

Bill No. CS for SB 2128

Amendment No.

	<u>Senate</u>	CHAMBER ACTION	<u>House</u>
1		.	
2		.	
3		.	
4		.	
5	<hr/>		
6			
7			
8			
9			
10	<hr/>		
11	Senator Silver moved the following amendment:		
12			
13	Senate Amendment (with title amendment)		
14	On page 187, between lines 2 and 3,		
15			
16	insert:		
17	Section 242. Paragraph (g) of subsection (3) of		
18	section 20.43, Florida Statutes, is amended to read:		
19	20.43 Department of Health.--There is created a		
20	Department of Health.		
21	(3) The following divisions of the Department of		
22	Health are established:		
23	(g) Division of Medical Quality Assurance, which is		
24	responsible for the following boards and professions		
25	established within the division:		
26	1. Nursing assistants, as provided under s. 400.211.		
27	2. Health care services pools, as provided under s.		
28	402.48.		
29	3. The Board of Acupuncture, created under chapter		
30	457.		
31	4. The Board of Medicine, created under chapter 458.		

Bill No. CS for SB 2128

Amendment No. ____

- 1 5. The Board of Osteopathic Medicine, created under
- 2 chapter 459.
- 3 6. The Board of Chiropractic Medicine, created under
- 4 chapter 460.
- 5 7. The Board of Podiatric Medicine, created under
- 6 chapter 461.
- 7 8. Naturopathy, as provided under chapter 462.
- 8 9. The Board of Optometry, created under chapter 463.
- 9 10. The Board of Nursing, created under chapter 464.
- 10 11. The Board of Pharmacy, created under chapter 465.
- 11 12. The Board of Dentistry, created under chapter 466.
- 12 13. Midwifery, as provided under chapter 467.
- 13 14. The Board of Speech-Language Pathology and
- 14 Audiology, created under part I of chapter 468.
- 15 15. The Board of Nursing Home Administrators, created
- 16 under part II of chapter 468.
- 17 16. Occupational therapy, as provided under part III
- 18 of chapter 468.
- 19 17. Respiratory therapy, as provided under part V of
- 20 chapter 468.
- 21 18. Dietetics and nutrition practice, as provided
- 22 under part X of chapter 468.
- 23 19. Athletic trainers, as provided under part XIII ~~XIV~~
- 24 of chapter 468.
- 25 20. Electrolysis, as provided under chapter 478.
- 26 21. The Board of Massage Therapy, created under
- 27 chapter 480.
- 28 22. The Board of Clinical Laboratory Personnel,
- 29 created under part III of chapter 483.
- 30 23. Medical physicists, as provided under part IV of
- 31 chapter 483.

Bill No. CS for SB 2128

Amendment No. ____

1 24. The Board of Opticianry, created under part I of
2 chapter 484.

3 25. The Board of Hearing Aid Specialists, created
4 under part II of chapter 484.

5 26. The Board of Physical Therapy Practice, created
6 under chapter 486.

7 27. The Board of Psychology, created under chapter
8 490.

9 28. The Board of Clinical Social Work, Marriage and
10 Family Therapy, and Mental Health Counseling, created under
11 chapter 491.

12
13 The department may contract with the Agency for Health Care
14 Administration who shall provide consumer complaint,
15 investigative, and prosecutorial services required by the
16 Division of Medical Quality Assurance, councils, or boards, as
17 appropriate.

18 Section 243. Subsection (1) of section 322.125,
19 Florida Statutes, is amended to read:

20 322.125 Medical Advisory Board.--

21 (1) There shall be a Medical Advisory Board composed
22 of not fewer than 12 or more than 25 members, at least one of
23 whom must be 60 years of age or older and all but one of whose
24 medical and other specialties must relate to driving
25 abilities, which number must include a doctor of medicine who
26 is employed by the Department of Highway Safety and Motor
27 Vehicles in Tallahassee, who shall serve as administrative
28 officer for the board. The executive director of the
29 Department of Highway Safety and Motor Vehicles shall
30 recommend persons to serve as board members. Every member but
31 two must be a doctor of medicine licensed to practice medicine

Bill No. CS for SB 2128

Amendment No. ____

1 in this or any other state and must be a member in good
 2 standing of the Florida Medical Association or the Florida
 3 Osteopathic Association. One member must be an optometrist
 4 licensed to practice optometry in this state and must be a
 5 member in good standing of the Florida Optometric Association.
 6 One member must be a chiropractic physician ~~chiropractor~~
 7 licensed to practice chiropractic medicine in this state.
 8 Members shall be approved by the Cabinet and shall serve
 9 4-year staggered terms. The board membership must, to the
 10 maximum extent possible, consist of equal representation of
 11 the disciplines of the medical community treating the mental
 12 or physical disabilities that could affect the safe operation
 13 of motor vehicles.

14 Section 244. Subsection (1) of section 381.0031,
 15 Florida Statutes, is amended to read:

16 381.0031 Report of diseases of public health
 17 significance to department.--

18 (1) Any practitioner, licensed in Florida to practice
 19 medicine, osteopathic medicine, chiropractic medicine,
 20 naturopathy, or veterinary medicine, who diagnoses or suspects
 21 the existence of a disease of public health significance shall
 22 immediately report the fact to the Department of Health.

23 Section 245. Paragraph (b) of subsection (2) and
 24 subsection (5) of section 381.0302, Florida Statutes, are
 25 amended to read:

26 381.0302 Florida Health Services Corps.--

27 (2) As used in this section, the term:

28 (b) "Florida Health Services Corps" means a program
 29 authorized by this section which:

30 1. Offers scholarships to allopathic, osteopathic,
 31 chiropractic, podiatric, dental, physician assistant, and

Bill No. CS for SB 2128

Amendment No. ____

1 nursing students, and loan repayment assistance and travel and
2 relocation expenses to allopathic and osteopathic residents
3 and physicians, chiropractic physicians ~~chiropractors~~,
4 podiatrists, nurse practitioners, dentists, and physician
5 assistants, in return for service in a public health care
6 program or in a medically underserved area.

7 2. Offers membership on a voluntary basis to
8 physicians and other health care personnel who provide
9 uncompensated care.

10 (5) The department may award scholarships to students
11 studying medicine, osteopathic medicine, chiropractic
12 medicine, podiatric, nursing, or dentistry.

13 (a) The program shall require a student who receives a
14 scholarship to accept an assignment in a public health care
15 program or work in a specific community located in a medically
16 underserved area upon completion of primary care training.
17 The department shall determine assignments. If a practitioner
18 is assigned to a medically underserved area, the practitioner
19 must treat Medicaid patients and other patients with low
20 incomes.

21 (b) An eligible student must be pursuing a full-time
22 course of study in:

23 1. Allopathic or osteopathic medicine, including
24 physician assistants;

25 2. Dentistry;

26 3. Podiatric medicine;

27 4. Nursing, including registered nurses, nurse
28 midwives, and other nurse practitioners; or

29 5. Chiropractic medicine.

30 (c) In selecting students to participate in the
31 scholarship program, priority shall be given to students who

Bill No. CS for SB 2128

Amendment No. ____

1 indicate a desire to practice a primary care specialty in a
2 medically underserved area after their obligation is completed
3 and who indicate an intent to practice medical specialties for
4 which the department has a need.

5 (d) Scholarship assistance shall consist of
6 reimbursement for tuition and other educational costs such as
7 books, supplies, equipment, transportation, and monthly living
8 expense stipends. The department shall pay the same amount for
9 living expense stipends as is paid by the National Health
10 Services Corps. Each monthly living expense stipend shall be
11 for a 12-month period beginning with the first month of each
12 school year in which the student is a participant. The
13 department may reimburse a participant for books, supplies,
14 and equipment based on average costs incurred by participants
15 for these items. The department shall prescribe, by rule,
16 eligible expenses for reimbursement and allowable amounts.

17 (e) For an allopathic or osteopathic medical student,
18 enrollment in the corps may begin in the second year of
19 medical school or in any year thereafter. For a nursing
20 student or other student, enrollment may occur in any year.

21 (f) For a student who receives scholarship assistance,
22 participation in the corps after completion of training shall
23 be 1 year for each school year of scholarship assistance, up
24 to a maximum of 3 years. The period of obligated service
25 shall begin when the participant is assigned by the department
26 to a public health program or to a medically underserved area.

27 Section 246. Subsection (11) of section 382.002,
28 Florida Statutes, is amended to read:

29 382.002 Definitions.--As used in this chapter, the
30 term:

31 (11) "Physician" means a person authorized to practice

Bill No. CS for SB 2128

Amendment No. ____

1 medicine, osteopathic medicine, or chiropractic medicine
 2 pursuant to chapter 458, chapter 459, or chapter 460.

3 Section 247. Section 395.0195, Florida Statutes, is
 4 amended to read:

5 395.0195 Access of chiropractic physicians
 6 ~~chiropractors~~ to diagnostic reports.--Each hospital shall set
 7 standards and procedures which provide for reasonable access
 8 by licensed chiropractic physicians ~~chiropractors~~ to the
 9 reports of diagnostic X rays and laboratory tests of licensed
 10 facilities, subject to the same standards and procedures as
 11 other licensed physicians. However, this section does not
 12 require a licensed facility to grant staff privileges to a
 13 chiropractic physician ~~chiropractor~~.

14 Section 248. Paragraph (a) of subsection (1) of
 15 section 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, medical examiner,
 22 chiropractic physician ~~chiropractor~~, nurse, or hospital
 23 personnel engaged in the admission, examination, care, or
 24 treatment of disabled 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 social worker; or other professional adult care, residential,

Bill No. CS for SB 2128

Amendment No. ____

1 or institutional staff;

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

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

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

8
9 who knows, or has reasonable cause to suspect, that a disabled
10 adult or an elderly person has been or is being abused,
11 neglected, or exploited shall immediately report such
12 knowledge or suspicion to the central abuse registry and
13 tracking system on the single statewide toll-free telephone
14 number.

15 Section 249. Paragraph (a) of subsection (1) of
16 section 415.504, Florida Statutes, is amended to read:

17 415.504 Mandatory reports of child abuse or neglect;
18 mandatory reports of death; central abuse hotline.--

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

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

24
25 who knows, or has reasonable cause to suspect, that a child is
26 an abused, abandoned, or neglected child shall report such
27 knowledge or suspicion to the department in the manner
28 prescribed in subsection (2).

29 Section 250. Subsection (2) of section 440.106,
30 Florida Statutes, is amended to read:

31 440.106 Civil remedies; administrative penalties.--

Bill No. CS for SB 2128

Amendment No. ____

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

13 Section 251. Paragraph (r) of subsection (1) of
14 section 440.13, Florida Statutes, is amended to read:

15 440.13 Medical services and supplies; penalty for
16 violations; limitations.--

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

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

25 Section 252. Paragraph (k) of subsection (1) of
26 section 440.134, Florida Statutes, is amended to read:

27 440.134 Workers' compensation managed care
28 arrangement.--

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

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

Bill No. CS for SB 2128

Amendment No. ____

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

9 Section 253. Paragraph (a) of subsection (3) of
 10 section 440.15, Florida Statutes, is amended to read:

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

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

15 (a) Impairment benefits.--

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

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

Bill No. CS for SB 2128

Amendment No. ____

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

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

Bill No. CS for SB 2128

Amendment No. ____

1 until the earlier of:

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

4 b. The death of the employee.

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

11 Compensation is not payable for the mental, psychological, or
12 emotional injury arising out of depression from being out of
13 work. If the certification and evaluation are performed by a
14 doctor other than the employee's treating doctor, the
15 certification and evaluation must be submitted to the treating
16 doctor, and the treating doctor must indicate agreement or
17 disagreement with the certification and evaluation. The
18 certifying doctor shall issue a written report to the
19 division, the employee, and the carrier certifying that
20 maximum medical improvement has been reached, stating the
21 impairment rating, and providing any other information
22 required by the division. If the employee has not been
23 certified as having reached maximum medical improvement before
24 the expiration of 102 weeks after the date temporary total
25 disability benefits begin to accrue, the carrier shall notify
26 the treating doctor of the requirements of this section.

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

29 Section 254. Subsections (2) and (5) of section
30 455.564, Florida Statutes, are amended to read:

31 455.564 Department; general licensing provisions.--

Bill No. CS for SB 2128

Amendment No. ____

1 (2) Before the issuance of any license, the department
2 may charge an initial license fee as determined by rule of the
3 applicable board or, if no such board exists, by rule of the
4 department. Upon receipt of the appropriate license fee, the
5 department shall issue a license to any person certified by
6 the appropriate board, or its designee, as having met the
7 licensure requirements imposed by law or rule. The licensee
8 shall be issued a wallet-size identification card and a wall
9 certificate suitable for conspicuous display, which shall be
10 no smaller than 8 1/2 inches by 14 inches. The licensee shall
11 surrender to the department the wallet-size identification
12 card and the wall certificate if the licensee's license is
13 suspended or revoked. The department shall promptly return the
14 wallet-size identification card and the wall certificate to
15 the licensee upon reinstatement of a suspended or revoked
16 license.

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

30 Section 255. Paragraph (a) of subsection (3) of
31 section 455.654, Florida Statutes, is amended to read:

Bill No. CS for SB 2128

Amendment No. ____

1 455.654 Financial arrangements between referring
2 health care providers and providers of health care services.--

3 (3) DEFINITIONS.--For the purpose of this section, the
4 word, phrase, or term:

5 (a) "Board" means any of the following boards relating
6 to the respective professions: the Board of Medicine as
7 created in s. 458.307; the Board of Osteopathic Medicine as
8 created in s. 459.004; the Board of Chiropractic Medicine as
9 created in s. 460.404; the Board of Podiatric Medicine as
10 created in s. 461.004; the Board of Optometry as created in s.
11 463.003; the Board of Pharmacy as created in s. 465.004; and
12 the Board of Dentistry as created in s. 466.004.

13 Section 256. Section 455.684, Florida Statutes, is
14 amended to read:

15 455.684 Chiropractic and podiatric health care; denial
16 of payment; limitation.--A chiropractic physician licensed
17 under chapter 460 or a podiatrist licensed under chapter 461
18 shall not be denied payment for treatment rendered solely on
19 the basis that the chiropractic physician ~~chiropractor~~ or
20 podiatrist is not a member of a particular preferred provider
21 organization or exclusive provider organization which is
22 composed only of physicians licensed under the same chapter.

23 Section 257. Paragraph (a) of subsection (1) of
24 section 455.691, Florida Statutes, is amended to read:

25 455.691 Treatment of Medicare beneficiaries; refusal,
26 emergencies, consulting physicians.--

27 (1) Effective as of January 1, 1993, as used in this
28 section, the term:

29 (a) "Physician" means a physician licensed under
30 chapter 458, an osteopathic physician licensed under chapter
31 459, a chiropractic physician ~~chiropractor~~ licensed under

Bill No. CS for SB 2128

Amendment No. ____

1 chapter 460, a podiatrist licensed under chapter 461, or an
2 optometrist licensed under chapter 463.

3 Section 258. Subsection (1) of section 455.694,
4 Florida Statutes, is amended to read:

5 455.694 Boards regulating certain health care
6 practitioners.--

7 (1) As a prerequisite for licensure or license
8 renewal, the Board of Acupuncture, the Board of Chiropractic
9 Medicine, the Board of Podiatric Medicine, and the Board of
10 Dentistry shall, by rule, require that all health care
11 practitioners licensed under the respective board, and the
12 Board of Nursing shall, by rule, require that advanced
13 registered nurse practitioners certified under s. 464.012,
14 maintain medical malpractice insurance or provide proof of
15 financial responsibility in an amount and in a manner
16 determined by the board to be sufficient to cover claims
17 arising out of the rendering of or failure to render
18 professional care and services in this state.

19 Section 259. Subsection (2) of section 456.31, Florida
20 Statutes, is amended to read:

21 456.31 Legislative intent.--

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

Bill No. CS for SB 2128

Amendment No. ____

1 Section 260. Subsections (2) and (3) of section
2 456.32, Florida Statutes, are amended to read:

3 456.32 Definitions.--In construing this chapter, the
4 words, phrases, or terms, unless the context otherwise
5 indicates, shall have the following meanings:

6 (2) "Healing arts" shall mean the practice of
7 medicine, surgery, psychiatry, dentistry, osteopathic
8 medicine, chiropractic medicine, naturopathy, podiatry,
9 chiropody, psychology, clinical social work, marriage and
10 family therapy, mental health counseling, and optometry.

11 (3) "Practitioner of the healing arts" shall mean a
12 person licensed under the laws of the state to practice
13 medicine, surgery, psychiatry, dentistry, osteopathic
14 medicine, chiropractic medicine, naturopathy, podiatry,
15 chiropody, psychology, clinical social work, marriage and
16 family therapy, mental health counseling, or optometry within
17 the scope of his or her professional training and competence
18 and within the purview of the statutes applicable to his or
19 her respective profession, and who may refer a patient for
20 treatment by a qualified person, who shall employ hypnotic
21 techniques under the supervision, direction, prescription, and
22 responsibility of such referring practitioner.

23 Section 261. The catchline of section 459.002, Florida
24 Statutes, is amended to read:

25 459.002 Chapter not applicable to practice of
26 medicine, surgery, chiropractic medicine, etc.--

27 Section 262. Chapter 460, Florida Statutes, entitled
28 "Chiropractic," is retitled "Chiropractic Medicine."

29 Section 263. Subsections (2) and (4) and paragraphs
30 (a) and (e) of subsection (8) of section 460.403, Florida
31 Statutes, are amended to read:

Bill No. CS for SB 2128

Amendment No. ____

1 amended to read:

2 460.404 Board of Chiropractic Medicine; membership;
3 appointment; terms.--

4 (1) The Board of Chiropractic Medicine is created
5 within the department and shall consist of seven members to be
6 appointed by the Governor and confirmed by the Senate.

7 (2) Five members of the board must be licensed
8 chiropractic physicians who are residents of the state and who
9 have been licensed chiropractic physicians engaged in the
10 practice of chiropractic medicine for at least 4 years. The
11 remaining two members must be residents of the state who are
12 not, and have never been, licensed as chiropractic physicians
13 or members of any closely related profession. At least one
14 member of the board must be 60 years of age or older.

15 (3) As the terms of the members expire, the Governor
16 shall appoint successors for terms of 4 years, and such
17 members shall serve until their successors are appointed.

18 (4) All provisions of part II of chapter 455 relating
19 to the board shall apply.

20 Section 265. Section 460.405, Florida Statutes, is
21 amended to read:

22 460.405 Authority to make rules.--The Board of
23 Chiropractic Medicine is authorized to make such rules not
24 inconsistent with law as are necessary to carry out the duties
25 and authority conferred upon the board by this chapter.

26 Section 266. Paragraphs (c) and (e) of subsection (1)
27 and subsection (3) of section 460.406, Florida Statutes, are
28 amended to read:

29 460.406 Licensure by examination.--

30 (1) Any person desiring to be licensed as a
31 chiropractic physician shall apply to the department to take

Bill No. CS for SB 2128

Amendment No. ____

1 the licensure examination. There shall be an application fee
2 set by the board not to exceed \$100 which shall be
3 nonrefundable. There shall also be an examination fee not to
4 exceed \$500 plus the actual per applicant cost to the
5 department for purchase of portions of the examination from
6 the National Board of Chiropractic Examiners or a similar
7 national organization, which may be refundable if the
8 applicant is found ineligible to take the examination. The
9 department shall examine each applicant who the board
10 certifies has:

11 (c) Submitted proof satisfactory to the department
12 that he or she is a graduate of a chiropractic college which
13 is accredited by or has status with the Council on
14 Chiropractic Education or its predecessor agency. However, any
15 applicant who is a graduate of a chiropractic college that was
16 initially accredited by the Council on Chiropractic Education
17 in 1995, who graduated from such college within the 4 years
18 immediately preceding such accreditation, and who is otherwise
19 qualified shall be eligible to take the examination. No
20 application for a license to practice chiropractic medicine
21 shall be denied solely because the applicant is a graduate of
22 a chiropractic college that subscribes to one philosophy of
23 chiropractic medicine as distinguished from another.

24 (e) Completed not less than a 3-month training program
25 in this state of not less than 300 hours with a chiropractic
26 physician licensed in this state. The chiropractic physician
27 candidate may perform all services offered by the licensed
28 chiropractic physician, but must be under the supervision of
29 the licensed chiropractic physician until the results of the
30 first licensure examination for which the candidate has
31 qualified have been received, at which time the candidate's

Bill No. CS for SB 2128

Amendment No. ____

1 training program shall be terminated. However, an applicant
2 who has practiced chiropractic medicine in any other state,
3 territory, or jurisdiction of the United States or any foreign
4 national jurisdiction for at least 5 years as a licensed
5 chiropractic physician need not be required to complete the
6 3-month training program as a requirement for licensure.

7 (3) An applicant for the licensure examination may
8 elect not to take the certification examination to use
9 acupuncture. The department shall, in addition to the
10 licensing exam, offer an examination for certification to use
11 acupuncture. An applicant may elect to take the certification
12 examination at the time of taking the licensure examination.
13 Passage of the certification examination shall not grant any
14 applicant the right to practice chiropractic medicine absent
15 the passage of the licensing examination.

16 Section 267. Paragraph (b) of subsection (1) of
17 section 460.408, Florida Statutes, is amended to read:

18 460.408 Continuing chiropractic education.--

19 (1) The board shall require licensees to periodically
20 demonstrate their professional competence as a condition of
21 renewal of a license by completing up to 40 hours of
22 continuing education.

23 (b) The board shall approve those courses that build
24 upon the basic courses required for the practice of
25 chiropractic medicine, and the board may also approve courses
26 in adjunctive modalities.

27 Section 268. Subsection (1) and paragraph (c) of
28 subsection (2) of section 460.411, Florida Statutes, are
29 amended to read:

30 460.411 Violations and penalties.--

31 (1) Each of the following acts constitutes a violation

Bill No. CS for SB 2128

Amendment No. ____

1 of this chapter and is a felony of the third degree,
 2 punishable as provided in s. 775.082, s. 775.083, or s.
 3 775.084:

4 (a) Practicing or attempting to practice chiropractic
 5 medicine without an active license or with a license
 6 fraudulently obtained.

7 (b) Using or attempting to use a license to practice
 8 chiropractic medicine which has been suspended or revoked.

9 (2) Each of the following acts constitutes a violation
 10 of this chapter and is a misdemeanor of the first degree,
 11 punishable as provided in s. 775.082 or s. 775.083:

12 (c) Using the name or title "chiropractic physician,"
 13 "doctor of chiropractic," "chiropractic medicine," or any
 14 other name or title which would lead the public to believe
 15 that such person is engaging in the practice of chiropractic
 16 medicine, unless such person is licensed as a chiropractic
 17 physician in this state.

18 Section 269. Section 460.412, Florida Statutes, is
 19 amended to read:

20 460.412 Sexual misconduct in the practice of
 21 chiropractic medicine.--The chiropractic physician-patient
 22 relationship is founded on mutual trust. Sexual misconduct in
 23 the practice of chiropractic medicine means violation of the
 24 chiropractic physician-patient relationship through which the
 25 chiropractic physician uses said relationship to induce or
 26 attempt to induce the patient to engage, or to engage or
 27 attempt to engage the patient, in sexual activity outside the
 28 scope of practice or the scope of generally accepted
 29 examination or treatment of the patient. Sexual misconduct in
 30 the practice of chiropractic medicine is prohibited.

31 Section 270. Paragraphs (a), (b), (c), (h), (k), (m),

Bill No. CS for SB 2128

Amendment No. ____

1 (q), (r), and (s) of subsection (1) and subsection (3) of
2 section 460.413, Florida Statutes, are amended to read:

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

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

8 (a) Attempting to obtain, obtaining, or renewing a
9 license to practice chiropractic medicine by bribery, by
10 fraudulent misrepresentations, or through an error of the
11 department or the board.

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

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

22 (h) Aiding, assisting, procuring, or advising any
23 unlicensed person to practice chiropractic medicine contrary
24 to this chapter or to a rule of the department or the board.

25 (k) Making misleading, deceptive, untrue, or
26 fraudulent representations in the practice of chiropractic
27 medicine or employing a trick or scheme in the practice of
28 chiropractic medicine when such trick or scheme fails to
29 conform to the generally prevailing standards of treatment in
30 the chiropractic medical community.

31 (m) Failing to keep legibly written chiropractic

Bill No. CS for SB 2128

Amendment No. ____

1 medical records that identify clearly by name and credentials
 2 the licensed chiropractic physician rendering, ordering,
 3 supervising, or billing for each examination or treatment
 4 procedure and that justify the course of treatment of the
 5 patient, including, but not limited to, patient histories,
 6 examination results, test results, X rays, and diagnosis of a
 7 disease, condition, or injury. X rays need not be retained
 8 for more than 4 years.

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

Bill No. CS for SB 2128

Amendment No. ____

1 (r) Gross or repeated malpractice or the failure to
2 practice chiropractic medicine at a level of care, skill, and
3 treatment which is recognized by a reasonably prudent
4 chiropractic physician as being acceptable under similar
5 conditions and circumstances. The board shall give great
6 weight to the standards for malpractice in s. 766.102 in
7 interpreting this provision. A recommended order by an
8 administrative law judge, or a final order of the board
9 finding a violation under this section shall specify whether
10 the licensee was found to have committed "gross malpractice,"
11 "repeated malpractice," or "failure to practice chiropractic
12 medicine with that level of care, skill, and treatment which
13 is recognized as being acceptable under similar conditions and
14 circumstances" or any combination thereof, and any publication
15 by the board shall so specify.

16 (s) Performing any procedure or prescribing any
17 therapy which, by the prevailing standards of chiropractic
18 medical practice in the community, would constitute
19 experimentation on human subjects, without first obtaining
20 full, informed, and written consent.

21 (3) The department shall not reinstate the license of
22 a chiropractic physician, or cause a license to be issued to a
23 person the board has deemed unqualified, until such time as
24 the board is satisfied that she or he has complied with all
25 the terms and conditions set forth in the final order and that
26 such person is capable of safely engaging in the practice of
27 chiropractic medicine.

28 Section 271. Subsection (1) of section 460.4166,
29 Florida Statutes, is amended to read:

30 460.4166 Registered chiropractic assistants.--

31 (1) DEFINITION.--As used in this section, "registered

Bill No. CS for SB 2128

Amendment No. ____

1 chiropractic assistant" means a professional, multiskilled
2 person dedicated to assisting in all aspects of chiropractic
3 medical practice under the direct supervision and
4 responsibility of a chiropractic physician. A registered
5 chiropractic assistant assists with patient care management,
6 executes administrative and clinical procedures, and often
7 performs managerial and supervisory functions. Competence in
8 the field also requires that a registered chiropractic
9 assistant adhere to ethical and legal standards of
10 professional practice, recognize and respond to emergencies,
11 and demonstrate professional characteristics.

12 Section 272. Subsection (1) of section 462.01, Florida
13 Statutes, is amended to read:

14 462.01 Definitions.--As used in this chapter:

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

Bill No. CS for SB 2128

Amendment No. ____

1 medicine, Christian Science, or any other treatment authorized
2 and provided for by law for the cure or prevention of disease
3 and ailments.

4 Section 273. Subsection (10) of section 468.301,
5 Florida Statutes, is amended to read:

6 468.301 Definitions.--As used in this part, the term:

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

11 Section 274. Paragraph (a) of subsection (6) of
12 section 468.302, Florida Statutes, is amended to read:

13 468.302 Use of radiation; identification of certified
14 persons; limitations; exceptions.--

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

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

23 Section 275. Paragraph (j) of subsection (2) of
24 section 468.314, Florida Statutes, is amended to read:

25 468.314 Advisory Council on Radiation Protection;
26 appointment; terms; powers; duties.--

27 (2) The council shall be comprised of:

28 (j) A ~~board-certified~~ chiropractic radiologist.

29 Section 276. Subsection (1) of section 476.044,
30 Florida Statutes, is amended to read:

31 476.044 Exemptions.--This chapter does not apply to

Bill No. CS for SB 2128

Amendment No. ____

1 the following persons when practicing pursuant to their
2 professional responsibilities and duties:

3 (1) Persons authorized under the laws of this state to
4 practice medicine, surgery, osteopathic medicine, chiropractic
5 medicine, naturopathy, or podiatry;

6 Section 277. Paragraph (a) of subsection (1) of
7 section 477.0135, Florida Statutes, is amended to read:

8 477.0135 Exemptions.--

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

12 (a) Persons authorized under the laws of this state to
13 practice medicine, surgery, osteopathic medicine, chiropractic
14 medicine, massage, naturopathy, or podiatry.

15 Section 278. Paragraph (i) of subsection (3),
16 paragraph (a) of subsection (4), and paragraph (j) of
17 subsection (6) of section 483.901, Florida Statutes, are
18 amended to read:

19 483.901 Medical physicists; definitions; licensure.--

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

21 (i) "Physician" means a doctor of medicine,
22 osteopathic medicine, podiatry, dentistry, or chiropractic
23 medicine who is licensed in this state and who prescribes a
24 radiological procedure.

25 (4) COUNCIL.--The Advisory Council of Medical
26 Physicists is created in the Department of Health to advise
27 the department in regulating the practice of medical physics
28 in this state.

29 (a) The council shall be composed of nine members
30 appointed by the secretary of the department as follows:

31 1. A licensed medical physicist who specializes in

Bill No. CS for SB 2128

Amendment No. ____

1 diagnostic radiological physics.

2 2. A licensed medical physicist who specializes in
3 therapeutic radiological physics.

4 3. A licensed medical physicist who specializes in
5 medical nuclear radiological physics.

6 4. A physician who is board certified by the American
7 Board of Radiology or its equivalent.

8 5. A physician who is board certified by the American
9 Osteopathic Board of Radiology or its equivalent.

10 6. A chiropractic physician who practices radiology ~~is~~
11 ~~board certified by the American Chiropractic Radiology Board~~
12 ~~or its equivalent.~~

13 7. Three consumer members who are not, and have never
14 been, licensed as a medical physicist or licensed in any
15 closely related profession.

16 (6) LICENSE REQUIRED.--An individual may not engage in
17 the practice of medical physics, including the specialties of
18 diagnostic radiological physics, therapeutic radiological
19 physics, medical nuclear radiological physics, or medical
20 health physics, without a license issued by the department for
21 the appropriate specialty.

22 (j) The department may issue a temporary license to an
23 applicant pending completion of the application process for
24 board certification.

25 Section 279. Subsection (11) of section 486.021,
26 Florida Statutes, is amended to read:

27 486.021 Definitions.--In this chapter, unless the
28 context otherwise requires, the term:

29 (11) "Practice of physical therapy" means the
30 performance of physical therapy assessments and the treatment
31 of any disability, injury, disease, or other health condition

Bill No. CS for SB 2128

Amendment No. ____

1 of human beings, or the prevention of such disability, injury,
2 disease, or other condition of health, and rehabilitation as
3 related thereto by the use of the physical, chemical, and
4 other properties of air; electricity; exercise; massage; the
5 performance of acupuncture only upon compliance with the
6 criteria set forth by the Board of Medicine, when no
7 penetration of the skin occurs; the use of radiant energy,
8 including ultraviolet, visible, and infrared rays; ultrasound;
9 water; the use of apparatus and equipment in the application
10 of the foregoing or related thereto; the performance of tests
11 of neuromuscular functions as an aid to the diagnosis or
12 treatment of any human condition; or the performance of
13 electromyography as an aid to the diagnosis of any human
14 condition only upon compliance with the criteria set forth by
15 the Board of Medicine. A physical therapist may implement a
16 plan of treatment for a patient. The physical therapist shall
17 refer the patient to or consult with a health care
18 practitioner licensed under chapter 458, chapter 459, chapter
19 460, chapter 461, or chapter 466, if the patient's condition
20 is found to be outside the scope of physical therapy. If
21 physical therapy treatment for a patient is required beyond 21
22 days for a condition not previously assessed by a practitioner
23 of record, the physical therapist shall obtain a practitioner
24 of record who will review and sign the plan. A health care
25 practitioner licensed under chapter 458, chapter 459, chapter
26 460, chapter 461, or chapter 466 and engaged in active
27 practice is eligible to serve as a practitioner of record. The
28 use of roentgen rays and radium for diagnostic and therapeutic
29 purposes and the use of electricity for surgical purposes,
30 including cauterization, are not authorized under the term
31 "physical therapy" as used in this chapter. The practice of

Bill No. CS for SB 2128

Amendment No. ____

1 physical therapy as defined in this chapter does not authorize
 2 a physical therapy practitioner to practice chiropractic
 3 medicine as defined in chapter 460, including specific spinal
 4 manipulation. For the performance of specific chiropractic
 5 spinal manipulation, a physical therapist shall refer the
 6 patient to a health care practitioner licensed under chapter
 7 460. Nothing in this subsection authorizes a physical
 8 therapist to implement a plan of treatment for a patient
 9 currently being treated in a facility licensed pursuant to
 10 chapter 395.

11 Section 280. Subsection (1) of section 486.161,
 12 Florida Statutes, is amended to read:

13 486.161 Exemptions.--

14 (1) No provision of this chapter shall be construed to
 15 prohibit any person licensed in this state from using any
 16 physical agent as a part of, or incidental to, the lawful
 17 practice of her or his profession under the statutes
 18 applicable to the profession of chiropractic physician
 19 ~~chiropractor~~, podiatrist, doctor of medicine, massage
 20 therapist, nurse, osteopathic physician or surgeon,
 21 occupational therapist, or naturopath.

22 Section 281. Subsection (1) of section 621.03, Florida
 23 Statutes, is amended to read:

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

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

Bill No. CS for SB 2128

Amendment No. ____

1 services rendered by certified public accountants, public
2 accountants, chiropractic physicians ~~chiropractors~~, dentists,
3 osteopathic physicians, physicians and surgeons, doctors of
4 medicine, doctors of dentistry, podiatrists, chiropodists,
5 architects, veterinarians, attorneys at law, and life
6 insurance agents.

7 Section 282. Paragraph (h) of subsection (4) of
8 section 627.351, Florida Statutes, is amended to read:

9 627.351 Insurance risk apportionment plans.--

10 (4) MEDICAL MALPRACTICE RISK APPORTIONMENT.--

11 (h) As used in this subsection:

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

30 2. "Other medical facility" means a facility the
31 primary purpose of which is to provide human medical

Bill No. CS for SB 2128

Amendment No. ____

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

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

15 Section 283. Paragraph (b) of subsection (1) of
16 section 627.357, Florida Statutes, is amended to read:

17 627.357 Medical malpractice self-insurance.--

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

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

20 1. Hospital licensed under chapter 395.

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

23 3. Osteopathic physician licensed under chapter 459.

24 4. Podiatrist licensed under chapter 461.

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

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

29 7. Chiropractic physician ~~Chiropractor~~ licensed under
30 chapter 460.

31 8. Psychologist licensed under chapter 490.

Bill No. CS for SB 2128

Amendment No. ____

- 1 9. Optometrist licensed under chapter 463.
- 2 10. Dentist licensed under chapter 466.
- 3 11. Pharmacist licensed under chapter 465.
- 4 12. Registered nurse, licensed practical nurse, or
- 5 advanced registered nurse practitioner licensed or registered
- 6 under chapter 464.
- 7 13. Other medical facility.
- 8 14. Professional association, partnership,
- 9 corporation, joint venture, or other association established
- 10 by the individuals set forth in subparagraphs 2., 3., 4., 7.,
- 11 8., 9., 10., 11., and 12. for professional activity.

12 Section 284. Subsection (10) of section 627.6482,

13 Florida Statutes, is amended to read:

14 627.6482 Definitions.--As used in ss.

15 627.648-627.6498, the term:

16 (10) "Physician" means a physician licensed under

17 chapter 458; an osteopathic physician licensed under chapter

18 459; a chiropractic physician ~~chiropractor~~ licensed under

19 chapter 460; a podiatrist licensed under chapter 461; or, for

20 purposes of oral surgery only, a dental surgeon licensed under

21 chapter 466.

22 Section 285. Subsection (1) of section 641.316,

23 Florida Statutes, is amended to read:

24 641.316 Fiscal intermediary services.--

25 (1) It is the intent of the Legislature, through the

26 adoption of this section, to ensure the financial soundness of

27 fiscal intermediary services organizations established to

28 develop, manage, and administer the business affairs of health

29 care professional providers such as medical doctors, doctors

30 of osteopathy, doctors of chiropractic medicine, doctors of

31 podiatric medicine, doctors of dentistry, or other health

Bill No. CS for SB 2128

Amendment No. ____

1 professionals regulated by the Department of Health.

2 Section 286. Section 725.01, Florida Statutes, is
3 amended to read:

4 725.01 Promise to pay another's debt, etc.--No action
5 shall be brought whereby to charge any executor or
6 administrator upon any special promise to answer or pay any
7 debt or damages out of her or his own estate, or whereby to
8 charge the defendant upon any special promise to answer for
9 the debt, default or miscarriage of another person or to
10 charge any person upon any agreement made upon consideration
11 of marriage, or upon any contract for the sale of lands,
12 tenements or hereditaments, or of any uncertain interest in or
13 concerning them, or for any lease thereof for a period longer
14 than 1 year, or upon any agreement that is not to be performed
15 within the space of 1 year from the making thereof, or whereby
16 to charge any health care provider upon any guarantee,
17 warranty, or assurance as to the results of any medical,
18 surgical, or diagnostic procedure performed by any physician
19 licensed under chapter 458, osteopathic physician licensed
20 under chapter 459, chiropractic physician ~~chiropractor~~
21 licensed under chapter 460, podiatrist licensed under chapter
22 461, or dentist licensed under chapter 466, unless the
23 agreement or promise upon which such action shall be brought,
24 or some note or memorandum thereof shall be in writing and
25 signed by the party to be charged therewith or by some other
26 person by her or him thereunto lawfully authorized.

27 Section 287. Paragraph (b) of subsection (1) of
28 section 766.101, Florida Statutes, is amended to read:

29 766.101 Medical review committee, immunity from
30 liability.--

31 (1) As used in this section:

Bill No. CS for SB 2128

Amendment No. ____

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

9 Section 288. Paragraph (a) of subsection (6) of
10 section 766.102, Florida Statutes, is amended to read:

11 766.102 Medical negligence; standards of recovery.--

12 (6)(a) In any action for damages involving a claim of
13 negligence against a physician licensed under chapter 458,
14 osteopathic physician licensed under chapter 459, podiatrist
15 licensed under chapter 461, or chiropractic physician
16 ~~chiropractor~~ licensed under chapter 460 providing emergency
17 medical services in a hospital emergency department, the court
18 shall admit expert medical testimony only from physicians,
19 osteopathic physicians, podiatrists, and chiropractic
20 physicians ~~chiropractors~~ who have had substantial professional
21 experience within the preceding 5 years while assigned to
22 provide emergency medical services in a hospital emergency
23 department.

24 Section 289. Subsection (3) of section 766.103,
25 Florida Statutes, is amended to read:

26 766.103 Florida Medical Consent Law.--

27 (3) No recovery shall be allowed in any court in this
28 state against any physician licensed under chapter 458,
29 osteopathic physician licensed under chapter 459, chiropractic
30 physician ~~chiropractor~~ licensed under chapter 460, podiatrist
31 licensed under chapter 461, or dentist licensed under chapter

Bill No. CS for SB 2128

Amendment No. ____

1 466 in an action brought for treating, examining, or operating
2 on a patient without his or her informed consent when:

3 (a)1. The action of the physician, osteopathic
4 physician, chiropractic physician ~~chiropractor~~, podiatrist, or
5 dentist in obtaining the consent of the patient or another
6 person authorized to give consent for the patient was in
7 accordance with an accepted standard of medical practice among
8 members of the medical profession with similar training and
9 experience in the same or similar medical community; and

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

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

27 Section 290. Subsection (2) of section 817.234,
28 Florida Statutes, is amended to read:

29 817.234 False and fraudulent insurance claims.--

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

Bill No. CS for SB 2128

Amendment No. ____

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

22 Section 291. The catchline and subsection (1) of
23 section 945.047, Florida Statutes, are amended to read:

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

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

Bill No. CS for SB 2128

Amendment No. ____

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

12
13 (Redesignate subsequent sections.)

14
15
16 ===== T I T L E A M E N D M E N T =====

17 And the title is amended as follows:

18 On page 4, line 21, after the semicolon

19
20 insert:

- 21 amending ss. 20.43, 322.125, 381.0031,
22 381.0302, 382.002, 395.0195, 415.1034, 415.504,
23 440.106, 440.13, 440.134, 440.15, 455.564,
24 455.654, 455.684, 455.691, 455.694, 456.31,
25 456.32, 459.002, 460.403, 460.404, 460.405,
26 460.406, 460.408, 460.411, 460.412, 460.413,
27 460.4166, 462.01, 468.301, 468.302, 468.314,
28 476.044, 477.0135, 483.901, 486.021, 486.161,
29 621.03, 627.351, 627.357, 627.6482, 641.316,
30 725.01, 766.101, 766.102, 766.103, 817.234, and
31 945.047, F.S.; revising terminology relating to

Bill No. CS for SB 2128

Amendment No. ____

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31

chiropractic medicine; retitling chapter 460,
F.S., to conform; providing form of
professional licenses;