

1 A bill to be entitled
2 An act relating to regulation of health care
3 professions; amending s. 468.1645, F.S.;
4 revising an exemption from licensure as a
5 nursing home administrator relating to persons
6 employed to administer in facilities or
7 institutions operated by and for persons who
8 rely exclusively upon treatment by spiritual
9 means through prayer; amending s. 458.3115,
10 F.S.; revising requirements for the development
11 of examinations administered to certain
12 foreign-licensed physicians; prescribing
13 eligibility requirements for certain
14 foreign-trained physicians to take a
15 restricted-license examination; amending s.
16 402.48, F.S., relating to health care services
17 pools; increasing the period of registration;
18 updating a definition and a provision relating
19 to meeting financial responsibility
20 requirements; amending s. 455.225, F.S.;
21 providing legislative intent; revising
22 procedures to discipline professionals;
23 requiring the Agency for Health Care
24 Administration, the Department of Business and
25 Professional Regulation, or appropriate
26 regulatory boards to establish plans to resolve
27 incomplete investigations or disciplinary
28 proceedings; amending s. 455.2285, F.S.;
29 revising requirements for information that is
30 disclosed in the annual report; amending s.
31 457.102, F.S.; revising definitions applicable

1 to the regulation of acupuncture; amending s.
2 457.105, F.S.; revising qualifications for
3 licensure to practice acupuncture; revising
4 fees; conforming terminology; amending s.
5 457.107, F.S.; revising licensure renewal fees;
6 conforming terminology; amending s. 457.1085,
7 F.S.; revising requirements on the adoption of
8 rules relating to infection control and on the
9 use of acupuncture needles; amending ss.
10 457.103, 457.108, 457.109, and 457.116, F.S.,
11 to conform; amending s. 458.303, F.S.;
12 eliminating references to physician's trained
13 assistants; amending s. 458.305, F.S.; updating
14 the definition of "department"; amending s.
15 458.307, F.S.; revising provisions relating to
16 probable cause panels of the Board of Medicine;
17 amending s. 455.206, F.S.; conforming a
18 cross-reference; amending s. 458.311, F.S.;
19 revising requirements for licensure of
20 physicians by examination; revising an
21 educational and postgraduate training
22 requirement; allowing certain applicants to
23 complete a specified fellowship to partially
24 satisfy the licensing requirements; providing
25 for additional remedial education or training
26 upon failure to pass the licensing examination
27 after a certain number of attempts; authorizing
28 persons in certain training programs to take
29 the examination under certain circumstances;
30 amending s. 458.313, F.S.; revising
31 requirements for licensure of physicians by

1 endorsement; eliminating a provision
 2 authorizing oral examinations; providing for
 3 additional remedial education or training upon
 4 failure to pass the licensing examination after
 5 a certain number of attempts; authorizing
 6 additional requirements prior to certification
 7 of eligibility for licensure; conforming a
 8 cross-reference; eliminating a provision
 9 authorizing licensure under a period of
 10 supervision; providing conditions for
 11 reactivation of certain licenses issued by
 12 endorsement; amending s. 458.317, F.S.,
 13 relating to limited licenses; eliminating the
 14 requirement that applicants for a limited
 15 license be retired from the practice of
 16 medicine; restricting certain limited licensees
 17 to noncompensated practice; requiring the
 18 payment of fees if a person receives
 19 compensation for the practice of medicine;
 20 amending s. 458.319, F.S.; clarifying
 21 requirements for renewal of license to practice
 22 medicine; revising recent-practice
 23 requirements; amending s. 458.320, F.S.;
 24 conforming a cross-reference; requiring
 25 physicians not carrying medical malpractice
 26 insurance to post notice and provide a written
 27 statement thereof; providing for acknowledgment
 28 that the patient has been so informed; amending
 29 s. 458.331, F.S.; revising and providing
 30 grounds for disciplinary action; providing
 31 penalties; creating s. 458.3312, F.S.;

1 prohibiting physicians from falsely
 2 representing that they are board-certified
 3 specialists; amending s. 458.345, F.S.,
 4 relating to registration of resident
 5 physicians, interns, and fellows; providing for
 6 designation of a person responsible at each
 7 hospital using such residents for the
 8 hospital's semiannual reports to the
 9 department; requiring certain notice to the
 10 executive director of the board; providing that
 11 registrants are subject to specified
 12 disciplinary provisions; providing requirements
 13 for the prescribing of medicinal drugs;
 14 amending s. 458.346, F.S.; providing for
 15 meetings of the Public Sector Physician
 16 Advisory Committee; amending ss. 458.347 and
 17 459.022, F.S.; revising requirements for
 18 certification as a physician assistant;
 19 updating terminology; amending s. 458.3485,
 20 F.S.; requiring medical assistants to be under
 21 the direct supervision of a licensed physician;
 22 providing for rules; amending s. 459.003, F.S.;
 23 updating the definition of "department";
 24 providing that certain terms are equivalent;
 25 amending s. 459.021, F.S.; revising terminology
 26 relating to osteopathic medicine; revising
 27 provisions relating to registration of resident
 28 physicians, interns, and fellows; providing for
 29 designation of a person responsible for the
 30 hospital's semiannual reports to the
 31 department; requiring certain notice to the

1 executive director of the board; providing that
2 registrants are subject to specified
3 disciplinary provisions; authorizing resident
4 physicians to prescribe drugs appearing on
5 schedules of controlled substances under
6 certain circumstances; repealing s.
7 460.413(1)(bb) and (cc), F.S., relating to
8 grounds for disciplinary action; amending s.
9 459.0075, F.S., relating to limited licenses;
10 eliminating the requirement that applicants for
11 a limited license be retired from the practice
12 of osteopathic medicine; restricting certain
13 limited licensees to noncompensated practice;
14 requiring the payment of fees if a person
15 receives compensation for the practice of
16 osteopathic medicine; amending s. 459.0085,
17 F.S.; conforming a cross-reference; requiring
18 osteopathic physicians not carrying medical
19 malpractice insurance to post notice and
20 provide a written statement thereof; providing
21 for acknowledgment that the patient has been so
22 informed; amending s. 459.015, F.S.; revising
23 and providing grounds for disciplinary action;
24 providing penalties; creating s. 459.0152,
25 F.S.; prohibiting osteopathic physicians from
26 falsely representing that they are
27 board-certified specialists; amending ss.
28 240.4067, 390.011, 395.0191, 408.035, 409.905,
29 415.102, 415.1034, 415.504, 440.106, 440.13,
30 440.134, 440.15, 456.31, 459.006, 462.01,
31 468.301, 468.302, 476.044, 477.0135, 483.291,

1 621.03, 627.351, 627.357, 627.6482, 725.01,
 2 766.101, 766.103, 766.105, 766.110, 817.234,
 3 and 945.047, F.S.; conforming and correcting
 4 terminology relating to osteopathic medicine;
 5 amending s. 460.403, F.S.; updating the
 6 definition of "department"; amending s.
 7 460.413, F.S.; repealing ss. 460.413(1)(bb) and
 8 460.413(1)(cc), relating to grounds for
 9 disciplinary action; revising grounds for
 10 disciplinary action; providing penalties;
 11 providing criteria for determining the
 12 applicable penalty; providing certain
 13 evidentiary standards; providing authority and
 14 procedure to enjoin a chiropractor from
 15 providing medical services under certain
 16 circumstances; reenacting ss. 320.0848(9),
 17 455.236(4)(g), and 766.111(2), F.S., relating
 18 to parking permits for disabled persons,
 19 prohibited referrals to home health agencies,
 20 and unnecessary diagnostic testing, to
 21 incorporate the amendment to s. 460.413, F.S.,
 22 in references thereto; amending s. 460.4165,
 23 F.S.; revising a provision relating to the fee
 24 accompanying applications to supervise
 25 chiropractic physician's assistants; amending
 26 s. 461.003, F.S.; updating the definition of
 27 "department"; amending s. 461.013, F.S.;
 28 revising a ground for disciplinary action;
 29 providing penalties; amending s. 461.018, F.S.;
 30 clarifying a provision relating to the limited
 31 practice of podiatry in designated areas of

1 need; amending s. 464.003, F.S.; revising a
 2 definition to update authority over regulation
 3 of nursing; amending ss. 464.004, 464.008,
 4 464.009, 464.012, 464.013, and 464.014, F.S.,
 5 to conform; amending s. 464.018, F.S.; revising
 6 grounds for disciplinary action; providing
 7 penalties; conforming terminology; amending s.
 8 464.019, F.S., relating to approval of nursing
 9 programs; providing for a program review fee;
 10 conforming terminology; creating s. 464.0205,
 11 F.S.; providing for certification of retired
 12 volunteer nurses; providing requirements,
 13 qualifications, fees, and restrictions;
 14 amending s. 464.022, F.S.; providing an
 15 exemption from regulation relating to certain
 16 nurses accompanying and caring for patients
 17 temporarily residing in this state; amending s.
 18 465.003, F.S.; revising the definitions of the
 19 terms "pharmacy" and "department"; amending s.
 20 465.004, F.S.; increasing the membership of the
 21 Board of Pharmacy; revising membership
 22 qualifications; amending s. 465.0125, F.S.;
 23 providing responsibilities of consultant
 24 pharmacists and doctors of pharmacy; providing
 25 for rules; amending s. 465.0156, F.S.; revising
 26 information required for registration of
 27 nonresident pharmacies; amending s. 465.016,
 28 F.S.; revising grounds for disciplinary
 29 actions; providing penalties; amending s.
 30 465.0196, F.S., relating to special pharmacy
 31 permits; conforming a cross-reference; amending

1 s. 465.026, F.S.; revising provisions relating
 2 to the filling of prescriptions transferred by
 3 electronic or other means; amending s. 465.035,
 4 F.S.; allowing the dispensing of controlled
 5 substances based on electronic facsimiles of
 6 the original prescriptions; amending s.
 7 465.186, F.S.; providing for inclusion of
 8 certain products and over-the-counter
 9 proprietary drugs in the formulary of
 10 authorized medicinal drug products and
 11 dispensing procedures; amending s. 893.03,
 12 F.S.; adding butorphanol tartrate as a Schedule
 13 IV controlled substance; reenacting ss.
 14 316.193(5), 327.35(5), 440.102(11)(b),
 15 458.326(3), 817.563(1), 831.31(1)(a) and (2),
 16 856.015(1)(d), 893.02(4), 893.08(1)(b),
 17 893.13(1)(a), (c), and (d), (2)(a), (4)(b), and
 18 (5)(b), F.S., relating to driving under the
 19 influence, boating under the influence,
 20 drug-free workplace program requirements,
 21 authorized treatment of intractable pain, sales
 22 of substances in lieu of controlled substances,
 23 counterfeit controlled substances, open house
 24 parties, definitions applicable to regulation
 25 of controlled substances, exceptions to
 26 required prescription for distribution at
 27 retail, and prohibited acts relating to
 28 controlled substances, respectively, to
 29 incorporate the amendment to s. 893.03, F.S.,
 30 in references thereto; amending s. 466.003,
 31 F.S.; updating the definition of "department";

1 amending s. 466.006, F.S., relating to the
2 examination of dentists; revising prerequisites
3 for certain applicants to take the examination;
4 amending s. 466.017, F.S.; eliminating obsolete
5 provisions relating to the utilization of
6 general anesthesia and parenteral conscious
7 sedation by licensed dentists; amending s.
8 466.028, F.S.; revising grounds for
9 disciplinary action; providing penalties;
10 amending s. 468.1115, F.S.; revising and
11 providing exemptions from regulation as a
12 speech-language pathologist or audiologist;
13 amending s. 468.1125, F.S.; updating the
14 definition of "department"; amending s.
15 468.1155, F.S.; revising provisional licensure
16 requirements; providing requirements for
17 cross-discipline licensure; amending s.
18 468.1185, F.S.; revising licensure
19 requirements; conforming a reference; amending
20 s. 468.1195, F.S.; revising continuing
21 education requirements; providing for adoption
22 of standards of approval of continuing
23 education providers; creating s. 468.1201,
24 F.S.; requiring instruction on human
25 immunodeficiency virus and acquired immune
26 deficiency syndrome as a condition of being
27 granted a license or certificate to practice
28 speech-language pathology or audiology;
29 amending s. 468.1215, F.S.; revising
30 requirements for certification as a
31 speech-language pathology or audiology

1 assistant; conforming a reference; amending s.
 2 468.1245, F.S.; revising provisions relating to
 3 certain complaints concerning hearing aids;
 4 amending s. 468.1295, F.S.; revising and
 5 providing grounds for disciplinary action;
 6 revising and providing penalties; creating s.
 7 468.1296, F.S.; prohibiting sexual misconduct
 8 in the practice of speech-language pathology
 9 and audiology, for which there are penalties;
 10 amending s. 468.1655, F.S.; updating the
 11 definition of "department"; amending s.
 12 468.1695, F.S.; reducing the number of times a
 13 year the examination for licensure as a nursing
 14 home administrator must be given; amending s.
 15 468.203, F.S.; revising definitions applicable
 16 to regulation of occupational therapy; amending
 17 s. 468.205, F.S.; replacing the Occupational
 18 Therapy Council with a Board of Occupational
 19 Therapy Practice; providing for qualifications,
 20 appointments, and terms of board members;
 21 providing for the filling of vacancies on the
 22 board; amending s. 468.209, F.S.; revising
 23 educational requirements for licensure as an
 24 occupational therapist or occupational therapy
 25 assistant; providing for licensure of certain
 26 applicants without meeting such educational
 27 requirements; providing for certain temporary
 28 permits; requiring documentation of continuing
 29 education for certain applicants; amending s.
 30 468.211, F.S.; providing a restriction on the
 31 number of times an applicant may fail the

1 examination and requiring remediation after a
 2 certain number; amending s. 468.213, F.S.;
 3 revising requirements for licensure by
 4 endorsement; amending s. 468.225, F.S.;
 5 providing exemptions from regulation of
 6 occupational therapy; amending ss. 468.351,
 7 468.352, 468.354, 468.355, 468.356, 468.357,
 8 468.358, 468.359, 468.36, 468.361, 468.363,
 9 468.364, 468.365, 468.366, and 468.368, F.S.;
 10 repealing s. 468.362, F.S., relating to
 11 continuing education; providing for licensure
 12 of respiratory care practitioners and
 13 respiratory therapists; eliminating references
 14 to certification and registration; updating the
 15 definition of "department"; revising
 16 terminology; revising approval of educational
 17 programs; eliminating annual continuing
 18 education requirements for certain persons;
 19 providing penalties; amending s. 478.42, F.S.;
 20 updating the definition of "department";
 21 amending s. 478.45, F.S.; revising requirements
 22 for licensure as an electrologist; amending s.
 23 478.46, F.S.; revising requirements relating to
 24 issuance of temporary permits; conforming a
 25 cross-reference and terminology; amending s.
 26 478.47, F.S.; revising requirements for
 27 licensure by endorsement; amending s. 478.52,
 28 F.S.; prohibiting the operation of unlicensed
 29 electrolysis facilities; providing penalties;
 30 amending s. 480.033, F.S.; revising the
 31 definition of "board"; updating the definition

1 of "department"; amending s. 480.034, F.S.;
 2 eliminating an exemption from regulation
 3 applicable to certain skin treatments and
 4 weight-loss programs; amending s. 480.035,
 5 F.S.; renaming the Board of Massage as the
 6 Board of Massage Therapy; amending s. 480.041,
 7 F.S.; eliminating provisional licensure to
 8 practice massage therapy; amending s. 480.0415,
 9 F.S.; authorizing an increase in the number of
 10 classroom hours of continuing education that
 11 may be required for renewal of a license to
 12 practice massage therapy; amending s. 480.042,
 13 F.S.; revising what examinations must measure;
 14 repealing s. 480.0425, F.S., relating to
 15 inactive status; amending s. 480.043, F.S.;
 16 revising provisions relating to the transfer of
 17 licenses; amending s. 480.044, F.S.; revising
 18 provisions relating to fees; amending s.
 19 480.047, F.S.; prohibiting the practice of
 20 massage therapy without a license unless
 21 exempted from licensure; creating s. 480.0485,
 22 F.S.; prohibiting sexual misconduct in the
 23 practice of massage therapy, for which there
 24 are disciplinary actions; amending s. 20.43,
 25 F.S., relating to the Department of Health;
 26 conforming terminology; updating a reference;
 27 amending s. 381.81, F.S., to conform; amending
 28 s. 483.800, F.S.; revising policy and purpose
 29 relating to regulation of clinical laboratory
 30 personnel; amending s. 483.801, F.S.; providing
 31 a regulatory exemption relating to advanced

1 registered nurse practitioners; amending s.
 2 483.803, F.S.; updating the definition of
 3 "department"; providing definitions; amending
 4 s. 483.809, F.S.; revising licensing
 5 provisions; authorizing an alternative
 6 examination for public health laboratory
 7 scientists; creating s. 483.812, F.S.;
 8 providing for licensure of public health
 9 laboratory scientists; amending s. 483.813,
 10 F.S.; extending the period of a temporary
 11 license for clinical laboratory personnel;
 12 providing a period for a conditional license;
 13 amending s. 483.823, F.S.; revising provisions
 14 relating to qualifications of clinical
 15 laboratory personnel; amending s. 483.825,
 16 F.S.; revising and providing grounds for
 17 disciplinary action; providing penalties;
 18 creating s. 483.828, F.S.; providing penalties
 19 for specified violations; amending s. 483.901,
 20 F.S., the "Florida Medical Physicists Act";
 21 providing that the Advisory Council of Medical
 22 Physicists is an advisory rather than a
 23 regulatory body; increasing the number and
 24 terms of council members; clarifying initial
 25 and other appointment provisions; revising
 26 provisions relating to council meetings;
 27 revising licensure requirements; clarifying
 28 that the required continuing education hours
 29 are to be satisfied biennially and that the
 30 organizations providing such education must be
 31 approved by the Department of Health; revising

1 and providing grounds for disciplinary action;
 2 revising and providing criminal acts; providing
 3 an administrative fine; providing penalties;
 4 eliminating a provision authorizing a licensure
 5 exception; amending s. 484.041, F.S.; updating
 6 the definition of "department"; amending s.
 7 484.042, F.S.; updating a reference, to
 8 conform; amending s. 484.051, F.S.; updating a
 9 reference, to conform; amending s. 486.021,
 10 F.S.; updating the definition of "department";
 11 amending s. 486.023, F.S.; changing the
 12 membership of the Board of Physical Therapy
 13 Practice; amending ss. 486.031 and 486.081,
 14 F.S.; providing an alternative licensure
 15 examination; revising accreditation provisions
 16 relating to licensure as a physical therapist;
 17 amending s. 486.041, F.S.; revising provisions
 18 relating to applying for a license as a
 19 physical therapist and to the fee therefor;
 20 amending s. 486.051, F.S.; revising provisions
 21 relating to examination of applicants for
 22 licensure as a physical therapist; amending s.
 23 486.102, F.S.; revising accreditation
 24 provisions relating to licensure as a physical
 25 therapist assistant; amending s. 486.103, F.S.;
 26 revising provisions relating to applying for a
 27 license as a physical therapist assistant and
 28 to the fee therefor; amending s. 486.104, F.S.;
 29 revising provisions relating to examination of
 30 applicants for licensure as a physical
 31 therapist assistant; creating s. 486.123, F.S.;

1 prohibiting sexual misconduct in the practice
 2 of physical therapy, for which there are
 3 disciplinary actions; amending s. 486.125,
 4 F.S.; providing for recovery of the actual
 5 costs of investigation and prosecution;
 6 amending s. 641.495, F.S.; requiring a health
 7 maintenance organization to designate as
 8 medical director a state-licensed physician or
 9 osteopathic physician; amending s. 499.012,
 10 F.S.; clarifying and providing for additional
 11 wholesale distribution exceptions; requiring
 12 the Board of Medicine to establish guidelines
 13 for physicians to prescribe certain drugs used
 14 to treat obesity; requiring the Board of
 15 Osteopathic Medicine to establish guidelines
 16 for physicians to prescribe certain drugs used
 17 to treat obesity; amending s. 409.9122, F.S.;
 18 providing for chiropractic and podiatric
 19 services under the MediPass program; creating a
 20 Task Force on Exemptions from Licensure under
 21 s. 468.505(1)(k), F.S., which exempts certain
 22 persons employed by a hospital, nursing home,
 23 assisted living facility, or continuing care
 24 facility; providing for membership and meetings
 25 of the task force, including place of meetings;
 26 requiring a report to certain legislative
 27 leaders; providing responsibilities of the task
 28 force; providing for dissolution of the task
 29 force; amending s. 465.014, F.S.; amending the
 30 duties of pharmacy technicians; increasing the
 31 number of pharmacy technicians a licensed

1 pharmacist may supervise; amending s. 456.32,
 2 F.S.; including specified mental health
 3 professionals within the definition of
 4 "practitioner of the healing arts"; amending s.
 5 490.003, F.S.; revising and providing
 6 definitions relating to the regulation of
 7 psychological services; amending s. 490.005,
 8 F.S.; conforming cross-references; creating s.
 9 490.0051, F.S.; providing for provisional
 10 licensure; repealing s. 490.008, F.S., relating
 11 to inactive status; amending s. 490.009, F.S.;
 12 revising and providing grounds for disciplinary
 13 action; amending s. 490.012, F.S.; providing
 14 requirements for display of licenses and
 15 provisional licenses; eliminating a requirement
 16 relating to use of the license number on
 17 professional advertisements; providing
 18 requirements for promotional materials of
 19 provisional licensees; conforming
 20 cross-references; providing penalties; amending
 21 s. 490.014, F.S.; clarifying applicability of
 22 exemption provisions; removing an obsolete
 23 licensing exemption that required registration
 24 of certain trainees or interns; amending s.
 25 491.003, F.S.; revising and providing
 26 definitions relating to the regulation of
 27 clinical, counseling, and psychotherapy
 28 services; creating s. 491.0045, F.S.; requiring
 29 registration of interns and providing
 30 requirements thereof; creating s. 491.0046,
 31 F.S.; providing for provisional licensure;

1 amending s. 491.005, F.S.; revising
 2 requirements for licensure by examination;
 3 providing for additional educational
 4 requirements at a future date; creating s.
 5 491.0057, F.S.; providing for dual licensure as
 6 a marriage and family therapist; amending s.
 7 491.007, F.S.; providing for biennial renewal
 8 of registrations; providing for fees; amending
 9 s. 491.009, F.S.; revising and providing
 10 grounds for disciplinary action; amending s.
 11 491.012, F.S.; prohibiting the use of certain
 12 titles under certain circumstances; providing a
 13 penalty; amending s. 491.014, F.S.; revising
 14 and clarifying exemption provisions; removing
 15 an obsolete licensing exemption that required
 16 registration of certain trainees or interns;
 17 amending s. 491.0149, F.S.; requiring display
 18 of registrations and provisional licenses and
 19 use of applicable professional titles on
 20 promotional materials; amending ss. 232.02,
 21 394.455, F.S.; conforming cross-references;
 22 creating s. 458.3124, F.S.; providing for
 23 certain foreign-trained and licensed physicians
 24 to take certain licensure examinations;
 25 providing restrictions and establishing fees;
 26 restricting the practice of such persons;
 27 providing for eligibility for full licensure;
 28 providing for the adoption of rules; providing
 29 an effective date.

30
 31 Be It Enacted by the Legislature of the State of Florida:

1 Section 1. Subsection (2) of section 468.1645, Florida
2 Statutes, is amended to read:

3 468.1645 Administrator license required.--

4 (2) Nothing in this part or in the rules adopted
5 hereunder shall require an administrator of any facility or
6 institution operated by and ~~a recognized church or religious~~
7 ~~denomination~~ for persons who rely exclusively upon treatment
8 by spiritual means through prayer, in accordance with the
9 creed or tenets of any organized church or religious
10 denomination, to be licensed as a nursing home administrator
11 if the administrator ~~who~~ is employed only to administer in
12 such facilities or institutions accredited by such church or
13 ~~denomination~~ for the care and treatment of the sick ~~in~~
14 ~~accordance with its teachings, to be licensed as a nursing~~
15 ~~home administrator.~~

16 Section 2. Effective upon this act becoming a law,
17 paragraph (c) of subsection (1) of section 458.3115, Florida
18 Statutes, 1996 Supplement, is amended to read:

19 458.3115 Restricted license; certain foreign-licensed
20 physicians; United States Medical Licensing Examination
21 (USMLE) or agency-developed examination; restrictions on
22 practice; full licensure.--

23 (1)

24 (c) A person shall be eligible to take such
25 examination for restricted licensure if the person:

26 1. Has taken, upon approval by the board, and
27 completed, in November 1990 or November 1992, one of the
28 special preparatory medical update courses authorized by the
29 board and the University of Miami Medical School and
30 subsequently passed the final course examination; ~~or~~ upon
31 approval by the board to take the course completed in 1990 or

1 in 1992, has a certificate of successful completion of that
2 course from the University of Miami or the Stanley H. Kaplan
3 course; or can document to the department that he or she was
4 one of the persons who took and successfully completed the
5 Stanley H. Kaplan course that was approved by the Board of
6 Medicine and supervised by the University of Miami. At a
7 minimum, the documentation must include class attendance
8 records and the test score on the final course examination;

9 2. Applies to the agency and submits an application
10 fee that is nonrefundable and equivalent to the fee required
11 for full licensure;

12 3. Documents no less than 2 years of the active
13 practice of medicine in another jurisdiction;

14 4. Submits an examination fee that is nonrefundable
15 and equivalent to the fee required for full licensure plus the
16 actual per-applicant cost to the agency to provide either
17 examination described in this section;

18 5. Has not committed any act or offense in this or any
19 other jurisdiction that would constitute a substantial basis
20 for disciplining a physician under this chapter or chapter
21 455; and

22 6. Is not under discipline, investigation, or
23 prosecution in this or any other jurisdiction for an act that
24 would constitute a violation of this chapter or chapter 455
25 and that substantially threatened or threatens the public
26 health, safety, or welfare.

27 Section 3. Paragraph (a) of subsection (1), subsection
28 (4), and paragraph (g) of subsection (8) of section 402.48,
29 Florida Statutes, 1996 Supplement, are amended to read:

30 402.48 Health care services pools.--

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

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

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

6 (8)

7 (g) Meeting the financial responsibility requirements
8 of this section must be established at the time of issuance or
9 renewal of a certificate of registration ~~on or after January~~
10 ~~1, 1991.~~

11 Section 4. Subsections (2), (4), and (9) of section
12 455.225, Florida Statutes, 1996 Supplement, are amended to
13 read:

14 455.225 Disciplinary proceedings.--Disciplinary
15 proceedings for each board shall be within the jurisdiction of
16 the department or the Agency for Health Care Administration,
17 as appropriate.

18 (2) The department and the Agency for Health Care
19 Administration shall allocate sufficient and adequately
20 trained staff to expeditiously and thoroughly determine legal
21 sufficiency and investigate all legally sufficient complaints.
22 For purposes of this section, it is the intent of the
23 Legislature that the term "expeditiously" means that the
24 agency, for disciplinary cases under its jurisdiction, shall
25 complete the report of its initial investigative findings and
26 recommendations concerning the existence of probable cause
27 within 6 months after its receipt of the complaint. The
28 failure of the agency, for disciplinary cases under its
29 jurisdiction, to comply with the time limits in this section
30 while investigating a complaint against a licensee constitutes
31 harmless error in any subsequent disciplinary action unless a

1 court finds that either the fairness of the proceeding or the
2 correctness of the action may have been impaired by a material
3 error in procedure or a failure to follow prescribed
4 procedure.When its investigation is complete and legally
5 sufficient, the department or the agency shall prepare and
6 submit to the probable cause panel of the appropriate
7 regulatory board the investigative report of the department or
8 the agency. The report shall contain the investigative
9 findings and the recommendations of the department or the
10 agency concerning the existence of probable cause. At any time
11 after legal sufficiency is found, the department or the agency
12 may dismiss any case, or any part thereof, if the department
13 or the agency determines that there is insufficient evidence
14 to support the prosecution of allegations contained therein.
15 The department or the agency shall provide a detailed report
16 to the appropriate probable cause panel prior to dismissal of
17 any case or part thereof, and to the subject of the complaint
18 after dismissal of any case or part thereof, under this
19 section. For cases dismissed prior to a finding of probable
20 cause, such report is confidential and exempt from s.
21 119.07(1). The probable cause panel shall have access, upon
22 request, to the investigative files pertaining to a case prior
23 to dismissal of such case. If the department or the agency
24 dismisses a case, the probable cause panel may retain
25 independent legal counsel, employ investigators, and continue
26 the investigation and prosecution of the case as it deems
27 necessary.

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

1 board shall provide by rule that the determination of probable
 2 cause shall be made by a panel of its members or by the
 3 department or the agency. Each board may provide by rule for
 4 multiple probable cause panels composed of at least two
 5 members. Each board may provide by rule that one or more
 6 members of the panel or panels may be a former board member.
 7 The length of term or repetition of service of any such former
 8 board member on a probable cause panel may vary according to
 9 the direction of the board when authorized by board rule. Any
 10 probable cause panel must include one of the board's former or
 11 present consumer members, if one is available, willing to
 12 serve, and is authorized to do so by the board chairman. Any
 13 probable cause panel must include a present board member. Any
 14 probable cause panel must include a former or present
 15 professional board member. However, any former professional
 16 board member serving on the probable cause panel must hold an
 17 active valid license for that profession. All proceedings of
 18 the panel are exempt from s. 286.011 until 10 days after
 19 probable cause has been found to exist by the panel or until
 20 the subject of the investigation waives his privilege of
 21 confidentiality. The probable cause panel may make a
 22 reasonable request, and upon such request the department or
 23 the agency shall provide such additional investigative
 24 information as is necessary to the determination of probable
 25 cause. A request for additional investigative information
 26 shall be made within 15 days from the date of receipt by the
 27 probable cause panel of the investigative report of the
 28 department or the agency. The probable cause panel or the
 29 department or the agency, as may be appropriate, shall make
 30 its determination of probable cause within 30 days after
 31 receipt by it of the final investigative report of the

1 department or the agency. The secretary may grant extensions
2 of the 15-day and the 30-day time limits. ~~If the probable~~
3 ~~cause panel does not find probable cause within the 30-day~~
4 ~~time limit, as may be extended, or if the probable cause panel~~
5 ~~finds no probable cause, the department or the agency may~~
6 ~~determine, within 10 days after the panel fails to determine~~
7 ~~probable cause or 10 days after the time limit has elapsed,~~
8 ~~that probable cause exists.~~In lieu of a finding of probable
9 cause, the probable cause panel, or the department or the
10 agency when there is no board, may issue a letter of guidance
11 to the subject. If within the 30-day time limit, as may be
12 extended, the probable cause panel does not make a
13 determination regarding the existence of probable cause or
14 does not issue a letter of guidance in lieu of a finding of
15 probable cause, the agency, for disciplinary cases under its
16 jurisdiction, must make a determination regarding the
17 existence of probable cause within 10 days after the
18 expiration of the time limit. If the probable cause panel
19 finds that probable cause exists, it shall direct the
20 department or the agency to file a formal complaint against
21 the licensee. The department or the agency shall follow the
22 directions of the probable cause panel regarding the filing of
23 a formal complaint. If directed to do so, the department or
24 the agency shall file a formal complaint against the subject
25 of the investigation and prosecute that complaint pursuant to
26 chapter 120. However, the department or the agency may decide
27 not to prosecute the complaint if it finds that probable cause
28 had been improvidently found by the panel. In such cases, the
29 department or the agency shall refer the matter to the board.
30 The board may then file a formal complaint and prosecute the
31 complaint pursuant to chapter 120. The department or the

1 agency shall also refer to the board any investigation or
 2 disciplinary proceeding not before the Division of
 3 Administrative Hearings pursuant to chapter 120 or otherwise
 4 completed by the department or the agency within 1 year after
 5 the filing of a complaint. The agency, for disciplinary cases
 6 under its jurisdiction, must establish a uniform reporting
 7 system to quarterly refer to each board the status of any
 8 investigation or disciplinary proceeding that is not before
 9 the Division of Administrative Hearings or otherwise completed
 10 by the department or agency within 1 year after the filing of
 11 the complaint. Annually, the agency, for disciplinary cases
 12 under its jurisdiction, if there is no board, or each board
 13 must establish a plan to reduce or otherwise close any
 14 investigation or disciplinary proceeding that is not before
 15 the Division of Administrative Hearings or otherwise completed
 16 by the agency within 1 year after the filing of the complaint.
 17 A probable cause panel or a board may retain independent legal
 18 counsel, employ investigators, and continue the investigation
 19 as it deems necessary; all costs thereof shall be paid from
 20 the Health Care Trust Fund or the Professional Regulation
 21 Trust Fund, as appropriate. All proceedings of the probable
 22 cause panel are exempt from s. 120.525.

23 (9)(a) The department or the Agency for Health Care
 24 Administration, as appropriate, shall periodically notify the
 25 person who filed the complaint of the status of the
 26 investigation, whether probable cause has been found, and the
 27 status of any civil action or administrative proceeding or
 28 appeal.

29 (b) In any disciplinary case under the jurisdiction of
 30 the Agency for Health Care Administration for which probable
 31 cause has been found, the Agency for Health Care

1 Administration shall provide to the person who filed the
2 complaint a copy of the administrative complaint, including:

3 1. A written explanation of how an administrative
4 complaint is resolved by the disciplinary process.

5 2. A written explanation of how and when the person
6 may participate in the disciplinary process.

7 3. A written notice of any hearing before the Division
8 of Administrative Hearings or the regulatory board at which
9 final agency action is taken.

10 (c) In any disciplinary case for which probable cause
11 is not found, the Agency for Health Care Administration shall
12 so inform the person who filed the complaint and notify that
13 person that he or she may, within 60 days, provide any
14 additional information to the probable cause panel which may
15 be relevant to the decision. In any administrative proceeding
16 under s. 120.57, the person who filed the disciplinary
17 complaint shall have the right to present oral or written
18 communication relating to the alleged disciplinary violations
19 or to the appropriate penalty.

20 Section 5. Present subsections (8) and (9) of section
21 455.2285, Florida Statutes, are redesignated as subsections
22 (9) and (10), respectively, and a new subsection (8) is added
23 to that section, to read:

24 455.2285 Annual report concerning finances,
25 administrative complaints, disciplinary actions, and
26 recommendations.--The department and the Agency for Health
27 Care Administration are each directed to prepare and submit a
28 report to the President of the Senate and Speaker of the House
29 of Representatives by November 1 of each year. In addition to
30 finances and any other information the Legislature may
31

1 require, the report shall include statistics and relevant
2 information, profession by profession, detailing:

3 (8) A description of any effort by the agency, for any
4 disciplinary cases under its jurisdiction, to reduce or
5 otherwise close any investigation or disciplinary proceeding
6 not before the Division of Administrative Hearings under
7 chapter 120 or otherwise not completed within 1 year after the
8 initial filing of a complaint under this chapter.

9 Section 6. 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 7. Subsection (1) of section 457.103, Florida
30 Statutes, is amended to read:

31

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 8. 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.~~ 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.~~ 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.~~ 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 9. Section 457.107, Florida Statutes, is
30 amended to read:

31

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 10. 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 11. 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.~~

31

1 Section 12. 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
31

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.

31

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 13. 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~~

31

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 14. 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~~.

31

1 Section 15. 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 16. 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.~~

31

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 17. 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 18. 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.

31

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 19. 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 20. 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 21. 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 22. 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 23. 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 24. 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 25. 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;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 person registered as a resident physician under
28 this section may in the normal course of his or her employment
29 prescribe medicinal drugs described in schedules set out in
30 chapter 893 when:

31

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

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

7 (c) The use of the institutional identification number
8 and individual suffixes conforms to the requirements of the
9 federal Drug Enforcement Administration.

10 ~~(7)(5)~~ Any person willfully violating this section
11 commits a misdemeanor of the first degree, punishable as
12 provided in s. 775.082 or s. 775.083.

13 Section 26. Subsection (2) of section 458.346, Florida
14 Statutes, is amended to read:

15 458.346 Public Sector Physician Advisory Committee.--

16 (2) PUBLIC SECTOR PHYSICIAN ADVISORY COMMITTEE.--There
17 is hereby created a Public Sector Physician Advisory Committee
18 which shall be comprised of three physicians. One physician
19 shall be appointed by the chair ~~chairman~~ of the Board of
20 Medicine. The two remaining physicians shall be appointed by
21 the secretary of the department from recommendations of the
22 appropriate organization, if any, representing such physicians
23 for the purpose of collective bargaining. The chair ~~chairman~~
24 of the committee shall be one of the two public sector
25 physicians who shall be elected by majority vote of the
26 committee members. Members of the committee shall serve
27 3-year terms and shall meet at least once each year or upon
28 the call of the committee chair ~~on a quarterly basis~~. The
29 initial term for one public sector physician shall be for 2
30 years, and the other for 3 years. Members of the committee
31

1 are subject to reappointment. Committee members shall receive
2 reimbursement for per diem and travel expenses.

3 Section 27. Section 458.347, Florida Statutes, 1996
4 Supplement, is amended to read:

5 458.347 Physician assistants.--

6 (1) LEGISLATIVE INTENT.--

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

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

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

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

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

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

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

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

31

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

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

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

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

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

25 (3) PERFORMANCE OF SUPERVISING PHYSICIAN.--Each
26 physician or group of physicians supervising a certified
27 physician assistant must be qualified in the medical areas in
28 which the physician assistant is to perform and shall be
29 individually or collectively responsible and liable for the
30 performance and the acts and omissions of the physician
31

1 assistant. A physician may not supervise more than four
2 currently certified physician assistants at any one time.

3 (4) PERFORMANCE OF PHYSICIAN ASSISTANTS.--

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

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

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

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

25 (e) A supervisory physician may delegate to a fully
26 certified physician assistant the authority to prescribe any
27 medication used in the supervisory physician's practice if
28 such medication is listed on the formulary created pursuant to
29 paragraph (f). A fully certified physician assistant may only
30 prescribe such medication under the following circumstances:
31

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

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

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

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

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

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

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

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

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

26
27 This paragraph does not apply to facilities licensed pursuant
28 to chapter 395.

29 (f)1. There is created a five-member committee
30 appointed by the Director of Health Care Administration. The
31 committee must be composed of one fully certified physician

1 assistant certified pursuant to this section or s. 459.022
 2 ~~458.022~~, two physicians licensed pursuant to this chapter, one
 3 of whom supervises a fully licensed physician assistant, one
 4 osteopathic physician licensed pursuant to chapter 459, and
 5 one pharmacist licensed pursuant to chapter 465 who is not
 6 licensed pursuant to this chapter or chapter 459. The
 7 committee shall establish a formulary of medicinal drugs for
 8 which a fully certified physician assistant may prescribe.
 9 The formulary may not include controlled substances as defined
 10 in chapter 893, antineoplastics, antipsychotics,
 11 radiopharmaceuticals, general anesthetics or radiographic
 12 contrast materials, or any parenteral preparations except
 13 insulin and epinephrine.

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

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

30
 31

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

4 (6) PROGRAM APPROVAL.--

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

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

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

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

9 (7) PHYSICIAN ASSISTANT CERTIFICATION.--

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

14 1. Is at least 18 years of age.

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

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

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

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

1 c. A sworn statement of any previous revocation or
2 denial of licensure or certification in any state.

3 d. Two letters of recommendation.

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

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

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

31

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

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

7 2. The department ~~agency~~ may grant temporary
8 certification to an applicant who meets the requirements of
9 subparagraph 1. 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. A temporary certificate
15 expires upon receipt and notice of scores to the
16 certificateholder from the first available examination
17 specified in subparagraph 1. following certification by the
18 department ~~agency~~. An applicant who fails the proficiency
19 examination is no longer temporarily certified, but may apply
20 for a one-time extension of temporary certification after
21 reapplying for the next available examination. Extended
22 certification shall expire upon failure of the
23 certificateholder to sit for the next available examination or
24 upon receipt and notice of scores to the certificateholder
25 from such examination.

26 3. Notwithstanding any other provision of law, the
27 examination specified pursuant to subparagraph 1. shall be
28 administered by the department ~~agency~~ only five times.
29 Applicants certified by the board for examination shall
30 receive at least 6 months' notice of eligibility prior to the
31 administration of the initial examination. Subsequent

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

16 (c) The certification must be renewed biennially.
17 Each renewal must include:

- 18 1. A renewal fee not to exceed \$500 as set by the
19 boards.
- 20 2. A sworn statement of no felony convictions in the
21 previous 2 years.

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

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

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

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 28. 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 29. Subsection (2) of section 459.003, Florida
14 Statutes, is amended, and subsection (5) is added to said
15 section, to read:

16 459.003 Definitions.--As used in this chapter:

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

19 (5) "Doctor of Osteopathy" and "Doctor of Osteopathic
20 Medicine," when referring to degrees, shall be construed to be
21 equivalent and equal degrees.

22 Section 30. Subsections (1) and (3) and paragraph (b)
23 of subsection (5) of section 459.021, Florida Statutes, are
24 amended, and subsections (8) and (9) are added to that
25 section, to read:

26 459.021 Registration of resident physicians, interns,
27 and fellows; list of hospital employees; penalty.--

28 (1) Any person who holds a degree of Doctor of
29 Osteopathic Medicine ~~Osteopathy~~ from a college of osteopathic
30 medicine recognized and approved by the American Osteopathic
31 Association who desires to practice as a resident physician,

1 assistant resident physician, house physician, intern, or
2 fellow in fellowship training which leads to subspecialty
3 board certification in this state who does not hold an active
4 license issued under this chapter shall apply to the
5 department to be registered, on an application provided by the
6 department, within 30 days of commencing such a training
7 program and shall remit a fee not to exceed \$300 as set by the
8 board.

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

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

28 (b) To fail to furnish to the department the list and
29 information required by subsection (3).
30
31

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

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

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

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

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

17 Section 31. Subsection (1) of section 459.0075,
18 Florida Statutes, is amended to read:

19 459.0075 Limited licenses.--

20 (1) Any person desiring to obtain a limited license
21 shall:

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

26 ~~However,~~If the person applying for a limited license submits
27 a notarized statement from the employing agency or institution
28 stating that he will not receive monetary compensation for any
29 service involving the practice of osteopathic medicine, the
30 application fee and all licensure fees shall be waived.

31 However, any person who receives a waiver of fees for a

1 limited license shall pay such fees if the person receives
2 compensation for the practice of osteopathic medicine.

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

8 (c) Complete an amount of continuing education
9 established by the board.

10 Section 32. Paragraphs (a) and (g) of subsection (5)
11 of section 459.0085, Florida Statutes, 1996 Supplement, are
12 amended to read:

13 459.0085 Financial responsibility.--

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

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

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

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

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

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

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

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

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

25 2. Upon the next meeting of the probable cause panel
26 of the board following 30 days after the date of mailing the
27 notice of disciplinary action to the licensee, the panel shall
28 make a determination of whether probable cause exists to take
29 disciplinary action against the licensee pursuant to
30 subparagraph 1.

31

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

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

16
 17 A licensee who meets the requirements of this paragraph shall
 18 be required to ~~either~~ post notice in the form of a sign
 19 prominently displayed in the reception area and clearly
 20 noticeable by all patients and ~~or~~ provide a written statement
 21 to any person to whom medical services are being provided. A
 22 copy of the written statement shall be given to each patient
 23 to sign, acknowledging receipt thereof, and the signed copy
 24 shall be maintained in the patient's file. If the patient
 25 refuses to sign or is unable to sign the written statement,
 26 the licensee shall so note it on the form. Such sign and ~~or~~
 27 statement shall state ~~that~~: "Under Florida law, osteopathic
 28 physicians are generally required to carry medical malpractice
 29 insurance or otherwise demonstrate financial responsibility to
 30 cover potential claims for medical malpractice. YOUR
 31 OSTEOPATHIC PHYSICIAN HAS DECIDED NOT TO CARRY MEDICAL

1 MALPRACTICE INSURANCE. This is permitted under Florida law
2 subject to certain conditions. Florida law imposes strict
3 penalties against noninsured osteopathic physicians who fail
4 to satisfy adverse judgments arising from claims of medical
5 malpractice. This notice is provided pursuant to Florida
6 law."

7 Section 33. Paragraphs (o), (gg), and (ll) of
8 subsection (1) of section 459.015, Florida Statutes, 1996
9 Supplement, are amended, and paragraph (nn) is added to said
10 subsection, to read:

11 459.015 Grounds for disciplinary action by the
12 board.--

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

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

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

1 compound thereof, pursuant to chapter 893, to or for any
2 person except for:

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

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

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

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

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

29 Section 34. Section 459.0152, Florida Statutes, is
30 created to read:

31

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

12 Section 35. Section 459.022, Florida Statutes, 1996
13 Supplement, is amended to read:

14 459.022 Physician assistants.--

15 (1) LEGISLATIVE INTENT.--

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

11 (4) PERFORMANCE OF PHYSICIAN ASSISTANTS.--

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

10 (6) PROGRAM APPROVAL.--

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

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

25 (7) PHYSICIAN ASSISTANT CERTIFICATION.--

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

30 1. Is at least 18 years of age.

31

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

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

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

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

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

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

31

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

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

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

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

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

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

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

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

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

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

31

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

11 (c) The council shall:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

12 Section 36. Subsection (1) of section 240.4067,
13 Florida Statutes, is amended to read:

14 240.4067 Medical Education Reimbursement and Loan
15 Repayment Program.--

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

1 physicians include obstetrics, gynecology, general and family
2 practice, internal medicine, pediatrics, and other specialties
3 which may be identified by the Department of Health and
4 Rehabilitative Services.

5 Section 37. Subsection (5) of section 390.011, Florida
6 Statutes, is amended to read:

7 390.011 Definitions.--As used in this act:

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

12 Section 38. Subsection (1) of section 395.0191,
13 Florida Statutes, is amended to read:

14 395.0191 Staff membership and clinical privileges.--

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

26 Section 39. Paragraph (g) of subsection (1) of section
27 408.035, Florida Statutes, is amended to read:

28 408.035 Review criteria.--

29 (1) The agency shall determine the reviewability of
30 applications and shall review applications for
31 certificate-of-need determinations for health care facilities

1 and services, hospices, and health maintenance organizations
2 in context with the following criteria:

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

9 Section 40. Subsection (9) of section 409.905, Florida
10 Statutes, 1996 Supplement, is amended to read:

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

24 (9) PHYSICIAN SERVICES.--The agency shall pay for
25 covered services and procedures rendered to a recipient by, or
26 under the personal supervision of, a person licensed under
27 state law to practice medicine or osteopathic medicine
28 ~~osteopathy~~. These services may be furnished in the
29 physician's office, the Medicaid recipient's home, a hospital,
30 a nursing facility, or elsewhere, but shall be medically
31 necessary for the treatment of an injury, illness, or disease

1 within the scope of the practice of medicine or osteopathic
2 medicine osteopathy as defined by state law. The agency shall
3 not pay for services that are clinically unproven,
4 experimental, or for purely cosmetic purposes.

5 Section 41. Subsection (33) of section 415.102,
6 Florida Statutes, is amended to read:

7 415.102 Definitions of terms used in ss.
8 415.101-415.113.--As used in ss. 415.101-415.113, the term:

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

14 Section 42. Paragraph (a) of subsection (1) of section
15 415.1034, Florida Statutes, is amended to read:

16 415.1034 Mandatory reporting of abuse, neglect, or
17 exploitation of disabled adults or elderly persons; mandatory
18 reports of death.--

19 (1) MANDATORY REPORTING.--

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

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

25 2. Health professional or mental health professional
26 other than one listed in subparagraph 1.;

27 3. Practitioner who relies solely on spiritual means
28 for healing;

29 4. Nursing home staff; assisted living facility staff;
30 adult day care center staff; adult family-care home staff;

31

1 social worker; or other professional adult care, residential,
2 or institutional staff;

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

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

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

9
10 who knows, or has reasonable cause to suspect, that a disabled
11 adult or an elderly person has been or is being abused,
12 neglected, or exploited shall immediately report such
13 knowledge or suspicion to the central abuse registry and
14 tracking system on the single statewide toll-free telephone
15 number.

16 Section 43. Paragraph (a) of subsection (1) of section
17 415.504, Florida Statutes, 1996 Supplement, is amended to
18 read:

19 415.504 Mandatory reports of child abuse or neglect;
20 mandatory reports of death; central abuse hotline.--

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

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

26
27 who knows, or has reasonable cause to suspect, that a child is
28 an abused, abandoned, or neglected child shall report such
29 knowledge or suspicion to the department in the manner
30 prescribed in subsection (2).

31

1 Section 44. Subsection (2) of section 440.106, Florida
2 Statutes, is amended to read:

3 440.106 Civil remedies; administrative penalties.--

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

16 Section 45. Paragraph (r) of subsection (1) of section
17 440.13, Florida Statutes, 1996 Supplement, is amended to read:

18 440.13 Medical services and supplies; penalty for
19 violations; limitations.--

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

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

29 Section 46. Paragraphs (i) and (k) of subsection (1)
30 of section 440.134, Florida Statutes, are amended to read:

31

1 440.134 Workers' compensation managed care
2 arrangement.--

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

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

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

22 Section 47. Paragraph (a) of subsection (3) of section
23 440.15, Florida Statutes, 1996 Supplement, is amended to read:

24 440.15 Compensation for disability.--Compensation for
25 disability shall be paid to the employee, subject to the
26 limits provided in s. 440.12(2), as follows:

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

28 (a) Impairment benefits.--

29 1. Once the employee has reached the date of maximum
30 medical improvement, impairment benefits are due and payable

31

1 within 20 days after the carrier has knowledge of the
2 impairment.

3 2. The three-member panel, in cooperation with the
4 division, shall establish and use a uniform permanent
5 impairment rating schedule. This schedule must be based on
6 medically or scientifically demonstrable findings as well as
7 the systems and criteria set forth in the American Medical
8 Association's Guides to the Evaluation of Permanent
9 Impairment; the Snellen Charts, published by American Medical
10 Association Committee for Eye Injuries; and the Minnesota
11 Department of Labor and Industry Disability Schedules. The
12 schedule should be based upon objective findings. The schedule
13 shall be more comprehensive than the AMA Guides to the
14 Evaluation of Permanent Impairment and shall expand the areas
15 already addressed and address additional areas not currently
16 contained in the guides. On August 1, 1979, and pending the
17 adoption, by rule, of a permanent schedule, Guides to the
18 Evaluation of Permanent Impairment, copyright 1977, 1971,
19 1988, by the American Medical Association, shall be the
20 temporary schedule and shall be used for the purposes hereof.
21 For injuries after July 1, 1990, pending the adoption by
22 division rule of a uniform disability rating schedule, the
23 Minnesota Department of Labor and Industry Disability Schedule
24 shall be used unless that schedule does not address an injury.
25 In such case, the Guides to the Evaluation of Permanent
26 Impairment by the American Medical Association shall be used.
27 Determination of permanent impairment under this schedule must
28 be made by a physician licensed under chapter 458, a doctor of
29 osteopathic medicine ~~osteopathy~~ licensed under chapters 458
30 and 459, a chiropractor licensed under chapter 460, a
31 podiatrist licensed under chapter 461, an optometrist licensed

1 under chapter 463, or a dentist licensed under chapter 466, as
2 appropriate considering the nature of the injury. No other
3 persons are authorized to render opinions regarding the
4 existence of or the extent of permanent impairment.

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

15 a. The expiration of a period computed at the rate of
16 3 weeks for each percentage point of impairment; or

17 b. The death of the employee.

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

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

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

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

11 Section 48. Subsection (2) of section 456.31, Florida
12 Statutes, is amended to read:

13 456.31 Legislative intent.--

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

24 Section 49. Subsection (1) of section 459.006, Florida
25 Statutes, is amended to read:

26 459.006 Licensure by examination.--Any person desiring
27 to be licensed by examination shall:

28 (1) Have successfully completed a resident internship
29 of not less than 12 months in a hospital approved for this
30 purpose by the Board of Trustees of the American Osteopathic
31 Association or any other internship program approved by the

1 board upon a showing of good cause by the applicant. This
2 requirement may be waived for applicants who matriculated in a
3 college of osteopathic medicine ~~osteopathy~~ during or before
4 1948.

5 Section 50. Subsection (1) of section 462.01, Florida
6 Statutes, is amended to read:

7 462.01 Definitions.--As used in this chapter:

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

28 Section 51. Subsection (10) of section 468.301,
29 Florida Statutes, is amended to read:

30 468.301 Definitions.--As used in this part, the term:
31

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

5 Section 52. Paragraph (a) of subsection (6) of section
6 468.302, Florida Statutes, 1996 Supplement, is amended to
7 read:

8 468.302 Use of radiation; identification of certified
9 persons; limitations; exceptions.--

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

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

18 Section 53. Section 476.044, Florida Statutes, is
19 amended to read:

20 476.044 Exemptions.--This chapter does not apply to
21 the following persons when practicing pursuant to their
22 professional responsibilities and duties:

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

26 (2) Commissioned medical or surgical officers of the
27 United States Armed Forces hospital service;

28 (3) Licensed nurses under the laws of this state;

29 (4) Persons practicing cosmetology under the laws of
30 this state;

31

1 (5) Persons employed in federal, state, or local
2 institutions, hospitals, or military bases as barbers whose
3 practice is limited to the inmates, patients, or authorized
4 military personnel of such institutions, hospitals, or bases;
5 ~~or~~

6 (6) Persons who practice only shampooing as defined in
7 s. 477.013 and whose practice is limited to the acts described
8 therein; ~~or-~~

9 (7) Persons whose occupation or practice is confined
10 solely to cutting, trimming, polishing, or cleansing the
11 fingernails of any person when said cutting, trimming,
12 polishing, or cleansing is done in a barbershop licensed
13 pursuant to this chapter which is carrying on a regular and
14 customary business of barbering, and such individual has been
15 practicing the activities set forth in this subsection prior
16 to October 1, 1985.

17 Section 54. Paragraph (a) of subsection (1) of section
18 477.0135, Florida Statutes, is amended to read:

19 477.0135 Exemptions.--

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

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

26 Section 55. Paragraph (a) of subsection (8) of section
27 483.291, Florida Statutes, is amended to read:

28 483.291 Powers and duties of the agency; rules.--The
29 agency shall adopt rules to implement this part, which rules
30 must include the following:

31

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

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

10 Section 56. Subsection (1) of section 621.03, Florida
11 Statutes, is amended to read:

12 621.03 Definitions.--As used in this act the following
13 words shall have the meaning indicated:

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

25 Section 57. Paragraph (h) of subsection (4) of section
26 627.351, Florida Statutes, 1996 Supplement, is amended to
27 read:

28 627.351 Insurance risk apportionment plans.--

29 (4) MEDICAL MALPRACTICE RISK APPORTIONMENT.--

30 (h) As used in this subsection:

31

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

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

30 3. "Health care facility" means any hospital licensed
31 under chapter 395, health maintenance organization

1 certificated under part I of chapter 641, ambulatory surgical
2 center licensed under chapter 395, or other medical facility
3 as defined in subparagraph 2.

4 Section 58. Paragraph (b) of subsection (1) of section
5 627.357, Florida Statutes, is amended to read:

6 627.357 Medical malpractice self-insurance.--

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

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

- 9 1. Hospital licensed under chapter 395.
- 10 2. Physician licensed, or physician assistant
11 certified, under chapter 458.
- 12 3. Osteopathic physician ~~Osteopath~~ licensed under
13 chapter 459.
- 14 4. Podiatrist licensed under chapter 461.
- 15 5. Health maintenance organization certificated under
16 part I of chapter 641.
- 17 6. Ambulatory surgical center licensed under chapter
18 395.
- 19 7. Chiropractor licensed under chapter 460.
- 20 8. Psychologist licensed under chapter 490.
- 21 9. Optometrist licensed under chapter 463.
- 22 10. Dentist licensed under chapter 466.
- 23 11. Pharmacist licensed under chapter 465.
- 24 12. Registered nurse, licensed practical nurse, or
25 advanced registered nurse practitioner licensed or registered
26 under chapter 464.
- 27 13. Other medical facility.
- 28 14. Professional association, partnership,
29 corporation, joint venture, or other association established
30 by the individuals set forth in subparagraphs 2., 3., 4., 7.,
31 8., 9., 10., 11., and 12. for professional activity.

1 Section 59. Subsection (10) of section 627.6482,
2 Florida Statutes, is amended to read:

3 627.6482 Definitions.--As used in ss.
4 627.648-627.6498, the term:

5 (10) "Physician" means a physician licensed under
6 chapter 458; an osteopathic physician ~~osteopath~~ licensed under
7 chapter 459; a chiropractor licensed under chapter 460; a
8 podiatrist licensed under chapter 461; or, for purposes of
9 oral surgery only, a dental surgeon licensed under chapter
10 466.

11 Section 60. Section 725.01, Florida Statutes, is
12 amended to read:

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

1 such action shall be brought, or some note or memorandum
2 thereof shall be in writing and signed by the party to be
3 charged therewith or by some other person by him thereunto
4 lawfully authorized.

5 Section 61. Paragraph (b) of subsection (1) of section
6 766.101, Florida Statutes, 1996 Supplement, is amended to
7 read:

8 766.101 Medical review committee, immunity from
9 liability.--

10 (1) As used in this section:

11 (b) The term "health care providers" means physicians
12 licensed under chapter 458, osteopathic physicians ~~osteopaths~~
13 licensed under chapter 459, podiatrists licensed under chapter
14 461, optometrists licensed under chapter 463, dentists
15 licensed under chapter 466, chiropractors licensed under
16 chapter 460, pharmacists licensed under chapter 465, or
17 hospitals or ambulatory surgical centers licensed under
18 chapter 395.

19 Section 62. Subsection (3) of section 766.103, Florida
20 Statutes, is amended to read:

21 766.103 Florida Medical Consent Law.--

22 (3) No recovery shall be allowed in any court in this
23 state against any physician licensed under chapter 458,
24 osteopathic physician ~~osteopath~~ licensed under chapter 459,
25 chiropractor licensed under chapter 460, podiatrist licensed
26 under chapter 461, or dentist licensed under chapter 466 in an
27 action brought for treating, examining, or operating on a
28 patient without his informed consent when:

29 (a)1. The action of the physician, osteopathic
30 physician ~~osteopath~~, chiropractor, podiatrist, or dentist in
31 obtaining the consent of the patient or another person

1 authorized to give consent for the patient was in accordance
2 with an accepted standard of medical practice among members of
3 the medical profession with similar training and experience in
4 the same or similar medical community; and

5 2. A reasonable individual, from the information
6 provided by the physician, osteopathic physician ~~osteopath~~,
7 chiropractor, podiatrist, or dentist, under the circumstances,
8 would have a general understanding of the procedure, the
9 medically acceptable alternative procedures or treatments, and
10 the substantial risks and hazards inherent in the proposed
11 treatment or procedures, which are recognized among other
12 physicians, osteopathic physicians ~~osteopaths~~, chiropractors,
13 podiatrists, or dentists in the same or similar community who
14 perform similar treatments or procedures; or

15 (b) The patient would reasonably, under all the
16 surrounding circumstances, have undergone such treatment or
17 procedure had he been advised by the physician, osteopathic
18 physician ~~osteopath~~, chiropractor, podiatrist, or dentist in
19 accordance with the provisions of paragraph (a).

20 Section 63. Paragraphs (b) and (i) of subsection (1)
21 and paragraph (e) of subsection (2) of section 766.105,
22 Florida Statutes, 1996 Supplement, are amended to read:

23 766.105 Florida Patient's Compensation Fund.--

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

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

- 27 1. Hospital licensed under chapter 395.
- 28 2. Physician licensed, or physician assistant
29 certified, under chapter 458.
- 30 3. Osteopathic physician ~~Osteopath~~ licensed under
31 chapter 459.

- 1 4. Podiatrist licensed under chapter 461.
2 5. Health maintenance organization certificated under
3 part I of chapter 641.
4 6. Ambulatory surgical center licensed under chapter
5 395.
6 7. "Other medical facility" as defined in paragraph
7 (c).
8 8. Professional association, partnership, corporation,
9 joint venture, or other association by the individuals set
10 forth in subparagraphs 2., 3., and 4. for professional
11 activity.
12 (i) The term "house physician" means any physician,
13 osteopathic physician ~~osteopath~~, podiatrist, or dentist
14 except: a physician, osteopathic physician ~~osteopath~~,
15 podiatrist, or dentist with staff privileges at a hospital; a
16 physician, osteopathic physician ~~osteopath~~, podiatrist, or
17 dentist providing emergency room services; an
18 anesthesiologist, pathologist, or radiologist; or a physician,
19 osteopathic physician ~~osteopath~~, podiatrist, or dentist who
20 performs a service for a fee.
21 (2) COVERAGE.--
22 (e) The coverage afforded by the fund for a
23 participating hospital or ambulatory surgical center shall
24 apply to the officers, trustees, volunteer workers, trainees,
25 committee members (including physicians, osteopathic
26 physicians ~~osteopaths~~, podiatrists, and dentists), and
27 employees of the hospital or ambulatory surgical center, other
28 than employed physicians licensed under chapter 458, physician
29 assistants licensed under chapter 458, osteopathic physicians
30 ~~osteopaths~~ licensed under chapter 459, dentists licensed under
31 chapter 466, and podiatrists licensed under chapter 461.

1 However, the coverage afforded by the fund for a participating
 2 hospital shall apply to house physicians, interns, employed
 3 physician residents in a resident training program, or
 4 physicians performing purely administrative duties for the
 5 participating hospitals other than the treatment of patients.
 6 This coverage shall apply to the hospital or ambulatory
 7 surgical center and those included in this subsection as one
 8 health care provider.

9 Section 64. Subsection (2) of section 766.110, Florida
 10 Statutes, is amended to read:

11 766.110 Liability of health care facilities.--

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

1 insurance cost for this coverage: physicians licensed under
 2 chapter 458, osteopathic physicians ~~osteopaths~~ licensed under
 3 chapter 459, podiatrists licensed under chapter 461, dentists
 4 licensed under chapter 466, and nurses licensed under chapter
 5 464. The hospital may provide for a deductible amount to be
 6 applied against any individual health care provider found
 7 liable in a law suit in tort or for breach of contract. The
 8 legislative intent in providing for the deductible to be
 9 applied to individual health care providers found negligent or
 10 in breach of contract is to instill in each individual health
 11 care provider the incentive to avoid the risk of injury to the
 12 fullest extent and ensure that the citizens of this state
 13 receive the highest quality health care obtainable.

14 Section 65. Subsection (2) of section 817.234, Florida
 15 Statutes, is amended to read:

16 817.234 False and fraudulent insurance claims.--

17 (2) Any physician licensed under chapter 458,
 18 osteopathic physician ~~osteopath~~ licensed under chapter 459,
 19 chiropractor licensed under chapter 460, or other practitioner
 20 licensed under the laws of this state who knowingly and
 21 willfully assists, conspires with, or urges any insured party
 22 to fraudulently violate any of the provisions of this section
 23 or part XI of chapter 627, or any person who, due to such
 24 assistance, conspiracy, or urging by said physician,
 25 osteopathic physician ~~osteopath~~, chiropractor, or
 26 practitioner, knowingly and willfully benefits from the
 27 proceeds derived from the use of such fraud, is guilty of a
 28 felony of the third degree, punishable as provided in s.
 29 775.082, s. 775.083, or s. 775.084. In the event that a
 30 physician, osteopathic physician ~~osteopath~~, chiropractor, or
 31 practitioner is adjudicated guilty of a violation of this

1 section, the Board of Medicine as set forth in chapter 458,
2 the Board of Osteopathic Medicine as set forth in chapter 459,
3 the Board of Chiropractic as set forth in chapter 460, or
4 other appropriate licensing authority shall hold an
5 administrative hearing to consider the imposition of
6 administrative sanctions as provided by law against said
7 physician, osteopathic physician ~~osteopath~~, chiropractor, or
8 practitioner.

9 Section 66. Subsection (1) of section 945.047, Florida
10 Statutes, is amended to read:

11 945.047 Licensing requirements for physicians,
12 osteopathic physicians, and chiropractors employed by the
13 department.--

14 (1) The Department of Corrections shall employ only
15 physicians, osteopathic physicians, or chiropractic physicians
16 holding licenses in good standing to practice medicine in this
17 state, except that, by October 1, 1980, no more than 10
18 percent of the total number of such physicians employed by the
19 department may be exempted from the provisions of this
20 subsection. Each such exempted physician shall hold a valid
21 license to practice medicine, osteopathic medicine ~~osteopathy~~,
22 or chiropractic in another state and shall have been certified
23 by the appropriate board as eligible for admission for
24 examination in this state under chapter 458, chapter 459, or
25 chapter 460, as applicable. The appropriate board shall not
26 certify as eligible for admission for examination any person
27 who has been adjudged unqualified or guilty of any of the acts
28 enumerated in the disciplinary provisions contained in chapter
29 458, chapter 459, or chapter 460, as applicable.

30 Section 67. Subsection (1) of section 460.403, Florida
31 Statutes, 1996 Supplement, is amended to read:

1 460.403 Definitions.--As used in this chapter, the
2 term:

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

5 Section 68. Paragraphs (bb) and (cc) of subsection (1)
6 of section 460.413, Florida Statutes, 1996 Supplement, are
7 repealed, paragraphs (q) and (gg) of subsection (1) and
8 subsection (2) of that section are amended, and subsections
9 (6) and (7) are added to that section, to read:

10 460.413 Grounds for disciplinary action; action by the
11 board.--

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

15 (q) Being unable to practice chiropractic with
16 reasonable skill and safety to patients by reason of illness
17 or use of alcohol, drugs, narcotics, chemicals, or any other
18 type of material or as a result of any mental or physical
19 condition. In enforcing this paragraph, upon a finding by the
20 secretary of the department, or his or her designee, or the
21 probable cause panel of the board that probable cause exists
22 to believe that the licensee is unable to practice the
23 profession because of reasons stated in this paragraph, the
24 department shall have the authority to compel a licensee to
25 submit to a mental or physical examination by a physician
26 designated by the department. If the licensee refuses to
27 comply with the department's order, the department may file a
28 petition for enforcement in the circuit court of the circuit
29 in which the licensee resides or does business. The
30 department shall be entitled to the summary procedure provided
31 in s. 51.011. The record of proceedings to obtain a compelled

1 mental or physical examination shall not be used against a
2 licensee in any other proceedings. A chiropractic physician
3 affected under this paragraph shall at reasonable intervals be
4 afforded an opportunity to demonstrate that he can resume the
5 competent practice of chiropractic with reasonable skill and
6 safety to patients.

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

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

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

24 (b) Revocation or suspension of a license.

25 (c) Restriction of practice.

26 (d) Imposition of an administrative fine not to exceed
27 \$2,000 for each count or separate offense.

28 (e) Issuance of a reprimand.

29 (f) Placement of the chiropractic physician on
30 probation for a period of time and subject to such conditions
31 as the board may specify, including requiring the chiropractic

1 physician to submit to treatment, to attend continuing
2 education courses, to submit to reexamination, or to work
3 under the supervision of another chiropractic physician.

4 (g) Imposition of costs of the investigation and
5 prosecution.

6 (h) Requirement that the chiropractic physician
7 undergo remedial education.

8 (i) Issuance of a letter of concern.

9 (j) Corrective action.

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

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

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

28 (7) If any chiropractic physician is guilty of such
29 unprofessional conduct, negligence, or mental or physical
30 incapacity or impairment that the department determines that
31 the chiropractic physician is unable to practice with

1 reasonable skill and safety and presents a danger to patients,
2 the department shall be authorized to maintain an action in
3 circuit court enjoining such chiropractic physician from
4 providing medical services to the public until the
5 chiropractic physician demonstrates the ability to practice
6 with reasonable skill and safety and without danger to
7 patients.

8 Section 69. For the purpose of incorporating the
9 amendment to section 460.413, Florida Statutes, 1996
10 Supplement, in a reference thereto, subsection (9) of section
11 320.0848, Florida Statutes, is reenacted to read:

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

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

19 Section 70. For the purpose of incorporating the
20 amendment to section 460.413, Florida Statutes, 1996
21 Supplement, in a reference thereto, paragraph (g) of
22 subsection (4) of section 455.236, Florida Statutes, is
23 reenacted to read:

24 455.236 Financial arrangements between referring
25 health care providers and providers of health care services.--

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

28 (g) A violation of this section by a health care
29 provider shall constitute grounds for disciplinary action to
30 be taken by the applicable board pursuant to s. 458.331(2), s.
31 459.015(2), s. 460.413(2), s. 461.013(2), s. 463.016(2), or s.

1 466.028(2). Any hospital licensed under chapter 395 found in
2 violation of this section shall be subject to the rules
3 adopted by the Department of Health and Rehabilitative
4 Services pursuant to s. 395.0185(2).

5 Section 71. For the purpose of incorporating the
6 amendment to section 460.413, Florida Statutes, 1996
7 Supplement, in a reference thereto, subsection (2) of section
8 766.111, Florida Statutes, is reenacted to read:

9 766.111 Engaging in unnecessary diagnostic testing;
10 penalties.--

11 (2) A violation of this section shall be grounds for
12 disciplinary action pursuant to s. 458.331, s. 459.015, s.
13 460.413, s. 461.013, or s. 466.028, as applicable.

14 Section 72. Paragraph (a) of subsection (8) of section
15 460.4165, Florida Statutes, is amended to read:

16 460.4165 Chiropractic physician's assistants.--

17 (8) FEES.--

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

22 Section 73. Subsection (1) of section 461.003, Florida
23 Statutes, is amended to read:

24 461.003 Definitions.--As used in this chapter:

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

27 Section 74. Paragraph (aa) of subsection (1) of
28 section 461.013, Florida Statutes, is amended to read:

29 461.013 Grounds for disciplinary action; action by the
30 board; investigations by department.--

31

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

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

14 Section 75. Section 461.018, Florida Statutes, 1996
15 Supplement, is amended to read:

16 461.018 Limited scope of practice; area of
17 need.--Those persons holding valid certificates on October 1,
18 1991, who were certified pursuant to chapters 88-205 and
19 88-392, Laws of Florida, and who have been practicing under a
20 board-approved protocol for at least 2 years are eligible to
21 receive a podiatry license to practice without supervision
22 under their present limited scope of practice of the
23 nonsurgical treatment of corns, calluses, and ingrown toenails
24 in a specially designated area of need as provided by rule of
25 the board.

26 Section 76. Subsection (1) and paragraph (c) of
27 subsection (3) of section 464.003, Florida Statutes, 1996
28 Supplement, are amended to read:

29 464.003 Definitions.--As used in this chapter:

30 (1) "Department Agency" means the Department of Agency
31 ~~for Health Care Administration.~~

1 (3)
 2 (c) "Advanced or specialized nursing practice" means,
 3 in addition to the practice of professional nursing, the
 4 performance of advanced-level nursing acts approved by the
 5 board which, by virtue of postbasic specialized education,
 6 training, and experience, are proper to be performed by an
 7 advanced registered nurse practitioner. Within the context of
 8 advanced or specialized nursing practice, the advanced
 9 registered nurse practitioner may perform acts of nursing
 10 diagnosis and nursing treatment of alterations of the health
 11 status. The advanced registered nurse practitioner may also
 12 perform acts of medical diagnosis and treatment, prescription,
 13 and operation which are identified and approved by a joint
 14 committee composed of three members appointed by the Board of
 15 Nursing, two of whom shall be advanced registered nurse
 16 practitioners; three members appointed by the Board of
 17 Medicine, two of whom shall have had work experience with
 18 advanced registered nurse practitioners; and the secretary
 19 ~~director~~ of the department ~~agency~~ or the secretary's
 20 ~~director's~~ designee. Each committee member appointed by a
 21 board shall be appointed to a term of 4 years unless a shorter
 22 term is required to establish or maintain staggered terms. The
 23 Board of Nursing shall adopt rules authorizing the performance
 24 of any such acts approved by the joint committee. Unless
 25 otherwise specified by the joint committee, such acts shall be
 26 performed under the general supervision of a practitioner
 27 licensed under chapter 458, chapter 459, or chapter 466 within
 28 the framework of standing protocols which identify the medical
 29 acts to be performed and the conditions for their performance.
 30 The department ~~agency~~ may, by rule, require that a copy of the
 31

1 protocol be filed with the department ~~agency~~ along with the
2 notice required by s. 458.348.

3 Section 77. Subsection (1) of section 464.004, Florida
4 Statutes, 1996 Supplement, is amended to read:

5 464.004 Board of Nursing; membership; appointment;
6 terms.--

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

10 Section 78. Subsection (1) of section 464.008, Florida
11 Statutes, 1996 Supplement, is amended to read:

12 464.008 Licensure by examination.--

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

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

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

27 (c) Is in good mental and physical health, is a
28 recipient of a high school diploma or the equivalent, and has
29 completed the requirements for graduation from an approved
30 program for the preparation of registered nurses or licensed
31 practical nurses, whichever is applicable. Courses

1 successfully completed in a professional nursing program which
2 are at least equivalent to a practical nursing program may be
3 used to satisfy the education requirements for licensure as a
4 licensed practical nurse.

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

8 Section 79. Subsections (1) and (3) of section
9 464.009, Florida Statutes, 1996 Supplement, are amended to
10 read:

11 464.009 Licensure by endorsement.--

12 (1) The department ~~agency~~ shall issue the appropriate
13 license by endorsement to practice professional or practical
14 nursing to an applicant who, upon applying to the department
15 ~~agency~~ and remitting a fee set by the board not to exceed
16 \$100, demonstrates to the board that he:

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

23 (b) Meets the qualifications for licensure in s.
24 464.008 and has successfully completed a state, regional, or
25 national examination which is substantially equivalent to or
26 more stringent than the examination given by the department
27 ~~agency~~.

28 (3) The department ~~agency~~ shall not issue a license by
29 endorsement to any applicant who is under investigation in
30 another state for an act which would constitute a violation of
31

1 this chapter until such time as the investigation is complete,
2 at which time the provisions of s. 464.018 shall apply.

3 Section 80. Subsections (1) and (5) of section
4 464.012, Florida Statutes, 1996 Supplement, are amended to
5 read:

6 464.012 Certification of advanced registered nurse
7 practitioners; fees.--

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

13 (a) Satisfactory completion of a formal postbasic
14 educational program of at least one academic year, the primary
15 purpose of which is to prepare nurses for advanced or
16 specialized practice.

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

25 (c) Graduation from a program leading to a master's
26 degree in a nursing clinical specialty area with preparation
27 in specialized practitioner skills. For applicants graduating
28 on or after October 1, 1998, graduation from a master's degree
29 program shall be required for initial certification as a nurse
30 practitioner under paragraph (4)(c). For applicants
31 graduating on or after October 1, 2001, graduation from a

1 master's degree program shall be required for initial
2 certification as a registered nurse anesthetist under
3 paragraph (4)(a).

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

11 Section 81. Subsections (1) and (2) of section
12 464.013, Florida Statutes, 1996 Supplement, are amended to
13 read:

14 464.013 Renewal of license or certificate.--

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

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

19 Section 82. Subsection (2) of section 464.014, Florida
20 Statutes, 1996 Supplement, is amended to read:

21 464.014 Inactive status.--

22 (2) The department ~~agency~~ may not reactivate a license
23 unless the inactive or delinquent licensee has paid any
24 applicable biennial renewal or delinquency fee, or both, and a
25 reactivation fee.

26 Section 83. Paragraphs (a), (c), (j), (k), (l), and
27 (m) of subsection (1) and paragraph (a) of subsection (2) of
28 section 464.018, Florida Statutes, 1996 Supplement, are
29 amended to read:

30 464.018 Disciplinary actions.--

31

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

3 (a) Procuring, attempting to procure, or renewing a
4 license to practice nursing by bribery, by knowing
5 misrepresentations, or through an error of the department
6 ~~agency~~ or the board.

7 (c) Being convicted or found guilty of, or entering a
8 plea of nolo contendere to, regardless of adjudication, ~~of~~ a
9 crime in any jurisdiction which directly relates to the
10 practice of nursing or to the ability to practice nursing.

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

1 afforded an opportunity to demonstrate that he can resume the
2 competent practice of nursing with reasonable skill and safety
3 to patients.

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

12 (l) Knowingly violating any provision of this chapter,
13 a rule of the board or the department ~~agency~~, or a lawful
14 order of the board or department ~~agency~~ previously entered in
15 a disciplinary proceeding or failing to comply with a lawfully
16 issued subpoena of the department ~~agency~~.

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

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

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

1 Section 84. Subsections (1), (3), and (4) of section
2 464.019, Florida Statutes, 1996 Supplement, are amended to
3 read:

4 464.019 Approval of nursing programs.--

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

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

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

26 Section 85. Section 464.0205, Florida Statutes, is
27 created to read:

28 464.0205 Retired volunteer nurse certificate.--

29 (1) Any retired practical or registered nurse desiring
30 to serve indigent, underserved, or critical need populations
31

1 in this state may apply to the department for a retired
2 volunteer nurse certificate by providing:

3 (a) A complete application.

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

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

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

14 (2) All related administrative costs shall be borne by
15 the applicant.

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

20 (4) A retired volunteer nurse receiving certification
21 from the board shall:

22 (a) Work under the direct supervision of the director
23 of a county health department, a physician working under a
24 limited license issued pursuant to s. 458.317 or s. 459.0075,
25 a physician licensed under chapter 458 or chapter 459, an
26 advanced registered nurse practitioner certified under s.
27 464.012, or a registered nurse licensed under s. 464.008 or s.
28 464.009.

29 (b) Comply with the minimum standards of practice for
30 nurses and be subject to disciplinary action for violations of
31 s. 464.018, except that the scope of practice for certified

1 volunteers shall be limited to primary and preventive health
2 care, or as further defined by board rule.

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

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

8 (5) A retired volunteer nurse receiving certification
9 from the board shall not:

10 (a) Administer controlled substances.

11 (b) Supervise other nurses.

12 (c) Receive monetary compensation.

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

1 nurses, and the training or skills validation for such
2 volunteer nurses.

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

10 Section 86. Subsection (12) is added to section
11 464.022, Florida Statutes, to read:

12 464.022 Exceptions.--No provision of this chapter
13 shall be construed to prohibit:

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

24 Section 87. Subsections (4) and (10) of section
25 465.003, Florida Statutes, are amended to read:

26 465.003 Definitions.--As used in this chapter, the
27 term:

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

30
31

1 (10)(a) "Pharmacy" includes a community pharmacy, an
2 institutional pharmacy, a nuclear pharmacy, and a special
3 pharmacy.

4 1.(a) The term "community pharmacy" includes every
5 location where medicinal drugs are compounded, dispensed,
6 stored, or sold or where prescriptions are filled or dispensed
7 on an outpatient basis.

8 2.(b) The term "institutional pharmacy" includes every
9 location in a hospital, clinic, nursing home, dispensary,
10 sanitarium, extended care facility, or other facility,
11 hereinafter referred to as "health care institutions," where
12 medicinal drugs are compounded, dispensed, stored, or sold.

13 3.(c) The term "nuclear pharmacy" includes every
14 location where radioactive drugs and chemicals within the
15 classification of medicinal drugs are compounded, dispensed,
16 stored, or sold. The term "nuclear pharmacy" does not include
17 hospitals licensed under chapter 395 or the nuclear medicine
18 facilities of such hospitals.

19 4.(d) The term "special pharmacy" includes every
20 location where medicinal drugs are compounded, dispensed,
21 stored, or sold if such locations are not otherwise defined in
22 this subsection.

23 (b) The pharmacy department of any permittee shall be
24 considered closed whenever a Florida licensed pharmacist is
25 not present and on duty. The term "not present and on duty"
26 shall not be construed to prevent a pharmacist from exiting
27 the prescription department for the purposes of consulting or
28 responding to inquiries or providing assistance to patients or
29 customers, attending to personal hygiene needs, or performing
30 any other function for which the pharmacist is responsible,
31 provided that such activities are conducted in a manner

1 consistent with the pharmacist's responsibility to provide
2 pharmacy services.

3 Section 88. 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 currently engaged in the
15 practice of pharmacy in a community pharmacy, one must be
16 currently engaged in the practice of pharmacy in a Class II
17 institutional pharmacy or a Modified Class II institutional
18 pharmacy, and five shall be pharmacists licensed in this state
19 irrespective of practice setting. The remaining two members
20 must be residents of the state who have never been licensed as
21 pharmacists and who are in no way connected with the practice
22 of the profession of pharmacy. No person may be appointed as
23 a consumer ~~lay~~ member who is in any way connected with a drug
24 manufacturer or wholesaler. At least one member of the board
25 must be 60 years of age or older.

26 Section 89. Section 465.0125, Florida Statutes, is
27 amended to read:

28 465.0125 Consultant pharmacist license; application,
29 renewal, fees; responsibilities; rules.--

30 (1) The department shall issue or renew a consultant
31 pharmacist license upon receipt of an initial or renewal

1 application which conforms to the requirements for consultant
 2 pharmacist initial licensure or renewal as promulgated by the
 3 board by rule and a fee set by the board not to exceed \$250.
 4 The consultant pharmacist shall be responsible for maintaining
 5 all drug records required by law and for establishing drug
 6 handling procedures for the safe handling and storage of
 7 drugs. The consultant pharmacist may also be responsible for
 8 ordering and evaluating any laboratory or clinical testing
 9 when, in the judgment of the consultant pharmacist, such
 10 activity is necessary for the proper performance of the
 11 consultant pharmacist's responsibilities. Such laboratory or
 12 clinical testing may be ordered only with regard to patients
 13 residing in a nursing home facility, and then only when
 14 authorized by the medical director of the nursing home
 15 facility. The consultant pharmacist must have completed such
 16 additional training and demonstrate such additional
 17 qualifications in the practice of institutional pharmacy as
 18 shall be required by the board of ~~Pharmacy~~ in addition to
 19 licensure as a registered pharmacist. ~~The board shall~~
 20 ~~promulgate rules necessary to implement and administer this~~
 21 ~~section.~~

22 (2) Notwithstanding the provisions of subsection (1),
 23 a consultant pharmacist or a doctor of pharmacy licensed in
 24 this state may also be responsible for ordering and evaluating
 25 any laboratory or clinical testing for persons under the care
 26 of a licensed home health agency when, in the judgment of the
 27 consultant pharmacist or doctor of pharmacy, such activity is
 28 necessary for the proper performance of his or her
 29 responsibilities and only when authorized by a practitioner
 30 licensed under chapter 458, chapter 459, chapter 461, or
 31 chapter 466. In order for the consultant pharmacist or doctor

1 of pharmacy to qualify and accept this authority, he or she
2 must receive 3 hours of continuing education relating to
3 laboratory and clinical testing as established by the board.

4 (3) The board shall promulgate rules necessary to
5 implement and administer this section.

6 Section 90. Subsection (1) of section 465.0156,
7 Florida Statutes, is amended to read:

8 465.0156 Registration of nonresident pharmacies.--

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

16 (a) That it maintains at all times a valid, unexpired
17 license, permit, or registration to operate the pharmacy in
18 compliance with the laws of the state in which the dispensing
19 facility is located and from which the medicinal drugs shall
20 be dispensed;

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

29 (c) That it complies with all lawful directions and
30 requests for information from the regulatory or licensing
31 agency of all states in which it is licensed as well as with

1 all requests for information made by the board pursuant to
2 this section. It shall respond directly to all communications
3 from the board concerning emergency circumstances arising from
4 errors in the dispensing of medicinal drugs to the residents
5 of this state;

6 (d) That it maintains its records of medicinal drugs
7 dispensed to patients in this state so that the records are
8 readily retrievable from the other business records of the
9 pharmacy and from the records of other medicinal drugs
10 dispensed; and

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

18 Section 91. Paragraph (o) of subsection (1) and
19 paragraph (e) of subsection (2) of section 465.016, Florida
20 Statutes, are amended to read:

21 465.016 Disciplinary actions.--

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

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

1 under part I of chapter 641, in which the pharmacist also
2 provides 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 (e) Placement of the pharmacist on probation for a
7 period of time and subject to such conditions as the board may
8 specify, including, but not limited to, requiring the
9 pharmacist to submit to treatment, to attend continuing
10 education courses, to submit to reexamination, or to work
11 under the supervision of another pharmacist.

12 Section 92. Section 465.0196, Florida Statutes, is
13 amended to read:

14 465.0196 Special pharmacy permits.--Any person
15 desiring a permit to operate a pharmacy which does not fall
16 within the definitions set forth in s. 465.003(10)(a)1.,
17 2.(b), and 3.(c) shall apply to the department for a special
18 pharmacy permit. If the board certifies that the application
19 complies with the applicable laws and rules of the board
20 governing the practice of the profession of pharmacy, the
21 department shall issue the permit. No permit shall be issued
22 unless a licensed pharmacist is designated to undertake the
23 professional supervision of the compounding and dispensing of
24 all drugs dispensed by the pharmacy. The licensed pharmacist
25 shall be responsible for maintaining all drug records and for
26 providing for the security of the area in the facility in
27 which the compounding, storing, and dispensing of medicinal
28 drugs occurs. The permittee shall notify the department
29 within 10 days of any change of the licensed pharmacist
30 responsible for such duties.

31

1 Section 93. Section 465.026, Florida Statutes, is
2 amended to read:

3 465.026 Filling of certain prescriptions.--Nothing
4 contained in this chapter shall be construed to prohibit a
5 pharmacist licensed in this state from filling or refilling a
6 valid prescription which is on file in a pharmacy located in
7 this state or in another state and has been transferred from
8 one pharmacy to another by any means, including any electronic
9 means ~~transfer by way of electronic data processing equipment,~~
10 under the following conditions:

11 (1) Prior to dispensing any transferred ~~pursuant to~~
12 ~~any such~~ prescription, the dispensing pharmacist must, either
13 verbally or by any electronic means, do all of the following
14 ~~shall:~~

15 (a) Advise the patient that the prescription on file
16 at the ~~such~~ other pharmacy must be canceled before it may be
17 filled or refilled ~~he will be able to fill or refill it.~~

18 (b) Determine ~~from the requested pharmacist~~ that the
19 prescription is valid and on file at the ~~such~~ other pharmacy
20 and that the ~~such~~ prescription may be filled or refilled, as
21 requested, in accordance with the prescriber's intent
22 expressed on the ~~such~~ prescription.

23 (c) Notify the pharmacist or ~~at the~~ pharmacy where the
24 prescription is on file that the prescription must be
25 canceled.

26 (d) Record in writing, or by any electronic means, ~~or~~
27 ~~cause to be recorded by data processing equipment~~ the
28 prescription order, the name of the pharmacy at which the
29 prescription was on file, the prescription number, the name of
30 the drug and the original amount dispensed, the date of
31

1 original dispensing, and the number of remaining authorized
2 refills.

3 (e) Obtain the consent of the prescriber to the
4 refilling of the prescription when the prescription, in the
5 dispensing pharmacist's professional judgment of the
6 ~~dispensing pharmacist~~, so requires. Any interference with the
7 professional judgment of the dispensing pharmacist by any
8 pharmacist or pharmacy permittee, or its agents, or employees,
9 shall be grounds for discipline ~~revocation or suspension of~~
10 ~~the permit issued to the pharmacy.~~

11 (2) Upon receipt of a ~~request for prescription~~
12 transfer request information set forth in paragraph (1)(d), if
13 the ~~requested~~ pharmacist is satisfied in his professional
14 judgment that the such request is valid, or if the request has
15 been validated by any electronic means, the ~~requested~~
16 pharmacist or pharmacy must do all of the following shall:

17 (a) Transfer the information required by paragraph
18 ~~(1)(d) Provide such information~~ accurately and completely.

19 (b) Record on the prescription, or by any electronic
20 means, ~~or record with data processing equipment~~ the name of
21 the requesting pharmacy and pharmacist and the date of
22 request.

23 (c) Cancel the prescription on file by electronic
24 means or by recording the word "void" on the prescription
25 record. No further prescription information shall be given or
26 medication dispensed pursuant to the said original
27 prescription.

28 (3) If a transferred prescription is not dispensed
29 within a reasonable time, the pharmacist shall, by any means,
30 so notify the transferring pharmacy. ~~In the event that, after~~
31 ~~the information set forth in paragraph (1)(d) has been~~

1 ~~provided, a prescription is not dispensed by the requesting~~
2 ~~pharmacist, then such pharmacist shall provide notice of this~~
3 ~~fact to the pharmacy from which said information was obtained;~~
4 Such notice shall serve to revalidate the canceled ~~voided~~
5 prescription. The pharmacist who has served such notice shall
6 then cancel the prescription in the same manner as set forth
7 in paragraph (2)(c).

8 (4) In the case of a prescription to be transferred
9 from or to a pharmacy located in another ~~outside of the~~ state,
10 it shall be the responsibility of the pharmacist or pharmacy
11 located in the State of Florida to verify, whether by
12 electronic means or otherwise, assure that the person or
13 entity involved in the ~~performing the act of transfer~~ is a
14 licensed pharmacist or pharmacy in the other state ~~from~~
15 ~~outside the state is a practitioner licensed to practice~~
16 ~~pharmacy in the jurisdiction wherein the non-Florida pharmacy~~
17 ~~involved is located.~~

18 (5) Electronic transfers of prescriptions are
19 permitted regardless of whether the transferor or transferee
20 pharmacy is open for business.

21 ~~(6)(5)~~ The transfer of a prescription for medicinal
22 drugs listed in Schedules III, IV, and V appearing in chapter
23 893 for the purpose of refill dispensing is permissible,
24 ~~between pharmacies on a one-time basis~~ subject to the
25 requirements of this section and federal law. Compliance with
26 federal law shall be deemed compliance with the requirements
27 of this section.

28 Section 94. Section 465.035, Florida Statutes, is
29 amended to read:

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

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

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

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

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

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

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

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

27 Section 95. Subsection (1) of section 465.186, Florida
28 Statutes, is amended to read:

29 465.186 Pharmacist's order for medicinal drugs;
30 dispensing procedure; development of formulary.--

31

1 (1) There is hereby created a committee composed of
2 two members of the Board of Medicine licensed under chapter
3 458 chosen by said board, one member of the Board of
4 Osteopathic Medicine licensed under chapter 459 chosen by said
5 board, three members of the Board of Pharmacy licensed under
6 this chapter and chosen by said board, and one additional
7 person with a background in health care or pharmacology chosen
8 by the committee. The committee shall establish a formulary
9 of medicinal drug products and dispensing procedures which
10 shall be used by a pharmacist when ordering and dispensing
11 such drug products to the public. Dispensing procedures may
12 include matters related to reception of patient, description
13 of his or her condition, patient interview, patient physician
14 referral, product selection, and dispensing and use
15 limitations. In developing the formulary of medicinal drug
16 products, the committee may include products falling within
17 the following categories:

18 (a) Any medicinal drug of single or multiple active
19 ingredients in any strengths when such active ingredients have
20 been approved individually or in combination for
21 over-the-counter sale by the United States Food and Drug
22 Administration.

23 (b) Any medicinal drug recommended by the United
24 States Food and Drug Administration Advisory Panel for
25 transfer to over-the-counter status pending approval by the
26 United States Food and Drug Administration.

27 (c) Any medicinal drug containing any antihistamine or
28 decongestant as a single active ingredient or in combination.

29 (d) Any medicinal drug containing fluoride in any
30 strength.
31

1 (e) Any medicinal drug containing lindane in any
2 strength.

3 (f) Any over-the-counter proprietary drug under
4 federal law that has been approved for reimbursement by the
5 Florida Medicaid Program.

6 (g) Any topical anti-infectives excluding eye and ear
7 topical anti-infectives.

8
9 However, any drug which is sold as an over-the-counter
10 proprietary drug under federal law shall not be included in
11 the formulary or otherwise affected by this section.

12 Section 96. Paragraph (iii) is added to subsection (4)
13 of section 893.03, Florida Statutes, 1996 Supplement, to read:

14 893.03 Standards and schedules.--The substances
15 enumerated in this section are controlled by this chapter.
16 The controlled substances listed or to be listed in Schedules
17 I, II, III, IV, and V are included by whatever official,
18 common, usual, chemical, or trade name designated. The
19 provisions of this section shall not be construed to include
20 within any of the schedules contained in this section any
21 excluded drugs listed within the purview of 21 C.F.R. s.
22 1308.22, styled "Excluded Substances"; 21 C.F.R. s. 1308.24,
23 styled "Exempt Chemical Preparations"; 21 C.F.R. s. 1308.32,
24 styled "Exempted Prescription Products"; or 21 C.F.R. s.
25 1308.34, styled "Exempt Anabolic Steroid Products."

26 (4) SCHEDULE IV.--A substance in Schedule IV has a low
27 potential for abuse relative to the substances in Schedule III
28 and has a currently accepted medical use in treatment in the
29 United States, and abuse of the substance may lead to limited
30 physical or psychological dependence relative to the
31 substances in Schedule III. Unless specifically excepted or

1 unless listed in another schedule, any material, compound,
2 mixture, or preparation which contains any quantity of the
3 following substances, including its salts, isomers, and salts
4 of isomers whenever the existence of such salts, isomers, and
5 salts of isomers is possible within the specific chemical
6 designation, are controlled in Schedule IV:

7 (iii) Butorphanol tartrate.

8 Section 97. For the purpose of incorporating the
9 amendment to section 893.03, Florida Statutes, 1996
10 Supplement, in references thereto, subsection (5) of section
11 316.193, Florida Statutes, 1996 Supplement, is reenacted to
12 read:

13 316.193 Driving under the influence; penalties.--

14 (5) The court shall place any offender convicted of
15 violating this section on monthly reporting probation and
16 shall require attendance at a substance abuse course licensed
17 by the department; and the agency conducting the course may
18 refer the offender to an authorized service provider for
19 substance abuse evaluation and treatment, in addition to any
20 sentence or fine imposed under this section. The offender
21 shall assume reasonable costs for such education, evaluation,
22 and treatment, with completion of all such education,
23 evaluation, and treatment being a condition of reporting
24 probation. Treatment resulting from a psychosocial evaluation
25 may not be waived without a supporting psychosocial evaluation
26 conducted by an agency appointed by the court and with access
27 to the original evaluation. The offender shall bear the cost
28 of this procedure. The term "substance abuse" means the abuse
29 of alcohol or any substance named or described in Schedules I
30 through V of s. 893.03. If an offender referred to treatment
31 under this subsection fails to report for or complete such

1 treatment or fails to complete the substance abuse education
 2 course, the DUI program shall notify the court and the
 3 department of the failure. Upon receipt of the notice, the
 4 department shall cancel the offender's driving privilege. The
 5 department shall reinstate the driving privilege when the
 6 offender completes the substance abuse education course or
 7 enters treatment required under this subsection. The
 8 organization that conducts the substance abuse education and
 9 evaluation may not provide required substance abuse treatment
 10 unless a waiver has been granted to that organization by the
 11 department. A waiver may be granted only if the department
 12 determines, in accordance with its rules, that the service
 13 provider that conducts the substance abuse education and
 14 evaluation is the most appropriate service provider and is
 15 licensed under chapter 397 or is exempt from such licensure.
 16 All DUI treatment programs providing treatment services on
 17 January 1, 1994, shall be allowed to continue to provide such
 18 services until the department determines whether a waiver
 19 should be granted. A statistical referral report shall be
 20 submitted quarterly to the department by each organization
 21 authorized to provide services under this section.

22 Section 98. For the purpose of incorporating the
 23 amendment to section 893.03, Florida Statutes, 1996
 24 Supplement, in references thereto, subsection (5) of section
 25 327.35, Florida Statutes, 1996 Supplement, is reenacted to
 26 read:

27 327.35 Boating under the influence; penalties.--

28 (5) In addition to any sentence or fine, the court
 29 shall place any offender convicted of violating this section
 30 on monthly reporting probation and shall require attendance at
 31 a substance abuse course specified by the court; and the

1 agency conducting the course may refer the offender to an
2 authorized service provider for substance abuse evaluation and
3 treatment, in addition to any sentence or fine imposed under
4 this section. The offender shall assume reasonable costs for
5 such education, evaluation, and treatment, with completion of
6 all such education, evaluation, and treatment being a
7 condition of reporting probation. Treatment resulting from a
8 psychosocial evaluation may not be waived without a supporting
9 psychosocial evaluation conducted by an agency appointed by
10 the court and with access to the original evaluation. The
11 offender shall bear the cost of this procedure. The term
12 "substance abuse" means the abuse of alcohol or any substance
13 named or described in Schedules I through V of s. 893.03.

14 Section 99. For the purpose of incorporating the
15 amendment to section 893.03, Florida Statutes, 1996
16 Supplement, in references thereto, paragraph (b) of subsection
17 (11) of section 440.102, Florida Statutes, 1996 Supplement, is
18 reenacted to read:

19 440.102 Drug-free workplace program requirements.--The
20 following provisions apply to a drug-free workplace program
21 implemented pursuant to law or to rules adopted by the Agency
22 for Health Care Administration:

23 (11) PUBLIC EMPLOYEES IN SAFETY-SENSITIVE OR
24 SPECIAL-RISK POSITIONS.--

25 (b) An employee who is employed by a public employer
26 in a special-risk position may be discharged or disciplined by
27 a public employer for the first positive confirmed test result
28 if the drug confirmed is an illicit drug under s. 893.03. A
29 special-risk employee who is participating in an employee
30 assistance program or drug rehabilitation program may not be
31 allowed to continue to work in any special-risk or

1 safety-sensitive position of the public employer, but may be
2 assigned to a position other than a safety-sensitive position
3 or placed on leave while the employee is participating in the
4 program. However, the employee shall be permitted to use any
5 accumulated annual leave credits before leave may be ordered
6 without pay.

7 Section 100. For the purpose of incorporating the
8 amendment to section 893.03, Florida Statutes, 1996
9 Supplement, in references thereto, subsection (3) of section
10 458.326, Florida Statutes, is reenacted to read:

11 458.326 Intractable pain; authorized treatment.--

12 (3) Notwithstanding any other provision of law, a
13 physician may prescribe or administer any controlled substance
14 under Schedules II-V, as provided for in s. 893.03, to a
15 person for the treatment of intractable pain, provided the
16 physician does so in accordance with that level of care,
17 skill, and treatment recognized by a reasonably prudent
18 physician under similar conditions and circumstances.

19 Section 101. For the purpose of incorporating the
20 amendment to section 893.03, Florida Statutes, 1996
21 Supplement, in references thereto, subsection (1) of section
22 817.563, Florida Statutes, is reenacted to read:

23 817.563 Controlled substance named or described in s.
24 893.03; sale of substance in lieu thereof.--It is unlawful for
25 any person to agree, consent, or in any manner offer to
26 unlawfully sell to any person a controlled substance named or
27 described in s. 893.03 and then sell to such person any other
28 substance in lieu of such controlled substance. Any person who
29 violates this section with respect to:

30 (1) A controlled substance named or described in s.
31 893.03(1), (2), (3), or (4) is guilty of a felony of the third

1 degree, punishable as provided in s. 775.082, s. 775.083, or
2 s. 775.084.

3 Section 102. For the purpose of incorporating the
4 amendment to section 893.03, Florida Statutes, 1996
5 Supplement, in references thereto, section 831.31, Florida
6 Statutes, is reenacted to read:

7 831.31 Counterfeit controlled substance; sale,
8 manufacture, delivery, or possession with intent to sell,
9 manufacture, or deliver.--

10 (1) It is unlawful for any person to sell,
11 manufacture, or deliver, or to possess with intent to sell,
12 manufacture, or deliver, a counterfeit controlled substance.
13 Any person who violates this subsection with respect to:

14 (a) A controlled substance named or described in s.
15 893.03(1), (2), (3), or (4) is guilty of a felony of the third
16 degree, punishable as provided in s. 775.082, s. 775.083, or
17 s. 775.084.

18 (2) For purposes of this section, "counterfeit
19 controlled substance" means:

20 (a) A controlled substance named or described in s.
21 893.03 which, or the container or labeling of which, without
22 authorization bears the trademark, trade name, or other
23 identifying mark, imprint, or number, or any likeness thereof,
24 of a manufacturer other than the person who in fact
25 manufactured the controlled substance; or

26 (b) Any substance which is falsely identified as a
27 controlled substance named or described in s. 893.03.

28 Section 103. For the purpose of incorporating the
29 amendment to section 893.03, Florida Statutes, 1996
30 Supplement, in references thereto, paragraph (d) of subsection
31

1 (1) of section 856.015, Florida Statutes, is reenacted to
2 read:

3 856.015 Open house parties.--

4 (1) Definitions.--As used in this section:

5 (d) "Drug" means a controlled substance, as that term
6 is defined in ss. 893.02(4) and 893.03.

7 Section 104. For the purpose of incorporating the
8 amendment to section 893.03, Florida Statutes, 1996
9 Supplement, in references thereto, subsection (4) of section
10 893.02, Florida Statutes, is reenacted to read:

11 893.02 Definitions.--The following words and phrases
12 as used in this chapter shall have the following meanings,
13 unless the context otherwise requires:

14 (4) "Controlled substance" means any substance named
15 or described in Schedules I through V of s. 893.03. Laws
16 controlling the manufacture, distribution, preparation,
17 dispensing, or administration of such substances are drug
18 abuse laws.

19 Section 105. For the purpose of incorporating the
20 amendment to section 893.03, Florida Statutes, 1996
21 Supplement, in references thereto, paragraph (b) of subsection
22 (1) of section 893.08, Florida Statutes, is reenacted to read:

23 893.08 Exceptions.--

24 (1) The following may be distributed at retail without
25 a prescription, but only by a registered pharmacist:

26 (b) Any compound, mixture, or preparation containing
27 any depressant or stimulant substance described in s.
28 893.03(2)(a) or (c) except any amphetamine drug or
29 sympathomimetic amine drug or compound designated as a
30 Schedule II controlled substance pursuant to this chapter; in
31 s. 893.03(3)(a); or in Schedule IV, if:

1 1. The compound, mixture, or preparation contains one
2 or more active medicinal ingredients not having depressant or
3 stimulant effect on the central nervous system, and

4 2. Such ingredients are included therein in such
5 combinations, quantity, proportion, or concentration as to
6 vitiate the potential for abuse of the controlled substances
7 which do have a depressant or stimulant effect on the central
8 nervous system.

9 Section 106. For the purpose of incorporating the
10 amendment to section 893.03, Florida Statutes, 1996
11 Supplement, in references thereto, paragraphs (a), (c), and
12 (d) of subsection (1), paragraph (a) of subsection (2),
13 paragraph (b) of subsection (4), and paragraph (b) of
14 subsection (5) of section 893.13, Florida Statutes, 1996
15 Supplement, are reenacted to read:

16 893.13 Prohibited acts; penalties.--

17 (1)(a) Except as authorized by this chapter and
18 chapter 499, it is unlawful for any person to sell,
19 manufacture, or deliver, or possess with intent to sell,
20 manufacture, or deliver, a controlled substance. Any person
21 who violates this provision with respect to:

22 1. A controlled substance named or described in s.
23 893.03(1)(a), (1)(b), (1)(d), (2)(a), or (2)(b) commits a
24 felony of the second degree, punishable as provided in s.
25 775.082, s. 775.083, or s. 775.084.

26 2. A controlled substance named or described in s.
27 893.03(1)(c), (2)(c), (3), or (4) commits a felony of the
28 third degree, punishable as provided in s. 775.082, s.
29 775.083, or s. 775.084.

30
31

1 3. A controlled substance named or described in s.
2 893.03(5) commits a misdemeanor of the first degree,
3 punishable as provided in s. 775.082 or s. 775.083.

4 (c) Except as authorized by this chapter, it is
5 unlawful for any person to sell, manufacture, or deliver, or
6 possess with intent to sell, manufacture, or deliver a
7 controlled substance in, on, or within 1,000 feet of the real
8 property comprising a public or private elementary, middle, or
9 secondary school between the hours of 6 a.m. and 12 a.m. Any
10 person who violates this paragraph with respect to:

11 1. A controlled substance named or described in s.
12 893.03(1)(a), (1)(b), (1)(d), (2)(a), or (2)(b) commits a
13 felony of the first degree, punishable as provided in s.
14 775.082, s. 775.083, or s. 775.084 and must be sentenced to a
15 minimum term of imprisonment of 3 calendar years.

16 2. A controlled substance named or described in s.
17 893.03(1)(c), (2)(c), (3), or (4) commits a felony of the
18 second degree, punishable as provided in s. 775.082, s.
19 775.083, or s. 775.084.

20 3. Any other controlled substance, except as lawfully
21 sold, manufactured, or delivered, must be sentenced to pay a
22 \$500 fine and to serve 100 hours of public service in addition
23 to any other penalty prescribed by law.

24 (d) Except as authorized by this chapter, it is
25 unlawful for any person to sell, manufacture, or deliver, or
26 possess with intent to sell, manufacture, or deliver, a
27 controlled substance in, on, or within 200 feet of the real
28 property comprising a public housing facility, within 200 feet
29 of the real property comprising a public or private college,
30 university, or other postsecondary educational institution, or
31

1 within 200 feet of any public park. Any person who violates
2 this paragraph with respect to:

3 1. A controlled substance named or described in s.
4 893.03(1)(a), (1)(b), (1)(d), (2)(a), or (2)(b) commits a
5 felony of the first degree, punishable as provided in s.
6 775.082, s. 775.083, or s. 775.084.

7 2. A controlled substance named or described in s.
8 893.03(1)(c), (2)(c), (3), or (4) commits a felony of the
9 second degree, punishable as provided in s. 775.082, s.
10 775.083, or s. 775.084.

11 3. Any other controlled substance, except as lawfully
12 sold, manufactured, or delivered, must be sentenced to pay a
13 \$500 fine and to serve 100 hours of public service in addition
14 to any other penalty prescribed by law.

15 (2)(a) Except as authorized by this chapter and
16 chapter 499, it is unlawful for any person to purchase, or
17 possess with intent to purchase, a controlled substance. Any
18 person who violates this provision with respect to:

19 1. A controlled substance named or described in s.
20 893.03(1)(a), (1)(b), (1)(d), (2)(a), or (2)(b) commits a
21 felony of the second degree, punishable as provided in s.
22 775.082, s. 775.083, or s. 775.084.

23 2. A controlled substance named or described in s.
24 893.03(1)(c), (2)(c), (3), or (4) commits a felony of the
25 third degree, punishable as provided in s. 775.082, s.
26 775.083, or s. 775.084.

27 3. A controlled substance named or described in s.
28 893.03(5) commits a misdemeanor of the first degree,
29 punishable as provided in s. 775.082 or s. 775.083.

30 (4) Except as authorized by this chapter, it is
31 unlawful for any person 18 years of age or older to deliver

1 any controlled substance to a person under the age of 18
2 years, or to use or hire a person under the age of 18 years as
3 an agent or employee in the sale or delivery of such a
4 substance, or to use such person to assist in avoiding
5 detection or apprehension for a violation of this chapter.

6 Any person who violates this provision with respect to:

7 (b) A controlled substance named or described in s.
8 893.03(1)(c), (2)(c), (3), or (4) commits a felony of the
9 second degree, punishable as provided in s. 775.082, s.
10 775.083, or s. 775.084.

11
12 Imposition of sentence may not be suspended or deferred, nor
13 shall the person so convicted be placed on probation.

14 (5) It is unlawful for any person to bring into this
15 state any controlled substance unless the possession of such
16 controlled substance is authorized by this chapter or unless
17 such person is licensed to do so by the appropriate federal
18 agency. Any person who violates this provision with respect
19 to:

20 (b) A controlled substance named or described in s.
21 893.03(1)(c), (2)(c), (3), or (4) commits a felony of the
22 third degree, punishable as provided in s. 775.082, s.
23 775.083, or s. 775.084.

24 Section 107. Subsection (7) of section 466.003,
25 Florida Statutes, is amended to read:

26 466.003 Definitions.--As used in this chapter:

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

29 Section 108. Subsection (3) of section 466.006,
30 Florida Statutes, is amended to read:

31 466.006 Examination of dentists.--

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

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

17 ~~(b) Submits, upon meeting the requirements of~~
18 ~~paragraph (a), the following credentials for review by the~~
19 ~~board:~~

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

24
25 ~~The board shall not review the credentials specified in this~~
26 ~~paragraph until the applicant has furnished to the board~~
27 ~~evidence of satisfactory completion of the National Board of~~
28 ~~Dental Examiners examination as required by paragraph (a).~~
29 ~~Such credentials shall be submitted in a manner provided by~~
30 ~~rule of the board. The board shall approve those credentials~~
31 ~~which comply with this paragraph and with rules of the board~~

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

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

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

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

24 ~~3. Exhibits manual skills on a laboratory model~~
25 ~~pursuant to rules of the board. The board may charge a~~
26 ~~reasonable fee, not to exceed \$250, to cover the costs of~~
27 ~~administering the exhibition of competency in manual skills.~~
28 ~~If the applicant fails to exhibit competent clinical skills in~~
29 ~~two attempts, he shall not be entitled to take the~~
30 ~~examinations authorized in subsection (4). Effective December~~
31 ~~31, 1991, no applicant may fulfill the requirements of this~~

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

28 Section 109. Section 466.017, Florida Statutes, is
 29 amended to read:

30 466.017 Prescription of drugs; anesthesia.--
 31

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

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

10 (3) The board shall adopt rules which:

11 (a) Define general anesthesia.

12 (b) Specify which methods of general or local
13 anesthesia or sedation, if any, are limited or prohibited for
14 use by dentists.

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

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

26 (e) Establish an administrative mechanism enabling the
27 board to verify compliance with training, education,
28 experience, equipment, or certification requirements of
29 dentists, dental hygienists, and dental assistants adopted
30 pursuant to this subsection. The board may charge a fee to
31

1 defray the cost of verifying compliance with requirements
2 adopted pursuant to this paragraph.

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

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

15 (4)(5) A dentist who administers or employs the use of
16 any form of anesthesia must possess a certification in either
17 basic cardiopulmonary resuscitation for health professionals
18 or advanced cardiac life support approved by the American
19 Heart Association or the American Red Cross or an equivalent
20 agency-sponsored course with recertification every 2 years.
21 Each dental office which uses any form of anesthesia must have
22 immediately available and in good working order such
23 resuscitative equipment, oxygen, and other resuscitative drugs
24 as are specified by rule of the board in order to manage
25 possible adverse reactions.

26 (5)(6) A licensed dentist may utilize an X-ray
27 machine, expose dental X-ray films, and interpret or read such
28 films. The provisions of part IV of chapter 468 to the
29 contrary notwithstanding, a licensed dentist may authorize or
30 direct a dental assistant to operate such equipment and expose
31 such films under his direction and supervision, pursuant to

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

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

16 Section 110. Paragraphs (r) and (hh) of subsection (1)
 17 of section 466.028, Florida Statutes, are amended to read:

18 466.028 Grounds for disciplinary action; action by the
 19 board.--

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

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

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

11 Section 111. Subsection (2) of section 468.1115,
12 Florida Statutes, is amended to read:

13 468.1115 Exemptions.--

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

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

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

24 (c) Persons certified in the areas of speech-language
25 impairment or hearing impairment ~~A person licensed~~ in this
26 state under chapter 231 when engaging in the profession for
27 which they are certified ~~he is licensed~~, or any person under
28 the direct supervision of such a certified person, or of a
29 licensee under this chapter, when the person under such
30 supervision is performing hearing screenings in a school
31 setting for prekindergarten through grade 12 ~~the licensee when~~

1 ~~rendering services within the scope of the profession of the~~
2 ~~licensee.~~

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

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

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

28 Section 112. Subsection (5) of section 468.1125,
29 Florida Statutes, is amended to read:

30 468.1125 Definitions.--As used in this part, the term:
31

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

3 Section 113. Section 468.1155, Florida Statutes, is
4 amended to read:

5 468.1155 Provisional license; requirements.--

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

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

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

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

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

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

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

11 2. Six semester hours in audiology.

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

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

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

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

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

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

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

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

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

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

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

1 acceptable toward a graduate degree and 200 supervised
2 clinical clock hours in the second discipline from an
3 accredited institution.

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

8 Section 114. Paragraph (a) of subsection (2) and
9 subsection (3) of section 468.1185, Florida Statutes, are
10 amended to read:

11 468.1185 Licensure.--

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

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

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

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

26 (b) Has received the certificate of clinical
27 competence of the American Speech-Language and Hearing
28 Association.

29 Section 115. Section 468.1195, Florida Statutes, is
30 amended to read:

31

1 468.1195 Renewal of license or certificate; continuing
2 education requirements; standards for approval of continuing
3 education providers.--

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

16 (2) The department shall adopt rules establishing a
17 procedure for the biennial renewal of licenses and
18 certificates.

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

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

29 Section 116. Section 468.1201, Florida Statutes, is
30 created to read:

31

1 468.1201 Requirement for instruction on human
2 immunodeficiency virus and acquired immune deficiency
3 syndrome.--The board shall require, as a condition of granting
4 a license under this part, that an applicant making initial
5 application for licensure complete an education course
6 acceptable to the board on human immunodeficiency virus and
7 acquired immune deficiency syndrome. An applicant who has not
8 taken a course at the time of licensure shall, upon submission
9 of an affidavit showing good cause, be allowed 6 months to
10 complete this requirement.

11 Section 117. Subsections (2), (3), and (4) of section
12 468.1215, Florida Statutes, are amended to read:

13 468.1215 Speech-language pathology assistant and
14 audiology assistant; certification.--

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

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

20 (b) Completed at least 24 semester hours of coursework
21 as approved by the board at an institution accredited by an
22 accrediting agency recognized by the Commission on Recognition
23 of Postsecondary Accreditation.

24 (3) The board, by rule, shall establish minimum
25 education and on-the-job training and supervision requirements
26 for certification as a speech-language pathology assistant or
27 audiology assistant.

28 (4) The provisions of this section shall not apply to
29 any student, intern, or trainee performing speech-language
30 pathology or audiology services while completing the

31

1 supervised clinical clock hours ~~experience~~ as required in s.
2 468.1155.

3 Section 118. Subsection (2) of section 468.1245,
4 Florida Statutes, is amended to read:

5 468.1245 Itemized listing of prices; delivery of
6 hearing aid; receipt ~~contract~~; guarantee; packaging;
7 disclaimer.--

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

31

1 Section 119. Section 468.1295, Florida Statutes, is
2 amended to read:

3 468.1295 Disciplinary proceedings.--

4 (1) The following acts constitute grounds for both
5 disciplinary actions as set forth in subsection (2) and cease
6 and desist or other related actions by the department as set
7 forth in s. 455.228:~~7~~

8 (a) Procuring or attempting to procure a license by
9 bribery, by fraudulent misrepresentation, or through an error
10 of the department or the board.

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

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

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

26 (e) Advertising goods or services in a manner which is
27 fraudulent, false, deceptive, or misleading in form or
28 content.

29 (f) Being proven guilty of fraud or deceit or of
30 negligence, incompetency, or misconduct in the practice of
31 speech-language pathology or audiology.

1 (g) Violating a lawful order of the board or
2 department previously entered in a disciplinary hearing, or
3 failing to comply with a lawfully issued subpoena of the board
4 or department.

5 (h) Practicing with a revoked, suspended, inactive, or
6 delinquent license.

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

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

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

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

24 (m) Violating any provision ~~Violation or repeated~~
25 ~~violation~~ of this part or ~~of~~ chapter 455, or any rule ~~rules~~
26 adopted pursuant thereto.

27 (n) Misrepresenting the ~~Misrepresentation of~~
28 professional services available in the fitting, sale,
29 adjustment, service, or repair of a hearing aid, or using ~~use~~
30 ~~of~~ any other term or title which might connote the
31

1 availability of professional services when such use is not
2 accurate.

3 (o) Representing, advertising, or implying
4 ~~Representation, advertisement, or implication~~ that a hearing
5 aid or its repair is guaranteed without providing full
6 disclosure of the identity of the guarantor; the nature,
7 extent, and duration of the guarantee; and the existence of
8 conditions or limitations imposed upon the guarantee.

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

16 (q) Stating or implying that the use of any hearing
17 aid will improve or preserve hearing or prevent or retard the
18 progression of a hearing impairment or that it will have any
19 similar or opposite effect.

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

22 (s) Representing or implying that a hearing aid is or
23 will be "custom-made," "made to order," or
24 "prescription-made," or in any other sense specially
25 fabricated for an individual ~~person~~, when such is not the
26 case.

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

1 (u) Failing to notify the department in writing of a
2 change in current mailing and place-of-practice address within
3 30 days after such change ~~Failure to submit to the board on an~~
4 ~~annual basis, or such other basis as may be provided by rule,~~
5 ~~certification of testing and calibration of audiometric~~
6 ~~testing equipment on the form approved by the board.~~

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

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

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

17 (y) Aiding, assisting, procuring, or employing any
18 unlicensed person to practice speech-language pathology or
19 audiology.

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

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

29 (bb) Being unable to practice the profession for which
30 he or she is licensed or certified under this chapter with
31 reasonable skill or competence as a result of any mental or

1 physical condition or by reason of illness, drunkenness, or
 2 use of drugs, narcotics, chemicals, or any other substance.
 3 In enforcing this paragraph, upon a finding by the secretary,
 4 his or her designee, or the board that probable cause exists
 5 to believe that the licensee or certificateholder is unable to
 6 practice the profession because of the reasons stated in this
 7 paragraph, the department shall have the authority to compel a
 8 licensee or certificateholder to submit to a mental or
 9 physical examination by a physician, psychologist, clinical
 10 social worker, marriage and family therapist, or mental health
 11 counselor designated by the department or board. If the
 12 licensee or certificateholder refuses to comply with the
 13 department's order directing the examination, such order may
 14 be enforced by filing a petition for enforcement in the
 15 circuit court in the circuit in which the licensee or
 16 certificateholder resides or does business. The department
 17 shall be entitled to the summary procedure provided in s.
 18 51.011. A licensee or certificateholder affected under this
 19 paragraph shall at reasonable intervals be afforded an
 20 opportunity to demonstrate that he or she can resume the
 21 competent practice for which he or she is licensed or
 22 certified with reasonable skill and safety to patients.

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

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

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

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

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

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

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

15 (g) Corrective action.

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

22 Section 120. Section 468.1296, Florida Statutes, is
23 created to read:

24 468.1296 Sexual misconduct.--Sexual misconduct by any
25 person licensed or certified in the practice of his or her
26 profession is prohibited. Sexual misconduct means to induce or
27 to attempt to induce the patient to engage, or to engage or to
28 attempt to engage the patient, in sexual activity outside the
29 scope of practice or the scope of generally accepted
30 examination or treatment of the patient.

31

1 Section 121. Subsection (2) of section 468.1655,
2 Florida Statutes, is amended to read:

3 468.1655 Definitions.--As used in this part:

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

6 Section 122. Subsection (1) of section 468.1695,
7 Florida Statutes, is amended to read:

8 468.1695 Licensure by examination.--

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

15 (a) Applicable standards of nursing home health and
16 safety;

17 (b) Federal, state, and local health and safety laws
18 and rules;

19 (c) General administration;

20 (d) Psychology of patient care;

21 (e) Principles of medical care;

22 (f) Personal and social care;

23 (g) Therapeutic and supportive care and services in
24 long-term care;

25 (h) Departmental organization and management;

26 (i) Community interrelationships; and

27 (j) Terminology.

28
29 The board may, by rule, adopt use of a national examination in
30 lieu of part or all of the examination required by this part.
31

1 Section 123. Subsections (2), (4), and (5) of section
2 468.203, Florida Statutes, are amended to read:

3 468.203 Definitions.--As used in this act, the term:

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

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

8 (a) For the purposes of this subsection:

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

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

19 (b) Occupational therapy services include, but are not
20 limited to:

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

23 2. Interventions directed toward developing daily
24 living skills, work readiness or work performance, play skills
25 or leisure capacities, or enhancing educational performance
26 skills.

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

31

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

28 (c) The use of devices subject to 21 C.F.R. s. 801.109
 29 and identified by the board is expressly prohibited except by
 30 an occupational therapist or occupational therapy assistant
 31 who has received training as specified by the board. The

1 board shall adopt rules to carry out the purpose of this
2 provision.

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

12 Section 124. Section 468.205, Florida Statutes, is
13 amended to read:

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

16 468.205 Board of Occupational Therapy Practice.--

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

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

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

3 (a) Two members for terms of 2 years each.

4 (b) Two members for terms of 3 years each.

5 (c) Three members for terms of 4 years each.

6 (4) As the terms of the members expire, the Governor
7 shall appoint successors for terms of 4 years and such members
8 shall serve until their successors are appointed.

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

11 Section 125. Section 468.209, Florida Statutes, is
12 amended to read:

13 468.209 Requirements for licensure.--

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

20 (a) Is of good moral character.

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

1 (c) Has successfully completed a period of supervised
2 fieldwork experience at a recognized educational institution
3 or a training program approved by the educational institution
4 where he met the academic requirements. For an occupational
5 therapist, a minimum of 6 months of supervised fieldwork
6 experience is required. For an occupational therapy assistant,
7 a minimum of 2 months of supervised fieldwork experience is
8 required.

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

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

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

28 (4) If the board determines that the applicant has not
29 passed an examination, which examination is recognized by the
30 board, to determine competence to practice occupational
31 therapy and is not qualified to be licensed by endorsement,

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

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

30 Section 126. Subsection (6) is added to section
31 468.211, Florida Statutes, to read:

1 468.211 Examination for licensure.--
2 (6) If an applicant fails to pass the examination in
3 three attempts, the applicant shall not be eligible for
4 reexamination unless the applicant completes additional
5 education or training requirements prescribed by the board.
6 An applicant who has completed the additional education or
7 training requirements prescribed by the board may take the
8 examination on two more occasions. If the applicant has
9 failed to pass the examination after five attempts, the
10 applicant is no longer eligible to take the examination.

11 Section 127. Section 468.213, Florida Statutes, is
12 amended to read:

13 468.213 Licensure by endorsement.--

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

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

29 Section 128. Section 468.225, Florida Statutes, is
30 amended to read:

31

1 468.225 Exemptions ~~Persons and practices not~~
2 ~~affected.--~~

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

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

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

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

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

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

27 (2) No provision of this act shall be construed to
28 prohibit physicians, physician assistants, nurses, physical
29 therapists, osteopathic physicians or surgeons, ~~or~~ clinical
30 psychologists, speech-language pathologists, or audiologists
31 from using occupational therapy as a part of or incidental to

1 their profession, when they practice their profession under
2 the statutes applicable to their profession.

3 Section 129. Section 468.351, Florida Statutes, is
4 amended to read:

5 468.351 Purpose and intent; application.--

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

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

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

31

1 pursuant to this part shall be exempt from the licensure
2 provisions of chapter 483.

3 Section 130. Subsections (2), (8), and (9) of section
4 468.352, Florida Statutes, are amended to read:

5 468.352 Definitions.--As used in this part, unless the
6 context otherwise requires, the term:

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

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

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

23 Section 131. Paragraph (a) of subsection (5) of
24 section 468.354, Florida Statutes, is amended to read:

25 468.354 Advisory Council on Respiratory Care;
26 organization; function.--

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

30 Section 132. Section 468.355, Florida Statutes, is
31 amended to read:

1 468.355 Eligibility for licensure ~~certification or~~
2 ~~registration~~; temporary licensure ~~certification~~.--

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

5 (a) Be at least 18 years old.

6 (b) Possess a high school diploma or a graduate
7 equivalency diploma.

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

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

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

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

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

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

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

3 (a) Be at least 18 years old.

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

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

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

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

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

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

29 Section 133. Section 468.356, Florida Statutes, is
30 amended to read:

31 468.356 Approval of educational programs.--

1 (1) Approval of educational programs shall be in
2 accordance with the Joint Review Committee for Respiratory
3 Therapy Education through the Commission ~~Committee~~ on
4 Accreditation of Allied Health Education Programs, or other
5 accrediting agency recognized by the United States Office of
6 Education and Accreditation of the American Medical
7 Association.

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

16 Section 134. Section 468.357, Florida Statutes, is
17 amended to read:

18 468.357 Licensure ~~Certification~~ by examination.--

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

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

25 1. Completed the application form and remitted the
26 applicable ~~application~~ fee set by the board;

27 2. Submitted required documentation as required in s.
28 468.355; and

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

30 (b) The department shall conduct examinations for
31 licensure ~~certification~~ of respiratory care practitioners no

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

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

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

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

1 certification by a physician licensed pursuant to chapter 458
2 or chapter 459 who has direct knowledge of the practice of, or
3 who has supervised, the person. If such person is not
4 determined to have performed critical care respiratory
5 services for at least 4 years, the board may limit the license
6 ~~certificate~~ of such person to the performance of noncritical
7 care respiratory services. ~~Any person issued a certificate~~
8 ~~pursuant to this paragraph shall complete at least 20 contact~~
9 ~~hours of continuing education each year.~~

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

18 Section 135. Section 468.358, Florida Statutes, is
19 amended to read:

20 468.358 Licensure Certification ~~or registration~~ by
21 endorsement.--

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

30 (2) Licensure Registration as a respiratory therapist
31 shall be granted by endorsement to an individual who holds the

1 "Registered Respiratory Therapist" credential issued by the
2 National Board for Respiratory Care or an equivalent
3 credential acceptable to the board. Licensure ~~Registration~~ by
4 this mechanism requires verification by oath and submission of
5 evidence satisfactory to the board that such credential is
6 held.

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

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

20 Section 136. Subsections (1), (2), and (5) of section
21 468.359, Florida Statutes, are amended to read:

22 468.359 Assumption of title and use of
23 abbreviations.--

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

28 (2) Only persons who are licensed ~~registered~~ pursuant
29 to this part as respiratory therapists have the right to use
30 the title "Registered Respiratory Therapist" and the
31 abbreviation "RRT," provided such persons have passed the

1 Registry Examination for Respiratory Therapists given by the
2 National Board for Respiratory Care.

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

10 Section 137. Section 468.36, Florida Statutes, is
11 amended to read:

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

21 Section 138. Section 468.362, Florida Statutes, is
22 repealed, and section 468.361, Florida Statutes, is amended to
23 read:

24 468.361 Renewal of licensure ~~certification or~~
25 ~~registration~~; continuing education.--

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

29 (2) The board shall prescribe by rule continuing
30 education requirements, not to exceed 24 hours biennially, as
31 a condition for renewal of licensure ~~certification or~~

1 ~~registration~~. The program criteria with respect thereto shall
2 be approved by the board.

3 (3) The board shall approve continuing education
4 courses which may be accepted in meeting the requirements of
5 this part. Providers of such courses shall also be approved
6 by the board.

7 (4) The board may make exceptions from the
8 requirements of this section in emergency or hardship cases.

9 Section 139. Section 468.363, Florida Statutes, is
10 amended to read:

11 468.363 Reactivation of licensure ~~certification or~~
12 ~~registration~~; continuing education.--The board shall prescribe
13 by rule continuing education requirements as a condition of
14 reactivating a license ~~certificate or registration~~. The
15 continuing education requirements for reactivating a license
16 ~~certificate or registration~~ may not exceed 12 classroom hours
17 for each year the license ~~certificate or registration~~ was
18 inactive.

19 Section 140. Subsection (1) of section 468.364,
20 Florida Statutes, is amended to read:

21 468.364 Fees; establishment; disposition.--

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

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

25 (b) Examination, ~~fee+~~ a fee not to exceed \$125 plus
26 the actual per applicant cost to the department for purchase
27 of the examination from the National Board for Respiratory
28 Care or a similar national organization.

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

31

1 (d) Renewal of licensure,~~certification or~~
2 ~~registration fee~~; a fee not to exceed \$200 biennially.

3 (e) Renewal of inactive licensure,~~certification or~~
4 ~~registration~~; a fee not to exceed \$50.

5 (f) Reactivation,~~fee~~; a fee not to exceed \$50.

6 Section 141. Section 468.365, Florida Statutes, is
7 amended to read:

8 468.365 Disciplinary grounds and actions.--

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

11 (a) Procuring, attempting to procure, or renewing a
12 license certificate or registration as provided by this part
13 by bribery, by fraudulent misrepresentation, or through an
14 error of the department or the board.

15 (b) Having licensure,certification, registration, or
16 other authority, by whatever name known, to deliver
17 respiratory care services revoked, suspended, or otherwise
18 acted against, including the denial of licensure,
19 certification, registration, or other authority to deliver
20 respiratory care services by the licensing authority of
21 another state, territory, or country.

22 (c) Being convicted or found guilty of, or entering a
23 plea of nolo contendere to, regardless of adjudication, ~~of~~ a
24 crime in any jurisdiction which directly relates to
25 respiratory care services or to the ability to deliver such
26 services.

27 (d) Willfully making or filing a false report or
28 record, willfully failing to file a report or record required
29 by state or federal law, or willfully impeding or obstructing
30 such filing or inducing another person to do so. Such reports
31 or records include only those reports or records which require

1 the signature of a ~~certified~~ respiratory care practitioner or
2 a respiratory therapist licensed ~~registered~~ pursuant to this
3 part.

4 (e) Circulating false, misleading, or deceptive
5 advertising.

6 (f) Unprofessional conduct, which includes, but is not
7 limited to, any departure from, or failure to conform to,
8 acceptable standards related to the delivery of respiratory
9 care services, as set forth by the board and the Advisory
10 Council on Respiratory Care in rules adopted pursuant to this
11 part.

12 (g) Engaging or attempting to engage in the
13 possession, sale, or distribution of controlled substances, as
14 set forth by law, for any purpose other than a legitimate
15 purpose.

16 (h) Willfully failing to report any violation of this
17 part.

18 (i) Willfully or repeatedly violating a rule of the
19 board or the department or a lawful order of the board or
20 department previously entered in a disciplinary hearing.

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

23 (k) Engaging in the delivery of respiratory care
24 services with a revoked, suspended, or inactive license
25 ~~certificate or registration~~.

26 (l) Permitting, aiding, assisting, procuring, or
27 advising any person who is not licensed ~~certified or~~
28 ~~registered~~ pursuant to this part, contrary to this part or to
29 any rule of the department or the board.

30 (m) Failing to perform any statutory or legal
31 obligation placed upon a ~~certified~~ respiratory care

1 practitioner or a respiratory therapist licensed ~~registered~~
2 pursuant to this part.

3 (n) Accepting and performing professional
4 responsibilities which the licensee ~~certificateholder or~~
5 ~~registrant~~ knows, or has reason to know, he is not competent
6 to perform.

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

12 (p) Gross or repeated malpractice or the failure to
13 deliver respiratory care services with that level of care,
14 skill, and treatment which is recognized by a reasonably
15 prudent respiratory care practitioner or respiratory therapist
16 with similar professional training as being acceptable under
17 similar conditions and circumstances.

18 (q) Paying or receiving any commission, bonus,
19 kickback, or rebate to or from, or engaging in any split-fee
20 arrangement in any form whatsoever with, a person,
21 organization, or agency, either directly or indirectly, for
22 goods or services rendered to patients referred by or to
23 providers of health care goods and services, including, but
24 not limited to, hospitals, nursing homes, clinical
25 laboratories, ambulatory surgical centers, or pharmacies. The
26 provisions of this paragraph shall not be construed to prevent
27 the licensee ~~certificateholder or registrant~~ from receiving a
28 fee for professional consultation services.

29 (r) Exercising influence within a respiratory care
30 relationship for the purpose of engaging a patient in sexual
31 activity. A patient is presumed to be incapable of giving

1 free, full, and informed consent to sexual activity with the
2 patient's respiratory care practitioner or respiratory
3 therapist.

4 (s) Making deceptive, untrue, or fraudulent
5 representations in the delivery of respiratory care services
6 or employing a trick or scheme in the delivery of respiratory
7 care services if such a scheme or trick fails to conform to
8 the generally prevailing standards of other licensees
9 ~~certificateholders or registrants~~ within the community.

10 (t) Soliciting patients, either personally or through
11 an agent, through the use of fraud, deception, or otherwise
12 misleading statements or through the exercise of intimidation
13 or undue influence.

14 (u) Failing to keep written respiratory care records
15 justifying the reason for the action taken by the licensee
16 ~~certificateholder or registrant~~.

17 (v) Exercising influence on the patient in such a
18 manner as to exploit the patient for the financial gain of the
19 licensee ~~certificateholder or registrant~~ or a third party,
20 which includes, but is not limited to, the promoting or
21 selling of services, goods, appliances, or drugs.

22 (w) Performing professional services which have not
23 been duly ordered by a physician licensed pursuant to chapter
24 458 or chapter 459 and which are not in accordance with
25 protocols established by the hospital, other health care
26 provider, or the board, except as provided in ss. 743.064,
27 766.103, and 768.13.

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

1 condition. In enforcing this paragraph, the department shall,
 2 upon probable cause, have authority to compel a respiratory
 3 care practitioner or respiratory therapist to submit to a
 4 mental or physical examination by physicians designated by the
 5 department. The cost of examination shall be borne by the
 6 licensee ~~certificateholder or registrant~~ being examined. The
 7 failure of a respiratory care practitioner or respiratory
 8 therapist to submit to such an examination when so directed
 9 constitutes an admission of the allegations against him, upon
 10 which a default and a final order may be entered without the
 11 taking of testimony or presentation of evidence, unless the
 12 failure was due to circumstances beyond his control. A
 13 respiratory care practitioner or respiratory therapist
 14 affected under this paragraph shall at reasonable intervals be
 15 afforded an opportunity to demonstrate that he can resume the
 16 competent delivery of respiratory care services with
 17 reasonable skill and safety to his patients. In any
 18 proceeding under this paragraph, neither the record of
 19 proceedings nor the orders entered by the board shall be used
 20 against a respiratory care practitioner or respiratory
 21 therapist in any other proceeding.

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

25 (a) Denial of an application for licensure
 26 ~~certification or registration~~.

27 (b) Revocation or suspension of licensure
 28 ~~certification or registration~~.

29 (c) Imposition of an administrative fine not to exceed
 30 \$1,000 for each count or separate offense.

31

1 (d) Placement of the respiratory care practitioner or
2 respiratory therapist on probation for such period of time and
3 subject to such conditions as the board may specify,
4 including, but not limited to, requiring the respiratory care
5 practitioner or respiratory therapist to submit to treatment,
6 to attend continuing education courses, or to work under the
7 supervision of another respiratory care practitioner or
8 respiratory therapist.

9 (e) Issuance of a reprimand.

10 (3) The board shall not reinstate licensure
11 ~~certification or registration~~, or cause a license certificate
12 ~~or registration~~ to be issued to a person it has deemed
13 unqualified, until such time as it is satisfied that such
14 person has complied with all the terms and conditions set
15 forth in the final order and that the respiratory care
16 practitioner or respiratory therapist is capable of safely
17 engaging in the delivery of respiratory care services.

18 (4) The board may, by rule, establish guidelines for
19 the disposition of disciplinary cases involving specific types
20 of violations. Such guidelines may include minimum and
21 maximum fines, periods of supervision on probation, or
22 conditions upon probation or reissuance of a license
23 ~~certificate or registration~~.

24 Section 142. Subsection (1) of section 468.366,
25 Florida Statutes, is amended to read:

26 468.366 Penalties for violations.--

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

29 (a) Sell or fraudulently obtain, attempt to obtain, or
30 furnish to any person a diploma, license, ~~certificate,~~

31

1 ~~registration~~, or record, or aid or abet in the sale,
2 procurement, or attempted procurement thereof.

3 (b) Deliver respiratory care services, as defined by
4 this part or by rule of the board, under cover of any diploma,
5 license, ~~certificate, registration~~, or record that was
6 illegally or fraudulently obtained or signed or issued
7 unlawfully or under fraudulent representation.

8 (c) Deliver respiratory care services, as defined by
9 this part or by rule of the board, unless such person is duly
10 licensed ~~certified or registered~~ to do so under the provisions
11 of this part or unless such person is exempted pursuant to s.
12 468.368.

13 (d) Use, in connection with his name, any designation
14 tending to imply that he is a respiratory care practitioner or
15 a respiratory therapist, duly licensed ~~certified or registered~~
16 under the provisions of this part, unless he is so licensed
17 ~~certified or registered~~.

18 (e) Advertise an educational program as meeting the
19 requirements of this part, or conduct an educational program
20 for the preparation of respiratory care practitioners or
21 respiratory therapists, unless such program has been approved
22 by the board.

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

26 (g) Knowingly conceal information relative to any
27 violation of this part.

28 Section 143. Subsection (8) of section 468.368,
29 Florida Statutes, is amended to read:

30 468.368 Exemptions.--Nothing in this part shall be
31 construed to prohibit:

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

16 Section 144. Subsection (3) of section 478.42, Florida
17 Statutes, is amended to read:

18 478.42 Definitions.--As used in this chapter, the
19 term:

20 (3) "Department" means the Department of Health
21 ~~Business and Professional Regulation~~.

22 Section 145. Section 478.45, Florida Statutes, is
23 amended to read:

24 478.45 Requirements for licensure.--

25 (1) An applicant applying for licensure as an
26 electrologist shall file a written application, accompanied by
27 the application for licensure fee prescribed in s. 478.55, on
28 a form provided by the board, showing to the satisfaction of
29 the board that the applicant:

30 (a) Is at least 18 years old.

31 (b) Is of good moral character.

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

2 (c)(d) Possesses a high school diploma or a graduate
3 equivalency diploma.

4 (d)(e) Has not committed an act in any jurisdiction
5 which would constitute grounds for disciplining an
6 electrologist in this state.

7 (e)(f)1. Has successfully completed the academic
8 requirements of an electrolysis training program, not to
9 exceed 120 hours, and the practical application thereof as
10 approved by the board ~~or~~

11 ~~2. Was engaged in the practice of electrology prior to~~
12 ~~October 1, 1991, and filed an application for licensure within~~
13 ~~90 days after the date established by the board or by February~~
14 ~~1, 1995, whichever comes last.~~

15 (2) Each applicant for licensure shall successfully
16 pass a written examination developed by the department or a
17 national examination that has, ~~both of which have~~ been
18 approved by the board. The examinations shall test the
19 applicant's knowledge relating to the practice of electrology,
20 including the applicant's professional skills and judgment in
21 the use of electrolysis techniques and methods, and any other
22 subjects which are useful to determine the applicant's fitness
23 to practice.

24 (3) The department, upon approval of the board, may
25 adopt a ~~the American Electrology Association examination or~~
26 ~~any other~~ national examination in lieu of any part of the
27 examination required by this section. The board, with the
28 assistance of the council, shall establish standards for
29 acceptable performance.

30 (4) The department shall issue a license to practice
31 electrology to any applicant who passes the examination, pays

1 the licensure fee as set forth in s. 478.55, and otherwise
2 meets the requirements of this chapter.

3 (5) The department shall conduct licensure
4 examinations at least two times a year ~~biannually at locations~~
5 ~~set by the board. However, such examinations may be conducted~~
6 ~~at least three times each year through 1995.~~ The department
7 ~~board~~ shall give public notice of the time and place of each
8 examination at least 60 days before it is administered and
9 shall mail notice of such examination to each applicant whose
10 application is timely filed, pursuant to board rule.

11 (6) The department may not issue a license to any
12 applicant who is under investigation in another jurisdiction
13 for an offense which would be a violation of this chapter,
14 until such investigation is complete. Upon completion of such
15 investigation, if the applicant is found guilty of such
16 offense, the board shall apply the applicable provisions of s.
17 478.52.

18 Section 146. Subsection (1) of section 478.46, Florida
19 Statutes, is amended to read:

20 478.46 Temporary permits.--

21 (1) If the department ~~executive director of the board~~
22 determines that an applicant is qualified to be licensed under
23 s. ~~478.47~~ ~~478.45~~, the department ~~board~~ may issue the applicant
24 a temporary permit to practice electrolysis ~~electrology~~ until
25 the next board meeting at which license applications are to be
26 considered, but not for a longer period of time. Only one
27 temporary permit shall be issued to an applicant, and it shall
28 not be renewable.

29 Section 147. Section 478.47, Florida Statutes, is
30 amended to read:

31

1 478.47 Licensure by endorsement.--The department shall
2 issue a license by endorsement to any applicant who submits an
3 application and the required fees as set forth in s. 478.55
4 and who ~~the board certifies has met the qualifications of s.~~
5 ~~478.45(1) or who~~ holds an active license or other authority to
6 practice electrology in a jurisdiction whose licensure
7 requirements are determined by the board to be equivalent to
8 the requirements for licensure in this state.

9 Section 148. Paragraph (d) of subsection (2) of
10 section 478.52, Florida Statutes, is amended, and paragraph
11 (u) is added to subsection (1) of said section, to read:

12 478.52 Disciplinary proceedings.--

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

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

17 (2) When the board finds any person guilty of any of
18 the grounds set forth in subsection (1), including conduct
19 that would constitute a substantial violation of subsection
20 (1) which occurred prior to licensure, it may enter an order
21 imposing one or more of the following penalties:

22 (d) Place the licensee on probation for a specified
23 time and subject the licensee to such conditions as the board
24 determines necessary, including, but not limited to, requiring
25 treatment, continuing education courses, reexamination, or
26 working under the supervision of another licensee.

27 Section 149. Subsections (1) and (2) of section
28 480.033, Florida Statutes, are amended to read:

29 480.033 Definitions.--As used in this act:

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

31

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

3 Section 150. Section 480.034, Florida Statutes, is
4 amended to read:

5 480.034 Exemptions.--

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

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

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

14 ~~(4) Treatments for the purpose of cleansing and~~
15 ~~beautifying the skin or in conjunction with a weight loss~~
16 ~~program, including herbal wraps, body scrubs, paraffin wax~~
17 ~~treatments, and seaweed wraps, shall be exempt from the~~
18 ~~provisions of this act.~~

19 (4)~~(5)~~ An exemption granted is effective to the extent
20 that an exempted person's practice or profession overlaps with
21 the practice of massage.

22 Section 151. Subsection (1) of section 480.035,
23 Florida Statutes, is amended to read:

24 480.035 Board of Massage Therapy.--

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

29 Section 152. Section 480.041, Florida Statutes, is
30 amended to read:

31

1 480.041 Massage therapists; qualifications; licensure;
2 endorsement; ~~provisional licensure.~~--

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

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

7 (b) Has completed a course of study at a
8 board-approved massage school or has completed an
9 apprenticeship program that meets standards adopted by the
10 board; and

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

13 (2) Every person desiring to be examined for licensure
14 as a massage therapist shall apply to the department in
15 writing upon forms prepared and furnished by the department.
16 Such applicants shall be subject to the provisions of s.
17 480.046(1). Applicants may take an examination administered by
18 the department only upon meeting the requirements of this
19 section as determined by the board.

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

24 ~~(4)(a) The board may issue to an applicant, without~~
25 ~~examination, a provisional license to practice massage,~~
26 ~~provided such applicant meets all other conditions and~~
27 ~~requirements relating to qualification for licensure and~~
28 ~~submits a fee pursuant to s. 480.044. Such applicant for a~~
29 ~~provisional license shall be associated with a licensed~~
30 ~~massage therapist and shall practice only under the~~

31

1 ~~supervision of such licensed massage therapist at a licensed~~
2 ~~establishment.~~

3 ~~(b) The provisional license, when granted, shall~~
4 ~~include the name and address of the licensed massage therapist~~
5 ~~with whom the applicant is associated. No licensed massage~~
6 ~~therapist may supervise more than one provisional~~
7 ~~licenseholder at the same time.~~

8 ~~(c) The applicant must appear at the next examination~~
9 ~~for licensure for which the applicant can be scheduled~~
10 ~~according to the rules of the board and department. The~~
11 ~~provisional license shall expire upon written notification by~~
12 ~~the department that the applicant has failed the examination~~
13 ~~or on the date of the scheduled examination, should the~~
14 ~~applicant fail to appear. Acceptance of a provisional license~~
15 ~~by an applicant shall be deemed to be consent for expiration~~
16 ~~of that license in accordance with the provisions of this~~
17 ~~chapter.~~

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

21 (4)~~(5)~~ The board shall adopt rules:

22 (a) Establishing a minimum training program for
23 apprentices.

24 ~~(b) Specifying standards and procedures for issuance~~
25 ~~of a provisional license.~~

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

30 (c)~~(d)~~ Specifying licensing procedures for
31 practitioners desiring to be licensed in this state who hold

1 an active license and have practiced in any other state,
2 territory, or jurisdiction of the United States or any foreign
3 national jurisdiction which has licensing standards
4 substantially similar to, equivalent to, or more stringent
5 than the standards of this state.

6 Section 153. Section 480.0415, Florida Statutes, is
7 amended to read:

8 480.0415 License renewal.--The board shall prescribe
9 by rule the method for renewal of biennial licensure which
10 shall include continuing education requirements not to exceed
11 25 ~~±2~~ classroom hours per biennium. The board shall by rule
12 establish criteria for the approval of continuing education
13 programs or courses. The programs or courses approved by the
14 board may include correspondence courses that meet the
15 criteria for continuing education courses held in a classroom
16 setting.

17 Section 154. Subsection (1) of section 480.042,
18 Florida Statutes, is amended to read:

19 480.042 Examinations.--

20 (1) The board shall specify by rule the general areas
21 of competency to be covered by examinations for licensure.
22 These rules shall include the relative weight assigned in
23 grading each area, the grading criteria to be used by the
24 examiner, and the score necessary to achieve a passing grade.
25 The board shall ensure that examinations adequately measure
26 ~~both an applicant's competency and his knowledge of related~~
27 ~~statutory requirements.~~ Professional testing services may be
28 utilized to formulate the examinations.

29 Section 155. Section 480.0425, Florida Statutes, as
30 amended by chapter 94-119, Laws of Florida, is repealed.

31

1 Section 156. Subsection (7) of section 480.043,
2 Florida Statutes, is amended to read:

3 480.043 Massage establishments; requisites; licensure;
4 inspection.--

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

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

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

15 Section 157. Subsection (1) of section 480.044,
16 Florida Statutes, is amended to read:

17 480.044 Fees; disposition.--

18 (1) The board shall set fees according to the
19 following schedule:

20 (a) Massage therapist application and examination fee:
21 not to exceed \$250.

22 (b) Massage therapist initial licensure fee: not to
23 exceed \$150.

24 (c) Establishment application fee: not to exceed
25 \$200.

26 (d) Establishment licensure fee: not to exceed \$150.

27 (e) Biennial establishment renewal fee: not to exceed
28 \$150.

29 (f) Biennial massage therapist licensure renewal fee:
30 not to exceed \$200.

31

1 (g) Massage therapist reexamination fee: not to
2 exceed \$250.

3 (h) Fee for apprentice: not to exceed \$100.

4 (i) Colonics examination fee: not to exceed \$100.

5 (j) Colonics reexamination fee: not to exceed \$100.

6 ~~(k) Application and provisional licensure fee: not to~~
7 ~~exceed \$50.~~

8 (k)~~(l)~~ Application and reactivation for inactive
9 status of a massage therapist license fee: not to exceed
10 \$250.

11 (l)~~(m)~~ Renewal fee for inactive status: not to exceed
12 \$250.

13 Section 158. Paragraph (a) of subsection (1) of
14 section 480.047, Florida Statutes, is amended to read:

15 480.047 Penalties.--

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

17 (a) Hold himself or herself out as a massage therapist
18 <U>or to practice massage unless duly licensed under this chapter
19 or unless otherwise specifically exempted from licensure under
20 this chapter as provided herein.

21 Section 159. Section 480.0485, Florida Statutes, is
22 created to read:

23 480.0485 Sexual misconduct in the practice of massage
24 therapy.--The massage therapist-patient relationship is
25 founded on mutual trust. Sexual misconduct in the practice of
26 massage therapy means violation of the massage
27 therapist-patient relationship through which the massage
28 therapist uses that relationship to induce or attempt to
29 induce the patient to engage, or to engage or attempt to
30 engage the patient, in sexual activity outside the scope of
31 practice or the scope of generally accepted examination or

1 treatment of the patient. Sexual misconduct in the practice
2 of massage therapy is prohibited.

3 Section 160. Paragraph (f) of subsection (3) of
4 section 20.43, Florida Statutes, 1996 Supplement, is amended
5 to read:

6 20.43 Department of Health.--There is created a
7 Department of Health.

8 (3) The following divisions of the Department of
9 Health are established:

10 (f) ~~Effective July 1, 1997,~~ Division of Medical
11 Quality Assurance, which is responsible for the following
12 boards and professions established within the division:

13 1. Nursing assistants, as provided under s. 400.211.

14 2. Health care services pools, as provided under s.
15 402.48.

16 3. The Board of Acupuncture, created under chapter
17 457.

18 4. The Board of Medicine, created under chapter 458.

19 5. The Board of Osteopathic Medicine, created under
20 chapter 459.

21 6. The Board of Chiropractic, created under chapter
22 460.

23 7. The Board of Podiatric Medicine, created under
24 chapter 461.

25 8. Naturopathy, as provided under chapter 462.

26 9. The Board of Optometry, created under chapter 463.

27 10. The Board of Nursing, created under chapter 464.

28 11. The Board of Pharmacy, created under chapter 465.

29 12. The Board of Dentistry, created under chapter 466.

30 13. Midwifery, as provided under chapter 467.

31

- 1 14. The Board of Speech-Language Pathology and
2 Audiology, created under part I of chapter 468.
- 3 15. The Board of Nursing Home Administrators, created
4 under part II of chapter 468.
- 5 16. Occupational therapy, as provided under part III
6 of chapter 468.
- 7 17. Respiratory therapy, as provided under part V of
8 chapter 468.
- 9 18. Dietetics and nutrition practice, as provided
10 under part X of chapter 468.
- 11 19. Athletic trainers, as provided under part XIV of
12 chapter 468.
- 13 20. Electrolysis, as provided under chapter 478.
- 14 21. The Board of Massage Therapy, created under
15 chapter 480.
- 16 22. The Board of Clinical Laboratory Personnel,
17 created under part ~~III~~ ~~IV~~ of chapter 483.
- 18 23. Medical physicists, as provided under part IV ~~V~~ of
19 chapter 483.
- 20 24. The Board of Opticianry, created under part I of
21 chapter 484.
- 22 25. The Board of Hearing Aid Specialists, created
23 under part II of chapter 484.
- 24 26. The Board of Physical Therapy Practice, created
25 under chapter 486.
- 26 27. The Board of Psychology, created under chapter
27 490.
- 28 28. The Board of Clinical Social Work, Marriage and
29 Family Therapy, and Mental Health Counseling, created under
30 chapter 491.
- 31

1 The department shall contract with the Agency for Health Care
2 Administration who shall provide consumer complaint,
3 investigative, and prosecutorial services required by the
4 Division of Medical Quality Assurance, councils, or boards, as
5 appropriate.

6 Section 161. Paragraph (b) of subsection (2) of
7 section 381.81, Florida Statutes, is amended to read:

8 381.81 Minority Health Improvement Act.--

9 (2) DEFINITIONS.--As used in this section, the
10 following words and terms shall have the following meanings,
11 unless the context indicates another meaning or intent:

12 (b) "Health profession" means any regulated health
13 profession, including occupational therapy, as regulated under
14 part III of chapter 468; respiratory therapy, as regulated
15 under part V of chapter 468; physical therapy, as regulated
16 under chapter 486; midwifery, as regulated under chapter 467;
17 dietetics and nutrition practice, as regulated under part X of
18 chapter 468; electrolysis, as regulated under chapter 478;
19 nursing assistants, as regulated under s. 400.211; and those
20 professions regulated by: the Board of Medicine, created
21 under chapter 458; the Board of Osteopathic Medicine, created
22 under chapter 459; the Board of Acupuncture, created under
23 chapter 457; the Board of Chiropractic, created under chapter
24 460; the Board of Clinical Social Work, Marriage and Family
25 Therapy, and Mental Health Counseling, created under chapter
26 491; the Board of Dentistry, created under chapter 466; the
27 Board of Optometry, created under chapter 463; the Board of
28 Podiatric Medicine, created under chapter 461; the Board of
29 Nursing, created by chapter 464; the Board of Psychological
30 Examiners, created under chapter 490; the Board of
31 Speech-Language Pathology and Audiology, created under part I

1 of chapter 468; the Board of Nursing Home Administrators,
 2 created under part II of chapter 468; the Board of Clinical
 3 Laboratory Personnel, created under part III ~~IV~~ of chapter
 4 483; ~~and~~ the Board of Opticianry, created under part I of
 5 chapter 484; and the Board of Hearing Aid Specialists, created
 6 under part II of chapter 484.

7 Section 162. Section 483.800, Florida Statutes, is
 8 amended to read:

9 483.800 Declaration of policy and statement of
 10 purpose.--The purpose of this part is to protect the public
 11 health, safety, and welfare of the people of this state from
 12 the hazards of improper performance by clinical laboratory
 13 personnel. Clinical laboratories provide essential services
 14 to practitioners of the healing arts by furnishing vital
 15 information that is essential to a determination of the
 16 nature, cause, and extent of the condition involved.
 17 Unreliable and inaccurate reports may cause unnecessary
 18 anxiety, suffering, and financial burdens and may even
 19 contribute directly to death. The protection of public and
 20 individual health requires the licensure of clinical
 21 laboratory personnel who meet minimum requirements for safe
 22 practice. The Legislature finds that laboratory testing
 23 technology continues to advance rapidly. The Legislature also
 24 finds that a hospital training program under the direction of
 25 the hospital clinical laboratory director offers an
 26 opportunity for individuals already trained in health care
 27 professions to expand the scope of their careers. The
 28 Legislature further finds that there is an immediate need for
 29 properly trained personnel to ensure patient access to
 30 testing. Therefore, the Legislature recognizes the
 31 patient-focused benefits of hospital-based training for

1 laboratory and nonlaboratory personnel for testing within
2 hospitals and commercial laboratories ~~the laboratory and at~~
3 ~~alternate sites~~, and recognizes the benefits of a training
4 program approved by the Board of Clinical Laboratory Personnel
5 under the direction of the hospital clinical laboratory
6 director.

7 Section 163. Subsection (3) is added to section
8 483.801, Florida Statutes, to read:

9 483.801 Exemptions.--This part applies to all clinical
10 laboratories and clinical laboratory personnel within this
11 state, except:

12 (3) Advanced registered nurse practitioners licensed
13 under chapter 464 who perform provider-performed microscopy
14 procedures (PPMP) in an exclusive-use laboratory setting.

15 Section 164. Section 483.803, Florida Statutes, is
16 amended to read:

17 483.803 Definitions.--As used in this part, the term:

18 (1) "Board" means the Board of Clinical Laboratory
19 Personnel.

20 (2) "Clinical laboratory" means a clinical laboratory
21 as defined in s. 483.041(2).

22 (3) "Clinical laboratory examination" means an
23 examination performed on materials or specimens of the human
24 body to provide information or materials for use in the
25 diagnosis, prevention, or treatment of a disease or the
26 identification or assessment of a medical or physical
27 condition.

28 (4)~~(3)~~ "Clinical laboratory personnel" includes a
29 clinical laboratory director, supervisor, technologist, blood
30 gas analyst, or technician who performs or is responsible for
31 laboratory test procedures, but the term does not include

1 trainees, persons who perform screening for blood banks or
2 plasmapheresis centers, phlebotomists, or persons employed by
3 a clinical laboratory to perform manual pretesting duties or
4 clerical, personnel, or other administrative responsibilities.

5 (5)~~(4)~~ "Clinical laboratory trainee" means any person
6 having qualifying education who is enrolled in a clinical
7 laboratory training program approved pursuant to s. 483.811
8 and who is seeking experience required to meet minimum
9 qualifications for licensing in this state. Trainees may
10 perform procedures under direct and responsible supervision of
11 duly licensed clinical laboratory personnel, but they may not
12 report test results.

13 (6)~~(5)~~ "Department" means the Department of Health
14 ~~Business and Professional Regulation.~~

15 (7)~~(6)~~ "Licensed practitioner of the healing arts"
16 means a physician licensed pursuant to chapter 458, chapter
17 459, or chapter 460; a dentist licensed pursuant to chapter
18 466; or a person licensed pursuant to chapter 461 or chapter
19 462.

20 (8) "Public health laboratory scientist" means any
21 licensed director, supervisor, technologist, or technician
22 engaged in laboratory testing of human specimens in a state,
23 county, or municipal public health laboratory.

24 Section 165. Subsections (1) and (2) of section
25 483.809, Florida Statutes, are amended to read:

26 483.809 Licensure; examinations; registration of
27 trainees; approval of curricula.--

28 (1) LICENSING; ~~QUALIFICATIONS.~~--

29 ~~(a)~~ The department shall provide biennial licensure of
30 all clinical laboratory personnel who the board certifies have
31 met meeting the requirements of this part ~~and shall prescribe~~

1 ~~the qualifications necessary for such licensure.~~ The license
2 of any person who fails to pay a required fee or otherwise
3 fails to qualify within 60 days after the date of expiration
4 of such license shall be automatically canceled without notice
5 or further proceedings unless the individual has made
6 application for inactive status pursuant to s. 483.819.

7 ~~(b) Personnel qualifications may require appropriate~~
8 ~~education, training, or experience or the passing of an~~
9 ~~examination in appropriate subjects or any combination of~~
10 ~~these, but no practitioner of the healing arts licensed to~~
11 ~~practice in this state is required to obtain any license under~~
12 ~~this part or to pay any fee hereunder except the fee required~~
13 ~~for clinical laboratory licensure.~~

14 (2) EXAMINATIONS.--The department shall conduct
15 examinations required by board rules to determine in part the
16 qualification of clinical laboratory personnel for licensure.
17 An approved national certification examination may be accepted
18 in lieu of state examination for public health scientists.

19 Section 166. Section 483.812, Florida Statutes, is
20 created to read:

21 483.812 Public health laboratory scientists;
22 licensure.--

23 (1) Applicants at the director and supervisor level in
24 the category of public health who are registered by the
25 National Registry of Clinical Chemistry Certification or the
26 American Society of Microbiology may qualify under board rules
27 by passing the appropriate supervision and administration
28 examination.

29 (2)(a) A technologist applicant for licensure in the
30 category of public health microbiology, with a baccalaureate
31 degree in one of the biological sciences from an accredited

1 institution, may use the American Society of Microbiology or
2 the National Registry of Microbiology Certification in Public
3 Health Microbiology to qualify for a technologist license in
4 public health microbiology. Such a technologist may work in a
5 public health microbiology laboratory.

6 (b) A technologist applicant for licensure in the
7 category of public health chemistry, with a baccalaureate
8 degree in one of the chemical, biological, or physical
9 sciences from an accredited institution, may use the National
10 Registry of Clinical Chemistry Certification to qualify for a
11 technologist license in public health chemistry. Such a
12 technologist may work in a public health chemistry laboratory.

13 (c) A technician applicant for licensure in the
14 category of public health, with a baccalaureate degree in one
15 of the chemical or biological sciences from an accredited
16 institution, may obtain a one-time, 3-year, conditional public
17 health technician license pending national certification by
18 the American Society of Microbiology or the National Registry
19 of Clinical Chemistry Certification. Such a technician may
20 perform testing only under the direct supervision of a
21 licensed pathologist, director, supervisor, or technologist.

22 (3) A person licensed by the Board of Clinical
23 Laboratory Personnel may work in a public health laboratory at
24 the appropriate level and specialty.

25 Section 167. Section 483.813, Florida Statutes, is
26 amended to read:

27 483.813 Clinical laboratory personnel license.--A
28 person may not conduct a clinical laboratory examination or
29 report the results of such examination unless such person is
30 licensed under this part to perform such procedures. However,
31 this provision does not apply to any practitioner of the

1 healing arts authorized to practice in this state. The
2 department may grant a temporary license to any candidate it
3 deems properly qualified, for a period not to exceed 1 year,
4 or a conditional license for a period not to exceed 3 years ~~6~~
5 ~~months.~~

6 Section 168. Section 483.823, Florida Statutes, is
7 amended to read:

8 483.823 Qualifications of clinical laboratory
9 personnel.--

10 (1) The board shall prescribe minimal qualifications
11 for clinical laboratory personnel and shall issue a license to
12 any person who meets the minimum qualifications and who
13 demonstrates that he possesses the character, training, and
14 ability to qualify in those areas for which the license is
15 sought.

16 (2) Personnel qualifications may require appropriate
17 education, training, or experience or the passing of an
18 examination in appropriate subjects or any combination of
19 these, but no practitioner of the healing arts licensed to
20 practice in this state is required to obtain any license under
21 this part or to pay any fee hereunder except the fee required
22 for clinical laboratory licensure.

23 Section 169. Section 483.825, Florida Statutes, is
24 amended to read:

25 483.825 Grounds for disciplinary action ~~against~~
26 ~~clinical laboratory personnel.~~--The following acts constitute
27 grounds for which disciplinary actions specified in s. 483.827
28 may be taken against applicants, registrants, and licensees
29 under this part ~~clinical laboratory personnel~~:

30 (1) Attempting to obtain, obtaining, or renewing a
31 license or registration under this part by bribery, by

1 fraudulent misrepresentation, or through an error of the
2 department or the board ~~Making a fraudulent statement on an~~
3 ~~application for a license or any other document required by~~
4 ~~the department.~~

5 (2) Engaging in or attempting to engage in, or
6 representing himself as entitled to perform, any clinical
7 laboratory procedure or category of procedures not authorized
8 pursuant to his license.

9 (3) Demonstrating incompetence or making consistent
10 errors in the performance of clinical laboratory examinations
11 or procedures or erroneous reporting.

12 (4) Performing a test and rendering a report thereon
13 to a person not authorized by law to receive such services.

14 (5) Having been convicted of a felony or of any crime
15 involving moral turpitude under the laws of any state or of
16 the United States. The record of conviction or a certified
17 copy thereof shall be conclusive evidence of such conviction.

18 (6) Having been adjudged mentally or physically
19 incompetent.

20 (7) Violating or aiding and abetting in the violation
21 of any provision of this part or the rules adopted hereunder.

22 (8) Reporting a test result when no laboratory test
23 was performed on a clinical specimen.

24 (9) Knowingly advertising false services or
25 credentials.

26 (10) Having a license revoked, suspended, or otherwise
27 acted against, including the denial of licensure, by the
28 licensing authority of another jurisdiction. The licensing
29 authority's acceptance of a relinquishment of a license,
30 stipulation, consent order, or other settlement, offered in
31 response to or in anticipation of the filing of administrative

1 charges against the licensee, shall be construed as action
2 against the licensee.

3 (11) Failing to report to the board, in writing,
4 within 30 days if action under subsection (10) has been taken
5 against one's license to practice as clinical laboratory
6 personnel in another state, territory, or country.

7 (12) Being unable to perform or report clinical
8 laboratory examinations with reasonable skill and safety to
9 patients by reason of illness or use of alcohol, drugs,
10 narcotics, chemicals, or any other type of material or as a
11 result of any mental or physical condition. In enforcing this
12 paragraph, the department shall have, upon a finding of the
13 secretary or his or her designee that probable cause exists to
14 believe that the licensee is unable to practice because of the
15 reasons stated in this paragraph, the authority to issue an
16 order to compel a licensee to submit to a mental or physical
17 examination by physicians designated by the department. If
18 the licensee refuses to comply with such order, the
19 department's order directing such examination may be enforced
20 by filing a petition for enforcement in the circuit court
21 where the licensee resides or does business. The department
22 shall be entitled to the summary procedure provided in s.
23 51.011. A licensee affected under this paragraph shall at
24 reasonable intervals be afforded an opportunity to demonstrate
25 that he or she can resume competent practice with reasonable
26 skill and safety to patients.

27 (13) Delegating professional responsibilities to a
28 person when the licensee delegating such responsibilities
29 knows, or has reason to know, that such person is not
30 qualified by training, experience, or licensure to perform
31 them.

1 Section 170. Section 483.828, Florida Statutes, is
2 created to read:

3 483.828 Penalty for violations.--

4 (1) Each of the following acts constitutes a felony of
5 the third degree, punishable as provided in s. 775.082, s.
6 775.083, or s. 775.084:

7 (a) Practicing as clinical laboratory personnel
8 without an active license.

9 (b) Using or attempting to use a license to practice
10 as clinical laboratory personnel which is suspended or
11 revoked.

12 (c) Attempting to obtain or obtaining a license to
13 practice as clinical laboratory personnel by knowing
14 misrepresentation.

15 (2) Each of the following act constitutes a
16 misdemeanor of the first degree, punishable as provided in s.
17 775.082 or s. 775.083:

18 (a) Knowingly concealing information relating to
19 violations of this part.

20 (b) Making any willfully false oath or affirmation
21 whenever an oath or affirmation is required by this part.

22 (c) Leading the public to believe that one is licensed
23 as clinical laboratory personnel, or is engaged in licensed
24 practice as clinical laboratory personnel, without holding a
25 valid, active license.

26 Section 171. Section 483.901, Florida Statutes, is
27 amended to read:

28 483.901 Medical physicists; definitions; licensure.--

29 (1) SHORT TITLE.--This section may be cited as the
30 "Florida Medical Physicists Act."

31

1 (2) DECLARATION OF LEGISLATIVE POLICY.--The
2 Legislature finds that the practice of medical physics by
3 incompetent persons is a threat to the public health and
4 safety. It is, therefore, the responsibility of this state to
5 protect the public health and safety from the harmful effects
6 of excessive and unnecessary radiation by ensuring that the
7 practice of medical physics is entrusted only to persons who
8 are licensed under this section.

9 (3) DEFINITIONS.--As used in this section, the term:

10 ~~(a) "Agency" means the Agency for Health Care~~
11 ~~Administration or its successor.~~

12 (a)~~(b)~~ "Council" means the Advisory Council of Medical
13 Physicists in the Department of Health ~~Agency for Health Care~~
14 ~~Administration.~~

15 (b) "Department" means the Department of Health.

16 (c) "Diagnostic radiological physics" means the
17 specialty of medical physics which deals with the diagnostic
18 application and safe use of X rays, gamma rays from sealed
19 sources, ultrasonic radiation, radio frequency radiation, or
20 magnetic fields, and the use of equipment associated with the
21 production, use, measurement, and evaluation of the radiation
22 and the quality of the diagnostic image resulting from its
23 production and use.

24 (d) "License" means a certificate issued by the
25 department ~~agency~~ which authorizes the holder to practice
26 medical physics.

27 (e) "Licensed medical physicist" means a person who
28 holds a license issued under this section.

29 (f) "Medical health physics" means the specialty of
30 medical physics which deals with the safe use of X rays, gamma
31 rays, electron or other charged particle beams, neutrons,

1 radionuclides, and radiation from sealed sources, for both
2 diagnostic and therapeutic purposes in human beings and the
3 use of equipment required to perform appropriate tests and
4 measurements that do not involve the direct application of
5 radiation to humans for diagnostic or therapeutic procedures.

6 (g) "Medical nuclear radiological physics" means the
7 specialty of medical physics which deals with the therapeutic
8 and diagnostic application and safe use of radionuclides,
9 except those used in sealed sources for therapeutic purposes,
10 and the use of equipment associated with the production, use,
11 measurement, and evaluation of radionuclides.

12 (h) "Medical physics" means the branch of physics
13 which is associated with the practice of medicine. It
14 includes the fields of diagnostic radiological physics,
15 therapeutic radiological physics, medical nuclear radiological
16 physics, and medical health physics.

17 (i) "Physician" means a doctor of medicine,
18 osteopathic medicine ~~osteopathy~~, podiatry, dentistry, or
19 chiropractic who is licensed in this state and who prescribes
20 a radiological procedure.

21 (j) "Practice of medical physics" means the use of
22 principles and accepted protocols of physics to ensure ~~assure~~
23 the correct quality, quantity, and placement of radiation
24 during the performance of a radiological procedure prescribed
25 by a physician which will protect the patient and others from
26 harmful excessive radiation. The term includes radiation beam
27 calibration and characterization quality assurance, instrument
28 specification, acceptance testing, shielding design,
29 protection analysis on radiation-emitting equipment and
30 radiopharmaceuticals, and consultation with a physician to
31 ensure ~~assure~~ accurate radiation dosage to a specific patient.

1 (k) "Radiation" means ionizing or nonionizing
2 radiation above background levels which is used to perform a
3 diagnostic or therapeutic medical or dental radiological
4 procedure.

5 (l) "Radiological procedure" means a test,
6 measurement, calculation, or radiation exposure used in the
7 diagnosis or treatment of diseases or other medical or dental
8 conditions in human beings that includes therapeutic
9 radiation, diagnostic radiation, nuclear magnetic resonance,
10 or nuclear medicine procedures.

11 (m) "Therapeutic radiological physics" means that
12 specialty of medical physics which deals with the therapeutic
13 application and safe use of X rays, gamma rays, electron or
14 other charged particle beams, neutrons, or radiation from
15 radionuclide sources, and the use of equipment associated with
16 the production, use, measurement, and evaluation of that
17 radiation.

18 (4) COUNCIL.--The Advisory Council of Medical
19 Physicists is created in the Department of Health ~~Agency for~~
20 ~~Health Care Administration~~ to advise the department in
21 regulating ~~regulate~~ the practice of medical physics in this
22 state.

23 (a) The council shall be composed of nine ~~seven~~
24 members appointed by the secretary of the department ~~director~~
25 as follows:

26 1. A licensed medical physicist who specializes in
27 diagnostic radiological physics.

28 2. A licensed medical physicist who specializes in
29 therapeutic radiological physics.

30 3. A licensed medical physicist who specializes in
31 medical nuclear radiological physics.

1 4. A physician who is board certified by the American
2 Board of Radiology or its equivalent.

3 5. A physician who is board certified by the American
4 Osteopathic Board of Radiology or its equivalent.

5 6. A physician who is board certified by the American
6 Chiropractic Radiology Board of ~~Chiropractic Radiology~~ or its
7 equivalent.

8 7. Three ~~A~~ consumer members ~~member~~ who are ~~is~~ not, and
9 have ~~has~~ never been, licensed as a medical physicist or
10 licensed in any closely related profession.

11 (b) The secretary of the department ~~director~~ shall
12 appoint the medical physicist members of the council from a
13 list of candidates who are licensed to practice medical
14 physics.

15 (c) The secretary of the department ~~director~~ shall
16 appoint the physician members ~~member~~ of the council from a
17 list of candidates who are licensed to practice medicine in
18 this state and are board certified in diagnostic radiology,
19 therapeutic radiology, or radiation oncology.

20 (d) The secretary of the department ~~director~~ shall
21 appoint the public members ~~member~~ of the council.

22 (e) As the term of each member expires, the secretary
23 of the department ~~director~~ shall appoint the successor for a
24 term of 4 ~~3~~ years. A member shall serve until the member's
25 ~~his~~ successor is appointed, unless physically unable to do so.

26 (f) An individual is ineligible to serve more than two
27 full consecutive 4-year ~~3-year~~ terms.

28 (g) If a vacancy on the council occurs, the director
29 shall appoint a member to serve for a 4-year ~~3-year~~ term.
30
31

1 (h) A council member must be a United States citizen
2 and must have been a resident of this state for 2 consecutive
3 years immediately before being appointed.

4 1. A member of the council who is a medical physicist
5 must have practiced for at least 6 years before being
6 appointed or be board certified for the specialty in which the
7 member practices.

8 2. A member of the council who is a physician must be
9 licensed to practice medicine in this state and must have
10 practiced diagnostic radiology or radiation oncology in this
11 state for at least 2 years before being appointed.

12 3. The public members ~~member~~ of the council must not
13 have a financial interest in any endeavor related to the
14 practice of medical physics.

15 (i) Notwithstanding any other provision of this
16 subsection, no later than January 1, 1996, the secretary of
17 the department ~~director~~ shall make the initial appointments to
18 the council as follows:

19 1. One member who is engaged in the practice of
20 medical physics, one physician member, and one public member,
21 each of whom is to be appointed to serve until June 30, 1996;

22 2. One member who is engaged in the practice of
23 medical physics and one physician member, each of whom is to
24 be appointed to serve until June 30, 1997; and

25 3. One member who is engaged in the practice of
26 medical physics and one physician member, each of whom is to
27 be appointed to serve until June 30, 1998.

28 (j) A council member may be removed from the council
29 if the member:

30 1. Did not have the required qualifications at the
31 time of appointment;

1 2. Does not maintain the required qualifications while
2 serving on the council; or

3 3. Fails to attend the regularly scheduled council
4 meetings in a calendar year as required by s. 455.207.

5 (k) Members of the council may not receive
6 compensation for their services; however, they are entitled to
7 reimbursement, from funds deposited in the Medical Quality
8 Assurance ~~Health Care~~ Trust Fund, for necessary travel
9 expenses as specified in s. 112.061 for each day they engage
10 in the business of the council.

11 (l) At the first regularly scheduled meeting of each
12 calendar year, the council shall elect a presiding officer and
13 an assistant presiding officer from among its members. The
14 council shall meet at least once each year and at other times
15 in accordance with department requirements ~~agency rules~~.

16 (m) The department ~~agency~~ shall provide administrative
17 support to the council for all licensing activities.

18 (n) The council may conduct its meetings
19 electronically.

20 (5) POWERS OF COUNCIL.--The council shall:

21 (a) Recommend rules to administer this section.

22 (b) Recommend practice standards for the practice of
23 medical physics which are consistent with the Guidelines for
24 Ethical Practice for Medical Physicists prepared by the
25 American Association of Physicists in Medicine and
26 disciplinary guidelines adopted under s. 455.2273.

27 (c) Develop and recommend continuing education
28 requirements for licensed medical physicists.

29 (6) LICENSE REQUIRED.--An individual may not engage in
30 the practice of medical physics, including the specialties of
31 diagnostic radiological physics, therapeutic radiological

1 physics, medical nuclear radiological physics, or medical
 2 health physics, without a license issued by the department
 3 ~~agency~~ for the appropriate specialty.

4 (a) The department ~~agency~~ shall adopt rules to
 5 administer this section which specify license application and
 6 renewal fees, continuing education requirements, and standards
 7 for practicing medical physics. The council shall recommend
 8 to the department ~~agency~~ continuing education requirements
 9 that shall be a condition of license renewal. The department
 10 ~~agency~~ shall require a minimum of 24 hours per biennium of
 11 continuing education offered by an organization recommended by
 12 the council and approved by the department. The department,
 13 upon recommendation of the council, may adopt rules to specify
 14 continuing education requirements for persons who hold a
 15 license in more than one specialty.

16 (b) In order to apply for a medical physicist license
 17 in one or more specialties, a person must file an individual
 18 application for each specialty with the department ~~agency~~.
 19 The application must be on a form prescribed by the department
 20 ~~agency~~ and must be accompanied by a nonrefundable application
 21 fee for each specialty.

22 (c) The department may issue a license to an eligible
 23 applicant if the applicant meets all license requirements. At
 24 any time before the department ~~agency~~ issues ~~or renews~~ a
 25 license, the applicant may request in writing that the
 26 application be withdrawn. To reapply, the applicant must
 27 submit a new application and an additional nonrefundable
 28 application fee and must meet all current licensure
 29 requirements.

30
 31

1 (d) The department agency shall review each completed
2 application for a license which the department agency
3 receives.

4 ~~(e) The agency may issue a license to an eligible~~
5 ~~applicant if the applicant meets all license requirements.~~

6 1. ~~Licenses must be uniform and must include:~~

7 a. ~~The name of the licensee;~~

8 b. ~~The medical physics specialty that the licensee may~~
9 ~~practice; and~~

10 c. ~~The expiration date of the license.~~

11 2. ~~A license certificate is the property of the agency~~
12 ~~and must be surrendered on demand.~~

13 3. ~~The agency shall adopt rules establishing a~~
14 ~~procedure for the biennial renewal of licenses.~~

15 4. ~~A person may renew an unexpired license by meeting~~
16 ~~the renewal requirements, paying the nonrefundable renewal fee~~
17 ~~before the expiration of the license, and meeting continuing~~
18 ~~education requirements.~~

19 5. ~~The cost to renew a license within 90 days after~~
20 ~~the license has expired is the normal renewal fee plus a~~
21 ~~penalty in the amount of half the renewal fee.~~

22 6. ~~The cost to renew a license that has been expired~~
23 ~~for more than 90 days but less than 2 years is the normal~~
24 ~~renewal fee plus a penalty in the amount of the renewal fee.~~

25 7. ~~A license may not be renewed after it has been~~
26 ~~expired for more than 2 years. To be relicensed, a person~~
27 ~~must comply with all current application requirements to~~
28 ~~practice medical physics and must submit a new application and~~
29 ~~nonrefundable application fee to the agency.~~

30
31

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 172. 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 173. 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 174. 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 175. 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 176. 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 seven members
26 ~~recommended by the Florida Physical Therapy Association and~~
27 appointed by the Governor and, subject to confirmation by the
28 Senate.

29 (2) Five board members shall be licensed physical
30 therapists in good standing in this state who are residents of
31 this state and who have been engaged in the practice of

1 physical therapy for at least 4 years immediately prior to
 2 their appointment. One licensed physical therapist board
 3 member may be a full-time faculty member teaching in a
 4 physical therapy curriculum in an educational institution in
 5 this state. ~~One of~~ The two remaining members shall be
 6 residents ~~a resident~~ of this state who have ~~has~~ never been a
 7 licensed health care practitioners ~~practitioner~~. ~~One of the~~
 8 ~~two remaining members shall be a health care practitioner~~
 9 ~~licensed under chapter 458 or chapter 459 who is a resident of~~
 10 ~~this state and has been engaged as a licensed health care~~
 11 ~~practitioner for at least 4 years immediately prior to his or~~
 12 ~~her appointment.~~

13 ~~(3) Within 90 days after October 1, 1989, the Governor~~
 14 ~~shall appoint the board as follows:~~

15 ~~(a) Two members for terms of 2 years each.~~

16 ~~(b) Two members for terms of 3 years each.~~

17 ~~(c) Three members for terms of 4 years each.~~

18 (3)(4) As the terms of the members expire, the
 19 Governor shall appoint successors for terms of 4 years, and
 20 such members shall serve until their successors are appointed.

21 (4)(5) All provisions of chapter 455 relating to
 22 activities of the board shall apply.

23 Section 177. Section 486.031, Florida Statutes, is
 24 amended to read:

25 486.031 Physical therapist; licensing
 26 requirements.--To be eligible for licensing as a physical
 27 therapist, an applicant must:

28 (1) Be at least 18 years old;

29 (2) Be of good moral character; and

30 (3)(a) Have been graduated from a school of physical
 31 therapy which has been approved for the educational

1 preparation of physical therapists by the appropriate
 2 accrediting agency recognized by the Commission on Recognition
 3 of Postsecondary Accreditation(~~formerly the National~~
 4 ~~Commission on Accrediting and the Federation of Regional~~
 5 ~~Accrediting Commissions of Higher Education~~)or the United
 6 States Department of Education at the time of his graduation
 7 and have passed, to the satisfaction of the board, the
 8 American Registry Examination prior to 1971 or a national an
 9 examination approved administered by the board department to
 10 determine his fitness for practice as a physical therapist as
 11 hereinafter provided; ~~or~~

12 (b) Have received a diploma from a program in physical
 13 therapy in a foreign country and have educational credentials
 14 deemed equivalent to those required for the educational
 15 preparation of physical therapists in this country, as
 16 recognized by the appropriate agency as identified by the
 17 board, and have passed to the satisfaction of the board an
 18 examination ~~administered by the department~~ to determine his
 19 fitness for practice as a physical therapist as hereinafter
 20 provided; or

21 (c) Be entitled to licensure without examination as
 22 provided in s. 486.081.

23 Section 178. Section 486.041, Florida Statutes, is
 24 amended to read:

25 486.041 Physical therapist; application for license;
 26 fee; temporary permit.--

27 (1) A person who desires to be licensed as a physical
 28 therapist shall apply to the department board in writing on a
 29 form furnished by the department. He shall embody in that
 30 application evidence under oath, satisfactory to the board, of
 31 his possessing the qualifications preliminary to examination

1 required by s. 486.031. He shall pay to the department at the
2 time of filing his application a fee not to exceed \$100, as
3 fixed by the board, ~~plus the actual per applicant cost to the~~
4 ~~department for purchase of the examination from the~~
5 ~~Professional Examination Services for the American Physical~~
6 ~~Therapist's Association or a similar national organization.~~
7 ~~If an applicant is deemed ineligible to take the examination,~~
8 ~~that part of his application fee which is to be used for~~
9 ~~examination expenses shall be returned.~~

10 (2) If a person desires to practice physical therapy
11 before becoming licensed through examination, he shall apply
12 ~~to the board~~ for a temporary permit in accordance with rules
13 adopted pursuant to this chapter.

14 (a) A temporary permit shall only be issued for a
15 limited period of time, not to exceed 1 year, and shall not be
16 renewable. A temporary permit shall automatically expire if an
17 applicant fails the examination.

18 (b) An applicant for licensure by examination and
19 practicing under a temporary permit shall do so only under the
20 direct supervision of a licensed physical therapist.

21 Section 179. Section 486.051, Florida Statutes, is
22 amended to read:

23 486.051 Physical therapist; examination of
24 applicant.--~~The department shall provide for examination of~~
25 ~~applicants for licensing as physical therapists at least once~~
26 ~~a year, and more often at the discretion of the board, at a~~
27 ~~time and place to be determined by the department. The~~
28 examinations of an applicant for licensing as a physical
29 therapist shall be ~~administered by the department, in~~
30 accordance with rules adopted by the board, to test the
31 applicant's qualifications and shall include the taking of a

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

10 Section 180. Section 486.081, Florida Statutes, is
 11 amended to read:

12 486.081 Physical therapist; issuance of license
 13 without examination to person passing examination of another
 14 authorized examining board; temporary permit; fee.--

15 (1) The board may cause a license to be issued through
 16 the department without examination to any applicant who
 17 presents evidence satisfactory to the board of having passed
 18 the American Registry Examination prior to 1971 or an
 19 examination in physical therapy before a similar lawfully
 20 authorized examining board of another state, the District of
 21 Columbia, a territory, or a foreign country, if the standards
 22 for licensure in physical therapy in such other state,
 23 district, territory, or foreign country are determined by the
 24 board to be as high as those of this state, as established by
 25 rules adopted pursuant to this chapter. Any person who holds a
 26 license pursuant to this section may use the words "physical
 27 therapist" or "physiotherapist," or the letters "P.T.," in
 28 connection with his name or place of business to denote his
 29 licensure hereunder.

30 (2) At the time of making application for licensure
 31 without examination pursuant to the terms of this section, the

1 applicant shall pay to the department a fee not to exceed \$175
2 as fixed by the board, no part of which will be returned.

3 (3) If a person desires to practice physical therapy
4 before becoming licensed through endorsement, he shall apply
5 to the board for a temporary permit in accordance with rules
6 adopted pursuant to this chapter. A temporary permit shall
7 only be issued for a limited period of time, not to exceed 1
8 year, and shall not be renewable.

9 Section 181. Section 486.102, Florida Statutes, is
10 amended to read:

11 486.102 Physical therapist assistant; licensing
12 requirements.--To be eligible for licensing by the board as a
13 physical therapist assistant, an applicant must:

14 (1) Be at least 18 years old;

15 (2) Be of good moral character; and

16 (3)(a) Have been graduated from a school giving a
17 course of not less than 2 years for physical therapist
18 assistants, which has been approved for the educational
19 preparation of physical therapist assistants by the
20 appropriate accrediting agency recognized by the Commission on
21 Recognition of Postsecondary Accreditation~~(formerly the~~
22 ~~National Commission on Accrediting and the Federation of~~
23 ~~Regional Accrediting Commissions of Higher Education)~~or the
24 United States Department of Education at the time of his
25 graduation and have passed to the satisfaction of the board an
26 examination ~~administered by the department~~ to determine his
27 fitness for practice as a physical therapist assistant as
28 hereinafter provided; ~~or~~

29 (b) Have been graduated from a school giving a course
30 for physical therapist assistants in a foreign country and
31 have educational credentials deemed equivalent to those

1 required for the educational preparation of physical therapist
2 assistants in this country, as recognized by the appropriate
3 agency as identified by the board, and passed to the
4 satisfaction of the board an examination ~~conducted by the~~
5 ~~department~~ to determine his fitness for practice as a physical
6 therapist assistant as hereinafter provided; or

7 (c) Be entitled to licensure without examination as
8 provided in s. 486.107.

9 Section 182. Section 486.103, Florida Statutes, is
10 amended to read:

11 486.103 Physical therapist assistant; application for
12 license; fee; temporary permit.--

13 (1) A person who desires to be licensed as a physical
14 therapist assistant shall apply to the department ~~board~~ in
15 writing on a form furnished by the department. He shall
16 embody in that application evidence under oath, satisfactory
17 to the board, of his possessing the qualifications preliminary
18 to examination required by s. 486.104. He shall pay to the
19 department at the time of filing his application a fee not to
20 exceed \$100, as fixed by the board, ~~plus the actual per~~
21 ~~applicant cost to the department for purchase of the~~
22 ~~examination from the Professional Examination Services for the~~
23 ~~American Physical Therapist's Association or a similar~~
24 ~~national organization. If an applicant is deemed ineligible~~
25 ~~to take the examination, that part of his application fee~~
26 ~~which is to be used for examination expenses shall be~~
27 ~~returned.~~

28 (2) If a person desires to work as a physical
29 therapist assistant before being licensed through examination,
30 he shall apply for a temporary permit in accordance with rules
31 adopted pursuant to this chapter.

1 (a) A temporary permit shall only be issued for a
2 limited period of time, not to exceed 1 year, and shall not be
3 renewable. A temporary permit shall automatically expire if an
4 applicant fails the examination.

5 (b) An applicant for licensure by examination who is
6 practicing under a temporary permit shall do so only under the
7 direct supervision of a licensed physical therapist.

8 Section 183. Section 486.104, Florida Statutes, is
9 amended to read:

10 486.104 Physical therapist assistant; examination of
11 applicant.--~~The department shall provide for examination of~~
12 ~~applicants for licensing as physical therapist assistants at~~
13 ~~least once a year, and more often at the discretion of the~~
14 ~~board, at a time and place to be determined by the department.~~
15 The examination of an applicant for licensing as a physical
16 therapist assistant shall be ~~provided by the department,~~in
17 accordance with rules adopted by the board, to test the
18 applicant's qualifications and shall include the taking of a
19 ~~written~~ test by the applicant. If an applicant fails to pass
20 the examination in three attempts, he shall not be eligible
21 for reexamination unless he completes additional educational
22 or training requirements prescribed by the board. An
23 applicant who has completed the additional educational or
24 training requirements prescribed by the board may take the
25 examination on two more occasions. If the applicant has
26 failed to pass the examination after five attempts, he is no
27 longer eligible to take the examination.

28 Section 184. Section 486.123, Florida Statutes, is
29 created to read:

30 486.123 Sexual misconduct in the practice of physical
31 therapy.--The physical therapist-patient relationship is

1 founded on mutual trust. Sexual misconduct in the practice of
2 physical therapy means violation of the physical
3 therapist-patient relationship through which the physical
4 therapist uses that relationship to induce or attempt to
5 induce the patient to engage, or to engage or attempt to
6 engage the patient, in sexual activity outside the scope of
7 practice or the scope of generally accepted examination or
8 treatment of the patient. Sexual misconduct in the practice
9 of physical therapy is prohibited.

10 Section 185. Paragraph (g) is added to subsection (2)
11 of section 486.125, Florida Statutes, to read:

12 486.125 Refusal, revocation, or suspension of license;
13 administrative fines and other disciplinary measures.--

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

17 (g) Recovery of actual costs of investigation and
18 prosecution.

19 Section 186. Subsection (11) is added to section
20 641.495, Florida Statutes, 1996 Supplement, to read:

21 641.495 Requirements for issuance and maintenance of
22 certificate.--

23 (11) The organization shall designate a medical
24 director who is a physician licensed under chapter 458 or
25 chapter 459.

26 Section 187. Subsection (3) of section 499.012,
27 Florida Statutes, is amended to read:

28 499.012 Wholesale distribution; definitions; permits;
29 general requirements.--

30 (3)~~(a)~~ A person that engages in wholesale distribution
31 of prescription drugs in this state must have a wholesale

1 distributor's permit issued by the department, except as noted
2 in this section. Each establishment must be separately
3 permitted except as noted in this subsection.

4 (a) A separate establishment permit is not required
5 when a permitted prescription drug wholesaler consigns a
6 prescription drug to a pharmacy that is permitted under
7 chapter 465 and located in this state, provided that:

8 1. The consignor wholesaler notifies the department in
9 writing of the contract to consign prescription drugs to a
10 pharmacy along with the identity and location of each
11 consignee pharmacy;

12 2. The pharmacy maintains its permit under chapter
13 465;

14 3. The consignor wholesaler, which has no legal
15 authority to dispense prescription drugs, complies with all
16 wholesale distribution requirements of s. 499.0121 with
17 respect to the consigned drugs and maintains records
18 documenting the transfer of title or other completion of the
19 wholesale distribution of the consigned prescription drugs;

20 4. The distribution of the prescription drug is
21 otherwise lawful under this chapter and other applicable law;

22 5. Open packages containing prescription drugs within
23 a pharmacy are the responsibility of the pharmacy, regardless
24 of how the drugs are titled; and

25 6. The pharmacy dispenses the consigned prescription
26 drug in accordance with the limitations of its permit under
27 chapter 465 or returns the consigned prescription drug to the
28 consignor wholesaler. In addition, a person who holds title to
29 prescription drugs may transfer the drugs to a person
30 permitted or licensed to handle the reverse distribution or
31 destruction of drugs. Any other distribution by and means of

1 the consigned prescription drug by any person, not limited to
2 the consignor wholesaler or consignee pharmacy, to any other
3 person is prohibited.

4 (b) A wholesale distributor's permit is not required
5 for the one-time transfer of title of a pharmacy's lawfully
6 acquired prescription drug inventory by a pharmacy with a
7 valid permit issued under chapter 465 to a consignor
8 prescription drug wholesaler, permitted under this chapter, in
9 accordance with a written consignment agreement between the
10 pharmacy and that wholesaler if: the permitted pharmacy and
11 the permitted prescription drug wholesaler comply with all of
12 the provisions of paragraph (3)(a) and the prescription drugs
13 continue to be within the permitted pharmacy's inventory for
14 dispensing in accordance with the limitations of the pharmacy
15 permit under chapter 465. A consignor drug wholesaler may not
16 use the pharmacy as a wholesale distributor through which it
17 distributes the legend drugs to other pharmacies. Nothing in
18 this section is intended to prevent a wholesale drug
19 distributor from obtaining this inventory in the event of
20 nonpayment by the pharmacy.

21 (c)(b) The department shall require information from
22 each wholesale distributor as part of the permit and renewal
23 of such permit, as required under s. 499.01.

24 Section 188. The Board of Medicine shall adopt rules
25 to establish practice guidelines for physicians to safely
26 prescribe phentermine, fenfluramine, and other drugs used to
27 treat obesity.

28 Section 189. The Board of Osteopathic Medicine shall
29 adopt rules to establish practice guidelines for physicians to
30 safely prescribe phentermine, fenfluramine, and other drugs
31 used to treat obesity.

1 Section 190. Subsections (6) through (11) of section
2 409.9122, Florida Statutes, 1996 Supplement, are redesignated
3 as subsections (7) through (12), respectively, and a new
4 subsection (6) is added to that section to read:

5 409.9122 Mandatory Medicaid managed care enrollment;
6 programs and procedures.--

7 (6) MediPass enrolled recipients may receive up to 10
8 visits of reimbursable services by participating Medicaid
9 physicians licensed under chapter 460 and up to four visits of
10 reimbursable services by participating Medicaid physicians
11 licensed under chapter 461. Any further visits must be by
12 prior authorization by the MediPass primary care provider.
13 However, nothing in this subsection may be construed to
14 increase the total number of visits or the total amount of
15 dollars per year per person under current Medicaid rules,
16 unless otherwise provided for in the General Appropriations
17 Act.

18 Section 191. (1) There is created within the
19 Department of Health a Task Force on Exemptions from Licensure
20 under section 468.505(1)(k), Florida Statutes. The Department
21 of Health shall provide staff support for the task force. The
22 task force shall consist of not more than 15 members nominated
23 by the associations and entities named in this section and
24 appointed by the Secretary of Health. Members of the task
25 force shall not receive compensation, per diem, or
26 reimbursement for travel expenses for service on the task
27 force. Participation in the task force is optional and at the
28 discretion of each identified group or entity. If all
29 identified groups and entities participate, the task force
30 shall include:

31

1 (a) One representative from each of the following
2 associations:

- 3 1. The Florida Dietetic Association.
- 4 2. The Florida Health Care Association.
- 5 3. The Florida Association of Homes for the Aging.
- 6 4. The Florida Assisted Living Association.
- 7 5. The Florida League of Health Systems.
- 8 6. The Association of Community Hospitals and Health
9 Systems of Florida, Inc.

- 10 7. The Florida Hospital Association.
- 11 8. The Florida Medical Association.
- 12 9. The Florida Osteopathic Medical Association.

13 (b) One representative from each of the following
14 entities:

- 15 1. The Department of Health.
- 16 2. The Dietetics and Nutrition Practice Council.
- 17 3. The Board of Medicine, which representative must be
18 a member of the board who is licensed under chapter 458,
19 Florida Statutes.

- 20 4. The Board of Osteopathic Medicine, which
21 representative must be a member of the board who is licensed
22 under chapter 459, Florida Statutes.

- 23 5. The Department of Elderly Affairs.
- 24 6. The Agency for Health Care Administration.

25 (2) The task force shall hold its first meeting no
26 later than August 1, 1997, and shall report its findings to
27 the President of the Senate, the Speaker of the House of
28 Representatives, and the chairs of the applicable legislative
29 committees of substance not later than December 31, 1997. All
30 task force meetings must be held in Tallahassee at the
31 Department of Health in order to minimize costs to the state.

1 (3) The task force shall be charged with the
2 responsibility to:

3 (a) Determine the number of licensed dietitians, the
4 number of registered dietitians, and the number of dietitians
5 who are neither licensed nor registered who are employed by or
6 under contract with a hospital licensed under chapter 395,
7 Florida Statutes, a nursing home or assisted living facility
8 licensed under part II or part III of chapter 400, Florida
9 Statutes, or a continuing care facility certified under
10 chapter 651, Florida Statutes; and

11 (b) Assess the need and make recommendations for
12 retaining the exemptions from licensure under section
13 468.505(1)(k), Florida Statutes, in light of the legislative
14 purpose and intent of licensure as set forth in section
15 468.502, Florida Statutes, and review the quality of dietetic
16 and nutrition services provided in the settings set forth in
17 section 468.505(1)(k), Florida Statutes.

18 (4) The task force is dissolved effective January 1,
19 1998.

20 Section 192. Section 465.014, Florida Statutes, is
21 amended to read:

22 465.014 Pharmacy technician.--No person other than a
23 licensed pharmacist or pharmacy intern may engage in the
24 practice of the profession of pharmacy, except that a licensed
25 pharmacist may delegate to nonlicensed pharmacy technicians
26 those duties, tasks, and functions which do not fall within
27 the purview of s. 465.003(12). All such delegated acts shall
28 be performed under the direct supervision of a licensed
29 pharmacist who shall be responsible for all such acts
30 performed by persons under his or her supervision. A pharmacy
31 technician, under the supervision of a pharmacist, may

1 initiate or receive communications with a practitioner or his
2 or her agent, on behalf of a patient, regarding refill
3 authorization requests.No licensed pharmacist shall supervise
4 more than one pharmacy technician unless otherwise permitted
5 by the guidelines adopted by the board. The board shall
6 establish guidelines to be followed by licensees or permittees
7 in determining the circumstances under which a licensed
8 pharmacist may supervise more than one but not more than three
9 ~~two~~ pharmacy technicians.

10 Section 193. Subsection (3) of section 456.32, Florida
11 Statutes, is amended to read:

12 456.32 Definitions.--In construing this chapter, the
13 words, phrases, or terms, unless the context otherwise
14 indicates, shall have the following meanings:

15 (3) "Practitioner of the healing arts" shall mean a
16 person licensed under the laws of the state to practice
17 medicine, surgery, psychiatry, dentistry, osteopathic
18 medicine, chiropractic, naturopathy, podiatry, chiropody,
19 psychology, clinical social work, marriage and family therapy,
20 mental health counseling,or optometry within the scope of his
21 professional training and competence and within the purview of
22 the statutes applicable to his respective profession, and who
23 may refer a patient for treatment by a qualified person, who
24 shall employ hypnotic techniques under the supervision,
25 direction, prescription, and responsibility of such referring
26 practitioner.

27 Section 194. Section 490.003, Florida Statutes, is
28 amended to read:

29 490.003 Definitions.--As used in this chapter:

30 (1)~~(2)~~ "Board" means the Board of Psychology.
31

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

3 (3)~~(7)~~(a) Prior to July 1, 1999, "doctoral-level
4 psychological education" and "doctoral degree in psychology"
5 mean a Psy.D., an ~~and~~ Ed.D. in psychology, or a Ph.D. in
6 psychology from:

7 1. An educational institution which, at the time the
8 applicant was enrolled and graduated, had institutional
9 accreditation from an agency recognized and approved by the
10 United States Department of Education or was recognized as a
11 member in good standing with the Association of Universities
12 and Colleges of Canada; and

13 2. A psychology program within that educational
14 institution which, at the time the applicant was enrolled and
15 graduated, had programmatic accreditation from an accrediting
16 agency recognized and approved by the United States Department
17 of Education or was comparable to such programs.

18 (b) Effective July 1, 1999, "doctoral-level
19 psychological education" and "doctoral degree in psychology"
20 mean a Psy.D., an Ed.D. in psychology, or a Ph.D. in
21 psychology from:

22 1. An educational institution which, at the time the
23 applicant was enrolled and graduated, had institutional
24 accreditation from an agency recognized and approved by the
25 United States Department of Education or was recognized as a
26 member in good standing with the Association of Universities
27 and Colleges of Canada; and

28 2. A psychology program within that educational
29 institution which, at the time the applicant was enrolled and
30 graduated, had programmatic accreditation from an agency
31

1 recognized and approved by the United States Department of
2 Education.

3 (4) "Practice of psychology" means the observations,
4 description, evaluation, interpretation, and modification of
5 human behavior, by the use of scientific and applied
6 psychological principles, methods, and procedures, for the
7 purpose of describing, preventing, alleviating, or eliminating
8 symptomatic, maladaptive, or undesired behavior and of
9 enhancing interpersonal behavioral health and mental or
10 psychological health. The ethical practice of psychology
11 includes, but is not limited to, psychological testing and the
12 evaluation or assessment of personal characteristics such as
13 intelligence, personality, abilities, interests, aptitudes,
14 and neuropsychological functioning, including evaluation of
15 mental competency to manage one's affairs and to participate
16 in legal proceedings; counseling, psychoanalysis, all forms of
17 psychotherapy, sex therapy, hypnosis, biofeedback, and
18 behavioral analysis and therapy; psychoeducational evaluation,
19 therapy, remediation, and consultation; and use of
20 psychological methods to diagnose and treat mental, nervous,
21 psychological, marital, or emotional disorders, illness, or
22 disability, alcoholism and substance abuse, and disorders of
23 habit or conduct, as well as the psychological aspects of
24 physical illness, accident, injury, or disability, including
25 neuropsychological evaluation, diagnosis, prognosis, etiology,
26 and treatment.

27 (a) Psychological services may be rendered to
28 individuals, couples, families, groups, and the public without
29 regard to place of service.

30
31

1 (b) The use of specific modalities within the practice
2 of psychology is restricted to psychologists appropriately
3 trained in the use of such modalities.

4 (c) The practice of psychology shall be construed
5 within the meaning of this definition without regard to
6 whether payment is requested or received for services
7 rendered.

8 (5)~~(6)~~ "Practice of school psychology" means the
9 rendering or offering to render to an individual, a group, an
10 organization, a government agency, or the public any of the
11 following services:

12 (a) Assessment, which includes psychoeducational,
13 developmental, and vocational assessment; evaluation and
14 interpretation of intelligence, aptitudes, interests, academic
15 achievement, adjustment, and motivations, or any other
16 attributes, in individuals or groups, that relate to learning,
17 educational, or adjustment needs.

18 (b) Counseling, which includes short-term
19 situation-oriented professional interaction with children,
20 parents, or other adults for amelioration or prevention of
21 learning and adjustment problems. Counseling services
22 relative to the practice of school psychology include verbal
23 interaction, interviewing, behavior techniques, developmental
24 and vocational intervention, environmental management, and
25 group processes.

26 (c) Consultation, which includes psychoeducational,
27 developmental, and vocational assistance or direct educational
28 services to schools, agencies, organizations, families, or
29 individuals related to learning problems and adjustments to
30 those problems.

31

1 (d) Development of programs, which includes designing,
2 implementing, or evaluating educationally and psychologically
3 sound learning environments; acting as a catalyst for teacher
4 involvement in adaptations and innovations; and facilitating
5 the psychoeducational development of individual families or
6 groups.

7 (6) "Provisional psychologist licensee" means a person
8 provisionally licensed under this chapter to provide
9 psychological services under supervision.

10 (7)(3) "Psychologist" means a person licensed pursuant
11 to s. 490.005(1), s. 490.006, or the provision identified as
12 s. 490.013(2) in s. 1, chapter 81-235, Laws of Florida.

13 (8)(5) "School psychologist" means a person licensed
14 pursuant to s. 490.005(2), s. 490.006, or the provision
15 identified as s. 490.013(1) in s. 1, chapter 81-235, Laws of
16 Florida.

17 Section 195. Paragraph (b) of subsection (1) of
18 section 490.005, Florida Statutes, is amended to read:

19 490.005 Licensure by examination.--

20 (1) Any person desiring to be licensed as a
21 psychologist shall apply to the department to take the
22 licensure examination. The department shall license each
23 applicant who the board certifies has:

24 (b) Submitted proof satisfactory to the board that the
25 applicant has:

26 1. Received doctoral-level psychological education, as
27 defined in s. 490.003(3)~~(7)~~;

28 2. Received the equivalent of a doctoral-level
29 psychological education, as defined in s. 490.003(3)~~(7)~~, from
30 a program at a school or university located outside the United
31 States of America and Canada, which was officially recognized

1 by the government of the country in which it is located as an
2 institution or program to train students to practice
3 professional psychology. The burden of establishing that the
4 requirements of this provision have been met shall be upon the
5 applicant; or

6 3. Received and submitted to the board, prior to July
7 1, 1999, certification of an augmented doctoral-level
8 psychological education from the program director of a
9 doctoral-level psychology program accredited by a programmatic
10 agency recognized and approved by the United States Department
11 of Education.

12 Section 196. Section 490.0051, Florida Statutes, is
13 created to read:

14 490.0051 Provisional licensure; requirements.--

15 (1) The department shall issue a provisional
16 psychology license to each applicant who the board certifies
17 has:

18 (a) Completed the application form and remitted a
19 nonrefundable application fee not to exceed \$250, as set by
20 board rule.

21 (b) Earned a doctoral degree in psychology as defined
22 in s. 490.003(3).

23 (c) Met any additional requirements established by
24 board rule.

25 (2) A provisional licensee must work under the
26 supervision of a licensed psychologist until the provisional
27 licensee is in receipt of a license or a letter from the
28 department stating that he or she is licensed as a
29 psychologist.

30 (3) A provisional license expires 24 months after the
31 date it is issued and may not be renewed or reissued.

1 Section 197. Section 490.008, Florida Statutes, as
2 amended by chapter 94-119, Laws of Florida, is repealed.

3 Section 198. Section 490.009, Florida Statutes, 1996
4 Supplement, is amended to read:

5 490.009 Discipline.--

6 (1) When the department or, in the case of
7 psychologists, the board finds that an applicant, provisional
8 licensee, or licensee whom it regulates under this chapter has
9 committed any of the acts set forth in subsection (2), it may
10 issue an order imposing one or more of the following
11 penalties:

12 (a) Denial of an application for licensure, either
13 temporarily or permanently.

14 (b) Revocation of an application for licensure, either
15 temporarily or permanently.

16 (c) Suspension for a period of up to 5 years or
17 revocation of a license, after hearing.

18 (d) Immediate suspension of a license pursuant to s.
19 120.60(6).

20 (e) Imposition of an administrative fine not to exceed
21 \$5,000 for each count or separate offense.

22 (f) Issuance of a public reprimand.

23 (g) Placement of an applicant or licensee on probation
24 for a period of time and subject to conditions specified by
25 the department or, in the case of psychologists, by the board,
26 including, but not limited to, requiring the applicant or
27 licensee to submit to treatment, to attend continuing
28 education courses, to submit to reexamination, or to work
29 under the supervision of a designated licensee.

30 (h) Restriction of practice.

31

1 (2) The following acts of a licensee, provisional
2 licensee, or applicant are grounds for which the disciplinary
3 actions listed in subsection (1) may be taken:

4 (a) Attempting to obtain, obtaining, or renewing a
5 license under this chapter by bribery or fraudulent
6 misrepresentation or through an error of the board or
7 department.

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

12 (c) Being convicted or found guilty, regardless of
13 adjudication, of a crime in any jurisdiction which directly
14 relates to the practice of his profession or the ability to
15 practice his profession. A plea of nolo contendere creates a
16 rebuttable presumption of guilt of the underlying criminal
17 charges. However, the board shall allow the person who is the
18 subject of the disciplinary proceeding to present any evidence
19 relevant to the underlying charges and circumstances
20 surrounding the plea.

21 (d) False, deceptive, or misleading advertising or
22 obtaining a fee or other thing of value on the representation
23 that beneficial results from any treatment will be guaranteed.

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

26 (f) Maintaining a professional association with any
27 person who ~~whom~~ the applicant or licensee knows, or has reason
28 to believe, is in violation of this chapter or of a rule of
29 the department or, in the case of psychologists, of the
30 department or the board.

31

1 (g) Knowingly aiding, assisting, procuring, or
2 advising any nonlicensed person to hold himself out as
3 licensed under this chapter.

4 (h) Failing to perform any statutory or legal
5 obligation placed upon a person licensed under this chapter.

6 (i) Willfully making or filing a false report or
7 record; failing to file a report or record required by state
8 or federal law; willfully impeding or obstructing the filing
9 of a report or record; or inducing another person to make or
10 file a false report or record or to impede or obstruct the
11 filing of a report or record. Such report or record includes
12 only a report or record which requires the signature of a
13 person licensed under this chapter.

14 (j) Paying a kickback, rebate, bonus, or other
15 remuneration for receiving a patient or client, or receiving a
16 kickback, rebate, bonus, or other remuneration for referring a
17 patient or client to another provider of mental health care
18 services or to a provider of health care services or goods;
19 referring a patient or client to oneself for services on a
20 fee-paid basis when those services are already being paid for
21 by some other public or private entity; or entering into a
22 reciprocal referral agreement.

23 (k) Committing any act upon a patient or client which
24 would constitute sexual battery or which would constitute
25 sexual misconduct as defined in s. 490.0111.

26 (l) Making misleading, deceptive, untrue, or
27 fraudulent representations in the practice of any profession
28 licensed under this chapter.

29 (m) Soliciting patients or clients personally, or
30 through an agent, through the use of fraud, intimidation,
31

1 undue influence, or a form of overreaching or vexatious
2 conduct.

3 (n) Failing to make available to a patient or client,
4 upon written request, copies of test results, reports, or
5 documents in the possession or under the control of the
6 licensee which have been prepared for and paid for by the
7 patient or client.

8 (o) Failing to respond within 30 days to a written
9 communication from the department concerning any investigation
10 by the department or to make available any relevant records
11 with respect to any investigation about the licensee's conduct
12 or background.

13 (p) Being unable to practice the profession for which
14 he is licensed under this chapter with reasonable skill or
15 competence as a result of any mental or physical condition or
16 by reason of illness; drunkenness; or excessive use of drugs,
17 narcotics, chemicals, or any other substance. In enforcing
18 this paragraph, upon a finding by the secretary, his designee,
19 or the board that probable cause exists to believe that the
20 licensee is unable to practice the profession because of the
21 reasons stated in this paragraph, the department shall have
22 the authority to compel a licensee to submit to a mental or
23 physical examination by psychologists or physicians designated
24 by the department or board. If the licensee refuses to comply
25 with the department's order, the department may file a
26 petition for enforcement in the circuit court of the circuit
27 in which the licensee resides or does business. The licensee
28 shall not be named or identified by initials in the petition
29 or in any other public court records or documents, and the
30 enforcement proceedings shall be closed to the public. The
31 department shall be entitled to the summary procedure provided

1 in s. 51.011. A licensee affected under this paragraph shall
2 be afforded an opportunity at reasonable intervals to
3 demonstrate that he can resume the competent practice for
4 which he is licensed with reasonable skill and safety to
5 patients.

6 (q) Violating provisions of this chapter, or of
7 chapter 455, or any rules adopted pursuant thereto.

8 (r) Performing any treatment or prescribing any
9 therapy which, by the prevailing standards of the mental
10 health professions in the community, would constitute
11 experimentation on human subjects, without first obtaining
12 full, informed, and written consent.

13 (s) Failing to meet the minimum standards of
14 performance in professional activities when measured against
15 generally prevailing peer performance, including the
16 undertaking of activities for which the licensee is not
17 qualified by training or experience.

18 (t) Delegating professional responsibilities to a
19 person whom the licensee knows or has reason to know is not
20 qualified by training or experience to perform such
21 responsibilities.

22 (u) Violating a rule relating to the regulation of the
23 profession or a lawful order of the department previously
24 entered in a disciplinary hearing.

25 (v) Failing to maintain in confidence a communication
26 made by a patient or client in the context of such services,
27 except as provided in s. 490.0147 ~~by written permission or in~~
28 ~~the face of a clear and immediate probability of bodily harm~~
29 ~~to the patient or client or to others.~~

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1 (w) Making public statements which are derived from
2 test data, client contacts, or behavioral research and which
3 identify or damage research subjects or clients.

4 Section 199. Section 490.012, Florida Statutes, is
5 amended to read:

6 490.012 Violations; penalties; injunction.--

7 (1)(a) No person shall hold himself out by any title
8 or description incorporating the words, or permutations of
9 them, "psychologist," "psychology," "psychological,"
10 "psychodiagnostic," or "school psychologist," or describe any
11 test or report as psychological, unless such person holds a
12 valid, active license under this chapter or is exempt from the
13 provisions of this chapter.

14 (b) No person shall hold himself out by any title or
15 description incorporating the word, or a permutation of the
16 word, "psychotherapy" unless such person holds a valid, active
17 license under chapter 458, chapter 459, chapter 490, or
18 chapter 491, or such person is certified as an advanced
19 registered nurse practitioner, pursuant to s. 464.012, who has
20 been determined by the Board of Nursing as a specialist in
21 psychiatric mental ~~psychiatric/mental health nursing~~.

22 (c) No person licensed or provisionally licensed
23 pursuant to this chapter shall hold himself out by any title
24 or description which indicates licensure other than that which
25 has been granted to him.

26 (2)(a) A licensed psychologist shall conspicuously
27 display the valid, active license issued by the department or
28 a true copy thereof at each location at which the licensee
29 practices his or her profession.

30 (b) A licensed psychologist shall include the words
31 "licensed psychologist" ~~and his license number~~ on all

1 professional advertisements, including, but not limited to,
 2 advertisements in any newspaper, magazine, other print medium,
 3 airwave or broadcast transmission, or phone directory listing
 4 purchased by or on behalf of a person licensed according to
 5 this chapter.

6 (3)(a) A person provisionally licensed under this
 7 chapter as a provisional psychologist licensee shall
 8 conspicuously display the valid provisional license issued by
 9 the department or a true copy thereof at each location at
 10 which the provisional licensee is providing services.

11 (b) A provisional psychologist licensee shall include
 12 the words "provisional psychologist licensee" on all
 13 promotional materials, including cards, brochures, stationery,
 14 advertisements, and signs, naming the provisional licensee.

15 (4)(3) Any person who violates any provision of this
 16 section, except for subsections (2) and (3), commits a
 17 misdemeanor of the first degree, punishable as provided in s.
 18 775.082 or s. 775.083. Any person who violates any provision
 19 of subsection (2) or subsection (3) is subject to disciplinary
 20 action under s. 490.009.

21 (5)(4) The department may institute appropriate
 22 proceedings to enjoin violation of subsection (1).

23 (6)(5) Beginning October 1, 1992, No person shall
 24 practice psychology in this state, as such practice is defined
 25 in s. 490.003(4), for compensation, unless such person holds
 26 an active, valid license to practice psychology issued
 27 pursuant to this chapter. Nothing in this subsection shall be
 28 construed to limit the practice of school psychology, as such
 29 practice is defined in s. 490.003(5)(6).

30 (7)(6) Beginning October 1, 1992, No person shall
 31 practice school psychology in this state, as such practice is

1 defined in s. 490.003(5)~~(6)~~, for compensation, unless such
2 person holds an active, valid license to practice school
3 psychology issued pursuant to this chapter.

4 Section 200. Section 490.014, Florida Statutes, is
5 amended to read:

6 490.014 Exemptions.--

7 (1)(a) No provision of this chapter shall be construed
8 to limit the practice of physicians licensed pursuant to
9 chapter 458 or chapter 459 so long as they do not hold
10 themselves out to the public as psychologists or use a
11 professional title protected by this chapter.

12 (b) No provision of this chapter shall be construed to
13 limit the practice of nursing, clinical social work, marriage
14 and family therapy, mental health counseling, or other
15 recognized businesses or professions, or to prevent qualified
16 members of other professions from doing work of a nature
17 consistent with their training, so long as they do not hold
18 themselves out to the public as psychologists or use a title
19 protected by this chapter. Nothing in this subsection shall
20 be construed to exempt any person from the provisions of s.
21 490.012.

22 (2) No person shall be required to be licensed or
23 provisionally licensed under this chapter who:

24 (a) Is a salaried employee of a government agency;
25 developmental services program, mental health, alcohol, or
26 drug abuse facility operating pursuant to chapter 393, chapter
27 394, or chapter 397; subsidized child care program, subsidized
28 child care case management program, or child care resource and
29 referral program, operating pursuant to chapter 402;
30 child-placing or child-caring agency licensed pursuant to
31 chapter 409; domestic violence center certified pursuant to

1 chapter 415; accredited academic institution; or research
2 institution, if such employee is performing duties for which
3 he was trained and hired solely within the confines of such
4 agency, facility, or institution.

5 (b) Is a salaried employee of a private, nonprofit
6 organization providing counseling services to children, youth,
7 and families, if such services are provided for no charge, if
8 such employee is performing duties for which he was trained
9 and hired.

10 (c) Is a student who is pursuing a course of study
11 which leads to a degree in medicine or a profession regulated
12 by this chapter who is providing services in a training
13 setting, provided such activities or services constitute part
14 of a supervised course of study, or is a graduate accumulating
15 the experience required for any licensure under this chapter,
16 provided such graduate or student is designated by a title
17 such as "intern" or "trainee" which clearly indicates the
18 in-training status of the student.

19 (d) Is certified in school psychology by the
20 Department of Education and is performing psychological
21 services as an employee of a public or private educational
22 institution. Such exemption shall not be construed to
23 authorize any unlicensed practice which is not performed as a
24 direct employee of an educational institution.

25 (e) Is not a resident of the state but offers services
26 in this state, provided:

27 1. Such services are performed for no more than 5 days
28 in any month and no more than 15 days in any calendar year;
29 and

30 2. Such nonresident is licensed or certified by a
31 state or territory of the United States, or by a foreign

1 country or province, the standards of which were, at the date
2 of his licensure or certification, equivalent to or higher
3 than the requirements of this chapter in the opinion of the
4 department or, in the case of psychologists, in the opinion of
5 the board.

6 (f) Is a rabbi, priest, minister, or clergyman of any
7 religious denomination or sect when engaging in activities
8 which are within the scope of the performance of his regular
9 or specialized ministerial duties and for which no separate
10 charge is made, or when such activities are performed, with or
11 without charge, for or under the auspices or sponsorship,
12 individually or in conjunction with others, of an established
13 and legally cognizable church, denomination, or sect, and when
14 the person rendering service remains accountable to the
15 established authority thereof.

16 (3) No provision of this chapter shall be construed to
17 limit the practice of any individual who solely engages in
18 behavior analysis so long as he does not hold himself out to
19 the public as possessing a license issued pursuant to this
20 chapter or use a title protected by this chapter.

21 (4) Nothing in this section shall exempt any person
22 from the provision of s. 490.012(1)(a)-(b).

23 (5) Except as stipulated by the board, the exemptions
24 contained in this section do not apply to any person licensed
25 under this chapter whose license has been suspended or revoked
26 by the board or another jurisdiction.

27 ~~(5) Any person who is not licensed under this chapter~~
28 ~~by October 1, 1992, and who desires to become so licensed~~
29 ~~shall register with the department that person's intent to~~
30 ~~become fully licensed no later than October 1, 1995. The~~
31 ~~costs to the department of such registration shall be borne by~~

1 ~~the registrant. The department may require affidavits and~~
 2 ~~supporting documentation sufficient to demonstrate that the~~
 3 ~~registrant is preparing for examination by October 1, 1995,~~
 4 ~~under this chapter. The department may adopt rules to~~
 5 ~~implement this section. Upon receipt of the department's~~
 6 ~~notice of registration, the registrant may practice services~~
 7 ~~as defined in s. 490.003(4) and (6), provided that the~~
 8 ~~registrant uses "trainee" or "intern" with any title or~~
 9 ~~description of the registrant's work and on any business~~
 10 ~~correspondence and work product, including, but not limited~~
 11 ~~to, a business card, letterhead, sign, billing, or report~~
 12 ~~unless exempt pursuant to this chapter.~~

13 Section 201. Section 491.003, Florida Statutes, is
 14 amended to read:

15 491.003 Definitions.--As used in this chapter:

16 (1)~~(2)~~ "Board" means the Board of Clinical Social
 17 Work, Marriage and Family Therapy, and Mental Health
 18 Counseling.

19 (2)~~(3)~~ "Clinical social worker" means a person
 20 licensed under this chapter to practice clinical social work.

21 (3)~~(4)~~ "Clinical social work experience" is defined as
 22 a period during which the applicant provides clinical social
 23 work services, including assessment, diagnosis, treatment, and
 24 evaluation of clients; provided that at least 50 percent of
 25 the hours worked consist of providing psychotherapy and
 26 counseling services directly to clients.

27 (4)~~(1)~~ "Department" means the Department of Health
 28 ~~Business and Professional Regulation.~~

29 (5) "Marriage and family therapist" means a person
 30 licensed under this chapter to practice marriage and family
 31 therapy.

1 (6) "Mental health counselor" means a person licensed
 2 under this chapter to practice mental health counseling.

3 (7) The "practice of clinical social work" is defined
 4 as the use of scientific and applied knowledge, theories, and
 5 methods for the purpose of describing, preventing, evaluating,
 6 and treating individual, couple, marital, family, or group
 7 behavior, based on the person-in-situation perspective of
 8 psychosocial development, normal and abnormal behavior,
 9 psychopathology, unconscious motivation, interpersonal
 10 relationships, environmental stress, differential assessment,
 11 differential planning, and data gathering. The purpose of
 12 such services is the prevention and treatment of undesired
 13 behavior and enhancement of mental health. ~~The such~~ practice
 14 of clinical social work includes ~~the use of~~ methods of a
 15 psychological nature used to evaluate, assess, diagnose,
 16 treat, and prevent emotional and mental disorders and
 17 dysfunctions, (whether cognitive, affective, or behavioral), ~~+~~
 18 sexual dysfunction, ~~+~~ behavioral disorders, ~~+~~ and
 19 substance abuse. The practice of clinical social work
 20 includes, but is not limited to, psychotherapy, hypnotherapy,
 21 and sex therapy. The practice of clinical social work also
 22 includes counseling, behavior modification, consultation,
 23 client-centered advocacy, crisis intervention, and the
 24 provision of needed information and education to clients, when
 25 using methods of a psychological nature to evaluate, assess,
 26 diagnose, treat, and prevent emotional and mental disorders
 27 and dysfunctions (whether cognitive, affective, or
 28 behavioral), sexual dysfunction, behavioral disorders,
 29 alcoholism, or substance abuse. The practice of clinical
 30 social work may also include clinical research into more
 31

1 effective psychotherapeutic modalities for the treatment and
2 prevention of such conditions.

3 ~~(a) Clinical social work treatment includes, but is~~
4 ~~not limited to:~~

- 5 ~~1. Counseling.~~
- 6 ~~2. Psychotherapy.~~
- 7 ~~3. Behavior modification.~~
- 8 ~~4. Hypnotherapy.~~
- 9 ~~5. Sex therapy.~~
- 10 ~~6. Consultation.~~
- 11 ~~7. Client-centered advocacy.~~
- 12 ~~8. Crisis intervention.~~
- 13 ~~9. Providing needed information and education to~~
14 ~~clients.~~

15 (a)~~(b)~~ Clinical social work may be rendered to
16 individuals, including individuals affected by the termination
17 of marriage, and to marriages, couples, families, groups,
18 organizations, and communities.

19 (b)~~(c)~~ The use of specific methods, techniques, or
20 modalities within the practice of clinical social work is
21 restricted to clinical social workers appropriately trained in
22 the use of such methods, techniques, or modalities.

23 (c)~~(d)~~ The terms "diagnose" and "treat," as used in
24 this chapter, when considered in isolation or in conjunction
25 with any provision of the rules of the board, shall not be
26 construed to permit the performance of any act which clinical
27 social workers are not educated and trained to perform,
28 including, but not limited to, admitting persons to hospitals
29 for treatment of the foregoing conditions, treating persons in
30 hospitals without medical supervision, prescribing medicinal
31 drugs as defined in chapter 465, authorizing clinical

1 laboratory procedures pursuant to chapter 483, or radiological
 2 procedures, or use of electroconvulsive therapy. In addition,
 3 this definition shall not be construed to permit any person
 4 licensed, provisionally licensed, registered, or certified
 5 pursuant to this chapter to describe or label any test,
 6 report, or procedure as "psychological," except to relate
 7 specifically to the definition of practice authorized in this
 8 subsection.

9 (d)~~(e)~~ The definition of "clinical social work"
 10 contained in this subsection includes all services offered
 11 directly to the general public or through organizations,
 12 whether public or private, and applies whether payment is
 13 requested or received for services rendered.

14 (8) The "practice of marriage and family therapy" is
 15 defined as the use of scientific and applied marriage and
 16 family theories, methods, and procedures for the purpose of
 17 describing, evaluating, and modifying marital, family, and
 18 individual behavior, within the context of marital and family
 19 systems, including the context of marital formation and
 20 dissolution, and is based on marriage and family systems
 21 theory, marriage and family development, human development,
 22 normal and abnormal behavior, psychopathology, human
 23 sexuality, psychotherapeutic and marriage and family therapy
 24 theories and techniques. The ~~Such~~ practice of marriage and
 25 family therapy includes ~~the use of~~ methods of a psychological
 26 nature used to evaluate, assess, diagnose, treat, and prevent
 27 emotional and mental disorders or dysfunctions, (whether
 28 cognitive, affective, or behavioral), sexual dysfunction,
 29 behavioral disorders, alcoholism, and substance abuse. The
 30 practice of marriage and family therapy includes, but is not
 31 limited to, marriage and family therapy, psychotherapy,

1 including behavioral family therapy, hypnotherapy, and sex
 2 therapy. The practice of marriage and family therapy also
 3 includes counseling, behavior modification, consultation,
 4 client-centered advocacy, crisis intervention, and the
 5 provision of needed information and education to clients, when
 6 using methods of a psychological nature to evaluate, assess,
 7 diagnose, treat, and prevent emotional and mental disorders
 8 and dysfunctions (whether cognitive, affective, or
 9 behavioral), sexual dysfunction, behavioral disorders,
 10 alcoholism, or substance abuse. The practice of marriage and
 11 family therapy may also include clinical research into more
 12 effective psychotherapeutic modalities for the treatment and
 13 prevention of such conditions.

14 ~~(a) Marriage and family therapy treatment includes,~~
 15 ~~but is not limited to:~~
 16 1. ~~Marriage and family therapy.~~
 17 2. ~~Counseling.~~
 18 3. ~~Psychotherapy, including behavioral family therapy.~~
 19 4. ~~Behavior modification.~~
 20 5. ~~Hypnotherapy.~~
 21 6. ~~Sex therapy.~~
 22 7. ~~Consultation.~~
 23 8. ~~Client advocacy.~~
 24 9. ~~Crisis intervention.~~
 25 10. ~~Providing needed information and education to~~
 26 ~~clients.~~

27 (a)~~(b)~~ Marriage and family therapy may be rendered to
 28 individuals, including individuals affected by termination of
 29 marriage, to couples, whether married or unmarried, to
 30 families, or to groups.

1 **(b)**~~(c)~~ The use of specific methods, techniques, or
 2 modalities within the practice of marriage and family therapy
 3 is restricted to marriage and family therapists appropriately
 4 trained in the use of such methods, techniques, or modalities.

5 **(c)**~~(d)~~ The terms "diagnose" and "treat," as used in
 6 this chapter, when considered in isolation or in conjunction
 7 with any provision of the rules of the board, shall not be
 8 construed to permit the performance of any act which marriage
 9 and family therapists are not educated and trained to perform,
 10 including, but not limited to, admitting persons to hospitals
 11 for treatment of the foregoing conditions, treating persons in
 12 hospitals without medical supervision, prescribing medicinal
 13 drugs as defined in chapter 465, authorizing clinical
 14 laboratory procedures pursuant to chapter 483, or radiological
 15 procedures, or use of electroconvulsive therapy. In addition,
 16 this definition shall not be construed to permit any person
 17 licensed, provisionally licensed, registered, or certified
 18 pursuant to this chapter to describe or label any test,
 19 report, or procedure as "psychological," except to relate
 20 specifically to the definition of practice authorized in this
 21 subsection.

22 **(d)**~~(e)~~ The definition of "marriage and family therapy"
 23 contained in this subsection ~~paragraphs (a)-(d)~~ includes all
 24 services offered directly to the general public or through
 25 organizations, whether public or private, and applies whether
 26 payment is requested or received for services rendered.

27 (9) The "practice of mental health counseling" is
 28 defined as the use of scientific and applied behavioral
 29 science theories, methods, and techniques for the purpose of
 30 describing, preventing, and treating undesired behavior and
 31 enhancing mental health and human development and is based on

1 the person-in-situation perspectives derived from research and
 2 theory in personality, family, group, and organizational
 3 dynamics and development, career planning, cultural diversity,
 4 human growth and development, human sexuality, normal and
 5 abnormal behavior, psychopathology, psychotherapy, and
 6 rehabilitation. The ~~Such~~ practice of mental health counseling
 7 ~~includes the use of~~ methods of a psychological nature used to
 8 evaluate, assess, diagnose, and treat emotional and mental
 9 dysfunctions or disorders ~~(whether cognitive, affective, or~~
 10 ~~behavioral)~~, behavioral disorders, interpersonal
 11 relationships, sexual dysfunction, alcoholism, and
 12 substance abuse. The practice of mental health counseling
 13 includes, but is not limited to, psychotherapy, hypnotherapy,
 14 and sex therapy. The practice of mental health counseling
 15 also includes counseling, behavior modification, consultation,
 16 client-centered advocacy, crisis intervention, and the
 17 provision of needed information and education to clients, when
 18 using methods of a psychological nature to evaluate, assess,
 19 diagnose, treat, and prevent emotional and mental disorders
 20 and dysfunctions (whether cognitive, affective, or
 21 behavioral), behavioral disorders, sexual dysfunction,
 22 alcoholism, or substance abuse. The practice of mental health
 23 counseling may also include clinical research into more
 24 effective psychotherapeutic modalities for the treatment and
 25 prevention of such conditions.

26 ~~(a) Mental health counseling treatment includes, but~~
 27 ~~is not limited to:~~

- 28 1. ~~Counseling.~~
- 29 2. ~~Psychotherapy.~~
- 30 3. ~~Behavior modification.~~
- 31 4. ~~Hypnotherapy.~~

- 1 5. ~~Sex therapy.~~
- 2 6. ~~Consultation.~~
- 3 7. ~~Client advocacy.~~
- 4 8. ~~Crisis intervention.~~
- 5 9. ~~Providing needed information and education to~~
- 6 ~~clients.~~

7 (a)~~(b)~~ Mental health counseling may be rendered to
8 individuals, including individuals affected by the termination
9 of marriage, and to couples, families, groups, organizations,
10 and communities.

11 (b)~~(c)~~ The use of specific methods, techniques, or
12 modalities within the practice of mental health counseling is
13 restricted to mental health counselors appropriately trained
14 in the use of such methods, techniques, or modalities.

15 (c)~~(d)~~ The terms "diagnose" and "treat," as used in
16 this chapter, when considered in isolation or in conjunction
17 with any provision of the rules of the board, shall not be
18 construed to permit the performance of any act which mental
19 health counselors are not educated and trained to perform,
20 including, but not limited to, admitting persons to hospitals
21 for treatment of the foregoing conditions, treating persons in
22 hospitals without medical supervision, prescribing medicinal
23 drugs as defined in chapter 465, authorizing clinical
24 laboratory procedures pursuant to chapter 483, or radiological
25 procedures, or use of electroconvulsive therapy. In addition,
26 this definition shall not be construed to permit any person
27 licensed, provisionally licensed, registered, or certified
28 pursuant to this chapter to describe or label any test,
29 report, or procedure as "psychological," except to relate
30 specifically to the definition of practice authorized in this
31 subsection.

1 (d) The definition of "mental health counseling"
2 contained in this subsection includes all services offered
3 directly to the general public or through organizations,
4 whether public or private, and applies whether payment is
5 requested or received for services rendered.

6 (10) "Provisional clinical social worker licensee"
7 means a person provisionally licensed under this chapter to
8 provide clinical social work services under supervision.

9 (11) "Provisional marriage and family therapist
10 licensee" means a person provisionally licensed under this
11 chapter to provide marriage and family therapy services under
12 supervision.

13 (12) "Provisional mental health counselor licensee"
14 means a person provisionally licensed under this chapter to
15 provide mental health counseling services under supervision.

16 (13)~~(10)~~ "Psychotherapist" means a clinical social
17 worker, marriage and family therapist, or mental health
18 counselor licensed pursuant to this chapter.

19 (14) "Registered clinical social worker intern" means
20 a person registered under this chapter who is completing the
21 postgraduate clinical social work experience requirement
22 specified in s. 491.005(1)(c).

23 (15) "Registered marriage and family therapist intern"
24 means a person registered under this chapter who is completing
25 the post-master's clinical experience requirement specified in
26 s. 491.005(3)(c).

27 (16) "Registered mental health counselor intern" means
28 a person registered under this chapter who is completing the
29 post-master's clinical experience requirement specified in s.
30 491.005(4)(c).

31

1 Section 202. Section 491.0045, Florida Statutes, is
2 created to read:

3 491.0045 Intern registration; requirements.--

4 (1) Effective January 1, 1998, an individual who
5 intends to practice in Florida to satisfy the postgraduate or
6 post-master's level experience requirements, as specified in
7 s. 491.005(1)(c), (3)(c), or (4)(c), must register as an
8 intern in the profession for which he or she is seeking
9 licensure prior to commencing the experience requirement.

10 (2) The department shall register as a clinical social
11 worker intern, marriage and family therapist intern, or mental
12 health counselor intern each applicant who the board certifies
13 has:

14 (a) Completed the application form and remitted a
15 nonrefundable application fee not to exceed \$200, as set by
16 board rule;

17 (b) Completed the education requirements as specified
18 in s. 491.005 for the profession for which he or she is
19 applying for licensure; and

20 (c) Identified a qualified supervisor.

21 (3) An individual registered under this section must
22 remain under supervision until he or she is in receipt of a
23 license or a letter from the department stating that he or she
24 is licensed to practice the profession for which he or she
25 applied.

26 Section 203. Section 491.0046, Florida Statutes, is
27 created to read:

28 491.0046 Provisional license; requirements.--

29 (1) An individual who has satisfied the clinical
30 experience requirements of s. 491.005 intending to provide
31 clinical social work, marriage and family therapy, or mental

1 health counseling services in Florida while satisfying
2 coursework or examination requirements for licensure must be
3 provisionally licensed in the profession for which he or she
4 is seeking licensure prior to beginning practice.

5 (2) The department shall issue a provisional clinical
6 social worker license, provisional marriage and family
7 therapist license, or provisional mental health counselor
8 license to each applicant who the board certifies has:

9 (a) Completed the application form and remitted a
10 nonrefundable application fee not to exceed \$100, as set by
11 board rule; and

12 (b)1. Earned a graduate degree in social work, a
13 graduate degree with a major emphasis in marriage and family
14 therapy or a closely related field, or a graduate degree in a
15 major related to the practice of mental health counseling, and
16 satisfied the clinical experience requirements for licensure
17 pursuant to s. 491.005; or

18 2. Been approved for examination under the provisions
19 for licensure by endorsement pursuant to s. 491.006.

20 (3) A provisional licensee must work under the
21 supervision of a licensed mental health professional, as
22 defined by the board, until the provisional licensee is in
23 receipt of a license or a letter from the department stating
24 that he or she is licensed as a clinical social worker,
25 marriage and family therapist, or mental health counselor.

26 (4) A provisional license expires 24 months after the
27 date it is issued and may not be renewed or reissued.

28 Section 204. Section 491.005, Florida Statutes, is
29 amended to read:

30 491.005 Licensure by examination.--
31

1 (1) Upon verification of documentation and payment of
2 a fee not to exceed \$200, as set by board rule, plus the
3 actual per applicant cost to the department for purchase of
4 the examination from the American Association of State Social
5 Worker's Boards or a similar national organization, the
6 department shall issue a license as a clinical social worker
7 to an applicant who the board certifies:

8 (a) Has made application therefor and paid the
9 appropriate fee.

10 (b)1. Has received a doctoral degree in social work
11 from a graduate school of social work which at the time the
12 applicant graduated was accredited by an accrediting agency
13 recognized by the United States Department of Education or has
14 received a master's degree in social work from a graduate
15 school of social work which at the time the applicant
16 graduated:

17 ~~a.1.~~ Was accredited by the Council on Social Work
18 Education;

19 ~~b.2.~~ Was accredited by the Canadian Association of
20 Schools of Social Work; or

21 ~~c.3.~~ Has been determined to have been a program
22 equivalent to programs approved by the Council on Social Work
23 Education by the Foreign Equivalency Determination Service of
24 the Council on Social Work Education. An applicant who
25 graduated from a program at a university or college outside of
26 the United States or Canada must present documentation of the
27 equivalency determination from the council in order to
28 qualify.

29 2. The applicant's graduate program must have
30 emphasized direct clinical patient or client health care
31 services, ~~as provided in subsection (2),~~ including, but not

1 limited to, coursework in clinical social work, psychiatric
2 social work, medical social work, social casework,
3 psychotherapy, or group therapy. The applicant's graduate
4 program must have included all of the following coursework:

5 a. A supervised field placement which was part of the
6 applicant's advanced concentration in direct practice, during
7 which the applicant provided clinical services directly to
8 clients.

9 b. Completion of 24 semester hours or 37 quarter hours
10 in theory of human behavior and practice methods as courses in
11 clinically oriented services, including a minimum of one
12 course in psychopathology taken in a school of social work
13 accredited or approved pursuant to subparagraph (b)1.

14 3. If the course title which appears on the
15 applicant's transcript does not clearly identify the content
16 of the coursework, the applicant shall be required to provide
17 additional documentation, including, but not limited to, a
18 syllabus or catalog description published for the course.

19 (c) Has had not less than 2 ~~at least 3~~ years of
20 clinical social work experience, ~~2 years of which must be~~
21 ~~experience~~ which took place subsequent to completion of a
22 graduate degree in social work at an institution meeting the
23 accreditation requirements of this section, under the
24 supervision of a licensed clinical social worker or the
25 equivalent who is a qualified supervisor as determined by the
26 board. An individual who intends to practice in Florida to
27 satisfy clinical experience requirements must register
28 pursuant to s. 491.0045 prior to commencing practice. If the
29 applicant's graduate program was not a program which
30 emphasized direct clinical patient or client health care
31 services as described in s. 491.003, the supervised experience

1 requirement must take place after the applicant has completed
 2 a minimum of 15 semester hours or 22 quarter hours of the
 3 coursework required. A doctoral internship may be applied
 4 toward the clinical social work experience ~~supervision~~
 5 requirement. The experience requirement may be met by work
 6 performed on or off the premises of the supervising clinical
 7 social worker or the equivalent, provided the off-premises
 8 work is not the independent private practice rendering of
 9 clinical social work that does not have a licensed mental
 10 health professional ~~clinical social worker or the equivalent~~,
 11 as determined by the board, ~~as a member of the group actually~~
 12 ~~rendering services~~ on the premises at the same time the intern
 13 is providing services.

14 (d) Has passed a theory and practice ~~an~~ examination
 15 provided by the department for this purpose.

16 (e) Has demonstrated, in a manner designated by rule
 17 of the board, knowledge of the laws and rules governing the
 18 practice of clinical social work, marriage and family therapy,
 19 and mental health counseling.

20 (2)(a) ~~The applicant's program shall be considered to~~
 21 ~~be a program which emphasized direct clinical patient or~~
 22 ~~client health care services if it included all of the~~
 23 ~~following coursework:~~

24 (a) ~~A supervised field placement which was part of the~~
 25 ~~applicant's advanced concentration in direct practice, during~~
 26 ~~which the applicant provided clinical services directly to~~
 27 ~~clients.~~

28 (b)1. ~~Completion of 24 semester hours or 37 quarter~~
 29 ~~hours in theory of human behavior and practice methods as~~
 30 ~~courses in clinically oriented services, including a minimum~~
 31 ~~of one course in psychopathology taken in a school of social~~

1 ~~work accredited by the Council on Social Work Education.~~
 2 ~~However, applicants who had completed the required~~
 3 ~~graduate-level degree in social work prior to October 1, 1990,~~
 4 ~~and who submit a completed application for licensure prior to~~
 5 ~~January 1, 1993, shall be required to complete only 21 of the~~
 6 ~~24 required semester hours or 31 of the 37 required quarter~~
 7 ~~hours in clinically oriented services. If the course title~~
 8 ~~which appears on the applicant's transcript does not clearly~~
 9 ~~identify the content of the coursework, the applicant shall be~~
 10 ~~required to provide additional documentation, including, but~~
 11 ~~not limited to, a syllabus or catalog description published~~
 12 ~~for the course.~~

13 ~~2.~~ Notwithstanding the provisions of paragraph (1)(b)
 14 ~~subparagraph 1.~~, coursework which was taken at a baccalaureate
 15 level shall not be considered toward completion of education
 16 requirements for licensure unless an official of the graduate
 17 program certifies in writing on the graduate school's
 18 stationery that a specific course, which students enrolled in
 19 the same graduate program were ordinarily required to complete
 20 at the graduate level, was waived or exempted based on
 21 completion of a similar course at the baccalaureate level. If
 22 this condition is met, the board shall apply the baccalaureate
 23 course named toward the education requirements.

24 (b) An applicant from a master's or doctoral program
 25 in social work which did not emphasize direct patient or
 26 client services may complete the clinical curriculum content
 27 requirement by returning to a graduate program accredited by
 28 the Council on Social Work Education or the Canadian
 29 Association of Schools of Social Work, or to a clinical social
 30 work graduate program with comparable standards, in order to
 31 complete the education requirements for examination. However,

1 a maximum of 6 semester or 9 quarter hours of the clinical
2 curriculum content requirement may be completed by credit
3 awarded for independent study coursework as defined by board
4 rule.

5 (3) Upon verification of documentation and payment of
6 a fee not to exceed \$200, as set by board rule, plus the
7 actual cost to the department for the purchase of the
8 examination from the Association of Marital and Family Therapy
9 Regulatory Board, or similar national organization, the
10 department shall issue a license as a marriage and family
11 therapist to an applicant who the board certifies:

12 (a) Has made application therefor and paid the
13 appropriate fee.

14 (b)1. Has a minimum of a master's degree with major
15 emphasis in marriage and family therapy, or a closely related
16 field, and has completed all of the following requirements:

17 a.1. Twenty-seven semester hours or 41 quarter hours
18 of graduate coursework, which must include a minimum of 2
19 semester hours or 3 quarter hours of graduate-level course
20 credits in each of the following nine areas: dynamics of
21 marriage and family systems; marriage therapy and counseling
22 theory and techniques; family therapy and counseling theory
23 and techniques; individual human development theories
24 throughout the life cycle; personality theory;
25 psychopathology; human sexuality theory and counseling
26 techniques; general counseling theory and techniques; and
27 psychosocial theory. Content may be combined, provided no
28 more than two of the nine content areas are included in any
29 one graduate-level course and the applicant can document that
30 the equivalent of 2 semester hours of coursework was devoted
31 to each content area. Courses in research, evaluation,

1 appraisal, assessment, or testing theories and procedures;
 2 thesis or dissertation work; or practicums, internships, or
 3 fieldwork may not be applied toward this requirement.

4 ~~b.2.~~ b.2. A minimum of one graduate-level course of 2
 5 semester hours or 3 quarter hours in legal, ethical, and
 6 professional standards issues in the practice of marriage and
 7 family therapy or a course determined by the board to be
 8 equivalent.

9 ~~c.3.~~ c.3. A minimum of one graduate-level course of 2
 10 semester hours or 3 quarter hours in diagnosis, appraisal,
 11 assessment, and testing for individual or interpersonal
 12 disorder or dysfunction; and a minimum of one 2-semester-hour
 13 or 3-quarter-hour graduate-level course in behavioral research
 14 which focuses on the interpretation and application of
 15 research data as it applies to clinical practice. Credit for
 16 thesis or dissertation work, practicums, internships, or
 17 fieldwork may not be applied toward this requirement.

18 ~~d.4.~~ d.4. A minimum of one supervised clinical practicum,
 19 internship, or field experience in a marriage and family
 20 counseling setting, during which the student provided 180
 21 direct client contact hours of marriage and family therapy
 22 services under the supervision of an individual who met the
 23 requirements for supervision under paragraph (c). This
 24 requirement may be met by a supervised practice experience
 25 which took place outside the academic arena, but which is
 26 certified as equivalent to a graduate-level practicum or
 27 internship program which required a minimum of 180 direct
 28 client contact hours of marriage and family therapy services
 29 currently offered within an academic program of a college or
 30 university accredited by an accrediting agency approved by the
 31 United States Department of Education, or an institution which

1 is publicly recognized as a member in good standing with the
 2 Association of Universities and Colleges of Canada or a
 3 training institution accredited by the Commission on
 4 Accreditation for Marriage and Family Therapy Education
 5 recognized by the United States Department of Education.
 6 Certification shall be required from an official of such
 7 college, university, or training institution.

8 2. If the course title which appears on the
 9 applicant's transcript does not clearly identify the content
 10 of the coursework, the applicant shall be required to provide
 11 additional documentation, including, but not limited to, a
 12 syllabus or catalog description published for the course.

13
 14 The required master's degree must have been received in an
 15 institution of higher education which at the time the
 16 applicant graduated was: fully accredited by a regional
 17 accrediting body recognized by the Commission on Recognition
 18 of Postsecondary Accreditation; publicly recognized as a
 19 member in good standing with the Association of Universities
 20 and Colleges of Canada; or an institution of higher education
 21 located outside the United States and Canada, which at the
 22 time the applicant was enrolled and at the time the applicant
 23 graduated maintained a standard of training substantially
 24 equivalent to the standards of training of those institutions
 25 in the United States which are accredited by a regional
 26 accrediting body recognized by the Commission on Recognition
 27 of Postsecondary Accreditation. Such foreign education and
 28 training must have been received in an institution or program
 29 of higher education officially recognized by the government of
 30 the country in which it is located as an institution or
 31 program to train students to practice as professional marriage

1 and family therapists or psychotherapists. The burden of
 2 establishing that the requirements of this provision have been
 3 met shall be upon the applicant, and the board shall ~~may~~
 4 require documentation, such as, but not limited to, an
 5 evaluation by a foreign equivalency determination service, as
 6 evidence that the applicant's graduate degree program and
 7 education were equivalent to an accredited program in this
 8 country. An applicant with a master's degree from a program
 9 which did not emphasize marriage and family therapy may
 10 complete the coursework requirement in a training institution
 11 fully accredited by the Commission on Accreditation for
 12 Marriage and Family Therapy Education recognized by the United
 13 States Department of Education.

14 (c) Has had not less than 2 ~~3~~ years of clinical
 15 experience during which 50 percent of the applicant's clients
 16 were receiving marriage and family therapy services, ~~2 years~~
 17 ~~of~~ which must be at the post-master's level under the
 18 supervision of a licensed marriage and family therapist with
 19 at least 5 years of experience, or the equivalent, who is a
 20 qualified supervisor as determined by the board. An
 21 individual who intends to practice in Florida to satisfy the
 22 clinical experience requirements must register pursuant to s.
 23 491.0045 prior to commencing practice. If a graduate has a
 24 master's degree with a major emphasis in marriage and family
 25 therapy or a closely related field that did not include all
 26 the coursework required under sub-subparagraphs (b)1.a.-c.,
 27 credit for the post-master's level clinical experience shall
 28 not commence until the applicant has completed a minimum of 10
 29 of the courses required under sub-subparagraphs (b)1.a.-c., as
 30 determined by the board, and at least 6 semester hours or 9
 31 quarter hours of the course credits must have been completed

1 in the area of marriage and family systems, theories, or
 2 techniques. Within the 3 years of required experience ~~for~~
 3 ~~licensure as a marriage and family therapist,~~ the applicant
 4 shall provide direct individual, group, or family therapy and
 5 counseling, to include the following categories of cases:
 6 unmarried dyads, married couples, separating and divorcing
 7 couples, and family groups including children. A doctoral
 8 internship may be applied toward the clinical experience
 9 ~~supervision~~ requirement. The clinical experience requirement
 10 may be met by work performed on or off the premises of the
 11 supervising marriage and family therapist or the equivalent,
 12 provided the off-premises work is not the independent private
 13 practice rendering of marriage and family therapy services
 14 that does not have a licensed mental health professional
 15 ~~marriage and family therapist or the equivalent,~~ as determined
 16 by the board, ~~as a member of the group actually rendering~~
 17 ~~services~~ on the premises at the same time the intern is
 18 providing services.

19 (d) Has passed a theory and practice ~~an~~ examination
 20 provided by the department for this purpose.

21 (e) Has demonstrated, in a manner designated by rule
 22 of the board, knowledge of the laws and rules governing the
 23 practice of clinical social work, marriage and family therapy,
 24 and mental health counseling.

25 (4) Upon verification of documentation and payment of
 26 a fee not to exceed \$200, as set by board rule, plus the
 27 actual per applicant cost to the department for purchase of
 28 the examination from the Professional Examination Service for
 29 the National Academy of Certified Clinical Mental Health
 30 Counselors or a similar national organization, the department
 31

1 shall issue a license as a mental health counselor to an
2 applicant who the board certifies:

3 (a) Has made application therefor and paid the
4 appropriate fee.

5 (b)1. Has received a minimum of an earned master's
6 degree with a major related to the practice of mental health
7 counseling, and has completed all of the following
8 requirements:

9 ~~a.1.~~ Twenty-one semester hours or 32 quarter hours of
10 graduate coursework, which must include a minimum of 2
11 semester hours or 3 quarter hours of graduate-level coursework
12 in each of the following seven content areas: counseling
13 theories and practice; human development theories; personality
14 theory; psychopathology or abnormal psychology; human
15 sexuality theories; group theories and practice; and
16 individual evaluation and assessment. Content may be
17 combined, provided no more than two of the seven content areas
18 are included in any one graduate-level course and the
19 applicant can document that the equivalent of 2 semester hours
20 of content was devoted to each content area. Courses in
21 research, thesis or dissertation work, practicums,
22 internships, or fieldwork may not be applied toward this
23 requirement.

24 ~~b.2.~~ A minimum of one 2-semester-hour or
25 3-quarter-hour graduate-level course in research or in career
26 or vocational counseling. Credit for thesis or dissertation
27 work, practicums, internships, or fieldwork may not be applied
28 toward this requirement.

29 ~~c.3.~~ A minimum of 2 semester hours or 3 quarter hours
30 of graduate-level coursework in legal, ethical, and
31 professional standards issues in the practice of mental health

1 counseling, which includes goals and objectives of
 2 professional counseling organizations, codes of ethics, legal
 3 considerations, standards of preparation, certifications and
 4 licensing, and the role identity of counselors. Courses in
 5 research, thesis or dissertation work, practicums,
 6 internships, or fieldwork may not be applied toward this
 7 requirement.

8 d.4. A minimum of one supervised practicum,
 9 internship, or field experience in a counseling setting. This
 10 requirement may be met by a supervised practice experience
 11 which takes place outside the academic arena, but which is
 12 certified as equivalent to a graduate-level practicum in a
 13 clinical mental health counseling setting currently offered
 14 within an academic program of a college or university
 15 accredited by an accrediting agency approved by the United
 16 States Department of Education. Such certification shall be
 17 required from an official of such college or university.

18 2. If the course title which appears on the
 19 applicant's transcript does not clearly identify the content
 20 of the coursework, the applicant shall be required to provide
 21 additional documentation, including, but not limited to, a
 22 syllabus or catalog description published for the course.

23
 24 Except as provided in sub-subparagraph 1.d.~~subparagraph 4.~~,
 25 education and training in mental health counseling must have
 26 been received in an institution of higher education which at
 27 the time the applicant graduated was: fully accredited by a
 28 regional accrediting body recognized by the Commission on
 29 Recognition of Postsecondary Accreditation; publicly
 30 recognized as a member in good standing with the Association
 31 of Universities and Colleges of Canada; or an institution of

1 higher education located outside the United States and Canada,
2 which at the time the applicant was enrolled and at the time
3 the applicant graduated maintained a standard of training
4 substantially equivalent to the standards of training of those
5 institutions in the United States which are accredited by a
6 regional accrediting body recognized by the Commission on
7 Recognition of Postsecondary Accreditation. Such foreign
8 education and training must have been received in an
9 institution or program of higher education officially
10 recognized by the government of the country in which it is
11 located as an institution or program to train students to
12 practice as mental health counselors. The burden of
13 establishing that the requirements of this provision have been
14 met shall be upon the applicant, and the board shall ~~may~~
15 require documentation, such as, but not limited to, an
16 evaluation by a foreign equivalency determination service, as
17 evidence that the applicant's graduate degree program and
18 education were equivalent to an accredited program in this
19 country.

20 (c) Has had not less than 2 years of ~~a minimum of 3~~
21 ~~years~~ clinical experience in mental health counseling, 2
22 ~~years~~ of which must be at the post-master's level under the
23 supervision of a licensed mental health counselor or the
24 equivalent who is a qualified supervisor as determined by the
25 board. An individual who intends to practice in Florida to
26 satisfy the clinical experience requirements must register
27 pursuant to s. 491.0045 prior to commencing practice. If a
28 graduate has a master's degree with a major related to the
29 practice of mental health counseling which did not include all
30 the coursework required under sub-subparagraphs (b)1.a.-c.,
31 credit for the post-master's level clinical experience shall

1 not commence until the applicant has completed a minimum of
2 seven of the courses required under sub-subparagraphs
3 (b)1.a.-c., as determined by the board, one of which must be a
4 course in psychopathology or abnormal psychology.A doctoral
5 internship may be applied toward the clinical experience
6 ~~supervision~~ requirement. The clinical experience requirement
7 may be met by work performed on or off the premises of the
8 supervising mental health counselor or the equivalent,
9 provided the off-premises work is not the independent private
10 practice rendering of services that does not have a licensed
11 mental health professional counselor or the equivalent, as
12 determined by the board, ~~as a member of the group actually~~
13 ~~rendering services~~ on the premises at the same time the intern
14 is providing services.

15 (d) Has passed a theory and practice ~~an~~ examination
16 provided by the department for this purpose.

17 (e) Has demonstrated, in a manner designated by rule
18 of the board, knowledge of the laws and rules governing the
19 practice of clinical social work, marriage and family therapy,
20 and mental health counseling.

21 Section 205. Effective January 1, 2001, paragraph (b)
22 of subsection (3) and paragraphs (b) and (c) of subsection (4)
23 of section 491.005, Florida Statutes, as amended by this act,
24 are amended to read:

25 491.005 Licensure by examination.--

26 (3) Upon verification of documentation and payment of
27 a fee not to exceed \$200, as set by board rule, plus the
28 actual cost to the department for the purchase of the
29 examination from the Association of Marital and Family Therapy
30 Regulatory Board, or similar national organization, the
31

1 department shall issue a license as a marriage and family
2 therapist to an applicant who the board certifies:

3 (b)1. Has a minimum of a master's degree with major
4 emphasis in marriage and family therapy, or a closely related
5 field, and has completed all of the following requirements:

6 a. Thirty-six ~~Twenty-seven~~ semester hours or 48 ~~41~~
7 quarter hours of graduate coursework, which must include a
8 minimum of 3 ~~2~~ semester hours or 4 ~~3~~ quarter hours of
9 graduate-level course credits in each of the following nine
10 areas: dynamics of marriage and family systems; marriage
11 therapy and counseling theory and techniques; family therapy
12 and counseling theory and techniques; individual human
13 development theories throughout the life cycle; personality
14 theory or general counseling theory and techniques;
15 psychopathology; human sexuality theory and counseling
16 techniques; ~~general counseling theory and techniques~~; and
17 psychosocial theory; and substance abuse theory and counseling
18 techniques. ~~Content may be combined, provided no more than~~
19 ~~two of the nine content areas are included in any one~~
20 ~~graduate-level course and the applicant can document that the~~
21 ~~equivalent of 2 semester hours of coursework was devoted to~~
22 ~~each content area~~. Courses in research, evaluation,
23 appraisal, assessment, or testing theories and procedures;
24 thesis or dissertation work; or practicums, internships, or
25 fieldwork may not be applied toward this requirement.

26 b. A minimum of one graduate-level course of 3 ~~2~~
27 semester hours or 4 ~~3~~ quarter hours in legal, ethical, and
28 professional standards issues in the practice of marriage and
29 family therapy or a course determined by the board to be
30 equivalent.

31

1 c. A minimum of one graduate-level course of 3 ~~2~~
 2 semester hours or 4 ~~3~~ quarter hours in diagnosis, appraisal,
 3 assessment, and testing for individual or interpersonal
 4 disorder or dysfunction; and a minimum of one 3-semester-hour
 5 ~~2-semester-hour~~ or 4-quarter-hour ~~3-quarter-hour~~
 6 graduate-level course in behavioral research which focuses on
 7 the interpretation and application of research data as it
 8 applies to clinical practice. Credit for thesis or
 9 dissertation work, practicums, internships, or fieldwork may
 10 not be applied toward this requirement.

11 d. A minimum of one supervised clinical practicum,
 12 internship, or field experience in a marriage and family
 13 counseling setting, during which the student provided 180
 14 direct client contact hours of marriage and family therapy
 15 services under the supervision of an individual who met the
 16 requirements for supervision under paragraph (c). This
 17 requirement may be met by a supervised practice experience
 18 which took place outside the academic arena, but which is
 19 certified as equivalent to a graduate-level practicum or
 20 internship program which required a minimum of 180 direct
 21 client contact hours of marriage and family therapy services
 22 currently offered within an academic program of a college or
 23 university accredited by an accrediting agency approved by the
 24 United States Department of Education, or an institution which
 25 is publicly recognized as a member in good standing with the
 26 Association of Universities and Colleges of Canada or a
 27 training institution accredited by the Commission on
 28 Accreditation for Marriage and Family Therapy Education
 29 recognized by the United States Department of Education.
 30 Certification shall be required from an official of such
 31 college, university, or training institution.

1 2. If the course title which appears on the
 2 applicant's transcript does not clearly identify the content
 3 of the coursework, the applicant shall be required to provide
 4 additional documentation, including, but not limited to, a
 5 syllabus or catalog description published for the course.
 6
 7 The required master's degree must have been received in an
 8 institution of higher education which at the time the
 9 applicant graduated was: fully accredited by a regional
 10 accrediting body recognized by the Commission on Recognition
 11 of Postsecondary Accreditation; publicly recognized as a
 12 member in good standing with the Association of Universities
 13 and Colleges of Canada; or an institution of higher education
 14 located outside the United States and Canada, which at the
 15 time the applicant was enrolled and at the time the applicant
 16 graduated maintained a standard of training substantially
 17 equivalent to the standards of training of those institutions
 18 in the United States which are accredited by a regional
 19 accrediting body recognized by the Commission on Recognition
 20 of Postsecondary Accreditation. Such foreign education and
 21 training must have been received in an institution or program
 22 of higher education officially recognized by the government of
 23 the country in which it is located as an institution or
 24 program to train students to practice as professional marriage
 25 and family therapists or psychotherapists. The burden of
 26 establishing that the requirements of this provision have been
 27 met shall be upon the applicant, and the board shall require
 28 documentation, such as, but not limited to, an evaluation by a
 29 foreign equivalency determination service, as evidence that
 30 the applicant's graduate degree program and education were
 31 equivalent to an accredited program in this country. An

1 applicant with a master's degree from a program which did not
 2 emphasize marriage and family therapy may complete the
 3 coursework requirement in a training institution fully
 4 accredited by the Commission on Accreditation for Marriage and
 5 Family Therapy Education recognized by the United States
 6 Department of Education.

7 (4) Upon verification of documentation and payment of
 8 a fee not to exceed \$200, as set by board rule, plus the
 9 actual per applicant cost to the department for purchase of
 10 the examination from the Professional Examination Service for
 11 the National Academy of Certified Clinical Mental Health
 12 Counselors or a similar national organization, the department
 13 shall issue a license as a mental health counselor to an
 14 applicant who the board certifies:

15 (b)1. Has ~~received~~ a minimum of an earned master's
 16 degree from a with a major related to the practice of mental
 17 health counseling program accredited by the Council for the
 18 Accreditation of Counseling and Related Educational Programs
 19 that consists of at least 60 semester hours or 80 quarter
 20 hours of clinical and didactic instruction, including a course
 21 in human sexuality and substance abuse. If the master's
 22 degree is earned from a program related to the practice of
 23 mental health counseling that is not accredited by the Council
 24 for the Accreditation of Counseling and Related Educational
 25 Programs, then the coursework and practicum, internship, or
 26 fieldwork must meet, and has completed all of the following
 27 requirements:

28 a. Thirty-six ~~Twenty-one~~ semester hours or 48 ~~32~~
 29 quarter hours of graduate coursework, which must include a
 30 minimum of 3 ~~2~~ semester hours or 4 ~~3~~ quarter hours of
 31 graduate-level coursework in each of the following 12 ~~seven~~

1 content areas: counseling theories and practice; human growth
 2 and development theories; ~~personality theory; diagnosis and~~
 3 treatment of psychopathology or ~~abnormal psychology;~~ human
 4 sexuality theories; group theories and practice; and
 5 individual evaluation and assessment; career and lifestyle
 6 assessment; research and program evaluation; social and
 7 cultural foundations; foundations of mental health counseling;
 8 counseling in community settings; and substance abuse.
 9 ~~Content may be combined, provided no more than two of the~~
 10 ~~seven content areas are included in any one graduate-level~~
 11 ~~course and the applicant can document that the equivalent of 2~~
 12 ~~semester hours of content was devoted to each content area.~~
 13 Courses in research, thesis or dissertation work, practicums,
 14 internships, or fieldwork may not be applied toward this
 15 requirement.

16 ~~b. A minimum of one 2-semester-hour or 3-quarter-hour~~
 17 ~~graduate-level course in research or in career or vocational~~
 18 ~~counseling. Credit for thesis or dissertation work,~~
 19 ~~practicums, internships, or fieldwork may not be applied~~
 20 ~~toward this requirement.~~

21 b.e. A minimum of 3 ~~2~~ semester hours or 4 ~~3~~ quarter
 22 hours of graduate-level coursework in legal, ethical, and
 23 professional standards issues in the practice of mental health
 24 counseling, which includes goals, and objectives, and
 25 practices of professional counseling organizations, codes of
 26 ethics, legal considerations, standards of preparation,
 27 certifications and licensing, and the role identity and
 28 professional obligations of mental health counselors. Courses
 29 in research, thesis or dissertation work, practicums,
 30 internships, or fieldwork may not be applied toward this
 31 requirement.

1 c.d. The equivalent of at least 1,000 hours of
 2 university-sponsored ~~A minimum of one~~ supervised clinical
 3 practicum, internship, or field experience as required in the
 4 accrediting standards of the Council for Accreditation of
 5 Counseling and Related Educational Programs for mental health
 6 counseling programs. If the academic practicum, internship,
 7 or field experience was less than 1,000 hours, experience
 8 gained outside the academic arena in clinical mental health
 9 settings under the supervision of a qualified supervisor as
 10 determined by the board may be applied. This experience may
 11 not be used to satisfy the post-master's clinical experience
 12 requirement in a counseling setting. This requirement may be
 13 ~~met by a supervised practice experience which takes place~~
 14 ~~outside the academic arena, but which is certified as~~
 15 ~~equivalent to a graduate-level practicum in a clinical mental~~
 16 ~~health counseling setting currently offered within an academic~~
 17 ~~program of a college or university accredited by an~~
 18 ~~accrediting agency approved by the United States Department of~~
 19 ~~Education. Such certification shall be required from an~~
 20 ~~official of such college or university.~~

21 2. If the course title which appears on the
 22 applicant's transcript does not clearly identify the content
 23 of the coursework, the applicant shall be required to provide
 24 additional documentation, including, but not limited to, a
 25 syllabus or catalog description published for the course.

26
 27 ~~Except as provided in subparagraph 4.,~~ Education and training
 28 in mental health counseling must have been received in an
 29 institution of higher education which at the time the
 30 applicant graduated was: fully accredited by a regional
 31 accrediting body recognized by the Commission on Recognition

1 of Postsecondary Accreditation; publicly recognized as a
2 member in good standing with the Association of Universities
3 and Colleges of Canada; or an institution of higher education
4 located outside the United States and Canada, which at the
5 time the applicant was enrolled and at the time the applicant
6 graduated maintained a standard of training substantially
7 equivalent to the standards of training of those institutions
8 in the United States which are accredited by a regional
9 accrediting body recognized by the Commission on Recognition
10 of Postsecondary Accreditation. Such foreign education and
11 training must have been received in an institution or program
12 of higher education officially recognized by the government of
13 the country in which it is located as an institution or
14 program to train students to practice as mental health
15 counselors. The burden of establishing that the requirements
16 of this provision have been met shall be upon the applicant,
17 and the board shall require documentation, such as, but not
18 limited to, an evaluation by a foreign equivalency
19 determination service, as evidence that the applicant's
20 graduate degree program and education were equivalent to an
21 accredited program in this country.

22 (c) Has had not less than 2 years of clinical
23 experience in mental health counseling, which must be at the
24 post-master's level under the supervision of a licensed mental
25 health counselor or the equivalent who is a qualified
26 supervisor as determined by the board. An individual who
27 intends to practice in Florida to satisfy the clinical
28 experience requirements must register pursuant to s. 491.0045
29 prior to commencing practice. If a graduate has a master's
30 degree with a major related to the practice of mental health
31 counseling that did not include all the coursework required

1 under sub-subparagraphs (b)1.a.-b. ~~(b)1.a.-c.~~, credit for the
2 post-master's level clinical experience shall not commence
3 until the applicant has completed a minimum of seven of the
4 courses required under sub-subparagraphs (b)1.a.-b.
5 ~~(b)1.a.-c.~~, as determined by the board, one of which must be a
6 course in psychopathology or abnormal psychology. A doctoral
7 internship may be applied toward the clinical experience
8 requirement. The clinical experience requirement may be met
9 by work performed on or off the premises of the supervising
10 mental health counselor or the equivalent, provided the
11 off-premises work is not the independent private practice
12 rendering of services that does not have a licensed mental
13 health professional, as determined by the board, on the
14 premises at the same time the intern is providing services.

15 Section 206. Section 491.0057, Florida Statutes, is
16 created to read:

17 491.0057 Dual licensure as a marriage and family
18 therapist.--The department shall license as a marriage and
19 family therapist any person who demonstrates to the board that
20 he or she:

21 (1) Holds a valid, active license as a psychologist
22 under chapter 490 or as a clinical social worker or mental
23 health counselor under this chapter, or is certified under s.
24 464.012 as an advanced registered nurse practitioner who has
25 been determined by the Board of Nursing as a specialist in
26 psychiatric mental health.

27 (2) Has held a valid, active license for at least 3
28 years.

29 (3) Has passed the examination provided by the
30 department for marriage and family therapy.

31

1 Section 207. Subsection (3) is added to section
2 491.007, Florida Statutes, to read:

3 491.007 Renewal of license, registration, or
4 certificate.--

5 (3) The board or department shall prescribe by rule a
6 method for the biennial renewal of an intern registration at a
7 fee set by rule, not to exceed \$100.

8 Section 208. Section 491.009, Florida Statutes, 1996
9 Supplement, is amended to read:

10 491.009 Discipline.--

11 (1) When the department or the board finds that an
12 applicant, licensee, provisional licensee, registered intern,
13 or certificateholder whom it regulates under this chapter has
14 committed any of the acts set forth in subsection (2), it may
15 issue an order imposing one or more of the following
16 penalties:

17 (a) Denial of an application for licensure,
18 registration, or certification, either temporarily or
19 permanently.

20 (b) Revocation of an application for licensure,
21 registration, or certification, either temporarily or
22 permanently.

23 (c) Suspension for a period of up to 5 years or
24 revocation of a license, registration, or certificate, after
25 hearing.

26 (d) Immediate suspension of a license, registration,
27 or certificate pursuant to s. 120.60(6).

28 (e) Imposition of an administrative fine not to exceed
29 \$1,000 for each count or separate offense.

30 (f) Issuance of a public reprimand.

31

1 (g) Placement of an applicant, licensee, registered
2 intern, or certificateholder on probation for a period of time
3 and subject to such conditions as the board may specify,
4 including, but not limited to, requiring the applicant,
5 licensee, registered intern, or certificateholder to submit to
6 treatment, to attend continuing education courses, to submit
7 to reexamination, or to work under the supervision of a
8 designated licensee or certificateholder.

9 (h) Restriction of practice.

10 (2) The following acts of a licensee, provisional
11 licensee, registered intern, certificateholder, or applicant
12 are grounds for which the disciplinary actions listed in
13 subsection (1) may be taken:

14 (a) Attempting to obtain, obtaining, or renewing a
15 license, registration, or certificate under this chapter by
16 bribery or fraudulent misrepresentation or through an error of
17 the board or the department.

18 (b) Having a license, registration, or certificate to
19 practice a comparable profession revoked, suspended, or
20 otherwise acted against, including the denial of certification
21 or licensure by another state, territory, or country.

22 (c) Being convicted or found guilty of, regardless of
23 adjudication, or having entered a plea of nolo contendere to,
24 a crime in any jurisdiction which directly relates to the
25 practice of his profession or the ability to practice his
26 profession. However, in the case of a plea of nolo
27 contendere, the board shall allow the person who is the
28 subject of the disciplinary proceeding to present evidence in
29 mitigation relevant to the underlying charges and
30 circumstances surrounding the plea.

31

1 (d) False, deceptive, or misleading advertising or
2 obtaining a fee or other thing of value on the representation
3 that beneficial results from any treatment will be guaranteed.

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

6 (f) Maintaining a professional association with any
7 person who ~~whom~~ the applicant, licensee, registered intern, or
8 certificateholder knows, or has reason to believe, is in
9 violation of this chapter or of a rule of the department or
10 the board.

11 (g) Knowingly aiding, assisting, procuring, or
12 advising any nonlicensed, nonregistered, or noncertified
13 person to hold himself out as licensed, registered, or
14 certified under this chapter.

15 (h) Failing to perform any statutory or legal
16 obligation placed upon a person licensed, registered, or
17 certified under this chapter.

18 (i) Willfully making or filing a false report or
19 record; failing to file a report or record required by state
20 or federal law; willfully impeding or obstructing the filing
21 of a report or record; or inducing another person to make or
22 file a false report or record or to impede or obstruct the
23 filing of a report or record. Such report or record includes
24 only a report or record which requires the signature of a
25 person licensed, registered, or certified under this chapter.

26 (j) Paying a kickback, rebate, bonus, or other
27 remuneration for receiving a patient or client, or receiving a
28 kickback, rebate, bonus, or other remuneration for referring a
29 patient or client to another provider of mental health care
30 services or to a provider of health care services or goods;
31 referring a patient or client to oneself for services on a

1 fee-paid basis when those services are already being paid for
2 by some other public or private entity; or entering into a
3 reciprocal referral agreement.

4 (k) Committing any act upon a patient or client which
5 would constitute sexual battery or which would constitute
6 sexual misconduct as defined pursuant to s. 491.0111.

7 (l) Making misleading, deceptive, untrue, or
8 fraudulent representations in the practice of any profession
9 licensed, registered, or certified under this chapter.

10 (m) Soliciting patients or clients personally, or
11 through an agent, through the use of fraud, intimidation,
12 undue influence, or a form of overreaching or vexatious
13 conduct.

14 (n) Failing to make available to a patient or client,
15 upon written request, copies of tests, reports, or documents
16 in the possession or under the control of the licensee,
17 registered intern, or certificateholder which have been
18 prepared for and paid for by the patient or client.

19 (o) Failing to respond within 30 days to a written
20 communication from the department or the board concerning any
21 investigation by the department or the board, or failing to
22 make available any relevant records with respect to any
23 investigation about the licensee's, registered intern's, or
24 ~~the~~ certificateholder's conduct or background.

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

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

24 (q) Violating provisions of this chapter, or of
25 chapter 455, or any rules adopted pursuant thereto.

26 (r) Performing any treatment or prescribing any
27 therapy which, by the prevailing standards of the mental
28 health professions in the community, would constitute
29 experimentation on human subjects, without first obtaining
30 full, informed, and written consent.

31

1 (s) Failing to meet the minimum standards of
2 performance in professional activities when measured against
3 generally prevailing peer performance, including the
4 undertaking of activities for which the licensee, registered
5 intern, or certificateholder is not qualified by training or
6 experience.

7 (t) Delegating professional responsibilities to a
8 person whom the licensee, registered intern, or
9 certificateholder knows or has reason to know is not qualified
10 by training or experience to perform such responsibilities.

11 (u) Violating a rule relating to the regulation of the
12 profession or a lawful order of the department or the board
13 previously entered in a disciplinary hearing.

14 (v) Failure of the licensee, registered intern, or
15 certificateholder to maintain in confidence a communication
16 made by a patient or client in the context of such services,
17 except as provided in s. 491.0147 ~~by written permission or in~~
18 ~~the face of a clear and immediate probability of bodily harm~~
19 ~~to the patient or client or to others.~~

20 (w) Making public statements which are derived from
21 test data, client contacts, or behavioral research and which
22 identify or damage research subjects or clients.

23 Section 209. Section 491.012, Florida Statutes, is
24 amended to read:

25 491.012 Violations; penalty; injunction.--

26 (1) It is unlawful and a violation of this chapter for
27 any person to:

28 (a) Use the following titles or any combination
29 thereof, unless he holds a valid, active license as a clinical
30 social worker issued pursuant to this chapter:

31 1. "Licensed clinical social worker."

- 1 2. "Clinical social worker."
2 3. "Licensed social worker."
3 4. "Psychiatric social worker."
4 5. "Psychosocial worker."
5 (b) Use the following titles or any combination
6 thereof, unless he holds a valid~~,~~active license as a marriage
7 and family therapist issued pursuant to this chapter:
8 1. "Licensed marriage and family therapist."
9 2. "Marriage and family therapist."
10 3. "Marriage counselor."
11 4. "Marriage consultant."
12 5. "Family therapist."
13 6. "Family counselor."
14 7. "Family consultant."
15 (c) Use the following titles or any combination
16 thereof, unless he holds a valid~~,~~active license as a mental
17 health counselor issued pursuant to this chapter:
18 1. "Licensed mental health counselor."
19 2. "Mental health counselor."
20 3. "Mental health therapist."
21 4. "Mental health consultant."
22 (d) Use the terms psychotherapist or sex therapist,
23 unless such person is licensed pursuant to this chapter or
24 chapter 490, or is certified under s. 464.012 as an advanced
25 registered nurse practitioner who has been determined by the
26 Board of Nursing as a specialist in ~~the category of~~
27 psychiatric mental health and the use of such terms is within
28 the scope of his practice based on education, training, and
29 licensure.
30
31

1 (e) Present as his own the clinical social work,
2 marriage and family therapy, or mental health counseling
3 license of another.

4 (f) Give false or forged evidence to the board or a
5 member thereof for the purpose of obtaining a license.

6 (g) Use or attempt to use a license issued pursuant to
7 this chapter which has been revoked or is under suspension.

8 (h) Knowingly conceal information relative to
9 violations of this chapter.

10 (i) ~~Beginning October 1, 1992,~~ Practice clinical
11 social work in this state, as the practice is defined in s.
12 491.003(7), for compensation, unless the person holds a valid,
13 ~~an~~ active license to practice clinical social work issued
14 pursuant to this chapter.

15 (j) ~~Beginning October 1, 1992,~~ Practice marriage and
16 family therapy in this state, as the practice is defined in s.
17 491.003(8), for compensation, unless the person holds a valid,
18 ~~an~~ active license to practice marriage and family therapy
19 issued pursuant to this chapter.

20 (k) ~~Beginning October 1, 1992,~~ Practice mental health
21 counseling in this state, as the practice is defined in s.
22 491.003(9), for compensation, unless the person holds a valid,
23 ~~an~~ active license to practice mental health counseling issued
24 pursuant to this chapter.

25 (l) Use the following titles or any combination
26 thereof, unless he or she holds a valid registration as an
27 intern issued pursuant to this chapter:

- 28 1. "Registered clinical social worker intern."
- 29 2. "Registered marriage and family therapist intern."
- 30 3. "Registered mental health counselor intern."

31

1 (m) Use the following titles or any combination
2 thereof, unless he or she holds a valid provisional license
3 issued pursuant to this chapter:

4 1. "Provisional clinical social worker licensee."

5 2. "Provisional marriage and family therapist
6 licensee."

7 3. "Provisional mental health counselor licensee."

8 (2) It is unlawful and a violation of this chapter for
9 any person to describe his services using the following terms
10 or any derivative thereof, unless such person holds a valid,
11 active license under this chapter or chapter 490, or is
12 certified under s. 464.012 as an advanced registered nurse
13 practitioner who has been determined by the Board of Nursing
14 as a specialist in the category of psychiatric mental health
15 under s. 464.012, and the use of such terms is within the
16 scope of his practice based on education, training, and
17 licensure:

18 (a) "Psychotherapy."

19 (b) "Sex therapy."

20 (c) "Sex counseling."

21 (d) "Clinical social work."

22 (e) "Psychiatric social work."

23 (f) "Marriage and family therapy."

24 (g) "Marriage and family counseling."

25 (h) "Marriage counseling."

26 (i) "Family counseling."

27 (j) "Mental health counseling."

28 (3) Any person who violates any provision of
29 subsection (1) or subsection (2) commits a misdemeanor of the
30 first degree, punishable as provided in s. 775.082 or s.
31 775.083.

1 (4) The department may institute appropriate judicial
2 proceedings to enjoin violation of this section.

3 Section 210. Section 491.014, Florida Statutes, is
4 amended to read:

5 491.014 Exemptions.--

6 (1) No provision of this chapter shall be construed to
7 limit the practice of physicians licensed pursuant to chapter
8 458 or chapter 459, or psychologists licensed pursuant to
9 chapter 490, so long as they do not unlawfully hold themselves
10 out to the public as possessing a license, provisional

11 license, registration, or certificate issued pursuant to this
12 chapter or use a professional title protected by this chapter.

13 (2) No provision of this chapter shall be construed to
14 limit the practice of nursing, school psychology, or
15 psychology, or to prevent qualified members of other
16 professions from doing work of a nature consistent with their
17 training and licensure, so long as they do not hold themselves
18 out to the public as possessing a license, provisional
19 license, registration, or certificate issued pursuant to this
20 chapter or use a title protected by this chapter.

21 (3) No provision of this chapter shall be construed to
22 limit the performance of activities of a rabbi, priest,
23 minister, or clergyman of any religious denomination or sect,
24 or use of the terms "Christian counselor" or "Christian
25 clinical counselor" when the activities are within the scope
26 of the performance of his regular or specialized ministerial
27 duties and no compensation is received by him, or when such
28 activities are performed, with or without compensation, by a
29 person for or under the auspices or sponsorship, individually
30 or in conjunction with others, of an established and legally
31 cognizable church, denomination, or sect, and when the person

1 rendering service remains accountable to the established
2 authority thereof.

3 (4) No person shall be required to be licensed,
4 provisionally licensed, registered, or certified under this
5 chapter who:

6 (a) Is a salaried employee of a government agency;
7 developmental services program, mental health, alcohol, or
8 drug abuse facility operating pursuant to chapter 393, chapter
9 394, or chapter 397; subsidized child care program, subsidized
10 child care case management program, or child care resource and
11 referral program, operating pursuant to chapter 402;
12 child-placing or child-caring agency licensed pursuant to
13 chapter 409; domestic violence center certified pursuant to
14 chapter 415; accredited academic institution; or research
15 institution, if such employee is performing duties for which
16 he was trained and hired solely within the confines of such
17 agency, facility, or institution.

18 (b) Is a salaried employee of a private, nonprofit
19 organization providing counseling services to children, youth,
20 and families, if such services are provided for no charge, if
21 such employee is performing duties for which he was trained
22 and hired.

23 (c) Is a student providing services regulated under
24 this chapter who is pursuing a course of study which leads to
25 a degree in ~~medicine~~ or a profession regulated by this
26 chapter, ~~who~~ is providing services in a training setting,
27 provided such ~~activities or services~~ and associated activities
28 constitute part of a supervised course of study, and ~~or is a~~
29 ~~graduate accumulating the experience required for any~~
30 ~~licensure or certification under this chapter, provided such~~
31 ~~graduate or student~~ is designated by the a title ~~such as~~

1 ~~"student intern." or "trainee" which clearly indicates the~~
2 ~~in-training status of the student.~~

3 (d) Is not a resident of this state but offers
4 services in this state, provided:

5 1. Such services are performed for no more than 5 days
6 in any month and no more than 15 days in any calendar year;
7 and

8 2. Such nonresident is licensed or certified to
9 practice the services provided by a state or territory of the
10 United States or by a foreign country or province.

11 (5) No provision of this chapter shall be construed to
12 limit the practice of any individual who solely engages in
13 behavior analysis so long as he does not hold himself out to
14 the public as possessing a license issued pursuant to this
15 chapter or use a title protected by this chapter.

16 (6) Nothing in subsections (2)-(4) shall exempt any
17 person from the provisions of s. 491.012(1)(a)-(c), (l), and
18 (m).

19 ~~(7) Any person who is not licensed under this chapter~~
20 ~~by October 1, 1992, and who desires to become so licensed~~
21 ~~shall register with the department that person's intent to~~
22 ~~become fully licensed no later than October 1, 1995. The~~
23 ~~costs to the department of such registration shall be borne by~~
24 ~~the registrant. The department may require affidavits and~~
25 ~~supporting documentation sufficient to demonstrate that the~~
26 ~~registrant is preparing for examination by October 1, 1995,~~
27 ~~under this chapter. The department may adopt rules to~~
28 ~~implement this section. Upon receipt of the department's~~
29 ~~notice of registration, the registrant may practice services~~
30 ~~as defined in s. 491.003(7), (8), and (9), provided that the~~
31 ~~registrant uses "trainee" or "intern" with any title or~~

1 ~~description of the registrant's work and on any business~~
2 ~~correspondence and work product, including, but not limited~~
3 ~~to, a business card, letterhead, sign, billing, or report~~
4 ~~unless exempt pursuant to this chapter.~~

5 (7)(8) Except as stipulated by the board,the
6 exemptions contained in this section ~~subsection (4)~~do not
7 apply to any person licensed under this chapter whose license
8 has been suspended or revoked by the board or another
9 jurisdiction.

10 (8)(9) Nothing in this section shall be construed to
11 exempt a person from meeting the minimum standards of
12 performance in professional activities when measured against
13 generally prevailing peer performance, including the
14 undertaking of activities for which the person is not
15 qualified by training or experience.

16 Section 211. Section 491.0149, Florida Statutes, is
17 amended to read:

18 491.0149 Display of license; use of professional title
19 on promotional materials.--

20 (1)(a) A person licensed under this chapter as a
21 clinical social worker, marriage and family therapist, or
22 mental health counselor, or certified as a master social
23 worker shall conspicuously display the valid license issued by
24 the department or a true copy thereof at each location at
25 which the licensee practices his profession.

26 (b)1.(2) A licensed clinical social worker shall
27 include the words "licensed clinical social worker" or the
28 letters "LCSW" on all promotional materials, including cards,
29 brochures, stationery, advertisements, and signs, naming the
30 licensee.

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1 ~~2.(4)~~ A licensed marriage and family therapist shall
2 include the words "licensed marriage and family therapist" or
3 the letters "LMFT" on all promotional materials, including
4 cards, brochures, stationery, advertisements, and signs,
5 naming the licensee.

6 ~~3.(3)~~ A licensed mental health counselor shall include
7 the words "licensed mental health counselor" or the letters
8 "LMHC" on all promotional materials, including cards,
9 brochures, stationery, advertisements, and signs, naming the
10 licensee.

11 (2)(a) A person registered under this chapter as a
12 clinical social worker intern, marriage and family therapist
13 intern, or mental health counselor intern shall conspicuously
14 display the valid registration issued by the department or a
15 true copy thereof at each location at which the registered
16 intern is completing the experience requirements.

17 (b) A registered clinical social worker intern shall
18 include the words "registered clinical social worker intern,"
19 a registered marriage and family therapist intern shall
20 include the words "registered marriage and family therapist
21 intern," and a registered mental health counselor intern shall
22 include the words "registered mental health counselor intern"
23 on all promotional materials, including cards, brochures,
24 stationery, advertisements, and signs, naming the registered
25 intern.

26 (3)(a) A person provisionally licensed under this
27 chapter as a provisional clinical social worker licensee,
28 provisional marriage and family therapist licensee, or
29 provisional mental health counselor licensee shall
30 conspicuously display the valid provisional license issued by
31

1 the department or a true copy thereof at each location at
2 which the provisional licensee is providing services.

3 (b) A provisional clinical social worker licensee
4 shall include the words "provisional clinical social worker
5 licensee," a provisional marriage and family therapist
6 licensee shall include the words "provisional marriage and
7 family therapist licensee," and a provisional mental health
8 counselor licensee shall include the words "provisional mental
9 health counselor licensee" on all promotional materials,
10 including cards, brochures, stationery, advertisements, and
11 signs, naming the provisional licensee.

12 Section 212. Paragraph (b) of subsection (4) of
13 section 232.02, Florida Statutes, is amended to read:

14 232.02 Regular school attendance.--Regular attendance
15 is the actual attendance of a pupil during the school day as
16 defined by law and regulations of the state board. Regular
17 attendance within the intent of s. 232.01 may be achieved by
18 attendance in:

19 (4) A home education program as defined in s. 228.041,
20 provided that at least one of the following conditions is met:

21 (b) The parent does not hold a valid regular Florida
22 certificate to teach and complies with the following
23 requirements:

24 1. Notifies the superintendent of schools of the
25 county in which the parent resides of her or his intent to
26 establish and maintain a home education program. The notice
27 shall be in writing, signed by the parent, and shall include
28 the names, addresses, and birthdates of all children who shall
29 be enrolled as students in the home education program. The
30 notice shall be filed in the superintendent's office within 30
31 days of the establishment of the home education program. A

1 written notice of termination of the home education program
2 shall be filed in the superintendent's office within 30 days
3 of said termination.

4 2. Maintains a portfolio of records and materials.
5 The portfolio shall consist of a log, made contemporaneously
6 with the instruction, which designates by title the reading
7 materials used and samples of any writings, worksheets,
8 workbooks, and creative materials used or developed by the
9 student. The portfolio shall be preserved by the parent for 2
10 years and shall be made available for inspection by the
11 superintendent, or the superintendent's agent, upon 15 days'
12 written notice.

13 3. Provides for an annual educational evaluation in
14 which is documented the pupil's demonstration of educational
15 progress at a level commensurate with her or his ability. A
16 copy of the evaluation shall be filed annually with the
17 district school board office in the county in which the pupil
18 resides. The annual educational evaluation shall consist of
19 one of the following:

20 a. A teacher selected by the parent shall evaluate the
21 pupil's educational progress upon review of the portfolio and
22 discussion with the pupil. Such teacher shall hold a valid
23 regular Florida certificate to teach academic subjects at the
24 elementary or secondary level. The teacher shall submit a
25 written evaluation to the school superintendent;

26 b. The pupil shall take any nationally normed student
27 achievement test used by the district and administered by a
28 certified teacher. Such test results shall be reported to the
29 school superintendent;

30
31

1 c. The pupil shall take a state student assessment
2 test. Such test results shall be reported to the school
3 superintendent;

4 d. The pupil shall be evaluated by an individual
5 holding a valid, active license pursuant to the provisions of
6 s. 490.003~~(7)(3)~~or(8)(5). Such results shall be reported to
7 the school superintendent; or

8 e. The pupil shall be evaluated with any other valid
9 measurement tool as mutually agreed upon by the school
10 superintendent of the district in which the pupil resides and
11 the pupil's parent or guardian. Such results shall be
12 reported to the superintendent.

13
14 The school superintendent shall review and accept the results
15 of the annual educational evaluation of the pupil in a home
16 education program. If the pupil does not demonstrate
17 educational progress at a level commensurate with her or his
18 ability, the superintendent shall notify the parent, in
19 writing, that such progress has not been achieved. The parent
20 shall have 1 year from the date of receipt of the written
21 notification to provide remedial instruction to the pupil. At
22 the end of the 1-year probationary period, the pupil shall be
23 reevaluated as specified in this subparagraph. Continuation
24 in a home education program shall be contingent upon the pupil
25 demonstrating educational progress commensurate with her or
26 his ability at the end of the probationary period.

27 Section 213. Subsection (2) of section 394.455,
28 Florida Statutes, 1996 Supplement, is amended to read:

29 394.455 Definitions.--As used in this part, unless the
30 context clearly requires otherwise, the term:

1 (2) "Clinical psychologist" means a psychologist as
2 defined in s. 490.003(7)~~(3)~~with 3 years of postdoctoral
3 experience in the practice of clinical psychology, inclusive
4 of the experience required for licensure, or a psychologist
5 employed by a facility operated by the United States
6 Department of Veterans Affairs that qualifies as a receiving
7 or treatment facility under this part.

8 Section 214. Section 458.3124, Florida Statutes, is
9 created to read:

10 458.3124 Restricted license; certain experienced
11 foreign-trained physicians.--

12 (1) A person who was trained in a medical school that
13 is listed in the World Directory of Medical Schools published
14 by the World Health Organization and is located in a country
15 other than the United States, Canada, or Puerto Rico may apply
16 to take Step III of the United States Medical Licensing
17 Examination, if the person:

18 (a) Legally practiced medicine for at least 5 years in
19 the country in which the school is located;

20 (b) Has passed Steps I and II of the United States
21 Medical Licensing Examination;

22 (c) Is certified by the Education Commission for
23 Foreign Medical Graduates as qualified for a restricted
24 license to practice medicine;

25 (d) Is not subject to discipline, investigation, or
26 prosecution in any jurisdiction for acts that threaten the
27 public health, safety, or welfare or violate chapters 455 or
28 458; and

29 (e) Has been a resident of this state since July 1,
30 1996.

31

1 (2) A person applying for licensure under this section
2 must submit to the Department of Health on or before December
3 31, 1998:

4 (a) A completed application and documentation required
5 by the Board of Medicine to prove compliance with subsection
6 (1); and

7 (b) A nonrefundable application fee not to exceed \$500
8 and a nonrefundable examination fee not to exceed \$300 plus
9 the actual cost to purchase and administer the examination.

10 (3) A person applying under this section may take the
11 examination a maximum of 5 times within 5 years.

12 (4) A restricted licensee under this section must
13 practice under the supervision of a licensee approved by the
14 board, with the first year of licensure under direct
15 supervision and the second year in community service under
16 indirect supervision, including practicing with organizations
17 that serve indigent populations, such as section 501(c)(3)
18 agencies, public health units, prisons, or other organizations
19 approved by the board.

20 (5) Notwithstanding s. 458.311(1)(f), a person who
21 successfully meets the requirements of this section and who
22 successfully passes Step III of the United States Medical
23 Licensing Examination is eligible for full licensure as a
24 physician.

25 (6) The board shall adopt rules to implement this
26 section.

27 Section 215. This act shall take effect July 1, 1997.