

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; providing conditions
15 under which resident physicians may prescribe
16 medicinal drugs; amending s. 459.0075, F.S.,
17 relating to limited licenses; eliminating the
18 requirement that applicants for a limited
19 license be retired from the practice of
20 osteopathic medicine; restricting certain
21 limited licensees to noncompensated practice;
22 requiring the payment of fees if a person
23 receives compensation for the practice of
24 osteopathic medicine; amending s. 459.0085,
25 F.S.; correcting a cross reference; requiring
26 osteopathic physicians not carrying medical
27 malpractice insurance to post notice and
28 provide a written statement thereof; providing
29 for acknowledgment that the patient has been so
30 informed; amending s. 459.015, F.S.; revising
31 and providing grounds for disciplinary action;

1 providing penalties; creating s. 459.0152,
 2 F.S.; prohibiting osteopathic physicians from
 3 falsely representing that they are
 4 board-certified specialists; amending ss.
 5 240.4067, 390.011, 395.0191, 408.035, 409.905,
 6 415.102, 415.1034, 415.504, 440.106, 440.13,
 7 440.134, 440.15, 456.31, 459.006, 462.01,
 8 468.301, 468.302, 476.044, 477.0135, 483.291,
 9 621.03, 627.351, 627.357, 627.6482, 725.01,
 10 766.101, 766.103, 766.105, 766.110, 817.234,
 11 and 945.047, F.S.; conforming and correcting
 12 terminology relating to osteopathic medicine;
 13 amending s. 460.403, F.S.; updating the
 14 definition of "department"; amending s.
 15 460.413, F.S.; revising grounds for
 16 disciplinary action; providing penalties;
 17 providing criteria for determining the
 18 applicable penalty; providing certain
 19 evidentiary standards; providing authority and
 20 procedure to enjoin a chiropractor from
 21 providing medical services under certain
 22 circumstances; reenacting ss. 320.0848(9),
 23 455.236(4)(g), and 766.111(2), F.S., relating
 24 to parking permits for disabled persons,
 25 prohibited referrals to home health agencies,
 26 and unnecessary diagnostic testing, to
 27 incorporate the amendment to s. 460.413, F.S.,
 28 in references thereto; amending s. 460.4165,
 29 F.S.; revising a provision relating to the fee
 30 accompanying applications to supervise
 31 chiropractic physician's assistants; amending

1 s. 461.003, F.S.; updating the definition of
 2 "department"; amending s. 461.013, F.S.;
 3 revising a ground for disciplinary action;
 4 providing penalties; amending s. 461.018, F.S.;
 5 clarifying a provision relating to the limited
 6 practice of podiatry in designated areas of
 7 need; amending s. 464.003, F.S.; revising a
 8 definition to update authority over regulation
 9 of nursing; amending ss. 464.004, 464.008,
 10 464.009, 464.012, 464.013, and 464.014, F.S.,
 11 to conform; amending s. 464.018, F.S.; revising
 12 grounds for disciplinary action; providing
 13 penalties; conforming terminology; amending s.
 14 464.019, F.S., relating to approval of nursing
 15 programs; providing for a program review fee;
 16 conforming terminology; creating s. 464.0205,
 17 F.S.; providing for certification of retired
 18 volunteer nurses; providing requirements,
 19 qualifications, fees, and restrictions;
 20 amending s. 464.022, F.S.; providing an
 21 exemption from regulation relating to certain
 22 nurses accompanying and caring for patients
 23 temporarily residing in this state; amending s.
 24 465.003, F.S.; updating the definition of
 25 "department"; amending s. 465.004, F.S.;
 26 increasing the membership of the Board of
 27 Pharmacy; revising membership qualifications;
 28 amending s. 465.014, F.S.; increasing the
 29 number of pharmacy technicians who may be
 30 supervised by a licensed pharmacist; amending
 31 s. 465.0156, F.S.; revising information

1 required for registration of nonresident
 2 pharmacies; amending s. 465.016, F.S.; revising
 3 a ground for disciplinary action; providing
 4 penalties; amending s. 465.035, F.S.; allowing
 5 the dispensing of controlled substances based
 6 on electronic facsimiles of the original
 7 prescriptions; amending s. 466.003, F.S.;
 8 updating the definition of "department";
 9 amending s. 466.006, F.S., relating to the
 10 examination of dentists; revising prerequisites
 11 for certain applicants to take the examination;
 12 amending s. 466.017, F.S.; eliminating obsolete
 13 provisions relating to the utilization of
 14 general anesthesia and parenteral conscious
 15 sedation by licensed dentists; amending s.
 16 466.028, F.S.; revising grounds for
 17 disciplinary action; providing penalties;
 18 amending s. 468.1115, F.S.; revising and
 19 providing exemptions from regulation as a
 20 speech-language pathologist or audiologist;
 21 amending s. 468.1125, F.S.; updating the
 22 definition of "department"; amending s.
 23 468.1155, F.S.; revising provisional licensure
 24 requirements; providing requirements for
 25 cross-discipline licensure; amending s.
 26 468.1185, F.S.; revising licensure
 27 requirements; conforming a reference; amending
 28 s. 468.1195, F.S.; revising continuing
 29 education requirements; providing for adoption
 30 of standards of approval of continuing
 31 education providers; creating s. 468.1201,

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

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

1 temporary permits; correcting a cross reference
2 and terminology; amending s. 478.47, F.S.;
3 revising requirements for licensure by
4 endorsement; amending s. 478.52, F.S.;
5 prohibiting the operation of unlicensed
6 electrolysis facilities; providing penalties;
7 amending s. 480.033, F.S.; revising the
8 definition of "board"; updating the definition
9 of "department"; amending s. 480.034, F.S.;
10 eliminating an exemption from regulation
11 applicable to certain skin treatments and
12 weight-loss programs; amending s. 480.035,
13 F.S.; renaming the Board of Massage as the
14 Board of Massage Therapy; amending s. 480.041,
15 F.S.; eliminating provisional licensure to
16 practice massage therapy; amending s. 480.0415,
17 F.S.; authorizing an increase in the number of
18 classroom hours of continuing education that
19 may be required for renewal of a license to
20 practice massage therapy; amending s. 480.042,
21 F.S.; revising what examinations must measure;
22 repealing s. 480.0425, F.S., relating to
23 inactive status; amending s. 480.043, F.S.;
24 revising provisions relating to the transfer of
25 licenses; amending s. 480.044, F.S.; revising
26 provisions relating to fees; amending s.
27 480.047, F.S.; prohibiting the practice of
28 massage therapy without a license unless
29 exempted from licensure; creating s. 480.0485,
30 F.S.; prohibiting sexual misconduct in the
31 practice of massage therapy, for which there

1 are disciplinary actions; amending s. 20.43,
 2 F.S., relating to the Department of Health;
 3 conforming terminology; updating a reference;
 4 amending s. 381.81, F.S., to conform; amending
 5 s. 483.800, F.S.; revising policy and purpose
 6 relating to regulation of clinical laboratory
 7 personnel; amending s. 483.801, F.S.; providing
 8 a regulatory exemption relating to advanced
 9 registered nurse practitioners; amending s.
 10 483.803, F.S.; updating the definition of
 11 "department"; providing definitions; amending
 12 s. 483.809, F.S.; revising licensing
 13 provisions; authorizing an alternative
 14 examination for public health laboratory
 15 scientists; creating s. 483.812, F.S.;
 16 providing for licensure of public health
 17 laboratory scientists; amending s. 483.813,
 18 F.S.; extending the period of a temporary
 19 license for clinical laboratory personnel;
 20 providing a period for a conditional license;
 21 amending s. 483.823, F.S.; revising provisions
 22 relating to qualifications of clinical
 23 laboratory personnel; amending s. 483.825,
 24 F.S.; revising and providing grounds for
 25 disciplinary action; providing penalties;
 26 creating s. 483.828, F.S.; providing penalties
 27 for specified violations; amending s. 483.901,
 28 F.S., the "Florida Medical Physicists Act";
 29 providing that the Advisory Council of Medical
 30 Physicists is an advisory rather than a
 31 regulatory body; increasing the number and

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

1 provisions relating to licensure as a physical
2 therapist assistant; amending s. 486.103, F.S.;
3 revising provisions relating to applying for a
4 license as a physical therapist assistant and
5 to the fee therefor; amending s. 486.104, F.S.;
6 revising provisions relating to examination of
7 applicants for licensure as a physical
8 therapist assistant; creating s. 486.123, F.S.;
9 prohibiting sexual misconduct in the practice
10 of physical therapy, for which there are
11 disciplinary actions; amending s. 486.125,
12 F.S.; providing for recovery of the actual
13 costs of investigation and prosecution;
14 amending s. 641.495, F.S.; requiring a health
15 maintenance organization to designate as
16 medical director a state-licensed physician or
17 osteopathic physician; amending s. 499.012,
18 F.S.; clarifying and providing for additional
19 wholesale distribution exceptions; providing an
20 effective date.

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

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

402.48 Health care services pools.--

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

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

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

4 (8)

5 (g) Meeting the financial responsibility requirements
6 of this section must be established at the time of issuance or
7 renewal of a certificate of registration ~~on or after January~~
8 ~~1, 1991~~.

9 Section 2. Section 457.102, Florida Statutes, is
10 amended to read:

11 457.102 Definitions.--As used in this chapter:

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

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

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

24 (4) "License Certificate" means the document of
25 authorization issued by the department for a person to engage
26 in the practice of acupuncture.

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

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

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1 457.103 Board of Acupuncture; membership; appointment
2 and terms.--

3 (1) The Board of Acupuncture is created within the
4 department and shall consist of five members, to be appointed
5 by the Governor and confirmed by the Senate. Three members of
6 the board must be licensed ~~certified~~ Florida acupuncturists.
7 Two members must be laypersons who are not and who have never
8 been acupuncturists or members of any closely related
9 profession. Members shall be appointed for 4-year terms or for
10 the remainder of the unexpired term of a vacancy.

11 Section 4. Section 457.105, Florida Statutes, is
12 amended to read:

13 457.105 Licensure ~~Certification~~ qualifications and
14 fees.--

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

20 (2) A person may become licensed ~~certified~~ to practice
21 acupuncture if the person applies to the department and
22 ~~applicant~~:

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

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

30 (b) Has completed 60 college credits from an
31 accredited postsecondary institution as a prerequisite to

1 enrollment in an authorized 3-year course of study in
2 acupuncture, and has completed a 3-year course of study in
3 acupuncture, and effective July 31, 2001, a 4-year course of
4 study in acupuncture, which meets standards established by the
5 board by rule, which standards include successful completion
6 of academic courses in western anatomy, western physiology,
7 western pathology, and western biomedical terminology.
8 However, any person who enrolled in an authorized course of
9 study in acupuncture before August 1, 1997, must have
10 completed only the following:

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

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

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

1 (c) Has successfully completed a board-approved
2 national certification process, is actively licensed in a
3 state that ~~which~~ has examination requirements that are
4 substantially equivalent to or more stringent than those of
5 this state, or passes an examination administered by the
6 department, which examination tests the applicant's competency
7 and knowledge of the practice of acupuncture. At the request
8 of any applicant, oriental nomenclature for the points shall
9 be used in the examination. The examination shall include a
10 practical examination of the knowledge and skills required to
11 practice acupuncture, covering diagnostic and treatment
12 techniques and procedures; and

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

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

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

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

26 4. Initial biennial licensure ~~certification~~ fee:
27 \$400, if licensed in the first half of the biennium, and \$200,
28 if licensed in the second half of the biennium~~\$2,000~~.

29 Section 5. Section 457.107, Florida Statutes, is
30 amended to read:

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1 457.107 Renewal of licenses ~~certificates~~; continuing
2 education.--

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

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

8 (3) The board shall by rule prescribe continuing
9 education requirements, not to exceed 30 hours biennially, as
10 a condition for renewal of a license ~~certificate~~. The criteria
11 for such programs or courses shall be approved by the board.

12 In order to meet continuing education requirements, prior
13 approval by the board of such programs or courses is required.
14 All education programs that contribute to the advancement,
15 extension, or enhancement of professional skills and knowledge
16 related to the practice of acupuncture, whether conducted by a
17 nonprofit or profitmaking entity, are eligible for approval.
18 The board shall have the authority to set a fee, not to exceed
19 \$100, for each continuing education provider or program
20 submitted for approval.

21 Section 6. Section 457.108, Florida Statutes, is
22 amended to read:

23 457.108 Inactive status; expiration; reactivation of
24 licenses ~~certificates~~--

25 (1) A license ~~certificate~~ that has become inactive may
26 be reactivated under this section upon application to the
27 department. The board shall prescribe by rule continuing
28 education requirements as a condition of reactivating a
29 license ~~certificate~~. The continuing education requirements for
30 reactivating a license ~~certificate~~ must not exceed 10
31 classroom hours for each year the license ~~certificate~~ was

1 inactive, in addition to completion of the number of hours
2 required for renewal on the date the license ~~certificate~~
3 became inactive.

4 (2) The board shall adopt rules relating to
5 application procedures for inactive status, renewal of
6 inactive licenses ~~certificates~~, and reactivation of licenses
7 ~~certificates~~. The board shall prescribe by rule an application
8 fee for inactive status, a renewal fee for inactive status, a
9 delinquency fee, and a fee for the reactivation of a license
10 ~~certificate~~. None of these fees may exceed the biennial
11 renewal fee established by the board for an active license
12 ~~certificate~~.

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

17 Section 7. Section 457.1085, Florida Statutes, is
18 amended to read:

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

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1 Section 8. Section 457.109, Florida Statutes, is
2 amended to read:

3 457.109 Disciplinary actions; grounds; 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 (a) Attempting to obtain, obtaining, or renewing a
9 license ~~certificate~~ to practice acupuncture by bribery, by
10 fraudulent misrepresentations, or through an error of the
11 department.

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

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

21 (d) False, deceptive, or misleading advertising or
22 advertising which claims that acupuncture is useful in curing
23 any disease.

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

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

29 (g) Aiding, assisting, procuring, employing, or
30 advising any unlicensed ~~uncertified~~ person to practice
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1 acupuncture contrary to this chapter or to a rule of the
2 department.

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

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

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

17 (k) Making deceptive, untrue, or fraudulent
18 representations in the practice of acupuncture or employing a
19 trick or scheme in the practice of acupuncture when such
20 scheme or trick fails to conform to the generally prevailing
21 standards of treatment in the community.

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

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

29 (n) Exercising influence on the patient to exploit the
30 patient for the financial gain of the licensee
31 ~~certificateholder~~ or of a third party.

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

29 (p) Gross or repeated malpractice or the failure to
30 practice acupuncture with that level of care, skill, and
31 treatment which is recognized by a reasonably prudent similar

1 acupuncturist as being acceptable under similar conditions and
2 circumstances.

3 (q) Practicing or offering to practice beyond the
4 scope permitted by law or accepting and performing
5 professional responsibilities which the licensee
6 ~~certificateholder~~ knows or has reason to know that he is not
7 competent to perform.

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

13 (s) Violating any provision of this chapter, a rule of
14 the department, or a lawful order of the department previously
15 entered in a disciplinary hearing or failing to comply with a
16 lawfully issued subpoena of the department.

17 (t) Conspiring with another to commit an act, or
18 committing an act, which would tend to coerce, intimidate, or
19 preclude another licensee ~~certificateholder~~ from lawfully
20 advertising his services.

21 (u) Fraud or deceit or gross negligence, incompetence,
22 or misconduct in the operation of a ~~tutorial program or a~~
23 course of study.

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

27 (w) Failing to comply with any rule of the board
28 relating to health and safety, including, but not limited to,
29 the sterilization of needles and equipment and the disposal of
30 potentially infectious materials.

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

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

6 (b) Revocation or suspension of a license ~~certificate~~.

7 (c) Restriction of practice.

8 (d) Imposition of an administrative fine not to exceed
9 \$1,000 for each count or separate offense.

10 (e) Issuance of a reprimand.

11 (f) Placement of the acupuncturist on probation for a
12 period of time and subject to such conditions as the board may
13 specify.

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

21 Section 9. Section 457.116, Florida Statutes, is
22 amended to read:

23 457.116 Prohibited acts; penalty.--

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

25 (a) Hold himself out as a certified or licensed
26 acupuncturist unless licensed under this chapter ~~certified as~~
27 ~~provided herein~~.

28 (b) Practice ~~acupuncture~~ or attempt to practice
29 acupuncture without an active license ~~certificate or as~~
30 ~~otherwise permitted by board rule established under the~~

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1 ~~authority of s. 457.105(2)(b)~~ or as otherwise provided by this
2 chapter.

3 (c) Obtain or attempt to obtain or obtain a license
4 ~~certificate~~ to practice acupuncture by fraudulent
5 misrepresentation.

6 (d) Permit an employed person to engage in the
7 practice of acupuncture unless such person holds an active
8 license certificate as an acupuncturist, except as otherwise
9 provided by this chapter.

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

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

15 458.303 Provisions not applicable to other
16 practitioners; exceptions, etc.--

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

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

3 458.305 Definitions.--As used in this chapter:

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

6 Section 12. Subsections (2) and (5) of section
7 458.307, Florida Statutes, are amended to read:

8 458.307 Board of Medicine.--

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

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

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1 (5) During the time members are appointed to a
2 probable cause panel, they shall attempt to complete their
3 work on every case presented to them. In the event that
4 consideration of a case is begun but not completed during the
5 term of those members on the panel, they may reconvene as a
6 probable cause panel, ~~in addition to the panels established~~
7 ~~under paragraph (2)(b)~~, for the purpose of completing their
8 deliberations on that case.

9 Section 13. Section 455.206, Florida Statutes, is
10 amended to read:

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

22 Section 14. Paragraph (f) of subsection (1) and
23 subsection (2) of section 458.311, Florida Statutes, 1996
24 Supplement, are amended, and subsection (10) is added to said
25 section, to read:

26 458.311 Licensure by examination; requirements;
27 fees.--

28 (1) Any person desiring to be licensed as a physician
29 shall apply to the department to take the licensure
30 examination. The department shall examine each applicant whom
31 the board certifies:

1 (f) Meets one of the following medical education and
2 postgraduate training requirements:

3 1.a. Is a graduate of an allopathic medical school or
4 allopathic college recognized and approved by an accrediting
5 agency recognized by the United States Office of Education or
6 is a graduate of an allopathic medical school or allopathic
7 college within a territorial jurisdiction of the United States
8 recognized by the accrediting agency of the governmental body
9 of that jurisdiction;

10 b. If the language of instruction of the medical
11 school is other than English, has demonstrated competency in
12 English through presentation of a satisfactory grade on the
13 Test of Spoken English of the Educational Testing Service or a
14 similar test approved by rule of the board; and

15 c. Has completed an approved residency of at least 1
16 year.

17 2.a. Is a graduate of a foreign medical school
18 registered with the World Health Organization and certified
19 pursuant to s. 458.314 as having met the standards required to
20 accredit medical schools in the United States or reasonably
21 comparable standards;

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

29 c. Has completed an approved residency of at least 1
30 year.

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

3 b. Has had his medical credentials evaluated by the
4 Educational ~~Education~~ Commission for ~~on~~ Foreign Medical
5 Graduates, holds an active, valid certificate issued by that
6 commission, and has passed the examination utilized by that
7 commission; and

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

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

28 (10) Notwithstanding any other provision of this
29 section, the department shall examine any person who meets the
30 criteria set forth in sub-subparagraph (1)(f)1.a.,
31

1 sub-subparagraphs (1)(f)3.a. and b., or subsection (3), if the
2 person:

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

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

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

12 (d) Remits a nonrefundable administration fee not to
13 exceed \$50 and an examination fee not to exceed \$300 plus the
14 actual cost per person to the department for the purchase of
15 the examination from the Federation of State Medical Boards of
16 the United States or a similar national organization. The
17 examination fee is refundable if the person is found to be
18 ineligible to take the examination.

19 Section 15. Section 458.313, Florida Statutes, 1996
20 Supplement, is amended to read:

21 458.313 Licensure by endorsement; requirements;
22 fees.--

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

27 (a) Has met the qualifications for licensure in s.
28 458.311(1)(b)-(f);

29 (b) Has obtained a passing score, as established by
30 rule of the board, on the licensure examination of the
31 Federation of State Medical Boards of the United States, Inc.

1 (FLEX), or of the United States Medical Licensing Examination
 2 (USMLE), or the examination of the National Board of Medical
 3 Examiners, or on a combination thereof, provided the board
 4 certifies as eligible for licensure by endorsement any
 5 applicant who took the required examinations more than 10
 6 years prior to application ~~that said examination or~~
 7 ~~combination of examinations required shall have been so taken~~
 8 ~~within the 10 years immediately preceding the filing of his~~
 9 ~~application for licensure under this section; and~~

10 (c) Has submitted ~~Shows~~ evidence of the active
 11 licensed practice of medicine in another jurisdiction, for at
 12 least 2 of the immediately preceding 4 years, or evidence of
 13 successful completion of either board-approved postgraduate
 14 training, or a board-approved clinical competency examination,
 15 within the year preceding the filing of an application for
 16 licensure. For purposes of this paragraph, "active licensed
 17 practice of medicine" means that practice of medicine by
 18 physicians, including those employed by any governmental
 19 entity in community or public health, as defined by this
 20 chapter, medical directors under s. 641.495(11) who are
 21 practicing medicine, and those on the active teaching faculty
 22 of an accredited medical school.

23 (2)(a) As prescribed by board rule, the board may
 24 require an applicant who does not pass the licensing
 25 examination after five attempts to complete additional
 26 remedial education or training. The board shall prescribe the
 27 additional requirements in a manner that permits the applicant
 28 to complete the requirements and be reexamined within 2 years
 29 after the date the applicant petitions the board to retake the
 30 examination a sixth or subsequent time. ~~The board may require~~
 31 ~~oral examinations of any applicant under the provisions of~~

1 ~~this section. However, the applicant must be given adequate~~
2 ~~notice of the examination, both as to the time, place, nature,~~
3 ~~and scope thereof, as well as a statement of the reasons~~
4 ~~requiring such examination. Failure to successfully complete~~
5 ~~an oral examination, if required by the board, shall result in~~
6 ~~revocation of the license.~~

7 (b) The board may require an applicant for licensure
8 by endorsement to take and pass the appropriate licensure
9 examination prior to certifying the applicant as eligible for
10 licensure.

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

22 ~~(4) If the applicant has not actively practiced~~
23 ~~medicine or been on the active teaching faculty of an~~
24 ~~accredited medical school within the previous 4 years, the~~
25 ~~board shall certify the applicant to the department for~~
26 ~~licensure by endorsement subject to the condition that the~~
27 ~~applicant work under the supervision of another physician for~~
28 ~~a period, not to exceed 1 year, as determined by the board~~
29 ~~based on its determination of the licensee's ability to~~
30 ~~practice medicine. The supervising physician shall have had~~
31

1 ~~no probable cause findings against him within the previous 3~~
2 ~~years.~~

3 (4)~~(5)~~ The board may promulgate rules and regulations,
4 to be applied on a uniform and consistent basis, which may be
5 necessary to carry out the provisions of this section.

6 (5)~~(6)~~ Upon certification by the board, the department
7 shall impose conditions, limitations, or restrictions on a
8 license by endorsement if the applicant is on probation in
9 another jurisdiction for an act which would constitute a
10 violation of this chapter.

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

25 (7)~~(8)~~ When the board determines that any applicant
26 for licensure by endorsement has failed to meet, to the
27 board's satisfaction, each of the appropriate requirements set
28 forth in this section, it may enter an order requiring one or
29 more of the following terms:

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

1 (b) Certification to the department of an application
2 for licensure, certification, or registration with
3 restrictions on the scope of practice of the licensee; or

4 (c) Certification to the department of an application
5 for licensure, certification, or registration with placement
6 of the physician on probation for a period of time and subject
7 to such conditions as the board may specify, including, but
8 not limited to, requiring the physician to submit to
9 treatment, attend continuing education courses, submit to
10 reexamination, or work under the supervision of another
11 physician.

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

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

24 458.317 Limited licenses.--

25 (1)(a) Any person desiring to obtain a limited license
26 shall:

27 1. Submit to the board, with an application and fee
28 not to exceed \$300, an affidavit stating that he has been
29 licensed to practice medicine in any jurisdiction in the
30 United States for at least 10 years ~~and has retired or intends~~
31 ~~to retire from the practice of medicine~~ and intends to

1 practice only pursuant to the restrictions of a limited
 2 license granted pursuant to this section. However, a
 3 physician who is not fully retired in all jurisdictions, may
 4 use a limited license only for noncompensated practice. If
 5 the person applying for a limited license submits a notarized
 6 statement from the employing agency or institution stating
 7 that he will not receive ~~monetary~~ compensation for any service
 8 involving the practice of medicine, the application fee and
 9 all licensure fees shall be waived. However, any person who
 10 receives a waiver of fees for a limited license shall pay such
 11 fees if the person receives compensation for the practice of
 12 medicine.

13 2. Meet the requirements in s. 458.311(1)(b)-(f) and
 14 (5). If the applicant graduated from medical school prior to
 15 1946, the board or its appropriate committee may accept
 16 military medical training or medical experience as a
 17 substitute for the approved 1-year residency requirement in s.
 18 458.311(1)(f).

19 (b) After approval of an application under this
 20 section, no license shall be issued until the applicant
 21 provides to the board an affidavit that ~~the applicant has in~~
 22 ~~fact retired from the practice of medicine in this or any~~
 23 ~~other jurisdiction in which the applicant holds a license and~~
 24 ~~that~~ there have been no substantial changes in status since
 25 initial application.

26
 27 Nothing herein limits in any way any policy by the board,
 28 otherwise authorized by law, to grant licenses to physicians
 29 duly licensed in other states under conditions less
 30 restrictive than the requirements of this section.
 31 Notwithstanding the other provisions of this section, the

1 board may refuse to authorize a physician otherwise qualified
2 to practice in the employ of any agency or institution
3 otherwise qualified if the agency or institution has caused or
4 permitted violations of the provisions of this chapter which
5 it knew or should have known were occurring.

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

8 458.319 Renewal of license.--

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

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

31 458.320 Financial responsibility.--

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

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

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

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

1 to disciplinary action unless, within 30 days from the date of
2 mailing, he either:

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

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

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

9 (II) An order from a court of competent jurisdiction
10 staying execution on the final judgment pending disposition of
11 the appeal.

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

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

31

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

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

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

28 458.331 Grounds for disciplinary action; action by the
29 board and department.--

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

4 (m) Failing to keep legible, as defined by department
5 rule in consultation with the board,~~written~~ medical records
6 that identify the licensed physician or the physician extender
7 and supervising physician by name and professional title who
8 is or are responsible for rendering, ordering, supervising, or
9 billing for each diagnostic or treatment procedure and that
10 justify ~~justifying~~ the course of treatment of the patient,
11 including, but not limited to, patient histories; examination
12 results; test results; records of drugs prescribed, dispensed,
13 or administered; and reports of consultations and
14 hospitalizations.

15 (cc) Prescribing, ordering, dispensing, administering,
16 supplying, selling, or giving any drug which is a Schedule II
17 amphetamine or a Schedule II sympathomimetic amine drug or any
18 compound thereof, pursuant to chapter 893, to or for any
19 person except for:

20 1. The treatment of narcolepsy; hyperkinesia;
21 behavioral syndrome ~~in children~~ characterized by the
22 developmentally inappropriate symptoms of moderate to severe
23 distractibility, short attention span, hyperactivity,
24 emotional lability, and impulsivity; or drug-induced brain
25 dysfunction;

26 2. The differential diagnostic psychiatric evaluation
27 of depression or the treatment of depression shown to be
28 refractory to other therapeutic modalities; or

29 3. The clinical investigation of the effects of such
30 drugs or compounds when an investigative protocol therefor is
31

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

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

14 (11) Advertising or holding oneself out as a
15 board-certified specialist, if not qualified under s.
16 458.3312, in violation of this chapter.

17 Section 20. Section 458.3312, Florida Statutes, is
18 created to read:

19 458.3312 Specialties.--A physician licensed under this
20 chapter may not hold himself or herself out as a
21 board-certified specialist unless the physician has received
22 formal recognition as a specialist from a specialty board of
23 the American Board of Medical Specialties or other recognizing
24 agency approved by the board. However, a physician may
25 indicate the services offered and may state that his or her
26 practice is limited to one or more types of services when this
27 accurately reflects the scope of practice of the physician.

28 Section 21. Section 458.345, Florida Statutes, is
29 amended to read:

30
31

1 458.345 Registration of resident physicians, interns,
2 and fellows; list of hospital employees; prescribing of
3 medicinal drugs and controlled substances;penalty.--

4 (1) Any person desiring to practice as a resident
5 physician, assistant resident physician, house physician,
6 intern, or fellow in fellowship training which leads to
7 subspecialty board certification in this state who does not
8 hold a valid, active license issued under this chapter shall
9 apply to the department to be registered and shall remit a fee
10 not to exceed \$300 as set by the board. The department shall
11 register any applicant the board certifies has met the
12 following requirements:

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

14 (b) Has not committed any act or offense within or
15 without the state which would constitute the basis for refusal
16 to certify an application for licensure pursuant to s.
17 458.331.

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

20 (2) The board shall not certify to the department for
21 registration any applicant who is under investigation in any
22 state or jurisdiction for an act which would constitute the
23 basis for imposing a disciplinary penalty specified in s.
24 458.331(2)(b) until such time as the investigation is
25 completed, at which time the provisions of s. 458.331 shall
26 apply.

27 (3) Every hospital employing or utilizing the services
28 of a resident physician, assistant resident physician, house
29 physician, intern, or fellow in fellowship training which
30 leads to subspecialty board certification shall designate a
31 person who shall, on January 1 and July 1 of each year,

1 furnish the department with a list of the hospital's ~~its~~
2 employees and such other information as the board may direct.
3 The chief executive officer of each such hospital shall
4 provide the executive director of the board with the name,
5 title, and address of the person responsible for furnishing
6 such reports.

7 (4) Registration under this section shall
8 automatically expire after 2 years without further action by
9 the board or the department unless an application for renewal
10 is approved by the board. No person registered under this
11 section may be employed or utilized as a house physician or
12 act as a resident physician, an assistant resident physician,
13 an intern, or a fellow in fellowship training which leads to a
14 subspecialty board certification in a hospital of this state
15 for more than 2 years without a valid, active license or
16 renewal of registration under this section. Requirements for
17 renewal of registration shall be established by rule of the
18 board. An application fee not to exceed \$300 as set by the
19 board shall accompany the application for renewal, except that
20 resident physicians, assistant resident physicians, interns,
21 and fellows in fellowship training which leads to subspecialty
22 board certification shall be exempt from payment of any
23 renewal fees.

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

27 (6) A resident physician, assistant resident
28 physician, house physician, intern, or fellow may prescribe
29 medicinal drugs and controlled substances under the following
30 circumstances:

31

1 (a) Such person is employed in a hospital and the
2 hospital specifically grants such person controlled substance
3 prescriptive authority;

4 (b) Such person is engaged in an accredited training
5 program;

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

8 (d) Such person is the holder of a prescriber number
9 issued by the hospital and the prescription involved has that
10 number printed thereon;

11 (e) Internal control code numbers are issued to each
12 such person who is granted prescriptive authority under this
13 subsection; and

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

16 ~~(7)(5)~~ Any person willfully violating this section
17 commits a misdemeanor of the first degree, punishable as
18 provided in s. 775.082 or s. 775.083.

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

21 458.346 Public Sector Physician Advisory Committee.--

22 (2) PUBLIC SECTOR PHYSICIAN ADVISORY COMMITTEE.--There
23 is hereby created a Public Sector Physician Advisory Committee
24 which shall be comprised of three physicians. One physician
25 shall be appointed by the chair ~~chairman~~ of the Board of
26 Medicine. The two remaining physicians shall be appointed by
27 the secretary of the department from recommendations of the
28 appropriate organization, if any, representing such physicians
29 for the purpose of collective bargaining. The chair ~~chairman~~
30 of the committee shall be one of the two public sector
31 physicians who shall be elected by majority vote of the

1 committee members. Members of the committee shall serve
2 3-year terms and shall meet at least once each year or upon
3 the call of the committee chair ~~on a quarterly basis~~. The
4 initial term for one public sector physician shall be for 2
5 years, and the other for 3 years. Members of the committee
6 are subject to reappointment. Committee members shall receive
7 reimbursement for per diem and travel expenses.

8 Section 23. Section 458.347, Florida Statutes, 1996
9 Supplement, is amended to read:

10 458.347 Physician assistants.--

11 (1) LEGISLATIVE INTENT.--

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

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

22 (c) The purpose of this section is to encourage the
23 utilization of physician assistants by physicians and to allow
24 for innovative development of programs for the education of
25 physician assistants.

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

27 ~~(a) "Agency" means the Agency for Health Care~~
28 ~~Administration.~~

29 (a)~~(b)~~ "Approved program" means a program, formally
30 approved by the boards, for the education of physician
31 assistants.

1 (b)~~(c)~~ "Boards" means the Board of Medicine and the
2 Board of Osteopathic Medicine.

3 (c)~~(d)~~ "Council" means the Council on Physician
4 Assistants.

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

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

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

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

24 (h)~~(i)~~ "Continuing medical education" means courses
25 recognized and approved by the boards, the American Academy of
26 Physician Assistants, the American Medical Association, the
27 American Osteopathic Association, or the Accreditation Council
28 on Continuing Medical Education.

29 (3) PERFORMANCE OF SUPERVISING PHYSICIAN.--Each
30 physician or group of physicians supervising a certified
31 physician assistant must be qualified in the medical areas in

1 which the physician assistant is to perform and shall be
2 individually or collectively responsible and liable for the
3 performance and the acts and omissions of the physician
4 assistant. A physician may not supervise more than four
5 currently certified physician assistants at any one time.

6 (4) PERFORMANCE OF PHYSICIAN ASSISTANTS.--

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

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

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

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

28 (e) A supervisory physician may delegate to a fully
29 certified physician assistant the authority to prescribe any
30 medication used in the supervisory physician's practice if
31 such medication is listed on the formulary created pursuant to

1 paragraph (f). A fully certified physician assistant may only
2 prescribe such medication under the following circumstances:

3 1. A physician assistant must clearly identify to the
4 patient that he is a physician assistant. Furthermore, the
5 physician assistant must inform the patient that the patient
6 has the right to see the physician prior to any prescription
7 being prescribed by the physician assistant.

8 2. The supervisory physician must notify the
9 department ~~agency~~ of his intent to delegate, on a
10 department-approved ~~an agency-approved~~ form, before delegating
11 such authority and with each certification renewal application
12 filed by the physician assistant.

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

23 4. The physician assistant must file with the
24 department ~~agency~~, before commencing to prescribe, evidence
25 that the physician assistant has a minimum of 3 months of
26 clinical experience in the specialty area of the supervising
27 physician.

28 5. The physician assistant must file with the
29 department ~~agency~~ a signed affidavit that he has completed a
30 minimum of 10 continuing medical education hours in the
31 specialty practice in which the physician assistant has

1 prescriptive privileges with each certification renewal
2 application.

3 6. The department ~~agency~~ shall issue certification and
4 a prescriber number to the physician assistant granting
5 authority for the prescribing of medicinal drugs authorized
6 within this paragraph upon completion of the foregoing
7 requirements.

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

18 8. The physician assistant must note the prescription
19 in the appropriate medical record, and the supervisory
20 physician must review and sign each notation. For dispensing
21 purposes only, the failure of the supervisory physician to
22 comply with these requirements does not affect the validity of
23 the prescription.

24 9. This paragraph does not prohibit a supervisory
25 physician from delegating to a physician assistant the
26 authority to order medication for a hospitalized patient of
27 the supervisory physician.

28
29 This paragraph does not apply to facilities licensed pursuant
30 to chapter 395.

31

1 (f)1. There is created a five-member committee
 2 appointed by the Director of Health Care Administration. The
 3 committee must be composed of one fully certified physician
 4 assistant certified pursuant to this section or s. 459.022
 5 ~~458.022~~, two physicians licensed pursuant to this chapter, one
 6 of whom supervises a fully licensed physician assistant, one
 7 osteopathic physician licensed pursuant to chapter 459, and
 8 one pharmacist licensed pursuant to chapter 465 who is not
 9 licensed pursuant to this chapter or chapter 459. The
 10 committee shall establish a formulary of medicinal drugs for
 11 which a fully certified physician assistant may prescribe.
 12 The formulary may not include controlled substances as defined
 13 in chapter 893, antineoplastics, antipsychotics,
 14 radiopharmaceuticals, general anesthetics or radiographic
 15 contrast materials, or any parenteral preparations except
 16 insulin and epinephrine.

17 2. Only the committee shall add to, delete from, or
 18 modify the formulary. Any person who requests an addition,
 19 deletion, or modification of a medicinal drug listed on such
 20 formulary has the burden of proof to show cause why such
 21 addition, deletion, or modification should be made.

22 3. The boards shall adopt the formulary required by
 23 this paragraph, and each addition, deletion, or modification
 24 to the formulary, by rule. Notwithstanding any provision of
 25 chapter 120 to the contrary, the formulary rule shall be
 26 effective 60 days after the date it is filed with the
 27 Secretary of State. Upon adoption of the formulary, the
 28 department ~~agency~~ shall mail a copy of such formulary to each
 29 fully certified physician assistant and to each pharmacy
 30 licensed by the state. The boards shall establish, by rule, a
 31

1 fee not to exceed \$200 to fund the provisions of this
2 paragraph and paragraph (e).

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

6 (6) PROGRAM APPROVAL.--

7 (a) The boards shall approve programs, based on
8 recommendations by the council, for the education and training
9 of physician assistants which meet standards established by
10 rule of the boards. The council may recommend only those
11 physician assistant programs that hold full accreditation or
12 provisional accreditation from the Commission on Accreditation
13 of Allied Health Programs or its successor organization. Any
14 educational institution offering a physician assistant program
15 approved by the boards pursuant to this paragraph may also
16 offer the physician assistant program authorized in paragraph
17 (c) for unlicensed physicians.

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 (c) Any community college with the approval of the
26 State Board of Community Colleges may conduct a physician
27 assistant program which shall apply for national accreditation
28 through the American Medical Association's Committee on Allied
29 Health, Education, and Accreditation, or its successor
30 organization, and which may admit unlicensed physicians, as
31 authorized in subsection (7), who are graduates of foreign

1 medical schools listed with the World Health Organization.
2 The unlicensed physician must have been a resident of this
3 state for a minimum of 12 months immediately prior to
4 admission to the program. An evaluation of knowledge base by
5 examination shall be required to grant advanced academic
6 credit and to fulfill the necessary requirements to graduate.
7 A minimum of one 16-week semester of supervised clinical and
8 didactic education, which may be completed simultaneously,
9 shall be required before graduation from the program. All
10 other provisions of this section shall remain in effect.

11 (7) PHYSICIAN ASSISTANT CERTIFICATION.--

12 (a) Any person desiring to be certified as a physician
13 assistant must apply to the department ~~agency~~. The department
14 ~~agency~~ shall issue a certificate to any person certified by
15 the council as having met the following requirements:

16 1. Is at least 18 years of age.

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

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

31

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

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

4 c. A sworn statement of any previous revocation or
5 denial of licensure or certification in any state.

6 d. Two letters of recommendation.

7 (b)1. Notwithstanding subparagraph (a)2. and
8 sub-subparagraph (a)3.a., the department ~~agency~~ shall examine
9 each applicant who the Board of Medicine certifies:

10 a. Has completed the application form and remitted a
11 nonrefundable application fee not to exceed \$500 and an
12 examination fee not to exceed \$300, plus the actual cost to
13 the department ~~agency~~ to provide the examination. The
14 examination fee is refundable if the applicant is found to be
15 ineligible to take the examination. The department ~~agency~~
16 shall translate the examination into the native language of
17 any applicant who requests and agrees to pay all costs of such
18 translation, provided the applicant demonstrates to the
19 department ~~agency~~ the ability to communicate orally in basic
20 English.

21 b. Is an unlicensed physician who graduated from a
22 foreign medical school listed with the World Health
23 Organization who has not previously taken and failed the
24 examination of the National Commission on Certification of
25 Physician Assistants and who has been certified by the Board
26 of Medicine as having met the requirements for licensure as a
27 medical doctor by examination as set forth in s. 458.311(1),
28 (3), (4), and (5), with the exception that the applicant is
29 not required to have completed an approved residency of at
30 least 1 year and the applicant is not required to have passed
31 the licensing examination specified under s. 458.311 or hold a

1 valid, active certificate issued by the Educational Commission
2 for Foreign Medical Graduates.

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

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

9 2. The department ~~agency~~ may grant temporary
10 certification to an applicant who meets the requirements of
11 subparagraph 1. Between meetings of the council, the
12 department ~~agency~~ may grant temporary certification to
13 practice based on the completion of all temporary
14 certification requirements. All such administratively issued
15 certifications shall be reviewed and acted on at the next
16 regular meeting of the council. A temporary certificate
17 expires upon receipt and notice of scores to the
18 certificateholder from the first available examination
19 specified in subparagraph 1. following certification by the
20 department ~~agency~~. An applicant who fails the proficiency
21 examination is no longer temporarily certified, but may apply
22 for a one-time extension of temporary certification after
23 reapplying for the next available examination. Extended
24 certification shall expire upon failure of the
25 certificateholder to sit for the next available examination or
26 upon receipt and notice of scores to the certificateholder
27 from such examination.

28 3. Notwithstanding any other provision of law, the
29 examination specified pursuant to subparagraph 1. shall be
30 administered by the department ~~agency~~ only five times.
31 Applicants certified by the board for examination shall

1 receive at least 6 months' notice of eligibility prior to the
2 administration of the initial examination. Subsequent
3 examinations shall be administered at intervals determined by
4 the department ~~agency~~ after the reporting of the scores of the
5 first examination. For the purposes of this paragraph, the
6 department ~~agency~~ may develop, contract for the development
7 of, purchase, or approve an examination, including a practical
8 component, that adequately measures an applicant's ability to
9 practice with reasonable skill and safety. The minimum
10 passing score on the examination shall be established by the
11 department ~~agency~~, with the advice of the board. Those
12 applicants failing to pass that examination or any subsequent
13 examination shall receive notice of the administration of the
14 next examination with the notice of scores following such
15 examination. Any applicant who passes the examination and
16 meets the requirements of this section shall be certified as a
17 physician assistant with all rights defined thereby.

18 (c) The certification must be renewed biennially.
19 Each renewal must include:

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

22 2. A sworn statement of no felony convictions in the
23 previous 2 years.

24 (d) Each certified physician assistant shall
25 biennially complete 100 hours of continuing medical education
26 or shall hold a current certificate issued by the National
27 Commission on Certification of Physician Assistants.

28 (e) Upon employment as a physician assistant, a
29 certified physician assistant must notify the department
30 ~~agency~~ in writing within 30 days after such employment or
31 after any subsequent changes in the supervising physician. The

1 notification must include the full name, Florida medical
 2 license number, specialty, and address of the supervising
 3 physician.

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

1 (g) The Board of Medicine may impose any of the
2 penalties specified in ss. 455.227 and 458.331(2) upon a
3 physician assistant if the physician assistant or the
4 supervising physician has been found guilty of or is being
5 investigated for any act that constitutes a violation of this
6 chapter or chapter 455.

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

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

13 (a) The council shall consist of five members
14 appointed as follows:

15 1. The chairperson of the Board of Medicine shall
16 appoint three members who are physicians and members of the
17 Board of Medicine. One of the physicians must supervise a
18 physician assistant in the physician's practice.

19 2. The chairperson of the Board of Osteopathic
20 Medicine shall appoint one member who is a physician,
21 ~~supervises a physician assistant in the physician's practice,~~
22 and ~~is~~ a member of the Board of Osteopathic Medicine.

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

26 (b) Two of the members appointed to the council must
27 be physicians who supervise physician assistants in their
28 practice. Members shall be appointed to terms of 4 years,
29 except that of the initial appointments, two members shall be
30 appointed to terms of 2 years, two members shall be appointed
31 to terms of 3 years, and one member shall be appointed to a

1 term of 4 years, as established by rule of the boards.
2 Council members may not serve more than two consecutive terms.
3 The council shall annually elect a chairperson from among its
4 members.

5 (c) The council shall:

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

8 2. Develop all rules regulating the use of physician
9 assistants by physicians under this chapter and chapter 459,
10 except for rules relating to the formulary developed under
11 paragraph (4)(f). The council shall also develop rules to
12 ensure that the continuity of supervision is maintained in
13 each practice setting. The boards shall consider adopting a
14 proposed rule developed by the council at the regularly
15 scheduled meeting immediately following the submission of the
16 proposed rule by the council. A proposed rule submitted by
17 the council may not be adopted by either board unless both
18 boards have accepted and approved the identical language
19 contained in the proposed rule. The language of all proposed
20 rules submitted by the council must be approved by both boards
21 pursuant to each respective board's guidelines and standards
22 regarding the adoption of proposed rules. If either board
23 rejects the council's proposed rule, that board must specify
24 its objection to the council with particularity and include
25 any recommendations it may have for the modification of the
26 proposed rule.

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

29 4. Address concerns and problems of practicing
30 physician assistants in order to improve safety in the
31 clinical practices of certified physician assistants.

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

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

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

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

21 (14) EXISTING PROGRAMS.--This section does not
22 eliminate or supersede existing laws relating to other
23 paramedical professions or services and is supplemental to all
24 such existing laws relating to the certification and practice
25 of paramedical professions.

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

30
31

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

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

6 Section 24. Subsections (1) and (2) of section
7 458.3485, Florida Statutes, are amended to read:

8 458.3485 Medical assistant.--

9 (1) DEFINITION.--As used in this section, "medical
10 assistant" means a professional multiskilled person dedicated
11 to assisting in all aspects of medical practice under the
12 direct supervision and responsibility of a physician. This
13 practitioner assists with patient care management, executes
14 administrative and clinical procedures, and often performs
15 managerial and supervisory functions. Competence in the field
16 also requires that a medical assistant adhere to ethical and
17 legal standards of professional practice, recognize and
18 respond to emergencies, and demonstrate professional
19 characteristics.

20 (2) DUTIES.--Under the direct supervision and
21 responsibility of a licensed physician, ~~the duties of a~~
22 medical assistant may undertake the following duties ~~are to:~~

23 (a) Performing ~~Perform~~ clinical procedures, to
24 include:

- 25 1. Performing aseptic procedures.
- 26 2. Taking vital signs.
- 27 3. Preparing patients for the physician's care.
- 28 4. Performing venipunctures and nonintravenous
29 injections.
- 30 5. Observing and reporting patients' signs or
31 symptoms.

- 1 (b) Administering basic first aid.
2 (c) Assisting with patient examinations or treatments.
3 (d) Operating office medical equipment.
4 (e) Collecting routine laboratory specimens as
5 directed by the physician.
6 (f) Administering medication as directed by the
7 physician.
8 (g) Performing basic laboratory procedures.
9 (h) Performing office procedures including all general
10 administrative duties required by the physician.
11 (i) Performing ~~Perform~~ dialysis procedures, including
12 home dialysis.

13 Section 25. Section 458.351, Florida Statutes, is
14 created to read:

15 458.351 Incident reports.--

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

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

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

4 459.003 Definitions.--As used in this chapter:

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

7 (5) "Doctor of Osteopathy" and "Doctor of Osteopathic
8 Medicine," when referring to degrees, shall be construed to be
9 equivalent and equal degrees.

10 Section 27. Subsections (1) and (3) and paragraph (b)
11 of subsection (5) of section 459.021, Florida Statutes, are
12 amended, and subsections (8) and (9) are added to said
13 section, to read:

14 459.021 Registration of resident physicians, interns,
15 and fellows; list of hospital employees; penalty.--

16 (1) Any person who holds a degree of Doctor of
17 Osteopathic Medicine ~~Osteopathy~~ from a college of osteopathic
18 medicine recognized and approved by the American Osteopathic
19 Association who desires to practice as a resident physician,
20 assistant resident physician, house physician, intern, or
21 fellow in fellowship training which leads to subspecialty
22 board certification in this state who does not hold an active
23 license issued under this chapter shall apply to the
24 department to be registered, on an application provided by the
25 department, within 30 days of commencing such a training
26 program and shall remit a fee not to exceed \$300 as set by the
27 board.

28 (3) Every hospital having employed or contracted with
29 or utilized the services of a person who holds a degree of
30 Doctor of Osteopathic Medicine ~~Osteopathy~~ from a college of
31 osteopathic medicine recognized and approved by the American

1 Osteopathic Association as a resident physician, assistant
2 resident physician, house physician, intern, or fellow in
3 fellowship training which leads to subspecialty board
4 certification shall designate a person who shall furnish, in
5 January and July of each year, to the department a list of all
6 such persons who have served in the hospital during the
7 preceding 6-month period. The chief executive officer of each
8 such hospital shall provide the executive director of the
9 board with the name, title, and address of the person
10 responsible for furnishing such reports.

11 (5) It is a misdemeanor of the second degree,
12 punishable as provided in s. 775.082 or s. 775.083 for any
13 hospital, and also for the superintendent, administrator, and
14 other person or persons having administrative authority in a
15 hospital:

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

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

21 (9) A person registered as a resident physician under
22 this section may in the normal course of his or her employment
23 prescribe medicinal drugs described in schedules set out in
24 chapter 893 when:

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

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

31

1 (c) The use of the institutional identification number
2 and individual suffixes conforms to the requirements of the
3 federal Drug Enforcement Administration.

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

6 459.0075 Limited licenses.--

7 (1) Any person desiring to obtain a limited license
8 shall:

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

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

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

26 (c) Complete an amount of continuing education
27 established by the board.

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

31 459.0085 Financial responsibility.--

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

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

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

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

1 that he shall be subject to disciplinary action unless, within
2 30 days from the date of mailing, he either:

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

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

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

9 (II) An order from a court of competent jurisdiction
10 staying execution on the final judgment, pending disposition
11 of the appeal.

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

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

31

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

3
4 A licensee who meets the requirements of this paragraph shall
5 be required to ~~either~~ post notice in the form of a sign
6 prominently displayed in the reception area and clearly
7 noticeable by all patients and ~~or~~ provide a written statement
8 to any person to whom medical services are being provided. A
9 copy of the written statement shall be given to each patient
10 to sign, acknowledging receipt thereof, and the signed copy
11 shall be maintained in the patient's file. If the patient
12 refuses to sign or is unable to sign the written statement,
13 the licensee shall so note it on the form. Such sign and ~~or~~
14 statement shall state ~~that~~: "Under Florida law, osteopathic
15 physicians are generally required to carry medical malpractice
16 insurance or otherwise demonstrate financial responsibility to
17 cover potential claims for medical malpractice. YOUR
18 OSTEOPATHIC PHYSICIAN HAS DECIDED NOT TO CARRY MEDICAL
19 MALPRACTICE INSURANCE. This is permitted under Florida law
20 subject to certain conditions. Florida law imposes strict
21 penalties against noninsured osteopathic physicians who fail
22 to satisfy adverse judgments arising from claims of medical
23 malpractice. This notice is provided pursuant to Florida
24 law."

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

29 459.015 Grounds for disciplinary action by the
30 board.--

31

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

4 (o) Failing to keep legible, as defined by department
5 rule in consultation with the board,~~written~~ medical records
6 that identify the licensed osteopathic physician or the
7 osteopathic physician extender and supervising osteopathic
8 physician by name and professional title who is or are
9 responsible for rendering, ordering, supervising, or billing
10 for each diagnostic or treatment procedure and that justify
11 ~~justifying~~ the course of treatment of the patient, including,
12 but not limited to, patient histories; examination results;
13 test results; records of drugs prescribed, dispensed, or
14 administered; and reports of consultations and
15 hospitalizations.

16 (gg) Prescribing, ordering, dispensing, administering,
17 supplying, selling, or giving any drug which is a Schedule II
18 amphetamine or Schedule II sympathomimetic amine drug or any
19 compound thereof, pursuant to chapter 893, to or for any
20 person except for:

21 1. The treatment of narcolepsy; hyperkinesis;
22 behavioral syndrome ~~in children~~ characterized by the
23 developmentally inappropriate symptoms of moderate to severe
24 distractability, short attention span, hyperactivity,
25 emotional lability, and impulsivity; or drug-induced brain
26 dysfunction;

27 2. The differential diagnostic psychiatric evaluation
28 of depression or the treatment of depression shown to be
29 refractory to other therapeutic modalities; or

30 3. The clinical investigation of the effects of such
31 drugs or compounds when an investigative protocol therefor is

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

3 (ll) 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 this
6 chapter who the osteopathic physician or physician assistant
7 knows has violated the grounds for disciplinary action set out
8 in the law under which that person ~~physician or osteopathic~~
9 ~~physician~~ is licensed and who provides health care services in
10 a facility licensed under chapter 395, or a health maintenance
11 organization certificated under part I of chapter 641, in
12 which the osteopathic physician or physician assistant also
13 provides services.

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

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

18 459.0152 Specialties.--An osteopathic physician
19 licensed under this chapter may not hold himself or herself
20 out as a board-certified specialist unless the osteopathic
21 physician has successfully completed the requirements for
22 certification by the American Osteopathic Association or the
23 Accreditation Council on Graduate Medical Education and is
24 certified as a specialist by a certifying agency approved by
25 the board. However, an osteopathic physician may indicate the
26 services offered and may state that his or her practice is
27 limited to one or more types of services when this accurately
28 reflects the scope of practice of the osteopathic physician.

29 Section 32. Section 459.022, Florida Statutes, 1996
30 Supplement, is amended to read:

31 459.022 Physician assistants.--

1 (1) LEGISLATIVE INTENT.--

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

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

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

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

18 ~~(a) "Agency" means the Agency for Health Care~~
19 ~~Administration.~~

20 (a)~~(b)~~ "Approved program" means a program, formally
21 approved by the boards, for the education of physician
22 assistants.

23 (b)~~(c)~~ "Boards" means the Board of Medicine and the
24 Board of Osteopathic Medicine.

25 (c)~~(d)~~ "Council" means the Council on Physician
26 Assistants.

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

29 (e)~~(f)~~ "Physician assistant" means a person who is a
30 graduate of an approved program or its equivalent or meets
31

1 standards approved by the boards and is certified to perform
2 medical services delegated by the supervising physician.

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

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

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

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

29 (4) PERFORMANCE OF PHYSICIAN ASSISTANTS.--

30 (a) The boards shall adopt, by rule, the general
31 principles that supervising physicians must use in developing

1 the scope of practice of a physician assistant under direct
2 supervision and under indirect supervision. These principles
3 shall recognize the diversity of both specialty and practice
4 settings in which physician assistants are used.

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

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

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

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

26 1. A physician assistant must clearly identify to the
27 patient that he is a physician assistant. Furthermore, the
28 physician assistant must inform the patient that the patient
29 has the right to see the physician prior to any prescription
30 being prescribed by the physician assistant.

31

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

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

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

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

27 6. The department ~~agency~~ shall issue certification and
28 a prescriber number to the physician assistant granting
29 authority for the prescribing of medicinal drugs authorized
30 within this paragraph upon completion of the foregoing
31 requirements.

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

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

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

21
22 This paragraph does not apply to facilities licensed pursuant
23 to chapter 395.

24 (f)1. There is created a five-member committee
25 appointed by the Director of Health Care Administration. The
26 committee must be composed of one fully certified physician
27 assistant certified pursuant to this section or s. 458.347,
28 two physicians licensed pursuant to chapter 458, one of whom
29 supervises a fully licensed physician assistant, one
30 osteopathic physician licensed pursuant to this chapter, and
31 one pharmacist licensed pursuant to chapter 465 who is not

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

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

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

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

28 (6) PROGRAM APPROVAL.--

29 (a) The boards shall approve programs, based on
30 recommendations by the council, for the education and training
31 of physician assistants which meet standards established by

1 rule of the boards. The council may recommend only those
2 physician assistant programs that hold full accreditation or
3 provisional accreditation from the Commission on Accreditation
4 of Allied Health Programs or its successor organization.

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

12 (7) PHYSICIAN ASSISTANT CERTIFICATION.--

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

17 1. Is at least 18 years of age.

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

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

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

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

4 c. A sworn statement of any previous revocation or
5 denial of licensure or certification in any state.

6 d. Two letters of recommendation.

7 (b) The certification must be renewed biennially.
8 Each renewal must include:

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

11 2. A sworn statement of no felony convictions in the
12 previous 2 years.

13 (c) Each certified physician assistant shall
14 biennially complete 100 hours of continuing medical education
15 or shall hold a current certificate issued by the National
16 Commission on Certification of Physician Assistants.

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

24 (e) Notwithstanding subparagraph (a)2., the department
25 ~~agency~~ may grant to a recent graduate of an approved program,
26 as specified in subsection (6), temporary certification to
27 expire upon receipt of scores of the proficiency examination
28 administered by the National Commission on Certification of
29 Physician Assistants. Between meetings of the council, the
30 department ~~agency~~ may grant temporary certification to
31 practice to physician assistant applicants based on the

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

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

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

31

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

4 (a) The council shall consist of five members
5 appointed as follows:

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

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

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

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

27 (c) The council shall:

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

30 2. Develop all rules regulating the use of physician
31 assistants by physicians under chapter 458 and this chapter,

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

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

20 4. Address concerns and problems of practicing
21 physician assistants in order to improve safety in the
22 clinical practices of certified physician assistants.

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

26 (11) PENALTY.--Any person who has not been certified
27 by the council and approved by the department ~~agency~~ and who
28 holds himself out as a physician assistant or who uses any
29 other term in indicating or implying that he is a physician
30 assistant commits a felony of the third degree, punishable as

31

1 provided in s. 775.082 or s. 775.084 or by a fine not
2 exceeding \$5,000.

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

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

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

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

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

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

27 Section 33. Section 459.025, Florida Statutes, is
28 created to read:

29 459.025 Incident reports.--

30 (1) Effective January 1, 1998, any physician
31 practicing in this state must notify the board in writing, by

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

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

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

17 240.4067 Medical Education Reimbursement and Loan
18 Repayment Program.--

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

1 and registered nurses, and advanced registered nurse
2 practitioners with primary care specialties such as certified
3 nurse midwives. Primary care medical specialties for
4 physicians include obstetrics, gynecology, general and family
5 practice, internal medicine, pediatrics, and other specialties
6 which may be identified by the Department of Health and
7 Rehabilitative Services.

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

10 390.011 Definitions.--As used in this act:

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

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

17 395.0191 Staff membership and clinical privileges.--

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

29 Section 37. Paragraph (g) of subsection (1) of section
30 408.035, Florida Statutes, is amended to read:

31 408.035 Review criteria.--

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

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

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

14 409.905 Mandatory Medicaid services.--The agency may
15 make payments for the following services, which are required
16 of the state by Title XIX of the Social Security Act,
17 furnished by Medicaid providers to recipients who are
18 determined to be eligible on the dates on which the services
19 were provided. Any service under this section shall be
20 provided only when medically necessary and in accordance with
21 state and federal law. Nothing in this section shall be
22 construed to prevent or limit the agency from adjusting fees,
23 reimbursement rates, lengths of stay, number of visits, number
24 of services, or any other adjustments necessary to comply with
25 the availability of moneys and any limitations or directions
26 provided for in the General Appropriations Act or chapter 216.

27 (9) PHYSICIAN SERVICES.--The agency shall pay for
28 covered services and procedures rendered to a recipient by, or
29 under the personal supervision of, a person licensed under
30 state law to practice medicine or osteopathic medicine
31 ~~osteopathy~~. These services may be furnished in the

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

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

10 415.102 Definitions of terms used in ss.

11 415.101-415.113.--As used in ss. 415.101-415.113, the term:

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

17 Section 40. Paragraph (a) of subsection (1) of section
18 415.1034, Florida Statutes, is amended to read:

19 415.1034 Mandatory reporting of abuse, neglect, or
20 exploitation of disabled adults or elderly persons; mandatory
21 reports of death.--

22 (1) MANDATORY REPORTING.--

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

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

28 2. Health professional or mental health professional
29 other than one listed in subparagraph 1.;

30 3. Practitioner who relies solely on spiritual means
31 for healing;

1 4. Nursing home staff; assisted living facility staff;
2 adult day care center staff; adult family-care home staff;
3 social worker; or other professional adult care, residential,
4 or institutional staff;

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

7 6. Human rights advocacy committee or long-term care
8 ombudsman council member; or

9 7. Bank, savings and loan, or credit union officer,
10 trustee, or employee,

11
12 who knows, or has reasonable cause to suspect, that a disabled
13 adult or an elderly person has been or is being abused,
14 neglected, or exploited shall immediately report such
15 knowledge or suspicion to the central abuse registry and
16 tracking system on the single statewide toll-free telephone
17 number.

18 Section 41. Paragraph (a) of subsection (1) of section
19 415.504, Florida Statutes, 1996 Supplement, is amended to
20 read:

21 415.504 Mandatory reports of child abuse or neglect;
22 mandatory reports of death; central abuse hotline.--

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

24 (a) Physician, osteopathic physician ~~osteopath~~,
25 medical examiner, chiropractor, nurse, or hospital personnel
26 engaged in the admission, examination, care, or treatment of
27 persons;

28
29 who knows, or has reasonable cause to suspect, that a child is
30 an abused, abandoned, or neglected child shall report such
31

1 knowledge or suspicion to the department in the manner
2 prescribed in subsection (2).

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

5 440.106 Civil remedies; administrative penalties.--

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

18 Section 43. Paragraph (r) of subsection (1) of section
19 440.13, Florida Statutes, 1996 Supplement, is amended to read:

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

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

23 (r) "Physician" or "doctor" means ~~a medical doctor or~~
24 ~~doctor of osteopathy licensed under chapter 458,~~ a physician
25 licensed under chapter 458, an osteopathic physician ~~osteopath~~
26 licensed under chapter 459, a chiropractor licensed under
27 chapter 460, a podiatrist licensed under chapter 461, an
28 optometrist licensed under chapter 463, or a dentist licensed
29 under chapter 466, each of whom must be certified by the
30 division as a health care provider.

31

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

3 440.134 Workers' compensation managed care
4 arrangement.--

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

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

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

24 Section 45. Paragraph (a) of subsection (3) of section
25 440.15, Florida Statutes, 1996 Supplement, is amended to read:

26 440.15 Compensation for disability.--Compensation for
27 disability shall be paid to the employee, subject to the
28 limits provided in s. 440.12(2), as follows:

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

30 (a) Impairment benefits.--

31

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

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

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

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

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

19 b. The death of the employee.

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

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

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

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

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

15 456.31 Legislative intent.--

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

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

28 459.006 Licensure by examination.--Any person desiring
29 to be licensed by examination shall:

30 (1) Have successfully completed a resident internship
31 of not less than 12 months in a hospital approved for this

1 purpose by the Board of Trustees of the American Osteopathic
2 Association or any other internship program approved by the
3 board upon a showing of good cause by the applicant. This
4 requirement may be waived for applicants who matriculated in a
5 college of osteopathic medicine ~~osteopathy~~ during or before
6 1948.

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

9 462.01 Definitions.--As used in this chapter:

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

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

1 468.301 Definitions.--As used in this part, the term:

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

6 Section 50. Paragraph (a) of subsection (6) of section
7 468.302, Florida Statutes, 1996 Supplement, is amended to
8 read:

9 468.302 Use of radiation; identification of certified
10 persons; limitations; exceptions.--

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

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

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

21 476.044 Exemptions.--This chapter does not apply to
22 the following persons when practicing pursuant to their
23 professional responsibilities and duties:

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

27 Section 52. Paragraph (a) of subsection (1) of section
28 477.0135, Florida Statutes, is amended to read:

29 477.0135 Exemptions.--
30
31

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

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

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

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

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

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

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

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

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

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

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

8 627.351 Insurance risk apportionment plans.--

9 (4) MEDICAL MALPRACTICE RISK APPORTIONMENT.--

10 (h) As used in this subsection:

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

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

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

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

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

16 627.357 Medical malpractice self-insurance.--

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

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

- 19 1. Hospital licensed under chapter 395.
- 20 2. Physician licensed, or physician assistant
21 certified, under chapter 458.
- 22 3. Osteopathic physician ~~Osteopath~~ licensed under
23 chapter 459.
- 24 4. Podiatrist licensed under chapter 461.
- 25 5. Health maintenance organization certificated under
26 part I of chapter 641.
- 27 6. Ambulatory surgical center licensed under chapter
28 395.
- 29 7. Chiropractor licensed under chapter 460.
- 30 8. Psychologist licensed under chapter 490.
- 31 9. Optometrist licensed under chapter 463.

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

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

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

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

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

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

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

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

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

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

20 (1) As used in this section:

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

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

31 766.103 Florida Medical Consent Law.--

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

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

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

25 (b) The patient would reasonably, under all the
26 surrounding circumstances, have undergone such treatment or
27 procedure had he been advised by the physician, osteopathic
28 physician ~~osteopath~~, chiropractor, podiatrist, or dentist in
29 accordance with the provisions of paragraph (a).
30
31

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

4 766.105 Florida Patient's Compensation Fund.--

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

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

- 8 1. Hospital licensed under chapter 395.
- 9 2. Physician licensed, or physician assistant
10 certified, under chapter 458.
- 11 3. Osteopathic physician ~~osteopath~~ licensed under
12 chapter 459.
- 13 4. Podiatrist licensed under chapter 461.
- 14 5. Health maintenance organization certificated under
15 part I of chapter 641.
- 16 6. Ambulatory surgical center licensed under chapter
17 395.
- 18 7. "Other medical facility" as defined in paragraph
19 (c).
- 20 8. Professional association, partnership, corporation,
21 joint venture, or other association by the individuals set
22 forth in subparagraphs 2., 3., and 4. for professional
23 activity.

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

1 osteopathic physician ~~osteopath~~, podiatrist, or dentist who
2 performs a service for a fee.

3 (2) COVERAGE.--

4 (e) The coverage afforded by the fund for a
5 participating hospital or ambulatory surgical center shall
6 apply to the officers, trustees, volunteer workers, trainees,
7 committee members (including physicians, osteopathic
8 physicians ~~osteopaths~~, podiatrists, and dentists), and
9 employees of the hospital or ambulatory surgical center, other
10 than employed physicians licensed under chapter 458, physician
11 assistants licensed under chapter 458, osteopathic physicians
12 ~~osteopaths~~ licensed under chapter 459, dentists licensed under
13 chapter 466, and podiatrists licensed under chapter 461.

14 However, the coverage afforded by the fund for a participating
15 hospital shall apply to house physicians, interns, employed
16 physician residents in a resident training program, or
17 physicians performing purely administrative duties for the
18 participating hospitals other than the treatment of patients.
19 This coverage shall apply to the hospital or ambulatory
20 surgical center and those included in this subsection as one
21 health care provider.

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

24 766.110 Liability of health care facilities.--

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

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

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

29 817.234 False and fraudulent insurance claims.--

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

8 (b) Revocation or suspension of a license.

9 (c) Restriction of practice.

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

12 (e) Issuance of a reprimand.

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

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

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

23 (i) Issuance of a letter of concern.

24 (j) Corrective action.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

23 460.4165 Chiropractic physician's assistants.--

24 (8) FEES.--

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

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

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

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

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

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

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

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

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

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

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

4 464.003 Definitions.--As used in this chapter:

5 (1) "Department Agency" means the Department of Agency
6 ~~for Health Care Administration.~~

7 (3)

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

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

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

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

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

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

17 464.008 Licensure by examination.--

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

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

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

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

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

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

16 464.009 Licensure by endorsement.--

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

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

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

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

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

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

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

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

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

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

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

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

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

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

19 464.013 Renewal of license or certificate.--

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

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

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

26 464.014 Inactive status.--

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

31

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

5 464.018 Disciplinary actions.--

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

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

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

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

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

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

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

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

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

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

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

9 464.019 Approval of nursing programs.--

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

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

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

31

1 Section 81. Section 464.0205, Florida Statutes, is
2 created to read:

3 464.0205 Retired volunteer nurse certificate.--

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

8 (a) A complete application.

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

10 (c) Verification that the applicant had been licensed
11 to practice nursing in any jurisdiction in the United States
12 for at least 10 years, had retired or plans to retire, intends
13 to practice nursing only pursuant to the limitations provided
14 by the retired volunteer nurse certificate, and has not
15 committed any act that would constitute a violation under s.
16 464.018(1).

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

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

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

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

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

1 464.012, or a registered nurse licensed under s. 464.008 or s.
2 464.009.

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

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

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

13 (5) A retired volunteer nurse receiving certification
14 from the board shall not:

15 (a) Administer controlled substances.

16 (b) Supervise other nurses.

17 (c) Receive monetary compensation.

18 (6) A retired volunteer nurse certified under this
19 section may practice only in board-approved settings in public
20 agencies or institutions or in nonprofit agencies or
21 institutions meeting the requirements of s. 501(c)(3) of the
22 Internal Revenue Code, which agencies or institutions are
23 located in areas of critical nursing need as determined by the
24 board. Determination of underserved areas shall be made by
25 the board after consultation with the Department of Health,
26 the Department of Children and Family Services, the Agency for
27 Health Care Administration, and the Department of Elderly
28 Affairs; however, such determination shall include, but not be
29 limited to, health manpower shortage areas designated by the
30 United States Department of Health and Human Services. The
31 sponsoring agencies desiring to use certified retired

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

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

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

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

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

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

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

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

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

5 465.004 Board of Pharmacy.--

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

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

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

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

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

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

15 465.0156 Registration of nonresident pharmacies.--

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

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

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

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

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

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

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

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

27 465.016 Disciplinary actions.--

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

15 466.006 Examination of dentists.--

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

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

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

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

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

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

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

5 (b)2. Completes a 2-year supplemental dental education
6 program at an accredited dental school and receives a dental
7 diploma, degree, or certificate as evidence of program
8 completion. ~~or~~

9 ~~3. Exhibits manual skills on a laboratory model~~
10 ~~pursuant to rules of the board. The board may charge a~~
11 ~~reasonable fee, not to exceed \$250, to cover the costs of~~
12 ~~administering the exhibition of competency in manual skills.~~
13 ~~If the applicant fails to exhibit competent clinical skills in~~
14 ~~two attempts, he shall not be entitled to take the~~
15 ~~examinations authorized in subsection (4). Effective December~~
16 ~~31, 1991, no applicant may fulfill the requirements of this~~
17 ~~paragraph by taking the laboratory model exam. On or after~~
18 ~~said date, applicants must complete the educational~~
19 ~~requirements set forth in subparagraph 1. or subparagraph 2.~~

20
21 ~~The provisions of paragraph (a) and subparagraph (c)3.~~
22 ~~notwithstanding, an applicant who is a graduate of a dental~~
23 ~~college or school not accredited in accordance with paragraph~~
24 ~~(2)(b) and who has failed to pass part I or part II of the~~
25 ~~national board examination in two attempts may take the~~
26 ~~laboratory model exam required in subparagraph (c)3. if the~~
27 ~~board finds that he has taken remedial training in the subject~~
28 ~~areas in which he tested below standard on said national board~~
29 ~~examination and that he has subsequently passed that part of~~
30 ~~such exam which he had previously failed, provided that no~~
31 ~~applicant shall be entitled to this exception who fails either~~

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

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

15 466.017 Prescription of drugs; anesthesia.--

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

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

25 (3) The board shall adopt rules which:

26 (a) Define general anesthesia.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

27 468.1115 Exemptions.--

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

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

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

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

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

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

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

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

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

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

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

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

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

19 468.1155 Provisional license; requirements.--

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

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

31

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

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

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

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

26 2. Six semester hours in audiology.

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

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

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

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

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

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

30 2. Six semester hours in speech-language pathology.
31

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

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

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

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

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

27 468.1185 Licensure.--

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

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

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

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

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

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

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

28 (2) The department shall adopt rules establishing a
29 procedure for the biennial renewal of licenses and
30 certificates.
31

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

13 468.1295 Disciplinary proceedings.--

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

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

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

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

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

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

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

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

11 (g) Violating a lawful order of the board or
12 department previously entered in a disciplinary hearing, or
13 failing to comply with a lawfully issued subpoena of the board
14 or department.

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

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

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

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

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

1 this part, chapter 455, or any to a rule adopted pursuant
2 thereto ~~of the department or the board.~~

3 (m) Violating any provision ~~Violation or repeated~~
4 ~~violation~~ of this part or ~~of~~ chapter 455, or any rule ~~rules~~
5 adopted pursuant thereto.

6 (n) Misrepresenting the ~~Misrepresentation of~~
7 professional services available in the fitting, sale,
8 adjustment, service, or repair of a hearing aid, or using ~~use~~
9 ~~of~~ any other term or title which might connote the
10 availability of professional services when such use is not
11 accurate.

12 (o) Representing, advertising, or implying
13 ~~Representation, advertisement, or implication~~ that a hearing
14 aid or its repair is guaranteed without providing full
15 disclosure of the identity of the guarantor; the nature,
16 extent, and duration of the guarantee; and the existence of
17 conditions or limitations imposed upon the guarantee.

18 (p) Representing, directly or by implication, that a
19 hearing aid utilizing bone conduction has certain specified
20 features, such as the absence of anything in the ear or
21 leading to the ear, or the like, without disclosing clearly
22 and conspicuously that the instrument operates on the bone
23 conduction principle and that in many cases of hearing loss
24 this type of instrument may not be suitable.

25 (q) Stating or implying that the use of any hearing
26 aid will improve or preserve hearing or prevent or retard the
27 progression of a hearing impairment or that it will have any
28 similar or opposite effect.

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

31

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

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

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

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

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

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

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

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

1 delegating or contracting for performance of such
 2 responsibilities knows, or has reason to know, such person is
 3 not qualified by training, experience, and authorization to
 4 perform them.

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

8 (bb) Being unable to practice the profession for which
 9 he or she is licensed or certified under this chapter with
 10 reasonable skill or competence as a result of any mental or
 11 physical condition or by reason of illness, drunkenness, or
 12 use of drugs, narcotics, chemicals, or any other substance.

13 In enforcing this paragraph, upon a finding by the secretary,
 14 his or her designee, or the board that probable cause exists
 15 to believe that the licensee or certificateholder is unable to
 16 practice the profession because of the reasons stated in this
 17 paragraph, the department shall have the authority to compel a
 18 licensee or certificateholder to submit to a mental or
 19 physical examination by a physician, psychologist, clinical
 20 social worker, marriage and family therapist, or mental health
 21 counselor designated by the department or board. If the
 22 licensee or certificateholder refuses to comply with the
 23 department's order directing the examination, such order may
 24 be enforced by filing a petition for enforcement in the
 25 circuit court in the circuit in which the licensee or
 26 certificateholder resides or does business. The licensee or
 27 certificateholder against whom the petition is filed shall not
 28 be named or identified by initials in any public court records
 29 or documents, and the proceedings shall be closed to the
 30 public. The department shall be entitled to the summary
 31 procedure provided in s. 51.011. A licensee or

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

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

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

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

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

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

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

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

28 (g) Corrective action.

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

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

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

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

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

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

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

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

17 468.1695 Licensure by examination.--

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

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

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

28 (c) General administration;

29 (d) Psychology of patient care;

30 (e) Principles of medical care;

31 (f) Personal and social care;

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

3 (h) Departmental organization and management;

4 (i) Community interrelationships; and

5 (j) Terminology.

6
7 The board may, by rule, adopt use of a national examination in
8 lieu of part or all of the examination required by this part.

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

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

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

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

16 (a) For the purposes of this subsection:

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

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

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

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

31

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

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

9
10 These services may require assessment of the need for use of
11 interventions such as the design, development, adaptation,
12 application, or training in the use of assistive technology
13 devices; the design, fabrication, or application of
14 rehabilitative technology such as selected orthotic devices;
15 training in the use of assistive technology; orthotic or
16 prosthetic devices; the application of physical agent
17 modalities as an adjunct to or in preparation for purposeful
18 activity; the use of ergonomic principles; the adaptation of
19 environments and processes to enhance functional performance;
20 or the promotion of health and wellness ~~the evaluation and~~
21 ~~treatment of individuals whose ability to cope with the tasks~~
22 ~~of living are threatened or impaired by developmental~~
23 ~~deficits, the aging process, poverty and cultural differences,~~
24 ~~physical injury or illness, or psychological and social~~
25 ~~disability. The treatment utilizes task-oriented activities~~
26 ~~to prevent or correct physical or emotional deficits or to~~
27 ~~minimize the disabling effect of these deficits in the life of~~
28 ~~the individual. Specific occupational therapy techniques~~
29 ~~include, but are not limited to, activities of daily living~~
30 ~~(ADL), the fabrication and application of splints,~~
31 ~~perceptual-motor activities, the use of specifically designed~~

1 ~~crafts, guidance in the selection and use of adaptive~~
2 ~~equipment, exercises to enhance functional performance, and~~
3 ~~prevocational evaluation and treatment. Such techniques are~~
4 ~~applied in the treatment of individual patients or clients, in~~
5 ~~groups, or through social systems.~~

6 (c) The use of devices subject to 21 C.F.R. s. 801.109
7 and identified by the board is expressly prohibited except by
8 an occupational therapist or occupational therapy assistant
9 who has received training as specified by the board. The
10 board shall adopt rules to carry out the purpose of this
11 provision.

12 (5) "Occupational therapy aide" means a person who
13 assists in the practice of occupational therapy, who works
14 under the direct supervision of a person licensed occupational
15 therapist or to practice occupational therapy assistant, and
16 whose activities require a general an understanding of
17 occupational therapy pursuant to board rules ~~but do not~~
18 ~~require professional or advanced training in the basic~~
19 ~~anatomical, biological, psychological, and social sciences~~
20 ~~involved in the practice of occupational therapy.~~

21 Section 106. Section 468.205, Florida Statutes, is
22 amended to read:

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

25 468.205 Board of Occupational Therapy Practice.--

26 (1) There is created within the department the Board
27 of Occupational Therapy Practice, composed of seven members
28 appointed by the Governor, subject to confirmation by the
29 Senate.

30 (2) Four members shall be licensed occupational
31 therapists in good standing in this state who are residents of

1 this state and have been engaged in the practice of
2 occupational therapy for at least 4 years immediately prior to
3 their appointment. One member shall be a licensed occupational
4 therapy assistant in good standing in this state who is a
5 resident of the state and has been engaged in the practice of
6 occupational therapy for at least 4 years immediately prior to
7 the appointment. Two members shall be consumers who are
8 residents of the state who are not connected with the practice
9 of occupational therapy.

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

12 (a) Two members for terms of 2 years each.

13 (b) Two members for terms of 3 years each.

14 (c) Three members for terms of 4 years each.

15 (4) As the terms of the members expire, the Governor
16 shall appoint successors for terms of 4 years and such members
17 shall serve until their successors are appointed.

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

20 Section 107. Section 468.209, Florida Statutes, is
21 amended to read:

22 468.209 Requirements for licensure.--

23 (1) An applicant applying for a license as an
24 occupational therapist or as an occupational therapy assistant
25 shall file a written application, accompanied by the
26 application for licensure fee prescribed in s. 468.221, on
27 forms provided by the department ~~board~~, showing to the
28 satisfaction of the board that he:

29 (a) Is of good moral character.

30 (b) Has successfully completed the academic
31 requirements of an educational program in occupational therapy

1 recognized by the board, with concentration in biologic or
2 physical science, psychology, and sociology, and with
3 education in selected manual skills. ~~For an occupational~~
4 ~~therapist,~~Such a program shall be accredited by the American
5 ~~Medical Association in collaboration with the American~~
6 Occupational Therapy Association's Accreditation Council for
7 Occupational Therapy Education, or its successor Association.
8 ~~For an occupational therapy assistant, such a program shall be~~
9 ~~approved by the American Occupational Therapy Association.~~

10 (c) Has successfully completed a period of supervised
11 fieldwork experience at a recognized educational institution
12 or a training program approved by the educational institution
13 where he met the academic requirements. For an occupational
14 therapist, a minimum of 6 months of supervised fieldwork
15 experience is required. For an occupational therapy assistant,
16 a minimum of 2 months of supervised fieldwork experience is
17 required.

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

20 (2) An applicant who has practiced as a state-licensed
21 or American Occupational Therapy Association-certified
22 occupational therapy assistant for 4 years and who, prior to
23 January 24, 1988,~~has~~ completed a minimum of 6 months of
24 supervised occupational-therapist-level fieldwork experience
25 may take the examination to be licensed as an occupational
26 therapist without meeting the educational requirements for
27 occupational therapists made otherwise applicable under
28 paragraph (1)(b).

29 (3) If the board determines that an applicant is
30 qualified to be licensed by endorsement under s. 468.213, the
31 board may issue the applicant a temporary permit to practice

1 occupational therapy until the next board meeting at which
 2 license applications are to be considered, but not for a
 3 longer period of time. Only one temporary permit by
 4 endorsement shall be issued to an applicant, and it shall not
 5 be renewable.

6 (4) If the board determines that the applicant has not
 7 passed an examination, which examination is recognized by the
 8 board, to determine competence to practice occupational
 9 therapy and is not qualified to be licensed by endorsement,
 10 but has otherwise met all the requirements of this section and
 11 has made application for the next scheduled examination, the
 12 board may issue the applicant a temporary permit allowing him
 13 to practice occupational therapy under the supervision of a
 14 licensed occupational therapist until notification of the
 15 results of the examination. An individual who has passed the
 16 examination may continue to practice occupational therapy
 17 under his temporary permit until the next meeting of the
 18 board. An individual who has failed the examination shall not
 19 continue to practice occupational therapy under his temporary
 20 permit; and such permit shall be deemed revoked upon
 21 notification to the board of the examination results and the
 22 subsequent, immediate notification by the board to the
 23 applicant of the revocation. Only one temporary permit by
 24 examination shall be issued to an applicant, and it shall not
 25 be renewable. However, applicants enrolled in a full-time
 26 advanced master's occupational therapy education program who
 27 have completed all requirements for licensure except
 28 examination shall, upon written request, be granted a
 29 temporary permit valid for 6 months even if that period
 30 extends beyond the next examination, provided the applicant
 31 has not failed the examination. This permit shall remain

1 valid only while the applicant remains a full-time student
2 and, upon written request, shall be renewed once for an
3 additional 6 months.

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

8 Section 108. Subsection (6) is added to section
9 468.211, Florida Statutes, to read:

10 468.211 Examination for licensure.--

11 (6) If an applicant fails to pass the examination in
12 three attempts, the applicant shall not be eligible for
13 reexamination unless the applicant completes additional
14 education or training requirements prescribed by the board.
15 An applicant who has completed the additional education or
16 training requirements prescribed by the board may take the
17 examination on two more occasions. If the applicant has
18 failed to pass the examination after five attempts, the
19 applicant is no longer eligible to take the examination.

20 Section 109. Section 468.213, Florida Statutes, is
21 amended to read:

22 468.213 Licensure by endorsement.--

23 (1) The board may waive the examination and grant a
24 license to any person who presents proof of current
25 certification as an occupational therapist or occupational
26 therapy assistant by a national certifying organization ~~the~~
27 ~~American Occupational Therapy Association~~ if the board
28 determines the requirements for such certification to be
29 equivalent to the requirements for licensure in this act.

30 (2) The board may waive the examination and grant a
31 license to any applicant who presents proof of current

1 licensure as an occupational therapist or occupational therapy
2 assistant in another state, the District of Columbia, or any a
3 territory or jurisdiction of the United States or foreign
4 national jurisdiction which requires standards for licensure
5 determined by the board to be equivalent to the requirements
6 for licensure in this act.

7 Section 110. Section 468.225, Florida Statutes, is
8 amended to read:

9 468.225 Exemptions ~~Persons and practices not~~
10 ~~affected.--~~

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

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

17 (b) Any person employed as an occupational therapist
18 or occupational therapy assistant by the United States, if
19 such person provides occupational therapy solely under the
20 direction or control of the organization by which he is
21 employed.

22 (c) Any person pursuing a course of study leading to a
23 degree or certificate in occupational therapy at an accredited
24 or approved educational program, if such activities and
25 services constitute a part of a supervised course of study and
26 if such a person is designated by a title which clearly
27 indicates his or her status as a student or trainee.

28 (d) Any person fulfilling the supervised fieldwork
29 experience requirements of s. 468.209, if such activities and
30 services constitute a part of the experience necessary to meet
31 the requirements of that section.

1 ~~(e) Any person employed by, or working under the~~
2 ~~direct supervision of, an occupational therapist as an~~
3 ~~occupational therapy aide.~~

4 (2) No provision of this act shall be construed to
5 prohibit physicians, physician assistants, nurses, physical
6 therapists, osteopathic physicians or surgeons, ~~or~~ clinical
7 psychologists, speech-language pathologists, or audiologists
8 from using occupational therapy as a part of or incidental to
9 their profession, when they practice their profession under
10 the statutes applicable to their profession.

11 Section 111. Section 468.351, Florida Statutes, is
12 amended to read:

13 468.351 Purpose and intent; application.--

14 (1)(a) The purpose in enacting this part is to provide
15 for the licensure ~~certification and registration~~ of persons
16 who deliver respiratory care services and who meet certain
17 requirements. The delivery of respiratory care services by
18 persons licensed ~~certified or registered~~ pursuant to this part
19 shall not be construed to permit the practice of medicine.

20 (b) It is the finding of the Legislature that the
21 delivery of respiratory care services by unskilled and
22 incompetent persons presents a danger to the public health and
23 safety. Because it is difficult for the public to make
24 informed choices related to respiratory care services and
25 since the consequences of wrong choices can seriously endanger
26 public health and safety, it is the intent of the Legislature
27 to prohibit the delivery of respiratory care services by
28 persons who are determined to possess less than minimum
29 competencies or who otherwise present a danger to the public.

30 (2) It is the intent of the Legislature that the
31 department ~~of Health and Rehabilitative Services shall~~

1 ~~continue to~~ regulate blood gas laboratories and that the
2 supervision of health ~~respiratory~~ care practitioners, ~~clinical~~
3 ~~laboratory personnel, and other persons~~ performing blood gas
4 analysis and specimen collection for the purpose of such
5 analysis be specified in rules pursuant to the applicable
6 practice act ~~chapter 483~~. Further, it is the intent of the
7 Legislature that personnel licensed ~~certified or registered~~
8 pursuant to this part shall be exempt from the licensure
9 provisions of chapter 483.

10 Section 112. Subsections (2), (8), and (9) of section
11 468.352, Florida Statutes, are amended to read:

12 468.352 Definitions.--As used in this part, unless the
13 context otherwise requires, the term:

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

16 (8) "Respiratory therapist" means any person licensed
17 ~~registered~~ pursuant to this part who is employed to deliver
18 respiratory care services under the order of a physician
19 licensed pursuant to chapter 458 or chapter 459, and in
20 accordance with protocols established by a hospital, other
21 health care provider, or the board, and who functions in
22 situations of unsupervised patient contact requiring
23 individual judgment.

24 (9) "Respiratory care practitioner" means any person
25 licensed ~~certified~~ pursuant to this part who is employed to
26 deliver respiratory care services under the order of a
27 physician licensed pursuant to chapter 458 or chapter 459, and
28 in accordance with protocols established by a hospital, other
29 health care provider, or the board.

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

1 468.354 Advisory Council on Respiratory Care;
2 organization; function.--

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

6 Section 114. Section 468.355, Florida Statutes, is
7 amended to read:

8 468.355 Eligibility for licensure ~~certification or~~
9 ~~registration~~; temporary licensure ~~certification~~.--

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

12 (a) Be at least 18 years old.

13 (b) Possess a high school diploma or a graduate
14 equivalency diploma.

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

16 1. The applicant has successfully completed a training
17 program for respiratory therapy technicians or respiratory
18 therapists approved by the Commission ~~Committee~~ on
19 Accreditation of Allied Health Education Programs ~~and~~
20 ~~Accreditation of the American Medical Association~~, or the
21 equivalent thereof, as accepted by the board.

22 2. The applicant is currently a "Certified Respiratory
23 Therapy Technician" certified by the National Board for
24 Respiratory Care, or the equivalent thereof, as accepted by
25 the board.

26 3. The applicant is currently a "Registered
27 Respiratory Therapist" registered by the National Board for
28 Respiratory Care, or the equivalent thereof, as accepted by
29 the board.

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31

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

4
5 The criteria set forth in subparagraphs 2. and 3.
6 notwithstanding, the board shall annually review the
7 examinations and standards of the National Board for
8 Respiratory Care and may reject those examinations and
9 standards if they are deemed inappropriate.

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

12 (a) Be at least 18 years old.

13 (b) Possess a high school diploma or a graduate
14 equivalency diploma.

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

16 1. The applicant has successfully completed a training
17 program for respiratory therapists approved by the Commission
18 ~~Committee~~ on Accreditation of Allied Health Education Programs
19 ~~and Accreditation of the American Medical Association~~, or the
20 equivalent thereof, as accepted by the board.

21 2. The applicant is currently a "Registered
22 Respiratory Therapist" registered by the National Board for
23 Respiratory Care, or the equivalent thereof, as accepted by
24 the board.

25
26 The criteria set forth in subparagraphs 1. and 2.
27 notwithstanding, the board shall annually review the
28 examinations and standards of the National Board for
29 Respiratory Care and may reject those examinations and
30 standards if they are deemed inappropriate.

31

1 (3) With respect to the delivery of respiratory care
2 services, the board shall establish procedures for temporary
3 licensure ~~certification~~ of eligible individuals entering the
4 state and temporary licensure ~~certification~~ of those persons
5 who have graduated from a program approved by the board. Such
6 temporary licensure ~~certification~~ shall be for a period not to
7 exceed 1 year.

8 Section 115. Section 468.356, Florida Statutes, is
9 amended to read:

10 468.356 Approval of educational programs.--

11 (1) Approval of educational programs shall be in
12 accordance with the Joint Review Committee for Respiratory
13 Therapy Education through the Commission ~~Committee~~ on
14 Accreditation of Allied Health Education Programs, or other
15 accrediting agency recognized by the United States Office of
16 Education and Accreditation of the American Medical
17 Association.

18 (2) In the event that an educational program has not
19 yet received full American Medical Association approval, the
20 board, at its discretion, may require appropriate
21 documentation of the intent to achieve full accreditation
22 within a specified time period. Temporary approval for
23 graduates of such programs to sit for state licensure
24 ~~certification or registration~~ examinations may then be granted
25 by the board.

26 Section 116. Section 468.357, Florida Statutes, is
27 amended to read:

28 468.357 Licensure ~~Certification~~ by examination.--

29 (1) A person who desires to be licensed ~~certified~~ as a
30 respiratory care practitioner may submit an application to the
31

1 <U>department board to take the examination to be administered by
2 the department.

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

5 1. Completed the application form and remitted the
6 applicable application fee set by the board;

7 2. Submitted required documentation as required in s.
8 468.355; and

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

10 (b) The department shall conduct examinations for
11 licensure certification of respiratory care practitioners no
12 less than two times a year in such geographical locations as
13 are deemed advantageous to the majority of the applicants.
14 ~~However, the examination shall be conducted no less than three~~
15 ~~times a year through 1988 and in such geographical locations~~
16 ~~as are deemed advantageous to the majority of the applicants.~~

17 (c) The examination given for respiratory care
18 practitioners shall be the same as that given by the National
19 Board for Respiratory Care for entry-level certification of
20 respiratory therapy technicians. However, an equivalent
21 examination may be accepted by the board in lieu of that
22 examination.

23 (2) Each applicant who passes the examination shall be
24 entitled to licensure certification as a respiratory care
25 practitioner, and the department shall issue a license
26 ~~certificate~~ pursuant to this part to any applicant who
27 successfully completes the examination in accordance with this
28 section. However, the department shall not issue a license
29 ~~certificate~~ to any applicant who is under investigation in
30 another jurisdiction for an offense which would constitute a
31 violation of this part. Upon completion of such an

1 investigation, if the applicant is found guilty of such an
2 offense, the applicable provisions of s. 468.365 will apply.

3 (3)~~(a)~~ Any person who was employed in this state on or
4 before September 30, 1983, as a respiratory therapy technician
5 or respiratory therapist, and who has performed services in
6 such professional capacity for 4 years or more by October 1,
7 1987, under the supervision of a licensed physician or in a
8 hospital or licensed health care facility, shall be issued a
9 license ~~certificate~~ without examination, if such person
10 provides acceptable documentation of performance of such
11 services to the board. Such documentation shall include
12 certification by a physician licensed pursuant to chapter 458
13 or chapter 459 who has direct knowledge of the practice of, or
14 who has supervised, the person. If such person is not
15 determined to have performed critical care respiratory
16 services for at least 4 years, the board may limit the license
17 ~~certificate~~ of such person to the performance of noncritical
18 care respiratory services. ~~Any person issued a certificate~~
19 ~~pursuant to this paragraph shall complete at least 20 contact~~
20 ~~hours of continuing education each year.~~

21 ~~(b) Any person first employed in this state as a~~
22 ~~respiratory therapy technician or respiratory therapist on or~~
23 ~~after October 1, 1984, and prior to October 1, 1987, shall~~
24 ~~have until December 31, 1988, to pass the examination for~~
25 ~~certification under this part if the person has applied to~~
26 ~~take the examination before March 1, 1988, and such person~~
27 ~~shall be permitted to continue to perform respiratory care~~
28 ~~services until December 31, 1988.~~

29 Section 117. Section 468.358, Florida Statutes, is
30 amended to read:

31

1 468.358 Licensure ~~Certification or registration~~ by
2 endorsement.--

3 (1) Licensure ~~Certification~~ as a respiratory care
4 practitioner shall be granted by endorsement to an individual
5 who holds the "Certified Respiratory Therapy Technician"
6 credential issued by the National Board for Respiratory Care
7 or an equivalent credential acceptable to the board. Licensure
8 ~~Certification~~ by this mechanism requires verification by oath
9 and submission of evidence satisfactory to the board that such
10 credential is held.

11 (2) Licensure ~~Registration~~ as a respiratory therapist
12 shall be granted by endorsement to an individual who holds the
13 "Registered Respiratory Therapist" credential issued by the
14 National Board for Respiratory Care or an equivalent
15 credential acceptable to the board. Licensure ~~Registration~~ by
16 this mechanism requires verification by oath and submission of
17 evidence satisfactory to the board that such credential is
18 held.

19 (3) An individual who has been granted licensure,
20 certification, registration, or other authority, by whatever
21 name known, to deliver respiratory care services in another
22 state or country may petition the board for consideration for
23 licensure ~~certification or registration~~ in this state and,
24 upon verification by oath and submission of evidence of
25 licensure, certification, registration, or other authority
26 acceptable to the board, may be granted licensure
27 ~~certification or registration~~ by endorsement.

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

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

3 468.359 Assumption of title and use of
4 abbreviations.--

5 (1) Only persons who are licensed ~~certified~~ pursuant
6 to this part as respiratory care practitioners have the right
7 to use the title "Respiratory Care Practitioner" and the
8 abbreviation "RCP."

9 (2) Only persons who are licensed ~~registered~~ pursuant
10 to this part as respiratory therapists have the right to use
11 the title "Registered Respiratory Therapist" and the
12 abbreviation "RRT," provided such persons have passed the
13 Registry Examination for Respiratory Therapists given by the
14 National Board for Respiratory Care.

15 (5) No person in this state shall deliver respiratory
16 care services; advertise as, or assume the title of,
17 respiratory care practitioner or respiratory therapist; or use
18 the abbreviation "RCP" or take any other action that would
19 lead the public to believe that such person is licensed
20 ~~certified or registered~~ pursuant to this part unless such
21 person is so licensed ~~certified or registered~~.

22 Section 119. Section 468.36, Florida Statutes, is
23 amended to read:

24 468.36 Primary place of service delivery; notice of
25 address or change of address.--Every licensee
26 ~~certificateholder or registrant~~ shall file with the department
27 the licensee's current residence address as defined by board
28 rule of his primary place of service delivery within the state
29 ~~prior to engaging in such service delivery. Prior to changing~~
30 ~~such address, he shall notify the department of the address of~~
31

1 ~~his new primary place of service delivery, whether or not~~
2 ~~within the state.~~

3 Section 120. Section 468.361, Florida Statutes, is
4 amended, and section 468.362, Florida Statutes, is transferred
5 to said section and amended, to read:

6 468.361 Renewal of licensure ~~certification or~~
7 ~~registration~~; continuing education.--

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

11 (2) The board shall prescribe by rule continuing
12 education requirements, not to exceed 24 hours biennially, as
13 a condition for renewal of licensure ~~certification or~~
14 ~~registration~~. The program criteria with respect thereto shall
15 be approved by the board.

16 ~~468.362 Continuing education.--~~

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

24 (3)~~(2)~~ The board shall approve continuing education
25 courses which may be accepted in meeting the requirements of
26 this part. Providers of such courses shall also be approved
27 by the board.

28 (4)~~(3)~~ The board may make exceptions from the
29 requirements of this section in emergency or hardship cases.

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1 ~~(4) The board may adopt rules, within the requirements~~
2 ~~of this section, that are necessary for the implementation of~~
3 ~~this section.~~

4 Section 121. Section 468.363, Florida Statutes, is
5 amended to read:

6 468.363 Reactivation of licensure ~~certification or~~
7 ~~registration~~; continuing education.--The board shall prescribe
8 by rule continuing education requirements as a condition of
9 reactivating a license ~~certificate or registration~~. The
10 continuing education requirements for reactivating a license
11 ~~certificate or registration~~ may not exceed 12 classroom hours
12 for each year the license ~~certificate or registration~~ was
13 inactive.

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

16 468.364 Fees; establishment; disposition.--

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

19 (a) Application, ~~fee~~ a fee not to exceed \$50.

20 (b) Examination, ~~fee~~ a fee not to exceed \$125 plus
21 the actual per applicant cost to the department for purchase
22 of the examination from the National Board for Respiratory
23 Care or a similar national organization.

24 (c) Initial licensure, ~~certification or registration~~
25 ~~fee~~ a fee not to exceed \$200.

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

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

30 (f) Reactivation, ~~fee~~ a fee not to exceed \$50.

31

1 Section 123. Section 468.365, Florida Statutes, is
2 amended to read:

3 468.365 Disciplinary grounds and actions.--

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

6 (a) Procuring, attempting to procure, or renewing a
7 license ~~certificate or registration~~ as provided by this part
8 by bribery, by fraudulent misrepresentation, or through an
9 error of the department or the board.

10 (b) Having licensure, certification, registration, or
11 other authority, by whatever name known, to deliver
12 respiratory care services revoked, suspended, or otherwise
13 acted against, including the denial of licensure,
14 certification, registration, or other authority to deliver
15 respiratory care services by the licensing authority of
16 another state, territory, or country.

17 (c) Being convicted or found guilty of, or entering a
18 plea of nolo contendere to, regardless of adjudication, ~~of~~ a
19 crime in any jurisdiction which directly relates to
20 respiratory care services or to the ability to deliver such
21 services.

22 (d) Willfully making or filing a false report or
23 record, willfully failing to file a report or record required
24 by state or federal law, or willfully impeding or obstructing
25 such filing or inducing another person to do so. Such reports
26 or records include only those reports or records which require
27 the signature of a ~~certified~~ respiratory care practitioner or
28 ~~a~~ respiratory therapist licensed ~~registered~~ pursuant to this
29 part.

30 (e) Circulating false, misleading, or deceptive
31 advertising.

1 (f) Unprofessional conduct, which includes, but is not
2 limited to, any departure from, or failure to conform to,
3 acceptable standards related to the delivery of respiratory
4 care services, as set forth by the board and the Advisory
5 Council on Respiratory Care in rules adopted pursuant to this
6 part.

7 (g) Engaging or attempting to engage in the
8 possession, sale, or distribution of controlled substances, as
9 set forth by law, for any purpose other than a legitimate
10 purpose.

11 (h) Willfully failing to report any violation of this
12 part.

13 (i) Willfully or repeatedly violating a rule of the
14 board or the department or a lawful order of the board or
15 department previously entered in a disciplinary hearing.

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

18 (k) Engaging in the delivery of respiratory care
19 services with a revoked, suspended, or inactive license
20 ~~certificate or registration~~.

21 (l) Permitting, aiding, assisting, procuring, or
22 advising any person who is not licensed ~~certified or~~
23 ~~registered~~ pursuant to this part, contrary to this part or to
24 any rule of the department or the board.

25 (m) Failing to perform any statutory or legal
26 obligation placed upon a ~~certified~~ respiratory care
27 practitioner or a respiratory therapist licensed ~~registered~~
28 pursuant to this part.

29 (n) Accepting and performing professional
30 responsibilities which the licensee ~~certificateholder or~~
31

1 ~~registrant~~ knows, or has reason to know, he is not competent
2 to perform.

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

8 (p) Gross or repeated malpractice or the failure to
9 deliver respiratory care services with that level of care,
10 skill, and treatment which is recognized by a reasonably
11 prudent respiratory care practitioner or respiratory therapist
12 with similar professional training as being acceptable under
13 similar conditions and circumstances.

14 (q) Paying or receiving any commission, bonus,
15 kickback, or rebate to or from, or engaging in any split-fee
16 arrangement in any form whatsoever with, a person,
17 organization, or agency, either directly or indirectly, for
18 goods or services rendered to patients referred by or to
19 providers of health care goods and services, including, but
20 not limited to, hospitals, nursing homes, clinical
21 laboratories, ambulatory surgical centers, or pharmacies. The
22 provisions of this paragraph shall not be construed to prevent
23 the licensee ~~certificateholder or registrant~~ from receiving a
24 fee for professional consultation services.

25 (r) Exercising influence within a respiratory care
26 relationship for the purpose of engaging a patient in sexual
27 activity. A patient is presumed to be incapable of giving
28 free, full, and informed consent to sexual activity with the
29 patient's respiratory care practitioner or respiratory
30 therapist.

31

1 (s) Making deceptive, untrue, or fraudulent
2 representations in the delivery of respiratory care services
3 or employing a trick or scheme in the delivery of respiratory
4 care services if such a scheme or trick fails to conform to
5 the generally prevailing standards of other licensees
6 ~~certificateholders or registrants~~ within the community.

7 (t) Soliciting patients, either personally or through
8 an agent, through the use of fraud, deception, or otherwise
9 misleading statements or through the exercise of intimidation
10 or undue influence.

11 (u) Failing to keep written respiratory care records
12 justifying the reason for the action taken by the licensee
13 ~~certificateholder or registrant~~.

14 (v) Exercising influence on the patient in such a
15 manner as to exploit the patient for the financial gain of the
16 licensee ~~certificateholder or registrant~~ or a third party,
17 which includes, but is not limited to, the promoting or
18 selling of services, goods, appliances, or drugs.

19 (w) Performing professional services which have not
20 been duly ordered by a physician licensed pursuant to chapter
21 458 or chapter 459 and which are not in accordance with
22 protocols established by the hospital, other health care
23 provider, or the board, except as provided in ss. 743.064,
24 766.103, and 768.13.

25 (x) Being unable to deliver respiratory care services
26 with reasonable skill and safety to patients by reason of
27 illness or use of alcohol, drugs, narcotics, chemicals, or any
28 other type of material as a result of any mental or physical
29 condition. In enforcing this paragraph, the department shall,
30 upon probable cause, have authority to compel a respiratory
31 care practitioner or respiratory therapist to submit to a

1 mental or physical examination by physicians designated by the
 2 department. The cost of examination shall be borne by the
 3 licensee ~~certificateholder or registrant~~ being examined. The
 4 failure of a respiratory care practitioner or respiratory
 5 therapist to submit to such an examination when so directed
 6 constitutes an admission of the allegations against him, upon
 7 which a default and a final order may be entered without the
 8 taking of testimony or presentation of evidence, unless the
 9 failure was due to circumstances beyond his control. A
 10 respiratory care practitioner or respiratory therapist
 11 affected under this paragraph shall at reasonable intervals be
 12 afforded an opportunity to demonstrate that he can resume the
 13 competent delivery of respiratory care services with
 14 reasonable skill and safety to his patients. In any
 15 proceeding under this paragraph, neither the record of
 16 proceedings nor the orders entered by the board shall be used
 17 against a respiratory care practitioner or respiratory
 18 therapist in any other proceeding.

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

22 (a) Denial of an application for licensure
 23 ~~certification or registration~~.

24 (b) Revocation or suspension of licensure
 25 ~~certification or registration~~.

26 (c) Imposition of an administrative fine not to exceed
 27 \$1,000 for each count or separate offense.

28 (d) Placement of the respiratory care practitioner or
 29 respiratory therapist on probation for such period of time and
 30 subject to such conditions as the board may specify,
 31 including, but not limited to, requiring the respiratory care

1 practitioner or respiratory therapist to submit to treatment,
2 to attend continuing education courses, or to work under the
3 supervision of another respiratory care practitioner or
4 respiratory therapist.

5 (e) Issuance of a reprimand.

6 (3) The board shall not reinstate licensure
7 ~~certification or registration~~, or cause a license certificate
8 ~~or registration~~ to be issued to a person it has deemed
9 unqualified, until such time as it is satisfied that such
10 person has complied with all the terms and conditions set
11 forth in the final order and that the respiratory care
12 practitioner or respiratory therapist is capable of safely
13 engaging in the delivery of respiratory care services.

14 (4) The board may, by rule, establish guidelines for
15 the disposition of disciplinary cases involving specific types
16 of violations. Such guidelines may include minimum and
17 maximum fines, periods of supervision on probation, or
18 conditions upon probation or reissuance of a license
19 ~~certificate or registration~~.

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

22 468.366 Penalties for violations.--

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

25 (a) Sell or fraudulently obtain, attempt to obtain, or
26 furnish to any person a diploma, license, ~~certificate,~~
27 ~~registration,~~ or record, or aid or abet in the sale,
28 procurement, or attempted procurement thereof.

29 (b) Deliver respiratory care services, as defined by
30 this part or by rule of the board, under cover of any diploma,
31 license, ~~certificate, registration,~~ or record that was

1 illegally or fraudulently obtained or signed or issued
2 unlawfully or under fraudulent representation.

3 (c) Deliver respiratory care services, as defined by
4 this part or by rule of the board, unless such person is duly
5 licensed ~~certified or registered~~ to do so under the provisions
6 of this part or unless such person is exempted pursuant to s.
7 468.368.

8 (d) Use, in connection with his name, any designation
9 tending to imply that he is a respiratory care practitioner or
10 a respiratory therapist, duly licensed ~~certified or registered~~
11 under the provisions of this part, unless he is so licensed
12 ~~certified or registered~~.

13 (e) Advertise an educational program as meeting the
14 requirements of this part, or conduct an educational program
15 for the preparation of respiratory care practitioners or
16 respiratory therapists, unless such program has been approved
17 by the board.

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

21 (g) Knowingly conceal information relative to any
22 violation of this part.

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

25 468.368 Exemptions.--Nothing in this part shall be
26 construed to prohibit:

27 (8) The employment by a health care facility of a
28 student enrolled in the clinical portion of an approved
29 respiratory care educational program (who has demonstrated
30 such enrollment to the board by submission of evidence
31 satisfactory to the board) to deliver limited respiratory care

1 support services under the supervision of personnel licensed
2 ~~certified or registered~~ pursuant to this part. Such exemption
3 shall also apply to the graduates of such programs until the
4 receipt of temporary licensure ~~certification~~ issued pursuant
5 to the provisions of s. 468.355(3). However, such employees
6 shall not perform invasive procedures or procedures related to
7 critical respiratory care, including therapeutic, diagnostic,
8 and palliative procedures, nor shall they participate in
9 delivering certain services requiring unsupervised patient
10 contact, as determined by the board.

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

13 478.42 Definitions.--As used in this chapter, the
14 term:

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

17 Section 127. Section 478.45, Florida Statutes, is
18 amended to read:

19 478.45 Requirements for licensure.--

20 (1) An applicant applying for licensure as an
21 electrologist shall file a written application, accompanied by
22 the application for licensure fee prescribed in s. 478.55, on
23 a form provided by the board, showing to the satisfaction of
24 the board that the applicant:

25 (a) Is at least 18 years old.

26 (b) Is of good moral character.

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

28 (c)~~(d)~~ Possesses a high school diploma or a graduate
29 equivalency diploma.

30
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1 ~~(d)(e)~~ Has not committed an act in any jurisdiction
2 which would constitute grounds for disciplining an
3 electrologist in this state.

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

8 ~~2. Was engaged in the practice of electrology prior to~~
9 ~~October 1, 1991, and filed an application for licensure within~~
10 ~~90 days after the date established by the board or by February~~
11 ~~1, 1995, whichever comes last.~~

12 (2) Each applicant for licensure shall successfully
13 pass a written examination developed by the department or a
14 national examination that has, ~~both of which have~~ been
15 approved by the board. The examinations shall test the
16 applicant's knowledge relating to the practice of electrology,
17 including the applicant's professional skills and judgment in
18 the use of electrolysis techniques and methods, and any other
19 subjects which are useful to determine the applicant's fitness
20 to practice.

21 (3) The department, upon approval of the board, may
22 adopt a ~~the American Electrology Association examination or~~
23 ~~any other~~ national examination in lieu of any part of the
24 examination required by this section. The board, with the
25 assistance of the council, shall establish standards for
26 acceptable performance.

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

31

1 (5) The department shall conduct licensure
2 examinations at least two times a year ~~biannually at locations~~
3 ~~set by the board. However, such examinations may be conducted~~
4 ~~at least three times each year through 1995.~~ The department
5 ~~board~~ shall give public notice of the time and place of each
6 examination at least 60 days before it is administered and
7 shall mail notice of such examination to each applicant whose
8 application is timely filed, pursuant to board rule.

9 (6) The department may not issue a license to any
10 applicant who is under investigation in another jurisdiction
11 for an offense which would be a violation of this chapter,
12 until such investigation is complete. Upon completion of such
13 investigation, if the applicant is found guilty of such
14 offense, the board shall apply the applicable provisions of s.
15 478.52.

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

18 478.46 Temporary permits.--

19 (1) If the department ~~executive director of the board~~
20 determines that an applicant is qualified to be licensed under
21 s. 478.47 ~~478.45~~, the department ~~board~~ may issue the applicant
22 a temporary permit to practice electrolysis ~~electrology~~ until
23 the next board meeting at which license applications are to be
24 considered, but not for a longer period of time. Only one
25 temporary permit shall be issued to an applicant, and it shall
26 not be renewable.

27 Section 129. Section 478.47, Florida Statutes, is
28 amended to read:

29 478.47 Licensure by endorsement.--The department shall
30 issue a license by endorsement to any applicant who submits an
31 application and the required fees as set forth in s. 478.55

1 and who ~~the board certifies has met the qualifications of s.~~
2 ~~478.45(1) or who~~ holds an active license or other authority to
3 practice electrology in a jurisdiction whose licensure
4 requirements are determined by the board to be equivalent to
5 the requirements for licensure in this state.

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

9 478.52 Disciplinary proceedings.--

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

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

14 (2) When the board finds any person guilty of any of
15 the grounds set forth in subsection (1), including conduct
16 that would constitute a substantial violation of subsection
17 (1) which occurred prior to licensure, it may enter an order
18 imposing one or more of the following penalties:

19 (d) Place the licensee on probation for a specified
20 time and subject the licensee to such conditions as the board
21 determines necessary, including, but not limited to, requiring
22 treatment, continuing education courses, reexamination, or
23 working under the supervision of another licensee.

24 Section 131. Subsections (1) and (2) of section
25 480.033, Florida Statutes, are amended to read:

26 480.033 Definitions.--As used in this act:

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

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

30 Section 132. Section 480.034, Florida Statutes, is
31 amended to read:

1 480.034 Exemptions.--

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

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

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

10 ~~(4) Treatments for the purpose of cleansing and~~
11 ~~beautifying the skin or in conjunction with a weight loss~~
12 ~~program, including herbal wraps, body scrubs, paraffin wax~~
13 ~~treatments, and seaweed wraps, shall be exempt from the~~
14 ~~provisions of this act.~~

15 (4)(5) An exemption granted is effective to the extent
16 that an exempted person's practice or profession overlaps with
17 the practice of massage.

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

20 480.035 Board of Massage Therapy.--

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

25 Section 134. Section 480.041, Florida Statutes, is
26 amended to read:

27 480.041 Massage therapists; qualifications; licensure;
28 endorsement; ~~provisional licensure~~.--

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

31

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

3 (b) Has completed a course of study at a
4 board-approved massage school or has completed an
5 apprenticeship program that meets standards adopted by the
6 board; and

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

9 (2) Every person desiring to be examined for licensure
10 as a massage therapist shall apply to the department in
11 writing upon forms prepared and furnished by the department.
12 Such applicants shall be subject to the provisions of s.
13 480.046(1). Applicants may take an examination administered by
14 the department only upon meeting the requirements of this
15 section as determined by the board.

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

20 ~~(4)(a) The board may issue to an applicant, without~~
21 ~~examination, a provisional license to practice massage,~~
22 ~~provided such applicant meets all other conditions and~~
23 ~~requirements relating to qualification for licensure and~~
24 ~~submits a fee pursuant to s. 480.044. Such applicant for a~~
25 ~~provisional license shall be associated with a licensed~~
26 ~~massage therapist and shall practice only under the~~
27 ~~supervision of such licensed massage therapist at a licensed~~
28 ~~establishment.~~

29 ~~(b) The provisional license, when granted, shall~~
30 ~~include the name and address of the licensed massage therapist~~
31 ~~with whom the applicant is associated. No licensed massage~~

1 ~~therapist may supervise more than one provisional~~
2 ~~licenseholder at the same time.~~

3 ~~(c) The applicant must appear at the next examination~~
4 ~~for licensure for which the applicant can be scheduled~~
5 ~~according to the rules of the board and department. The~~
6 ~~provisional license shall expire upon written notification by~~
7 ~~the department that the applicant has failed the examination~~
8 ~~or on the date of the scheduled examination, should the~~
9 ~~applicant fail to appear. Acceptance of a provisional license~~
10 ~~by an applicant shall be deemed to be consent for expiration~~
11 ~~of that license in accordance with the provisions of this~~
12 ~~chapter.~~

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

16 (4)~~(5)~~ The board shall adopt rules:

17 (a) Establishing a minimum training program for
18 apprentices.

19 ~~(b) Specifying standards and procedures for issuance~~
20 ~~of a provisional license.~~

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

25 (c)~~(d)~~ Specifying licensing procedures for
26 practitioners desiring to be licensed in this state who hold
27 an active license and have practiced in any other state,
28 territory, or jurisdiction of the United States or any foreign
29 national jurisdiction which has licensing standards
30 substantially similar to, equivalent to, or more stringent
31 than the standards of this state.

1 Section 135. Section 480.0415, Florida Statutes, is
2 amended to read:

3 480.0415 License renewal.--The board shall prescribe
4 by rule the method for renewal of biennial licensure which
5 shall include continuing education requirements not to exceed
6 25 ~~12~~ classroom hours per biennium. The board shall by rule
7 establish criteria for the approval of continuing education
8 programs or courses. The programs or courses approved by the
9 board may include correspondence courses that meet the
10 criteria for continuing education courses held in a classroom
11 setting.

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

14 480.042 Examinations.--

15 (1) The board shall specify by rule the general areas
16 of competency to be covered by examinations for licensure.
17 These rules shall include the relative weight assigned in
18 grading each area, the grading criteria to be used by the
19 examiner, and the score necessary to achieve a passing grade.
20 The board shall ensure that examinations adequately measure
21 ~~both an applicant's competency and his knowledge of related~~
22 ~~statutory requirements~~. Professional testing services may be
23 utilized to formulate the examinations.

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

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

28 480.043 Massage establishments; requisites; licensure;
29 inspection.--

30
31

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

4 **(b) A license may be transferred from one location to**
5 **another only after inspection and approval by the board and**
6 **receipt of an application and inspection fee set by rule of**
7 **the board, not to exceed \$125.**

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

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

13 480.044 Fees; disposition.--

14 (1) The board shall set fees according to the
15 following schedule:

16 (a) Massage therapist application and examination fee:
17 not to exceed \$250.

18 (b) Massage therapist initial licensure fee: not to
19 exceed \$150.

20 (c) Establishment application fee: not to exceed
21 \$200.

22 (d) Establishment licensure fee: not to exceed \$150.

23 (e) Biennial establishment renewal fee: not to exceed
24 \$150.

25 (f) Biennial massage therapist licensure renewal fee:
26 not to exceed \$200.

27 (g) Massage therapist reexamination fee: not to
28 exceed \$250.

29 (h) Fee for apprentice: not to exceed \$100.

30 (i) Colonics examination fee: not to exceed \$100.

31 (j) Colonics reexamination fee: not to exceed \$100.

1 ~~(k)~~ ~~Application and provisional licensure fee: not to~~
2 ~~exceed \$50.~~

3 (k)~~(l)~~ Application and reactivation for inactive
4 status of a massage therapist license fee: not to exceed
5 \$250.

6 (l)~~(m)~~ Renewal fee for inactive status: not to exceed
7 \$250.

8 Section 140. Paragraph (a) of subsection (1) of
9 section 480.047, Florida Statutes, is amended to read:

10 480.047 Penalties.--

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

12 (a) Hold himself or herself out as a massage therapist
13 <U>or to practice massage unless duly licensed under this chapter
14 or unless otherwise specifically exempted from licensure under
15 this chapter as provided herein.

16 Section 141. Section 480.0485, Florida Statutes, is
17 created to read:

18 480.0485 Sexual misconduct in the practice of massage
19 therapy.--The massage therapist-patient relationship is
20 founded on mutual trust. Sexual misconduct in the practice of
21 massage therapy means violation of the massage
22 therapist-patient relationship through which the massage
23 therapist uses that relationship to induce or attempt to
24 induce the patient to engage, or to engage or attempt to
25 engage the patient, in sexual activity outside the scope of
26 practice or the scope of generally accepted examination or
27 treatment of the patient. Sexual misconduct in the practice
28 of massage therapy is prohibited.

29 Section 142. Paragraph (f) of subsection (3) of
30 section 20.43, Florida Statutes, 1996 Supplement, is amended
31 to read:

1 20.43 Department of Health.--There is created a
2 Department of Health.

3 (3) The following divisions of the Department of
4 Health are established:

5 (f) ~~Effective July 1, 1997,~~Division of Medical
6 Quality Assurance, which is responsible for the following
7 boards and professions established within the division:

8 1. Nursing assistants, as provided under s. 400.211.

9 2. Health care services pools, as provided under s.
10 402.48.

11 3. The Board of Acupuncture, created under chapter
12 457.

13 4. The Board of Medicine, created under chapter 458.

14 5. The Board of Osteopathic Medicine, created under
15 chapter 459.

16 6. The Board of Chiropractic, created under chapter
17 460.

18 7. The Board of Podiatric Medicine, created under
19 chapter 461.

20 8. Naturopathy, as provided under chapter 462.

21 9. The Board of Optometry, created under chapter 463.

22 10. The Board of Nursing, created under chapter 464.

23 11. The Board of Pharmacy, created under chapter 465.

24 12. The Board of Dentistry, created under chapter 466.

25 13. Midwifery, as provided under chapter 467.

26 14. The Board of Speech-Language Pathology and
27 Audiology, created under part I of chapter 468.

28 15. The Board of Nursing Home Administrators, created
29 under part II of chapter 468.

30 16. Occupational therapy, as provided under part III
31 of chapter 468.

- 1 17. Respiratory therapy, as provided under part V of
2 chapter 468.
- 3 18. Dietetics and nutrition practice, as provided
4 under part X of chapter 468.
- 5 19. Athletic trainers, as provided under part XIV of
6 chapter 468.
- 7 20. Electrolysis, as provided under chapter 478.
- 8 21. The Board of Massage Therapy, created under
9 chapter 480.
- 10 22. The Board of Clinical Laboratory Personnel,
11 created under part III ~~IV~~ of chapter 483.
- 12 23. Medical physicists, as provided under part IV ~~V~~ of
13 chapter 483.
- 14 24. The Board of Opticianry, created under part I of
15 chapter 484.
- 16 25. The Board of Hearing Aid Specialists, created
17 under part II of chapter 484.
- 18 26. The Board of Physical Therapy Practice, created
19 under chapter 486.
- 20 27. The Board of Psychology, created under chapter
21 490.
- 22 28. The Board of Clinical Social Work, Marriage and
23 Family Therapy, and Mental Health Counseling, created under
24 chapter 491.
- 25
- 26 The department shall contract with the Agency for Health Care
27 Administration who shall provide consumer complaint,
28 investigative, and prosecutorial services required by the
29 Division of Medical Quality Assurance, councils, or boards, as
30 appropriate.
- 31

1 Section 143. Paragraph (b) of subsection (2) of
2 section 381.81, Florida Statutes, is amended to read:

3 381.81 Minority Health Improvement Act.--

4 (2) DEFINITIONS.--As used in this section, the
5 following words and terms shall have the following meanings,
6 unless the context indicates another meaning or intent:

7 (b) "Health profession" means any regulated health
8 profession, including occupational therapy, as regulated under
9 part III of chapter 468; respiratory therapy, as regulated
10 under part V of chapter 468; physical therapy, as regulated
11 under chapter 486; midwifery, as regulated under chapter 467;
12 dietetics and nutrition practice, as regulated under part X of
13 chapter 468; electrolysis, as regulated under chapter 478;
14 nursing assistants, as regulated under s. 400.211; and those
15 professions regulated by: the Board of Medicine, created
16 under chapter 458; the Board of Osteopathic Medicine, created
17 under chapter 459; the Board of Acupuncture, created under
18 chapter 457; the Board of Chiropractic, created under chapter
19 460; the Board of Clinical Social Work, Marriage and Family
20 Therapy, and Mental Health Counseling, created under chapter
21 491; the Board of Dentistry, created under chapter 466; the
22 Board of Optometry, created under chapter 463; the Board of
23 Podiatric Medicine, created under chapter 461; the Board of
24 Nursing, created by chapter 464; the Board of Psychological
25 Examiners, created under chapter 490; the Board of
26 Speech-Language Pathology and Audiology, created under part I
27 of chapter 468; the Board of Nursing Home Administrators,
28 created under part II of chapter 468; the Board of Clinical
29 Laboratory Personnel, created under part III ~~IV~~ of chapter
30 483; ~~and~~ the Board of Opticianry, created under part I of
31

1 chapter 484; and the Board of Hearing Aid Specialists, created
2 under part II of chapter 484.

3 Section 144. Section 483.800, Florida Statutes, is
4 amended to read:

5 483.800 Declaration of policy and statement of
6 purpose.--The purpose of this part is to protect the public
7 health, safety, and welfare of the people of this state from
8 the hazards of improper performance by clinical laboratory
9 personnel. Clinical laboratories provide essential services
10 to practitioners of the healing arts by furnishing vital
11 information that is essential to a determination of the
12 nature, cause, and extent of the condition involved.

13 Unreliable and inaccurate reports may cause unnecessary
14 anxiety, suffering, and financial burdens and may even
15 contribute directly to death. The protection of public and
16 individual health requires the licensure of clinical
17 laboratory personnel who meet minimum requirements for safe
18 practice. The Legislature finds that laboratory testing
19 technology continues to advance rapidly. The Legislature also
20 finds that a hospital training program under the direction of
21 the hospital clinical laboratory director offers an
22 opportunity for individuals already trained in health care
23 professions to expand the scope of their careers. The
24 Legislature further finds that there is an immediate need for
25 properly trained personnel to ensure patient access to
26 testing. Therefore, the Legislature recognizes the
27 patient-focused benefits of hospital-based training for
28 laboratory and nonlaboratory personnel for testing within
29 hospitals and commercial laboratories ~~the laboratory and at~~
30 ~~alternate sites~~, and recognizes the benefits of a training
31 program approved by the Board of Clinical Laboratory Personnel

1 under the direction of the hospital clinical laboratory
2 director.

3 Section 145. Subsection (3) is added to section
4 483.801, Florida Statutes, to read:

5 483.801 Exemptions.--This part applies to all clinical
6 laboratories and clinical laboratory personnel within this
7 state, except:

8 (3) Advanced registered nurse practitioners licensed
9 under chapter 464 who perform provider-performed microscopy
10 procedures (PPMP) in an exclusive-use laboratory setting.

11 Section 146. Section 483.803, Florida Statutes, is
12 amended to read:

13 483.803 Definitions.--As used in this part, the term:

14 (1) "Board" means the Board of Clinical Laboratory
15 Personnel.

16 (2) "Clinical laboratory" means a clinical laboratory
17 as defined in s. 483.041(2).

18 (3) "Clinical laboratory examination" means an
19 examination performed on materials or specimens of the human
20 body to provide information or materials for use in the
21 diagnosis, prevention, or treatment of a disease or the
22 identification or assessment of a medical or physical
23 condition.

24 (4)~~(3)~~ "Clinical laboratory personnel" includes a
25 clinical laboratory director, supervisor, technologist, blood
26 gas analyst, or technician who performs or is responsible for
27 laboratory test procedures, but the term does not include
28 trainees, persons who perform screening for blood banks or
29 plasmapheresis centers, phlebotomists, or persons employed by
30 a clinical laboratory to perform manual pretesting duties or
31 clerical, personnel, or other administrative responsibilities.

1 ~~(5)(4)~~ "Clinical laboratory trainee" means any person
2 having qualifying education who is enrolled in a clinical
3 laboratory training program approved pursuant to s. 483.811
4 and who is seeking experience required to meet minimum
5 qualifications for licensing in this state. Trainees may
6 perform procedures under direct and responsible supervision of
7 duly licensed clinical laboratory personnel, but they may not
8 report test results.

9 ~~(6)(5)~~ "Department" means the Department of Health
10 ~~Business and Professional Regulation.~~

11 ~~(7)(6)~~ "Licensed practitioner of the healing arts"
12 means a physician licensed pursuant to chapter 458, chapter
13 459, or chapter 460; a dentist licensed pursuant to chapter
14 466; or a person licensed pursuant to chapter 461 or chapter
15 462.

16 (8) "Public health laboratory scientist" means any
17 licensed director, supervisor, technologist, or technician
18 engaged in laboratory testing of human specimens in a state,
19 county, or municipal public health laboratory.

20 Section 147. Subsections (1) and (2) of section
21 483.809, Florida Statutes, are amended to read:

22 483.809 Licensure; examinations; registration of
23 trainees; approval of curricula.--

24 (1) LICENSING; ~~QUALIFICATIONS.~~--

25 ~~(a)~~ The department shall provide biennial licensure of
26 all clinical laboratory personnel who the board certifies have
27 met meeting the requirements of this part ~~and shall prescribe~~
28 ~~the qualifications necessary for such licensure.~~ The license
29 of any person who fails to pay a required fee or otherwise
30 fails to qualify within 60 days after the date of expiration
31 of such license shall be automatically canceled without notice

1 or further proceedings unless the individual has made
2 application for inactive status pursuant to s. 483.819.

3 ~~(b) Personnel qualifications may require appropriate~~
4 ~~education, training, or experience or the passing of an~~
5 ~~examination in appropriate subjects or any combination of~~
6 ~~these, but no practitioner of the healing arts licensed to~~
7 ~~practice in this state is required to obtain any license under~~
8 ~~this part or to pay any fee hereunder except the fee required~~
9 ~~for clinical laboratory licensure.~~

10 (2) EXAMINATIONS.--The department shall conduct
11 examinations required by board rules to determine in part the
12 qualification of clinical laboratory personnel for licensure.
13 An approved national certification examination may be accepted
14 in lieu of state examination for public health scientists.

15 Section 148. Section 483.812, Florida Statutes, is
16 created to read:

17 483.812 Public health laboratory scientists;
18 licensure.--

19 (1) Applicants at the director and supervisor level in
20 the category of public health who are registered by the
21 National Registry of Clinical Chemistry Certification or the
22 American Society of Microbiology may qualify under board rules
23 by passing the appropriate supervision and administration
24 examination.

25 (2)(a) A technologist applicant for licensure in the
26 category of public health microbiology, with a baccalaureate
27 degree in one of the biological sciences from an accredited
28 institution, may use the American Society of Microbiology or
29 the National Registry of Microbiology Certification in Public
30 Health Microbiology to qualify for a technologist license in
31

1 public health microbiology. Such a technologist may work in a
2 public health microbiology laboratory.

3 (b) A technologist applicant for licensure in the
4 category of public health chemistry, with a baccalaureate
5 degree in one of the chemical, biological, or physical
6 sciences from an accredited institution, may use the National
7 Registry of Clinical Chemistry Certification to qualify for a
8 technologist license in public health chemistry. Such a
9 technologist may work in a public health chemistry laboratory.

10 (c) A technician applicant for licensure in the
11 category of public health, with a baccalaureate degree in one
12 of the chemical or biological sciences from an accredited
13 institution, may obtain a one-time, 3-year, conditional public
14 health technician license pending national certification by
15 the American Society of Microbiology or the National Registry
16 of Clinical Chemistry Certification. Such a technician may
17 perform testing only under the direct supervision of a
18 licensed pathologist, director, supervisor, or technologist.

19 (3) A person licensed by the Board of Clinical
20 Laboratory Personnel may work in a public health laboratory at
21 the appropriate level and specialty.

22 Section 149. Section 483.813, Florida Statutes, is
23 amended to read:

24 483.813 Clinical laboratory personnel license.--A
25 person may not conduct a clinical laboratory examination or
26 report the results of such examination unless such person is
27 licensed under this part to perform such procedures. However,
28 this provision does not apply to any practitioner of the
29 healing arts authorized to practice in this state. The
30 department may grant a temporary license to any candidate it
31 deems properly qualified, for a period not to exceed 1 year,

1 or a conditional license for a period not to exceed 3 years 6
2 months.

3 Section 150. Section 483.823, Florida Statutes, is
4 amended to read:

5 483.823 Qualifications of clinical laboratory
6 personnel.--

7 (1) The board shall prescribe minimal qualifications
8 for clinical laboratory personnel and shall issue a license to
9 any person who meets the minimum qualifications and who
10 demonstrates that he possesses the character, training, and
11 ability to qualify in those areas for which the license is
12 sought.

13 (2) Personnel qualifications may require appropriate
14 education, training, or experience or the passing of an
15 examination in appropriate subjects or any combination of
16 these, but no practitioner of the healing arts licensed to
17 practice in this state is required to obtain any license under
18 this part or to pay any fee hereunder except the fee required
19 for clinical laboratory licensure.

20 Section 151. Section 483.825, Florida Statutes, is
21 amended to read:

22 483.825 Grounds for disciplinary action ~~against~~
23 ~~clinical laboratory personnel.~~--The following acts constitute
24 grounds for which disciplinary actions specified in s. 483.827
25 may be taken against applicants, registrants, and licensees
26 under this part ~~clinical laboratory personnel~~:

27 (1) Attempting to obtain, obtaining, or renewing a
28 license or registration under this part by bribery, by
29 fraudulent misrepresentation, or through an error of the
30 department or the board ~~Making a fraudulent statement on an~~
31

1 ~~application for a license or any other document required by~~
2 ~~the department.~~

3 (2) Engaging in or attempting to engage in, or
4 representing himself as entitled to perform, any clinical
5 laboratory procedure or category of procedures not authorized
6 pursuant to his license.

7 (3) Demonstrating incompetence or making consistent
8 errors in the performance of clinical laboratory examinations
9 or procedures or erroneous reporting.

10 (4) Performing a test and rendering a report thereon
11 to a person not authorized by law to receive such services.

12 (5) Having been convicted of a felony or of any crime
13 involving moral turpitude under the laws of any state or of
14 the United States. The record of conviction or a certified
15 copy thereof shall be conclusive evidence of such conviction.

16 (6) Having been adjudged mentally or physically
17 incompetent.

18 (7) Violating or aiding and abetting in the violation
19 of any provision of this part or the rules adopted hereunder.

20 (8) Reporting a test result when no laboratory test
21 was performed on a clinical specimen.

22 (9) Knowingly advertising false services or
23 credentials.

24 (10) Having a license revoked, suspended, or otherwise
25 acted against, including the denial of licensure, by the
26 licensing authority of another jurisdiction. The licensing
27 authority's acceptance of a relinquishment of a license,
28 stipulation, consent order, or other settlement, offered in
29 response to or in anticipation of the filing of administrative
30 charges against the licensee, shall be construed as action
31 against the licensee.

1 (11) Failing to report to the board, in writing,
2 within 30 days if action under subsection (10) has been taken
3 against one's license to practice as clinical laboratory
4 personnel in another state, territory, or country.

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

28 (13) Delegating professional responsibilities to a
29 person when the licensee delegating such responsibilities
30 knows, or has reason to know, that such person is not
31

1 qualified by training, experience, or licensure to perform
2 them.

3 Section 152. Section 483.828, Florida Statutes, is
4 created to read:

5 483.828 Penalty for violations.--

6 (1) Each of the following acts constitutes a felony of
7 the third degree, punishable as provided in s. 775.082, s.
8 775.083, or s. 775.084:

9 (a) Practicing as clinical laboratory personnel
10 without an active license.

11 (b) Using or attempting to use a license to practice
12 as clinical laboratory personnel which is suspended or
13 revoked.

14 (c) Attempting to obtain or obtaining a license to
15 practice as clinical laboratory personnel by knowing
16 misrepresentation.

17 (2) Each of the following act constitutes a
18 misdemeanor of the first degree, punishable as provided in s.
19 775.082 or s. 775.083:

20 (a) Knowingly concealing information relating to
21 violations of this part.

22 (b) Making any willfully false oath or affirmation
23 whenever an oath or affirmation is required by this part.

24 (c) Leading the public to believe that one is licensed
25 as clinical laboratory personnel, or is engaged in licensed
26 practice as clinical laboratory personnel, without holding a
27 valid, active license.

28 Section 153. Section 483.901, Florida Statutes, is
29 amended to read:

30 483.901 Medical physicists; definitions; licensure.--
31

- 1 (1) SHORT TITLE.--This section may be cited as the
2 "Florida Medical Physicists Act."
- 3 (2) DECLARATION OF LEGISLATIVE POLICY.--The
4 Legislature finds that the practice of medical physics by
5 incompetent persons is a threat to the public health and
6 safety. It is, therefore, the responsibility of this state to
7 protect the public health and safety from the harmful effects
8 of excessive and unnecessary radiation by ensuring that the
9 practice of medical physics is entrusted only to persons who
10 are licensed under this section.
- 11 (3) DEFINITIONS.--As used in this section, the term:
12 ~~(a) "Agency" means the Agency for Health Care~~
13 ~~Administration or its successor.~~
- 14 (a)~~(b)~~ "Council" means the Advisory Council of Medical
15 Physicists in the Department of Health ~~Agency for Health Care~~
16 ~~Administration.~~
- 17 (b) "Department" means the Department of Health.
- 18 (c) "Diagnostic radiological physics" means the
19 specialty of medical physics which deals with the diagnostic
20 application and safe use of X rays, gamma rays from sealed
21 sources, ultrasonic radiation, radio frequency radiation, or
22 magnetic fields, and the use of equipment associated with the
23 production, use, measurement, and evaluation of the radiation
24 and the quality of the diagnostic image resulting from its
25 production and use.
- 26 (d) "License" means a certificate issued by the
27 department ~~agency~~ which authorizes the holder to practice
28 medical physics.
- 29 (e) "Licensed medical physicist" means a person who
30 holds a license issued under this section.
31

1 (f) "Medical health physics" means the specialty of
2 medical physics which deals with the safe use of X rays, gamma
3 rays, electron or other charged particle beams, neutrons,
4 radionuclides, and radiation from sealed sources, for both
5 diagnostic and therapeutic purposes in human beings and the
6 use of equipment required to perform appropriate tests and
7 measurements that do not involve the direct application of
8 radiation to humans for diagnostic or therapeutic procedures.

9 (g) "Medical nuclear radiological physics" means the
10 specialty of medical physics which deals with the therapeutic
11 and diagnostic application and safe use of radionuclides,
12 except those used in sealed sources for therapeutic purposes,
13 and the use of equipment associated with the production, use,
14 measurement, and evaluation of radionuclides.

15 (h) "Medical physics" means the branch of physics
16 which is associated with the practice of medicine. It
17 includes the fields of diagnostic radiological physics,
18 therapeutic radiological physics, medical nuclear radiological
19 physics, and medical health physics.

20 (i) "Physician" means a doctor of medicine,
21 osteopathic medicine ~~osteopathy~~, podiatry, dentistry, or
22 chiropractic who is licensed in this state and who prescribes
23 a radiological procedure.

24 (j) "Practice of medical physics" means the use of
25 principles and accepted protocols of physics to ensure ~~assure~~
26 the correct quality, quantity, and placement of radiation
27 during the performance of a radiological procedure prescribed
28 by a physician which will protect the patient and others from
29 harmful excessive radiation. The term includes radiation beam
30 calibration and characterization quality assurance, instrument
31 specification, acceptance testing, shielding design,

1 protection analysis on radiation-emitting equipment and
2 radiopharmaceuticals, and consultation with a physician to
3 ensure ~~assure~~ accurate radiation dosage to a specific patient.

4 (k) "Radiation" means ionizing or nonionizing
5 radiation above background levels which is used to perform a
6 diagnostic or therapeutic medical or dental radiological
7 procedure.

8 (l) "Radiological procedure" means a test,
9 measurement, calculation, or radiation exposure used in the
10 diagnosis or treatment of diseases or other medical or dental
11 conditions in human beings that includes therapeutic
12 radiation, diagnostic radiation, nuclear magnetic resonance,
13 or nuclear medicine procedures.

14 (m) "Therapeutic radiological physics" means that
15 specialty of medical physics which deals with the therapeutic
16 application and safe use of X rays, gamma rays, electron or
17 other charged particle beams, neutrons, or radiation from
18 radionuclide sources, and the use of equipment associated with
19 the production, use, measurement, and evaluation of that
20 radiation.

21 (4) COUNCIL.--The Advisory Council of Medical
22 Physicists is created in the Department of Health ~~Agency for~~
23 ~~Health Care Administration~~ to advise the department in
24 regulating ~~regulate~~ the practice of medical physics in this
25 state.

26 (a) The council shall be composed of nine ~~seven~~
27 members appointed by the secretary of the department ~~director~~
28 as follows:

29 1. A licensed medical physicist who specializes in
30 diagnostic radiological physics.

31

1 2. A licensed medical physicist who specializes in
2 therapeutic radiological physics.

3 3. A licensed medical physicist who specializes in
4 medical nuclear radiological physics.

5 4. A physician who is board certified by the American
6 Board of Radiology or its equivalent.

7 5. A physician who is board certified by the American
8 Osteopathic Board of Radiology or its equivalent.

9 6. A physician who is board certified by the American
10 Chiropractic Radiology Board of ~~Chiropractic Radiology~~ or its
11 equivalent.

12 7. Three ~~A~~ consumer members ~~member~~ who are ~~is~~ not, and
13 have ~~has~~ never been, licensed as a medical physicist or
14 licensed in any closely related profession.

15 (b) The secretary of the department ~~director~~ shall
16 appoint the medical physicist members of the council from a
17 list of candidates who are licensed to practice medical
18 physics.

19 (c) The secretary of the department ~~director~~ shall
20 appoint the physician members ~~member~~ of the council from a
21 list of candidates who are licensed to practice medicine in
22 this state and are board certified in diagnostic radiology,
23 therapeutic radiology, or radiation oncology.

24 (d) The secretary of the department ~~director~~ shall
25 appoint the public members ~~member~~ of the council.

26 (e) As the term of each member expires, the secretary
27 of the department ~~director~~ shall appoint the successor for a
28 term of 4 ~~3~~ years. A member shall serve until the member's
29 ~~his~~ successor is appointed, unless physically unable to do so.

30 (f) An individual is ineligible to serve more than two
31 full consecutive 4-year ~~3-year~~ terms.

1 (g) If a vacancy on the council occurs, the director
2 shall appoint a member to serve for a 4-year ~~3-year~~ term.

3 (h) A council member must be a United States citizen
4 and must have been a resident of this state for 2 consecutive
5 years immediately before being appointed.

6 1. A member of the council who is a medical physicist
7 must have practiced for at least 6 years before being
8 appointed or be board certified for the specialty in which the
9 member practices.

10 2. A member of the council who is a physician must be
11 licensed to practice medicine in this state and must have
12 practiced diagnostic radiology or radiation oncology in this
13 state for at least 2 years before being appointed.

14 3. The public members ~~member~~ of the council must not
15 have a financial interest in any endeavor related to the
16 practice of medical physics.

17 (i) Notwithstanding any other provision of this
18 subsection, no later than January 1, 1996, the secretary of
19 the department ~~director~~ shall make the initial appointments to
20 the council as follows:

21 1. One member who is engaged in the practice of
22 medical physics, one physician member, and one public member,
23 each of whom is to be appointed to serve until June 30, 1996;

24 2. One member who is engaged in the practice of
25 medical physics and one physician member, each of whom is to
26 be appointed to serve until June 30, 1997; and

27 3. One member who is engaged in the practice of
28 medical physics and one physician member, each of whom is to
29 be appointed to serve until June 30, 1998.

30 (j) A council member may be removed from the council
31 if the member:

1 1. Did not have the required qualifications at the
2 time of appointment;

3 2. Does not maintain the required qualifications while
4 serving on the council; or

5 3. Fails to attend the regularly scheduled council
6 meetings in a calendar year as required by s. 455.207.

7 (k) Members of the council may not receive
8 compensation for their services; however, they are entitled to
9 reimbursement, from funds deposited in the Medical Quality
10 Assurance Health Care Trust Fund, for necessary travel
11 expenses as specified in s. 112.061 for each day they engage
12 in the business of the council.

13 (1) At the first regularly scheduled meeting of each
14 calendar year, the council shall elect a presiding officer and
15 an assistant presiding officer from among its members. The
16 council shall meet at least once each year and at other times
17 in accordance with department requirements ~~agency rules~~.

18 (m) The department ~~agency~~ shall provide administrative
19 support to the council for all licensing activities.

20 (n) The council may conduct its meetings
21 electronically.

22 (5) POWERS OF COUNCIL.--The council shall:

23 (a) Recommend rules to administer this section.

24 (b) Recommend practice standards for the practice of
25 medical physics which are consistent with the Guidelines for
26 Ethical Practice for Medical Physicists prepared by the
27 American Association of Physicists in Medicine and
28 disciplinary guidelines adopted under s. 455.2273.

29 (c) Develop and recommend continuing education
30 requirements for licensed medical physicists.

31

1 (6) LICENSE REQUIRED.--An individual may not engage in
2 the practice of medical physics, including the specialties of
3 diagnostic radiological physics, therapeutic radiological
4 physics, medical nuclear radiological physics, or medical
5 health physics, without a license issued by the department
6 ~~agency~~ for the appropriate specialty.

7 (a) The department ~~agency~~ shall adopt rules to
8 administer this section which specify license application and
9 renewal fees, continuing education requirements, and standards
10 for practicing medical physics. The council shall recommend
11 to the department ~~agency~~ continuing education requirements
12 that shall be a condition of license renewal. The department
13 ~~agency~~ shall require a minimum of 24 hours per biennium of
14 continuing education offered by an organization recommended by
15 the council and approved by the department. The department,
16 upon recommendation of the council, may adopt rules to specify
17 continuing education requirements for persons who hold a
18 license in more than one specialty.

19 (b) In order to apply for a medical physicist license
20 in one or more specialties, a person must file an individual
21 application for each specialty with the department ~~agency~~.
22 The application must be on a form prescribed by the department
23 ~~agency~~ and must be accompanied by a nonrefundable application
24 fee for each specialty.

25 (c) The department may issue a license to an eligible
26 applicant if the applicant meets all license requirements. At
27 any time before the department ~~agency~~ issues ~~or renews~~ a
28 license, the applicant may request in writing that the
29 application be withdrawn. To reapply, the applicant must
30 submit a new application and an additional nonrefundable
31

1 application fee and must meet all current licensure
2 requirements.

3 (d) The department agency shall review each completed
4 application for a license which the department agency
5 receives.

6 ~~(e) The agency may issue a license to an eligible
7 applicant if the applicant meets all license requirements.~~

8 1. ~~Licenses must be uniform and must include:~~

9 a. ~~The name of the licensee;~~

10 b. ~~The medical physics specialty that the licensee may
11 practice; and~~

12 c. ~~The expiration date of the license.~~

13 2. ~~A license certificate is the property of the agency
14 and must be surrendered on demand.~~

15 3. ~~The agency shall adopt rules establishing a
16 procedure for the biennial renewal of licenses.~~

17 4. ~~A person may renew an unexpired license by meeting
18 the renewal requirements, paying the nonrefundable renewal fee
19 before the expiration of the license, and meeting continuing
20 education requirements.~~

21 5. ~~The cost to renew a license within 90 days after
22 the license has expired is the normal renewal fee plus a
23 penalty in the amount of half the renewal fee.~~

24 6. ~~The cost to renew a license that has been expired
25 for more than 90 days but less than 2 years is the normal
26 renewal fee plus a penalty in the amount of the renewal fee.~~

27 7. ~~A license may not be renewed after it has been
28 expired for more than 2 years. To be relicensed, a person
29 must comply with all current application requirements to
30 practice medical physics and must submit a new application and
31 nonrefundable application fee to the agency.~~

1 ~~(e)(f)~~ On receipt of an application and fee as
2 specified in this section, the department ~~agency~~ may issue a
3 license to practice medical physics in this state:

4 1. Until October 1, 1997, to a person who meets any of
5 the following requirements:

6 a. Earned from an accredited college or university a
7 doctoral degree in physics, medical physics, biophysics,
8 radiological physics, medical health physics, or nuclear
9 engineering and has at least 2 years' experience in the
10 practice of the medical physics specialty for which
11 application is made.

12 b. Earned from an accredited college or university a
13 master's degree in physics, medical physics, biophysics,
14 radiological physics, medical health physics, or nuclear
15 engineering and has at least 3 years' experience in the
16 practice of the medical physics specialty for which
17 application is made.

18 c. Earned from an accredited college or university a
19 bachelor's degree in physics and has at least 5 years'
20 experience in the practice of the medical physics specialty
21 for which application is made.

22 d. Has at least 8 years' experience in the practice of
23 the medical physics specialty for which application is made, 2
24 years of which must have been earned within the 4 years
25 immediately preceding application for licensure.

26 e. Is board certified in the medical physics specialty
27 in which the applicant applies to practice by the American
28 Board of Radiology for diagnostic radiological physics,
29 therapeutic radiological physics, or medical nuclear
30 radiological physics; by the American Board of Medical Physics
31 or the Canadian Board of Medical Physics for diagnostic

1 radiological physics, therapeutic radiological physics, or
2 medical nuclear radiological physics; or by the American Board
3 of Health Physics or an equivalent certifying body approved by
4 the agency.

5 1. ~~Until October 1, 1997, to a person who has earned~~
6 ~~from an accredited college or university a master's degree or~~
7 ~~doctoral degree in physics, medical physics, biophysics,~~
8 ~~radiological physics, medical health physics, or nuclear~~
9 ~~engineering, and has at least 2 years of experience in the~~
10 ~~practice of the medical physics specialty for which~~
11 ~~application is made during the 4 years immediately before the~~
12 ~~application is made.~~

13 2. On or after October 1, 1997, to a person who:

14 a. ~~Holds a license to practice medical physics in this~~
15 ~~state; or~~

16 b. is board certified in the medical physics specialty
17 in which the applicant applies to practice by the American
18 Board of Radiology for diagnostic radiological physics,
19 therapeutic radiological physics, or medical nuclear
20 radiological physics; by the American Board of Medical Physics
21 for diagnostic radiological physics, therapeutic radiological
22 physics, or medical nuclear radiological physics; or by the
23 American Board of Health Physics or an equivalent certifying
24 body approved by the department ~~agency~~.

25 ~~(f)~~(g) A licensee shall:

26 1. Display the license in a place accessible to the
27 public; and

28 2. Report immediately any change in the licensee's
29 address or name to the department ~~agency~~.

30 (g) The following acts are grounds for which the
31 disciplinary actions in paragraph (h) may be taken:

1 1. Obtaining or attempting to obtain a license by
2 bribery, fraud, knowing misrepresentation, or concealment of
3 material fact or through an error of the department.

4 2. Having a license denied, revoked, suspended, or
5 otherwise acted against in another jurisdiction.

6 3. Being convicted or found guilty of, or entering a
7 plea of nolo contendere to, regardless of adjudication, a
8 crime in any jurisdiction which relates to the practice of, or
9 the ability to practice, the profession of medical physics.

10 4. Willfully failing to file a report or record
11 required for medical physics or willfully impeding or
12 obstructing the filing of a report or record required by this
13 section or inducing another person to do so.

14 5. Making misleading, deceptive, or fraudulent
15 representations in or related to the practice of medical
16 physics.

17 6. Willfully failing to report any known violation of
18 this section or any rule adopted thereunder.

19 7. Willfully or repeatedly violating a rule adopted
20 under this section or an order of the department.

21 8. Failing to perform any statutory or legal
22 obligation placed upon a licensee.

23 9. Aiding, assisting, procuring, employing, or
24 advising any unlicensed person to practice medical physics
25 contrary to this section or any rule adopted thereunder.

26 10. Delegating or contracting for the performance of
27 professional responsibilities by a person when the licensee
28 delegating or contracting such responsibilities knows, or has
29 reason to know, such person is not qualified by training,
30 experience, and authorization to perform them.

31

1 11. Practicing or offering to practice beyond the
2 scope permitted by law or accepting and performing
3 professional responsibilities the licensee knows, or has
4 reason to know, the licensee is not competent to perform.

5 12. Gross or repeated malpractice or the inability to
6 practice medical physics with reasonable skill and safety.

7 13. Judicially determined mental incompetency.

8 14. Being unable to practice medical physics with
9 reasonable skill and safety because of a mental or physical
10 condition or illness or the use of alcohol, controlled
11 substances, or any other substance which impairs one's ability
12 to practice.

13 a. The department may, upon probable cause, compel a
14 licensee to submit to a mental or physical examination by
15 physicians designated by the department. The cost of an
16 examination shall be borne by the licensee, and the licensee's
17 failure to submit to such an examination constitutes an
18 admission of the allegations against the licensee, consequent
19 upon which a default and a final order may be entered without
20 the taking of testimony or presentation of evidence, unless
21 the failure was due to circumstances beyond the licensee's
22 control.

23 b. A licensee who is disciplined under this
24 subparagraph shall, at reasonable intervals, be afforded an
25 opportunity to demonstrate that the licensee can resume the
26 practice of medical physics with reasonable skill and safety.

27 c. With respect to any proceeding under this
28 subparagraph, the record of proceedings or the orders entered
29 by the department may not be used against a licensee in any
30 other proceeding.

31

1 (h) When the department finds any person guilty of any
2 of the grounds set forth in paragraph (g), including conduct
3 that would constitute a substantial violation of paragraph (g)
4 which occurred prior to licensure, it may enter an order
5 imposing one or more of the following penalties:

6 1. Deny the application for licensure.

7 2. Revoke or suspend the license.

8 3. Impose an administrative fine for each count or
9 separate offense.

10 4. Place the licensee on probation for a specified
11 time and subject the licensee to such conditions as the
12 department determines necessary, including requiring
13 treatment, continuing education courses, or working under the
14 monitoring or supervision of another licensee.

15 5. Restrict a licensee's practice.

16 6. Issue a reprimand to the licensee.

17 (i) The department may not issue or reinstate a
18 license to a person it has deemed unqualified until it is
19 satisfied that such person has complied with the terms and
20 conditions of the final order and that the licensee can safely
21 practice medical physics.

22 ~~(h) The agency may refuse to issue or renew a license,~~
23 ~~suspend or revoke a license, or reprimand the licensee for the~~
24 ~~following:~~

25 ~~1. Obtaining or renewing a license by means of fraud,~~
26 ~~misrepresentation, or concealment of material fact;~~

27 ~~2. Having made an application for or held a license~~
28 ~~issued by the licensing authority of another state, territory,~~
29 ~~or jurisdiction which was denied, suspended, or revoked by~~
30 ~~that licensing authority without so informing the agency;~~

31

1 ~~3. Engaging in unprofessional conduct related to the~~
2 ~~practice of medical physics that has endangered or is likely~~
3 ~~to endanger the health, safety, or welfare of the public;~~

4 ~~4. Violating this section, a rule of the agency, or~~
5 ~~the practice standards for medical physics; or~~

6 ~~5. Being convicted of a felony or of a misdemeanor~~
7 ~~that directly relates to a person's duties and~~
8 ~~responsibilities as a licensed medical physicist.~~

9 (j)(i) The department agency may issue a temporary
10 license to an applicant pending completion of the application
11 process.

12 (7) FEES.--The fee for the initial license application
13 shall be \$500 and is nonrefundable. The fee for license
14 renewal may not be more than \$500. These fees may cover only
15 the costs incurred by the department agency and the council to
16 administer this section. By July 1 each year, the department
17 agency shall advise the council if the fees are insufficient
18 to administer this section.

19 (8) DISPOSITION OF FEES.--The department agency shall
20 deposit all funds received into the Health Care Trust Fund.

21 (9) PENALTY FOR VIOLATIONS.--It is a felony of the
22 third degree, punishable as provided in s. 775.082, s.
23 775.083, or s. 775.084, to:

24 (a) Practice or attempt to practice medical physics or
25 hold oneself out to be a licensed medical physicist without
26 holding an active license.

27 (b) Practice or attempt to practice medical physics
28 under a name other than one's own.

29 (c) Use or attempt to use a revoked or suspended
30 license or the license of another.

31

1 ~~(9) OFFENSES.--A person is in violation of this~~
2 ~~section if the person intentionally or knowingly:~~

3 ~~(a) Practices medical physics in violation of this~~
4 ~~section; or~~

5 ~~(b) Uses letters, terminology, symbols, or signs to~~
6 ~~indicate or imply qualifications or licensure to practice~~
7 ~~medical physics in any manner for which the person is not~~
8 ~~licensed.~~

9 ~~(10) PENALTIES.--~~

10 ~~(a) A person who violates this section or any rule~~
11 ~~adopted under this section is guilty of a felony of the third~~
12 ~~degree, punishable as provided in s. 775.082, s. 775.083, or~~
13 ~~s. 775.084.~~

14 ~~(b) The agency may modify, deny, suspend, or revoke a~~
15 ~~license, or may impose an administrative fine not to exceed~~
16 ~~\$1,000 per violation, for the violation of any provision of~~
17 ~~this section, rule adopted under this section, or terms or~~
18 ~~conditions of any license issued by the agency. The agency~~
19 ~~shall develop specific disciplinary guidelines in accordance~~
20 ~~with s. 455.2273.~~

21 ~~1. In determining the amount of a fine that is to be~~
22 ~~levied for a violation, the following factors must be~~
23 ~~considered:~~

24 ~~a. The severity of the violation and the extent to~~
25 ~~which this section, any rule adopted under this section, or~~
26 ~~any term or condition of any license was violated.~~

27 ~~b. Any action taken by the licensee to correct the~~
28 ~~violation.~~

29 ~~c. Any previous violation by the licensee.~~

30 ~~2. All amounts collected under this section must be~~
31 ~~deposited in the Health Care Trust Fund.~~

1 ~~(c) If the agency determines that the licensee~~
2 ~~presents a clear and present danger to the public health or~~
3 ~~safety, the agency may issue an emergency order that~~
4 ~~immediately suspends or revokes his license.~~

5 (10)~~(11)~~ EXEMPTIONS.--This section does not apply to:

6 (a) A physician who is licensed by this state to the
7 extent that the physician ~~he~~ practices within the scope of the
8 physician's ~~his~~ training, education, and licensure;

9 (b) A person who is licensed under part IV of chapter
10 468 to the extent that the person ~~he~~ practices within the
11 scope of the person's ~~his~~ training, education, and licensure;

12 (c) A person who performs beam calibration and
13 characterization, quality assurance, instrument specification,
14 acceptance testing, shielding design, or protection analysis
15 on radiation-emitting equipment or radiopharmaceuticals in
16 connection with procedures that are not involved with the
17 diagnosis or treatment of disease or other medical or dental
18 conditions in humans;

19 (d) A person who is employed by a federal or state
20 regulatory agency and is performing duties within the scope of
21 the person's employment;

22 (e) A student or intern who practices medical physics
23 in conjunction with a program at an accredited college or
24 university to the extent that the student or intern is
25 adequately supervised by a licensed medical physicist or
26 licensed physician; or

27 (f) A dentist or any person working under the
28 dentist's ~~his~~ supervision pursuant to chapter 466 to the
29 extent that the dentist or the person supervised by the
30 dentist is practicing within the scope of his or her training,
31 education, and licensure.

1 ~~(12) LICENSURE EXCEPTION.--Notwithstanding the~~
2 ~~provisions of subsections (1)-(11), any medical physicist who,~~
3 ~~as of July 1, 1995, has practiced medical physics for 5 years~~
4 ~~or longer is entitled to continue to so practice and need not~~
5 ~~be licensed as a medical physicist.~~

6 Section 154. Subsection (2) of section 484.041,
7 Florida Statutes, is amended to read:

8 484.041 Definitions.--As used in this part, the term:

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

11 Section 155. Subsection (1) of section 484.042,
12 Florida Statutes, is amended to read:

13 484.042 Board of Hearing Aid Specialists; membership,
14 appointment, terms.--

15 (1) The Board of Hearing Aid Specialists is created
16 within the Department of Health ~~Business and Professional~~
17 ~~Regulation~~ and shall consist of nine members to be appointed
18 by the Governor and confirmed by the Senate.

19 Section 156. Subsection (2) of section 484.051,
20 Florida Statutes, is amended to read:

21 484.051 Itemization of prices; delivery of hearing
22 aid; receipt, packaging, disclaimer, guarantee.--

23 (2) Any person who fits and sells a hearing aid shall,
24 at the time of delivery, provide the purchaser with a receipt
25 containing the seller's signature, the address of his regular
26 place of business, and his license or trainee registration
27 number, if applicable, together with the brand, model,
28 manufacturer or manufacturer's identification code, and serial
29 number of the hearing aid furnished and the amount charged for
30 the hearing aid. The receipt also shall specify whether the
31 hearing aid is new, used, or rebuilt and shall specify the

1 length of time and other terms of the guarantee and by whom
 2 the hearing aid is guaranteed. When the client has requested
 3 an itemized list of prices, the receipt shall also provide an
 4 itemization of the total purchase price, including, but not
 5 limited to, the cost of the aid, earmold, batteries and other
 6 accessories, and any services. Notice of the availability of
 7 this service shall be displayed in a conspicuous manner in the
 8 office. The receipt also shall state that any complaint
 9 concerning the hearing aid and guarantee therefor, if not
 10 reconciled with the licensee from whom the hearing aid was
 11 purchased, should be directed by the purchaser to the
 12 Department of Health ~~Business and Professional Regulation~~. The
 13 address and telephone number of such office shall be stated on
 14 the receipt.

15 Section 157. Subsection (2) of section 486.021,
 16 Florida Statutes, is amended to read:

17 486.021 Definitions.--In this chapter, unless the
 18 context otherwise requires, the term:

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

21 Section 158. Section 486.023, Florida Statutes, is
 22 amended to read:

23 486.023 Board of Physical Therapy Practice.--

24 (1) There is created within the department the Board
 25 of Physical Therapy Practice, composed of nine ~~seven~~ members,
 26 ~~recommended by the Florida Physical Therapy Association and~~
 27 appointed by the Governor, subject to confirmation by the
 28 Senate.

29 (2) Four ~~Five~~ board members shall be licensed physical
 30 therapists, and one board member shall be a licensed physical
 31 therapist assistant, in good standing in this state who are

1 residents of this state and have been engaged in the practice
 2 of physical therapy for at least 4 years immediately prior to
 3 their appointment. One licensed physical therapist board
 4 member may be a full-time faculty member teaching in a
 5 physical therapy curriculum in an educational institution in
 6 this state. Three ~~One~~ of the four ~~two~~ remaining members shall
 7 be residents ~~a resident~~ of this state who have ~~has~~ never been
 8 ~~a~~ licensed health care practitioners ~~practitioner~~. ~~One of The~~
 9 ~~two~~ remaining member ~~members~~ shall be a health care
 10 practitioner licensed under chapter 458 or chapter 459 who is
 11 a resident of this state and has been engaged as a licensed
 12 health care practitioner for at least 4 years immediately
 13 prior to his or her appointment.

14 ~~(3) Within 90 days after October 1, 1989, the Governor~~
 15 ~~shall appoint the board as follows:~~

16 ~~(a) Two members for terms of 2 years each.~~

17 ~~(b) Two members for terms of 3 years each.~~

18 ~~(c) Three members for terms of 4 years each.~~

19 (3)(4) As the terms of the members expire, the
 20 Governor shall appoint successors for terms of 4 years, and
 21 such members shall serve until their successors are appointed.

22 (4)(5) All provisions of chapter 455 relating to
 23 activities of the board shall apply.

24 Section 159. Section 486.031, Florida Statutes, is
 25 amended to read:

26 486.031 Physical therapist; licensing
 27 requirements.--To be eligible for licensing as a physical
 28 therapist, an applicant must:

29 (1) Be at least 18 years old;

30 (2) Be of good moral character; and

31

1 (3)(a) Have been graduated from a school of physical
2 therapy which has been approved for the educational
3 preparation of physical therapists by the appropriate
4 accrediting agency recognized by the Commission on Recognition
5 of Postsecondary Accreditation(~~formerly the National~~
6 ~~Commission on Accrediting and the Federation of Regional~~
7 ~~Accrediting Commissions of Higher Education)~~or the United
8 States Department of Education at the time of his graduation
9 and have passed, to the satisfaction of the board, the
10 American Registry Examination prior to 1971 or a national an
11 examination approved administered by the board department to
12 determine his fitness for practice as a physical therapist as
13 hereinafter provided; ~~or~~

14 (b) Have received a diploma from a program in physical
15 therapy in a foreign country and have educational credentials
16 deemed equivalent to those required for the educational
17 preparation of physical therapists in this country, as
18 recognized by the appropriate agency as identified by the
19 board, and have passed to the satisfaction of the board an
20 examination ~~administered by the department~~ to determine his
21 fitness for practice as a physical therapist as hereinafter
22 provided; or

23 (c) Be entitled to licensure without examination as
24 provided in s. 486.081.

25 Section 160. Section 486.041, Florida Statutes, is
26 amended to read:

27 486.041 Physical therapist; application for license;
28 fee; temporary permit.--

29 (1) A person who desires to be licensed as a physical
30 therapist shall apply to the department board in writing on a
31 form furnished by the department. He shall embody in that

1 application evidence under oath, satisfactory to the board, of
2 his possessing the qualifications preliminary to examination
3 required by s. 486.031. He shall pay to the department at the
4 time of filing his application a fee not to exceed \$100, as
5 fixed by the board, ~~plus the actual per applicant cost to the~~
6 ~~department for purchase of the examination from the~~
7 ~~Professional Examination Services for the American Physical~~
8 ~~Therapist's Association or a similar national organization.~~
9 ~~If an applicant is deemed ineligible to take the examination,~~
10 ~~that part of his application fee which is to be used for~~
11 ~~examination expenses shall be returned.~~

12 (2) If a person desires to practice physical therapy
13 before becoming licensed through examination, he shall apply
14 ~~to the board~~ for a temporary permit in accordance with rules
15 adopted pursuant to this chapter.

16 (a) A temporary permit shall only be issued for a
17 limited period of time, not to exceed 1 year, and shall not be
18 renewable. A temporary permit shall automatically expire if an
19 applicant fails the examination.

20 (b) An applicant for licensure by examination and
21 practicing under a temporary permit shall do so only under the
22 direct supervision of a licensed physical therapist.

23 Section 161. Section 486.051, Florida Statutes, is
24 amended to read:

25 486.051 Physical therapist; examination of
26 applicant.--~~The department shall provide for examination of~~
27 ~~applicants for licensing as physical therapists at least once~~
28 ~~a year, and more often at the discretion of the board, at a~~
29 ~~time and place to be determined by the department. The~~
30 examinations of an applicant for licensing as a physical
31 therapist shall be ~~administered by the department, in~~

1 accordance with rules adopted by the board, to test the
 2 applicant's qualifications and shall include the taking of a
 3 ~~written~~ test by the applicant. If an applicant fails to pass
 4 the examination in three attempts, he shall not be eligible
 5 for reexamination unless he completes additional educational
 6 or training requirements prescribed by the board. An
 7 applicant who has completed the additional educational or
 8 training requirements prescribed by the board may take the
 9 examination on two more occasions. If the applicant has
 10 failed to pass the examination after five attempts, he is no
 11 longer eligible to take the examination.

12 Section 162. Section 486.081, Florida Statutes, is
 13 amended to read:

14 486.081 Physical therapist; issuance of license
 15 without examination to person passing examination of another
 16 authorized examining board; temporary permit; fee.--

17 (1) The board may cause a license to be issued through
 18 the department without examination to any applicant who
 19 presents evidence satisfactory to the board of having passed
 20 the American Registry Examination prior to 1971 or an
 21 examination in physical therapy before a similar lawfully
 22 authorized examining board of another state, the District of
 23 Columbia, a territory, or a foreign country, if the standards
 24 for licensure in physical therapy in such other state,
 25 district, territory, or foreign country are determined by the
 26 board to be as high as those of this state, as established by
 27 rules adopted pursuant to this chapter. Any person who holds a
 28 license pursuant to this section may use the words "physical
 29 therapist" or "physiotherapist," or the letters "P.T.," in
 30 connection with his name or place of business to denote his
 31 licensure hereunder.

1 (2) At the time of making application for licensure
2 without examination pursuant to the terms of this section, the
3 applicant shall pay to the department a fee not to exceed \$175
4 as fixed by the board, no part of which will be returned.

5 (3) If a person desires to practice physical therapy
6 before becoming licensed through endorsement, he shall apply
7 to the board for a temporary permit in accordance with rules
8 adopted pursuant to this chapter. A temporary permit shall
9 only be issued for a limited period of time, not to exceed 1
10 year, and shall not be renewable.

11 Section 163. Section 486.102, Florida Statutes, is
12 amended to read:

13 486.102 Physical therapist assistant; licensing
14 requirements.--To be eligible for licensing by the board as a
15 physical therapist assistant, an applicant must:

16 (1) Be at least 18 years old;

17 (2) Be of good moral character; and

18 (3)(a) Have been graduated from a school giving a
19 course of not less than 2 years for physical therapist
20 assistants, which has been approved for the educational
21 preparation of physical therapist assistants by the
22 appropriate accrediting agency recognized by the Commission on
23 Recognition of Postsecondary Accreditation(~~formerly the~~
24 ~~National Commission on Accrediting and the Federation of~~
25 ~~Regional Accrediting Commissions of Higher Education~~)or the
26 United States Department of Education at the time of his
27 graduation and have passed to the satisfaction of the board an
28 examination ~~administered by the department~~ to determine his
29 fitness for practice as a physical therapist assistant as
30 hereinafter provided; ~~or~~

1 (b) Have been graduated from a school giving a course
2 for physical therapist assistants in a foreign country and
3 have educational credentials deemed equivalent to those
4 required for the educational preparation of physical therapist
5 assistants in this country, as recognized by the appropriate
6 agency as identified by the board, and passed to the
7 satisfaction of the board an examination ~~conducted by the~~
8 ~~department~~ to determine his fitness for practice as a physical
9 therapist assistant as hereinafter provided; or

10 (c) Be entitled to licensure without examination as
11 provided in s. 486.107.

12 Section 164. Section 486.103, Florida Statutes, is
13 amended to read:

14 486.103 Physical therapist assistant; application for
15 license; fee; temporary permit.--

16 (1) A person who desires to be licensed as a physical
17 therapist assistant shall apply to the department board in
18 writing on a form furnished by the department. He shall
19 embody in that application evidence under oath, satisfactory
20 to the board, of his possessing the qualifications preliminary
21 to examination required by s. 486.104. He shall pay to the
22 department at the time of filing his application a fee not to
23 exceed \$100, as fixed by the board, ~~plus the actual per~~
24 ~~applicant cost to the department for purchase of the~~
25 ~~examination from the Professional Examination Services for the~~
26 ~~American Physical Therapist's Association or a similar~~
27 ~~national organization. If an applicant is deemed ineligible~~
28 ~~to take the examination, that part of his application fee~~
29 ~~which is to be used for examination expenses shall be~~
30 returned.

1 (2) If a person desires to work as a physical
2 therapist assistant before being licensed through examination,
3 he shall apply for a temporary permit in accordance with rules
4 adopted pursuant to this chapter.

5 (a) A temporary permit shall only be issued for a
6 limited period of time, not to exceed 1 year, and shall not be
7 renewable. A temporary permit shall automatically expire if an
8 applicant fails the examination.

9 (b) An applicant for licensure by examination who is
10 practicing under a temporary permit shall do so only under the
11 direct supervision of a licensed physical therapist.

12 Section 165. Section 486.104, Florida Statutes, is
13 amended to read:

14 486.104 Physical therapist assistant; examination of
15 applicant.--~~The department shall provide for examination of~~
16 ~~applicants for licensing as physical therapist assistants at~~
17 ~~least once a year, and more often at the discretion of the~~
18 ~~board, at a time and place to be determined by the department.~~
19 The examination of an applicant for licensing as a physical
20 therapist assistant shall be ~~provided by the department,~~in
21 accordance with rules adopted by the board, to test the
22 applicant's qualifications and shall include the taking of a
23 written test by the applicant. If an applicant fails to pass
24 the examination in three attempts, he shall not be eligible
25 for reexamination unless he completes additional educational
26 or training requirements prescribed by the board. An
27 applicant who has completed the additional educational or
28 training requirements prescribed by the board may take the
29 examination on two more occasions. If the applicant has
30 failed to pass the examination after five attempts, he is no
31 longer eligible to take the examination.

1 Section 166. Section 486.123, Florida Statutes, is
2 created to read:

3 486.123 Sexual misconduct in the practice of physical
4 therapy.--The physical therapist-patient relationship is
5 founded on mutual trust. Sexual misconduct in the practice of
6 physical therapy means violation of the physical
7 therapist-patient relationship through which the physical
8 therapist uses that relationship to induce or attempt to
9 induce the patient to engage, or to engage or attempt to
10 engage the patient, in sexual activity outside the scope of
11 practice or the scope of generally accepted examination or
12 treatment of the patient. Sexual misconduct in the practice
13 of physical therapy is prohibited.

14 Section 167. Paragraph (g) is added to subsection (2)
15 of section 486.125, Florida Statutes, to read:

16 486.125 Refusal, revocation, or suspension of license;
17 administrative fines and other disciplinary measures.--

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

21 (g) Recovery of actual costs of investigation and
22 prosecution.

23 Section 168. Subsection (11) is added to section
24 641.495, Florida Statutes, 1996 Supplement, to read:

25 641.495 Requirements for issuance and maintenance of
26 certificate.--

27 (11) The organization shall designate a medical
28 director who is a physician licensed under chapter 458 or
29 chapter 459.

30 Section 169. Subsection (3) of section 499.012,
31 Florida Statutes, is amended to read:

1 499.012 Wholesale distribution; definitions; permits;
2 general requirements.--

3 (3)~~(a)~~ A person that engages in wholesale distribution
4 of prescription drugs in this state must have a wholesale
5 distributor's permit issued by the department, except as noted
6 in this section. Each establishment must be separately
7 permitted except as noted in this subsection.

8 (a) A separate establishment permit is not required
9 when a permitted prescription drug wholesaler consigns a
10 prescription drug to a pharmacy that is permitted under
11 chapter 465 and located in this state, provided that:

12 1. The consignor wholesaler notifies the department in
13 writing of the contract to consign prescription drugs to a
14 pharmacy along with the identity and location of each
15 consignee pharmacy;

16 2. The pharmacy maintains its permit under chapter
17 465;

18 3. The consignor wholesaler, which has no legal
19 authority to dispense prescription drugs, complies with all
20 wholesale distribution requirements of s. 499.0121 with
21 respect to the consigned drugs and maintains records
22 documenting the transfer of title or other completion of the
23 wholesale distribution of the consigned prescription drugs;

24 4. The distribution of the prescription drug is
25 otherwise lawful under this chapter and other applicable law;

26 5. Open packages containing prescription drugs within
27 a pharmacy are the responsibility of the pharmacy, regardless
28 of how the drugs are titled; and

29 6. The pharmacy dispenses the consigned prescription
30 drug in accordance with the limitations of its permit under
31 chapter 465 or returns the consigned prescription drug to the

1 consignor wholesaler. In addition, a person who holds title to
 2 prescription drugs may transfer the drugs to a person
 3 permitted or licensed to handle the reverse distribution or
 4 destruction of drugs. Any other distribution by and means of
 5 the consigned prescription drug by any person, not limited to
 6 the consignor wholesaler or consignee pharmacy, to any other
 7 person is prohibited.

8 (b) A wholesale distributor's permit is not required
 9 for the one-time transfer of title of a pharmacy's lawfully
 10 acquired prescription drug inventory by a pharmacy with a
 11 valid permit issued under chapter 465 to a consignor
 12 prescription drug wholesaler, permitted under this chapter, in
 13 accordance with a written consignment agreement between the
 14 pharmacy and that wholesaler if: the permitted pharmacy and
 15 the permitted prescription drug wholesaler comply with all of
 16 the provisions of paragraph (3)(a) and the prescription drugs
 17 continue to be within the permitted pharmacy's inventory for
 18 dispensing in accordance with the limitations of the pharmacy
 19 permit under chapter 465. A consignor drug wholesaler may not
 20 use the pharmacy as a wholesale distributor through which it
 21 distributes the legend drugs to other pharmacies. Nothing in
 22 this section is intended to prevent a wholesale drug
 23 distributor from obtaining this inventory in the event of
 24 nonpayment by the pharmacy.

25 ~~(c)~~(b) The department shall require information from
 26 each wholesale distributor as part of the permit and renewal
 27 of such permit, as required under s. 499.01.

28 Section 170. This act shall take effect July 1, 1997.
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