1 under chapter 459; the Board of Acupuncture, created under  
 2 chapter 457; the Board of Chiropractic, created under chapter  
 3 460; the Board of Clinical Social Work, Marriage and Family  
 4 Therapy, and Mental Health Counseling, created under chapter  
 5 491; the Board of Dentistry, created under chapter 466; the  
 6 Board of Optometry, created under chapter 463; the Board of  
 7 Podiatric Medicine, created under chapter 461; the Board of  
 8 Nursing, created by chapter 464; the Board of Psychological  
 9 Examiners, created under chapter 490; the Board of  
 10 Speech-Language Pathology and Audiology, created under part I  
 11 of chapter 468; the Board of Nursing Home Administrators,  
 12 created under part II of chapter 468; the Board of Clinical  
 13 Laboratory Personnel, created under part III ~~IV~~ of chapter  
 14 483; ~~and~~ the Board of Opticianry, created under part I of  
 15 chapter 484; and the Board of Hearing Aid Specialists, created  
 16 under part II of chapter 484.

17 Section 144. Section 483.800, Florida Statutes, is  
 18 amended to read:

19 483.800 Declaration of policy and statement of  
 20 purpose.--The purpose of this part is to protect the public  
 21 health, safety, and welfare of the people of this state from  
 22 the hazards of improper performance by clinical laboratory  
 23 personnel. Clinical laboratories provide essential services  
 24 to practitioners of the healing arts by furnishing vital  
 25 information that is essential to a determination of the  
 26 nature, cause, and extent of the condition involved.  
 27 Unreliable and inaccurate reports may cause unnecessary  
 28 anxiety, suffering, and financial burdens and may even  
 29 contribute directly to death. The protection of public and  
 30 individual health requires the licensure of clinical  
 31 laboratory personnel who meet minimum requirements for safe

1 practice. The Legislature finds that laboratory testing  
 2 technology continues to advance rapidly. The Legislature also  
 3 finds that a hospital training program under the direction of  
 4 the hospital clinical laboratory director offers an  
 5 opportunity for individuals already trained in health care  
 6 professions to expand the scope of their careers. The  
 7 Legislature further finds that there is an immediate need for  
 8 properly trained personnel to ensure patient access to  
 9 testing. Therefore, the Legislature recognizes the  
 10 patient-focused benefits of hospital-based training for  
 11 laboratory and nonlaboratory personnel for testing within  
 12 hospitals and commercial laboratories ~~the laboratory and at~~  
 13 ~~alternate sites~~, and recognizes the benefits of a training  
 14 program approved by the Board of Clinical Laboratory Personnel  
 15 under the direction of the hospital clinical laboratory  
 16 director.

17 Section 145. Subsection (3) is added to section  
 18 483.801, Florida Statutes, to read:

19 483.801 Exemptions.--This part applies to all clinical  
 20 laboratories and clinical laboratory personnel within this  
 21 state, except:

22 (3) Advanced registered nurse practitioners licensed  
 23 under chapter 464 who perform provider-performed microscopy  
 24 procedures (PPMP) in an exclusive-use laboratory setting.

25 Section 146. Section 483.803, Florida Statutes, is  
 26 amended to read:

27 483.803 Definitions.--As used in this part, the term:

28 (1) "Board" means the Board of Clinical Laboratory  
 29 Personnel.

30 (2) "Clinical laboratory" means a clinical laboratory  
 31 as defined in s. 483.041(2).

1           (3) "Clinical laboratory examination" means an  
2 examination performed on materials or specimens of the human  
3 body to provide information or materials for use in the  
4 diagnosis, prevention, or treatment of a disease or the  
5 identification or assessment of a medical or physical  
6 condition.

7           (4)~~(3)~~ "Clinical laboratory personnel" includes a  
8 clinical laboratory director, supervisor, technologist, blood  
9 gas analyst, or technician who performs or is responsible for  
10 laboratory test procedures, but the term does not include  
11 trainees, persons who perform screening for blood banks or  
12 plasmapheresis centers, phlebotomists, or persons employed by  
13 a clinical laboratory to perform manual pretesting duties or  
14 clerical, personnel, or other administrative responsibilities.

15           (5)~~(4)~~ "Clinical laboratory trainee" means any person  
16 having qualifying education who is enrolled in a clinical  
17 laboratory training program approved pursuant to s. 483.811  
18 and who is seeking experience required to meet minimum  
19 qualifications for licensing in this state. Trainees may  
20 perform procedures under direct and responsible supervision of  
21 duly licensed clinical laboratory personnel, but they may not  
22 report test results.

23           (6)~~(5)~~ "Department" means the Department of Health  
24 ~~Business and Professional Regulation.~~

25           (7)~~(6)~~ "Licensed practitioner of the healing arts"  
26 means a physician licensed pursuant to chapter 458, chapter  
27 459, or chapter 460; a dentist licensed pursuant to chapter  
28 466; or a person licensed pursuant to chapter 461 or chapter  
29 462.

30           (8) "Public health laboratory scientist" means any  
31 licensed director, supervisor, technologist, or technician

1 engaged in laboratory testing of human specimens in a state,  
2 county, or municipal public health laboratory.

3 Section 147. Subsections (1) and (2) of section  
4 483.809, Florida Statutes, are amended to read:

5 483.809 Licensure; examinations; registration of  
6 trainees; approval of curricula.--

7 (1) ~~LICENSING; QUALIFICATIONS.~~--

8 ~~(a)~~ The department shall provide biennial licensure of  
9 all clinical laboratory personnel who the board certifies have  
10 met meeting the requirements of this part ~~and shall prescribe~~  
11 ~~the qualifications necessary for such licensure.~~ The license  
12 of any person who fails to pay a required fee or otherwise  
13 fails to qualify within 60 days after the date of expiration  
14 of such license shall be automatically canceled without notice  
15 or further proceedings unless the individual has made  
16 application for inactive status pursuant to s. 483.819.

17 ~~(b) Personnel qualifications may require appropriate~~  
18 ~~education, training, or experience or the passing of an~~  
19 ~~examination in appropriate subjects or any combination of~~  
20 ~~these, but no practitioner of the healing arts licensed to~~  
21 ~~practice in this state is required to obtain any license under~~  
22 ~~this part or to pay any fee hereunder except the fee required~~  
23 ~~for clinical laboratory licensure.~~

24 (2) EXAMINATIONS.--The department shall conduct  
25 examinations required by board rules to determine in part the  
26 qualification of clinical laboratory personnel for licensure.  
27 An approved national certification examination may be accepted  
28 in lieu of state examination for public health scientists.

29 Section 148. Section 483.812, Florida Statutes, is  
30 created to read:

31

1           483.812 Public health laboratory scientists;  
2 licensure.--

3           (1) Applicants at the director and supervisor level in  
4 the category of public health who are registered by the  
5 National Registry of Clinical Chemistry Certification or the  
6 American Society of Microbiology may qualify under board rules  
7 by passing the appropriate supervision and administration  
8 examination.

9           (2)(a) A technologist applicant for licensure in the  
10 category of public health microbiology, with a baccalaureate  
11 degree in one of the biological sciences from an accredited  
12 institution, may use the American Society of Microbiology or  
13 the National Registry of Microbiology Certification in Public  
14 Health Microbiology to qualify for a technologist license in  
15 public health microbiology. Such a technologist may work in a  
16 public health microbiology laboratory.

17           (b) A technologist applicant for licensure in the  
18 category of public health chemistry, with a baccalaureate  
19 degree in one of the chemical, biological, or physical  
20 sciences from an accredited institution, may use the National  
21 Registry of Clinical Chemistry Certification to qualify for a  
22 technologist license in public health chemistry. Such a  
23 technologist may work in a public health chemistry laboratory.

24           (c) A technician applicant for licensure in the  
25 category of public health, with a baccalaureate degree in one  
26 of the chemical or biological sciences from an accredited  
27 institution, may obtain a one-time, 3-year, conditional public  
28 health technician license pending national certification by  
29 the American Society of Microbiology or the National Registry  
30 of Clinical Chemistry Certification. Such a technician may  
31

1 perform testing only under the direct supervision of a  
2 licensed pathologist, director, supervisor, or technologist.

3 (3) A person licensed by the Board of Clinical  
4 Laboratory Personnel may work in a public health laboratory at  
5 the appropriate level and specialty.

6 Section 149. Section 483.813, Florida Statutes, is  
7 amended to read:

8 483.813 Clinical laboratory personnel license.--A  
9 person may not conduct a clinical laboratory examination or  
10 report the results of such examination unless such person is  
11 licensed under this part to perform such procedures. However,  
12 this provision does not apply to any practitioner of the  
13 healing arts authorized to practice in this state. The  
14 department may grant a temporary license to any candidate it  
15 deems properly qualified, for a period not to exceed 1 year,  
16 or a conditional license for a period not to exceed 3 years ~~6~~  
17 ~~months.~~

18 Section 150. Section 483.823, Florida Statutes, is  
19 amended to read:

20 483.823 Qualifications of clinical laboratory  
21 personnel.--

22 (1) The board shall prescribe minimal qualifications  
23 for clinical laboratory personnel and shall issue a license to  
24 any person who meets the minimum qualifications and who  
25 demonstrates that he possesses the character, training, and  
26 ability to qualify in those areas for which the license is  
27 sought.

28 (2) Personnel qualifications may require appropriate  
29 education, training, or experience or the passing of an  
30 examination in appropriate subjects or any combination of  
31 these, but no practitioner of the healing arts licensed to

1 practice in this state is required to obtain any license under  
2 this part or to pay any fee hereunder except the fee required  
3 for clinical laboratory licensure.

4 Section 151. Section 483.825, Florida Statutes, is  
5 amended to read:

6 483.825 Grounds for disciplinary action ~~against~~  
7 ~~clinical laboratory personnel.~~--The following acts constitute  
8 grounds for which disciplinary actions specified in s. 483.827  
9 may be taken against applicants, registrants, and licensees  
10 under this part ~~clinical laboratory personnel~~:

11 (1) Attempting to obtain, obtaining, or renewing a  
12 license or registration under this part by bribery, by  
13 fraudulent misrepresentation, or through an error of the  
14 department or the board ~~Making a fraudulent statement on an~~  
15 ~~application for a license or any other document required by~~  
16 ~~the department.~~

17 (2) Engaging in or attempting to engage in, or  
18 representing himself as entitled to perform, any clinical  
19 laboratory procedure or category of procedures not authorized  
20 pursuant to his license.

21 (3) Demonstrating incompetence or making consistent  
22 errors in the performance of clinical laboratory examinations  
23 or procedures or erroneous reporting.

24 (4) Performing a test and rendering a report thereon  
25 to a person not authorized by law to receive such services.

26 (5) Having been convicted of a felony or of any crime  
27 involving moral turpitude under the laws of any state or of  
28 the United States. The record of conviction or a certified  
29 copy thereof shall be conclusive evidence of such conviction.

30 (6) Having been adjudged mentally or physically  
31 incompetent.

1 (7) Violating or aiding and abetting in the violation  
2 of any provision of this part or the rules adopted hereunder.

3 (8) Reporting a test result when no laboratory test  
4 was performed on a clinical specimen.

5 (9) Knowingly advertising false services or  
6 credentials.

7 (10) Having a license revoked, suspended, or otherwise  
8 acted against, including the denial of licensure, by the  
9 licensing authority of another jurisdiction. The licensing  
10 authority's acceptance of a relinquishment of a license,  
11 stipulation, consent order, or other settlement, offered in  
12 response to or in anticipation of the filing of administrative  
13 charges against the licensee, shall be construed as action  
14 against the licensee.

15 (11) Failing to report to the board, in writing,  
16 within 30 days if action under subsection (10) has been taken  
17 against one's license to practice as clinical laboratory  
18 personnel in another state, territory, or country.

19 (12) Being unable to perform or report clinical  
20 laboratory examinations with reasonable skill and safety to  
21 patients by reason of illness or use of alcohol, drugs,  
22 narcotics, chemicals, or any other type of material or as a  
23 result of any mental or physical condition. In enforcing this  
24 paragraph, the department shall have, upon a finding of the  
25 secretary or his or her designee that probable cause exists to  
26 believe that the licensee is unable to practice because of the  
27 reasons stated in this paragraph, the authority to issue an  
28 order to compel a licensee to submit to a mental or physical  
29 examination by physicians designated by the department. If  
30 the licensee refuses to comply with such order, the  
31 department's order directing such examination may be enforced



1 by filing a petition for enforcement in the circuit court  
2 where the licensee resides or does business. The licensee  
3 against whom the petition is filed may not be named or  
4 identified by initials in any public court records or  
5 documents, and the proceedings shall be closed to the public.  
6 The department shall be entitled to the summary procedure  
7 provided in s. 51.011. A licensee affected under this  
8 paragraph shall at reasonable intervals be afforded an  
9 opportunity to demonstrate that he or she can resume competent  
10 practice with reasonable skill and safety to patients.

11 (13) Delegating professional responsibilities to a  
12 person when the licensee delegating such responsibilities  
13 knows, or has reason to know, that such person is not  
14 qualified by training, experience, or licensure to perform  
15 them.

16 Section 152. Section 483.828, Florida Statutes, is  
17 created to read:

18 483.828 Penalty for violations.--

19 (1) Each of the following acts constitutes a felony of  
20 the third degree, punishable as provided in s. 775.082, s.  
21 775.083, or s. 775.084:

22 (a) Practicing as clinical laboratory personnel  
23 without an active license.

24 (b) Using or attempting to use a license to practice  
25 as clinical laboratory personnel which is suspended or  
26 revoked.

27 (c) Attempting to obtain or obtaining a license to  
28 practice as clinical laboratory personnel by knowing  
29 misrepresentation.

30  
31

1           (2) Each of the following act constitutes a  
2 misdemeanor of the first degree, punishable as provided in s.  
3 775.082 or s. 775.083:

4           (a) Knowingly concealing information relating to  
5 violations of this part.

6           (b) Making any willfully false oath or affirmation  
7 whenever an oath or affirmation is required by this part.

8           (c) Leading the public to believe that one is licensed  
9 as clinical laboratory personnel, or is engaged in licensed  
10 practice as clinical laboratory personnel, without holding a  
11 valid, active license.

12           Section 153. Section 483.901, Florida Statutes, is  
13 amended to read:

14           483.901 Medical physicists; definitions; licensure.--

15           (1) SHORT TITLE.--This section may be cited as the  
16 "Florida Medical Physicists Act."

17           (2) DECLARATION OF LEGISLATIVE POLICY.--The  
18 Legislature finds that the practice of medical physics by  
19 incompetent persons is a threat to the public health and  
20 safety. It is, therefore, the responsibility of this state to  
21 protect the public health and safety from the harmful effects  
22 of excessive and unnecessary radiation by ensuring that the  
23 practice of medical physics is entrusted only to persons who  
24 are licensed under this section.

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

26           ~~(a) "Agency" means the Agency for Health Care~~  
27 ~~Administration or its successor.~~

28           (a)(b) "Council" means the Advisory Council of Medical  
29 Physicists in the Department of Health ~~Agency for Health Care~~  
30 ~~Administration.~~

31           (b) "Department" means the Department of Health.

1 (c) "Diagnostic radiological physics" means the  
2 specialty of medical physics which deals with the diagnostic  
3 application and safe use of X rays, gamma rays from sealed  
4 sources, ultrasonic radiation, radio frequency radiation, or  
5 magnetic fields, and the use of equipment associated with the  
6 production, use, measurement, and evaluation of the radiation  
7 and the quality of the diagnostic image resulting from its  
8 production and use.

9 (d) "License" means a certificate issued by the  
10 department ~~agency~~ which authorizes the holder to practice  
11 medical physics.

12 (e) "Licensed medical physicist" means a person who  
13 holds a license issued under this section.

14 (f) "Medical health physics" means the specialty of  
15 medical physics which deals with the safe use of X rays, gamma  
16 rays, electron or other charged particle beams, neutrons,  
17 radionuclides, and radiation from sealed sources, for both  
18 diagnostic and therapeutic purposes in human beings and the  
19 use of equipment required to perform appropriate tests and  
20 measurements that do not involve the direct application of  
21 radiation to humans for diagnostic or therapeutic procedures.

22 (g) "Medical nuclear radiological physics" means the  
23 specialty of medical physics which deals with the therapeutic  
24 and diagnostic application and safe use of radionuclides,  
25 except those used in sealed sources for therapeutic purposes,  
26 and the use of equipment associated with the production, use,  
27 measurement, and evaluation of radionuclides.

28 (h) "Medical physics" means the branch of physics  
29 which is associated with the practice of medicine. It  
30 includes the fields of diagnostic radiological physics,  
31

1 therapeutic radiological physics, medical nuclear radiological  
2 physics, and medical health physics.

3 (i) "Physician" means a doctor of medicine,  
4 osteopathic medicine ~~osteopathy~~, podiatry, dentistry, or  
5 chiropractic who is licensed in this state and who prescribes  
6 a radiological procedure.

7 (j) "Practice of medical physics" means the use of  
8 principles and accepted protocols of physics to ensure ~~assure~~  
9 the correct quality, quantity, and placement of radiation  
10 during the performance of a radiological procedure prescribed  
11 by a physician which will protect the patient and others from  
12 harmful excessive radiation. The term includes radiation beam  
13 calibration and characterization quality assurance, instrument  
14 specification, acceptance testing, shielding design,  
15 protection analysis on radiation-emitting equipment and  
16 radiopharmaceuticals, and consultation with a physician to  
17 ensure ~~assure~~ accurate radiation dosage to a specific patient.

18 (k) "Radiation" means ionizing or nonionizing  
19 radiation above background levels which is used to perform a  
20 diagnostic or therapeutic medical or dental radiological  
21 procedure.

22 (l) "Radiological procedure" means a test,  
23 measurement, calculation, or radiation exposure used in the  
24 diagnosis or treatment of diseases or other medical or dental  
25 conditions in human beings that includes therapeutic  
26 radiation, diagnostic radiation, nuclear magnetic resonance,  
27 or nuclear medicine procedures.

28 (m) "Therapeutic radiological physics" means that  
29 specialty of medical physics which deals with the therapeutic  
30 application and safe use of X rays, gamma rays, electron or  
31 other charged particle beams, neutrons, or radiation from

1 radionuclide sources, and the use of equipment associated with  
2 the production, use, measurement, and evaluation of that  
3 radiation.

4 (4) COUNCIL.--The Advisory Council of Medical  
5 Physicists is created in the Department of Health ~~Agency for~~  
6 ~~Health Care Administration~~ to advise the department in  
7 regulating ~~regulate~~ the practice of medical physics in this  
8 state.

9 (a) The council shall be composed of nine ~~seven~~  
10 members appointed by the secretary of the department ~~director~~  
11 as follows:

12 1. A licensed medical physicist who specializes in  
13 diagnostic radiological physics.

14 2. A licensed medical physicist who specializes in  
15 therapeutic radiological physics.

16 3. A licensed medical physicist who specializes in  
17 medical nuclear radiological physics.

18 4. A physician who is board certified by the American  
19 Board of Radiology or its equivalent.

20 5. A physician who is board certified by the American  
21 Osteopathic Board of Radiology or its equivalent.

22 6. A physician who is board certified by the American  
23 Chiropractic Radiology ~~Board of Chiropractic Radiology~~ or its  
24 equivalent.

25 7. Three ~~A~~ consumer members ~~member~~ who are ~~is~~ not, and  
26 have ~~has~~ never been, licensed as a medical physicist or  
27 licensed in any closely related profession.

28 (b) The secretary of the department ~~director~~ shall  
29 appoint the medical physicist members of the council from a  
30 list of candidates who are licensed to practice medical  
31 physics.

1           (c) The secretary of the department ~~director~~ shall  
2 appoint the physician members ~~member~~ of the council from a  
3 list of candidates who are licensed to practice medicine in  
4 this state and are board certified in diagnostic radiology,  
5 therapeutic radiology, or radiation oncology.

6           (d) The secretary of the department ~~director~~ shall  
7 appoint the public members ~~member~~ of the council.

8           (e) As the term of each member expires, the secretary  
9 of the department ~~director~~ shall appoint the successor for a  
10 term of 4 ~~3~~ years. A member shall serve until the member's  
11 ~~his~~ successor is appointed, unless physically unable to do so.

12           (f) An individual is ineligible to serve more than two  
13 full consecutive 4-year ~~3-year~~ terms.

14           (g) If a vacancy on the council occurs, the director  
15 shall appoint a member to serve for a 4-year ~~3-year~~ term.

16           (h) A council member must be a United States citizen  
17 and must have been a resident of this state for 2 consecutive  
18 years immediately before being appointed.

19           1. A member of the council who is a medical physicist  
20 must have practiced for at least 6 years before being  
21 appointed or be board certified for the specialty in which the  
22 member practices.

23           2. A member of the council who is a physician must be  
24 licensed to practice medicine in this state and must have  
25 practiced diagnostic radiology or radiation oncology in this  
26 state for at least 2 years before being appointed.

27           3. The public members ~~member~~ of the council must not  
28 have a financial interest in any endeavor related to the  
29 practice of medical physics.

30           (i) Notwithstanding any other provision of this  
31 subsection, no later than January 1, 1996, the secretary of

1 the department ~~director~~ shall make the initial appointments to  
2 the council as follows:

3 1. One member who is engaged in the practice of  
4 medical physics, one physician member, and one public member,  
5 each of whom is to be appointed to serve until June 30, 1996;

6 2. One member who is engaged in the practice of  
7 medical physics and one physician member, each of whom is to  
8 be appointed to serve until June 30, 1997; and

9 3. One member who is engaged in the practice of  
10 medical physics and one physician member, each of whom is to  
11 be appointed to serve until June 30, 1998.

12 (j) A council member may be removed from the council  
13 if the member:

14 1. Did not have the required qualifications at the  
15 time of appointment;

16 2. Does not maintain the required qualifications while  
17 serving on the council; or

18 3. Fails to attend the regularly scheduled council  
19 meetings in a calendar year as required by s. 455.207.

20 (k) Members of the council may not receive  
21 compensation for their services; however, they are entitled to  
22 reimbursement, from funds deposited in the Medical Quality  
23 Assurance ~~Health Care~~ Trust Fund, for necessary travel  
24 expenses as specified in s. 112.061 for each day they engage  
25 in the business of the council.

26 (l) At the first regularly scheduled meeting of each  
27 calendar year, the council shall elect a presiding officer and  
28 an assistant presiding officer from among its members. The  
29 council shall meet at least once each year and at other times  
30 in accordance with department requirements ~~agency rules~~.

31

1 (m) The department ~~agency~~ shall provide administrative  
2 support to the council for all licensing activities.

3 (n) The council may conduct its meetings  
4 electronically.

5 (5) POWERS OF COUNCIL.--The council shall:

6 (a) Recommend rules to administer this section.

7 (b) Recommend practice standards for the practice of  
8 medical physics which are consistent with the Guidelines for  
9 Ethical Practice for Medical Physicists prepared by the  
10 American Association of Physicists in Medicine and  
11 disciplinary guidelines adopted under s. 455.2273.

12 (c) Develop and recommend continuing education  
13 requirements for licensed medical physicists.

14 (6) LICENSE REQUIRED.--An individual may not engage in  
15 the practice of medical physics, including the specialties of  
16 diagnostic radiological physics, therapeutic radiological  
17 physics, medical nuclear radiological physics, or medical  
18 health physics, without a license issued by the department  
19 ~~agency~~ for the appropriate specialty.

20 (a) The department ~~agency~~ shall adopt rules to  
21 administer this section which specify license application and  
22 renewal fees, continuing education requirements, and standards  
23 for practicing medical physics. The council shall recommend  
24 to the department ~~agency~~ continuing education requirements  
25 that shall be a condition of license renewal. The department  
26 ~~agency~~ shall require a minimum of 24 hours per biennium of  
27 continuing education offered by an organization recommended by  
28 the council and approved by the department. The department,  
29 upon recommendation of the council, may adopt rules to specify  
30 continuing education requirements for persons who hold a  
31 license in more than one specialty.



1 (b) In order to apply for a medical physicist license  
2 in one or more specialties, a person must file an individual  
3 application for each specialty with the department ~~agency~~.  
4 The application must be on a form prescribed by the department  
5 ~~agency~~ and must be accompanied by a nonrefundable application  
6 fee for each specialty.

7 (c) The department may issue a license to an eligible  
8 applicant if the applicant meets all license requirements. At  
9 any time before the department ~~agency~~ issues ~~or renews~~ a  
10 license, the applicant may request in writing that the  
11 application be withdrawn. To reapply, the applicant must  
12 submit a new application and an additional nonrefundable  
13 application fee and must meet all current licensure  
14 requirements.

15 (d) The department ~~agency~~ shall review each completed  
16 application for a license which the department ~~agency~~  
17 receives.

18 ~~(e) The agency may issue a license to an eligible~~  
19 ~~applicant if the applicant meets all license requirements.~~

20 1. ~~Licenses must be uniform and must include:~~

21 a. ~~The name of the licensee;~~

22 b. ~~The medical physics specialty that the licensee may~~  
23 ~~practice; and~~

24 c. ~~The expiration date of the license.~~

25 2. ~~A license certificate is the property of the agency~~  
26 ~~and must be surrendered on demand.~~

27 3. ~~The agency shall adopt rules establishing a~~  
28 ~~procedure for the biennial renewal of licenses.~~

29 4. ~~A person may renew an unexpired license by meeting~~  
30 ~~the renewal requirements, paying the nonrefundable renewal fee~~

31

1 ~~before the expiration of the license, and meeting continuing~~  
2 ~~education requirements.~~

3 ~~5. The cost to renew a license within 90 days after~~  
4 ~~the license has expired is the normal renewal fee plus a~~  
5 ~~penalty in the amount of half the renewal fee.~~

6 ~~6. The cost to renew a license that has been expired~~  
7 ~~for more than 90 days but less than 2 years is the normal~~  
8 ~~renewal fee plus a penalty in the amount of the renewal fee.~~

9 ~~7. A license may not be renewed after it has been~~  
10 ~~expired for more than 2 years. To be relicensed, a person~~  
11 ~~must comply with all current application requirements to~~  
12 ~~practice medical physics and must submit a new application and~~  
13 ~~nonrefundable application fee to the agency.~~

14 ~~(e)(f)~~ On receipt of an application and fee as  
15 specified in this section, the ~~department~~ agency may issue a  
16 license to practice medical physics in this state:

17 1. Until October 1, 1997, to a person who meets any of  
18 the following requirements:

19 a. Earned from an accredited college or university a  
20 doctoral degree in physics, medical physics, biophysics,  
21 radiological physics, medical health physics, or nuclear  
22 engineering and has at least 2 years' experience in the  
23 practice of the medical physics specialty for which  
24 application is made.

25 b. Earned from an accredited college or university a  
26 master's degree in physics, medical physics, biophysics,  
27 radiological physics, medical health physics, or nuclear  
28 engineering and has at least 3 years' experience in the  
29 practice of the medical physics specialty for which  
30 application is made.

31

1           c. Earned from an accredited college or university a  
2 bachelor's degree in physics and has at least 5 years'  
3 experience in the practice of the medical physics specialty  
4 for which application is made.

5           d. Has at least 8 years' experience in the practice of  
6 the medical physics specialty for which application is made, 2  
7 years of which must have been earned within the 4 years  
8 immediately preceding application for licensure.

9           e. Is board certified in the medical physics specialty  
10 in which the applicant applies to practice by the American  
11 Board of Radiology for diagnostic radiological physics,  
12 therapeutic radiological physics, or medical nuclear  
13 radiological physics; by the American Board of Medical Physics  
14 or the Canadian Board of Medical Physics for diagnostic  
15 radiological physics, therapeutic radiological physics, or  
16 medical nuclear radiological physics; or by the American Board  
17 of Health Physics or an equivalent certifying body approved by  
18 the agency.

19           ~~1. Until October 1, 1997, to a person who has earned~~  
20 ~~from an accredited college or university a master's degree or~~  
21 ~~doctoral degree in physics, medical physics, biophysics,~~  
22 ~~radiological physics, medical health physics, or nuclear~~  
23 ~~engineering, and has at least 2 years of experience in the~~  
24 ~~practice of the medical physics specialty for which~~  
25 ~~application is made during the 4 years immediately before the~~  
26 ~~application is made.~~

27           2. On or after October 1, 1997, to a person who+

28           ~~a. Holds a license to practice medical physics in this~~  
29 ~~state; or~~

30           ~~b.~~ is board certified in the medical physics specialty  
31 in which the applicant applies to practice by the American

1 Board of Radiology for diagnostic radiological physics,  
2 therapeutic radiological physics, or medical nuclear  
3 radiological physics; by the American Board of Medical Physics  
4 for diagnostic radiological physics, therapeutic radiological  
5 physics, or medical nuclear radiological physics; or by the  
6 American Board of Health Physics or an equivalent certifying  
7 body approved by the department ~~agency~~.

8 ~~(f)~~~~(g)~~ A licensee shall:

9 1. Display the license in a place accessible to the  
10 public; and

11 2. Report immediately any change in the licensee's  
12 address or name to the department ~~agency~~.

13 (g) The following acts are grounds for which the  
14 disciplinary actions in paragraph (h) may be taken:

15 1. Obtaining or attempting to obtain a license by  
16 bribery, fraud, knowing misrepresentation, or concealment of  
17 material fact or through an error of the department.

18 2. Having a license denied, revoked, suspended, or  
19 otherwise acted against in another jurisdiction.

20 3. Being convicted or found guilty of, or entering a  
21 plea of nolo contendere to, regardless of adjudication, a  
22 crime in any jurisdiction which relates to the practice of, or  
23 the ability to practice, the profession of medical physics.

24 4. Willfully failing to file a report or record  
25 required for medical physics or willfully impeding or  
26 obstructing the filing of a report or record required by this  
27 section or inducing another person to do so.

28 5. Making misleading, deceptive, or fraudulent  
29 representations in or related to the practice of medical  
30 physics.

31

1           6. Willfully failing to report any known violation of  
2 this section or any rule adopted thereunder.

3           7. Willfully or repeatedly violating a rule adopted  
4 under this section or an order of the department.

5           8. Failing to perform any statutory or legal  
6 obligation placed upon a licensee.

7           9. Aiding, assisting, procuring, employing, or  
8 advising any unlicensed person to practice medical physics  
9 contrary to this section or any rule adopted thereunder.

10           10. Delegating or contracting for the performance of  
11 professional responsibilities by a person when the licensee  
12 delegating or contracting such responsibilities knows, or has  
13 reason to know, such person is not qualified by training,  
14 experience, and authorization to perform them.

15           11. Practicing or offering to practice beyond the  
16 scope permitted by law or accepting and performing  
17 professional responsibilities the licensee knows, or has  
18 reason to know, the licensee is not competent to perform.

19           12. Gross or repeated malpractice or the inability to  
20 practice medical physics with reasonable skill and safety.

21           13. Judicially determined mental incompetency.

22           14. Being unable to practice medical physics with  
23 reasonable skill and safety because of a mental or physical  
24 condition or illness or the use of alcohol, controlled  
25 substances, or any other substance which impairs one's ability  
26 to practice.

27           a. The department may, upon probable cause, compel a  
28 licensee to submit to a mental or physical examination by  
29 physicians designated by the department. The cost of an  
30 examination shall be borne by the licensee, and the licensee's  
31 failure to submit to such an examination constitutes an

1 admission of the allegations against the licensee, consequent  
2 upon which a default and a final order may be entered without  
3 the taking of testimony or presentation of evidence, unless  
4 the failure was due to circumstances beyond the licensee's  
5 control.

6 b. A licensee who is disciplined under this  
7 subparagraph shall, at reasonable intervals, be afforded an  
8 opportunity to demonstrate that the licensee can resume the  
9 practice of medical physics with reasonable skill and safety.

10 c. With respect to any proceeding under this  
11 subparagraph, the record of proceedings or the orders entered  
12 by the department may not be used against a licensee in any  
13 other proceeding.

14 (h) When the department finds any person guilty of any  
15 of the grounds set forth in paragraph (g), including conduct  
16 that would constitute a substantial violation of paragraph (g)  
17 which occurred prior to licensure, it may enter an order  
18 imposing one or more of the following penalties:

19 1. Deny the application for licensure.

20 2. Revoke or suspend the license.

21 3. Impose an administrative fine for each count or  
22 separate offense.

23 4. Place the licensee on probation for a specified  
24 time and subject the licensee to such conditions as the  
25 department determines necessary, including requiring  
26 treatment, continuing education courses, or working under the  
27 monitoring or supervision of another licensee.

28 5. Restrict a licensee's practice.

29 6. Issue a reprimand to the licensee.

30 (i) The department may not issue or reinstate a  
31 license to a person it has deemed unqualified until it is

1 satisfied that such person has complied with the terms and  
2 conditions of the final order and that the licensee can safely  
3 practice medical physics.

4 ~~(h) The agency may refuse to issue or renew a license,~~  
5 ~~suspend or revoke a license, or reprimand the licensee for the~~  
6 ~~following:~~

7 1. ~~Obtaining or renewing a license by means of fraud,~~  
8 ~~misrepresentation, or concealment of material fact;~~

9 2. ~~Having made an application for or held a license~~  
10 ~~issued by the licensing authority of another state, territory,~~  
11 ~~or jurisdiction which was denied, suspended, or revoked by~~  
12 ~~that licensing authority without so informing the agency;~~

13 3. ~~Engaging in unprofessional conduct related to the~~  
14 ~~practice of medical physics that has endangered or is likely~~  
15 ~~to endanger the health, safety, or welfare of the public;~~

16 4. ~~Violating this section, a rule of the agency, or~~  
17 ~~the practice standards for medical physics; or~~

18 5. ~~Being convicted of a felony or of a misdemeanor~~  
19 ~~that directly relates to a person's duties and~~  
20 ~~responsibilities as a licensed medical physicist.~~

21 (j)(i) The department ~~agency~~ may issue a temporary  
22 license to an applicant pending completion of the application  
23 process.

24 (7) FEES.--The fee for the initial license application  
25 shall be \$500 and is nonrefundable. The fee for license  
26 renewal may not be more than \$500. These fees may cover only  
27 the costs incurred by the department ~~agency~~ and the council to  
28 administer this section. By July 1 each year, the department  
29 ~~agency~~ shall advise the council if the fees are insufficient  
30 to administer this section.

31

1           (8) DISPOSITION OF FEES.--The department ~~agency~~ shall  
2 deposit all funds received into the Health Care Trust Fund.

3           (9) PENALTY FOR VIOLATIONS.--It is a felony of the  
4 third degree, punishable as provided in s. 775.082, s.  
5 775.083, or s. 775.084, to:

6           (a) Practice or attempt to practice medical physics or  
7 hold oneself out to be a licensed medical physicist without  
8 holding an active license.

9           (b) Practice or attempt to practice medical physics  
10 under a name other than one's own.

11           (c) Use or attempt to use a revoked or suspended  
12 license or the license of another.

13           ~~(9) OFFENSES.--A person is in violation of this~~  
14 ~~section if the person intentionally or knowingly:~~

15           ~~(a) Practices medical physics in violation of this~~  
16 ~~section; or~~

17           ~~(b) Uses letters, terminology, symbols, or signs to~~  
18 ~~indicate or imply qualifications or licensure to practice~~  
19 ~~medical physics in any manner for which the person is not~~  
20 ~~licensed.~~

21           ~~(10) PENALTIES.--~~

22           ~~(a) A person who violates this section or any rule~~  
23 ~~adopted under this section is guilty of a felony of the third~~  
24 ~~degree, punishable as provided in s. 775.082, s. 775.083, or~~  
25 ~~s. 775.084.~~

26           ~~(b) The agency may modify, deny, suspend, or revoke a~~  
27 ~~license, or may impose an administrative fine not to exceed~~  
28 ~~\$1,000 per violation, for the violation of any provision of~~  
29 ~~this section, rule adopted under this section, or terms or~~  
30 ~~conditions of any license issued by the agency. The agency~~

31



1 ~~shall develop specific disciplinary guidelines in accordance~~  
2 ~~with s. 455.2273.~~

3 ~~1. In determining the amount of a fine that is to be~~  
4 ~~levied for a violation, the following factors must be~~  
5 ~~considered:~~

6 ~~a. The severity of the violation and the extent to~~  
7 ~~which this section, any rule adopted under this section, or~~  
8 ~~any term or condition of any license was violated.~~

9 ~~b. Any action taken by the licensee to correct the~~  
10 ~~violation.~~

11 ~~c. Any previous violation by the licensee.~~

12 ~~2. All amounts collected under this section must be~~  
13 ~~deposited in the Health Care Trust Fund.~~

14 ~~(c) If the agency determines that the licensee~~  
15 ~~presents a clear and present danger to the public health or~~  
16 ~~safety, the agency may issue an emergency order that~~  
17 ~~immediately suspends or revokes his license.~~

18 ~~(10)(11)~~ EXEMPTIONS.--This section does not apply to:

19 (a) A physician who is licensed by this state to the  
20 extent that the physician ~~he~~ practices within the scope of the  
21 physician's ~~his~~ training, education, and licensure;

22 (b) A person who is licensed under part IV of chapter  
23 468 to the extent that the person ~~he~~ practices within the  
24 scope of the person's ~~his~~ training, education, and licensure;

25 (c) A person who performs beam calibration and  
26 characterization, quality assurance, instrument specification,  
27 acceptance testing, shielding design, or protection analysis  
28 on radiation-emitting equipment or radiopharmaceuticals in  
29 connection with procedures that are not involved with the  
30 diagnosis or treatment of disease or other medical or dental  
31 conditions in humans;

1 (d) A person who is employed by a federal or state  
2 regulatory agency and is performing duties within the scope of  
3 the person's employment;

4 (e) A student or intern who practices medical physics  
5 in conjunction with a program at an accredited college or  
6 university to the extent that the student or intern is  
7 adequately supervised by a licensed medical physicist or  
8 licensed physician; or

9 (f) A dentist or any person working under the  
10 dentist's ~~his~~ supervision pursuant to chapter 466 to the  
11 extent that the dentist or the person supervised by the  
12 dentist is practicing within the scope of his or her training,  
13 education, and licensure.

14 ~~(12) LICENSURE EXCEPTION.--Notwithstanding the~~  
15 ~~provisions of subsections (1)-(11), any medical physicist who,~~  
16 ~~as of July 1, 1995, has practiced medical physics for 5 years~~  
17 ~~or longer is entitled to continue to so practice and need not~~  
18 ~~be licensed as a medical physicist.~~

19 Section 154. Subsection (2) of section 484.041,  
20 Florida Statutes, is amended to read:

21 484.041 Definitions.--As used in this part, the term:

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

24 Section 155. Subsection (1) of section 484.042,  
25 Florida Statutes, is amended to read:

26 484.042 Board of Hearing Aid Specialists; membership,  
27 appointment, terms.--

28 (1) The Board of Hearing Aid Specialists is created  
29 within the Department of Health ~~Business and Professional~~  
30 ~~Regulation~~ and shall consist of nine members to be appointed  
31 by the Governor and confirmed by the Senate.

1           Section 156. Subsection (2) of section 484.051,  
2 Florida Statutes, is amended to read:

3           484.051 Itemization of prices; delivery of hearing  
4 aid; receipt, packaging, disclaimer, guarantee.--

5           (2) Any person who fits and sells a hearing aid shall,  
6 at the time of delivery, provide the purchaser with a receipt  
7 containing the seller's signature, the address of his regular  
8 place of business, and his license or trainee registration  
9 number, if applicable, together with the brand, model,  
10 manufacturer or manufacturer's identification code, and serial  
11 number of the hearing aid furnished and the amount charged for  
12 the hearing aid. The receipt also shall specify whether the  
13 hearing aid is new, used, or rebuilt and shall specify the  
14 length of time and other terms of the guarantee and by whom  
15 the hearing aid is guaranteed. When the client has requested  
16 an itemized list of prices, the receipt shall also provide an  
17 itemization of the total purchase price, including, but not  
18 limited to, the cost of the aid, earmold, batteries and other  
19 accessories, and any services. Notice of the availability of  
20 this service shall be displayed in a conspicuous manner in the  
21 office. The receipt also shall state that any complaint  
22 concerning the hearing aid and guarantee therefor, if not  
23 reconciled with the licensee from whom the hearing aid was  
24 purchased, should be directed by the purchaser to the  
25 Department of Health ~~Business and Professional Regulation~~. The  
26 address and telephone number of such office shall be stated on  
27 the receipt.

28           Section 157. Subsection (2) of section 486.021,  
29 Florida Statutes, is amended to read:

30           486.021 Definitions.--In this chapter, unless the  
31 context otherwise requires, the term:

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

3           Section 158. Section 486.023, Florida Statutes, is  
4 amended to read:

5           486.023 Board of Physical Therapy Practice.--

6           (1) There is created within the department the Board  
7 of Physical Therapy Practice, composed of nine ~~seven~~ members,  
8 ~~recommended by the Florida Physical Therapy Association and~~  
9 appointed by the Governor, subject to confirmation by the  
10 Senate.

11           (2) Four ~~Five~~ board members shall be licensed physical  
12 therapists, and one board member shall be a licensed physical  
13 therapist assistant, in good standing in this state who are  
14 residents of this state and have been engaged in the practice  
15 of physical therapy for at least 4 years immediately prior to  
16 their appointment. One licensed physical therapist board  
17 member may be a full-time faculty member teaching in a  
18 physical therapy curriculum in an educational institution in  
19 this state. Three ~~One~~ of the four ~~two~~ remaining members shall  
20 be residents ~~a resident~~ of this state who have ~~has~~ never been  
21 ~~a~~ licensed health care practitioners ~~practitioner~~. ~~One of The~~  
22 ~~two~~ remaining member ~~members~~ shall be a health care  
23 practitioner licensed under chapter 458 or chapter 459 who is  
24 a resident of this state and has been engaged as a licensed  
25 health care practitioner for at least 4 years immediately  
26 prior to his or her appointment.

27           ~~(3) Within 90 days after October 1, 1989, the Governor~~  
28 ~~shall appoint the board as follows:~~

29           ~~(a) Two members for terms of 2 years each.~~

30           ~~(b) Two members for terms of 3 years each.~~

31           ~~(c) Three members for terms of 4 years each.~~

1           ~~(3)(4)~~ As the terms of the members expire, the  
2 Governor shall appoint successors for terms of 4 years, and  
3 such members shall serve until their successors are appointed.

4           ~~(4)(5)~~ All provisions of chapter 455 relating to  
5 activities of the board shall apply.

6           Section 159. Section 486.031, Florida Statutes, is  
7 amended to read:

8           486.031 Physical therapist; licensing  
9 requirements.--To be eligible for licensing as a physical  
10 therapist, an applicant must:

11           (1) Be at least 18 years old;

12           (2) Be of good moral character; and

13           (3)(a) Have been graduated from a school of physical  
14 therapy which has been approved for the educational  
15 preparation of physical therapists by the appropriate  
16 accrediting agency recognized by the Commission on Recognition  
17 of Postsecondary Accreditation~~(formerly the National~~  
18 ~~Commission on Accrediting and the Federation of Regional~~  
19 ~~Accrediting Commissions of Higher Education)~~or the United  
20 States Department of Education at the time of his graduation  
21 and have passed, to the satisfaction of the board, the  
22 American Registry Examination prior to 1971 or a national an  
23 examination approved administered by the board department to  
24 determine his fitness for practice as a physical therapist as  
25 hereinafter provided; ~~or~~

26           (b) Have received a diploma from a program in physical  
27 therapy in a foreign country and have educational credentials  
28 deemed equivalent to those required for the educational  
29 preparation of physical therapists in this country, as  
30 recognized by the appropriate agency as identified by the  
31 board, and have passed to the satisfaction of the board an

1 examination ~~administered by the department~~ to determine his  
2 fitness for practice as a physical therapist as hereinafter  
3 provided; or

4 (c) Be entitled to licensure without examination as  
5 provided in s. 486.081.

6 Section 160. Section 486.041, Florida Statutes, is  
7 amended to read:

8 486.041 Physical therapist; application for license;  
9 fee; temporary permit.--

10 (1) A person who desires to be licensed as a physical  
11 therapist shall apply to the department board in writing on a  
12 form furnished by the department. He shall embody in that  
13 application evidence under oath, satisfactory to the board, of  
14 his possessing the qualifications preliminary to examination  
15 required by s. 486.031. He shall pay to the department at the  
16 time of filing his application a fee not to exceed \$100, as  
17 fixed by the board, ~~plus the actual per applicant cost to the~~  
18 ~~department for purchase of the examination from the~~  
19 ~~Professional Examination Services for the American Physical~~  
20 ~~Therapist's Association or a similar national organization.~~  
21 ~~If an applicant is deemed ineligible to take the examination,~~  
22 ~~that part of his application fee which is to be used for~~  
23 ~~examination expenses shall be returned.~~

24 (2) If a person desires to practice physical therapy  
25 before becoming licensed through examination, he shall apply  
26 ~~to the board~~ for a temporary permit in accordance with rules  
27 adopted pursuant to this chapter.

28 (a) A temporary permit shall only be issued for a  
29 limited period of time, not to exceed 1 year, and shall not be  
30 renewable. A temporary permit shall automatically expire if an  
31 applicant fails the examination.

1 (b) An applicant for licensure by examination and  
2 practicing under a temporary permit shall do so only under the  
3 direct supervision of a licensed physical therapist.

4 Section 161. Section 486.051, Florida Statutes, is  
5 amended to read:

6 486.051 Physical therapist; examination of  
7 applicant.--~~The department shall provide for examination of~~  
8 ~~applicants for licensing as physical therapists at least once~~  
9 ~~a year, and more often at the discretion of the board, at a~~  
10 ~~time and place to be determined by the department.~~ The  
11 examinations of an applicant for licensing as a physical  
12 therapist shall be ~~administered by the department,~~in  
13 accordance with rules adopted by the board, to test the  
14 applicant's qualifications and shall include the taking of a  
15 written test by the applicant. If an applicant fails to pass  
16 the examination in three attempts, he shall not be eligible  
17 for reexamination unless he completes additional educational  
18 or training requirements prescribed by the board. An  
19 applicant who has completed the additional educational or  
20 training requirements prescribed by the board may take the  
21 examination on two more occasions. If the applicant has  
22 failed to pass the examination after five attempts, he is no  
23 longer eligible to take the examination.

24 Section 162. Section 486.081, Florida Statutes, is  
25 amended to read:

26 486.081 Physical therapist; issuance of license  
27 without examination to person passing examination of another  
28 authorized examining board; temporary permit; fee.--

29 (1) The board may cause a license to be issued through  
30 the department without examination to any applicant who  
31 presents evidence satisfactory to the board of having passed

1 the American Registry Examination prior to 1971 or an  
2 examination in physical therapy before a similar lawfully  
3 authorized examining board of another state, the District of  
4 Columbia, a territory, or a foreign country, if the standards  
5 for licensure in physical therapy in such other state,  
6 district, territory, or foreign country are determined by the  
7 board to be as high as those of this state, as established by  
8 rules adopted pursuant to this chapter. Any person who holds a  
9 license pursuant to this section may use the words "physical  
10 therapist" or "physiotherapist," or the letters "P.T.," in  
11 connection with his name or place of business to denote his  
12 licensure hereunder.

13 (2) At the time of making application for licensure  
14 without examination pursuant to the terms of this section, the  
15 applicant shall pay to the department a fee not to exceed \$175  
16 as fixed by the board, no part of which will be returned.

17 (3) If a person desires to practice physical therapy  
18 before becoming licensed through endorsement, he shall apply  
19 to the board for a temporary permit in accordance with rules  
20 adopted pursuant to this chapter. A temporary permit shall  
21 only be issued for a limited period of time, not to exceed 1  
22 year, and shall not be renewable.

23 Section 163. Section 486.102, Florida Statutes, is  
24 amended to read:

25 486.102 Physical therapist assistant; licensing  
26 requirements.--To be eligible for licensing by the board as a  
27 physical therapist assistant, an applicant must:

- 28 (1) Be at least 18 years old;  
29 (2) Be of good moral character; and  
30 (3)(a) Have been graduated from a school giving a  
31 course of not less than 2 years for physical therapist



1 assistants, which has been approved for the educational  
2 preparation of physical therapist assistants by the  
3 appropriate accrediting agency recognized by the Commission on  
4 Recognition of Postsecondary Accreditation(~~formerly the~~  
5 ~~National Commission on Accrediting and the Federation of~~  
6 ~~Regional Accrediting Commissions of Higher Education~~)or the  
7 United States Department of Education at the time of his  
8 graduation and have passed to the satisfaction of the board an  
9 examination ~~administered by the department~~ to determine his  
10 fitness for practice as a physical therapist assistant as  
11 hereinafter provided; or

12 (b) Have been graduated from a school giving a course  
13 for physical therapist assistants in a foreign country and  
14 have educational credentials deemed equivalent to those  
15 required for the educational preparation of physical therapist  
16 assistants in this country, as recognized by the appropriate  
17 agency as identified by the board, and passed to the  
18 satisfaction of the board an examination ~~conducted by the~~  
19 ~~department~~ to determine his fitness for practice as a physical  
20 therapist assistant as hereinafter provided; or

21 (c) Be entitled to licensure without examination as  
22 provided in s. 486.107.

23 Section 164. Section 486.103, Florida Statutes, is  
24 amended to read:

25 486.103 Physical therapist assistant; application for  
26 license; fee; temporary permit.--

27 (1) A person who desires to be licensed as a physical  
28 therapist assistant shall apply to the department board in  
29 writing on a form furnished by the department. He shall  
30 embody in that application evidence under oath, satisfactory  
31 to the board, of his possessing the qualifications preliminary

1 to examination required by s. 486.104. He shall pay to the  
2 department at the time of filing his application a fee not to  
3 exceed \$100, as fixed by the board, ~~plus the actual per~~  
4 ~~applicant cost to the department for purchase of the~~  
5 ~~examination from the Professional Examination Services for the~~  
6 ~~American Physical Therapist's Association or a similar~~  
7 ~~national organization. If an applicant is deemed ineligible~~  
8 ~~to take the examination, that part of his application fee~~  
9 ~~which is to be used for examination expenses shall be~~  
10 ~~returned.~~

11 (2) If a person desires to work as a physical  
12 therapist assistant before being licensed through examination,  
13 he shall apply for a temporary permit in accordance with rules  
14 adopted pursuant to this chapter.

15 (a) A temporary permit shall only be issued for a  
16 limited period of time, not to exceed 1 year, and shall not be  
17 renewable. A temporary permit shall automatically expire if an  
18 applicant fails the examination.

19 (b) An applicant for licensure by examination who is  
20 practicing under a temporary permit shall do so only under the  
21 direct supervision of a licensed physical therapist.

22 Section 165. Section 486.104, Florida Statutes, is  
23 amended to read:

24 486.104 Physical therapist assistant; examination of  
25 applicant.--~~The department shall provide for examination of~~  
26 ~~applicants for licensing as physical therapist assistants at~~  
27 ~~least once a year, and more often at the discretion of the~~  
28 ~~board, at a time and place to be determined by the department.~~  
29 The examination of an applicant for licensing as a physical  
30 therapist assistant shall be ~~provided by the department,~~in  
31 accordance with rules adopted by the board, to test the

1 applicant's qualifications and shall include the taking of a  
2 ~~written~~ test by the applicant. If an applicant fails to pass  
3 the examination in three attempts, he shall not be eligible  
4 for reexamination unless he completes additional educational  
5 or training requirements prescribed by the board. An  
6 applicant who has completed the additional educational or  
7 training requirements prescribed by the board may take the  
8 examination on two more occasions. If the applicant has  
9 failed to pass the examination after five attempts, he is no  
10 longer eligible to take the examination.

11 Section 166. Section 486.123, Florida Statutes, is  
12 created to read:

13 486.123 Sexual misconduct in the practice of physical  
14 therapy.--The physical therapist-patient relationship is  
15 founded on mutual trust. Sexual misconduct in the practice of  
16 physical therapy means violation of the physical  
17 therapist-patient relationship through which the physical  
18 therapist uses that relationship to induce or attempt to  
19 induce the patient to engage, or to engage or attempt to  
20 engage the patient, in sexual activity outside the scope of  
21 practice or the scope of generally accepted examination or  
22 treatment of the patient. Sexual misconduct in the practice  
23 of physical therapy is prohibited.

24 Section 167. Paragraph (g) is added to subsection (2)  
25 of section 486.125, Florida Statutes, to read:

26 486.125 Refusal, revocation, or suspension of license;  
27 administrative fines and other disciplinary measures.--

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

31

1           (g) Recovery of actual costs of investigation and  
2 prosecution.

3           Section 168. Subsection (11) is added to section  
4 641.495, Florida Statutes, 1996 Supplement, to read:

5           641.495 Requirements for issuance and maintenance of  
6 certificate.--

7           (11) The organization shall designate a medical  
8 director who is a physician licensed under chapter 458 or  
9 chapter 459.

10          Section 169. Subsection (3) of section 499.012,  
11 Florida Statutes, is amended to read:

12          499.012 Wholesale distribution; definitions; permits;  
13 general requirements.--

14          (3)~~(a)~~ A person that engages in wholesale distribution  
15 of prescription drugs in this state must have a wholesale  
16 distributor's permit issued by the department, except as noted  
17 in this section. Each establishment must be separately  
18 permitted except as noted in this subsection.

19          (a) A separate establishment permit is not required  
20 when a permitted prescription drug wholesaler consigns a  
21 prescription drug to a pharmacy that is permitted under  
22 chapter 465 and located in this state, provided that:

23           1. The consignor wholesaler notifies the department in  
24 writing of the contract to consign prescription drugs to a  
25 pharmacy along with the identity and location of each  
26 consignee pharmacy;

27           2. The pharmacy maintains its permit under chapter  
28 465;

29           3. The consignor wholesaler, which has no legal  
30 authority to dispense prescription drugs, complies with all  
31 wholesale distribution requirements of s. 499.0121 with

1 respect to the consigned drugs and maintains records  
2 documenting the transfer of title or other completion of the  
3 wholesale distribution of the consigned prescription drugs;

4 4. The distribution of the prescription drug is  
5 otherwise lawful under this chapter and other applicable law;

6 5. Open packages containing prescription drugs within  
7 a pharmacy are the responsibility of the pharmacy, regardless  
8 of how the drugs are titled; and

9 6. The pharmacy dispenses the consigned prescription  
10 drug in accordance with the limitations of its permit under  
11 chapter 465 or returns the consigned prescription drug to the  
12 consignor wholesaler. In addition, a person who holds title to  
13 prescription drugs may transfer the drugs to a person  
14 permitted or licensed to handle the reverse distribution or  
15 destruction of drugs. Any other distribution by and means of  
16 the consigned prescription drug by any person, not limited to  
17 the consignor wholesaler or consignee pharmacy, to any other  
18 person is prohibited.

19 (b) A wholesale distributor's permit is not required  
20 for the one-time transfer of title of a pharmacy's lawfully  
21 acquired prescription drug inventory by a pharmacy with a  
22 valid permit issued under chapter 465 to a consignor  
23 prescription drug wholesaler, permitted under this chapter, in  
24 accordance with a written consignment agreement between the  
25 pharmacy and that wholesaler if: the permitted pharmacy and  
26 the permitted prescription drug wholesaler comply with all of  
27 the provisions of paragraph (3)(a) and the prescription drugs  
28 continue to be within the permitted pharmacy's inventory for  
29 dispensing in accordance with the limitations of the pharmacy  
30 permit under chapter 465. A consignor drug wholesaler may not  
31 use the pharmacy as a wholesale distributor through which it

1 distributes the legend drugs to other pharmacies. Nothing in  
2 this section is intended to prevent a wholesale drug  
3 distributor from obtaining this inventory in the event of  
4 nonpayment by the pharmacy.

5 (c)~~(b)~~ The department shall require information from  
6 each wholesale distributor as part of the permit and renewal  
7 of such permit, as required under s. 499.01.

8 Section 170. This act shall take effect July 1, 1997.

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