

By Senator Myers

27-1262-98

See HB

1 A bill to be entitled
 2 An act relating to regulation of professions;
 3 amending s. 455.225, F.S.; correcting an
 4 inadvertent omission of a reference in a
 5 provision relating to probable cause
 6 determinations; amending s. 455.564, F.S.;
 7 authorizing the Department of Health and
 8 regulatory boards under the department to
 9 refuse to issue an initial license under
 10 circumstances relating to ongoing
 11 investigations or prosecutions of certain
 12 applicants; amending s. 455.565, F.S.;
 13 requiring certain applicants for restricted
 14 licensure as a physician to submit a set of
 15 fingerprints; amending ss. 20.43, 120.80,
 16 212.08, 215.37, 240.215, 310.102, 337.162,
 17 381.0039, 383.32, 395.0193, 395.0197, 395.3025,
 18 400.211, 400.491, 400.518, 408.061, 408.704,
 19 409.2598, 415.1055, 415.5055, 415.51, 440.13,
 20 455.565, 455.5651, 455.641, 455.651, 455.698,
 21 455.717, 457.103, 458.307, 458.311, 458.3115,
 22 458.3124, 458.319, 458.331, 458.343, 458.347,
 23 459.004, 459.008, 459.015, 459.019, 459.022,
 24 460.404, 460.4061, 460.407, 461.004, 461.007,
 25 461.013, 462.01, 463.002, 463.003, 463.016,
 26 464.004, 465.004, 465.006, 466.004, 466.007,
 27 466.018, 466.022, 466.028, 467.003, 468.1135,
 28 468.1145, 468.1185, 468.1295, 468.1665,
 29 468.1755, 468.1756, 468.205, 468.219, 468.364,
 30 468.365, 468.402, 468.4315, 468.453, 468.456,
 31 468.4571, 468.506, 468.507, 468.513, 468.518,

1 468.523, 468.526, 468.532, 468.535, 468.701,
2 468.703, 468.707, 468.711, 468.719, 468.801,
3 468.811, 469.009, 470.003, 470.036, 471.008,
4 471.015, 471.033, 471.038, 472.015, 473.3035,
5 473.308, 473.311, 473.323, 474.204, 474.214,
6 474.2145, 475.021, 475.181, 475.25, 475.624,
7 476.204, 477.029, 480.044, 481.2055, 481.213,
8 481.225, 481.2251, 481.306, 481.311, 481.325,
9 483.805, 483.807, 483.901, 484.002, 484.003,
10 484.014, 484.042, 484.056, 486.023, 486.115,
11 486.172, 489.129, 489.533, 490.004, 490.00515,
12 490.009, 490.015, 491.004, 491.0047, 491.009,
13 491.015, 492.103, 492.113, 627.668, 627.912,
14 636.039, 641.27, 641.316, 641.55, 766.106,
15 766.305, 766.308, 766.314, 817.505, and
16 937.031, F.S.; correcting references,
17 cross-references, definitions, and terminology
18 relating to authority and jurisdiction of the
19 Department of Health; amending ss. 215.20,
20 391.208, 391.217, 400.5575, 408.20, and 641.60,
21 F.S.; correcting cross-references relating to
22 the Health Care Trust Fund; amending ss. 39.01,
23 320.0848, 381.026, 381.0261, 381.0302,
24 395.0191, 395.1041, 395.301, 404.22, 409.906,
25 415.503, 440.106, 440.13, 440.134, 440.15,
26 455.684, 455.691, 455.697, 455.698, 456.31,
27 456.32, 461.001, 461.002, 461.003, 461.004,
28 461.006, 461.009, 461.012, 461.013, 461.0134,
29 461.014, 461.015, 461.018, 464.003, 468.301,
30 468.302, 468.304, 468.307, 468.314, 476.044,
31 477.0135, 483.901, 486.161, 621.03, 627.351,

1 627.357, 627.419, 627.6482, 627.912, 641.425,
2 725.01, 766.101, 766.102, 766.103, 766.105,
3 766.110, 766.1115, 893.02, and 984.03, F.S. ;
4 revising terminology relating to podiatry and
5 podiatrists; providing an effective date.

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

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9 Section 1. Subsection (4) of section 455.225, Florida
10 Statutes, is amended to read:

11 455.225 Disciplinary proceedings.--Disciplinary
12 proceedings for each board shall be within the jurisdiction of
13 the department.

14 (4) The determination as to whether probable cause
15 exists shall be made by majority vote of a probable cause
16 panel of the board, or by the department, as appropriate. Each
17 regulatory board shall provide by rule that the determination
18 of probable cause shall be made by a panel of its members or
19 by the department. Each board may provide by rule for multiple
20 probable cause panels composed of at least two members. Each
21 board may provide by rule that one or more members of the
22 panel or panels may be a former board member. The length of
23 term or repetition of service of any such former board member
24 on a probable cause panel may vary according to the direction
25 of the board when authorized by board rule. Any probable cause
26 panel must include one of the board's former or present
27 consumer members, if one is available, willing to serve, and
28 is authorized to do so by the board chair. Any probable cause
29 panel must include a present board member. Any probable cause
30 panel must include a former or present professional board
31 member. However, any former professional board member serving

1 on the probable cause panel must hold an active valid license
2 for that profession. All proceedings of the panel are exempt
3 from s. 286.011 until 10 days after probable cause has been
4 found to exist by the panel or until the subject of the
5 investigation waives his or her privilege of confidentiality.
6 The probable cause panel may make a reasonable request, and
7 upon such request the department shall provide such additional
8 investigative information as is necessary to the determination
9 of probable cause. A request for additional investigative
10 information shall be made within 15 days from the date of
11 receipt by the probable cause panel of the investigative
12 report of the department. The probable cause panel or the
13 department, as may be appropriate, shall make its
14 determination of probable cause within 30 days after receipt
15 by it of the final investigative report of the department. The
16 secretary may grant extensions of the 15-day and the 30-day
17 time limits. In lieu of a finding of probable cause, the
18 probable cause panel, or the department when there is no
19 board, may issue a letter of guidance to the subject. If,
20 within the 30-day time limit, as may be extended, the probable
21 cause panel does not make a determination regarding the
22 existence of probable cause or does not issue a letter of
23 guidance in lieu of a finding of probable cause, the agency,
24 for disciplinary cases under its jurisdiction, must make a
25 determination regarding the existence of probable cause within
26 10 days after the expiration of the time limit. If the
27 probable cause panel finds that probable cause exists, it
28 shall direct the department to file a formal complaint against
29 the licensee. The department shall follow the directions of
30 the probable cause panel regarding the filing of a formal
31 complaint. If directed to do so, the department shall file a

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

29 Section 2. Subsection (1) of section 455.564, Florida
30 Statutes, is amended, present subsections (3) through (10) are
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1 renumbered as subsections (4) through (11), respectively, and
2 a new subsection (3) is added to said section, to read:

3 455.564 Department; general licensing provisions.--
4 (1) Any person desiring to be licensed in a profession
5 within the jurisdiction of the department shall apply to the
6 department in writing to take the licensure examination. The
7 application shall be made on a form prepared and furnished by
8 the department and shall require the social security number of
9 the applicant. The form shall be supplemented as needed to
10 reflect any material change in any circumstance or condition
11 stated in the application which takes place between the
12 initial filing of the application and the final grant or
13 denial of the license and which might affect the decision of
14 the department. In order to further the economic development
15 goals of the state, and notwithstanding any law to the
16 contrary, the department ~~agency~~ may enter into an agreement
17 with the county tax collector for the purpose of appointing
18 the county tax collector as the department's ~~agency's~~ agent to
19 accept applications for licenses and applications for renewals
20 of licenses. The agreement must specify the time within which
21 the tax collector must forward any applications and
22 accompanying application fees to the department ~~agency~~.

23 (3) The board, or the department when there is no
24 board, may refuse to issue an initial license to any applicant
25 who is under investigation or prosecution in any jurisdiction
26 for an action that would constitute a violation of this part
27 or the professional practice acts administered by the
28 department and the boards, until such time as the
29 investigation or prosecution is complete.

30 Section 3. Paragraph (a) of subsection (4) of section
31 455.565, Florida Statutes, is amended to read:

1 455.565 Designated healthcare professionals;
2 information required for licensure.--

3 (4)(a) An applicant for initial licensure must submit
4 a set of fingerprints to the Department of Health in
5 accordance with s. 458.311, s. 458.3115, s. 458.3124, s.
6 458.313, s. 459.0055, s. 460.406, or s. 461.006.

7 Section 4. Paragraph (g) of subsection (3) of section
8 20.43, Florida Statutes, is amended to read:

9 20.43 Department of Health.--There is created a
10 Department of Health.

11 (3) The following divisions of the Department of
12 Health are established:

13 (g) Division of Medical Quality Assurance, which is
14 responsible for the following boards and professions
15 established within the division:

16 1. Nursing assistants, as provided under s. 400.211.

17 2. Health care services pools, as provided under s.
18 402.48.

19 3. The Board of Acupuncture, created under chapter
20 457.

21 4. The Board of Medicine, created under chapter 458.

22 5. The Board of Osteopathic Medicine, created under
23 chapter 459.

24 6. The Board of Chiropractic, created under chapter
25 460.

26 7. The Board of Podiatric Medicine, created under
27 chapter 461.

28 8. Naturopathy, as provided under chapter 462.

29 9. The Board of Optometry, created under chapter 463.

30 10. The Board of Nursing, created under chapter 464.

31 11. The Board of Pharmacy, created under chapter 465.

- 1 12. The Board of Dentistry, created under chapter 466.
- 2 13. Midwifery, as provided under chapter 467.
- 3 14. The Board of Speech-Language Pathology and
- 4 Audiology, created under part I of chapter 468.
- 5 15. The Board of Nursing Home Administrators, created
- 6 under part II of chapter 468.
- 7 16. Occupational therapy, as provided under part III
- 8 of chapter 468.
- 9 17. Respiratory therapy, as provided under part V of
- 10 chapter 468.
- 11 18. Dietetics and nutrition practice, as provided
- 12 under part X of chapter 468.
- 13 19. Athletic trainers, as provided under part XIII ~~XIV~~
- 14 of chapter 468.
- 15 20. Electrolysis, as provided under chapter 478.
- 16 21. The Board of Massage Therapy, created under
- 17 chapter 480.
- 18 22. The Board of Clinical Laboratory Personnel,
- 19 created under part III of chapter 483.
- 20 23. Medical physicists, as provided under part IV of
- 21 chapter 483.
- 22 24. The Board of Opticianry, created under part I of
- 23 chapter 484.
- 24 25. The Board of Hearing Aid Specialists, created
- 25 under part II of chapter 484.
- 26 26. The Board of Physical Therapy Practice, created
- 27 under chapter 486.
- 28 27. The Board of Psychology, created under chapter
- 29 490.
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1 28. The Board of Clinical Social Work, Marriage and
2 Family Therapy, and Mental Health Counseling, created under
3 chapter 491.

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5 The department may contract with the Agency for Health Care
6 Administration who shall provide consumer complaint,
7 investigative, and prosecutorial services required by the
8 Division of Medical Quality Assurance, councils, or boards, as
9 appropriate.

10 Section 5. Paragraph (b) of subsection (4) of section
11 120.80, Florida Statutes, is amended, and subsection (15) is
12 added to said section, to read:

13 120.80 Exceptions and special requirements;
14 agencies.--

15 (4) DEPARTMENT OF BUSINESS AND PROFESSIONAL
16 REGULATION.--

17 (b) Professional regulation.--Notwithstanding s.
18 120.57(1)(a), formal hearings may not be conducted by the
19 Secretary of Business and Professional Regulation, ~~the~~
20 ~~director of the Agency for Health Care Administration, or a~~
21 board or member of a board within the Department of Business
22 and Professional Regulation ~~or the Agency for Health Care~~
23 ~~Administration~~ for matters relating to the regulation of
24 professions, as defined by part I of chapter 455.

25 (15) DEPARTMENT OF HEALTH.--Notwithstanding s.
26 120.57(1)(a), formal hearings may not be conducted by the
27 Secretary of Health, the director of the Agency for Health
28 Care Administration, or a board or member of a board within
29 the Department of Health or the Agency for Health Care
30 Administration for matters relating to the regulation of
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1 health care practitioners, as defined by part II of chapter
2 455.

3 Section 6. Paragraph (o) of subsection (7) of section
4 212.08, Florida Statutes, is amended to read:

5 212.08 Sales, rental, use, consumption, distribution,
6 and storage tax; specified exemptions.--The sale at retail,
7 the rental, the use, the consumption, the distribution, and
8 the storage to be used or consumed in this state of the
9 following are hereby specifically exempt from the tax imposed
10 by this chapter.

11 (7) MISCELLANEOUS EXEMPTIONS.--

12 (o) Religious, charitable, scientific, educational,
13 and veterans' institutions and organizations.--

14 1. There are exempt from the tax imposed by this
15 chapter transactions involving:

16 a. Sales or leases directly to churches or sales or
17 leases of tangible personal property by churches;

18 b. Sales or leases to nonprofit religious, nonprofit
19 charitable, nonprofit scientific, or nonprofit educational
20 institutions when used in carrying on their customary
21 nonprofit religious, nonprofit charitable, nonprofit
22 scientific, or nonprofit educational activities, including
23 church cemeteries; and

24 c. Sales or leases to the state headquarters of
25 qualified veterans' organizations and the state headquarters
26 of their auxiliaries when used in carrying on their customary
27 veterans' organization activities. If a qualified veterans'
28 organization or its auxiliary does not maintain a permanent
29 state headquarters, then transactions involving sales or
30 leases to such organization and used to maintain the office of
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1 the highest ranking state official are exempt from the tax
2 imposed by this chapter.

3 2. The provisions of this section authorizing
4 exemptions from tax shall be strictly defined, limited, and
5 applied in each category as follows:

6 a. "Religious institutions" means churches,
7 synagogues, and established physical places for worship at
8 which nonprofit religious services and activities are
9 regularly conducted and carried on. The term "religious
10 institutions" includes nonprofit corporations the sole purpose
11 of which is to provide free transportation services to church
12 members, their families, and other church attendees. The term
13 "religious institutions" also includes state, district, or
14 other governing or administrative offices the function of
15 which is to assist or regulate the customary activities of
16 religious organizations or members. The term "religious
17 institutions" also includes any nonprofit corporation which is
18 qualified as nonprofit pursuant to s. 501(c)(3), Internal
19 Revenue Code of 1986, as amended, which owns and operates a
20 Florida television station, at least 90 percent of the
21 programming of which station consists of programs of a
22 religious nature, and the financial support for which,
23 exclusive of receipts for broadcasting from other nonprofit
24 organizations, is predominantly from contributions from the
25 general public. The term "religious institutions" also
26 includes any nonprofit corporation which is qualified as
27 nonprofit pursuant to s. 501(c)(3), Internal Revenue Code of
28 1986, as amended, which provides regular religious services to
29 Florida state prisoners and which from its own established
30 physical place of worship, operates a ministry providing

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1 worship and services of a charitable nature to the community
2 on a weekly basis.

3 b. "Charitable institutions" means only nonprofit
4 corporations qualified as nonprofit pursuant to s. 501(c)(3),
5 Internal Revenue Code of 1954, as amended, and other nonprofit
6 entities, the sole or primary function of which is to provide,
7 or to raise funds for organizations which provide, one or more
8 of the following services if a reasonable percentage of such
9 service is provided free of charge, or at a substantially
10 reduced cost, to persons, animals, or organizations that are
11 unable to pay for such service:

12 (I) Medical aid for the relief of disease, injury, or
13 disability;

14 (II) Regular provision of physical necessities such as
15 food, clothing, or shelter;

16 (III) Services for the prevention of or rehabilitation
17 of persons from alcoholism or drug abuse; the prevention of
18 suicide; or the alleviation of mental, physical, or sensory
19 health problems;

20 (IV) Social welfare services including adoption
21 placement, child care, community care for the elderly, and
22 other social welfare services which clearly and substantially
23 benefit a client population which is disadvantaged or suffers
24 a hardship;

25 (V) Medical research for the relief of disease,
26 injury, or disability;

27 (VI) Legal services; or

28 (VII) Food, shelter, or medical care for animals or
29 adoption services, cruelty investigations, or education
30 programs concerning animals;

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1 and the term includes groups providing volunteer staff to
2 organizations designated as charitable institutions under this
3 sub-subparagraph; nonprofit organizations the sole or primary
4 purpose of which is to coordinate, network, or link other
5 institutions designated as charitable institutions under this
6 sub-subparagraph with those persons, animals, or organizations
7 in need of their services; and nonprofit national, state,
8 district, or other governing, coordinating, or administrative
9 organizations the sole or primary purpose of which is to
10 represent or regulate the customary activities of other
11 institutions designated as charitable institutions under this
12 sub-subparagraph. Notwithstanding any other requirement of
13 this section, any blood bank that relies solely upon volunteer
14 donations of blood and tissue, that is licensed under chapter
15 483, and that qualifies as tax exempt under s. 501(c)(3) of
16 the Internal Revenue Code constitutes a charitable institution
17 and is exempt from the tax imposed by this chapter. Sales to a
18 health system, qualified as nonprofit pursuant to s.
19 501(c)(3), Internal Revenue Code of 1986, as amended, which
20 filed an application for exemption with the department prior
21 to April 5, 1997, and which application is subsequently
22 approved, shall be exempt as to any unpaid taxes on purchases
23 made from January 1, 1994, to June 1, 1997.

24 c. "Scientific organizations" means scientific
25 organizations which hold current exemptions from federal
26 income tax under s. 501(c)(3) of the Internal Revenue Code and
27 also means organizations the purpose of which is to protect
28 air and water quality or the purpose of which is to protect
29 wildlife and which hold current exemptions from the federal
30 income tax under s. 501(c)(3) of the Internal Revenue Code.

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1 d. "Educational institutions" means state
2 tax-supported or parochial, church and nonprofit private
3 schools, colleges, or universities which conduct regular
4 classes and courses of study required for accreditation by, or
5 membership in, the Southern Association of Colleges and
6 Schools, the Department of Education, the Florida Council of
7 Independent Schools, or the Florida Association of Christian
8 Colleges and Schools, Inc., or nonprofit private schools which
9 conduct regular classes and courses of study accepted for
10 continuing education credit by a Board of the Division of
11 Medical Quality Assurance of the Department of Health Business
12 ~~and Professional Regulation~~ or which conduct regular classes
13 and courses of study accepted for continuing education credit
14 by the American Medical Association. Nonprofit libraries, art
15 galleries, performing arts centers that provide educational
16 programs to school children, which programs involve
17 performances or other educational activities at the performing
18 arts center and serve a minimum of 50,000 school children a
19 year, and museums open to the public are defined as
20 educational institutions and are eligible for exemption. The
21 term "educational institutions" includes private nonprofit
22 organizations the purpose of which is to raise funds for
23 schools teaching grades kindergarten through high school,
24 colleges, and universities. The term "educational
25 institutions" includes any nonprofit newspaper of free or paid
26 circulation primarily on university or college campuses which
27 holds a current exemption from federal income tax under s.
28 501(c)(3) of the Internal Revenue Code, and any educational
29 television or radio network or system established pursuant to
30 s. 229.805 or s. 229.8051 and any nonprofit television or
31 radio station which is a part of such network or system and

1 which holds a current exemption from federal income tax under
2 s. 501(c)(3) of the Internal Revenue Code. The term
3 "educational institutions" also includes state, district, or
4 other governing or administrative offices the function of
5 which is to assist or regulate the customary activities of
6 educational organizations or members. The term "educational
7 institutions" also includes a nonprofit educational cable
8 consortium which holds a current exemption from federal income
9 tax under s. 501(c)(3) of the Internal Revenue Code of 1986,
10 as amended, whose primary purpose is the delivery of
11 educational and instructional cable television programming and
12 whose members are composed exclusively of educational
13 organizations which hold a valid consumer certificate of
14 exemption and which are either an educational institution as
15 defined in this sub-subparagraph, or qualified as a nonprofit
16 organization pursuant to s. 501(c)(3) of the Internal Revenue
17 Code of 1986, as amended.

18 e. "Veterans' organizations" means nationally
19 chartered or recognized veterans' organizations, including,
20 but not limited to, Florida chapters of the Paralyzed Veterans
21 of America, Catholic War Veterans of the U.S.A., Jewish War
22 Veterans of the U.S.A., and the Disabled American Veterans,
23 Department of Florida, Inc., which hold current exemptions
24 from federal income tax under s. 501(c)(4) or (19) of the
25 Internal Revenue Code.

26 Section 7. Subsections (1), (2), and (4) of section
27 215.37, Florida Statutes, are amended to read:

28 215.37 Department of Business and Professional
29 Regulation and the boards to be financed from fees collected;
30 moneys deposited in trust fund; service charge imposed and
31 deposited into the General Revenue Fund; appropriation.--

1 (1) All fees, licenses, and other charges assessed to
2 practitioners of professions, as defined in part I of chapter
3 455, by the Department of Business and Professional Regulation
4 or a board within the department shall be collected by the
5 department and shall be deposited in the State Treasury into
6 the Professional Regulation Trust Fund to the credit of the
7 department.

8 (2) The regulation by the department of professions,
9 as defined in part I of chapter 455, shall be financed solely
10 from revenue collected by it from fees and other charges and
11 deposited in the Professional Regulation Trust Fund, and all
12 such revenue is hereby appropriated to the department.
13 However, it is legislative intent that each profession shall
14 operate within its anticipated fees.

15 (4) The department shall submit a balanced legislative
16 budget for its regulation of professions, as defined in part I
17 of chapter 455, by division and operating budgets as required
18 of all governmental subdivisions in chapters 215 and 216, to
19 be based upon anticipated revenues. Prior to development of
20 the department's budget request to the Legislature, the
21 department shall request that each board submit its proposed
22 budget for the operation of the board, the board's office, and
23 other activities or expanded programs of the board for
24 possible inclusion in the department's budget request. Prior
25 to submission of the department's budget request to the
26 Legislature, each board, at a regularly scheduled board
27 meeting, shall review the proposed request related to its
28 regulation of a profession, as defined in part I of chapter
29 455, and either approve the proposed request or submit to the
30 secretary written exceptions to the department's proposed
31 budget. Any board making such exceptions must specify its

1 objections, the reasons for such exceptions, and proposed
2 alternatives to the department's request. The secretary shall
3 consider all exceptions. When a majority of boards agree on an
4 exception, the secretary shall make adjustments to the
5 department's budget request related to its regulation of
6 professions, as defined in part I of chapter 455, to reflect
7 the majority position. If appropriate, the secretary shall
8 file an exception on behalf of the department. The secretary
9 shall submit to the Legislature the department's amended
10 budget request along with any unresolved exceptions.

11 Section 8. Subsection (3) of section 240.215, Florida
12 Statutes, is amended to read:

13 240.215 Payment of costs of civil action against
14 employees or members of the Board of Regents.--

15 (3) All faculty physicians employed by the Board of
16 Regents who are subject to the requirements of s. 455.564
17 ~~455.2141~~ shall complete their risk management continuing
18 education on issues specific to academic medicine. Such
19 continuing education shall include instruction for the
20 supervision of resident physicians as required by the
21 Accreditation Council for Graduate Medical Education. The
22 boards described in s. 455.564 ~~455.2141~~ shall adopt rules to
23 implement the provisions of this subsection.

24 Section 9. Subsections (1) and (2) and paragraphs (a)
25 and (c) of subsection (3) of section 310.102, Florida
26 Statutes, are amended to read:

27 310.102 Treatment programs for impaired pilots and
28 deputy pilots.--

29 (1) The department shall, by rule, designate approved
30 treatment programs for pilots and deputy pilots under this
31 section. The department may adopt rules setting forth

1 appropriate criteria for approval of treatment providers based
2 on the policies and guidelines established by the Impaired
3 Practitioners Committee under s. 455.704.

4 (2) The department shall retain one or more impaired
5 practitioner consultants as recommended by the committee. A
6 consultant shall be a licensee under the jurisdiction of the
7 Division of Medical Quality Assurance within the Department of
8 Health, and at least one consultant must be a practitioner
9 licensed under chapter 458, chapter 459, or chapter 464. The
10 consultant shall assist the probable cause panel and
11 department in carrying out the responsibilities of this
12 section. This shall include working with department
13 investigators to determine whether a pilot or deputy pilot is,
14 in fact, impaired.

15 (3)(a) Whenever the department receives a written or
16 oral legally sufficient complaint alleging that a pilot or
17 deputy pilot licensed or certificated by the department is
18 impaired as a result of the misuse or abuse of alcohol or
19 drugs, or both, or due to a mental or physical condition which
20 could affect the pilot's or deputy pilot's ability to practice
21 with skill and safety, and no complaint against the pilot or
22 deputy pilot other than impairment exists, the reporting of
23 such information shall not constitute a complaint within the
24 meaning of s. 455.225 ~~455.255~~ if the probable cause panel
25 finds:

26 1. The pilot or deputy pilot has acknowledged the
27 impairment problem.

28 2. The pilot or deputy pilot has voluntarily enrolled
29 in an appropriate, approved treatment program.

30 3. The pilot or deputy pilot has voluntarily withdrawn
31 from piloting or limited the scope of piloting as determined

1 by the panel, in each case, until such time as the panel is
2 satisfied the pilot or deputy pilot has successfully completed
3 an approved treatment program.

4 4. The pilot or deputy pilot has executed releases for
5 medical records, authorizing the release of all records of
6 evaluations, diagnoses, and treatment of the pilot or deputy
7 pilot, including records of treatment for emotional or mental
8 conditions, to the consultant. The consultant shall make no
9 copies or reports of records that do not regard the issue of
10 the pilot's or deputy pilot's impairment and his or her
11 participation in a treatment program.

12 (c) Inquiries related to impairment treatment programs
13 designed to provide information to the pilot or deputy pilot
14 and others and which do not indicate that the pilot or deputy
15 pilot presents a danger to the public shall not constitute a
16 complaint within the meaning of s. 455.225 ~~455.255~~ and shall
17 be exempt from the provisions of this subsection.

18 Section 10. Subsections (2) and (3) of section
19 337.162, Florida Statutes, are amended to read:

20 337.162 Professional services.--Professional services
21 provided to the department that fall below acceptable
22 professional standards may result in transportation project
23 delays, overruns, and reduced facility life. To minimize these
24 effects and ensure that quality services are received, the
25 Legislature hereby declares that licensed professionals shall
26 be held accountable for the quality of the services they
27 provide to the department.

28 (2) Any person who is employed by the department and
29 who is licensed by the Department of Business and Professional
30 Regulation and who, through the course of his or her
31 employment, has knowledge or reason to believe that any person

1 has violated the provisions of state professional licensing
2 laws or rules shall submit a complaint about the violations to
3 the Department of Business and Professional Regulation.
4 Failure to submit a complaint about the violations may be
5 grounds for disciplinary action pursuant to part I of chapter
6 455 and the state licensing law applicable to that licensee.
7 The complaint submitted to the Department of Business and
8 Professional Regulation and maintained by the department is
9 confidential and exempt from s. 119.07(1).

10 (3) Any complaints submitted to the Department of
11 Business and Professional Regulation pursuant to subsections
12 (1) and (2) are confidential and exempt from s. 119.07(1)
13 pursuant to part I of chapter 455 and applicable state law.

14 Section 11. Section 381.0039, Florida Statutes, is
15 amended to read:

16 381.0039 Oversight of acquired immune deficiency
17 syndrome education programs.--The Department of Education, the
18 Department of Health, and the Department of Business and
19 Professional Regulation are directed to establish an
20 interagency agreement to oversee the quality and cost
21 efficiency of acquired immune deficiency syndrome education
22 programs being administered in the state pursuant to chapters
23 381, ~~455,943~~, and 945 and part II of chapter 455. The
24 interagency agreement shall also include development, where
25 appropriate, of methods for coordinating educational programs
26 for various professional groups.

27 Section 12. Subsection (3) of section 383.32, Florida
28 Statutes, is amended to read:

29 383.32 Clinical records.--

30 (3) Clinical records shall be kept confidential in
31 accordance with s. 455.667 ~~455.241~~ and exempt from the

1 provisions of s. 119.07(1). A client's clinical records shall
2 be open to inspection only under the following conditions:

3 (a) A consent to release information has been signed
4 by the client; or

5 (b) The review is made by the department for a
6 licensure survey or complaint investigation.

7 Section 13. Subsections (1) and (4) of section
8 395.0193, Florida Statutes, are amended to read:

9 395.0193 Licensed facilities; peer review;
10 disciplinary powers; agency or partnership with physicians.--

11 (1) It is the intent of the Legislature that good
12 faith participants in the process of investigating and
13 disciplining physicians pursuant to the state-mandated peer
14 review process shall, in addition to receiving immunity from
15 retaliatory tort suits pursuant to s. 455.621~~455.225~~(12), be
16 protected from federal antitrust suits filed under the Sherman
17 Anti-Trust Act, 15 U.S.C.A. ss. 1 et seq. Such intent is
18 within the public policy of the state to secure the provision
19 of quality medical services to the public.

20 (4) All final disciplinary actions taken under
21 subsection (3) shall be reported within 10 working days to the
22 Division of Health Quality Assurance of the agency in writing
23 and shall specify the disciplinary action taken and the
24 specific grounds therefor. The division shall review each
25 report and determine whether it potentially involved conduct
26 by the licensee that is subject to disciplinary action, in
27 which case s. 455.621 ~~455.225~~ shall apply. The report shall
28 not be subject to inspection under s. 119.07(1) even if the
29 division's investigation results in a finding of probable
30 cause.

31

1 Section 14. Paragraph (b) of subsection (5) and
2 subsections (6) and (11) of section 395.0197, Florida
3 Statutes, are amended to read:

4 395.0197 Internal risk management program.--

5 (5)

6 (b) The information reported to the agency pursuant to
7 paragraph (a) which relates to persons licensed under chapter
8 458, chapter 459, chapter 461, or chapter 466 shall be
9 reviewed by the agency. The agency shall determine whether
10 any of the incidents potentially involved conduct by a health
11 care professional who is subject to disciplinary action, in
12 which case the provisions of s. 455.621 ~~455.225~~ shall apply.

13 (6) If an adverse or untoward incident, whether
14 occurring in the licensed facility or arising from health care
15 prior to admission in the licensed facility, results in:

16 (a) The death of a patient;

17 (b) Brain or spinal damage to a patient;

18 (c) The performance of a surgical procedure on the
19 wrong patient; or

20 (d) A surgical procedure unrelated to the patient's
21 diagnosis or medical needs being performed on any patient,
22 including the surgical repair of injuries or damage resulting
23 from the planned surgical procedure, wrong site or wrong
24 procedure surgeries, and procedures to remove foreign objects
25 remaining from surgical procedures,

26
27 the licensed facility shall report this incident to the agency
28 within 15 calendar days after its occurrence. The agency may
29 require an additional, final report. These reports shall not
30 be available to the public pursuant to s. 119.07(1) or any
31 other law providing access to public records, nor be

1 discoverable or admissible in any civil or administrative
2 action, except in disciplinary proceedings by the agency or
3 the appropriate regulatory board, nor shall they be available
4 to the public as part of the record of investigation for and
5 prosecution in disciplinary proceedings made available to the
6 public by the agency or the appropriate regulatory board.
7 However, the agency or the appropriate regulatory board shall
8 make available, upon written request by a health care
9 professional against whom probable cause has been found, any
10 such records which form the basis of the determination of
11 probable cause. The agency may investigate, as it deems
12 appropriate, any such incident and prescribe measures that
13 must or may be taken in response to the incident. The agency
14 shall review each incident and determine whether it
15 potentially involved conduct by the health care professional
16 who is subject to disciplinary action, in which case the
17 provisions of s. 455.621 ~~455.225~~ shall apply.

18 (11) The agency shall have access to all licensed
19 facility records necessary to carry out the provisions of this
20 section. The records obtained are not available to the public
21 under s. 119.07(1), nor shall they be discoverable or
22 admissible in any civil or administrative action, except in
23 disciplinary proceedings by the agency or the appropriate
24 regulatory board, nor shall records obtained pursuant to s.
25 455.611 ~~455.223~~ be available to the public as part of the
26 record of investigation for and prosecution in disciplinary
27 proceedings made available to the public by the agency or the
28 appropriate regulatory board. However, the agency or the
29 appropriate regulatory board shall make available, upon
30 written request by a health care professional against whom
31 probable cause has been found, any such records which form the

1 basis of the determination of probable cause, except that,
2 with respect to medical review committee records, s. 766.101
3 controls.

4 Section 15. Paragraph (e) of subsection (4) of section
5 395.3025, Florida Statutes, is amended to read:

6 395.3025 Patient and personnel records; copies;
7 examination.--

8 (4) Patient records are confidential and must not be
9 disclosed without the consent of the person to whom they
10 pertain, but appropriate disclosure may be made without such
11 consent to:

12 (e) The agency upon subpoena issued pursuant to s.
13 455.611 ~~455.223~~, but the records obtained thereby must be used
14 solely for the purpose of the agency and the appropriate
15 professional board in its investigation, prosecution, and
16 appeal of disciplinary proceedings. If the agency requests
17 copies of the records, the facility shall charge no more than
18 its actual copying costs, including reasonable staff time. The
19 records must be sealed and must not be available to the public
20 pursuant to s. 119.07(1) or any other statute providing access
21 to records, nor may they be available to the public as part of
22 the record of investigation for and prosecution in
23 disciplinary proceedings made available to the public by the
24 agency or the appropriate regulatory board. However, the
25 agency must make available, upon written request by a
26 practitioner against whom probable cause has been found, any
27 such records that form the basis of the determination of
28 probable cause.

29 Section 16. Subsections (1) and (8) of section
30 400.211, Florida Statutes, are amended to read:

31

1 400.211 Persons employed as nursing assistants;
2 certification requirement.--

3 (1) A person must be certified pursuant to this
4 section, except a registered nurse or practical nurse licensed
5 in accordance with the provisions of chapter 464 or an
6 applicant for such licensure who is permitted to practice
7 nursing in accordance with rules promulgated by the Board of
8 Nursing pursuant to chapter 464, to serve as a nursing
9 assistant in any nursing home. The Department of Health
10 ~~Business and Professional Regulation~~ shall issue a certificate
11 to any person who:

12 (a) Has successfully completed a nursing assistant
13 program in a state-approved school and has achieved a minimum
14 score of 75 percent on the written portion of the Florida
15 Nursing Assistant Certification Test approved by the
16 Department of Health ~~Business and Professional Regulation~~ and
17 administered by state-approved test site personnel;

18 (b) Has achieved a minimum score of 75 percent on the
19 written and performance portions of the Florida Nursing
20 Assistant Certification Test approved by the Department of
21 Health ~~Business and Professional Regulation~~ and administered
22 by state-approved test site personnel; or

23 (c) Is currently certified in another state, is on
24 that state's registry, has no findings of abuse, and has
25 achieved a minimum score of 75 percent on the written portion
26 of the Florida Nursing Assistant Certification Test approved
27 by the Department of Health ~~Business and Professional~~
28 ~~Regulation~~ and administered by state-approved test site
29 personnel.

30
31 An oral examination shall be administered upon request.

1 (8) The Department of Health ~~Business and Professional~~
2 ~~Regulation~~ may adopt such rules as are necessary to carry out
3 this section.

4 Section 17. Section 400.491, Florida Statutes, is
5 amended to read:

6 400.491 Clinical records.--The home health agency must
7 maintain for each patient a clinical record that includes the
8 services the home health agency provides directly and those
9 provided through arrangement with another health care
10 provider, except for those services provided by persons
11 referred under s. 400.509. Such records must contain
12 pertinent past and current medical, nursing, social and other
13 therapeutic information, the plan of treatment, and other such
14 information as is necessary for the safe and adequate care of
15 the patient. When home health services are terminated, the
16 record must show the date and reason for termination. Such
17 records are considered patient records under s. 455.667
18 ~~400.241~~, and must be maintained by the home health agency for
19 5 years following termination of services. If a patient
20 transfers to another home health agency, a copy of his or her
21 record must be provided to the other home health agency upon
22 request.

23 Section 18. Subsection (1) of section 400.518, Florida
24 Statutes, is amended to read:

25 400.518 Prohibited referrals to home health
26 agencies.--

27 (1) A physician licensed under chapter 458 or chapter
28 459 must comply with s. 455.654 ~~455.236~~.

29 Section 19. Subsection (9) of section 408.061, Florida
30 Statutes, is amended to read:

31

1 408.061 Data collection; uniform systems of financial
2 reporting; information relating to physician charges;
3 confidentiality of patient records; immunity.--

4 (9) The identity of any health care provider, health
5 care facility, or health insurer who submits any data which is
6 proprietary business information to the agency pursuant to the
7 provisions of this section shall remain confidential and
8 exempt from the provisions of s. 119.07(1) and s. 24(a), Art.
9 I of the State Constitution. As used in this section,
10 "proprietary business information" shall include, but not be
11 limited to, information relating to specific provider contract
12 reimbursement information; information relating to security
13 measures, systems, or procedures; and information concerning
14 bids or other contractual data, the disclosure of which would
15 impair efforts to contract for goods or services on favorable
16 terms or would injure the affected entity's ability to compete
17 in the marketplace. Notwithstanding the provisions of this
18 subsection, any information obtained or generated pursuant to
19 the provisions of s. 407.61, either by the Health Care Cost
20 Containment Board or by the Agency for Health Care
21 Administration upon transfer to that agency of the duties and
22 functions of the Health Care Cost Containment Board, is not
23 confidential and exempt from the provisions of s. 119.07(1)
24 and s. 24(a), Art. I of the State Constitution. Such
25 proprietary business information may be used in published
26 analyses and reports or otherwise made available for public
27 disclosure in such manner as to preserve the confidentiality
28 of the identity of the provider. This exemption shall not
29 limit the use of any information used in conjunction with
30 investigation or enforcement purposes under the provisions of
31 s. 455.621 ~~455.225~~.

1 Section 20. Paragraph (b) of subsection (5) of section
2 408.704, Florida Statutes, is amended to read:

3 408.704 Agency duties and responsibilities related to
4 community health purchasing alliances.--The agency shall
5 assist in developing a statewide system of community health
6 purchasing alliances. To this end, the agency is responsible
7 for:

8 (5) Establishing a data system for accountable health
9 partnerships.

10 (b) The advisory data committee shall issue a report
11 and recommendations on each of the following subjects as each
12 is completed. A final report covering all subjects must be
13 included in the final Florida Health Plan to be submitted to
14 the Legislature on December 31, 1993. The report shall
15 include recommendations regarding:

16 1. Types of data to be collected. Careful
17 consideration shall be given to other data collection projects
18 and standards for electronic data interchanges already in
19 process in this state and nationally, to evaluating and
20 recommending the feasibility and cost-effectiveness of various
21 data collection activities, and to ensuring that data
22 reporting is necessary to support the evaluation of providers
23 with respect to cost containment, access, quality, control of
24 expensive technologies, and customer satisfaction analysis.
25 Data elements to be collected from providers include prices,
26 utilization, patient outcomes, quality, and patient
27 satisfaction. The completion of this task is the first
28 priority of the advisory data committee. The agency shall
29 begin implementing these data collection activities
30 immediately upon receipt of the recommendations, but no later
31 than January 1, 1994. The data shall be submitted by

1 hospitals, other licensed health care facilities, pharmacists,
2 and group practices as defined in s. 455.654(3)(f)
3 ~~455.236(3)(g)~~.

4 2. A standard data set, a standard cost-effective
5 format for collecting the data, and a standard methodology for
6 reporting the data to the agency, or its designee, and to the
7 alliances. The reporting mechanisms must be designed to
8 minimize the administrative burden and cost to health care
9 providers and carriers. A methodology shall be developed for
10 aggregating data in a standardized format for making
11 comparisons between accountable health partnerships which
12 takes advantage of national models and activities.

13 3. Methods by which the agency should collect,
14 process, analyze, and distribute the data.

15 4. Standards for data interpretation. The advisory
16 data committee shall actively solicit broad input from the
17 provider community, carriers, the business community, and the
18 general public.

19 5. Structuring the data collection process to:

20 a. Incorporate safeguards to ensure that the health
21 care services utilization data collected is reviewed by
22 experienced, practicing physicians licensed to practice
23 medicine in this state;

24 b. Require that carrier customer satisfaction data
25 conclusions are validated by the agency;

26 c. Protect the confidentiality of medical information
27 to protect the patient's identity and to protect the privacy
28 of individual physicians and patients. Proprietary data
29 submitted by insurers, providers, and purchasers are
30 confidential pursuant to s. 408.061; and
31

1 d. Afford all interested professional medical and
2 hospital associations and carriers a minimum of 60 days to
3 review and comment before data is released to the public.

4 6. Developing a data collection implementation
5 schedule, based on the data collection capabilities of
6 carriers and providers.

7 Section 21. Subsections (1) and (2) of section
8 409.2598, Florida Statutes, are amended to read:

9 409.2598 Suspension or denial of new or renewal
10 licenses; registrations; certifications.--

11 (1) The Title IV-D agency may petition the court that
12 entered the support order or the court that is enforcing the
13 support order to deny or suspend the license, registration, or
14 certificate issued under chapter 231, chapter 370, chapter
15 372, chapter 409, part II of chapter 455, or chapter 559 or s.
16 327.031 of any obligor with a delinquent child support
17 obligation or who fails, after receiving appropriate notice,
18 to comply with subpoenas, orders to appear, orders to show
19 cause, or similar orders relating to paternity or child
20 support proceedings. However, a petition may not be filed
21 until the Title IV-D agency has exhausted all other available
22 remedies. The purpose of this section is to promote the public
23 policy of the state as established in s. 409.2551.

24 (2) The Title IV-D agency is authorized to screen all
25 applicants for new or renewal licenses, registrations, or
26 certificates and current licenses, registrations, or
27 certificates and current licensees, registration holders, and
28 certificate holders of all licenses, registrations, and
29 certificates issued under chapter 231, chapter 370, chapter
30 372, chapter 409, part II of chapter 455, or chapter 559 or s.
31 327.031 to ensure compliance with any child support obligation

1 and any subpoenas, orders to appear, orders to show cause, or
2 similar orders relating to paternity or child support
3 proceedings. If the Title IV-D agency determines that an
4 applicant, licensee, registration holder, or certificateholder
5 is an obligor who is delinquent on a support obligation or who
6 is not in compliance with a subpoena, order to appear, order
7 to show cause, or similar order relating to paternity or child
8 support proceedings, the Title IV-D agency shall certify the
9 delinquency pursuant to s. 61.14.

10 Section 22. Paragraph (g) of subsection (1) of section
11 415.1055, Florida Statutes, is amended to read:

12 415.1055 Notification to administrative entities,
13 subjects, and reporters; notification to law enforcement and
14 state attorneys.--

15 (1) NOTIFICATION TO ADMINISTRATIVE ENTITIES.--

16 (g) If at any time during a protective investigation
17 the department has reasonable cause to believe that
18 professional licensure violations have occurred, the
19 department shall notify the Division of Medical Quality
20 Assurance within the Department of Health Agency for Health
21 ~~Care Administration~~. This notification must be in writing.

22 Section 23. Subsection (3) of section 415.5055,
23 Florida Statutes, is amended to read:

24 415.5055 Child protection teams; services; eligible
25 cases.--The department shall develop, maintain, and coordinate
26 the services of one or more multidisciplinary child protection
27 teams in each of the service districts of the department.
28 Such teams may be composed of representatives of appropriate
29 health, mental health, social service, legal service, and law
30 enforcement agencies. The Legislature finds that optimal
31 coordination of child protection teams and sexual abuse

1 treatment programs requires collaboration between the
2 Department of Health and the Department of Children and Family
3 Services. The two departments shall maintain an interagency
4 agreement that establishes protocols for oversight and
5 operations of child protection teams and sexual abuse
6 treatment programs. The Secretary of Health and the Director
7 of the Division of Children's Medical Services, in
8 consultation with the Secretary of Children and Family
9 Services, shall maintain the responsibility for the screening,
10 employment, and, if necessary, the termination of child
11 protection team medical directors, at headquarters and in the
12 15 districts. Child protection team medical directors shall be
13 responsible for oversight of the teams in the districts.

14 (3) All records and reports of the child protection
15 team are confidential and exempt from the provisions of ss.
16 119.07(1) and 455.667 ~~455.241~~, and shall not be disclosed,
17 except, upon request, to the state attorney, law enforcement,
18 the department, and necessary professionals, in furtherance of
19 the treatment or additional evaluative needs of the child or
20 by order of the court.

21
22 In all instances in which a child protection team is providing
23 certain services to abused or neglected children, other
24 offices and units of the department shall avoid duplicating
25 the provision of those services.

26 Section 24. Subsection (5) of section 415.51, Florida
27 Statutes, is amended to read:

28 415.51 Confidentiality of reports and records in cases
29 of child abuse or neglect.--

30 (5) All records and reports of the child protection
31 team are confidential and exempt from the provisions of ss.

1 119.07(1) and 455.667 ~~455.241~~, and shall not be disclosed,
2 except, upon request, to the state attorney, law enforcement,
3 the department, and necessary professionals, in furtherance of
4 the treatment or additional evaluative needs of the child or
5 by order of the court.

6 Section 25. Paragraph (h) of subsection (3) and
7 paragraph (c) of subsection (4) of section 440.13, Florida
8 Statutes, are amended to read:

9 440.13 Medical services and supplies; penalty for
10 violations; limitations.--

11 (3) PROVIDER ELIGIBILITY; AUTHORIZATION.--

12 (h) The provisions of s. 455.654 ~~455.236~~ are
13 applicable to referrals among health care providers, as
14 defined in subsection (1), treating injured workers.

15 (4) NOTICE OF TREATMENT TO CARRIER; FILING WITH
16 DIVISION.--

17 (c) It is the policy for the administration of the
18 workers' compensation system that there be reasonable access
19 to medical information by all parties to facilitate the
20 self-executing features of the law. Notwithstanding the
21 limitations in s. 455.667 ~~455.241~~ and subject to the
22 limitations in s. 381.004, upon the request of the employer,
23 the carrier, or the attorney for either of them, the medical
24 records of an injured employee must be furnished to those
25 persons and the medical condition of the injured employee must
26 be discussed with those persons, if the records and the
27 discussions are restricted to conditions relating to the
28 workplace injury. Any such discussions may be held before or
29 after the filing of a claim without the knowledge, consent, or
30 presence of any other party or his or her agent or
31 representative. A health care provider who willfully refuses

1 to provide medical records or to discuss the medical condition
2 of the injured employee, after a reasonable request is made
3 for such information pursuant to this subsection, shall be
4 subject by the division to one or more of the penalties set
5 forth in paragraph (8)(b).

6 Section 26. Paragraph (b) of subsection (1) and
7 subsections (2) and (3) of section 455.565, Florida Statutes,
8 are amended to read:

9 455.565 Designated healthcare professionals;
10 information required for licensure.--

11 (1) Each person who applies for initial licensure as a
12 physician under chapter 458, chapter 459, chapter 460, or
13 chapter 461 must, at the time of application, and each
14 physician who applies for license renewal under chapter 458,
15 chapter 459, chapter 460, or chapter 461 must, in conjunction
16 with the renewal of such license and under procedures adopted
17 by the Department of Health, and in addition to any other
18 information that may be required from the applicant, furnish
19 the following information to the Department of Health:

20 (b) In addition to the information required under
21 paragraph (a), each applicant who seeks licensure under
22 chapter 458, chapter 459, or chapter 461, and who has
23 practiced previously in this state or in another jurisdiction
24 or a foreign country must provide the information required of
25 licensees under those chapters pursuant to s. 455.697 ~~455.247~~.
26 An applicant for licensure under chapter 460 who has practiced
27 previously in this state or in another jurisdiction or a
28 foreign country must provide the same information as is
29 required of licensees under chapter 458, pursuant to s.
30 455.697 ~~455.247~~.

31

1 (2) Before the issuance of the licensure renewal
2 notice required by s. 455.714 ~~455.273~~, the Department of
3 Health shall send a notice to each person licensed under
4 chapter 458, chapter 459, chapter 460, or chapter 461, at the
5 licensee's last known address of record with the department,
6 regarding the requirements for information to be submitted by
7 those practitioners pursuant to this section in conjunction
8 with the renewal of such license and under procedures adopted
9 by the department.

10 (3) Each person who has submitted information pursuant
11 to subsection (1) must update that information in writing by
12 notifying the Department of Health within 45 days after the
13 occurrence of an event or the attainment of a status that is
14 required to be reported by subsection (1). Failure to comply
15 with the requirements of this subsection to update and submit
16 information constitutes a ground for disciplinary action under
17 each respective licensing chapter and s. 455.624~~455.227~~(1)(k).
18 For failure to comply with the requirements of this subsection
19 to update and submit information, the department or board, as
20 appropriate, may:

21 (a) Refuse to issue a license to any person applying
22 for initial licensure who fails to submit and update the
23 required information.

24 (b) Issue a citation to any licensee who fails to
25 submit and update the required information and may fine the
26 licensee up to \$50 for each day that the licensee is not in
27 compliance with this subsection. The citation must clearly
28 state that the licensee may choose, in lieu of accepting the
29 citation, to follow the procedure under s. 455.621 ~~455.225~~. If
30 the licensee disputes the matter in the citation, the
31 procedures set forth in s. 455.621 ~~455.225~~ must be followed.

1 However, if the licensee does not dispute the matter in the
2 citation with the department within 30 days after the citation
3 is served, the citation becomes a final order and constitutes
4 discipline. Service of a citation may be made by personal
5 service or certified mail, restricted delivery, to the subject
6 at the licensee's last known address.

7 Section 27. Subsection (4) of section 455.5651,
8 Florida Statutes, is amended to read:

9 455.5651 Practitioner profile; creation.--

10 (4) The Department of Health shall include, with
11 respect to a practitioner licensed under chapter 458 or
12 chapter 459, a statement of how the practitioner has elected
13 to comply with the financial responsibility requirements of s.
14 458.320 or s. 459.0085. The department shall include, with
15 respect to practitioners licensed under chapter 458, chapter
16 459, or chapter 461, information relating to liability actions
17 which has been reported under s. 455.697 ~~455.247~~ or s. 627.912
18 within the previous 10 years for any paid claim that exceeds
19 \$5,000. Such claims information shall be reported in the
20 context of comparing an individual practitioner's claims to
21 the experience of other physicians within the same specialty
22 to the extent such information is available to the Department
23 of Health. If information relating to a liability action is
24 included in a practitioner's practitioner profile, the profile
25 must also include the following statement: "Settlement of a
26 claim may occur for a variety of reasons that do not
27 necessarily reflect negatively on the professional competence
28 or conduct of the physician. A payment in settlement of a
29 medical malpractice action or claim should not be construed as
30 creating a presumption that medical malpractice has occurred."

31

1 Section 28. Section 455.641, Florida Statutes, is
2 amended to read:
3 455.641 Unlicensed activities; fees; disposition.--In
4 order to protect the public and to ensure a consumer-oriented
5 department, it is the intent of the Legislature that vigorous
6 enforcement of regulation for all professional activities is a
7 state priority. All enforcement costs should be covered by
8 professions regulated by the department. Therefore, the
9 department shall impose, upon initial licensure and each
10 renewal thereof, a special fee of \$5 per licensee. Such fee
11 shall be in addition to all other fees collected from each
12 licensee and shall fund efforts to combat unlicensed activity.
13 The board with concurrence of the department, or the
14 department when there is no board, may earmark \$5 of the
15 current licensure fee for this purpose, if such board, or
16 profession regulated by the department, is not in a deficit
17 and has a reasonable cash balance. The department shall make
18 direct charges to this fund by profession and shall not
19 allocate indirect overhead. The department shall seek board
20 advice regarding enforcement methods and strategies prior to
21 expenditure of funds. The department shall directly credit, by
22 profession, revenues received from the department's efforts to
23 enforce licensure provisions. The department shall include all
24 financial and statistical data resulting from unlicensed
25 activity enforcement as a separate category in the quarterly
26 management report provided for in s. 455.587 ~~455.219~~. The
27 department shall not charge the account of any profession for
28 the costs incurred on behalf of any other profession. For an
29 unlicensed activity account, a balance which remains at the
30 end of a renewal cycle may, with concurrence of the applicable
31

1 board and the department, be transferred to the operating fund
2 account of that profession.

3 Section 29. Subsection (2) of section 455.651, Florida
4 Statutes, is amended to read:

5 455.651 Disclosure of confidential information.--

6 (2) Any person who willfully violates any provision of
7 this section is guilty of a misdemeanor of the first degree,
8 punishable as provided in s. 775.082 or s. 775.083, and may be
9 subject to discipline pursuant to s. 455.624 ~~455.227~~, and, if
10 applicable, shall be removed from office, employment, or the
11 contractual relationship.

12 Section 30. Subsection (1) of section 455.698, Florida
13 Statutes, is amended to read:

14 455.698 Reports of professional liability actions;
15 bankruptcies; Department of Health's responsibility to
16 provide.--

17 (1) The report of a claim or action for damages for
18 personal injury which is required to be provided to the
19 Department of Health under s. 455.697 ~~455.247~~ or s. 627.912 is
20 public information except for the name of the claimant or
21 injured person, which remains confidential as provided in ss.
22 455.697~~455.247~~(2)(d) and 627.912(2)(e). The Department of
23 Health shall, upon request, make such report available to any
24 person.

25 Section 31. Subsection (2) of section 455.717, Florida
26 Statutes, is amended to read:

27 455.717 Address of record.--

28 (2) Notwithstanding any other law, service by regular
29 mail to a licensee's last known address of record with the
30 department constitutes adequate and sufficient notice to the
31 licensee for any official communication to the licensee by the

1 board or the department except when other service is required
2 under s. 455.707 ~~455.261~~.

3 Section 32. Subsection (2) of section 457.103, Florida
4 Statutes, is amended to read:

5 457.103 Board of Acupuncture; membership; appointment
6 and terms.--

7 (2) All provisions of part II of chapter 455 relating
8 to the board shall apply.

9 Section 33. Subsection (6) of section 458.307, Florida
10 Statutes, is amended to read:

11 458.307 Board of Medicine.--

12 (6) All provisions of part II of chapter 455 relating
13 to activities of the board shall apply.

14 Section 34. Paragraph (a) of subsection (9) of section
15 458.311, Florida Statutes, is amended to read:

16 458.311 Licensure by examination; requirements;
17 fees.--

18 (9)(a) Notwithstanding any of the provisions of this
19 section, an applicant who, at the time of his or her medical
20 education, was a citizen of the country of Nicaragua and, at
21 the time of application for licensure under this subsection,
22 is either a citizen of the country of Nicaragua or a citizen
23 of the United States may make initial application to the
24 department on or before July 1, 1992, for licensure subject to
25 this subsection and may reapply pursuant to board rule. Upon
26 receipt of such application, the department shall issue a
27 2-year restricted license to any applicant therefor upon the
28 applicant's successful completion of the licensure examination
29 as described in paragraph (1)(a) and who the board certifies
30 has met the following requirements:

31

1 1. Is a graduate of a World Health Organization
2 recognized foreign medical institution located in a country in
3 the Western Hemisphere.

4 2. Received a medical education which has been
5 determined by the board to be substantially similar, at the
6 time of the applicant's graduation, to approved United States
7 medical programs.

8 3. Practiced medicine in the country of Nicaragua for
9 a period of 1 year prior to residing in the United States and
10 has lawful employment authority in the United States.

11 4. Has had his or her medical education verified by
12 the Florida Board of Medicine.

13 5. Successfully completed the Educational Commission
14 for Foreign Medical Graduates Examination or Foreign Medical
15 Graduate Examination in the Medical Sciences or successfully
16 completed a course developed for the University of Miami for
17 physician training equivalent to the course developed for such
18 purposes pursuant to chapter 74-105, Laws of Florida. No
19 person shall be permitted to enroll in the physician training
20 course until he or she has been certified by the board as
21 having met the requirements of this paragraph or conditionally
22 certified by the board as having substantially complied with
23 the requirements of this paragraph. Any person conditionally
24 certified by the board shall be required to establish, to the
25 board's satisfaction, full compliance with all the
26 requirements of this paragraph prior to completion of the
27 physician training course and shall not be permitted to sit
28 for the licensure examination unless the board certifies that
29 all of the requirements of this paragraph have been met.

30
31

1 However, applicants eligible for licensure under s. 455.581
2 ~~455.218~~ or subsection (9), 1988 Supplement to the Florida
3 Statutes 1987, as amended by s. 18, chapter 89-162, Laws of
4 Florida, and ss. 5 and 42, chapter 89-374, Laws of Florida,
5 and renumbered as subsection (8) by s. 5, chapter 89-374, Laws
6 of Florida, shall not be eligible to apply under this
7 subsection.

8 Section 35. Paragraph (c) of subsection (1) and
9 paragraph (a) of subsection (3) of section 458.3115, Florida
10 Statutes, are amended to read:

11 458.3115 Restricted license; certain foreign-licensed
12 physicians; United States Medical Licensing Examination
13 (USMLE) or agency-developed examination; restrictions on
14 practice; full licensure.--

15 (1)

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

18 1. Has taken, upon approval by the board, and
19 completed, in November 1990 or November 1992, one of the
20 special preparatory medical update courses authorized by the
21 board and the University of Miami Medical School and
22 subsequently passed the final course examination; upon
23 approval by the board to take the course completed in 1990 or
24 in 1992, has a certificate of successful completion of that
25 course from the University of Miami or the Stanley H. Kaplan
26 course; or can document to the department that he or she was
27 one of the persons who took and successfully completed the
28 Stanley H. Kaplan course that was approved by the Board of
29 Medicine and supervised by the University of Miami. At a
30 minimum, the documentation must include class attendance
31 records and the test score on the final course examination;

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

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

6 4. Submits an examination fee that is nonrefundable
7 and equivalent to the fee required for full licensure plus the
8 actual per-applicant cost to the agency to provide either
9 examination described in this section;

10 5. Has not committed any act or offense in this or any
11 other jurisdiction that would constitute a substantial basis
12 for disciplining a physician under this chapter or part II of
13 chapter 455; and

14 6. Is not under discipline, investigation, or
15 prosecution in this or any other jurisdiction for an act that
16 would constitute a violation of this chapter or part II of
17 chapter 455 and that substantially threatened or threatens the
18 public health, safety, or welfare.

19 (3)(a) A restricted license issued by the agency under
20 this section is valid for 2 years unless sooner revoked or
21 suspended, and a restricted licensee is subject to the
22 requirements of this chapter, part II of chapter 455, and any
23 other provision of law not in conflict with this section.
24 Upon expiration of such restricted license, a restricted
25 licensee shall become a full licensee if the restricted
26 licensee:

27 1. Is not under discipline, investigation, or
28 prosecution for a violation which poses a substantial threat
29 to the public health, safety, or welfare; and

30 2. Pays all renewal fees required of a full licensee.
31

1 Section 36. Subsection (1) of section 458.3124,
2 Florida Statutes, is amended to read:

3 458.3124 Restricted license; certain experienced
4 foreign-trained physicians.--

5 (1) A person who was trained in a medical school that
6 is listed in the World Directory of Medical Schools published
7 by the World Health Organization and is located in a country
8 other than the United States, Canada, or Puerto Rico may apply
9 to take Step III of the United States Medical Licensing
10 Examination, if the person:

11 (a) Legally practiced medicine for at least 5 years in
12 the country in which the school is located;

13 (b) Has passed Steps I and II of the United States
14 Medical Licensing Examination;

15 (c) Is certified by the Educational Commission for
16 Foreign Medical Graduates as qualified for a restricted
17 license to practice medicine;

18 (d) Is not subject to discipline, investigation, or
19 prosecution in any jurisdiction for acts that threaten the
20 public health, safety, or welfare or violate part II of
21 chapter 455 or this chapter; and

22 (e) Has been a resident of this state since July 1,
23 1996.

24 Section 37. Subsection (1) of section 458.319, Florida
25 Statutes, is amended to read:

26 458.319 Renewal of license.--

27 (1) The department shall renew a license upon receipt
28 of the renewal application, evidence that the applicant has
29 actively practiced medicine or has been on the active teaching
30 faculty of an accredited medical school for at least 2 years
31 of the immediately preceding 4 years, and a fee not to exceed

1 \$500; provided, however, that if the licensee is either a
2 resident physician, assistant resident physician, fellow,
3 house physician, or intern in an approved postgraduate
4 training program, as defined by the board by rule, the fee
5 shall not exceed \$100 per annum. If the licensee has not
6 actively practiced medicine for at least 2 years of the
7 immediately preceding 4 years, the board shall require that
8 the licensee successfully complete a board-approved clinical
9 competency examination prior to renewal of the license.
10 "Actively practiced medicine" means that practice of medicine
11 by physicians, including those employed by any governmental
12 entity in community or public health, as defined by this
13 chapter, including physicians practicing administrative
14 medicine. An applicant for a renewed license must also submit
15 the information required under s. 455.565 to the department on
16 a form and under procedures specified by the department, along
17 with payment in an amount equal to the costs incurred by the
18 Department of Health for the statewide criminal background
19 check of the applicant. The applicant must submit a set of
20 fingerprints to the Department of Health on a form and under
21 procedures specified by the department, along with payment in
22 an amount equal to the costs incurred by the department for a
23 national criminal background check of the applicant for the
24 initial renewal of his or her license after January 1, 2000.
25 If the applicant fails to submit either the information
26 required under s. 455.565 or a set of fingerprints to the
27 department as required by this section, the department shall
28 issue a notice of noncompliance, and the applicant will be
29 given 30 additional days to comply. If the applicant fails to
30 comply within 30 days after the notice of noncompliance is
31 issued, the department or board, as appropriate, may issue a

1 citation to the applicant and may fine the applicant up to \$50
2 for each day that the applicant is not in compliance with the
3 requirements of s. 455.565. The citation must clearly state
4 that the applicant may choose, in lieu of accepting the
5 citation, to follow the procedure under s. 455.621 ~~455.225~~. If
6 the applicant disputes the matter in the citation, the
7 procedures set forth in s. 455.621 ~~455.225~~ must be followed.
8 However, if the applicant does not dispute the matter in the
9 citation with the department within 30 days after the citation
10 is served, the citation becomes a final order and constitutes
11 discipline. Service of a citation may be made by personal
12 service or certified mail, restricted delivery, to the subject
13 at the applicant's last known address. If an applicant has
14 submitted fingerprints to the department for a national
15 criminal history check upon initial licensure and is renewing
16 his or her license for the first time, then the applicant need
17 only submit the information and fee required for a statewide
18 criminal history check.

19 Section 38. Paragraph (e) of subsection (1) and
20 subsection (6) of section 458.331, Florida Statutes, are
21 amended to read:

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

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

27 (e) Failing to report to the department any person who
28 the licensee knows is in violation of this chapter or of the
29 rules of the department or the board. A treatment provider
30 approved pursuant to s. 455.707 ~~455.261~~ shall provide the
31

1 department or consultant with information in accordance with
2 the requirements of s. 455.707~~455.261~~(3), (4), (5), and (6).

3 (6) Upon the department's receipt from an insurer or
4 self-insurer of a report of a closed claim against a physician
5 pursuant to s. 627.912 or from a health care practitioner of a
6 report pursuant to s. 455.697 ~~455.247~~, or upon the receipt
7 from a claimant of a presuit notice against a physician
8 pursuant to s. 766.106, the department shall review each
9 report and determine whether it potentially involved conduct
10 by a licensee that is subject to disciplinary action, in which
11 case the provisions of s. 455.621 ~~455.225~~ shall apply.

12 However, if it is reported that a physician has had three or
13 more claims with indemnities exceeding \$25,000 each within the
14 previous 5-year period, the department shall investigate the
15 occurrences upon which the claims were based and determine if
16 action by the department against the physician is warranted.

17 Section 39. Section 458.343, Florida Statutes, is
18 amended to read:

19 458.343 Subpoena of certain records.--Notwithstanding
20 the provisions of s. 455.667 ~~455.241~~, the department may issue
21 subpoenas duces tecum requiring the names and addresses of
22 some or all of the patients of a physician against whom a
23 complaint has been filed pursuant to s. 455.621 ~~455.225~~.

24 Section 40. Paragraph (g) of subsection (7) and
25 subsections (10) and (16) of section 458.347, Florida
26 Statutes, are amended to read:

27 458.347 Physician assistants.--

28 (7) PHYSICIAN ASSISTANT CERTIFICATION.--

29 (g) The Board of Medicine may impose any of the
30 penalties specified in ss. 455.624 ~~455.227~~ and 458.331(2) upon
31 a physician assistant if the physician assistant or the

1 supervising physician has been found guilty of or is being
2 investigated for any act that constitutes a violation of this
3 chapter or part II of chapter 455.

4 (10) INACTIVE AND DELINQUENT STATUS.--A certificate on
5 inactive or delinquent status may be reactivated only as
6 provided in s. 455.711 ~~455.271~~.

7 (16) LEGAL SERVICES.--The Department of Legal Affairs
8 shall provide legal services to the council as authorized in
9 s. 455.594~~455.221~~(1).

10 Section 41. Subsection (4) of section 459.004, Florida
11 Statutes, is amended to read:

12 459.004 Board of Osteopathic Medicine.--

13 (4) All provisions of part II of chapter 455 relating
14 to activities of the board shall apply.

15 Section 42. Subsection (1) of section 459.008, Florida
16 Statutes, is amended to read:

17 459.008 Renewal of licenses and certificates.--

18 (1) The department shall renew a license or
19 certificate upon receipt of the renewal application and fee.
20 An applicant for a renewed license must also submit the
21 information required under s. 455.565 to the department on a
22 form and under procedures specified by the department, along
23 with payment in an amount equal to the costs incurred by the
24 Department of Health for the statewide criminal background
25 check of the applicant. The applicant must submit a set of
26 fingerprints to the Department of Health on a form and under
27 procedures specified by the department, along with payment in
28 an amount equal to the costs incurred by the department for a
29 national criminal background check of the applicant for the
30 initial renewal of his or her license after January 1, 2000.
31 If the applicant fails to submit either the information

1 required under s. 455.565 or a set of fingerprints to the
2 department as required by this section, the department shall
3 issue a notice of noncompliance, and the applicant will be
4 given 30 additional days to comply. If the applicant fails to
5 comply within 30 days after the notice of noncompliance is
6 issued, the department or board, as appropriate, may issue a
7 citation to the applicant and may fine the applicant up to \$50
8 for each day that the applicant is not in compliance with the
9 requirements of s. 455.565. The citation must clearly state
10 that the applicant may choose, in lieu of accepting the
11 citation, to follow the procedure under s. 455.621 ~~455.225~~. If
12 the applicant disputes the matter in the citation, the
13 procedures set forth in s. 455.621 ~~455.225~~ must be followed.
14 However, if the applicant does not dispute the matter in the
15 citation with the department within 30 days after the citation
16 is served, the citation becomes a final order and constitutes
17 discipline. Service of a citation may be made by personal
18 service or certified mail, restricted delivery, to the subject
19 at the applicant's last known address. If an applicant has
20 submitted fingerprints to the department for a national
21 criminal history check upon initial licensure and is renewing
22 his or her license for the first time, then the applicant need
23 only submit the information and fee required for a statewide
24 criminal history check.

25 Section 43. Paragraph (e) of subsection (1) and
26 subsection (6) of section 459.015, Florida Statutes, are
27 amended to read:

28 459.015 Grounds for disciplinary action by the
29 board.--

30
31

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

4 (e) Failing to report to the department or the
5 department's impaired professional consultant any person who
6 the licensee or certificateholder knows is in violation of
7 this chapter or of the rules of the department or the board.
8 A treatment provider, approved pursuant to s. 455.707 ~~455.261~~,
9 shall provide the department or consultant with information in
10 accordance with the requirements of s. 455.707~~455.261~~(3), (4),
11 (5), and (6).

12 (6) Upon the department's receipt from an insurer or
13 self-insurer of a report of a closed claim against an
14 osteopathic physician pursuant to s. 627.912 or from a health
15 care practitioner of a report pursuant to s. 455.697 ~~455.247~~,
16 or upon the receipt from a claimant of a presuit notice
17 against an osteopathic physician pursuant to s. 766.106, the
18 department shall review each report and determine whether it
19 potentially involved conduct by a licensee that is subject to
20 disciplinary action, in which case the provisions of s.
21 455.621 ~~455.225~~ shall apply. However, if it is reported that
22 an osteopathic physician has had three or more claims with
23 indemnities exceeding \$25,000 each within the previous 5-year
24 period, the department shall investigate the occurrences upon
25 which the claims were based and determine if action by the
26 department against the osteopathic physician is warranted.

27 Section 44. Section 459.019, Florida Statutes, is
28 amended to read:

29 459.019 Subpoena of certain records.--Notwithstanding
30 the provisions of s. 455.667 ~~455.241~~, the department may issue
31 subpoenas duces tecum requiring the names and addresses of

1 some or all of the patients of an osteopathic physician
2 against whom a complaint has been filed pursuant to s. 455.621
3 ~~455.225~~.

4 Section 45. Paragraph (f) of subsection (7) and
5 subsections (10) and (16) of section 459.022, Florida
6 Statutes, are amended to read:

7 459.022 Physician assistants.--

8 (7) PHYSICIAN ASSISTANT CERTIFICATION.--

9 (f) The Board of Osteopathic Medicine may impose any
10 of the penalties specified in ss. 455.624 ~~455.227~~ and
11 459.015(2) upon a physician assistant if the physician
12 assistant or the supervising physician has been found guilty
13 of or is being investigated for any act that constitutes a
14 violation of this chapter or part II of chapter 455.

15 (10) INACTIVE AND DELINQUENT STATUS.--A certificate on
16 inactive or delinquent status may be reactivated only as
17 provided in s. 455.711 ~~455.271~~.

18 (16) LEGAL SERVICES.--The Department of Legal Affairs
19 shall provide legal services to the council as authorized in
20 s. 455.594~~455.221~~(1).

21 Section 46. Subsection (4) of section 460.404, Florida
22 Statutes, is amended to read:

23 460.404 Board of Chiropractic; membership;
24 appointment; terms.--

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

27 Section 47. Paragraph (c) of subsection (1) of section
28 460.4061, Florida Statutes, is amended to read:

29 460.4061 Restricted license.--

30 (1) An applicant for licensure as a chiropractic
31 physician may apply to the department for a restricted license

1 without undergoing a state or national written or clinical
2 competency examination for licensure if the applicant
3 initially applies not later than October 31, 1994, for the
4 restricted license and:

5 (c) Has never been disciplined for an offense that
6 would be a violation under this chapter or part II of chapter
7 455, imposed by another jurisdiction on the applicant's
8 license to practice as a chiropractic physician.

9 Section 48. Subsection (1) of section 460.407, Florida
10 Statutes, is amended to read:

11 460.407 Renewal of license.--

12 (1) The department shall renew a license upon receipt
13 of the renewal application and the fee set by the board not to
14 exceed \$500. An applicant for a renewed license must also
15 submit the information required under s. 455.565 to the
16 department on a form and under procedures specified by the
17 department, along with payment in an amount equal to the costs
18 incurred by the Department of Health for the statewide
19 criminal background check of the applicant. The applicant must
20 submit a set of fingerprints to the Department of Health on a
21 form and under procedures specified by the department, along
22 with payment in an amount equal to the costs incurred by the
23 department for a national criminal background check of the
24 applicant for the initial renewal of his or her license after
25 January 1, 2000. If the applicant fails to submit either the
26 information required under s. 455.565 or a set of fingerprints
27 to the department as required by this section, the department
28 shall issue a notice of noncompliance, and the applicant will
29 be given 30 additional days to comply. If the applicant fails
30 to comply within 30 days after the notice of noncompliance is
31 issued, the department or board, as appropriate, may issue a

1 citation to the applicant and may fine the applicant up to \$50
2 for each day that the applicant is not in compliance with the
3 requirements of s. 455.565. The citation must clearly state
4 that the applicant may choose, in lieu of accepting the
5 citation, to follow the procedure under s. 455.621 ~~455.225~~. If
6 the applicant disputes the matter in the citation, the
7 procedures set forth in s. 455.621 ~~455.225~~ must be followed.
8 However, if the applicant does not dispute the matter in the
9 citation with the department within 30 days after the citation
10 is served, the citation becomes a final order and constitutes
11 discipline. Service of a citation may be made by personal
12 service or certified mail, restricted delivery, to the subject
13 at the applicant's last known address. If an applicant has
14 submitted fingerprints to the department for a national
15 criminal history check upon initial licensure and is renewing
16 his or her license for the first time, then the applicant need
17 only submit the information and fee required for a statewide
18 criminal history check.

19 Section 49. Subsection (4) of section 461.004, Florida
20 Statutes, is amended to read:

21 461.004 Board of Podiatric Medicine; membership;
22 appointment; terms.--

23 (4) All provisions of part II of chapter 455 relating
24 to the board shall apply. However, notwithstanding the
25 requirement of s. 455.621~~455.225~~(4) that the board provide by
26 rule for the determination of probable cause by a panel
27 composed of its members or by the department, the board may
28 provide by rule that its probable cause panel may be composed
29 of one current member of the board and one past member of the
30 board, as long as the past member is a licensed podiatrist in
31 good standing. The past board member must be appointed to the

1 panel by the chair of the board with the approval of the
2 secretary for a maximum of 2 years.

3 Section 50. Subsection (1) of section 461.007, Florida
4 Statutes, is amended to read:

5 461.007 Renewal of license.--

6 (1) The department shall renew a license upon receipt
7 of the renewal application and a fee not to exceed \$350 set by
8 the board. An applicant for a renewed license must also submit
9 the information required under s. 455.565 to the department on
10 a form and under procedures specified by the department, along
11 with payment in an amount equal to the costs incurred by the
12 Department of Health for the statewide criminal background
13 check of the applicant. The applicant must submit a set of
14 fingerprints to the Department of Health on a form and under
15 procedures specified by the department, along with payment in
16 an amount equal to the costs incurred by the department for a
17 national criminal background check of the applicant for the
18 initial renewal of his or her license after January 1, 2000.
19 If the applicant fails to submit either the information
20 required under s. 455.565 or a set of fingerprints to the
21 department as required by this section, the department shall
22 issue a notice of noncompliance, and the applicant will be
23 given 30 additional days to comply. If the applicant fails to
24 comply within 30 days after the notice of noncompliance is
25 issued, the department or board, as appropriate, may issue a
26 citation to the applicant and may fine the applicant up to \$50
27 for each day that the applicant is not in compliance with the
28 requirements of s. 455.565. The citation must clearly state
29 that the applicant may choose, in lieu of accepting the
30 citation, to follow the procedure under s. 455.621 ~~455.225~~. If
31 the applicant disputes the matter in the citation, the

1 procedures set forth in s. 455.621 ~~455.225~~ must be followed.
2 However, if the applicant does not dispute the matter in the
3 citation with the department within 30 days after the citation
4 is served, the citation becomes a final order and constitutes
5 discipline. Service of a citation may be made by personal
6 service or certified mail, restricted delivery, to the subject
7 at the applicant's last known address. If an applicant has
8 submitted fingerprints to the department for a national
9 criminal history check upon initial licensure and is renewing
10 his or her license for the first time, then the applicant need
11 only submit the information and fee required for a statewide
12 criminal history check.

13 Section 51. Paragraph (w) of subsection (1) and
14 paragraph (a) of subsection (5) of section 461.013, Florida
15 Statutes, are amended to read:

16 461.013 Grounds for disciplinary action; action by the
17 board; investigations by department.--

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

21 (w) Violating any provision of this chapter or part II
22 of chapter 455, any rule of the board or department, or a
23 lawful order of the board or department previously entered in
24 a disciplinary hearing or failing to comply with a lawfully
25 issued subpoena of the board or department.

26 (5)(a) Upon the department's receipt from an insurer
27 or self-insurer of a report of a closed claim against a
28 podiatrist pursuant to s. 627.912, or upon the receipt from a
29 claimant of a presuit notice against a podiatrist pursuant to
30 s. 766.106, the department shall review each report and
31 determine whether it potentially involved conduct by a

1 licensee that is subject to disciplinary action, in which case
2 the provisions of s. 455.621 ~~455.225~~ shall apply. However, if
3 it is reported that a podiatrist has had three or more claims
4 with indemnities exceeding \$25,000 each within the previous
5 5-year period, the department shall investigate the
6 occurrences upon which the claims were based and determine if
7 action by the department against the podiatrist is warranted.

8 Section 52. Subsection (2) of section 462.01, Florida
9 Statutes, is amended to read:

10 462.01 Definitions.--As used in this chapter:

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

13 Section 53. Subsection (2) of section 463.002, Florida
14 Statutes, is amended to read:

15 463.002 Definitions.--As used in this chapter, the
16 term:

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

19 Section 54. Subsection (4) of section 463.003, Florida
20 Statutes, is amended to read:

21 463.003 Board of Optometry.--

22 (4) All applicable provisions of part II of chapter
23 455 relating to activities of regulatory boards shall apply.

24 Section 55. Paragraph (h) of subsection (1) of section
25 463.016, Florida Statutes, is amended to read:

26 463.016 Grounds for disciplinary action; action by the
27 board.--

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

31

1 (h) A violation or repeated violations of provisions
2 of this chapter, or of part II of chapter 455, and any rules
3 promulgated pursuant thereto.

4 Section 56. Subsection (4) of section 464.004, Florida
5 Statutes, is amended to read:

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

8 (4) All provisions of part II of chapter 455 relating
9 to activities of the board shall apply.

10 Section 57. Subsection (4) of section 465.004, Florida
11 Statutes, is amended to read:

12 465.004 Board of Pharmacy.--

13 (4) All provisions of part II of chapter 455 relating
14 to activities of the board shall apply.

15 Section 58. Section 465.006, Florida Statutes, is
16 amended to read:

17 465.006 Disposition of fees; expenditures.--All moneys
18 received under this chapter shall be deposited and expended
19 pursuant to the provisions of s. 455.587 ~~215.37~~. All
20 expenditures for duties of the board authorized by this
21 chapter shall be paid upon presentation of vouchers approved
22 by the executive director of the board.

23 Section 59. Subsections (4) and (6) of section
24 466.004, Florida Statutes, are amended to read:

25 466.004 Board of Dentistry.--

26 (4) The board is authorized to adopt all rules
27 necessary to carry out the provisions of this chapter and part
28 II of chapter 455, including the establishment of a fee to
29 defray the cost of duplicating any license certification or
30 permit, not to exceed \$10 per duplication.

31

1 (6) All provisions of part II of chapter 455 relating
2 to the board shall apply.

3 Section 60. Paragraph (b) of subsection (4) of section
4 466.007, Florida Statutes, is amended to read:

5 466.007 Examination of dental hygienists.--

6 (4) To be licensed as a dental hygienist in this
7 state, an applicant must successfully complete the following:

8 (b) A practical or clinical examination. The
9 practical or clinical examination shall test competency in
10 areas to be established by rule of the board which shall
11 include testing the ability to adequately perform a
12 prophylaxis. On or after October 1, 1986, every applicant who
13 is otherwise qualified shall be eligible to take the
14 examination a total of three times, notwithstanding the number
15 of times the applicant has previously failed. If an applicant
16 fails the examination three times, the applicant shall no
17 longer be eligible to take the examination unless he or she
18 obtains additional educational requirements established by the
19 board. The department shall require a mandatory
20 standardization exercise pursuant to s. ~~455.574~~455.217(1)(b)
21 for all examiners prior to each practical or clinical
22 examination and shall retain for employment only those
23 dentists and dental hygienists who have substantially adhered
24 to the standard of grading established at such exercise. It is
25 the intent of the Legislature that the examinations relate to
26 those procedures which are actually performed by a dental
27 hygienist in general practice.

28 Section 61. Subsection (1) of section 466.018, Florida
29 Statutes, is amended to read:

30 466.018 Dentist of record; patient records.--

31

1 (1) Each patient shall have a dentist of record. The
2 dentist of record shall remain primarily responsible for all
3 dental treatment on such patient regardless of whether the
4 treatment is rendered by the dentist or by another dentist,
5 dental hygienist, or dental assistant rendering such treatment
6 in conjunction with, at the direction or request of, or under
7 the supervision of such dentist of record. The dentist of
8 record shall be identified in the record of the patient. If
9 treatment is rendered by a dentist other than the dentist of
10 record or by a dental hygienist or assistant, the name or
11 initials of such person shall be placed in the record of the
12 patient. In any disciplinary proceeding brought pursuant to
13 this chapter or part II of chapter 455, it shall be presumed
14 as a matter of law that treatment was rendered by the dentist
15 of record unless otherwise noted on the patient record
16 pursuant to this section. The dentist of record and any other
17 treating dentist are subject to discipline pursuant to this
18 chapter or part II of chapter 455 for treatment rendered the
19 patient and performed in violation of such chapter. One of the
20 purposes of this section is to ensure that the responsibility
21 for each patient is assigned to one dentist in a multidentist
22 practice of any nature and to assign primary responsibility to
23 the dentist for treatment rendered by a dental hygienist or
24 assistant under her or his supervision. This section shall not
25 be construed to assign any responsibility to a dentist of
26 record for treatment rendered pursuant to a proper referral to
27 another dentist not in practice with the dentist of record or
28 to prohibit a patient from voluntarily selecting a new dentist
29 without permission of the dentist of record.

30 Section 62. Subsection (1) of section 466.022, Florida
31 Statutes, is amended to read:

1 466.022 Peer review; records; immunity.--

2 (1) The Legislature finds that effective peer review
3 of consumer complaints by professional associations of
4 dentists is a valuable service to the public. In performing
5 such service, any member of a peer review organization or
6 committee shall, pursuant to s. 466.028(1)(f), report to the
7 department the name of any licensee who he or she believes has
8 violated this chapter. Any such peer review committee member
9 shall be afforded the privileges and immunities of any other
10 complainant or witness which are provided by s.

11 455.621~~455.225~~(11). Furthermore, a professional organization
12 or association of dentists which sponsors, sanctions, or
13 otherwise operates or participates in peer review activities
14 is hereby afforded the same privileges and immunities afforded
15 to any member of a duly constituted medical review committee
16 by s. 766.101(3).

17 Section 63. Paragraph (aa) of subsection (1) and
18 subsections (6) and (7) of section 466.028, Florida Statutes,
19 are amended to read:

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

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

25 (aa) The violation or the repeated violation of this
26 chapter, part II of chapter 455, or any rule promulgated
27 pursuant to part II of chapter 455 or this chapter; the
28 violation of a lawful order of the board or department
29 previously entered in a disciplinary hearing; or failure to
30 comply with a lawfully issued subpoena of the board or
31 department.

1 (6) Upon the department's receipt from an insurer or
2 self-insurer of a report of a closed claim against a dentist
3 pursuant to s. 627.912 or upon the receipt from a claimant of
4 a presuit notice against a dentist pursuant to s. 766.106 the
5 department shall review each report and determine whether it
6 potentially involved conduct by a licensee that is subject to
7 disciplinary action, in which case the provisions of s.
8 455.621 ~~455.225~~ shall apply. However, if it is reported that
9 a dentist has had any indemnity paid in excess of \$25,000 in a
10 judgment or settlement or has had three or more claims for
11 dental malpractice within the previous 5-year period which
12 resulted in indemnity being paid, the department shall
13 investigate the occurrence upon which the claims were based
14 and determine if action by the department against the dentist
15 is warranted.

16 (7) Subject to the authority and conditions
17 established in s. 455.621 ~~455.225~~, the probable cause panel of
18 the board may recommend that the department seek a specified
19 penalty in cases in which probable cause has been found and
20 the panel has directed that an administrative complaint be
21 filed. If the department seeks a penalty other than that
22 recommended by the probable cause panel, the department shall
23 provide the board with a written statement which sets forth
24 the reasons therefor. Nothing in this subsection shall
25 preclude a probable cause panel of any other board under the
26 jurisdiction of the department from making similar
27 recommendations as penalties.

28 Section 64. Subsections (4) and (14) of section
29 467.003, Florida Statutes, are amended to read:

30 467.003 Definitions.--As used in this chapter, unless
31 the context otherwise requires:

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

3 (14) "Secretary" means the Secretary of Health
4 ~~Business and Professional Regulation.~~

5 Section 65. Subsection (5) of section 468.1135,
6 Florida Statutes, is amended to read:

7 468.1135 Board of Speech-Language Pathology and
8 Audiology.--

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

11 Section 66. Subsection (10) of section 468.1145,
12 Florida Statutes, is amended to read:

13 468.1145 Fees; establishment; disposition.--

14 (10) All moneys derived from fees and fines imposed
15 pursuant to this part shall be deposited as required by s.
16 455.587 ~~215.37~~.

17 Section 67. Subsection (4) of section 468.1185,
18 Florida Statutes, is amended to read:

19 468.1185 Licensure.--

20 (4) The board may refuse to certify any applicant who
21 is under investigation in any jurisdiction for an act which
22 would constitute a violation of this part or part II of
23 chapter 455 until the investigation is complete and
24 disciplinary proceedings have been terminated.

25 Section 68. Subsection (1) of section 468.1295,
26 Florida Statutes, is amended to read:

27 468.1295 Disciplinary proceedings.--

28 (1) The following acts constitute grounds for both
29 disciplinary actions as set forth in subsection (2) and cease
30 and desist or other related actions by the department as set
31 forth in s. 455.637 ~~455.228~~:

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

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

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

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

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

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

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

29 (h) Practicing with a revoked, suspended, inactive, or
30 delinquent license.

31

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

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

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

13 (l) Aiding, assisting, procuring, employing, or
14 advising any licensee or business entity to practice
15 speech-language pathology or audiology contrary to this part,
16 part II of chapter 455, or any rule adopted pursuant thereto.

17 (m) Violating any provision of this part or part II of
18 chapter 455 or any rule adopted pursuant thereto.

19 (n) Misrepresenting the professional services
20 available in the fitting, sale, adjustment, service, or repair
21 of a hearing aid, or using any other term or title which might
22 connote the availability of professional services when such
23 use is not accurate.

24 (o) Representing, advertising, or implying that a
25 hearing aid or its repair is guaranteed without providing full
26 disclosure of the identity of the guarantor; the nature,
27 extent, and duration of the guarantee; and the existence of
28 conditions or limitations imposed upon the guarantee.

29 (p) Representing, directly or by implication, that a
30 hearing aid utilizing bone conduction has certain specified
31 features, such as the absence of anything in the ear or

1 leading to the ear, or the like, without disclosing clearly
2 and conspicuously that the instrument operates on the bone
3 conduction principle and that in many cases of hearing loss
4 this type of instrument may not be suitable.

5 (q) Stating or implying that the use of any hearing
6 aid will improve or preserve hearing or prevent or retard the
7 progression of a hearing impairment or that it will have any
8 similar or opposite effect.

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

11 (s) Representing or implying that a hearing aid is or
12 will be "custom-made," "made to order," or
13 "prescription-made," or in any other sense specially
14 fabricated for an individual, when such is not the case.

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

20 (u) Failing to notify the department in writing of a
21 change in current mailing and place-of-practice address within
22 30 days after such change.

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

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

28 (x) Practicing or offering to practice beyond the
29 scope permitted by law or accepting and performing
30 professional responsibilities the licensee or
31

1 certificateholder knows, or has reason to know, the licensee
2 or certificateholder is not competent to perform.

3 (y) Aiding, assisting, procuring, or employing any
4 unlicensed person to practice speech-language pathology or
5 audiology.

6 (z) Delegating or contracting for the performance of
7 professional responsibilities by a person when the licensee
8 delegating or contracting for performance of such
9 responsibilities knows, or has reason to know, such person is
10 not qualified by training, experience, and authorization to
11 perform them.

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

15 (bb) Being unable to practice the profession for which
16 he or she is licensed or certified under this chapter with
17 reasonable skill or competence as a result of any mental or
18 physical condition or by reason of illness, drunkenness, or
19 use of drugs, narcotics, chemicals, or any other substance. In
20 enforcing this paragraph, upon a finding by the secretary, his
21 or her designee, or the board that probable cause exists to
22 believe that the licensee or certificateholder is unable to
23 practice the profession because of the reasons stated in this
24 paragraph, the department shall have the authority to compel a
25 licensee or certificateholder to submit to a mental or
26 physical examination by a physician, psychologist, clinical
27 social worker, marriage and family therapist, or mental health
28 counselor designated by the department or board. If the
29 licensee or certificateholder refuses to comply with the
30 department's order directing the examination, such order may
31 be enforced by filing a petition for enforcement in the

1 circuit court in the circuit in which the licensee or
2 certificateholder resides or does business. The department
3 shall be entitled to the summary procedure provided in s.
4 51.011. A licensee or certificateholder affected under this
5 paragraph shall at reasonable intervals be afforded an
6 opportunity to demonstrate that he or she can resume the
7 competent practice for which he or she is licensed or
8 certified with reasonable skill and safety to patients.

9 Section 69. Subsection (4) of section 468.1665,
10 Florida Statutes, is amended to read:

11 468.1665 Board of Nursing Home Administrators;
12 membership; appointment; terms.--

13 (4) All provisions of part II of chapter 455 relating
14 to activities of regulatory boards shall apply.

15 Section 70. Paragraphs (a) and (h) of subsection (1)
16 of section 468.1755, Florida Statutes, are amended to read:

17 468.1755 Disciplinary proceedings.--

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

20 (a) Violation of any provision of s. ~~455.624~~455.227(1)
21 or s. 468.1745(1).

22 (h) A violation or repeated violations of this part,
23 part II of chapter 455, or any rules promulgated pursuant
24 thereto.

25 Section 71. Section 468.1756, Florida Statutes, is
26 amended to read:

27 468.1756 Statute of limitations.--An administrative
28 complaint may only be filed pursuant to s. 455.621 ~~455.225~~ for
29 an act listed in paragraphs (1)(c)-(p) of s. 468.1755 within 4
30 years from the time of the incident giving rise to the
31

1 complaint, or within 4 years from the time the incident is
2 discovered or should have been discovered.

3 Section 72. Subsection (5) of section 468.205, Florida
4 Statutes, is amended to read:

5 468.205 Board of Occupational Therapy Practice.--

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

8 Section 73. Subsection (1) of section 468.219, Florida
9 Statutes, is amended to read:

10 468.219 Renewal of license; continuing education.--

11 (1) Licenses issued under this part are subject to
12 biennial renewal as provided in s. 455.521 ~~455.203~~.

13 Section 74. Subsection (3) of section 468.364, Florida
14 Statutes, is amended to read:

15 468.364 Fees; establishment; disposition.--

16 (3) All moneys collected by the department under this
17 part shall be deposited as required by s. 455.587 ~~215.37~~.

18 Section 75. Paragraph (j) of subsection (1) of section
19 468.365, Florida Statutes, is amended to read:

20 468.365 Disciplinary grounds and actions.--

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

23 (j) Violation of any rule adopted pursuant to this
24 part or part II of chapter 455.

25 Section 76. Paragraph (b) of subsection (1) of section
26 468.402, Florida Statutes, is amended to read:

27 468.402 Duties of the department; authority to issue
28 and revoke license; adoption of rules.--

29 (1) The department may take any one or more of the
30 actions specified in subsection (5) against any person who
31 has:

1 (b) Violated any provision of this part, part I of
2 chapter 455, any lawful disciplinary order of the department,
3 or any rule of the department.

4 Section 77. Subsection (3) of section 468.4315,
5 Florida Statutes, is amended to read:

6 468.4315 Regulatory Council of Community Association
7 Managers.--

8 (3) To the extent the council is authorized to
9 exercise functions otherwise exercised by a board pursuant to
10 part I of chapter 455, the provisions of part I of chapter 455
11 and s. 20.165 relating to regulatory boards shall apply,
12 including, but not limited to, provisions relating to board
13 rules and the accountability and liability of board members.
14 All proceedings and actions of the council are subject to the
15 provisions of chapter 120. In addition, the provisions of
16 part I of chapter 455 and s. 20.165 shall apply to the
17 department in carrying out the duties and authorities
18 conferred upon the department by this part.

19 Section 78. Paragraphs (c) and (d) of subsection (2)
20 of section 468.453, Florida Statutes, are amended to read:

21 468.453 Licensure required; qualifications;
22 examination; bond.--

23 (2) A person shall be licensed as an athlete agent if
24 the applicant:

25 (c) Passes an examination provided by the department
26 which tests the applicant's proficiency to practice as an
27 athlete agent, including, but not limited to, knowledge of the
28 laws and rules of this state relating to athlete agents, this
29 part, and part I of chapter 455.

30 (d) Has completed the application form and remitted an
31 application fee not to exceed \$500, an examination fee not to

1 exceed the actual cost for the examination plus \$500, an
2 active licensure fee not to exceed \$2,000, and all other
3 applicable fees provided for in this part or in part I of
4 chapter 455.

5 Section 79. Paragraph (a) of subsection (1) of section
6 468.456, Florida Statutes, is amended to read:

7 468.456 Prohibited acts.--

8 (1) The following acts shall be grounds for the
9 disciplinary actions provided for in subsection (3):

10 (a) A violation of any law relating to the practice as
11 an athlete agent including, but not limited to, violations of
12 this part and part I of chapter 455 and any rules promulgated
13 thereunder.

14 Section 80. Subsection (1) of section 468.4571,
15 Florida Statutes, is amended to read:

16 468.4571 Saving clauses.--

17 (1) An athlete agent registration valid on October 1,
18 1995, shall remain in full force and effect until the
19 expiration of the registration. Upon expiration of such valid
20 registration, the registrant shall be entitled to licensure
21 pursuant to this part, provided that any discipline in effect
22 pursuant to that registration shall be continued as discipline
23 under the new license. All regulation of athlete agents and
24 all licenses or permits for athlete agents shall be applied
25 for and renewed in accordance with this part and part I of
26 chapter 455.

27 Section 81. Section 468.506, Florida Statutes, is
28 amended to read:

29 468.506 Dietetics and Nutrition Practice
30 Council.--There is created the Dietetics and Nutrition
31 Practice Council under the supervision of the board. The

1 council shall consist of four persons licensed under this part
2 and one consumer who is 60 years of age or older. Council
3 members shall be appointed by the board. Licensed members
4 shall be appointed based on the proportion of licensees within
5 each of the respective disciplines. Members shall be
6 appointed for 4-year staggered terms. In order to be eligible
7 for appointment, each licensed member must have been a
8 licensee under this part for at least 3 years prior to his or
9 her appointment. No council member shall serve more than two
10 successive terms. The board may delegate such powers and
11 duties to the council as it may deem proper to carry out the
12 operations and procedures necessary to effectuate the
13 provisions of this part. However, the powers and duties
14 delegated to the council by the board must encompass both
15 dietetics and nutrition practice and nutrition counseling. Any
16 time there is a vacancy on the council, any professional
17 association composed of persons licensed under this part may
18 recommend licensees to fill the vacancy to the board in a
19 number at least twice the number of vacancies to be filled,
20 and the board may appoint from the submitted list, in its
21 discretion, any of those persons so recommended. Any
22 professional association composed of persons licensed under
23 this part may file an appeal regarding a council appointment
24 with the director of the agency, whose decision shall be
25 final. The board shall fix council members' compensation and
26 pay their expenses in the same manner as provided in s.
27 455.534 ~~455.207~~.

28 Section 82. Section 468.507, Florida Statutes, is
29 amended to read:

30 468.507 Authority to adopt rules.--The board may adopt
31 such rules not inconsistent with law as may be necessary to

1 carry out the duties and authority conferred upon the board by
2 this part and part II of chapter 455. The powers and duties
3 of the board as set forth in this part shall in no way limit
4 or interfere with the powers and duties of the board as set
5 forth in chapter 458. All powers and duties of the board set
6 forth in this part shall be supplemental and additional powers
7 and duties to those conferred upon the board by chapter 458.

8 Section 83. Subsection (3) of section 468.513, Florida
9 Statutes, is amended to read:

10 468.513 Dietitian/nutritionist; licensure by
11 endorsement.--

12 (3) The agency shall not issue a license by
13 endorsement under this section to any applicant who is under
14 investigation in any jurisdiction for any act which would
15 constitute a violation of this part or part II of chapter 455
16 until such time as the investigation is complete and
17 disciplinary proceedings have been terminated.

18 Section 84. Paragraph (a) of subsection (1) of section
19 468.518, Florida Statutes, is amended to read:

20 468.518 Grounds for disciplinary action.--

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

23 (a) Violating any provision of this part, any board or
24 agency rule adopted pursuant thereto, or any lawful order of
25 the board or agency previously entered in a disciplinary
26 hearing held pursuant to this part, or failing to comply with
27 a lawfully issued subpoena of the agency. The provisions of
28 this paragraph also apply to any order or subpoena previously
29 issued by the Department of Health ~~Business and Professional~~
30 ~~Regulation~~ during its period of regulatory control over this
31 part.

1 Section 85. Section 468.523, Florida Statutes, is
2 amended to read:

3 468.523 Applicability of s. 20.165 and pt. I of ch.
4 455.--All provisions of s. 20.165 and part I of chapter 455
5 relating to activities of regulatory boards shall apply.

6 Section 86. Subsection (3) of section 468.526, Florida
7 Statutes, is amended to read:

8 468.526 License required; fees.--

9 (3) Each employee leasing company and employee leasing
10 company group licensee shall pay to the department upon the
11 initial issuance of a license and upon each renewal thereafter
12 a license fee not to exceed \$2,500 to be established by the
13 board. In addition to the license fee, the board shall
14 establish an annual assessment for each employee leasing
15 company and each employee leasing company group sufficient to
16 cover all costs for regulation of the profession pursuant to
17 this chapter, part I of chapter 455, and any other applicable
18 provisions of law. The annual assessment shall:

19 (a) Be due and payable upon initial licensure and
20 subsequent renewals thereof and 1 year before the expiration
21 of any licensure period; and

22 (b) Be based on a fixed percentage, variable classes,
23 or a combination of both, as determined by the board, of gross
24 Florida payroll for employees leased to clients by the
25 applicant or licensee during the period beginning five
26 quarters before and ending one quarter before each assessment.
27 It is the intent of the Legislature that the greater weight of
28 total fees for licensure and assessments should be on larger
29 companies and groups.

30 Section 87. Paragraph (i) of subsection (1) of section
31 468.532, Florida Statutes, is amended to read:

1 468.532 Discipline.--

2 (1) The following constitute grounds for which
3 disciplinary action against a licensee may be taken by the
4 board:

5 (i) Violating any provision of this part or any lawful
6 order or rule issued under the provisions of this part or part
7 I of chapter 455.

8 Section 88. Subsection (1) of section 468.535, Florida
9 Statutes, is amended to read:

10 468.535 Investigations; audits; review.--

11 (1) The department may make investigations, audits, or
12 reviews within or outside this state as it deems necessary:

13 (a) To determine whether a person or company has
14 violated or is in danger of violating any provision of this
15 part, part I of chapter 455, or any rule or order thereunder;
16 or

17 (b) To aid in the enforcement of this part or part I
18 of chapter 455.

19 Section 89. Subsections (7) and (9) of section
20 468.701, Florida Statutes, are amended to read:

21 468.701 Definitions.--As used in this part, the term:

22 (7) "Department" means the Department of Health
23 ~~Business and Professional Regulation~~.

24 (9) "Secretary" means the Secretary of Health ~~Business~~
25 ~~and Professional Regulation~~.

26 Section 90. Subsections (2) and (4) of section
27 468.703, Florida Statutes, are amended to read:

28 468.703 Council of Athletic Training.--

29 (2) Four members of the council shall be licensed
30 athletic trainers. One member of the council shall be a
31 physician licensed under chapter 458 or chapter 459. One

1 member of the council shall be a physician licensed under
2 chapter 460 and certified in the specialty of sports medicine
3 by the Chiropractic Council on Sports Medicine. One member of
4 the council shall be a resident of this state who has never
5 worked as an athletic trainer, who has no financial interest
6 in the practice of athletic training, and who has never been a
7 licensed health care practitioner as defined in s.

8 455.501~~455.01~~(4). Members of the council shall serve staggered
9 4-year terms as determined by rule of the department; however,
10 no member may serve more than two consecutive terms.

11 (4) Members of the council shall be entitled to
12 compensation and reimbursement for expenses in the same manner
13 as board members are compensated and reimbursed under s.
14 455.534 ~~455.207~~.

15 Section 91. Subsection (2) of section 468.707, Florida
16 Statutes, is amended to read:

17 468.707 Licensure by examination; requirements.--

18 (2) Pursuant to the requirements of s. 455.604
19 ~~455.2228~~, each applicant shall complete a continuing education
20 course on human immunodeficiency virus and acquired immune
21 deficiency syndrome as part of initial licensure.

22 Section 92. Subsections (1) and (3) of section
23 468.711, Florida Statutes, are amended to read:

24 468.711 Renewal of license; continuing education.--

25 (1) The department shall renew a license upon receipt
26 of the renewal application and fee, provided the applicant is
27 in compliance with the provisions of this part, part II of
28 chapter 455, and rules promulgated pursuant thereto.

29 (3) Pursuant to the requirements of s. 455.604
30 ~~455.2228~~, each licensee shall complete a continuing education
31

1 course on human immunodeficiency virus and acquired immune
2 deficiency syndrome as part of biennial relicensure.

3 Section 93. Paragraph (a) of subsection (1) and
4 subsection (2) of section 468.719, Florida Statutes, are
5 amended to read:

6 468.719 Disciplinary actions.--

7 (1) The following acts shall be grounds for
8 disciplinary actions provided for in subsection (2):

9 (a) A violation of any law relating to the practice of
10 athletic training, including, but not limited to, any
11 violation of this part, s. 455.624 ~~455.227~~, or any rule
12 adopted pursuant thereto.

13 (2) When the department finds any person guilty of any
14 of the acts set forth in subsection (1), the department may
15 enter an order imposing one or more of the penalties provided
16 in s. 455.624 ~~455.227~~.

17 Section 94. Subsection (4) of section 468.801, Florida
18 Statutes, is amended to read:

19 468.801 Board of Orthotists and Prosthetists;
20 appointment; membership; terms; headquarters.--

21 (4) The provisions of part II of chapter 455 relating
22 to activities of regulatory boards apply to the board.

23 Section 95. Subsections (1) and (2) of section
24 468.811, Florida Statutes, are amended to read:

25 468.811 Disciplinary proceedings.--

26 (1) The following acts are grounds for disciplinary
27 action against a licensee and the issuance of cease and desist
28 orders or other related action by the department, pursuant to
29 s. 455.624 ~~455.227~~, against any person who engages in or aids
30 in a violation.

31

1 (a) Attempting to procure a license by fraudulent
2 misrepresentation.

3 (b) Having a license to practice orthotics,
4 prosthetics, or pedorthics revoked, suspended, or otherwise
5 acted against, including the denial of licensure in another
6 jurisdiction.

7 (c) Being convicted or found guilty of or pleading
8 nolo contendere to, regardless of adjudication, in any
9 jurisdiction, a crime that directly relates to the practice of
10 orthotics, prosthetics, or pedorthics, including violations of
11 federal laws or regulations regarding orthotics, prosthetics,
12 or pedorthics.

13 (d) Filing a report or record that the licensee knows
14 is false, intentionally or negligently failing to file a
15 report or record required by state or federal law, willfully
16 impeding or obstructing such filing, or inducing another
17 person to impede or obstruct such filing. Such reports or
18 records include only reports or records that are signed in a
19 person's capacity as a licensee under this act.

20 (e) Advertising goods or services in a fraudulent,
21 false, deceptive, or misleading manner.

22 (f) Violation of this act or part II of chapter 455,
23 or any rules adopted thereunder.

24 (g) Violation of an order of the board, agency, or
25 department previously entered in a disciplinary hearing or
26 failure to comply with a subpoena issued by the board, agency,
27 or department.

28 (h) Practicing with a revoked, suspended, or inactive
29 license.

30 (i) Gross or repeated malpractice or the failure to
31 deliver orthotic, prosthetic, or pedorthic services with that

1 level of care and skill which is recognized by a reasonably
2 prudent licensed practitioner with similar professional
3 training as being acceptable under similar conditions and
4 circumstances.

5 (j) Failing to provide written notice of any
6 applicable warranty for an orthosis, prosthesis, or pedorthic
7 device that is provided to a patient.

8 (2) The board may enter an order imposing one or more
9 of the penalties in s. ~~455.624~~455.227(2) against any person
10 who violates any provision of subsection (1).

11 Section 96. Paragraph (b) of subsection (1) of section
12 469.009, Florida Statutes, is amended to read:

13 469.009 License revocation, suspension, and denial of
14 issuance or renewal.--

15 (1) The department may revoke, suspend, or deny the
16 issuance or renewal of a license; reprimand, censure, or place
17 on probation any contractor, consultant, financially
18 responsible officer, or business organization; require
19 financial restitution to a consumer; impose an administrative
20 fine not to exceed \$5,000 per violation; require continuing
21 education; or assess costs associated with any investigation
22 and prosecution if the contractor or consultant, or business
23 organization or officer or agent thereof, is found guilty of
24 any of the following acts:

25 (b) Violating any provision of part I of chapter 455.

26
27 For the purposes of this subsection, construction is
28 considered to be commenced when the contract is executed and
29 the contractor has accepted funds from the customer or lender.

30 Section 97. Subsection (4) of section 470.003, Florida
31 Statutes, is amended to read:

1 470.003 Board of Funeral Directors and Embalmers;
2 membership; appointment; terms.--

3 (4) All provisions of part I of chapter 455 and s.
4 20.165 relating to activities of regulatory boards shall
5 apply.

6 Section 98. Paragraph (h) of subsection (1) of section
7 470.036, Florida Statutes, is amended to read:

8 470.036 Disciplinary proceedings.--

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

11 (h) A violation or repeated violation of this chapter
12 or of part I of chapter 455 and any rules promulgated pursuant
13 thereto.

14 Section 99. Section 471.008, Florida Statutes, is
15 amended to read:

16 471.008 Rules of the board.--The board may adopt such
17 rules not inconsistent with law as may be necessary to carry
18 out the duties and authority conferred upon the board by this
19 chapter or part I of chapter 455.

20 Section 100. Subsection (4) of section 471.015,
21 Florida Statutes, is amended to read:

22 471.015 Licensure.--

23 (4) The department shall not issue a license by
24 endorsement to any applicant who is under investigation in
25 another state for any act that would constitute a violation of
26 ss. 471.001-471.037 or of part I of chapter 455 until such
27 time as the investigation is complete and disciplinary
28 proceedings have been terminated.

29 Section 101. Paragraphs (c) and (h) of subsection (1)
30 of section 471.033, Florida Statutes, are amended to read:

31 471.033 Disciplinary proceedings.--

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

3 (c) Having a license to practice engineering revoked,
4 suspended, or otherwise acted against, including the denial of
5 licensure, by the licensing authority of another state,
6 territory, or country, for any act that would constitute a
7 violation of this chapter or part I of chapter 455.

8 (h) Violating part I of chapter 455.

9 Section 102. Subsections (4) and (5) of section
10 471.038, Florida Statutes, are amended to read:

11 471.038 Florida Engineers Management Corporation.--

12 (4) The Florida Engineers Management Corporation is
13 created to provide administrative, investigative, and
14 prosecutorial services to the board in accordance with the
15 provisions of part I of chapter 455 and this chapter. The
16 corporation may hire staff as necessary to carry out its
17 functions. Such staff are not public employees for the
18 purposes of chapter 110 or chapter 112. The provisions of s.
19 768.28 apply to the corporation, which is deemed to be a
20 corporation primarily acting as an instrumentality of the
21 state, but which is not an agency within the meaning of s.
22 20.03(11). The corporation shall:

23 (a) Be a Florida corporation not for profit,
24 incorporated under the provisions of chapter 617.

25 (b) Provide administrative, investigative, and
26 prosecutorial services to the board in accordance with the
27 provisions of part I of chapter 455 and this chapter.

28 (c) Receive, hold, and administer property and make
29 expenditures for the benefit of the board.

30
31

1 (d) Be approved by the board and the department to
2 operate for the benefit of the board and in the best interest
3 of the state.

4 (e) Operate under a fiscal year that begins on July 1
5 of each year and ends on June 30 of the following year.

6 (f) Have a seven-member board of directors, five of
7 whom are to be appointed by the board and must be registrants
8 regulated by the board and two of whom are to be appointed by
9 the secretary and must be laypersons not regulated by the
10 board. The corporation shall select its officers in accordance
11 with its bylaws. The members of the board of directors may be
12 removed by the board, with the concurrence of the department,
13 for the same reasons that a board member may be removed.

14 (g) Operate under a written contract with the
15 department which is approved by the board and renewed
16 annually. The initial contract must be entered into no later
17 than March 1, 1998. The contract must provide for:

18 1. Approval of the articles of incorporation and
19 bylaws of the corporation by the department and the board.

20 2. Submission by the corporation of an annual budget
21 that complies with board rules for approval by the board and
22 the department.

23 3. Annual certification by the board and the
24 department that the corporation is complying with the terms of
25 the contract in a manner consistent with the goals and
26 purposes of the board and in the best interest of the state.
27 This certification must be reported in the board's minutes.

28 4. Employment by the department of a contract
29 administrator to actively supervise the administrative,
30 investigative, and prosecutorial activities of the corporation
31 to ensure compliance with the contract and the provisions of

1 part I of chapter 455 and this chapter and to act as a liaison
2 for the department, the board, and the corporation to ensure
3 the effective operation of the corporation.

4 5. Funding of the corporation through appropriations
5 allocated to the regulation of professional engineers from the
6 Professional Regulation Trust Fund.

7 6. The reversion to the board, or the state if the
8 board ceases to exist, of moneys and property held in trust by
9 the corporation for the benefit of the board, if the
10 corporation is no longer approved to operate for the board or
11 the board ceases to exist.

12 7. The securing and maintaining by the corporation,
13 during the term of the contract and for all acts performed
14 during the term of the contract, of all liability insurance
15 coverages in an amount to be approved by the department to
16 defend, indemnify, and hold harmless the corporation and its
17 officers and employees, the department and its employees, and
18 the state against all claims arising from state and federal
19 laws. Such insurance coverage must be with insurers qualified
20 and doing business in the state. The corporation must provide
21 proof of insurance to the department. The department and its
22 employees and the state are exempt from and are not liable for
23 any sum of money which represents a deductible, which sums
24 shall be the sole responsibility of the corporation. Violation
25 of this subparagraph shall be grounds for terminating the
26 contract.

27 (h) Provide for an annual financial and compliance
28 audit of its financial accounts and records by an independent
29 certified public accountant in conjunction with the Auditor
30 General. The annual audit report must be submitted to the
31 board and the department for review and approval. Copies of

1 the audit must be submitted to the secretary and the
2 Legislature together with any other information requested by
3 the secretary, the board, or the Legislature.

4 (i) Submit to the secretary, the board, and the
5 Legislature, on or before January 1 of each year, a report on
6 the status of the corporation which includes, but is not
7 limited to, information concerning the programs and funds that
8 have been transferred to the corporation. The report must
9 include: the number of license applications received; the
10 number approved and denied and the number of licenses issued;
11 the number of examinations administered and the number of
12 applicants who passed or failed the examination; the number of
13 complaints received; the number determined to be legally
14 sufficient; the number dismissed; the number determined to
15 have probable cause; the number of administrative complaints
16 issued and the status of the complaints; and the number and
17 nature of disciplinary actions taken by the board.

18 (5) The corporation may not exercise any authority
19 specifically assigned to the board under part I of chapter 455
20 or this chapter, including determining probable cause to
21 pursue disciplinary action against a licensee, taking final
22 action on license applications or in disciplinary cases, or
23 adopting administrative rules under chapter 120.

24 Section 103. Subsection (4) of section 472.015,
25 Florida Statutes, is amended to read:

26 472.015 Licensure.--

27 (4) The department shall not issue a license by
28 endorsement to any applicant who is under investigation in
29 another state for any act that would constitute a violation of
30 ss. 472.001-472.041 or part I of chapter 455 until such time
31

1 as the investigation is complete and disciplinary proceedings
2 have been terminated.

3 Section 104. Subsection (1) of section 473.3035,
4 Florida Statutes, is amended to read:

5 473.3035 Division of Certified Public Accounting.--

6 (1) All services concerning this chapter, including,
7 but not limited to, recordkeeping services, examination
8 services, legal services, and investigative services, and
9 those services in part I of chapter 455 necessary to perform
10 the duties of this chapter shall be provided by the Division
11 of Certified Public Accounting. The board may, by majority
12 vote, delegate a duty or duties to the appropriate division
13 within the department. The board may, by majority vote,
14 rescind any such delegation of duties at any time.

15 Section 105. Subsection (5) of section 473.308,
16 Florida Statutes, is amended to read:

17 473.308 Licensure.--

18 (5) The board may refuse to certify for licensure any
19 applicant who is under investigation in another state for any
20 act which would constitute a violation of this act or part I
21 of chapter 455, until such time as the investigation is
22 complete and disciplinary proceedings have been terminated.

23 Section 106. Subsection (1) of section 473.311,
24 Florida Statutes, is amended to read:

25 473.311 Renewal of license.--

26 (1) The department shall renew a license upon receipt
27 of the renewal application and fee and upon certification by
28 the board that the licensee has satisfactorily completed the
29 continuing education requirements of s. 473.312 and has passed
30 an examination approved by the board on part I of chapter 455
31 and this chapter and the related administrative rules.

1 Section 107. Paragraph (h) of subsection (1) of
2 section 473.323, Florida Statutes, is amended to read:

3 473.323 Disciplinary proceedings.--

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

6 (h) Violation of any rule adopted pursuant to this
7 chapter or part I of chapter 455.

8 Section 108. Subsection (3) of section 474.204,
9 Florida Statutes, is amended to read:

10 474.204 Board of Veterinary Medicine.--

11 (3) All provisions of part I of chapter 455 relating
12 to activities of regulatory boards shall apply.

13 Section 109. Paragraph (f) of subsection (1) of
14 section 474.214, Florida Statutes, is amended to read:

15 474.214 Disciplinary proceedings.--

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

18 (f) Violating any provision of this chapter or part I
19 of chapter 455, a rule of the board or department, or a lawful
20 order of the board or department previously entered in a
21 disciplinary hearing, or failing to comply with a lawfully
22 issued subpoena of the department.

23 Section 110. Section 474.2145, Florida Statutes, is
24 amended to read:

25 474.2145 Subpoena of certain records.--Notwithstanding
26 any provision of law to the contrary ~~the provisions of s.~~
27 ~~455.241~~, the department may issue subpoenas duces tecum
28 requiring the names and addresses of some or all the clients
29 of a licensed veterinarian against whom a complaint has been
30 filed pursuant to s. 455.225 when the information has been
31

1 deemed necessary and relevant to the investigation as
2 determined by the secretary of the department.

3 Section 111. Subsection (1) of section 475.021,
4 Florida Statutes, is amended to read:

5 475.021 Division of Real Estate.--

6 (1) All services concerning this chapter, including,
7 but not limited to, recordkeeping services, examination
8 services, legal services, and investigative services, and
9 those services in part I of chapter 455 necessary to perform
10 the duties of this chapter shall be provided by the Division
11 of Real Estate. The commission may, by majority vote,
12 delegate a duty or duties to the appropriate division within
13 the department. The commission may, by majority vote, rescind
14 any such delegation of duties at any time.

15 Section 112. Subsection (3) of section 475.181,
16 Florida Statutes, is amended to read:

17 475.181 Licensure.--

18 (3) The department may not issue a license to any
19 applicant who is under investigation in any other state,
20 territory, or jurisdiction of the United States or any foreign
21 national jurisdiction for any act that would constitute a
22 violation of this part or part I of chapter 455 until such
23 time as the investigation is complete and disciplinary
24 proceedings have been terminated.

25 Section 113. Paragraph (e) of subsection (1) of
26 section 475.25, Florida Statutes, is amended to read:

27 475.25 Discipline.--

28 (1) The commission may deny an application for
29 licensure, registration, or permit, or renewal thereof; may
30 place a licensee, registrant, or permittee on probation; may
31 suspend a license, registration, or permit for a period not

1 exceeding 10 years; may revoke a license, registration, or
2 permit; may impose an administrative fine not to exceed \$1,000
3 for each count or separate offense; and may issue a reprimand,
4 and any or all of the foregoing, if it finds that the
5 licensee, registrant, permittee, or applicant:

6 (e) Has violated any of the provisions of this chapter
7 or any lawful order or rule made or issued under the
8 provisions of this chapter or part I of chapter 455.

9 Section 114. Subsection (4) of section 475.624,
10 Florida Statutes, is amended to read:

11 475.624 Discipline.--The board may deny an application
12 for registration, licensure, or certification; investigate the
13 actions of any appraiser registered, licensed, or certified
14 under this section; and may reprimand, fine, revoke, or
15 suspend, for a period not to exceed 10 years, the
16 registration, license, or certification of any such appraiser,
17 or place any such appraiser on probation if it finds that the
18 registrant, licensee, or certificateholder:

19 (4) Has violated any of the provisions of this section
20 or any lawful order or rule issued under the provisions of
21 this section or part I of chapter 455.

22 Section 115. Paragraph (i) of subsection (1) of
23 section 476.204, Florida Statutes, is amended to read:

24 476.204 Penalties.--

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

26 (i) Violate or refuse to comply with any provision of
27 this chapter or part I of chapter 455 or a rule or final order
28 of the board.

29 Section 116. Paragraph (i) of subsection (1) of
30 section 477.029, Florida Statutes, is amended to read:

31 477.029 Penalty.--

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

2 (i) Violate or refuse to comply with any provision of
3 this chapter or part I of chapter 455 or a rule or final order
4 of the board or the department.

5 Section 117. Subsection (5) of section 480.044,
6 Florida Statutes, is amended to read:

7 480.044 Fees; disposition.--

8 (5) All moneys collected by the department from fees
9 authorized by this act shall be paid into the Medical Quality
10 Assurance Professional Regulation Trust Fund in the department
11 and shall be applied in accordance with the provisions of ss.
12 455.587 ~~215.37~~ and ~~455.219~~. The Legislature may appropriate
13 any excess moneys from this fund to the General Revenue Fund.

14 Section 118. Section 481.2055, Florida Statutes, is
15 amended to read:

16 481.2055 Authority to make rules.--The board may adopt
17 such rules, not inconsistent with law, as may be necessary to
18 carry out the duties and authority conferred upon the board by
19 this part and part I of chapter 455.

20 Section 119. Subsection (5) of section 481.213,
21 Florida Statutes, is amended to read:

22 481.213 Licensure.--

23 (5) The board may refuse to certify any applicant who
24 is under investigation in any jurisdiction for any act which
25 would constitute a violation of this part or of part I of
26 chapter 455 until such time as the investigation is complete
27 and disciplinary proceedings have been terminated.

28 Section 120. Paragraphs (a) and (c) of subsection (1)
29 of section 481.225, Florida Statutes, are amended to read:

30 481.225 Disciplinary proceedings against registered
31 architects.--

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

3 (a) Violating any provision of s. 455.227(1), s.
4 481.221, or s. 481.223, or any rule of the board or department
5 lawfully adopted pursuant to this part or part I of chapter
6 455.

7 (c) Having a license to practice architecture revoked,
8 suspended, or otherwise acted against, including the denial of
9 licensure, by the licensing authority of another state,
10 territory, or country, for any act that would constitute a
11 violation of this part or of part I of chapter 455.

12 Section 121. Subsection (1) of section 481.2251,
13 Florida Statutes, is amended to read:

14 481.2251 Disciplinary proceedings against registered
15 interior designers.--

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

19 (a) Attempting to obtain, obtaining, or renewing, by
20 bribery, by fraudulent misrepresentation, or through an error
21 of the board, a license to practice interior design;

22 (b) Having a license to practice interior design
23 revoked, suspended, or otherwise acted against, including the
24 denial of licensure, by the licensing authority of another
25 jurisdiction for any act which would constitute a violation of
26 this part or of part I of chapter 455;

27 (c) Being convicted or found guilty, regardless of
28 adjudication, of a crime in any jurisdiction which directly
29 relates to the provision of interior design services or to the
30 ability to provide interior design services. A plea of nolo
31 contendere shall create a rebuttable presumption of guilt to

1 the underlying criminal charges. However, the board shall
2 allow the person being disciplined to present any evidence
3 relevant to the underlying charges and the circumstances
4 surrounding her or his plea;

5 (d) False, deceptive, or misleading advertising;

6 (e) Failing to report to the board any person who the
7 licensee knows is in violation of this part or the rules of
8 the board;

9 (f) Aiding, assisting, procuring, or advising any
10 unlicensed person to use the title "interior designer"
11 contrary to this part or to a rule of the board;

12 (g) Failing to perform any statutory or legal
13 obligation placed upon a registered interior designer;

14 (h) Making or filing a report which the licensee knows
15 to be false, intentionally or negligently failing to file a
16 report or record required by state or federal law, or
17 willfully impeding or obstructing such filing or inducing
18 another person to do so. Such reports or records shall
19 include only those which are signed in the capacity as a
20 registered interior designer;

21 (i) Making deceptive, untrue, or fraudulent
22 representations in the provision of interior design services;

23 (j) Accepting and performing professional
24 responsibilities which the licensee knows or has reason to
25 know that she or he is not competent or licensed to perform;

26 (k) Violating any provision of this part, any rule of
27 the board, or a lawful order of the board previously entered
28 in a disciplinary hearing;

29 (l) Conspiring with another licensee or with any other
30 person to commit an act, or committing an act, which would
31

1 tend to coerce, intimidate, or preclude another licensee from
2 lawfully advertising her or his services;

3 (m) Acceptance of compensation or any consideration by
4 an interior designer from someone other than the client
5 without full disclosure of the compensation or consideration
6 amount or value to the client prior to the engagement for
7 services, in violation of s. 481.2131(2); or

8 (n) Rendering or offering to render architectural
9 services.

10 Section 122. Section 481.306, Florida Statutes, is
11 amended to read:

12 481.306 Authority to make rules.--The board may adopt
13 such rules, not inconsistent with law, as may be necessary to
14 carry out the duties and authority conferred upon the board by
15 this chapter and part I of chapter 455.

16 Section 123. Subsection (5) of section 481.311,
17 Florida Statutes, is amended to read:

18 481.311 Licensure.--

19 (5) The board may refuse to certify any applicant who
20 is under investigation in any jurisdiction for any act which
21 would constitute a violation of this act or of part I of
22 chapter 455, until the investigation is complete and
23 disciplinary proceedings have been terminated.

24 Section 124. Paragraph (h) of subsection (1) of
25 section 481.325, Florida Statutes, is amended to read:

26 481.325 Disciplinary proceedings.--

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

29 (h) Violation of any rule adopted pursuant to this
30 part or part I of chapter 455.

31

1 Section 125. Subsection (5) of section 483.805,
2 Florida Statutes, is amended to read:

3 483.805 Board of Clinical Laboratory Personnel.--

4 (5) All provisions of part II of chapter 455 relating
5 to activities of regulatory boards shall apply to the board.

6 Section 126. Subsection (10) of section 483.807,
7 Florida Statutes, is amended to read:

8 483.807 Fees; establishment; disposition.--

9 (10) All fees shall be established, collected, and
10 deposited in accordance with s. 455.587 ~~455.219~~.

11 Section 127. Paragraph (j) of subsection (4) and
12 paragraph (b) of subsection (5) of section 483.901, Florida
13 Statutes, are amended to read:

14 483.901 Medical physicists; definitions; licensure.--

15 (4) COUNCIL.--The Advisory Council of Medical
16 Physicists is created in the Department of Health to advise
17 the department in regulating the practice of medical physics
18 in this state.

19 (j) A council member may be removed from the council
20 if the member:

21 1. Did not have the required qualifications at the
22 time of appointment;

23 2. Does not maintain the required qualifications while
24 serving on the council; or

25 3. Fails to attend the regularly scheduled council
26 meetings in a calendar year as required by s. 455.534 ~~455.207~~.

27 (5) POWERS OF COUNCIL.--The council shall:

28 (b) Recommend practice standards for the practice of
29 medical physics which are consistent with the Guidelines for
30 Ethical Practice for Medical Physicists prepared by the
31

1 American Association of Physicists in Medicine and
2 disciplinary guidelines adopted under s. 455.627 ~~455.2273~~.

3 Section 128. Subsection (1) of section 484.002,
4 Florida Statutes, is amended to read:

5 484.002 Definitions.--As used in this part:

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

8 Section 129. Subsection (1) of section 484.003,
9 Florida Statutes, is amended to read:

10 484.003 Board of Opticianry; membership; appointment;
11 terms.--

12 (1) The Board of Opticianry is created within the
13 Department of Health ~~Business and Professional Regulation~~ and
14 shall consist of seven members to be appointed by the Governor
15 and confirmed by the Senate.

16 Section 130. Subsection (1) of section 484.014,
17 Florida Statutes, is amended to read:

18 484.014 Disciplinary actions.--

19 (1) The following acts relating to the practice of
20 opticianry shall be grounds for both disciplinary action
21 against an optician as set forth in this section and cease and
22 desist or other related action by the department as set forth
23 in s. 455.637 ~~455.228~~ against any person operating an optical
24 establishment who engages in, aids, or abets any such
25 violation:

26 (a) Procuring or attempting to procure a license by
27 misrepresentation, bribery, or fraud or through an error of
28 the department or the board.

29 (b) Procuring or attempting to procure a license for
30 any other person by making or causing to be made any false
31 representation.

1 (c) Making or filing a report or record which the
2 licensee knows to be false, intentionally or negligently
3 failing to file a report or record required by federal or
4 state law, willfully impeding or obstructing such filing, or
5 inducing another person to do so. Such reports or records
6 shall include only those which the person is required to make
7 or file as an optician.

8 (d) Failing to make fee or price information readily
9 available by providing such information upon request or upon
10 the presentation of a prescription.

11 (e) Advertising goods or services in a manner which is
12 fraudulent, false, deceptive, or misleading in form or
13 content.

14 (f) Fraud or deceit, or negligence, incompetency, or
15 misconduct, in the authorized practice of opticianry.

16 (g) Violation or repeated violation of this part or of
17 part II of chapter 455 or any rules promulgated pursuant
18 thereto.

19 (h) Practicing with a revoked, suspended, inactive, or
20 delinquent license.

21 (i) Violation of a lawful order of the board or
22 department previously entered in a disciplinary hearing or
23 failing to comply with a lawfully issued subpoena of the
24 department.

25 (j) Violation of any provision of s. 484.012.

26 (k) Conspiring with another licensee or with any
27 person to commit an act, or committing an act, which would
28 coerce, intimidate, or preclude another licensee from lawfully
29 advertising her or his services.

30 (l) Willfully submitting to any third-party payor a
31 claim for services which were not provided to a patient.

1 (m) Failing to keep written prescription files.

2 (n) Willfully failing to report any person who the
3 licensee knows is in violation of this part or of rules of the
4 department or the board.

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

8 (p) Gross or repeated malpractice.

9 (q) Permitting any person not licensed as an optician
10 in this state to fit or dispense any lenses, spectacles,
11 eyeglasses, or other optical devices which are part of the
12 practice of opticianry.

13 (r) Being convicted or found guilty of, or entering a
14 plea of nolo contendere to, regardless of adjudication, in a
15 court of this state or other jurisdiction, a crime which
16 relates to the ability to practice opticianry or to the
17 practice of opticianry.

18 (s) Having been disciplined by a regulatory agency in
19 another state for any offense that would constitute a
20 violation of Florida law or rules regulating opticianry.

21 (t) Being unable to practice opticianry with
22 reasonable skill and safety by reason of illness or use of
23 drugs, narcotics, chemicals, or any other type of material or
24 as a result of any mental or physical condition. An optician
25 affected under this paragraph shall at reasonable intervals be
26 afforded an opportunity to demonstrate that she or he can
27 resume the competent practice of opticianry with reasonable
28 skill and safety to her or his customers.

29 Section 131. Subsection (4) of section 484.042,
30 Florida Statutes, is amended to read:

31

1 484.042 Board of Hearing Aid Specialists; membership,
2 appointment, terms.--

3 (4) All provisions of part II of chapter 455 relating
4 to activities of regulatory boards apply to the board.

5 However, notwithstanding the requirement of s.

6 455.621~~455.225~~(4) that the board provide by rule for the
7 determination of probable cause by a panel composed of its
8 members or by the department, the board may provide by rule
9 that its probable cause panel may be composed of one current
10 member of the board and one past member of the board, as long
11 as the past member is a licensed hearing aid specialist in
12 good standing. The past board member shall be appointed to
13 the panel for a maximum of 2 years by the chair of the board
14 with the approval of the secretary.

15 Section 132. Subsection (1) of section 484.056,
16 Florida Statutes, is amended to read:

17 484.056 Disciplinary proceedings.--

18 (1) The following acts relating to the practice of
19 dispensing hearing aids shall be grounds for both disciplinary
20 action against a hearing aid specialist as set forth in this
21 section and cease and desist or other related action by the
22 department as set forth in s. 455.637 ~~455.228~~ against any
23 person owning or operating a hearing aid establishment who
24 engages in, aids, or abets any such violation:

25 (a) Violation of any provision of s. 455.624~~455.227~~(1)
26 or s. 484.053.

27 (b) Attempting to procure a license to dispense
28 hearing aids by bribery, by fraudulent misrepresentations, or
29 through an error of the department or the board.

30 (c) Having a license to dispense hearing aids revoked,
31 suspended, or otherwise acted against, including the denial of

1 licensure, by the licensing authority of another state,
2 territory, or country.

3 (d) Being convicted or found guilty of, or entering a
4 plea of nolo contendere to, regardless of adjudication, a
5 crime in any jurisdiction which directly relates to the
6 practice of dispensing hearing aids or the ability to practice
7 dispensing hearing aids, including violations of any federal
8 laws or regulations regarding hearing aids.

9 (e) Making or filing a report or record which the
10 licensee knows to be false, intentionally or negligently
11 failing to file a report or record required by state or
12 federal law, willfully impeding or obstructing such filing, or
13 inducing another person to impede or obstruct such filing.
14 Such reports or records shall include only those reports or
15 records which are signed in one's capacity as a licensed
16 hearing aid specialist.

17 (f) Advertising goods or services in a manner which is
18 fraudulent, false, deceptive, or misleading in form or
19 content.

20 (g) Proof that the licensee is guilty of fraud or
21 deceit or of negligence, incompetency, or misconduct in the
22 practice of dispensing hearing aids.

23 (h) Violation or repeated violation of this part or of
24 part II of chapter 455, or any rules promulgated pursuant
25 thereto.

26 (i) Violation of a lawful order of the board or
27 department previously entered in a disciplinary hearing or
28 failure to comply with a lawfully issued subpoena of the board
29 or department.

30 (j) Practicing with a revoked, suspended, inactive, or
31 delinquent license.

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

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

9 (m) Misrepresentation of professional services
10 available in the fitting, sale, adjustment, service, or repair
11 of a hearing aid, or use of the terms "doctor," "clinic,"
12 "clinical," "medical audiologist," "clinical audiologist,"
13 "research audiologist," or "audiologic" or any other term or
14 title which might connote the availability of professional
15 services when such use is not accurate.

16 (n) Representation, advertisement, or implication that
17 a hearing aid or its repair is guaranteed without providing
18 full disclosure of the identity of the guarantor; the nature,
19 extent, and duration of the guarantee; and the existence of
20 conditions or limitations imposed upon the guarantee.

21 (o) Representing, directly or by implication, that a
22 hearing aid utilizing bone conduction has certain specified
23 features, such as the absence of anything in the ear or
24 leading to the ear, or the like, without disclosing clearly
25 and conspicuously that the instrument operates on the bone
26 conduction principle and that in many cases of hearing loss
27 this type of instrument may not be suitable.

28 (p) Making any predictions or prognostications as to
29 the future course of a hearing impairment, either in general
30 terms or with reference to an individual person.

31

1 (q) Stating or implying that the use of any hearing
2 aid will improve or preserve hearing or prevent or retard the
3 progression of a hearing impairment or that it will have any
4 similar or opposite effect.

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

7 (s) Representing or implying that a hearing aid is or
8 will be "custom-made," "made to order," or "prescription-made"
9 or in any other sense specially fabricated for an individual
10 person when such is not the case.

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

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

20 (v) Failing to provide all information as described in
21 s. 484.051(1).

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

25 Section 133. Subsection (4) of section 486.023,
26 Florida Statutes, is amended to read:

27 486.023 Board of Physical Therapy Practice.--

28 (4) All provisions of part II of chapter 455 relating
29 to activities of the board shall apply.

30 Section 134. Section 486.115, Florida Statutes, is
31 amended to read:

1 486.115 Disposition of fees.--All moneys collected by
2 the department under this chapter shall be deposited and
3 expended pursuant to the provisions of s. 455.587 ~~215.37~~.

4 Section 135. Section 486.172, Florida Statutes, is
5 amended to read:

6 486.172 Application of s. 455.514 ~~455.11~~--The
7 provisions of s. 455.514 ~~455.11~~ shall also be applicable to
8 the provisions of this chapter.

9 Section 136. Paragraph (c) of subsection (1) and
10 paragraph (a) of subsection (11) of section 489.129, Florida
11 Statutes, are amended to read:

12 489.129 Disciplinary proceedings.--

13 (1) The board may take any of the following actions
14 against any certificateholder or registrant: place on
15 probation or reprimand the licensee, revoke, suspend, or deny
16 the issuance or renewal of the certificate, registration, or
17 certificate of authority, require financial restitution to a
18 consumer for financial harm directly related to a violation of
19 a provision of this part, impose an administrative fine not to
20 exceed \$5,000 per violation, require continuing education, or
21 assess costs associated with investigation and prosecution, if
22 the contractor, financially responsible officer, or business
23 organization for which the contractor is a primary qualifying
24 agent, a financially responsible officer, or a secondary
25 qualifying agent responsible under s. 489.1195 is found guilty
26 of any of the following acts:

27 (c) Violating any provision of part I of chapter 455.

28
29 For the purposes of this subsection, construction is
30 considered to be commenced when the contract is executed and
31 the contractor has accepted funds from the customer or lender.

1 (11)(a) Notwithstanding the provisions of chapter
2 ~~chapters~~ 120 and part I of chapter 455, upon receipt of a
3 legally sufficient consumer complaint alleging a violation of
4 this part, the department may provide by rule for binding
5 arbitration between the complainant and the certificateholder
6 or registrant, provided the following conditions exist:

7 1. There is evidence that the complainant has suffered
8 or is likely to suffer monetary damages resulting from the
9 violation of this part;

10 2. The certificateholder or registrant does not have a
11 history of repeated or similar violations;

12 3. Reasonable grounds exist to believe that the public
13 interest will be better served by arbitration than by
14 disciplinary action; and

15 4. The complainant and certificateholder or registrant
16 have not previously entered into private arbitration, and no
17 civil court action based on the same transaction has been
18 filed.

19 Section 137. Paragraph (a) of subsection (1) and
20 paragraphs (a) and (e) of subsection (7) of section 489.533,
21 Florida Statutes, are amended to read:

22 489.533 Disciplinary proceedings.--

23 (1) The following acts shall constitute grounds for
24 disciplinary actions as provided in subsection (2):

25 (a) Violating any provision of s. 489.531 or part I of
26 chapter 455.

27
28 For the purposes of this subsection, construction is
29 considered to be commenced when the contract is executed and
30 the contractor has accepted funds from the customer or lender.

31

1 (7)(a) The department may, by rule, provide for a
2 mediation process for the complainant and the licensee.
3 Notwithstanding the provisions of chapter ~~chapters~~ 120 and
4 part I of chapter 455, upon receipt of a legally sufficient
5 consumer complaint alleging a violation of this part, both the
6 licensee and the complainant may consent in writing to
7 mediation within 15 days following notification of this
8 process by the department. The department may suspend all
9 action in the matter for 45 days when notice of consent to
10 mediation is received by the department. If the mediation
11 process is successfully concluded within the 60-day period,
12 the department may close the case file with a notation of the
13 disposition and the licensee's record shall reflect only that
14 a complaint was filed and resolved through mediation. If
15 mediation is rejected by either the complainant or licensee,
16 or should said parties fail to reach a mediated solution
17 within the 60-day period, the department shall process the
18 complaint in the manner required by chapter ~~chapters~~ 120 and
19 part I of chapter 455. The mediator shall provide a written
20 report to the department of the mediation results within 10
21 days of the conclusion of the mediation process as provided by
22 rule.

23 (e) The department, in conjunction with the board,
24 shall determine by rule the types of cases which may be
25 included in the mediation process. The department may initiate
26 or continue disciplinary action, pursuant to part I of chapter
27 455 and this chapter against the licensee as determined by
28 rule.

29 Section 138. Subsection (5) of section 490.004,
30 Florida Statutes, is amended to read:

31 490.004 Board of Psychology.--

1 (5) All applicable provisions of part II of chapter
2 455 relating to activities of regulatory boards shall apply to
3 the board.

4 Section 139. Section 490.00515, Florida Statutes, is
5 amended to read:

6 490.00515 Exemptions from public records and meetings
7 requirements.--The exemptions from s. 119.07(1) provided by
8 ss. 455.621~~455.225~~(2) and (10) and 455.707~~455.261~~(3)(e) and
9 (5)(a) also apply to information concerning a provisional
10 psychologist regulated by the Agency for Health Care
11 Administration and the Department of Health under this
12 chapter, a registered clinical social worker intern, a
13 registered marriage and family therapist intern, a registered
14 mental health counselor intern, a provisional clinical social
15 worker, a provisional marriage and family therapist, or a
16 provisional mental health counselor regulated by the Agency
17 for Health Care Administration and the Department of Health
18 under chapter 491. The exemption from s. 286.011 provided by
19 s. 455.621~~455.225~~(4) also applies to the proceedings of a
20 probable cause panel with respect to an investigation
21 concerning a provisional psychologist, a registered clinical
22 social worker intern, a registered marriage and family
23 therapist intern, a registered mental health counselor intern,
24 a provisional clinical social worker, a provisional marriage
25 and family therapist, or a provisional mental health counselor
26 regulated by the agency and department under this chapter or
27 chapter 491. This section is subject to the Open Government
28 Sunset Review Act of 1995 in accordance with s. 119.15 and
29 shall stand repealed on October 2, 2002, unless reviewed and
30 saved from repeal through reenactment by the Legislature.

31

1 Section 140. Paragraph (q) of subsection (2) of
2 section 490.009, Florida Statutes, is amended to read:

3 490.009 Discipline.--

4 (2) The following acts of a licensee, provisional
5 licensee, or applicant are grounds for which the disciplinary
6 actions listed in subsection (1) may be taken:

7 (q) Violating provisions of this chapter, or of part
8 II of chapter 455, or any rules adopted pursuant thereto.

9 Section 141. Subsection (1) of section 490.015,
10 Florida Statutes, is amended to read:

11 490.015 Duties of the department.--

12 (1) All functions reserved to boards under part II of
13 chapter 455 shall be exercised by the department with respect
14 to the regulation of school psychologists and in a manner
15 consistent with the exercise of its regulatory functions.

16 Section 142. Subsection (6) of section 491.004,
17 Florida Statutes, is amended to read:

18 491.004 Board of Clinical Social Work, Marriage and
19 Family Therapy, and Mental Health Counseling.--

20 (6) All applicable provisions of part II of chapter
21 455 relating to activities of regulatory boards shall apply to
22 the board.

23 Section 143. Section 491.0047, Florida Statutes, is
24 amended to read:

25 491.0047 Exemptions from public records and meetings
26 requirements.--The exemptions from s. 119.07(1) provided by
27 ss. ~~455.621~~~~455.225~~(2) and (10) and ~~455.707~~~~455.261~~(3)(e) and
28 (5)(a) also apply to information concerning a provisional
29 psychologist regulated by the Agency for Health Care
30 Administration and the Department of Health under chapter 490,
31 a registered clinical social worker intern, a registered

1 marriage and family therapist intern, a registered mental
2 health counselor intern, a provisional clinical social worker,
3 a provisional marriage and family therapist, or a provisional
4 mental health counselor regulated by the Agency for Health
5 Care Administration and the Department of Health under this
6 chapter. The exemption from s. 286.011 provided by s.
7 ~~455.621~~455.225(4) also applies to the proceedings of a
8 probable cause panel with respect to an investigation
9 concerning a provisional psychologist, a registered clinical
10 social worker intern, a registered marriage and family
11 therapist intern, a registered mental health counselor intern,
12 a provisional clinical social worker, a provisional marriage
13 and family therapist, or a provisional mental health counselor
14 regulated by the agency and department under chapter 490 or
15 this chapter. This section is subject to the Open Government
16 Sunset Review Act of 1995 in accordance with s. 119.15 and
17 shall stand repealed on October 2, 2002, unless reviewed and
18 saved from repeal through reenactment by the Legislature.

19 Section 144. Paragraph (q) of subsection (2) of
20 section 491.009, Florida Statutes, is amended to read:

21 491.009 Discipline.--

22 (2) The following acts of a licensee, provisional
23 licensee, registered intern, certificateholder, or applicant
24 are grounds for which the disciplinary actions listed in
25 subsection (1) may be taken:

26 (q) Violating provisions of this chapter, or of part
27 II of chapter 455, or any rules adopted pursuant thereto.

28 Section 145. Subsection (1) of section 491.015,
29 Florida Statutes, is amended to read:

30 491.015 Duties of the department as to certified
31 master social workers.--

1 (1) All functions reserved to boards under part II of
2 chapter 455 shall be exercised by the department with respect
3 to the regulation of certified master social workers and in a
4 manner consistent with the exercise of its regulatory
5 functions.

6 Section 146. Subsection (2) of section 492.103,
7 Florida Statutes, is amended to read:

8 492.103 Board of Professional Geologists.--

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

11 Section 147. Paragraph (h) of subsection (1) of
12 section 492.113, Florida Statutes, is amended to read:

13 492.113 Disciplinary proceedings.--

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

16 (h) Violation of part I of chapter 455.

17 Section 148. Subsection (3) of section 627.668,
18 Florida Statutes, is amended to read:

19 627.668 Optional coverage for mental and nervous
20 disorders required; exception.--

21 (3) Insurers must maintain strict confidentiality
22 regarding psychiatric and psychotherapeutic records submitted
23 to an insurer for the purpose of reviewing a claim for
24 benefits payable under this section. These records submitted
25 to an insurer are subject to the limitations of s. 455.667
26 ~~455.241~~, relating to the furnishing of patient records.

27 Section 149. Paragraph (e) of subsection (2) and
28 subsections (1) and (3) of section 627.912, Florida Statutes,
29 are amended to read:

30 627.912 Professional liability claims and actions;
31 reports by insurers.--

1 (1) Each self-insurer authorized under s. 627.357 and
2 each insurer or joint underwriting association providing
3 professional liability insurance to a practitioner of medicine
4 licensed under chapter 458, to a practitioner of osteopathic
5 medicine licensed under chapter 459, to a podiatrist licensed
6 under chapter 461, to a dentist licensed under chapter 466, to
7 a hospital licensed under chapter 395, to a crisis
8 stabilization unit licensed under part IV of chapter 394, to a
9 health maintenance organization certificated under part I of
10 chapter 641, to clinics included in chapter 390, to an
11 ambulatory surgical center as defined in s. 395.002, or to a
12 member of The Florida Bar shall report in duplicate to the
13 Department of Insurance any claim or action for damages for
14 personal injuries claimed to have been caused by error,
15 omission, or negligence in the performance of such insured's
16 professional services or based on a claimed performance of
17 professional services without consent, if the claim resulted
18 in:

- 19 (a) A final judgment in any amount.
20 (b) A settlement in any amount.
21 (c) A final disposition not resulting in payment on
22 behalf of the insured.

23
24 Reports shall be filed with the department and, if the insured
25 party is licensed under chapter 458, chapter 459, chapter 461,
26 or chapter 466, with the Department of Health ~~Agency for~~
27 ~~Health Care Administration~~, no later than 30 days following
28 the occurrence of any event listed in paragraph (a), paragraph
29 (b), or paragraph (c). The Department of Health ~~Agency for~~
30 ~~Health Care Administration~~ shall review each report and
31 determine whether any of the incidents that resulted in the

1 claim potentially involved conduct by the licensee that is
2 subject to disciplinary action, in which case the provisions
3 of s. 455.621 ~~455.225~~ shall apply. The Department of Health
4 ~~Agency for Health Care Administration~~, as part of the annual
5 report required by s. 455.644 ~~455.2285~~, shall publish annual
6 statistics, without identifying licensees, on the reports it
7 receives, including final action taken on such reports by the
8 Department of Health ~~agency~~ or the appropriate regulatory
9 board.

10 (2) The reports required by subsection (1) shall
11 contain:

12 (e) The name and address of the injured person. This
13 information is confidential and exempt from the provisions of
14 s. 119.07(1), and must not be disclosed by the department
15 without the injured person's consent, except for disclosure by
16 the department to the Department of Health ~~Agency for Health~~
17 ~~Care Administration~~. This information may be used by the
18 department for purposes of identifying multiple or duplicate
19 claims arising out of the same occurrence.

20 (3) Upon request by the Department of Health ~~Agency~~
21 ~~for Health Care Administration~~, the department shall provide
22 the Department of Health ~~agency~~ with any information received
23 under this section related to persons licensed under chapter
24 458, chapter 459, chapter 461, or chapter 466. For purposes of
25 safety management, the department shall annually provide the
26 Department of Health with copies of the reports in cases
27 resulting in an indemnity being paid to the claimants.

28 Section 150. Section 636.039, Florida Statutes, is
29 amended to read:

30 636.039 Examination by the department.--The department
31 shall examine the affairs, transactions, accounts, business

1 records, and assets of any prepaid limited health service
2 organization, in the same manner and subject to the same terms
3 and conditions that apply to insurers under part II of chapter
4 624, as often as it deems it expedient for the protection of
5 the people of this state, but not less frequently than once
6 every 3 years. In lieu of making its own financial
7 examination, the department may accept an independent
8 certified public accountant's audit report prepared on a
9 statutory accounting basis consistent with this act. However,
10 except when the medical records are requested and copies
11 furnished pursuant to s. 455.667 ~~455.241~~, medical records of
12 individuals and records of physicians providing service under
13 contract to the prepaid limited health service organization
14 are not subject to audit, but may be subject to subpoena by
15 court order upon a showing of good cause. For the purpose of
16 examinations, the department may administer oaths to and
17 examine the officers and agents of a prepaid limited health
18 service organization concerning its business and affairs. The
19 expenses of examination of each prepaid limited health service
20 organization by the department are subject to the same terms
21 and conditions as apply to insurers under part II of chapter
22 624. Expenses of all examinations of a prepaid limited health
23 service organization may never exceed a maximum of \$20,000 for
24 any 1-year period.

25 Section 151. Subsection (1) of section 641.27, Florida
26 Statutes, is amended to read:

27 641.27 Examination by the department.--

28 (1) The department shall examine the affairs,
29 transactions, accounts, business records, and assets of any
30 health maintenance organization as often as it deems it
31 expedient for the protection of the people of this state, but

1 not less frequently than once every 3 years. In lieu of
2 making its own financial examination, the department may
3 accept an independent certified public accountant's audit
4 report prepared on a statutory accounting basis consistent
5 with this part. However, except when the medical records are
6 requested and copies furnished pursuant to s. 455.667 ~~455.241~~,
7 medical records of individuals and records of physicians
8 providing service under contract to the health maintenance
9 organization shall not be subject to audit, although they may
10 be subject to subpoena by court order upon a showing of good
11 cause. For the purpose of examinations, the department may
12 administer oaths to and examine the officers and agents of a
13 health maintenance organization concerning its business and
14 affairs. The examination of each health maintenance
15 organization by the department shall be subject to the same
16 terms and conditions as apply to insurers under chapter 624.
17 In no event shall expenses of all examinations exceed a
18 maximum of \$20,000 for any 1-year period. Any rehabilitation,
19 liquidation, conservation, or dissolution of a health
20 maintenance organization shall be conducted under the
21 supervision of the department, which shall have all power with
22 respect thereto granted to it under the laws governing the
23 rehabilitation, liquidation, reorganization, conservation, or
24 dissolution of life insurance companies.

25 Section 152. Paragraph (b) of subsection (2) and
26 subsection (5) of section 641.316, Florida Statutes, are
27 amended to read:

28 641.316 Fiscal intermediary services.--

29 (2)

30 (b) The term "fiscal intermediary services
31 organization" means a person or entity which performs

1 fiduciary or fiscal intermediary services to health care
2 professionals who contract with health maintenance
3 organizations other than a fiscal intermediary services
4 organization owned, operated, or controlled by a hospital
5 licensed under chapter 395, an insurer licensed under chapter
6 624, a third-party administrator licensed under chapter 626, a
7 prepaid limited health organization licensed under chapter
8 636, a health maintenance organization licensed under this
9 chapter, or physician group practices as defined in s.
10 455.654~~455.236~~(3)(f).

11 (5) Any fiscal intermediary services organization,
12 other than a fiscal intermediary services organization owned,
13 operated, or controlled by a hospital licensed under chapter
14 395, an insurer licensed under chapter 624, a third-party
15 administrator licensed under chapter 626, a prepaid limited
16 health organization licensed under chapter 636, a health
17 maintenance organization licensed under this chapter, or
18 physician group practices as defined in s.
19 455.654~~455.236~~(3)(f), must register with the department and
20 meet the requirements of this section. In order to register as
21 a fiscal intermediary services organization, the organization
22 must comply with ss. 641.21(1)(c) and (d) and 641.22(6).
23 Should the department determine that the fiscal intermediary
24 services organization does not meet the requirements of this
25 section, the registration shall be denied. In the event that
26 the registrant fails to maintain compliance with the
27 provisions of this section, the department may revoke or
28 suspend the registration. In lieu of revocation or suspension
29 of the registration, the department may levy an administrative
30 penalty in accordance with s. 641.25.

31

1 Section 153. Paragraphs (b) and (c) of subsection (5)
2 and subsections (6) and (8) of section 641.55, Florida
3 Statutes, are amended to read:

4 641.55 Internal risk management program.--

5 (5)

6 (b) The information reported to the agency under
7 paragraph (a) which relates to providers licensed under
8 chapter 458, chapter 459, chapter 461, or chapter 466 must
9 also be reported to the agency quarterly. The agency shall
10 review the information and determine whether any of the
11 incidents potentially involved conduct by a licensee that is
12 subject to disciplinary action, in which case s. 455.621
13 ~~455.225~~ applies.

14 (c) Except as otherwise provided in this subsection,
15 any identifying information contained in the annual report and
16 the quarterly reports under paragraphs (a) and (b) is
17 confidential and exempt from s. 119.07(1). This information
18 must not be available to the public as part of the record of
19 investigation for and prosecution in disciplinary proceedings
20 made available to the public by the agency or the appropriate
21 regulatory board. However, the agency shall make available,
22 upon written request by a practitioner against whom probable
23 cause has been found, any such information contained in the
24 records that form the basis of the determination of probable
25 cause under s. 455.621 ~~455.225~~.

26 (6) If an adverse or untoward incident, whether
27 occurring in the facilities of the organization or arising
28 from health care prior to enrollment by the organization or
29 admission to the facilities of the organization or in a
30 facility of one of its providers, results in:

31 (a) The death of a patient;

1 (b) Severe brain or spinal damage to a patient;
2 (c) A surgical procedure being performed on the wrong
3 patient; or
4 (d) A surgical procedure unrelated to the patient's
5 diagnosis or medical needs being performed on any patient,
6
7 the organization must report this incident to the agency
8 within 3 working days after its occurrence. A more detailed
9 followup report must be submitted to the agency within 10 days
10 after the first report. The agency may require an additional,
11 final report. Reports under this subsection must be sent
12 immediately by the agency to the appropriate regulatory board
13 whenever they contain references to a provider licensed under
14 chapter 458, chapter 459, chapter 461, or chapter 466. These
15 reports are confidential and are exempt from s. 119.07(1).
16 This information is not available to the public as part of the
17 record of investigation for and prosecution in disciplinary
18 proceedings made available to the public by the agency or the
19 appropriate regulatory board. However, the agency shall make
20 available, upon written request by a practitioner against whom
21 probable cause has been found, any such information contained
22 in the records that form the basis of the determination of
23 probable cause under s. 455.621 ~~455.225~~. The agency may
24 investigate, as it deems appropriate, any such incident and
25 prescribe measures that must or may be taken by the
26 organization in response to the incident. The agency shall
27 review each incident and determine whether it potentially
28 involved conduct by the licensee which is subject to
29 disciplinary action, in which case s. 455.621 ~~455.225~~ applies.
30 (8) The agency and, upon subpoena issued under s.
31 455.611 ~~455.223~~, the appropriate regulatory board must be

1 given access to all organization records necessary to carry
2 out the provisions of this section. Any identifying
3 information contained in the records obtained under this
4 section is confidential and exempt from s. 119.07(1). The
5 identifying information contained in records obtained under s.
6 455.611 ~~455.223~~ is exempt from s. 119.07(1) to the extent that
7 it is part of the record of investigation for and prosecution
8 in disciplinary proceedings made available to the public by
9 the agency or the appropriate regulatory board. However, the
10 agency must make available, upon written request by a
11 practitioner against whom probable cause has been found, any
12 such information contained in the records that form the basis
13 of the determination of probable cause under s. 455.621
14 ~~455.225~~, except that, with respect to medical review committee
15 records, s. 766.101 controls.

16
17 The gross data compiled under this section or s. 395.0197
18 shall be furnished by the agency upon request to organizations
19 to be utilized for risk management purposes. The agency shall
20 adopt rules necessary to carry out the provisions of this
21 section.

22 Section 154. Subsection (2) of section 766.106,
23 Florida Statutes, is amended to read:

24 766.106 Notice before filing action for medical
25 malpractice; presuit screening period; offers for admission of
26 liability and for arbitration; informal discovery; review.--

27 (2) After completion of presuit investigation pursuant
28 to s. 766.203 and prior to filing a claim for medical
29 malpractice, a claimant shall notify each prospective
30 defendant and, if any prospective defendant is a health care
31 provider licensed under chapter 458, chapter 459, chapter 460,

1 chapter 461, or chapter 466, the Department of Health Business
2 ~~and Professional Regulation~~ by certified mail, return receipt
3 requested, of intent to initiate litigation for medical
4 malpractice. Notice to the Department of Health Business and
5 ~~Professional Regulation~~ must include the full name and address
6 of the claimant; the full names and any known addresses of any
7 health care providers licensed under chapter 458, chapter 459,
8 chapter 460, chapter 461, or chapter 466 who are prospective
9 defendants identified at the time; the date and a summary of
10 the occurrence giving rise to the claim; and a description of
11 the injury to the claimant. The requirement for notice to the
12 Department of Health Business and ~~Professional Regulation~~ does
13 not impair the claimant's legal rights or ability to seek
14 relief for his or her claim, and the notice provided to the
15 department is not discoverable or admissible in any civil or
16 administrative action. The Department of Health Business and
17 ~~Professional Regulation~~ shall review each incident and
18 determine whether it involved conduct by a licensee which is
19 potentially subject to disciplinary action, in which case the
20 provisions of s. 455.621 ~~455.225~~ apply.

21 Section 155. Subsection (4) of section 766.305,
22 Florida Statutes, is amended to read:

23 766.305 Filing of claims and responses; medical
24 disciplinary review.--

25 (4) Upon receipt of such petition, the Division of
26 Medical Quality Assurance shall review the information therein
27 and determine whether it involved conduct by a physician
28 licensed under chapter 458 or an osteopathic physician
29 licensed under chapter 459 that is subject to disciplinary
30 action, in which case the provisions of s. 455.621 ~~455.225~~
31 shall apply.

1 Section 156. Subsection (2) of section 766.308,
2 Florida Statutes, is amended to read:

3 766.308 Medical advisory panel review and
4 recommendations; procedure.--

5 (2) The Department of Insurance shall develop a plan
6 which provides the method and procedure for such medical
7 advisory panel review and shall develop such plan in
8 coordination with the Division of Medical Quality Assurance of
9 the Department of Health ~~Business and Professional Regulation~~
10 ~~and the Children's Medical Services Program Office of the~~
11 ~~Department of Health and Rehabilitative Services.~~

12 Section 157. Paragraph (b) of subsection (4) of
13 section 766.314, Florida Statutes, is amended to read:

14 766.314 Assessments; plan of operation.--

15 (4) The following persons and entities shall pay into
16 the association an initial assessment in accordance with the
17 plan of operation:

18 (b)1. On or before October 15, 1988, all physicians
19 licensed pursuant to chapter 458 or chapter 459 as of October
20 1, 1988, other than participating physicians, shall be
21 assessed an initial assessment of \$250, which must be paid no
22 later than December 1, 1988.

23 2. Any such physician who becomes licensed after
24 September 30, 1988, and before January 1, 1989, shall pay into
25 the association an initial assessment of \$250 upon licensure.

26 3. Any such physician who becomes licensed on or after
27 January 1, 1989, shall pay an initial assessment equal to the
28 most recent assessment made pursuant to this paragraph,
29 paragraph (5)(a), or paragraph (7)(b).

30 4. However, if the physician is a physician specified
31 in this subparagraph, the assessment is not applicable:

1 a. A resident physician, assistant resident physician,
2 or intern in an approved postgraduate training program, as
3 defined by the Board of Medicine or the Board of Osteopathic
4 Medicine by rule;

5 b. A retired physician who has withdrawn from the
6 practice of medicine but who maintains an active license as
7 evidenced by an affidavit filed with the Department of Health
8 ~~Business and Professional Regulation~~. Prior to reentering the
9 practice of medicine in this state, a retired physician as
10 herein defined must notify the Board of Medicine or the Board
11 of Osteopathic Medicine and pay the appropriate assessments
12 pursuant to this section;

13 c. A physician who holds a limited license pursuant to
14 s. 458.317 and who is not being compensated for medical
15 services;

16 d. A physician who is employed full time by the United
17 States Department of Veterans Affairs and whose practice is
18 confined to United States Department of Veterans Affairs
19 hospitals; or

20 e. A physician who is a member of the Armed Forces of
21 the United States and who meets the requirements of s. 455.507
22 ~~455.02~~.

23 f. A physician who is employed full time by the State
24 of Florida and whose practice is confined to state-owned
25 correctional institutions, a county health department, or
26 state-owned mental health or developmental services
27 facilities, or who is employed full time by the Department of
28 Health.

29 Section 158. Paragraph (b) of subsection (3) of
30 section 817.505, Florida Statutes, is amended to read:

31

1 817.505 Patient brokering prohibited; exceptions;
2 penalties.--

3 (3) This section shall not apply to:

4 (b) Any payment, compensation, or financial
5 arrangement within a group practice as defined in s. 455.654
6 ~~455.236~~, provided such payment, compensation, or arrangement
7 is not to or from persons who are not members of the group
8 practice.

9 Section 159. Section 937.031, Florida Statutes, is
10 amended to read:

11 937.031 Dental records of missing persons; access and
12 use.--When a person has been reported missing and has not been
13 located within 30 days after such report, the law enforcement
14 agency conducting the investigation of the missing person
15 shall request the family or next of kin to provide written
16 consent to contact the dentist of the missing person and
17 request that person's dental records. Notwithstanding the
18 provisions of s. 455.667 ~~455.241~~, a dentist, upon receipt of
19 proof of written consent, shall release a copy of the dental
20 records of the missing person to the law enforcement agency
21 requesting such records, providing or encoding the dental
22 records in a form requested by the Department of Law
23 Enforcement. The law enforcement agency shall then enter the
24 dental records into the criminal justice information system
25 for the purpose of comparing such records to those of
26 unidentified deceased persons.

27 Section 160. Paragraph (hh) of subsection (4) of
28 section 215.20, Florida Statutes, is amended to read:

29 215.20 Certain income and certain trust funds to
30 contribute to the General Revenue Fund.--

31

1 (4) The income of a revenue nature deposited in the
2 following described trust funds, by whatever name designated,
3 is that from which the deductions authorized by subsection (3)
4 shall be made:

5 (hh) The Health Care Trust Fund established pursuant
6 to s. 408.16 ~~455.2205~~.

7
8 The enumeration of the foregoing moneys or trust funds shall
9 not prohibit the applicability thereto of s. 215.24 should the
10 Governor determine that for the reasons mentioned in s. 215.24
11 the money or trust funds should be exempt herefrom, as it is
12 the purpose of this law to exempt income from its force and
13 effect when, by the operation of this law, federal matching
14 funds or contributions or private grants to any trust fund
15 would be lost to the state.

16 Section 161. Subsection (3) of section 391.208,
17 Florida Statutes, is amended to read:

18 391.208 Administrative fines; disposition of fees and
19 fines.--

20 (3) Fees and fines received by the agency under this
21 part shall be deposited in the Health Care Trust Fund created
22 in s. 408.16 ~~455.2205~~.

23 Section 162. Section 391.217, Florida Statutes, is
24 amended to read:

25 391.217 Disposition of moneys from fines and
26 fees.--All moneys received from administrative fines pursuant
27 to s. 391.208 and all moneys received from fees collected
28 pursuant to s. 391.205 shall be deposited in the Health Care
29 Trust Fund created in s. 408.16 ~~455.2205~~.

30 Section 163. Section 400.5575, Florida Statutes, is
31 amended to read:

1 400.5575 Disposition of fees and administrative
2 fines.--Fees and fines received by the agency under this part
3 shall be deposited in the Health Care Trust Fund established
4 pursuant to s. 408.16 ~~455.2205~~. These funds may be used to
5 offset the costs of the licensure program, including the costs
6 of conducting background investigations, verifying information
7 submitted, and processing applications.

8 Section 164. Subsection (2) of section 408.20, Florida
9 Statutes, is amended to read:

10 408.20 Assessments; Health Care Trust Fund.--

11 (2) All moneys collected are to be deposited into the
12 Health Care Trust Fund created pursuant to s. 408.16 ~~455.2205~~.
13 ~~The Health Care Trust Fund shall be subject to the service~~
14 ~~charge imposed pursuant to chapter 215.~~

15 Section 165. Paragraph (b) of subsection (5) of
16 section 641.60, Florida Statutes, is amended to read:

17 641.60 Statewide Managed Care Ombudsman Committee.--

18 (5)

19 (b) Travel expenses for the statewide committee shall
20 be funded from the Health ~~Maintenance Organization Quality~~
21 ~~Care Trust Fund~~, created by s. 408.16 ~~641.57~~. The statewide
22 committee may solicit grants, gifts, donations, bequests, or
23 other payments including money, property, or services from any
24 governmental or public entity or private entity or person to
25 fund other expenses of the committee and the district
26 committees. Any such moneys received shall be deposited into
27 a trust fund administered by the agency.

28 Section 166. Subsection (36) of section 39.01, Florida
29 Statutes, is amended to read:

30 39.01 Definitions.--When used in this chapter:

31

1 (36) "Neglect" occurs when the parent or legal
2 custodian of a child or, in the absence of a parent or legal
3 custodian, the person primarily responsible for the child's
4 welfare deprives a child of, or allows a child to be deprived
5 of, necessary food, clothing, shelter, or medical treatment or
6 permits a child to live in an environment when such
7 deprivation or environment causes the child's physical,
8 mental, or emotional health to be significantly impaired or to
9 be in danger of being significantly impaired. The foregoing
10 circumstances shall not be considered neglect if caused
11 primarily by financial inability unless actual services for
12 relief have been offered to and rejected by such person. A
13 parent or guardian legitimately practicing religious beliefs
14 in accordance with a recognized church or religious
15 organization who thereby does not provide specific medical
16 treatment for a child shall not, for that reason alone, be
17 considered a negligent parent or guardian; however, such an
18 exception does not preclude a court from ordering the
19 following services to be provided, when the health of the
20 child so requires:

21 (a) Medical services from a licensed physician,
22 dentist, optometrist, podiatric physician ~~podiatrist~~, or other
23 qualified health care provider; or

24 (b) Treatment by a duly accredited practitioner who
25 relies solely on spiritual means for healing in accordance
26 with the tenets and practices of a well-recognized church or
27 religious organization.

28 Section 167. Paragraph (a) of subsection (1) of
29 section 320.0848, Florida Statutes, is amended to read:

30 320.0848 Persons who have disabilities; issuance of
31 disabled parking permits; temporary permits; permits for

1 certain providers of transportation services to persons who
2 have disabilities.--

3 (1)(a) The Department of Highway Safety and Motor
4 Vehicles or its authorized agents shall, upon application and
5 receipt of the fee, issue a disabled parking permit for a
6 period of up to 4 years that ends on the applicant's birthday
7 to any person who has long-term mobility problems, or a
8 temporary disabled parking permit not to exceed 1 year to any
9 person who has temporary mobility problems. The person must
10 be currently certified by a physician licensed under chapter
11 458, chapter 459, or chapter 460, or by a podiatric physician
12 ~~podiatrist~~ licensed under chapter 461, by the Division of
13 Blind Services of the Department of Labor and Employment
14 Security, or by the Adjudication Office of the United States
15 Department of Veterans Affairs or its predecessor as being
16 legally blind or as having any of the following disabilities
17 that limit or impair his or her ability to walk:

- 18 1. Inability to walk 200 feet without stopping to
19 rest.
- 20 2. Inability to walk without the use of or assistance
21 from a brace, cane, crutch, prosthetic device, or other
22 assistive device, or without the assistance of another person.
23 If the assistive device significantly restores the person's
24 ability to walk to the extent that the person can walk without
25 severe limitation, the person is not eligible for the
26 exemption parking permit.
- 27 3. The need to permanently use a wheelchair.
- 28 4. Restriction by lung disease to the extent that the
29 person's forced (respiratory) expiratory volume for 1 second,
30 when measured by spirometry, is less than 1 liter, or the

31

1 person's arterial oxygen is less than 60 mm/hg on room air at
2 rest.

3 5. Use of portable oxygen.

4 6. Restriction by cardiac condition to the extent that
5 the person's functional limitations are classified in severity
6 as Class III or Class IV according to standards set by the
7 American Heart Association.

8 7. Severe limitation in the person's ability to walk
9 due to an arthritic, neurological, or orthopedic condition.

10 Section 168. Paragraph (b) of subsection (2) of
11 section 381.026, Florida Statutes, is amended to read:

12 381.026 Florida Patient's Bill of Rights and
13 Responsibilities.--

14 (2) DEFINITIONS.--As used in this section, the term:

15 (b) "Health care provider" means a physician licensed
16 under chapter 458, an osteopathic physician licensed under
17 chapter 459, or a podiatric physician ~~podiatrist~~ licensed
18 under chapter 461.

19 Section 169. Section 381.0261, Florida Statutes, is
20 amended to read:

21 381.0261 Distribution of summary.--The Department of
22 Health and Rehabilitative Services shall have printed and made
23 continuously available to health care facilities licensed
24 under chapter 395, physicians licensed under chapter 458,
25 osteopathic physicians licensed under chapter 459, and
26 podiatric physicians ~~podiatrists~~ licensed under chapter 461 a
27 summary of the Florida Patient's Bill of Rights and
28 Responsibilities. In adopting and making public the summary
29 of the Florida Patient's Bill of Rights and Responsibilities,
30 health care providers and health care facilities are not

31

1 limited to the format in which the Department of Health and
2 Rehabilitative Services prints and distributes the summary.

3 Section 170. Paragraph (b) of subsection (2) of
4 section 381.0302, Florida Statutes, is amended to read:

5 381.0302 Florida Health Services Corps.--

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

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

9 1. Offers scholarships to allopathic, osteopathic,
10 chiropractic, podiatric, dental, physician assistant, and
11 nursing students, and loan repayment assistance and travel and
12 relocation expenses to allopathic and osteopathic residents
13 and physicians, chiropractors, podiatric physicians
14 ~~podiatrists~~, nurse practitioners, dentists, and physician
15 assistants, in return for service in a public health care
16 program or in a medically underserved area.

17 2. Offers membership on a voluntary basis to
18 physicians and other health care personnel who provide
19 uncompensated care.

20 Section 171. Subsection (1) of section 395.0191,
21 Florida Statutes, is amended to read:

22 395.0191 Staff membership and clinical privileges.--

23 (1) No licensed facility, in considering and acting
24 upon an application for staff membership or clinical
25 privileges, shall deny the application of a qualified doctor
26 of medicine licensed under chapter 458, a doctor of
27 osteopathic medicine licensed under chapter 459, a doctor of
28 dentistry licensed under chapter 466, a doctor of podiatric
29 medicine ~~podiatry~~ licensed under chapter 461, or a
30 psychologist licensed under chapter 490 for such staff
31 membership or clinical privileges within the scope of his or

1 her respective licensure solely because the applicant is
2 licensed under any of such chapters.

3 Section 172. Paragraph (g) of subsection (3) of
4 section 395.1041, Florida Statutes, is amended to read:

5 395.1041 Access to emergency services and care.--

6 (3) EMERGENCY SERVICES; DISCRIMINATION; LIABILITY OF
7 FACILITY OR HEALTH CARE PERSONNEL.--

8 (g) Neither the hospital nor its employees, nor any
9 physician, dentist, or podiatric physician ~~podiatrist~~ shall be
10 liable in any action arising out of a refusal to render
11 emergency services or care if the refusal is made after
12 screening, examining, and evaluating the patient, and is based
13 on the determination, exercising reasonable care, that the
14 person is not suffering from an emergency medical condition or
15 a determination, exercising reasonable care, that the hospital
16 does not have the service capability or is at service capacity
17 to render those services.

18 Section 173. Subsection (6) of section 395.301,
19 Florida Statutes, is amended to read:

20 395.301 Itemized patient bill; form and content
21 prescribed by the agency.--

22 (6) No physician, dentist, podiatric physician
23 ~~podiatrist~~, or licensed facility may add to the price charged
24 by any third party except for a service or handling charge
25 representing a cost actually incurred as an item of expense;
26 however, the physician, dentist, podiatric physician
27 ~~podiatrist~~, or licensed facility is entitled to fair
28 compensation for all professional services rendered. The
29 amount of the service or handling charge, if any, shall be set
30 forth clearly in the bill to the patient.

31

1 Section 174. Paragraph (b) of subsection (5) of
2 section 404.22, Florida Statutes, is amended to read:

3 404.22 Radiation machines and components;
4 inspection.--

5 (5)

6 (b) The fee schedule and frequency of inspections
7 shall be determined as follows:

8 1. Radiation machines which are used in the practice
9 of medicine, chiropractic medicine, osteopathic medicine, or
10 naturopathic medicine shall be inspected at least once every 2
11 years, but not more than annually, for an annual fee which is
12 not less than \$83 or more than \$145 for the first radiation
13 machine within an office or facility and not less than \$36 or
14 more than \$85 for each additional radiation machine therein.

15 2. Radiation machines which are used in the practice
16 of veterinary medicine shall be inspected at least once every
17 3 years for an annual fee which is not less than \$28 or more
18 than \$50 for the first radiation machine within an office or
19 facility and not less than \$19 or more than \$34 for each
20 additional radiation machine therein.

21 3. Radiation machines which are used for educational
22 or industrial purposes shall be inspected at least once every
23 3 years for an annual fee which is not less than \$26 or more
24 than \$47 for the first radiation machine within an office or
25 facility and not less than \$12 or more than \$23 for each
26 additional radiation machine therein.

27 4. Radiation machines which are used in the practice
28 of dentistry or podiatric medicine ~~podiatry~~ shall be inspected
29 at least once every 5 years but not more often than once every
30 4 years for an annual fee which is not less than \$16 or more
31 than \$31 for the first radiation machine within an office or

1 facility and not less than \$5 or more than \$11 for each
2 additional radiation machine therein.

3 5. Radiation machines which accelerate particles and
4 are used in the healing arts shall be inspected at least
5 annually for an annual fee which is not less than \$153 or more
6 than \$258 for the first radiation machine within an office or
7 facility and not less than \$87 or more than \$148 for each
8 additional radiation machine therein.

9 6. Radiation machines which accelerate particles and
10 are used for educational or industrial purposes shall be
11 inspected at least once every 2 years for an annual fee which
12 is not less than \$46 or more than \$81 for the first radiation
13 machine within an office or facility and not less than \$26 or
14 more than \$48 for each additional radiation machine therein.

15 7. If a radiation machine fails to meet the applicable
16 standards upon initial inspection, the department may
17 reinspect the radiation machine and charge a reinspection fee
18 in accordance with the same schedule of fees as in
19 subparagraphs 1. through 6.

20 Section 175. Subsection (18) of section 409.906,
21 Florida Statutes, is amended to read:

22 409.906 Optional Medicaid services.--Subject to
23 specific appropriations, the agency may make payments for
24 services which are optional to the state under Title XIX of
25 the Social Security Act and are furnished by Medicaid
26 providers to recipients who are determined to be eligible on
27 the dates on which the services were provided. Any optional
28 service that is provided shall be provided only when medically
29 necessary and in accordance with state and federal law.
30 Nothing in this section shall be construed to prevent or limit
31 the agency from adjusting fees, reimbursement rates, lengths

1 of stay, number of visits, or number of services, or making
2 any other adjustments necessary to comply with the
3 availability of moneys and any limitations or directions
4 provided for in the General Appropriations Act or chapter 216.
5 Optional services may include:

6 (18) PODIATRIC SERVICES.--The agency may pay for
7 services, including diagnosis and medical, surgical,
8 palliative, and mechanical treatment, related to ailments of
9 the human foot and lower leg, if provided to a recipient by a
10 podiatric physician ~~podiatrist~~ licensed under state law.

11 Section 176. Subsection (14) of section 415.503,
12 Florida Statutes, is amended to read:

13 415.503 Definitions of terms used in ss.
14 415.502-415.514.--As used in ss. 415.502-415.514:

15 (14) "Physician" means any licensed physician,
16 dentist, podiatric physician ~~podiatrist~~, or optometrist and
17 includes any intern or resident.

18 Section 177. Subsection (2) of section 440.106,
19 Florida Statutes, is amended to read:

20 440.106 Civil remedies; administrative penalties.--

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

1 Section 178. Paragraph (r) of subsection (1) of
2 section 440.13, Florida Statutes, is amended to read:

3 440.13 Medical services and supplies; penalty for
4 violations; limitations.--

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

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

13 Section 179. Paragraph (k) of subsection (1) of
14 section 440.134, Florida Statutes, is amended to read:

15 440.134 Workers' compensation managed care
16 arrangement.--

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

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

28 Section 180. Paragraph (a) of subsection (3) of
29 section 440.15, Florida Statutes, is amended to read:

30
31

1 440.15 Compensation for disability.--Compensation for
2 disability shall be paid to the employee, subject to the
3 limits provided in s. 440.12(2), as follows:

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

5 (a) Impairment benefits.--

6 1. Once the employee has reached the date of maximum
7 medical improvement, impairment benefits are due and payable
8 within 20 days after the carrier has knowledge of the
9 impairment.

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

1 In such case, the Guides to the Evaluation of Permanent
2 Impairment by the American Medical Association shall be used.
3 Determination of permanent impairment under this schedule must
4 be made by a physician licensed under chapter 458, a doctor of
5 osteopathic medicine licensed under chapters 458 and 459, a
6 chiropractor licensed under chapter 460, a podiatric physician
7 ~~podiatrist~~ licensed under chapter 461, an optometrist licensed
8 under chapter 463, or a dentist licensed under chapter 466, as
9 appropriate considering the nature of the injury. No other
10 persons are authorized to render opinions regarding the
11 existence of or the extent of permanent impairment.

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

22 a. The expiration of a period computed at the rate of
23 3 weeks for each percentage point of impairment; or

24 b. The death of the employee.

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

31 Compensation is not payable for the mental, psychological, or

1 emotional injury arising out of depression from being out of
2 work. If the certification and evaluation are performed by a
3 doctor other than the employee's treating doctor, the
4 certification and evaluation must be submitted to the treating
5 doctor, and the treating doctor must indicate agreement or
6 disagreement with the certification and evaluation. The
7 certifying doctor shall issue a written report to the
8 division, the employee, and the carrier certifying that
9 maximum medical improvement has been reached, stating the
10 impairment rating, and providing any other information
11 required by the division. If the employee has not been
12 certified as having reached maximum medical improvement before
13 the expiration of 102 weeks after the date temporary total
14 disability benefits begin to accrue, the carrier shall notify
15 the treating doctor of the requirements of this section.

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

18 Section 181. Section 455.684, Florida Statutes, is
19 amended to read:

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

29 Section 182. Paragraph (a) of subsection (1) of
30 section 455.691, Florida Statutes, is amended to read:

31

1 455.691 Treatment of Medicare beneficiaries; refusal,
2 emergencies, consulting physicians.--

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

5 (a) "Physician" means a physician licensed under
6 chapter 458, an osteopathic physician licensed under chapter
7 459, a chiropractor licensed under chapter 460, a podiatric
8 physician ~~podiatrist~~ licensed under chapter 461, or an
9 optometrist licensed under chapter 463.

10 Section 183. Subsection (1) of section 455.697,
11 Florida Statutes, is amended to read:

12 455.697 Health care practitioners; reports on
13 professional liability claims and actions.--

14 (1) Any practitioner of medicine licensed pursuant to
15 the provisions of chapter 458, practitioner of osteopathic
16 medicine licensed pursuant to the provisions of chapter 459,
17 podiatric physician ~~podiatrist~~ licensed pursuant to the
18 provisions of chapter 461, or dentist licensed pursuant to the
19 provisions of chapter 466 shall report to the department any
20 claim or action for damages for personal injury alleged to
21 have been caused by error, omission, or negligence in the
22 performance of such licensee's professional services or based
23 on a claimed performance of professional services without
24 consent if the claim was not covered by an insurer required to
25 report under s. 627.912 and the claim resulted in:

26 (a) A final judgment in any amount.

27 (b) A settlement in any amount.

28 (c) A final disposition not resulting in payment on
29 behalf of the licensee.

30
31

1 Reports shall be filed with the department no later than 60
2 days following the occurrence of any event listed in paragraph
3 (a), paragraph (b), or paragraph (c).

4 Section 184. Subsection (2) of section 455.698,
5 Florida Statutes, is amended to read:

6 455.698 Reports of professional liability actions;
7 bankruptcies; Department of Health's responsibility to
8 provide.--

9 (2) Any information in the possession of the
10 Department of Health which relates to a bankruptcy proceeding
11 by a practitioner of medicine licensed under chapter 458, a
12 practitioner of osteopathic medicine licensed under chapter
13 459, a podiatric physician ~~podiatrist~~ licensed under chapter
14 461, or a dentist licensed under chapter 466 is public
15 information. The Department of Health shall, upon request,
16 make such information available to any person.

17 Section 185. Subsection (2) of section 456.31, Florida
18 Statutes, is amended to read:

19 456.31 Legislative intent.--

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

30 Section 186. Subsections (2) and (3) of section
31 456.32, Florida Statutes, are amended to read:

1 456.32 Definitions.--In construing this chapter, the
2 words, phrases, or terms, unless the context otherwise
3 indicates, shall have the following meanings:

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

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

23 Section 187. Chapter 461, Florida Statutes, entitled
24 "Podiatry," is retitled "Podiatric Medicine."

25 Section 188. Section 461.001, Florida Statutes, is
26 amended to read:

27 461.001 Legislative findings; intent; scope.--The
28 Legislature finds that the practice of podiatric medicine by
29 unskilled and incompetent practitioners presents a danger to
30 the public health and safety. The Legislature finds further
31 that it is difficult for the public to make an informed choice

1 about podiatric physicians ~~podiatrists~~ and that the
2 consequences of a wrong choice could seriously endanger their
3 health and safety. The sole legislative purpose for enacting
4 this chapter is to ensure that every podiatric physician
5 ~~podiatrist~~ practicing in this state meet minimum requirements
6 for safe practice. It is the legislative intent that
7 podiatric physicians ~~podiatrists~~ who fall below minimum
8 competency or who otherwise present a danger to the public
9 health be prohibited from practicing in this state.

10 Section 189. Subsection (3) of section 461.002,
11 Florida Statutes, is amended to read:

12 461.002 Exceptions.--

13 (3) This chapter shall not apply to the practice of
14 podiatric medicine by graduate podiatric physicians
15 ~~podiatrists~~ in the United States Army, Air Force, Marines,
16 Navy, Public Health Service, Coast Guard, or United States
17 Department of Veterans Affairs in the discharge of their
18 official duties.

19 Section 190. Subsections (3) and (4) of section
20 461.003, Florida Statutes, are amended to read:

21 461.003 Definitions.--As used in this chapter:

22 (3) "Practice of podiatric medicine" means the
23 diagnosis or medical, surgical, palliative, and mechanical
24 treatment of ailments of the human foot and leg. The surgical
25 treatment of ailments of the human foot and leg shall be
26 limited anatomically to that part below the anterior tibial
27 tubercle. The practice of podiatric medicine shall include
28 the amputation of the toes or other parts of the foot but
29 shall not include the amputation of the foot or leg in its
30 entirety. A podiatric physician ~~podiatrist~~ may prescribe

31

1 drugs that relate specifically to the scope of practice
2 authorized herein.

3 (4) "Podiatric physician ~~Podiatrist~~" means any person
4 licensed to practice podiatric medicine pursuant to this
5 chapter.

6 Section 191. Subsections (2) and (4) of section
7 461.004, Florida Statutes, are amended to read:

8 461.004 Board of Podiatric Medicine; membership;
9 appointment; terms.--

10 (2) Five members of the board must be licensed
11 podiatric physicians ~~podiatrists~~ who are residents of the
12 state and who have been licensed podiatric physicians
13 ~~podiatrists~~ engaged in the practice of podiatric medicine for
14 at least 4 years. The remaining two members must be residents
15 of the state who are not, and have never been, licensed as
16 podiatric physicians ~~podiatrists~~ or members of any closely
17 related profession. At least one member of the board must be
18 60 years of age or older.

19 (4) All provisions of chapter 455 relating to the
20 board shall apply. However, notwithstanding the requirement
21 of s. 455.225(4) that the board provide by rule for the
22 determination of probable cause by a panel composed of its
23 members or by the department, the board may provide by rule
24 that its probable cause panel may be composed of one current
25 member of the board and one past member of the board, as long
26 as the past member is a licensed podiatric physician
27 ~~podiatrist~~ in good standing. The past board member must be
28 appointed to the panel by the chair of the board with the
29 approval of the secretary for a maximum of 2 years.

30 Section 192. Subsection (1) of section 461.006,
31 Florida Statutes, is amended to read:

1 461.006 Licensure by examination.--

2 (1) Any person desiring to be licensed as a podiatric
3 physician ~~podiatrist~~ shall apply to the department to take the
4 licensure examination. The department shall examine each
5 applicant who the board certifies:

6 (a) Has completed the application form and remitted a
7 nonrefundable application fee set by the board not to exceed
8 \$100 and an examination fee set by the board not to exceed
9 \$350.

10 (b) Is at least 18 years of age.

11 (c) Has received a degree from a school or college of
12 podiatric medicine or chiropody recognized and approved by the
13 Council on Podiatry Education of the American Podiatric
14 Medical Association. For applicants who matriculated prior to
15 1953, the course of study shall have been at least 3 years.
16 For applicants who matriculated during or subsequent to 1953,
17 the course of study shall be at least 4 years or the total
18 hourly equivalent of a 4-year course of study.

19 (d) Beginning October 1, 1995, has satisfactorily
20 completed one of the following clinical experience
21 requirements:

22 1. One year of residency in a residency program
23 approved by the board.

24 2. Ten years of continuous, active licensed practice
25 of podiatric medicine in another state immediately preceding
26 the submission of the application and completion of at least
27 the same continuing educational requirements during those 10
28 years as are required of podiatric physicians ~~podiatrists~~
29 licensed in this state.

30 (e) Has submitted to the department a set of
31 fingerprints on a form and under procedures specified by the

1 department, along with payment in an amount equal to the costs
2 incurred by the Department of Health for the criminal
3 background check of the applicant.

4 Section 193. Section 461.009, Florida Statutes, is
5 amended to read:

6 461.009 Itemized patient billing.--Whenever a
7 podiatric physician ~~podiatrist~~ licensed under this chapter
8 renders professional services to a patient, the podiatric
9 physician ~~podiatrist~~ is required, upon request, to submit to
10 the patient, to the patient's insurer, or to the
11 administrative agency for any federal or state health program
12 under which the patient is entitled to benefits, an itemized
13 statement of the specific services rendered and the charge for
14 each, no later than the podiatric physician's ~~podiatrist's~~
15 next regular billing cycle which follows the fifth day after
16 rendering of professional services. A podiatric physician
17 ~~podiatrist~~ may not condition the furnishing of an itemized
18 statement upon prior payment of the bill.

19 Section 194. Paragraphs (a) and (c) of subsection (2)
20 of section 461.012, Florida Statutes, are amended to read:

21 461.012 Violations and penalties.--

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

25 (a) Selling or fraudulently obtaining or furnishing
26 any podiatric medicine ~~podiatry~~ diploma, license, or record of
27 registration or aiding or abetting in the same.

28 (c) Using the name or title "Podiatric Physician
29 ~~Podiatrist,~~" "~~Doctor of Podiatry,~~" or "Doctor of Podiatric
30 Medicine" or using the phrase "foot clinic," "foot doctor,"
31 "quiropedista," or any other name, title, or phrase which

1 would lead the public to believe that such person is engaging
2 in the practice of podiatric medicine unless such person is
3 licensed as a podiatric physician ~~podiatrist~~ in this state.

4 Section 195. Paragraphs (h), (i), (o), (p), (r), (s),
5 and (aa) of subsection (1), paragraph (f) of subsection (2),
6 and subsections (3), (5), and (6) of section 461.013, Florida
7 Statutes, are amended to read:

8 461.013 Grounds for disciplinary action; action by the
9 board; investigations by department.--

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

13 (h) Failing to perform any statutory or legal
14 obligation placed upon a licensed podiatric physician
15 ~~podiatrist~~.

16 (i) Making or filing a report which the licensee knows
17 to be false, intentionally or negligently failing to file a
18 report or record required by state or federal law, willfully
19 impeding or obstructing such filing or inducing another person
20 to do so. Such report or records shall include only those
21 which are signed in the capacity of a licensed podiatric
22 physician ~~podiatrist~~.

23 (o) Prescribing, dispensing, administering, mixing, or
24 otherwise preparing a legend drug, including all controlled
25 substances, other than in the course of the podiatric
26 physician's ~~podiatrist's~~ professional practice. For the
27 purposes of this paragraph, it shall be legally presumed that
28 prescribing, dispensing, administering, mixing, or otherwise
29 preparing legend drugs, including all controlled substances,
30 inappropriately or in excessive or inappropriate quantities is
31 not in the best interest of the patient and is not in the

1 course of the podiatric physician's ~~podiatrist's~~ professional
2 practice, without regard to her or his intent.

3 (p) Prescribing, dispensing, or administering any
4 medicinal drug appearing on any schedule set forth in chapter
5 893 by the podiatric physician ~~podiatrist~~ to herself or
6 himself except those prescribed, dispensed, or administered to
7 the podiatric physician ~~podiatrist~~ by another practitioner
8 authorized to prescribe, dispense, or administer them.

9 (r) Being unable to practice podiatric medicine with
10 reasonable skill and safety to patients by reason of illness
11 or use of alcohol, drugs, narcotics, chemicals, or any other
12 type of material or as a result of any mental or physical
13 condition. In enforcing this paragraph the department shall,
14 upon probable cause, have authority to compel a podiatric
15 physician ~~podiatrist~~ to submit to a mental or physical
16 examination by physicians designated by the department.
17 Failure of a podiatric physician ~~podiatrist~~ to submit to such
18 examination when directed shall constitute an admission of the
19 allegations against her or him, unless the failure was due to
20 circumstances beyond her or his control, consequent upon which
21 a default and final order may be entered without the taking of
22 testimony or presentation of evidence. A podiatric physician
23 ~~podiatrist~~ affected under this paragraph shall at reasonable
24 intervals be afforded an opportunity to demonstrate that she
25 or he can resume the competent practice of podiatric medicine
26 with reasonable skill and safety to patients.

27 (s) Gross or repeated malpractice or the failure to
28 practice podiatric medicine at a level of care, skill, and
29 treatment which is recognized by a reasonably prudent
30 podiatric physician ~~podiatrist~~ as being acceptable under
31 similar conditions and circumstances. The board shall give

1 great weight to the standards for malpractice in s. 766.102 in
2 interpreting this section. As used in this paragraph,
3 "repeated malpractice" includes, but is not limited to, three
4 or more claims for medical malpractice within the previous
5 5-year period resulting in indemnities being paid in excess of
6 \$10,000 each to the claimant in a judgment or settlement and
7 which incidents involved negligent conduct by the podiatric
8 physicians ~~podiatrists~~. As used in this paragraph, "gross
9 malpractice" or "the failure to practice podiatric medicine
10 ~~podiatry~~ with the level of care, skill, and treatment which is
11 recognized by a reasonably prudent similar podiatric physician
12 ~~podiatrist~~ as being acceptable under similar conditions and
13 circumstances" shall not be construed so as to require more
14 than one instance, event, or act.

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

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

26 (f) Placing the podiatric physician ~~podiatrist~~ on
27 probation for a period of time and subject to such conditions
28 as the board may specify, including requiring the podiatric
29 physician ~~podiatrist~~ to submit to treatment, to attend
30 continuing education courses, to submit to reexamination, and
31

1 to work under the supervision of another podiatric physician
2 podiatrist.

3 (3) The department shall not reinstate the license of
4 a podiatric physician ~~podiatrist~~, or cause a license to be
5 issued to a person the board has deemed unqualified, until
6 such time as the board is satisfied that she or he has
7 complied with all the terms and conditions set forth in the
8 final order and that such person is capable of safely engaging
9 in the practice of podiatric medicine.

10 (5)(a) Upon the department's receipt from an insurer
11 or self-insurer of a report of a closed claim against a
12 podiatric physician ~~podiatrist~~ pursuant to s. 627.912, or upon
13 the receipt from a claimant of a presuit notice against a
14 podiatric physician ~~podiatrist~~ pursuant to s. 766.106, the
15 department shall review each report and determine whether it
16 potentially involved conduct by a licensee that is subject to
17 disciplinary action, in which case the provisions of s.
18 455.225 shall apply. However, if it is reported that a
19 podiatric physician ~~podiatrist~~ has had three or more claims
20 with indemnities exceeding \$25,000 each within the previous
21 5-year period, the department shall investigate the
22 occurrences upon which the claims were based and determine if
23 action by the department against the podiatric physician
24 ~~podiatrist~~ is warranted.

25 (b) Upon the department's receipt from the Department
26 of Health and Rehabilitative Services pursuant to s. 395.0197
27 of the name of the podiatric physician ~~podiatrist~~ whose
28 conduct may constitute grounds for disciplinary action by the
29 department, the department shall investigate the occurrences
30 upon which the report was based and determine if action by the
31

1 department against the podiatric physician ~~podiatrist~~ is
2 warranted.

3 (6) When an investigation of a podiatric physician
4 ~~podiatrist~~ is undertaken, the department shall promptly
5 furnish to the podiatric physician ~~podiatrist~~ or her or his
6 attorney a copy of the complaint or document which resulted in
7 the initiation of the investigation. The podiatric physician
8 ~~podiatrist~~ may submit a written response to the information
9 contained in such complaint or document within 45 days after
10 service to the podiatric physician ~~podiatrist~~ of the complaint
11 or document. The podiatric physician's ~~podiatrist's~~ written
12 response shall be considered by the probable cause panel.

13 Section 196. Section 461.0134, Florida Statutes, is
14 amended to read:

15 461.0134 Prescription or administration of dimethyl
16 sulfoxide (DMSO); written release and information
17 requirements.--

18 (1) A podiatric physician ~~No podiatrist~~ licensed under
19 this chapter may not ~~shall~~ be subject to disciplinary action
20 by the board for prescribing or administering dimethyl
21 sulfoxide (DMSO) to a patient under the podiatric physician's
22 ~~podiatrist's~~ care who has requested the substance as long as
23 the podiatric physician ~~podiatrist~~ complies with the
24 requirements of this section.

25 (2) The patient, after being fully informed as to
26 alternative methods of treatment and their potential for cure
27 and upon request for the administration of dimethyl sulfoxide
28 (DMSO) by the patient's podiatric physician ~~podiatrist~~, shall
29 sign a written release, releasing the podiatric physician
30 ~~podiatrist~~ and, when applicable, the hospital or health
31 facility from any liability therefor.

1 (3) The podiatric physician ~~podiatrist~~ shall inform
2 the patient in writing if dimethyl sulfoxide (DMSO) has not
3 been approved as a treatment or cure by the Food and Drug
4 Administration of the United States Department of Health and
5 Human Services for the disorder for which it is being
6 prescribed.

7 Section 197. Subsection (2) of section 461.014,
8 Florida Statutes, is amended to read:

9 461.014 Residency.--The board shall encourage and
10 develop podiatric residency programs in hospitals in this
11 state and shall establish such programs by the promulgation of
12 rules, subject to the following conditions:

13 (2) A residency program may be established only at a
14 hospital where a duly licensed podiatric physician ~~podiatrist~~
15 is on the hospital staff or is otherwise in a supervisory
16 position.

17 Section 198. Subsection (2) of section 461.015,
18 Florida Statutes, is amended to read:

19 461.015 Saving clauses.--

20 (2) Each podiatric physician ~~podiatrist~~ who is duly
21 licensed on June 30, 1979, shall be entitled to hold such
22 license. Henceforth, such license shall be renewed in
23 accordance with the provisions of this act.

24 Section 199. Section 461.018, Florida Statutes, is
25 amended to read:

26 461.018 Limited scope of practice; area of
27 need.--Those persons holding valid certificates on October 1,
28 1991, who were certified pursuant to chapters 88-205 and
29 88-392, Laws of Florida, and who have been practicing under a
30 board-approved protocol for at least 2 years are eligible to
31 receive a podiatric medicine ~~podiatry~~ license to practice

1 without supervision under their present limited scope of
2 practice of the nonsurgical treatment of corns, calluses, and
3 ingrown toenails in a specially designated area of need as
4 provided by rule of the board.

5 Section 200. Paragraph (b) of subsection (3) of
6 section 464.003, Florida Statutes, is amended to read:

7 464.003 Definitions.--As used in this chapter:

8 (3)

9 (b) "Practice of practical nursing" means the
10 performance of selected acts, including the administration of
11 treatments and medications, in the care of the ill, injured,
12 or infirm and the promotion of wellness, maintenance of
13 health, and prevention of illness of others under the
14 direction of a registered nurse, a licensed physician, a
15 licensed osteopathic physician, a licensed podiatric physician
16 ~~podiatrist~~, or a licensed dentist.

17

18 The professional nurse and the practical nurse shall be
19 responsible and accountable for making decisions that are
20 based upon the individual's educational preparation and
21 experience in nursing.

22 Section 201. Subsections (2), (6), (8), and (10) of
23 section 468.301, Florida Statutes, are amended to read:

24 468.301 Definitions.--As used in this part, the term:

25 (2) "Basic X-ray machine operator-podiatric medicine
26 ~~operator-podiatry~~" means a person who is employed by and under
27 the direct supervision of a licensed podiatric physician
28 ~~podiatrist~~ to perform only those radiographic functions that
29 are within the scope of practice of a podiatric physician
30 ~~podiatrist~~ licensed pursuant to chapter 461, specifically
31 excluding nuclear medicine and radiation therapy procedures.

1 (6) "Direct supervision" means supervision and control
2 by a licensed practitioner who assumes legal liability for the
3 services rendered by the basic X-ray machine operator or basic
4 X-ray machine operator-podiatric medicine ~~operator-podiatry~~,
5 which supervision requires the physical presence of the
6 licensed practitioner for consultation and direction of the
7 actions of the basic X-ray machine operator or basic X-ray
8 machine operator-podiatric medicine ~~operator-podiatry~~.

9 (8) "General radiographer" means a person who is
10 employed and certificated in radiography, other than a basic
11 X-ray machine operator or basic X-ray machine
12 operator-podiatric medicine ~~operator-podiatry~~.

13 (10) "Licensed practitioner" means a person who is
14 licensed or otherwise authorized by law to practice medicine,
15 podiatric medicine ~~podiatry~~, chiroprody, osteopathic medicine,
16 naturopathy, or chiropractic in this state.

17 Section 202. Paragraph (b) of subsection (2),
18 paragraphs (b) and (c) of subsection (3), and paragraph (a) of
19 subsection (6) of section 468.302, Florida Statutes, are
20 amended to read:

21 468.302 Use of radiation; identification of certified
22 persons; limitations; exceptions.--

23 (2)

24 (b) A person holding a certificate as a basic X-ray
25 machine operator-podiatric medicine ~~operator-podiatry~~ may use
26 the title "Basic X-ray Machine Operator-Podiatric Medicine
27 ~~Operator-Podiatry~~."

28
29 No other person is entitled to so use a title or letters
30 contained in this subsection or to hold himself or herself out
31

1 in any way, whether orally or in writing, expressly or by
2 implication, as being so certified.

3 (3)

4 (b) A basic X-ray machine operator or basic X-ray
5 machine operator-podiatric medicine ~~operator-podiatry~~ may not
6 practice radiologic technology in walk-in emergency centers,
7 freestanding breast clinics, freestanding cancer clinics,
8 state mental hospitals, state correctional institutions, or in
9 any facility regulated under chapter 390, chapter 392, chapter
10 393, chapter 394, or chapter 641. For a facility licensed
11 under chapter 395, a basic X-ray machine operator may only
12 perform the procedures specified in paragraph (a) in a
13 hospital with a capacity of 150 beds or less. If such a
14 hospital has or acquires radiographic or fluoroscopic
15 equipment other than general diagnostic radiographic and
16 general fluoroscopic equipment, that hospital shall keep a
17 record documenting which personnel performed each radiographic
18 or fluoroscopic procedure. For purposes of this paragraph, a
19 walk-in emergency center shall not include a
20 physician-operated walk-in clinic which operates with or
21 without appointments and with extended hours and which does
22 not hold itself out to the public as an emergency center.

23 (c) A person holding a certificate as a basic X-ray
24 machine operator-podiatric medicine ~~operator-podiatry~~ may
25 perform only podiatric radiographic procedures under the
26 direct supervision and control of a licensed podiatric
27 physician ~~podiatrist~~.

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

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

1 medicine, chiropody, podiatric medicine ~~podiatry~~, or
2 chiropractic or a radiologic technology educational program
3 and who applies radiation to a human being while under the
4 direct supervision of a licensed practitioner.

5 Section 203. Paragraph (b) of subsection (4) of
6 section 468.304, Florida Statutes, is amended to read:

7 468.304 Certification examination; admission.--The
8 department shall admit to examination for certification any
9 applicant who pays to the department a nonrefundable fee not
10 to exceed \$100 and submits satisfactory evidence, verified by
11 oath or affirmation, that she or he:

12 (4)

13 (b)1. With respect to an applicant for a basic X-ray
14 machine operator's certificate, has completed a course of
15 study approved by the department with appropriate study
16 material provided the applicant by the department;

17 2. With respect to an applicant for a basic X-ray
18 machine operator-podiatric medicine ~~operator-podiatry~~
19 certificate, has completed a course of study approved by the
20 department, provided that such course of study shall be
21 limited to that information necessary to perform radiographic
22 procedures within the scope of practice of a podiatric
23 physician ~~podiatrist~~ licensed pursuant to chapter 461;

24 3. With respect only to an applicant for a general
25 radiographer's certificate who is a basic X-ray machine
26 operator certificateholder, has completed an educational
27 program or a 2-year training program that takes into account
28 the types of procedures and level of supervision usually and
29 customarily practiced in a hospital, which educational or
30 training program complies with the rules of the department; or
31

1 4. With respect only to an applicant for a nuclear
2 medicine technologist's certificate who is a general
3 radiographer certificateholder, has completed an educational
4 program or a 2-year training program that takes into account
5 the types of procedures and level of supervision usually and
6 customarily practiced in a hospital, which educational or
7 training program complies with the rules of the department.

8
9 No application for a limited computed tomography certificate
10 shall be accepted. All persons holding valid computed
11 tomography certificates as of October 1, 1984, are subject to
12 the provisions of s. 468.309.

13 Section 204. Paragraph (a) of subsection (2) of
14 section 468.307, Florida Statutes, is amended to read:

15 468.307 Certificate; issuance; possession; display.--

16 (2)(a) The department may, at its discretion, issue a
17 temporary certificate to:

18 1. An applicant who has completed an educational
19 program and is awaiting examination for a certificate
20 specified in s. 468.302(2)(b), (c), (e), or (f), if the
21 applicant has met all other requirements established pursuant
22 to s. 468.304.

23 2. A basic X-ray machine operator, if such person is
24 under the direct supervision of a licensed practitioner and
25 the licensed practitioner has not requested issuance of a
26 temporary certificate within the previous 18 months, upon
27 application by a licensed practitioner who is practicing in an
28 office of five or fewer licensed practitioners.

29 3. A basic X-ray machine operator-podiatric medicine
30 ~~operator-podiatry~~, if such person is under the direct
31 supervision of a licensed podiatric physician ~~podiatrist~~ and

1 the licensed podiatric physician ~~podiatrist~~ has not requested
2 issuance of a temporary certificate within the previous 18
3 months, upon application by a licensed podiatric physician
4 ~~podiatrist~~ who is practicing in an office of five or fewer
5 licensed podiatric physicians ~~podiatrists~~.

6 Section 205. Paragraph (k) of subsection (2) of
7 section 468.314, Florida Statutes, is amended to read:

8 468.314 Advisory Council on Radiation Protection;
9 appointment; terms; powers; duties.--

10 (2) The council shall be comprised of:

11 (k) A board-certified podiatric physician ~~podiatrist~~.

12 Section 206. Section 476.044, Florida Statutes, is
13 amended to read:

14 476.044 Exemptions.--This chapter does not apply to
15 the following persons when practicing pursuant to their
16 professional responsibilities and duties:

17 (1) Persons authorized under the laws of this state to
18 practice medicine, surgery, osteopathic medicine,
19 chiropractic, naturopathy, or podiatric medicine ~~podiatry~~;

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

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

23 (4) Persons practicing cosmetology under the laws of
24 this state;

25 (5) Persons employed in federal, state, or local
26 institutions, hospitals, or military bases as barbers whose
27 practice is limited to the inmates, patients, or authorized
28 military personnel of such institutions, hospitals, or bases;

29 (6) Persons who practice only shampooing as defined in
30 s. 477.013 and whose practice is limited to the acts described
31 therein; or

1 (7) Persons whose occupation or practice is confined
2 solely to cutting, trimming, polishing, or cleansing the
3 fingernails of any person when said cutting, trimming,
4 polishing, or cleansing is done in a barbershop licensed
5 pursuant to this chapter which is carrying on a regular and
6 customary business of barbering, and such individual has been
7 practicing the activities set forth in this subsection prior
8 to October 1, 1985.

9 Section 207. Paragraph (a) of subsection (1) of
10 section 477.0135, Florida Statutes, is amended to read:

11 477.0135 Exemptions.--

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

15 (a) Persons authorized under the laws of this state to
16 practice medicine, surgery, osteopathic medicine,
17 chiropractic, massage, naturopathy, or podiatric medicine
18 ~~podiatry~~.

19 Section 208. Paragraph (i) of subsection (3) of
20 section 483.901, Florida Statutes, is amended to read:

21 483.901 Medical physicists; definitions; licensure.--

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

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

27 Section 209. Subsection (1) of section 486.161,
28 Florida Statutes, is amended to read:

29 486.161 Exemptions.--

30 (1) No provision of this chapter shall be construed to
31 prohibit any person licensed in this state from using any

1 physical agent as a part of, or incidental to, the lawful
2 practice of her or his profession under the statutes
3 applicable to the profession of chiropractor, podiatric
4 physician podiatrist, doctor of medicine, massage therapist,
5 nurse, osteopathic physician or surgeon, occupational
6 therapist, or naturopath.

7 Section 210. Subsection (1) of section 621.03, Florida
8 Statutes, is amended to read:

9 621.03 Definitions.--As used in this act the following
10 words shall have the meaning indicated:

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

23 Section 211. Paragraph (h) of subsection (4) of
24 section 627.351, Florida Statutes, is amended to read:

25 627.351 Insurance risk apportionment plans.--

26 (4) MEDICAL MALPRACTICE RISK APPORTIONMENT.--

27 (h) As used in this subsection:

28 1. "Health care provider" means hospitals licensed
29 under chapter 395; physicians licensed under chapter 458;
30 osteopathic physicians licensed under chapter 459; podiatric
31 physicians podiatrists licensed under chapter 461; dentists

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

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

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

31

1 Section 212. Paragraph (b) of subsection (1) of
2 section 627.357, Florida Statutes, is amended to read:

3 627.357 Medical malpractice self-insurance.--

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

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

6 1. Hospital licensed under chapter 395.

7 2. Physician licensed, or physician assistant
8 certified, under chapter 458.

9 3. Osteopathic physician licensed under chapter 459.

10 4. Podiatric physician ~~Podiatrist~~ licensed under
11 chapter 461.

12 5. Health maintenance organization certificated under
13 part I of chapter 641.

14 6. Ambulatory surgical center licensed under chapter
15 395.

16 7. Chiropractor licensed under chapter 460.

17 8. Psychologist licensed under chapter 490.

18 9. Optometrist licensed under chapter 463.

19 10. Dentist licensed under chapter 466.

20 11. Pharmacist licensed under chapter 465.

21 12. Registered nurse, licensed practical nurse, or
22 advanced registered nurse practitioner licensed or registered
23 under chapter 464.

24 13. Other medical facility.

25 14. Professional association, partnership,
26 corporation, joint venture, or other association established
27 by the individuals set forth in subparagraphs 2., 3., 4., 7.,
28 8., 9., 10., 11., and 12. for professional activity.

29 Section 213. Subsection (3) of section 627.419,
30 Florida Statutes, is amended to read:

31 627.419 Construction of policies.--

1 (3) Notwithstanding any other provision of law, when
2 any health insurance policy, health care services plan, or
3 other contract provides for the payment for procedures
4 specified in the policy or contract which are within the scope
5 of an optometrist's or podiatric physician's ~~podiatrist's~~
6 professional license, such policy shall be construed to
7 include payment to an optometrist or podiatric physician
8 ~~podiatrist~~ who performs such procedures. In the case of
9 podiatric medicine ~~podiatry~~ services, such payments shall be
10 made in accordance with the coverage now provided for medical
11 and surgical benefits.

12 Section 214. 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 chiropractor licensed under chapter 460; a podiatric
19 physician ~~podiatrist~~ licensed under chapter 461; or, for
20 purposes of oral surgery only, a dental surgeon licensed under
21 chapter 466.

22 Section 215. Subsection (1) of section 627.912,
23 Florida Statutes, is amended to read:

24 627.912 Professional liability claims and actions;
25 reports by insurers.--

26 (1) Each self-insurer authorized under s. 627.357 and
27 each insurer or joint underwriting association providing
28 professional liability insurance to a practitioner of medicine
29 licensed under chapter 458, to a practitioner of osteopathic
30 medicine licensed under chapter 459, to a podiatric physician
31 ~~podiatrist~~ licensed under chapter 461, to a dentist licensed

1 under chapter 466, to a hospital licensed under chapter 395,
2 to a crisis stabilization unit licensed under part IV of
3 chapter 394, to a health maintenance organization certificated
4 under part I of chapter 641, to clinics included in chapter
5 390, to an ambulatory surgical center as defined in s.
6 395.002, or to a member of The Florida Bar shall report in
7 duplicate to the Department of Insurance any claim or action
8 for damages for personal injuries claimed to have been caused
9 by error, omission, or negligence in the performance of such
10 insured's professional services or based on a claimed
11 performance of professional services without consent, if the
12 claim resulted in:

- 13 (a) A final judgment in any amount.
14 (b) A settlement in any amount.
15 (c) A final disposition not resulting in payment on
16 behalf of the insured.

17
18 Reports shall be filed with the department and, if the insured
19 party is licensed under chapter 458, chapter 459, chapter 461,
20 or chapter 466, with the Agency for Health Care
21 Administration, no later than 30 days following the occurrence
22 of any event listed in paragraph (a), paragraph (b), or
23 paragraph (c). The Agency for Health Care Administration shall
24 review each report and determine whether any of the incidents
25 that resulted in the claim potentially involved conduct by the
26 licensee that is subject to disciplinary action, in which case
27 the provisions of s. 455.225 shall apply. The Agency for
28 Health Care Administration, as part of the annual report
29 required by s. 455.2285, shall publish annual statistics,
30 without identifying licensees, on the reports it receives,
31

1 including final action taken on such reports by the agency or
2 the appropriate regulatory board.

3 Section 216. Subsection (3) of section 641.425,
4 Florida Statutes, is amended to read:

5 641.425 Construction of contracts.--

6 (3) Notwithstanding any other provision of law, when
7 any contract provides for the payment for procedures which are
8 specified in the contract and are within the scope of an
9 optometrist's or podiatric physician's ~~podiatrist's~~
10 professional license, such contract shall be construed to
11 include payment to an optometrist or podiatric physician
12 ~~podiatrist~~ who performs such procedures. In the case of
13 podiatric medicine ~~podiatry~~ services, payments shall be made
14 in accordance with the coverage now provided for medical and
15 surgical benefits.

16 Section 217. Section 725.01, Florida Statutes, is
17 amended to read:

18 725.01 Promise to pay another's debt, etc.--No action
19 shall be brought whereby to charge any executor or
20 administrator upon any special promise to answer or pay any
21 debt or damages out of her or his own estate, or whereby to
22 charge the defendant upon any special promise to answer for
23 the debt, default or miscarriage of another person or to
24 charge any person upon any agreement made upon consideration
25 of marriage, or upon any contract for the sale of lands,
26 tenements or hereditaments, or of any uncertain interest in or
27 concerning them, or for any lease thereof for a period longer
28 than 1 year, or upon any agreement that is not to be performed
29 within the space of 1 year from the making thereof, or whereby
30 to charge any health care provider upon any guarantee,
31 warranty, or assurance as to the results of any medical,

1 surgical, or diagnostic procedure performed by any physician
2 licensed under chapter 458, osteopathic physician licensed
3 under chapter 459, chiropractor licensed under chapter 460,
4 podiatric physician ~~podiatrist~~ licensed under chapter 461, or
5 dentist licensed under chapter 466, unless the agreement or
6 promise upon which such action shall be brought, or some note
7 or memorandum thereof shall be in writing and signed by the
8 party to be charged therewith or by some other person by her
9 or him thereunto lawfully authorized.

10 Section 218. Paragraph (b) of subsection (1) of
11 section 766.101, Florida Statutes, is amended to read:

12 766.101 Medical review committee, immunity from
13 liability.--

14 (1) As used in this section:

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

23 Section 219. Paragraph (a) of subsection (6) of
24 section 766.102, Florida Statutes, is amended to read:

25 766.102 Medical negligence; standards of recovery.--

26 (6)(a) In any action for damages involving a claim of
27 negligence against a physician licensed under chapter 458,
28 osteopathic physician licensed under chapter 459, podiatric
29 physician ~~podiatrist~~ licensed under chapter 461, or
30 chiropractor licensed under chapter 460 providing emergency
31 medical services in a hospital emergency department, the court

1 shall admit expert medical testimony only from physicians,
2 osteopathic physicians, podiatric physicians ~~podiatrists~~, and
3 chiropractors who have had substantial professional experience
4 within the preceding 5 years while assigned to provide
5 emergency medical services in a hospital emergency department.

6 Section 220. Subsection (3) of section 766.103,
7 Florida Statutes, is amended to read:

8 766.103 Florida Medical Consent Law.--

9 (3) No recovery shall be allowed in any court in this
10 state against any physician licensed under chapter 458,
11 osteopathic physician licensed under chapter 459, chiropractor
12 licensed under chapter 460, podiatric physician ~~podiatrist~~
13 licensed under chapter 461, or dentist licensed under chapter
14 466 in an action brought for treating, examining, or operating
15 on a patient without his or her informed consent when:

16 (a)1. The action of the physician, osteopathic
17 physician, chiropractor, podiatric physician ~~podiatrist~~, or
18 dentist in obtaining the consent of the patient or another
19 person authorized to give consent for the patient was in
20 accordance with an accepted standard of medical practice among
21 members of the medical profession with similar training and
22 experience in the same or similar medical community; and

23 2. A reasonable individual, from the information
24 provided by the physician, osteopathic physician,
25 chiropractor, podiatric physician ~~podiatrist~~, or dentist,
26 under the circumstances, would have a general understanding of
27 the procedure, the medically acceptable alternative procedures
28 or treatments, and the substantial risks and hazards inherent
29 in the proposed treatment or procedures, which are recognized
30 among other physicians, osteopathic physicians, chiropractors,
31 podiatric physicians ~~podiatrists~~, or dentists in the same or

1 similar community who perform similar treatments or
2 procedures; or

3 (b) The patient would reasonably, under all the
4 surrounding circumstances, have undergone such treatment or
5 procedure had he or she been advised by the physician,
6 osteopathic physician, chiropractor, podiatric physician
7 ~~podiatrist~~, or dentist in accordance with the provisions of
8 paragraph (a).

9 Section 221. Paragraphs (b) and (i) of subsection (1),
10 paragraph (e) of subsection (2), and paragraph (b) of
11 subsection (3) of section 766.105, Florida Statutes, are
12 amended to read:

13 766.105 Florida Patient's Compensation Fund.--

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

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

- 17 1. Hospital licensed under chapter 395.
- 18 2. Physician licensed, or physician assistant
19 certified, under chapter 458.
- 20 3. Osteopathic physician licensed under chapter 459.
- 21 4. Podiatric physician ~~Podiatrist~~ licensed under
22 chapter 461.
- 23 5. Health maintenance organization certificated under
24 part I of chapter 641.
- 25 6. Ambulatory surgical center licensed under chapter
26 395.
- 27 7. "Other medical facility" as defined in paragraph
28 (c).
- 29 8. Professional association, partnership, corporation,
30 joint venture, or other association by the individuals set
31

1 forth in subparagraphs 2., 3., and 4. for professional
2 activity.

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

12 (2) COVERAGE.--

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

31 (3) THE FUND.--

1 (b) Fund administration and operation.--
2 1. The fund shall operate subject to the supervision
3 and approval of a board of governors consisting of a
4 representative of the insurance industry appointed by the
5 Insurance Commissioner, an attorney appointed by The Florida
6 Bar, a representative of physicians appointed by the Florida
7 Medical Association, a representative of physicians' insurance
8 appointed by the Insurance Commissioner, a representative of
9 physicians' self-insurance appointed by the Insurance
10 Commissioner, two representatives of hospitals appointed by
11 the Florida Hospital Association, a representative of hospital
12 insurance appointed by the Insurance Commissioner, a
13 representative of hospital self-insurance appointed by the
14 Insurance Commissioner, a representative of the osteopathic
15 physicians' or podiatric physicians'~~podiatrists'~~ insurance or
16 self-insurance appointed by the Insurance Commissioner, and a
17 representative of the general public appointed by the
18 Insurance Commissioner. The board of governors shall, during
19 the first meeting after June 30 of each year, choose one of
20 its members to serve as chair of the board and another member
21 to serve as vice chair of the board. The members of the board
22 shall be appointed to serve terms of 4 years, except that the
23 initial appointments of a representative of the general public
24 by the Insurance Commissioner, an attorney by The Florida Bar,
25 a representative of physicians by the Florida Medical
26 Association, and one of the two representatives of the Florida
27 Hospital Association shall be for terms of 3 years;
28 thereafter, such representatives shall be appointed for terms
29 of 4 years. Subsequent to initial appointments for 4-year
30 terms, the representative of the osteopathic physicians' or
31 podiatric physicians'~~podiatrists'~~ insurance or self-insurance

1 appointed by the Insurance Commissioner and the representative
2 of hospital self-insurance appointed by the Insurance
3 Commissioner shall be appointed for 2-year terms; thereafter,
4 such representatives shall be appointed for terms of 4 years.
5 Each appointed member may designate in writing to the chair an
6 alternate to act in the member's absence or incapacity. A
7 member of the board, or the member's alternate, may be
8 reimbursed from the assets of the fund for expenses incurred
9 by him or her as a member, or alternate member, of the board
10 and for committee work, but he or she may not otherwise be
11 compensated by the fund for his or her service as a board
12 member or alternate.

13 2. There shall be no liability on the part of, and no
14 cause of action of any nature shall arise against, the fund or
15 its agents or employees, professional advisers or consultants,
16 members of the board of governors or their alternates, or the
17 Department of Insurance or its representatives for any action
18 taken by them in the performance of their powers and duties
19 pursuant to this section.

20 Section 222. Subsection (2) of section 766.110,
21 Florida Statutes, is amended to read:

22 766.110 Liability of health care facilities.--

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

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

26 Section 223. Paragraph (d) of subsection (3) of
27 section 766.1115, Florida Statutes, is amended to read:

28 766.1115 Health care providers; creation of agency
29 relationship with governmental contractors.--

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

31 (d) "Health care provider" or "provider" means:

- 1 1. A birth center licensed under chapter 383.
- 2 2. An ambulatory surgical center licensed under
- 3 chapter 395.
- 4 3. A hospital licensed under chapter 395.
- 5 4. A physician licensed, or physician assistant
- 6 certified, under chapter 458.
- 7 5. An osteopathic physician licensed, or osteopathic
- 8 physician assistant certified, under chapter 459.
- 9 6. A chiropractic physician licensed under chapter
- 10 460.
- 11 7. A podiatric physician ~~podiatrist~~ licensed under
- 12 chapter 461.
- 13 8. A registered nurse, nurse midwife, licensed
- 14 practical nurse, or advanced registered nurse practitioner
- 15 licensed or registered under chapter 464 or any facility which
- 16 employs nurses licensed or registered under chapter 464 to
- 17 supply all or part of the care delivered under this section.
- 18 9. A midwife licensed under chapter 467.
- 19 10. A health maintenance organization certificated
- 20 under part I of chapter 641.
- 21 11. A health care professional association and its
- 22 employees or a corporate medical group and its employees.
- 23 12. Any other medical facility the primary purpose of
- 24 which is to deliver human medical diagnostic services or which
- 25 delivers nonsurgical human medical treatment, and which
- 26 includes an office maintained by a provider.
- 27 13. Any other health care professional, practitioner,
- 28 provider, or facility under contract with a governmental
- 29 contractor.
- 30
- 31

1 The term includes any nonprofit corporation qualified as
2 exempt from federal income taxation under s. 501(c) of the
3 Internal Revenue Code which delivers health care services
4 provided by licensed professionals listed in this paragraph,
5 any federally funded community health center, and any
6 volunteer corporation or volunteer health care provider that
7 delivers health care services.

8 Section 224. Subsection (18) of section 893.02,
9 Florida Statutes, is amended to read:

10 893.02 Definitions.--The following words and phrases
11 as used in this chapter shall have the following meanings,
12 unless the context otherwise requires:

13 (18) "Practitioner" means a physician licensed
14 pursuant to chapter 458, a dentist licensed pursuant to
15 chapter 466, a veterinarian licensed pursuant to chapter 474, a
16 osteopathic physician licensed pursuant to chapter 459, a
17 naturopath licensed pursuant to chapter 462, or a podiatric
18 physician ~~podiatrist~~ licensed pursuant to chapter 461,
19 provided such practitioner holds a valid federal controlled
20 substance registry number.

21 Section 225. Subsection (39) of section 984.03,
22 Florida Statutes, is amended to read:

23 984.03 Definitions.--When used in this chapter, the
24 term:

25 (39) "Neglect" occurs when the parent or legal
26 custodian of a child or, in the absence of a parent or legal
27 custodian, the person primarily responsible for the child's
28 welfare deprives a child of, or allows a child to be deprived
29 of, necessary food, clothing, shelter, or medical treatment or
30 permits a child to live in an environment when such
31 deprivation or environment causes the child's physical,

1 mental, or emotional health to be significantly impaired or to
2 be in danger of being significantly impaired. The foregoing
3 circumstances shall not be considered neglect if caused
4 primarily by financial inability unless actual services for
5 relief have been offered to and rejected by such person. A
6 parent or guardian legitimately practicing religious beliefs
7 in accordance with a recognized church or religious
8 organization who thereby does not provide specific medical
9 treatment for a child shall not, for that reason alone, be
10 considered a negligent parent or guardian; however, such an
11 exception does not preclude a court from ordering the
12 following services to be provided, when the health of the
13 child so requires:

14 (a) Medical services from a licensed physician,
15 dentist, optometrist, podiatric physician ~~podiatrist~~, or other
16 qualified health care provider; or

17 (b) Treatment by a duly accredited practitioner who
18 relies solely on spiritual means for healing in accordance
19 with the tenets and practices of a well-recognized church or
20 religious organization.

21 Section 226. This act shall take effect July 1 of the
22 year in which enacted.

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LEGISLATIVE SUMMARY

Provides technical corrections and changes to various provisions of law relating to regulation of professions. Corrects an inadvertent omission of a reference in a provision relating to probable cause determinations. Authorizes the Department of Health and regulatory boards under the department to refuse to issue an initial license under circumstances relating to ongoing investigations or prosecutions of certain applicants. Requires certain applicants for restricted licensure as a physician to submit a set of fingerprints. Corrects references, cross-references, definitions, and terminology relating to authority and jurisdiction of the Department of Health. Corrects cross-references relating to the Health Care Trust Fund. Revises terminology relating to podiatry and podiatrists. (See bill for details.)