

By the Committee on Health Care and Senator Myers

317-1910A-98

1                                   A bill to be entitled  
2           An act relating to regulation of professions;  
3           amending ss. 455.209, 455.213, 455.218, F.S.;  
4           conforming provisions to a previous  
5           administrative reorganization; amending s.  
6           455.225, F.S.; revising probable-cause  
7           provisions; prescribing authority of the  
8           department or a board in cases of failure to  
9           comply with continuing-education requirements;  
10          conforming provisions to a previous  
11          administrative reorganization; amending s.  
12          455.2285, F.S.; conforming provisions to a  
13          previous administrative reorganization;  
14          amending s. 455.667, F.S.; revising provisions  
15          relating to ownership and control of patient  
16          records; amending s. 455.564, F.S.; authorizing  
17          the Department of Health and regulatory boards  
18          under the department to refuse to issue an  
19          initial license under circumstances relating to  
20          ongoing investigations or prosecutions of  
21          certain applicants; amending s. 455.565, F.S.;  
22          requiring certain applicants for restricted  
23          licensure as a physician to submit a set of  
24          fingerprints; amending ss. 20.43, 120.80,  
25          212.08, 215.37, 240.215, 310.102, 337.162,  
26          381.0039, 383.32, 395.0193, 395.0197, 395.3025,  
27          400.211, 400.491, 400.518, 408.061, 408.704,  
28          409.2598, 415.1055, 415.5055, 415.51, 440.13,  
29          455.565, 455.5651, 455.641, 455.651, 455.698,  
30          455.717, 457.103, 458.307, 458.311, 458.3115,  
31          458.3124, 458.319, 458.331, 458.343, 458.347,

1 459.004, 459.008, 459.015, 459.019, 459.022,  
2 460.404, 460.4061, 460.407, 461.004, 461.007,  
3 461.013, 462.01, 463.002, 463.003, 463.016,  
4 464.004, 465.004, 465.006, 466.004, 466.007,  
5 466.018, 466.022, 466.028, 467.003, 468.1135,  
6 468.1145, 468.1185, 468.1295, 468.1665,  
7 468.1755, 468.1756, 468.205, 468.219, 468.364,  
8 468.365, 468.402, 468.4315, 468.453, 468.456,  
9 468.4571, 468.506, 468.507, 468.513, 468.518,  
10 468.523, 468.526, 468.532, 468.535, 468.701,  
11 468.703, 468.707, 468.711, 468.719, 468.801,  
12 468.811, 469.009, 470.003, 470.036, 471.008,  
13 471.015, 471.033, 471.038, 472.015, 473.3035,  
14 473.308, 473.311, 473.323, 474.204, 474.214,  
15 474.2145, 475.021, 475.181, 475.25, 475.624,  
16 476.204, 477.029, 480.044, 481.2055, 481.213,  
17 481.225, 481.2251, 481.306, 481.311, 481.325,  
18 483.805, 483.807, 483.901, 484.002, 484.003,  
19 484.014, 484.042, 484.056, 486.023, 486.115,  
20 486.172, 489.129, 489.533, 490.004, 490.00515,  
21 490.009, 490.015, 491.004, 491.0047, 491.009,  
22 491.015, 492.103, 492.113, 627.668, 627.912,  
23 636.039, 641.27, 641.316, 641.55, 766.106,  
24 766.305, 766.308, 766.314, 817.505, and  
25 937.031, F.S.; correcting references,  
26 cross-references, definitions, and terminology  
27 relating to authority and jurisdiction of the  
28 Department of Health; authorizing the  
29 department to issue a physicist-in-training  
30 certificate; authorizing the Board of Medicine  
31 to adopt by rule practice standards;

1 authorizing the Board of Osteopathic Medicine  
2 to adopt by rule practice standards; amending  
3 ss. 215.20, 391.208, 391.217, 400.5575, 408.20,  
4 641.60, F.S.; correcting cross-references  
5 relating to the Health Care Trust Fund;  
6 amending ss. 39.01, 320.0848, 381.026,  
7 381.0261, 381.0302, 395.0191, 395.1041,  
8 395.301, 404.22, 409.906, 415.503, 440.106,  
9 440.13, 440.134, 440.15, 455.684, 455.691,  
10 455.697, 455.698, 456.31, 456.32, 461.001,  
11 461.002, 461.003, 461.004, 461.006, 461.009,  
12 461.012, 461.013, 461.0134, 461.014, 461.015,  
13 461.018, 464.003, 468.301, 468.302, 468.304,  
14 468.307, 468.314, 476.044, 477.0135, 483.901,  
15 486.161, 621.03, 627.351, 627.357, 627.419,  
16 627.6482, 627.912, 641.425, 725.01, 766.101,  
17 766.102, 766.103, 766.105, 766.110, 766.1115,  
18 893.02, 984.03, F.S.; revising terminology  
19 relating to podiatry and podiatrists;  
20 authorizing dentists and dental hygienists to  
21 be governmental contractors; amending s.  
22 409.908, F.S., relating to reimbursement of  
23 Medicaid providers; requiring the Department of  
24 Health to adopt rules governing insurance  
25 coverage for midwives; amending s. 455.564,  
26 F.S.; requiring that the Department of Health  
27 or a regulatory board adopt rules governing  
28 alternative methods by which licensees may  
29 obtain continuing education credits in risk  
30 management; amending s. 455.574, F.S.;  
31 requiring the Department of Health to adopt

1 rules governing licensure examinations;  
2 amending s. 468.705, F.S.; requiring that the  
3 Department of Health adopt rules governing a  
4 protocol between athletic trainers and  
5 supervising physicians; amending s. 865.09,  
6 F.S., relating to fictitious name registration;  
7 providing certain exemptions for persons  
8 licensed by the Department of Health; amending  
9 ss. 627.6407, 627.6619, F.S.; providing  
10 conditions for health insurance coverage of  
11 massage; amending s. 458.317, F.S.; providing  
12 requirements for a physician who practices  
13 under a limited license; amending s. 465.019,  
14 F.S.; providing emergency room physician  
15 authority to dispense up to a 24-hour drug  
16 supply to a patient under certain  
17 circumstances; amending s. 468.703, F.S.;  
18 revising requirements for members of the  
19 Council of Athletic Training; amending s.  
20 766.204, F.S.; revising procedures for the  
21 availability of medical records; providing an  
22 effective date.

23

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

25

26 Section 1. Subsection (2) of section 455.209, Florida  
27 Statutes, is amended to read:

28 455.209 Accountability and liability of board  
29 members.--

30 (2) Each board member and each former board member  
31 serving on a probable cause panel shall be exempt from civil

1 liability for any act or omission when acting in the member's  
2 official capacity, and the department, or the Department of  
3 Legal Affairs shall defend any such member in any action  
4 against any board or member of a board arising from any such  
5 act or omission. In addition, the department or the Department  
6 of Legal Affairs may defend the member's company or business  
7 in any action against the company or business if the  
8 department or the Department of Legal Affairs determines that  
9 the actions from which the suit arises are actions taken by  
10 the member in the member's official capacity and were not  
11 beyond the member's statutory authority. In providing such  
12 defense, the department, ~~the agency,~~ or the Department of  
13 Legal Affairs may employ or utilize the legal services of  
14 outside counsel.

15 Section 2. Subsection (1) of section 455.213, Florida  
16 Statutes, is amended to read:

17 455.213 General licensing provisions.--

18 (1) Any person desiring to be licensed shall apply to  
19 the department in writing. The application for licensure shall  
20 be made on a form prepared and furnished by the department and  
21 include the applicant's social security number. The  
22 application shall be supplemented as needed to reflect any  
23 material change in any circumstance or condition stated in the  
24 application which takes place between the initial filing of  
25 the application and the final grant or denial of the license  
26 and which might affect the decision of the department ~~agency~~.  
27 In order to further the economic development goals of the  
28 state, and notwithstanding any law to the contrary, the  
29 department may enter into an agreement with the county tax  
30 collector for the purpose of appointing the county tax  
31 collector as the department's agent to accept applications for

1 licenses and applications for renewals of licenses. The  
2 agreement must specify the time within which the tax collector  
3 must forward any applications and accompanying application  
4 fees to the department. In cases where a person applies or  
5 schedules directly with a national examination organization or  
6 examination vendor to take an examination required for  
7 licensure, any organization- or vendor-related fees associated  
8 with the examination may be paid directly to the organization  
9 or vendor.

10 Section 3. Subsection (6) of section 455.218, Florida  
11 Statutes, is amended to read:

12 455.218 Foreign-trained professionals; special  
13 examination and license provisions.--

14 (6) The department, for its boards, shall not issue an  
15 initial license to, or renew a license of, any applicant or  
16 licensee who is under investigation or prosecution in any  
17 jurisdiction for an action which would constitute a violation  
18 of this part or the professional practice acts administered by  
19 the department ~~or agency~~ and the boards until such time as the  
20 investigation or prosecution is complete, at which time the  
21 provisions of the professional practice acts shall apply.

22 Section 4. Subsections (2), (4), and (9) of section  
23 455.225, Florida Statutes, are amended to read:

24 455.225 Disciplinary proceedings.--Disciplinary  
25 proceedings for each board shall be within the jurisdiction of  
26 the department.

27 (2) The department shall allocate sufficient and  
28 adequately trained staff to expeditiously and thoroughly  
29 determine legal sufficiency and investigate all legally  
30 sufficient complaints. ~~For purposes of this section, it is the~~  
31 ~~intent of the Legislature that the term "expeditiously" means~~

1 ~~that the agency, for disciplinary cases under its~~  
2 ~~jurisdiction, shall complete the report of its initial~~  
3 ~~investigative findings and recommendations concerning the~~  
4 ~~existence of probable cause within 6 months after its receipt~~  
5 ~~of the complaint. The failure of the agency, for disciplinary~~  
6 ~~cases under its jurisdiction, to comply with the time limits~~  
7 ~~of this section while investigating a complaint against a~~  
8 ~~licensee constitutes harmless error in any subsequent~~  
9 ~~disciplinary action unless a court finds that either the~~  
10 ~~fairness of the proceeding or the correctness of the action~~  
11 ~~may have been impaired by a material error in procedure or a~~  
12 ~~failure to follow prescribed procedure.~~When its investigation  
13 is complete and legally sufficient, the department shall  
14 prepare and submit to the probable cause panel of the  
15 appropriate regulatory board the investigative report of the  
16 department. The report shall contain the investigative  
17 findings and the recommendations of the department concerning  
18 the existence of probable cause. At any time after legal  
19 sufficiency is found, the department may dismiss any case, or  
20 any part thereof, if the department determines that there is  
21 insufficient evidence to support the prosecution of  
22 allegations contained therein. The department shall provide a  
23 detailed report to the appropriate probable cause panel prior  
24 to dismissal of any case or part thereof, and to the subject  
25 of the complaint after dismissal of any case or part thereof,  
26 under this section. For cases dismissed prior to a finding of  
27 probable cause, such report is confidential and exempt from s.  
28 119.07(1). The probable cause panel shall have access, upon  
29 request, to the investigative files pertaining to a case prior  
30 to dismissal of such case. If the department dismisses a case,  
31 the probable cause panel may retain independent legal counsel,

1 employ investigators, and continue the investigation and  
2 prosecution of the case as it deems necessary.

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



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

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

22 (9)(a) The department shall periodically notify the  
23 person who filed the complaint of the status of the  
24 investigation, whether probable cause has been found, and the  
25 status of any civil action or administrative proceeding or  
26 appeal.

27 ~~(b) In any disciplinary case under the jurisdiction of~~  
28 ~~the Agency for Health Care Administration for which probable~~  
29 ~~cause has been found, the Agency for Health Care~~  
30 ~~Administration shall provide to the person who filed the~~  
31 ~~complaint a copy of the administrative complaint, including:~~

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

3           ~~2. A written explanation of how and when the person~~  
4 ~~may participate in the disciplinary process.~~

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

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

18           Section 5. Section 455.2285, Florida Statutes, is  
19 amended to read:

20           455.2285 Annual report concerning finances,  
21 administrative complaints, disciplinary actions, and  
22 recommendations.--The department is directed to prepare and  
23 submit a report to the President of the Senate and Speaker of  
24 the House of Representatives by November 1 of each year. In  
25 addition to finances and any other information the Legislature  
26 may require, the report shall include statistics and relevant  
27 information, profession by profession, detailing:

28           (1) The revenues, expenditures, and cash balances for  
29 the prior year, and a review of the adequacy of existing fees.

30           (2) The number of complaints received and  
31 investigated.

- 1           (3) The number of findings of probable cause made.  
2           (4) The number of findings of no probable cause made.  
3           (5) The number of administrative complaints filed.  
4           (6) The disposition of all administrative complaints.  
5           (7) A description of disciplinary actions taken.  
6           (8) A description of any effort by the department  
7 ~~agency~~, for any disciplinary cases under its jurisdiction, to  
8 reduce or otherwise close any investigation or disciplinary  
9 proceeding not before the Division of Administrative Hearings  
10 under chapter 120 or otherwise not completed within 1 year  
11 after the initial filing of a complaint under this chapter.

12           (9) The status of the development and implementation  
13 of rules providing for disciplinary guidelines pursuant to s.  
14 455.2273.

15           (10) Such recommendations for administrative and  
16 statutory changes necessary to facilitate efficient and  
17 cost-effective operation of the department and the various  
18 boards.

19           Section 6. Subsection (2) of section 455.667, Florida  
20 Statutes, is amended to read:

21           455.667 Ownership and control of patient records;  
22 report or copies of records to be furnished.--

23           (2) As used in this section, the terms "records  
24 owner," "health care practitioner," and "health care  
25 practitioner's employer" do not include any of the following  
26 persons or entities; furthermore, the following persons or  
27 entities are not authorized to acquire or own medical records,  
28 but are authorized under the confidentiality and disclosure  
29 requirements of this section to maintain those documents  
30 required by the part or chapter under which they are licensed  
31 or regulated:

- 1 (a) Certified nursing assistants regulated under s.  
2 400.211.
- 3 (b) Pharmacists and pharmacies licensed under chapter  
4 465.
- 5 (c) Dental hygienists licensed under s. 466.023.
- 6 (d) Nursing home administrators licensed under part II  
7 of chapter 468.
- 8 (e) Respiratory therapists regulated under part V of  
9 chapter 468.
- 10 (f) Athletic trainers licensed under part XIV of  
11 chapter 468.
- 12 (g) Electrologists licensed under chapter 478.
- 13 (h) Clinical laboratory personnel licensed under part  
14 III of chapter 483.
- 15 (i) Medical physicists licensed under part IV of  
16 chapter 483.
- 17 (j) Opticians and optical establishments licensed or  
18 permitted under part I of chapter 484.
- 19 (k) Persons or entities practicing under s.  
20 627.736(7).

21 Section 7. Subsection (1) of section 455.564, Florida  
22 Statutes, is amended, present subsections (3) through (10) are  
23 renumbered as subsections (4) through (11), respectively, and  
24 a new subsection (3) is added to that section, to read:

25 455.564 Department; general licensing provisions.--

26 (1) Any person desiring to be licensed in a profession  
27 within the jurisdiction of the department shall apply to the  
28 department in writing to take the licensure examination. The  
29 application shall be made on a form prepared and furnished by  
30 the department and shall require the social security number of  
31 the applicant. The form shall be supplemented as needed to

1 reflect any material change in any circumstance or condition  
2 stated in the application which takes place between the  
3 initial filing of the application and the final grant or  
4 denial of the license and which might affect the decision of  
5 the department. In order to further the economic development  
6 goals of the state, and notwithstanding any law to the  
7 contrary, the department ~~agency~~ may enter into an agreement  
8 with the county tax collector for the purpose of appointing  
9 the county tax collector as the department's ~~agency's~~ agent to  
10 accept applications for licenses and applications for renewals  
11 of licenses. The agreement must specify the time within which  
12 the tax collector must forward any applications and  
13 accompanying application fees to the department ~~agency~~.

14 (3) The board, or the department when there is no  
15 board, may refuse to issue an initial license to any applicant  
16 who is under investigation or prosecution in any jurisdiction  
17 for an action that would constitute a violation of this part  
18 or the professional practice acts administered by the  
19 department and the boards, until such time as the  
20 investigation or prosecution is complete.

21 Section 8. Paragraph (a) of subsection (4) of section  
22 455.565, Florida Statutes, is amended to read:

23 455.565 Designated healthcare professionals;  
24 information required for licensure.--

25 (4)(a) An applicant for initial licensure must submit  
26 a set of fingerprints to the Department of Health in  
27 accordance with s. 458.311, s. 458.3115, s. 458.3124,s.  
28 458.313, s. 459.0055, s. 460.406, or s. 461.006.

29 Section 9. Paragraph (g) of subsection (3) of section  
30 20.43, Florida Statutes, is amended to read:

31

1           20.43 Department of Health.--There is created a  
2 Department of Health.

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

5           (g) Division of Medical Quality Assurance, which is  
6 responsible for the following boards and professions  
7 established within the division:

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

9           2. Health care services pools, as provided under s.  
10 402.48.

11           3. The Board of Acupuncture, created under chapter  
12 457.

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

14           5. The Board of Osteopathic Medicine, created under  
15 chapter 459.

16           6. The Board of Chiropractic, created under chapter  
17 460.

18           7. The Board of Podiatric Medicine, created under  
19 chapter 461.

20           8. Naturopathy, as provided under chapter 462.

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

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

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

24           12. The Board of Dentistry, created under chapter 466.

25           13. Midwifery, as provided under chapter 467.

26           14. The Board of Speech-Language Pathology and  
27 Audiology, created under part I of chapter 468.

28           15. The Board of Nursing Home Administrators, created  
29 under part II of chapter 468.

30           16. The Board of Occupational Therapy, created as  
31 ~~provided~~ under part III of chapter 468.

1           17. Respiratory therapy, as provided under part V of  
2 chapter 468.  
3           18. Dietetics and nutrition practice, as provided  
4 under part X of chapter 468.  
5           19. Athletic trainers, as provided under part XIII ~~XIV~~  
6 of chapter 468.  
7           20. The Board of Orthotists and Prosthetists, created  
8 under part XIV of chapter 468.  
9           ~~21.20.~~ Electrolysis, as provided under chapter 478.  
10           ~~22.21.~~ The Board of Massage Therapy, created under  
11 chapter 480.  
12           ~~23.22.~~ The Board of Clinical Laboratory Personnel,  
13 created under part III of chapter 483.  
14           ~~24.23.~~ Medical physicists, as provided under part IV  
15 of chapter 483.  
16           ~~25.24.~~ The Board of Opticianry, created under part I  
17 of chapter 484.  
18           ~~26.25.~~ The Board of Hearing Aid Specialists, created  
19 under part II of chapter 484.  
20           ~~27.26.~~ The Board of Physical Therapy Practice, created  
21 under chapter 486.  
22           ~~28.27.~~ The Board of Psychology, created under chapter  
23 490.  
24           29. School psychologists, as provided under chapter  
25 490.  
26           ~~30.28.~~ The Board of Clinical Social Work, Marriage and  
27 Family Therapy, and Mental Health Counseling, created under  
28 chapter 491.  
29  
30 The department may contract with the Agency for Health Care  
31 Administration who shall provide consumer complaint,



1 | investigative, and prosecutorial services required by the  
2 | Division of Medical Quality Assurance, councils, or boards, as  
3 | appropriate.

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

7 |         120.80 Exceptions and special requirements;  
8 | agencies.--

9 |         (4) DEPARTMENT OF BUSINESS AND PROFESSIONAL  
10 | REGULATION.--

11 |         (b) Professional regulation.--Notwithstanding s.  
12 | 120.57(1)(a), formal hearings may not be conducted by the  
13 | Secretary of Business and Professional Regulation, ~~the~~  
14 | ~~director of the Agency for Health Care Administration,~~ or a  
15 | board or member of a board within the Department of Business  
16 | and Professional Regulation ~~or the Agency for Health Care~~  
17 | ~~Administration~~ for matters relating to the regulation of  
18 | professions, as defined by part I of chapter 455.

19 |         (15) DEPARTMENT OF HEALTH.--Notwithstanding s.  
20 | 120.57(1)(a), formal hearings may not be conducted by the  
21 | Secretary of Health, the director of the Agency for Health  
22 | Care Administration, or a board or member of a board within  
23 | the Department of Health or the Agency for Health Care  
24 | Administration for matters relating to the regulation of  
25 | professions, as defined by part II of chapter 455.

26 |         Section 11. Paragraph (o) of subsection (7) of section  
27 | 212.08, Florida Statutes, is amended to read:

28 |         212.08 Sales, rental, use, consumption, distribution,  
29 | and storage tax; specified exemptions.--The sale at retail,  
30 | the rental, the use, the consumption, the distribution, and  
31 | the storage to be used or consumed in this state of the

1 following are hereby specifically exempt from the tax imposed  
2 by this chapter.

3 (7) MISCELLANEOUS EXEMPTIONS.--

4 (o) Religious, charitable, scientific, educational,  
5 and veterans' institutions and organizations.--

6 1. There are exempt from the tax imposed by this  
7 chapter transactions involving:

8 a. Sales or leases directly to churches or sales or  
9 leases of tangible personal property by churches;

10 b. Sales or leases to nonprofit religious, nonprofit  
11 charitable, nonprofit scientific, or nonprofit educational  
12 institutions when used in carrying on their customary  
13 nonprofit religious, nonprofit charitable, nonprofit  
14 scientific, or nonprofit educational activities, including  
15 church cemeteries; and

16 c. Sales or leases to the state headquarters of  
17 qualified veterans' organizations and the state headquarters  
18 of their auxiliaries when used in carrying on their customary  
19 veterans' organization activities. If a qualified veterans'  
20 organization or its auxiliary does not maintain a permanent  
21 state headquarters, then transactions involving sales or  
22 leases to such organization and used to maintain the office of  
23 the highest ranking state official are exempt from the tax  
24 imposed by this chapter.

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

28 a. "Religious institutions" means churches,  
29 synagogues, and established physical places for worship at  
30 which nonprofit religious services and activities are  
31 regularly conducted and carried on. The term "religious

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

24       b. "Charitable institutions" means only nonprofit  
25 corporations qualified as nonprofit pursuant to s. 501(c)(3),  
26 Internal Revenue Code of 1954, as amended, and other nonprofit  
27 entities, the sole or primary function of which is to provide,  
28 or to raise funds for organizations which provide, one or more  
29 of the following services if a reasonable percentage of such  
30 service is provided free of charge, or at a substantially

31

1 reduced cost, to persons, animals, or organizations that are  
2 unable to pay for such service:  
3 (I) Medical aid for the relief of disease, injury, or  
4 disability;  
5 (II) Regular provision of physical necessities such as  
6 food, clothing, or shelter;  
7 (III) Services for the prevention of or rehabilitation  
8 of persons from alcoholism or drug abuse; the prevention of  
9 suicide; or the alleviation of mental, physical, or sensory  
10 health problems;  
11 (IV) Social welfare services including adoption  
12 placement, child care, community care for the elderly, and  
13 other social welfare services which clearly and substantially  
14 benefit a client population which is disadvantaged or suffers  
15 a hardship;  
16 (V) Medical research for the relief of disease,  
17 injury, or disability;  
18 (VI) Legal services; or  
19 (VII) Food, shelter, or medical care for animals or  
20 adoption services, cruelty investigations, or education  
21 programs concerning animals;  
22  
23 and the term includes groups providing volunteer staff to  
24 organizations designated as charitable institutions under this  
25 sub-subparagraph; nonprofit organizations the sole or primary  
26 purpose of which is to coordinate, network, or link other  
27 institutions designated as charitable institutions under this  
28 sub-subparagraph with those persons, animals, or organizations  
29 in need of their services; and nonprofit national, state,  
30 district, or other governing, coordinating, or administrative  
31 organizations the sole or primary purpose of which is to

1 represent or regulate the customary activities of other  
2 institutions designated as charitable institutions under this  
3 sub-subparagraph. Notwithstanding any other requirement of  
4 this section, any blood bank that relies solely upon volunteer  
5 donations of blood and tissue, that is licensed under chapter  
6 483, and that qualifies as tax exempt under s. 501(c)(3) of  
7 the Internal Revenue Code constitutes a charitable institution  
8 and is exempt from the tax imposed by this chapter. Sales to a  
9 health system, qualified as nonprofit pursuant to s.  
10 501(c)(3), Internal Revenue Code of 1986, as amended, which  
11 filed an application for exemption with the department prior  
12 to April 5, 1997, and which application is subsequently  
13 approved, shall be exempt as to any unpaid taxes on purchases  
14 made from January 1, 1994, to June 1, 1997.

15 c. "Scientific organizations" means scientific  
16 organizations which hold current exemptions from federal  
17 income tax under s. 501(c)(3) of the Internal Revenue Code and  
18 also means organizations the purpose of which is to protect  
19 air and water quality or the purpose of which is to protect  
20 wildlife and which hold current exemptions from the federal  
21 income tax under s. 501(c)(3) of the Internal Revenue Code.

22 d. "Educational institutions" means state  
23 tax-supported or parochial, church and nonprofit private  
24 schools, colleges, or universities which conduct regular  
25 classes and courses of study required for accreditation by, or  
26 membership in, the Southern Association of Colleges and  
27 Schools, the Department of Education, the Florida Council of  
28 Independent Schools, or the Florida Association of Christian  
29 Colleges and Schools, Inc., or nonprofit private schools which  
30 conduct regular classes and courses of study accepted for  
31 continuing education credit by a Board of the Division of

1 Medical Quality Assurance of the Department of Health ~~Business~~  
2 ~~and Professional Regulation~~ or which conduct regular classes  
3 and courses of study accepted for continuing education credit  
4 by the American Medical Association. Nonprofit libraries, art  
5 galleries, performing arts centers that provide educational  
6 programs to school children, which programs involve  
7 performances or other educational activities at the performing  
8 arts center and serve a minimum of 50,000 school children a  
9 year, and museums open to the public are defined as  
10 educational institutions and are eligible for exemption. The  
11 term "educational institutions" includes private nonprofit  
12 organizations the purpose of which is to raise funds for  
13 schools teaching grades kindergarten through high school,  
14 colleges, and universities. The term "educational  
15 institutions" includes any nonprofit newspaper of free or paid  
16 circulation primarily on university or college campuses which  
17 holds a current exemption from federal income tax under s.  
18 501(c)(3) of the Internal Revenue Code, and any educational  
19 television or radio network or system established pursuant to  
20 s. 229.805 or s. 229.8051 and any nonprofit television or  
21 radio station which is a part of such network or system and  
22 which holds a current exemption from federal income tax under  
23 s. 501(c)(3) of the Internal Revenue Code. The term  
24 "educational institutions" also includes state, district, or  
25 other governing or administrative offices the function of  
26 which is to assist or regulate the customary activities of  
27 educational organizations or members. The term "educational  
28 institutions" also includes a nonprofit educational cable  
29 consortium which holds a current exemption from federal income  
30 tax under s. 501(c)(3) of the Internal Revenue Code of 1986,  
31 as amended, whose primary purpose is the delivery of

1 educational and instructional cable television programming and  
2 whose members are composed exclusively of educational  
3 organizations which hold a valid consumer certificate of  
4 exemption and which are either an educational institution as  
5 defined in this sub-subparagraph, or qualified as a nonprofit  
6 organization pursuant to s. 501(c)(3) of the Internal Revenue  
7 Code of 1986, as amended.

8 e. "Veterans' organizations" means nationally  
9 chartered or recognized veterans' organizations, including,  
10 but not limited to, Florida chapters of the Paralyzed Veterans  
11 of America, Catholic War Veterans of the U.S.A., Jewish War  
12 Veterans of the U.S.A., and the Disabled American Veterans,  
13 Department of Florida, Inc., which hold current exemptions  
14 from federal income tax under s. 501(c)(4) or (19) of the  
15 Internal Revenue Code.

16 Section 12. Subsections (1), (2), and (4) of section  
17 215.37, Florida Statutes, are amended to read:

18 215.37 Department of Business and Professional  
19 Regulation and the boards to be financed from fees collected;  
20 moneys deposited in trust fund; service charge imposed and  
21 deposited into the General Revenue Fund; appropriation.--

22 (1) All fees, licenses, and other charges assessed to  
23 practitioners of professions, as defined in part I of chapter  
24 455, by the Department of Business and Professional Regulation  
25 or a board within the department shall be collected by the  
26 department and shall be deposited in the State Treasury into  
27 the Professional Regulation Trust Fund to the credit of the  
28 department.

29 (2) The regulation by the department of professions,  
30 as defined in part I of chapter 455, shall be financed solely  
31 from revenue collected by it from fees and other charges and

1 deposited in the Professional Regulation Trust Fund, and all  
2 such revenue is hereby appropriated to the department.  
3 However, it is legislative intent that each profession shall  
4 operate within its anticipated fees.

5 (4) The department shall submit a balanced legislative  
6 budget for its regulation of professions, as defined in part I  
7 of chapter 455, by division and operating budgets as required  
8 of all governmental subdivisions in chapters 215 and 216, to  
9 be based upon anticipated revenues. Prior to development of  
10 the department's budget request to the Legislature, the  
11 department shall request that each board submit its proposed  
12 budget for the operation of the board, the board's office, and  
13 other activities or expanded programs of the board for  
14 possible inclusion in the department's budget request. Prior  
15 to submission of the department's budget request to the  
16 Legislature, each board, at a regularly scheduled board  
17 meeting, shall review the proposed request related to its  
18 regulation of a profession, as defined in part I of chapter  
19 455, and either approve the proposed request or submit to the  
20 secretary written exceptions to the department's proposed  
21 budget. Any board making such exceptions must specify its  
22 objections, the reasons for such exceptions, and proposed  
23 alternatives to the department's request. The secretary shall  
24 consider all exceptions. When a majority of boards agree on an  
25 exception, the secretary shall make adjustments to the  
26 department's budget request related to its regulation of  
27 professions, as defined in part I of chapter 455, to reflect  
28 the majority position. If appropriate, the secretary shall  
29 file an exception on behalf of the department. The secretary  
30 shall submit to the Legislature the department's amended  
31 budget request along with any unresolved exceptions.



1           Section 13. Subsection (3) of section 240.215, Florida  
2 Statutes, is amended to read:

3           240.215 Payment of costs of civil action against  
4 employees or members of the Board of Regents.--

5           (3) All faculty physicians employed by the Board of  
6 Regents who are subject to the requirements of s. 455.564  
7 ~~455.2141~~ shall complete their risk management continuing  
8 education on issues specific to academic medicine. Such  
9 continuing education shall include instruction for the  
10 supervision of resident physicians as required by the  
11 Accreditation Council for Graduate Medical Education. The  
12 boards described in s. 455.564 ~~455.2141~~ shall adopt rules to  
13 implement the provisions of this subsection.

14           Section 14. Subsections (1) and (2) and paragraphs (a)  
15 and (c) of subsection (3) of section 310.102, Florida  
16 Statutes, are amended to read:

17           310.102 Treatment programs for impaired pilots and  
18 deputy pilots.--

19           (1) The department shall, by rule, designate approved  
20 treatment programs for pilots and deputy pilots under this  
21 section. The department may adopt rules setting forth  
22 appropriate criteria for approval of treatment providers based  
23 on the policies and guidelines established by the Impaired  
24 Practitioners Committee under s. 455.704.

25           (2) The department shall retain one or more impaired  
26 practitioner consultants as recommended by the committee. A  
27 consultant shall be a licensee under the jurisdiction of the  
28 Division of Medical Quality Assurance within the Department of  
29 Health, and at least one consultant must be a practitioner  
30 licensed under chapter 458, chapter 459, or chapter 464. The  
31 consultant shall assist the probable cause panel and

1 department in carrying out the responsibilities of this  
2 section. This shall include working with department  
3 investigators to determine whether a pilot or deputy pilot is,  
4 in fact, impaired.

5 (3)(a) Whenever the department receives a written or  
6 oral legally sufficient complaint alleging that a pilot or  
7 deputy pilot licensed or certificated by the department is  
8 impaired as a result of the misuse or abuse of alcohol or  
9 drugs, or both, or due to a mental or physical condition which  
10 could affect the pilot's or deputy pilot's ability to practice  
11 with skill and safety, and no complaint against the pilot or  
12 deputy pilot other than impairment exists, the reporting of  
13 such information shall not constitute a complaint within the  
14 meaning of s. 455.225 ~~455.255~~ if the probable cause panel  
15 finds:

16 1. The pilot or deputy pilot has acknowledged the  
17 impairment problem.

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

20 3. The pilot or deputy pilot has voluntarily withdrawn  
21 from piloting or limited the scope of piloting as determined  
22 by the panel, in each case, until such time as the panel is  
23 satisfied the pilot or deputy pilot has successfully completed  
24 an approved treatment program.

25 4. The pilot or deputy pilot has executed releases for  
26 medical records, authorizing the release of all records of  
27 evaluations, diagnoses, and treatment of the pilot or deputy  
28 pilot, including records of treatment for emotional or mental  
29 conditions, to the consultant. The consultant shall make no  
30 copies or reports of records that do not regard the issue of  
31

1 the pilot's or deputy pilot's impairment and his or her  
2 participation in a treatment program.

3 (c) Inquiries related to impairment treatment programs  
4 designed to provide information to the pilot or deputy pilot  
5 and others and which do not indicate that the pilot or deputy  
6 pilot presents a danger to the public shall not constitute a  
7 complaint within the meaning of s. 455.225 ~~455.255~~ and shall  
8 be exempt from the provisions of this subsection.

9 Section 15. Subsections (2) and (3) of section  
10 337.162, Florida Statutes, are amended to read:

11 337.162 Professional services.--Professional services  
12 provided to the department that fall below acceptable  
13 professional standards may result in transportation project  
14 delays, overruns, and reduced facility life. To minimize these  
15 effects and ensure that quality services are received, the  
16 Legislature hereby declares that licensed professionals shall  
17 be held accountable for the quality of the services they  
18 provide to the department.

19 (2) Any person who is employed by the department and  
20 who is licensed by the Department of Business and Professional  
21 Regulation and who, through the course of his or her  
22 employment, has knowledge or reason to believe that any person  
23 has violated the provisions of state professional licensing  
24 laws or rules shall submit a complaint about the violations to  
25 the Department of Business and Professional Regulation.  
26 Failure to submit a complaint about the violations may be  
27 grounds for disciplinary action pursuant to part I of chapter  
28 455 and the state licensing law applicable to that licensee.  
29 The complaint submitted to the Department of Business and  
30 Professional Regulation and maintained by the department is  
31 confidential and exempt from s. 119.07(1).

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

5           Section 16. Section 381.0039, Florida Statutes, is  
6 amended to read:

7           381.0039 Oversight of acquired immune deficiency  
8 syndrome education programs.--The Department of Education, the  
9 Department of Health, and the Department of Business and  
10 Professional Regulation are directed to establish an  
11 interagency agreement to oversee the quality and cost  
12 efficiency of acquired immune deficiency syndrome education  
13 programs being administered in the state pursuant to chapters  
14 381, ~~455,943~~, and 945 and part II of chapter 455. The  
15 interagency agreement shall also include development, where  
16 appropriate, of methods for coordinating educational programs  
17 for various professional groups.

18           Section 17. Subsection (3) of section 383.32, Florida  
19 Statutes, is amended to read:

20           383.32 Clinical records.--

21           (3) Clinical records shall be kept confidential in  
22 accordance with s. 455.667 ~~455.241~~ and exempt from the  
23 provisions of s. 119.07(1). A client's clinical records shall  
24 be open to inspection only under the following conditions:

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

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

29           Section 18. Subsections (1) and (4) of section  
30 395.0193, Florida Statutes, are amended to read:

31

1           395.0193 Licensed facilities; peer review;  
2 disciplinary powers; agency or partnership with physicians.--

3           (1) It is the intent of the Legislature that good  
4 faith participants in the process of investigating and  
5 disciplining physicians pursuant to the state-mandated peer  
6 review process shall, in addition to receiving immunity from  
7 retaliatory tort suits pursuant to s. 455.621(12)~~s.~~

8 ~~455.225(12)~~, be protected from federal antitrust suits filed  
9 under the Sherman Anti-Trust Act, 15 U.S.C.A. ss. 1 et seq.

10 Such intent is within the public policy of the state to secure  
11 the provision of quality medical services to the public.

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

23           Section 19. Paragraph (b) of subsection (5) and  
24 subsections (6) and (11) of section 395.0197, Florida  
25 Statutes, are amended to read:

26           395.0197 Internal risk management program.--

27           (5)

28           (b) The information reported to the agency pursuant to  
29 paragraph (a) which relates to persons licensed under chapter  
30 458, chapter 459, chapter 461, or chapter 466 shall be  
31 reviewed by the agency. The agency shall determine whether

1 any of the incidents potentially involved conduct by a health  
2 care professional who is subject to disciplinary action, in  
3 which case the provisions of s. 455.621 ~~455.225~~ shall apply.

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

7 (a) The death of a patient;

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

9 (c) The performance of a surgical procedure on the  
10 wrong patient; or

11 (d) A surgical procedure unrelated to the patient's  
12 diagnosis or medical needs being performed on any patient,  
13 including the surgical repair of injuries or damage resulting  
14 from the planned surgical procedure, wrong site or wrong  
15 procedure surgeries, and procedures to remove foreign objects  
16 remaining from surgical procedures,

17  
18 the licensed facility shall report this incident to the agency  
19 within 15 calendar days after its occurrence. The agency may  
20 require an additional, final report. These reports shall not  
21 be available to the public pursuant to s. 119.07(1) or any  
22 other law providing access to public records, nor be  
23 discoverable or admissible in any civil or administrative  
24 action, except in disciplinary proceedings by the agency or  
25 the appropriate regulatory board, nor shall they be available  
26 to the public as part of the record of investigation for and  
27 prosecution in disciplinary proceedings made available to the  
28 public by the agency or the appropriate regulatory board.

29 However, the agency or the appropriate regulatory board shall  
30 make available, upon written request by a health care  
31 professional against whom probable cause has been found, any

1 such records which form the basis of the determination of  
2 probable cause. The agency may investigate, as it deems  
3 appropriate, any such incident and prescribe measures that  
4 must or may be taken in response to the incident. The agency  
5 shall review each incident and determine whether it  
6 potentially involved conduct by the health care professional  
7 who is subject to disciplinary action, in which case the  
8 provisions of s. 455.621 ~~455.225~~ shall apply.

9 (11) The agency shall have access to all licensed  
10 facility records necessary to carry out the provisions of this  
11 section. The records obtained are not available to the public  
12 under s. 119.07(1), nor shall they be discoverable or  
13 admissible in any civil or administrative action, except in  
14 disciplinary proceedings by the agency or the appropriate  
15 regulatory board, nor shall records obtained pursuant to s.  
16 455.611 ~~455.223~~ be 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 or the  
20 appropriate regulatory board shall make available, upon  
21 written request by a health care professional against whom  
22 probable cause has been found, any such records which form the  
23 basis of the determination of probable cause, except that,  
24 with respect to medical review committee records, s. 766.101  
25 controls.

26 Section 20. Paragraph (e) of subsection (4) of section  
27 395.3025, Florida Statutes, is amended to read:

28 395.3025 Patient and personnel records; copies;  
29 examination.--

30 (4) Patient records are confidential and must not be  
31 disclosed without the consent of the person to whom they

1 | pertain, but appropriate disclosure may be made without such  
2 | consent to:

3 |         (e) The agency upon subpoena issued pursuant to s.  
4 | 455.611 ~~455.223~~, but the records obtained thereby must be used  
5 | solely for the purpose of the agency and the appropriate  
6 | professional board in its investigation, prosecution, and  
7 | appeal of disciplinary proceedings. If the agency requests  
8 | copies of the records, the facility shall charge no more than  
9 | its actual copying costs, including reasonable staff time. The  
10 | records must be sealed and must not be available to the public  
11 | pursuant to s. 119.07(1) or any other statute providing access  
12 | to records, nor may they be available to the public as part of  
13 | the record of investigation for and prosecution in  
14 | disciplinary proceedings made available to the public by the  
15 | agency or the appropriate regulatory board. However, the  
16 | agency must make available, upon written request by a  
17 | practitioner against whom probable cause has been found, any  
18 | such records that form the basis of the determination of  
19 | probable cause.

20 |         Section 21. Subsections (1) and (8) of section  
21 | 400.211, Florida Statutes, are amended to read:

22 |         400.211 Persons employed as nursing assistants;  
23 | certification requirement.--

24 |         (1) A person must be certified pursuant to this  
25 | section, except a registered nurse or practical nurse licensed  
26 | in accordance with the provisions of chapter 464 or an  
27 | applicant for such licensure who is permitted to practice  
28 | nursing in accordance with rules promulgated by the Board of  
29 | Nursing pursuant to chapter 464, to serve as a nursing  
30 | assistant in any nursing home. The Department of Health

31 |



1 ~~Business and Professional Regulation~~ shall issue a certificate  
2 to any person who:

3 (a) Has successfully completed a nursing assistant  
4 program in a state-approved school and has achieved a minimum  
5 score of 75 percent on the written portion of the Florida  
6 Nursing Assistant Certification Test approved by the  
7 Department of Health ~~Business and Professional Regulation~~ and  
8 administered by state-approved test site personnel;

9 (b) Has achieved a minimum score of 75 percent on the  
10 written and performance portions of the Florida Nursing  
11 Assistant Certification Test approved by the Department of  
12 Health ~~Business and Professional Regulation~~ and administered  
13 by state-approved test site personnel; or

14 (c) Is currently certified in another state, is on  
15 that state's registry, has no findings of abuse, and has  
16 achieved a minimum score of 75 percent on the written portion  
17 of the Florida Nursing Assistant Certification Test approved  
18 by the Department of Health ~~Business and Professional~~  
19 ~~Regulation~~ and administered by state-approved test site  
20 personnel.

21  
22 An oral examination shall be administered upon request.

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

26 Section 22. Section 400.491, Florida Statutes, is  
27 amended to read:

28 400.491 Clinical records.--The home health agency must  
29 maintain for each patient a clinical record that includes the  
30 services the home health agency provides directly and those  
31 provided through arrangement with another health care

1 provider, except for those services provided by persons  
2 referred under s. 400.509. Such records must contain  
3 pertinent past and current medical, nursing, social and other  
4 therapeutic information, the plan of treatment, and other such  
5 information as is necessary for the safe and adequate care of  
6 the patient. When home health services are terminated, the  
7 record must show the date and reason for termination. Such  
8 records are considered patient records under s. 455.667  
9 ~~400.241~~, and must be maintained by the home health agency for  
10 5 years following termination of services. If a patient  
11 transfers to another home health agency, a copy of his or her  
12 record must be provided to the other home health agency upon  
13 request.

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

16 400.518 Prohibited referrals to home health  
17 agencies.--

18 (1) A physician licensed under chapter 458 or chapter  
19 459 must comply with s. 455.654 ~~455.236~~.

20 Section 24. Subsection (9) of section 408.061, Florida  
21 Statutes, is amended to read:

22 408.061 Data collection; uniform systems of financial  
23 reporting; information relating to physician charges;  
24 confidentiality of patient records; immunity.--

25 (9) The identity of any health care provider, health  
26 care facility, or health insurer who submits any data which is  
27 proprietary business information to the agency pursuant to the  
28 provisions of this section shall remain confidential and  
29 exempt from the provisions of s. 119.07(1) and s. 24(a), Art.  
30 I of the State Constitution. As used in this section,  
31 "proprietary business information" shall include, but not be

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

22 Section 25. Paragraph (b) of subsection (5) of section  
23 408.704, Florida Statutes, is amended to read:

24 408.704 Agency duties and responsibilities related to  
25 community health purchasing alliances.--The agency shall  
26 assist in developing a statewide system of community health  
27 purchasing alliances. To this end, the agency is responsible  
28 for:

29 (5) Establishing a data system for accountable health  
30 partnerships.

31

1 (b) The advisory data committee shall issue a report  
2 and recommendations on each of the following subjects as each  
3 is completed. A final report covering all subjects must be  
4 included in the final Florida Health Plan to be submitted to  
5 the Legislature on December 31, 1993. The report shall  
6 include recommendations regarding:

7 1. Types of data to be collected. Careful  
8 consideration shall be given to other data collection projects  
9 and standards for electronic data interchanges already in  
10 process in this state and nationally, to evaluating and  
11 recommending the feasibility and cost-effectiveness of various  
12 data collection activities, and to ensuring that data  
13 reporting is necessary to support the evaluation of providers  
14 with respect to cost containment, access, quality, control of  
15 expensive technologies, and customer satisfaction analysis.  
16 Data elements to be collected from providers include prices,  
17 utilization, patient outcomes, quality, and patient  
18 satisfaction. The completion of this task is the first  
19 priority of the advisory data committee. The agency shall  
20 begin implementing these data collection activities  
21 immediately upon receipt of the recommendations, but no later  
22 than January 1, 1994. The data shall be submitted by  
23 hospitals, other licensed health care facilities, pharmacists,  
24 and group practices as defined in s. 455.654(3)(f)  
25 ~~455.236(3)(g)~~.

26 2. A standard data set, a standard cost-effective  
27 format for collecting the data, and a standard methodology for  
28 reporting the data to the agency, or its designee, and to the  
29 alliances. The reporting mechanisms must be designed to  
30 minimize the administrative burden and cost to health care  
31 providers and carriers. A methodology shall be developed for

1 aggregating data in a standardized format for making  
2 comparisons between accountable health partnerships which  
3 takes advantage of national models and activities.  
4         3. Methods by which the agency should collect,  
5 process, analyze, and distribute the data.  
6         4. Standards for data interpretation. The advisory  
7 data committee shall actively solicit broad input from the  
8 provider community, carriers, the business community, and the  
9 general public.  
10         5. Structuring the data collection process to:  
11         a. Incorporate safeguards to ensure that the health  
12 care services utilization data collected is reviewed by  
13 experienced, practicing physicians licensed to practice  
14 medicine in this state;  
15         b. Require that carrier customer satisfaction data  
16 conclusions are validated by the agency;  
17         c. Protect the confidentiality of medical information  
18 to protect the patient's identity and to protect the privacy  
19 of individual physicians and patients. Proprietary data  
20 submitted by insurers, providers, and purchasers are  
21 confidential pursuant to s. 408.061; and  
22         d. Afford all interested professional medical and  
23 hospital associations and carriers a minimum of 60 days to  
24 review and comment before data is released to the public.  
25         6. Developing a data collection implementation  
26 schedule, based on the data collection capabilities of  
27 carriers and providers.  
28         Section 26. Subsections (1) and (2) of section  
29 409.2598, Florida Statutes, are amended to read:  
30         409.2598 Suspension or denial of new or renewal  
31 licenses; registrations; certifications.--

1           (1) The Title IV-D agency may petition the court that  
2 entered the support order or the court that is enforcing the  
3 support order to deny or suspend the license, registration, or  
4 certificate issued under chapter 231, chapter 370, chapter  
5 372, chapter 409, part II of chapter 455, or chapter 559 or s.  
6 327.031 of any obligor with a delinquent child support  
7 obligation or who fails, after receiving appropriate notice,  
8 to comply with subpoenas, orders to appear, orders to show  
9 cause, or similar orders relating to paternity or child  
10 support proceedings. However, a petition may not be filed  
11 until the Title IV-D agency has exhausted all other available  
12 remedies. The purpose of this section is to promote the public  
13 policy of the state as established in s. 409.2551.

14           (2) The Title IV-D agency is authorized to screen all  
15 applicants for new or renewal licenses, registrations, or  
16 certificates and current licenses, registrations, or  
17 certificates and current licensees, registration holders, and  
18 certificate holders of all licenses, registrations, and  
19 certificates issued under chapter 231, chapter 370, chapter  
20 372, chapter 409, part II of chapter 455, or chapter 559 or s.  
21 327.031 to ensure compliance with any child support obligation  
22 and any subpoenas, orders to appear, orders to show cause, or  
23 similar orders relating to paternity or child support  
24 proceedings. If the Title IV-D agency determines that an  
25 applicant, licensee, registration holder, or certificateholder  
26 is an obligor who is delinquent on a support obligation or who  
27 is not in compliance with a subpoena, order to appear, order  
28 to show cause, or similar order relating to paternity or child  
29 support proceedings, the Title IV-D agency shall certify the  
30 delinquency pursuant to s. 61.14.

31

1           Section 27. Paragraph (g) of subsection (1) of section  
2 415.1055, Florida Statutes, is amended to read:

3           415.1055 Notification to administrative entities,  
4 subjects, and reporters; notification to law enforcement and  
5 state attorneys.--

6           (1) NOTIFICATION TO ADMINISTRATIVE ENTITIES.--

7           (g) If at any time during a protective investigation  
8 the department has reasonable cause to believe that  
9 professional licensure violations have occurred, the  
10 department shall notify the Division of Medical Quality  
11 Assurance within the Department of Health ~~Agency for Health~~  
12 ~~Care Administration~~. This notification must be in writing.

13           Section 28. Subsection (3) of section 415.5055,  
14 Florida Statutes, is amended to read:

15           415.5055 Child protection teams; services; eligible  
16 cases.--The department shall develop, maintain, and coordinate  
17 the services of one or more multidisciplinary child protection  
18 teams in each of the service districts of the department.  
19 Such teams may be composed of representatives of appropriate  
20 health, mental health, social service, legal service, and law  
21 enforcement agencies. The Legislature finds that optimal  
22 coordination of child protection teams and sexual abuse  
23 treatment programs requires collaboration between the  
24 Department of Health and the Department of Children and Family  
25 Services. The two departments shall maintain an interagency  
26 agreement that establishes protocols for oversight and  
27 operations of child protection teams and sexual abuse  
28 treatment programs. The Secretary of Health and the Director  
29 of the Division of Children's Medical Services, in  
30 consultation with the Secretary of Children and Family  
31 Services, shall maintain the responsibility for the screening,

1 employment, and, if necessary, the termination of child  
2 protection team medical directors, at headquarters and in the  
3 15 districts. Child protection team medical directors shall be  
4 responsible for oversight of the teams in the districts.

5 (3) All records and reports of the child protection  
6 team are confidential and exempt from the provisions of ss.  
7 119.07(1) and 455.667 ~~455.241~~, and shall not be disclosed,  
8 except, upon request, to the state attorney, law enforcement,  
9 the department, and necessary professionals, in furtherance of  
10 the treatment or additional evaluative needs of the child or  
11 by order of the court.

12

13 In all instances in which a child protection team is providing  
14 certain services to abused or neglected children, other  
15 offices and units of the department shall avoid duplicating  
16 the provision of those services.

17 Section 29. Subsection (5) of section 415.51, Florida  
18 Statutes, is amended to read:

19 415.51 Confidentiality of reports and records in cases  
20 of child abuse or neglect.--

21 (5) All records and reports of the child protection  
22 team are confidential and exempt from the provisions of ss.  
23 119.07(1) and 455.667 ~~455.241~~, and shall not be disclosed,  
24 except, upon request, to the state attorney, law enforcement,  
25 the department, and necessary professionals, in furtherance of  
26 the treatment or additional evaluative needs of the child or  
27 by order of the court.

28 Section 30. Paragraph (h) of subsection (3) and  
29 paragraph (c) of subsection (4) of section 440.13, Florida  
30 Statutes, are amended to read:

31



1           440.13 Medical services and supplies; penalty for  
2 violations; limitations.--

3           (3) PROVIDER ELIGIBILITY; AUTHORIZATION.--

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

7           (4) NOTICE OF TREATMENT TO CARRIER; FILING WITH  
8 DIVISION.--

9           (c) It is the policy for the administration of the  
10 workers' compensation system that there be reasonable access  
11 to medical information by all parties to facilitate the  
12 self-executing features of the law. Notwithstanding the  
13 limitations in s. 455.667 ~~455.241~~ and subject to the  
14 limitations in s. 381.004, upon the request of the employer,  
15 the carrier, or the attorney for either of them, the medical  
16 records of an injured employee must be furnished to those  
17 persons and the medical condition of the injured employee must  
18 be discussed with those persons, if the records and the  
19 discussions are restricted to conditions relating to the  
20 workplace injury. Any such discussions may be held before or  
21 after the filing of a claim without the knowledge, consent, or  
22 presence of any other party or his or her agent or  
23 representative. A health care provider who willfully refuses  
24 to provide medical records or to discuss the medical condition  
25 of the injured employee, after a reasonable request is made  
26 for such information pursuant to this subsection, shall be  
27 subject by the division to one or more of the penalties set  
28 forth in paragraph (8)(b).

29           Section 31. Paragraph (b) of subsection (1) and  
30 subsections (2) and (3) of section 455.565, Florida Statutes,  
31 are amended to read:

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

3           (1) Each person who applies for initial licensure as a  
4 physician under chapter 458, chapter 459, chapter 460, or  
5 chapter 461 must, at the time of application, and each  
6 physician who applies for license renewal under chapter 458,  
7 chapter 459, chapter 460, or chapter 461 must, in conjunction  
8 with the renewal of such license and under procedures adopted  
9 by the Department of Health, and in addition to any other  
10 information that may be required from the applicant, furnish  
11 the following information to the Department of Health:

12           (b) In addition to the information required under  
13 paragraph (a), each applicant who seeks licensure under  
14 chapter 458, chapter 459, or chapter 461, and who has  
15 practiced previously in this state or in another jurisdiction  
16 or a foreign country must provide the information required of  
17 licensees under those chapters pursuant to s. 455.697 ~~455.247~~.  
18 An applicant for licensure under chapter 460 who has practiced  
19 previously in this state or in another jurisdiction or a  
20 foreign country must provide the same information as is  
21 required of licensees under chapter 458, pursuant to s.  
22 455.697 ~~455.247~~.

23           (2) Before the issuance of the licensure renewal  
24 notice required by s. 455.714 ~~455.273~~, the Department of  
25 Health shall send a notice to each person licensed under  
26 chapter 458, chapter 459, chapter 460, or chapter 461, at the  
27 licensee's last known address of record with the department,  
28 regarding the requirements for information to be submitted by  
29 those practitioners pursuant to this section in conjunction  
30 with the renewal of such license and under procedures adopted  
31 by the department.

1           (3) Each person who has submitted information pursuant  
2 to subsection (1) must update that information in writing by  
3 notifying the Department of Health within 45 days after the  
4 occurrence of an event or the attainment of a status that is  
5 required to be reported by subsection (1). Failure to comply  
6 with the requirements of this subsection to update and submit  
7 information constitutes a ground for disciplinary action under  
8 each respective licensing chapter and s. 455.624(1)(k)~~s.~~  
9 ~~455.227(1)(k)~~. For failure to comply with the requirements of  
10 this subsection to update and submit information, the  
11 department or board, as appropriate, may:

12           (a) Refuse to issue a license to any person applying  
13 for initial licensure who fails to submit and update the  
14 required information.

15           (b) Issue a citation to any licensee who fails to  
16 submit and update the required information and may fine the  
17 licensee up to \$50 for each day that the licensee is not in  
18 compliance with this subsection. The citation must clearly  
19 state that the licensee may choose, in lieu of accepting the  
20 citation, to follow the procedure under s. 455.621 ~~455.225~~. If  
21 the licensee disputes the matter in the citation, the  
22 procedures set forth in s. 455.621 ~~455.225~~ must be followed.  
23 However, if the licensee does not dispute the matter in the  
24 citation with the department within 30 days after the citation  
25 is served, the citation becomes a final order and constitutes  
26 discipline. Service of a citation may be made by personal  
27 service or certified mail, restricted delivery, to the subject  
28 at the licensee's last known address.

29           Section 32. Subsection (4) of section 455.5651,  
30 Florida Statutes, is amended to read:

31           455.5651 Practitioner profile; creation.--

1           (4) The Department of Health shall include, with  
2 respect to a practitioner licensed under chapter 458 or  
3 chapter 459, a statement of how the practitioner has elected  
4 to comply with the financial responsibility requirements of s.  
5 458.320 or s. 459.0085. The department shall include, with  
6 respect to practitioners licensed under chapter 458, chapter  
7 459, or chapter 461, information relating to liability actions  
8 which has been reported under s. 455.697 ~~455.247~~ or s. 627.912  
9 within the previous 10 years for any paid claim that exceeds  
10 \$5,000. Such claims information shall be reported in the  
11 context of comparing an individual practitioner's claims to  
12 the experience of other physicians within the same specialty  
13 to the extent such information is available to the Department  
14 of Health. If information relating to a liability action is  
15 included in a practitioner's practitioner profile, the profile  
16 must also include the following statement: "Settlement of a  
17 claim may occur for a variety of reasons that do not  
18 necessarily reflect negatively on the professional competence  
19 or conduct of the physician. A payment in settlement of a  
20 medical malpractice action or claim should not be construed as  
21 creating a presumption that medical malpractice has occurred."

22           Section 33. Section 455.641, Florida Statutes, is  
23 amended to read:

24           455.641 Unlicensed activities; fees; disposition.--In  
25 order to protect the public and to ensure a consumer-oriented  
26 department, it is the intent of the Legislature that vigorous  
27 enforcement of regulation for all professional activities is a  
28 state priority. All enforcement costs should be covered by  
29 professions regulated by the department. Therefore, the  
30 department shall impose, upon initial licensure and each  
31 renewal thereof, a special fee of \$5 per licensee. Such fee

1 shall be in addition to all other fees collected from each  
2 licensee and shall fund efforts to combat unlicensed activity.  
3 The board with concurrence of the department, or the  
4 department when there is no board, may earmark \$5 of the  
5 current licensure fee for this purpose, if such board, or  
6 profession regulated by the department, is not in a deficit  
7 and has a reasonable cash balance. The department shall make  
8 direct charges to this fund by profession and shall not  
9 allocate indirect overhead. The department shall seek board  
10 advice regarding enforcement methods and strategies prior to  
11 expenditure of funds. The department shall directly credit, by  
12 profession, revenues received from the department's efforts to  
13 enforce licensure provisions. The department shall include all  
14 financial and statistical data resulting from unlicensed  
15 activity enforcement as a separate category in the quarterly  
16 management report provided for in s. 455.587 ~~455.219~~. The  
17 department shall not charge the account of any profession for  
18 the costs incurred on behalf of any other profession. For an  
19 unlicensed activity account, a balance which remains at the  
20 end of a renewal cycle may, with concurrence of the applicable  
21 board and the department, be transferred to the operating fund  
22 account of that profession.

23 Section 34. Subsection (2) of section 455.651, Florida  
24 Statutes, is amended to read:

25 455.651 Disclosure of confidential information.--

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

1           Section 35. Subsection (1) of section 455.698, Florida  
2 Statutes, is amended to read:

3           455.698 Reports of professional liability actions;  
4 bankruptcies; Department of Health's responsibility to  
5 provide.--

6           (1) The report of a claim or action for damages for  
7 personal injury which is required to be provided to the  
8 Department of Health under s. 455.697 ~~455.247~~ or s. 627.912 is  
9 public information except for the name of the claimant or  
10 injured person, which remains confidential as provided in ss.  
11 455.697(2)(d) ~~455.247(2)(d)~~ and 627.912(2)(e). The Department  
12 of Health shall, upon request, make such report available to  
13 any person.

14           Section 36. Subsection (2) of section 455.717, Florida  
15 Statutes, is amended to read:

16           455.717 Address of record.--

17           (2) Notwithstanding any other law, service by regular  
18 mail to a licensee's last known address of record with the  
19 department constitutes adequate and sufficient notice to the  
20 licensee for any official communication to the licensee by the  
21 board or the department except when other service is required  
22 under s. 455.707 ~~455.261~~.

23           Section 37. Subsection (2) of section 457.103, Florida  
24 Statutes, is amended to read:

25           457.103 Board of Acupuncture; membership; appointment  
26 and terms.--

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

29           Section 38. Subsection (6) of section 458.307, Florida  
30 Statutes, is amended to read:

31           458.307 Board of Medicine.--

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

3           Section 39. Paragraph (a) of subsection (9) of section  
4 458.311, Florida Statutes, is amended to read:

5           458.311 Licensure by examination; requirements;  
6 fees.--

7           (9)(a) Notwithstanding any of the provisions of this  
8 section, an applicant who, at the time of his or her medical  
9 education, was a citizen of the country of Nicaragua and, at  
10 the time of application for licensure under this subsection,  
11 is either a citizen of the country of Nicaragua or a citizen  
12 of the United States may make initial application to the  
13 department on or before July 1, 1992, for licensure subject to  
14 this subsection and may reapply pursuant to board rule. Upon  
15 receipt of such application, the department shall issue a  
16 2-year restricted license to any applicant therefor upon the  
17 applicant's successful completion of the licensure examination  
18 as described in paragraph (1)(a) and who the board certifies  
19 has met the following requirements:

20           1. Is a graduate of a World Health Organization  
21 recognized foreign medical institution located in a country in  
22 the Western Hemisphere.

23           2. Received a medical education which has been  
24 determined by the board to be substantially similar, at the  
25 time of the applicant's graduation, to approved United States  
26 medical programs.

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

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

1           5. Successfully completed the Educational Commission  
2 for Foreign Medical Graduates Examination or Foreign Medical  
3 Graduate Examination in the Medical Sciences or successfully  
4 completed a course developed for the University of Miami for  
5 physician training equivalent to the course developed for such  
6 purposes pursuant to chapter 74-105, Laws of Florida. No  
7 person shall be permitted to enroll in the physician training  
8 course until he or she has been certified by the board as  
9 having met the requirements of this paragraph or conditionally  
10 certified by the board as having substantially complied with  
11 the requirements of this paragraph. Any person conditionally  
12 certified by the board shall be required to establish, to the  
13 board's satisfaction, full compliance with all the  
14 requirements of this paragraph prior to completion of the  
15 physician training course and shall not be permitted to sit  
16 for the licensure examination unless the board certifies that  
17 all of the requirements of this paragraph have been met.

18  
19 However, applicants eligible for licensure under s. 455.581  
20 ~~455.218~~ or subsection (9), 1988 Supplement to the Florida  
21 Statutes 1987, as amended by s. 18, chapter 89-162, Laws of  
22 Florida, and ss. 5 and 42, chapter 89-374, Laws of Florida,  
23 and renumbered as subsection (8) by s. 5, chapter 89-374, Laws  
24 of Florida, shall not be eligible to apply under this  
25 subsection.

26           Section 40. Paragraph (c) of subsection (1) and  
27 paragraph (a) of subsection (3) of section 458.3115, Florida  
28 Statutes, are amended to read:

29           458.3115 Restricted license; certain foreign-licensed  
30 physicians; United States Medical Licensing Examination

31



1 (USMLE) or agency-developed examination; restrictions on  
2 practice; full licensure.--  
3 (1)  
4 (c) A person shall be eligible to take such  
5 examination for restricted licensure if the person:  
6 1. Has taken, upon approval by the board, and  
7 completed, in November 1990 or November 1992, one of the  
8 special preparatory medical update courses authorized by the  
9 board and the University of Miami Medical School and  
10 subsequently passed the final course examination; upon  
11 approval by the board to take the course completed in 1990 or  
12 in 1992, has a certificate of successful completion of that  
13 course from the University of Miami or the Stanley H. Kaplan  
14 course; or can document to the department that he or she was  
15 one of the persons who took and successfully completed the  
16 Stanley H. Kaplan course that was approved by the Board of  
17 Medicine and supervised by the University of Miami. At a  
18 minimum, the documentation must include class attendance  
19 records and the test score on the final course examination;  
20 2. Applies to the agency and submits an application  
21 fee that is nonrefundable and equivalent to the fee required  
22 for full licensure;  
23 3. Documents no less than 2 years of the active  
24 practice of medicine in another jurisdiction;  
25 4. Submits an examination fee that is nonrefundable  
26 and equivalent to the fee required for full licensure plus the  
27 actual per-applicant cost to the agency to provide either  
28 examination described in this section;  
29 5. Has not committed any act or offense in this or any  
30 other jurisdiction that would constitute a substantial basis  
31

1 for disciplining a physician under this chapter or part II of  
2 chapter 455; and

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

8           (3)(a) A restricted license issued by the agency under  
9 this section is valid for 2 years unless sooner revoked or  
10 suspended, and a restricted licensee is subject to the  
11 requirements of this chapter, part II of chapter 455, and any  
12 other provision of law not in conflict with this section.  
13 Upon expiration of such restricted license, a restricted  
14 licensee shall become a full licensee if the restricted  
15 licensee:

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

19           2. Pays all renewal fees required of a full licensee.

20           Section 41. Subsection (1) of section 458.3124,  
21 Florida Statutes, is amended to read:

22           458.3124 Restricted license; certain experienced  
23 foreign-trained physicians.--

24           (1) A person who was trained in a medical school that  
25 is listed in the World Directory of Medical Schools published  
26 by the World Health Organization and is located in a country  
27 other than the United States, Canada, or Puerto Rico may apply  
28 to take Step III of the United States Medical Licensing  
29 Examination, if the person:

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

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

3 (c) Is certified by the Educational Commission for  
4 Foreign Medical Graduates as qualified for a restricted  
5 license to practice medicine;

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

10 (e) Has been a resident of this state since July 1,  
11 1996.

12 Section 42. Subsection (1) of section 458.319, Florida  
13 Statutes, is amended to read:

14 458.319 Renewal of license.--

15 (1) The department shall renew a license upon receipt  
16 of the renewal application, evidence that the applicant has  
17 actively practiced medicine or has been on the active teaching  
18 faculty of an accredited medical school for at least 2 years  
19 of the immediately preceding 4 years, and a fee not to exceed  
20 \$500; provided, however, that if the licensee is either a  
21 resident physician, assistant resident physician, fellow,  
22 house physician, or intern in an approved postgraduate  
23 training program, as defined by the board by rule, the fee  
24 shall not exceed \$100 per annum. If the licensee has not  
25 actively practiced medicine for at least 2 years of the  
26 immediately preceding 4 years, the board shall require that  
27 the licensee successfully complete a board-approved clinical  
28 competency examination prior to renewal of the license.

29 "Actively practiced medicine" means that practice of medicine  
30 by physicians, including those employed by any governmental  
31 entity in community or public health, as defined by this

1 chapter, including physicians practicing administrative  
2 medicine. An applicant for a renewed license must also submit  
3 the information required under s. 455.565 to the department on  
4 a form and under procedures specified by the department, along  
5 with payment in an amount equal to the costs incurred by the  
6 Department of Health for the statewide criminal background  
7 check of the applicant. The applicant must submit a set of  
8 fingerprints to the Department of Health on a form and under  
9 procedures specified by the department, along with payment in  
10 an amount equal to the costs incurred by the department for a  
11 national criminal background check of the applicant for the  
12 initial renewal of his or her license after January 1, 2000.  
13 If the applicant fails to submit either the information  
14 required under s. 455.565 or a set of fingerprints to the  
15 department as required by this section, the department shall  
16 issue a notice of noncompliance, and the applicant will be  
17 given 30 additional days to comply. If the applicant fails to  
18 comply within 30 days after the notice of noncompliance is  
19 issued, the department or board, as appropriate, may issue a  
20 citation to the applicant and may fine the applicant up to \$50  
21 for each day that the applicant is not in compliance with the  
22 requirements of s. 455.565. The citation must clearly state  
23 that the applicant may choose, in lieu of accepting the  
24 citation, to follow the procedure under s. 455.621 ~~455.225~~. If  
25 the applicant disputes the matter in the citation, the  
26 procedures set forth in s. 455.621 ~~455.225~~ must be followed.  
27 However, if the applicant does not dispute the matter in the  
28 citation with the department within 30 days after the citation  
29 is served, the citation becomes a final order and constitutes  
30 discipline. Service of a citation may be made by personal  
31 service or certified mail, restricted delivery, to the subject

1 at the applicant's last known address. If an applicant has  
2 submitted fingerprints to the department for a national  
3 criminal history check upon initial licensure and is renewing  
4 his or her license for the first time, then the applicant need  
5 only submit the information and fee required for a statewide  
6 criminal history check.

7 Section 43. Paragraphs (e) and (v) of subsection (1)  
8 and subsection (6) of section 458.331, Florida Statutes, are  
9 amended to read:

10 458.331 Grounds for disciplinary action; action by the  
11 board and department.--

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

15 (e) Failing to report to the department any person who  
16 the licensee knows is in violation of this chapter or of the  
17 rules of the department or the board. A treatment provider  
18 approved pursuant to s. 455.707 ~~455.261~~ shall provide the  
19 department or consultant with information in accordance with  
20 the requirements of s. 455.707(3) ~~455.261(3)~~, (4), (5), and  
21 (6).

22 (v) Practicing or offering to practice beyond the  
23 scope permitted by law or accepting and performing  
24 professional responsibilities which the licensee knows or has  
25 reason to know that he or she is not competent to perform. The  
26 board may establish by rule standards of practice and  
27 standards of care for particular practice settings.

28 (6) Upon the department's receipt from an insurer or  
29 self-insurer of a report of a closed claim against a physician  
30 pursuant to s. 627.912 or from a health care practitioner of a  
31 report pursuant to s. 455.697 ~~455.247~~, or upon the receipt

1 from a claimant of a presuit notice against a physician  
2 pursuant to s. 766.106, the department shall review each  
3 report and determine whether it potentially involved conduct  
4 by a licensee that is subject to disciplinary action, in which  
5 case the provisions of s. 455.621 ~~455.225~~ shall apply.

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

11 Section 44. Section 458.343, Florida Statutes, is  
12 amended to read:

13 458.343 Subpoena of certain records.--Notwithstanding  
14 the provisions of s. 455.667 ~~455.241~~, the department may issue  
15 subpoenas duces tecum requiring the names and addresses of  
16 some or all of the patients of a physician against whom a  
17 complaint has been filed pursuant to s. 455.621 ~~455.225~~.

18 Section 45. Paragraph (g) of subsection (7) and  
19 subsections (10) and (16) of section 458.347, Florida  
20 Statutes, are amended to read:

21 458.347 Physician assistants.--

22 (7) PHYSICIAN ASSISTANT CERTIFICATION.--

23 (g) The Board of Medicine may impose any of the  
24 penalties specified in ss. 455.624 ~~455.227~~ and 458.331(2) upon  
25 a physician assistant if the physician assistant or the  
26 supervising physician has been found guilty of or is being  
27 investigated for any act that constitutes a violation of this  
28 chapter or part II of chapter 455.

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

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

4           Section 46. Subsection (4) of section 459.004, Florida  
5 Statutes, is amended to read:

6           459.004 Board of Osteopathic Medicine.--

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

9           Section 47. Subsection (1) of section 459.008, Florida  
10 Statutes, is amended to read:

11          459.008 Renewal of licenses and certificates.--

12          (1) The department shall renew a license or  
13 certificate upon receipt of the renewal application and fee.  
14 An applicant for a renewed license must also submit the  
15 information required under s. 455.565 to the department on a  
16 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 48. Paragraphs (e) and (z) of subsection (1)  
20 and subsection (6) of section 459.015, Florida Statutes, are  
21 amended to read:

22 459.015 Grounds for disciplinary action by the  
23 board.--

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

27 (e) Failing to report to the department or the  
28 department's impaired professional consultant any person who  
29 the licensee or certificateholder knows is in violation of  
30 this chapter or of the rules of the department or the board.

31 A treatment provider, approved pursuant to s. 455.707 ~~455.261~~,



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

4 (z) Practicing or offering to practice beyond the  
5 scope permitted by law or accepting and performing  
6 professional responsibilities which the licensee knows or has  
7 reason to know that he or she is not competent to perform. The  
8 board may establish by rule standards of practice and  
9 standards of care for particular practice settings.

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

25 Section 49. Section 459.019, Florida Statutes, is  
26 amended to read:

27 459.019 Subpoena of certain records.--Notwithstanding  
28 the provisions of s. 455.667 ~~455.241~~, the department may issue  
29 subpoenas duces tecum requiring the names and addresses of  
30 some or all of the patients of an osteopathic physician

31

1 against whom a complaint has been filed pursuant to s. 455.621  
2 ~~455.225~~.

3 Section 50. Paragraph (f) of subsection (7) and  
4 subsections (10) and (16) of section 459.022, Florida  
5 Statutes, are amended to read:

6 459.022 Physician assistants.--

7 (7) PHYSICIAN ASSISTANT CERTIFICATION.--

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

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

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

20 Section 51. Subsection (4) of section 460.404, Florida  
21 Statutes, is amended to read:

22 460.404 Board of Chiropractic; membership;  
23 appointment; terms.--

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

26 Section 52. Paragraph (c) of subsection (1) of section  
27 460.4061, Florida Statutes, is amended to read:

28 460.4061 Restricted license.--

29 (1) An applicant for licensure as a chiropractic  
30 physician may apply to the department for a restricted license  
31 without undergoing a state or national written or clinical

1 competency examination for licensure if the applicant  
2 initially applies not later than October 31, 1994, for the  
3 restricted license and:

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

8 Section 53. Subsection (1) of section 460.407, Florida  
9 Statutes, is amended to read:

10 460.407 Renewal of license.--

11 (1) The department shall renew a license upon receipt  
12 of the renewal application and the fee set by the board not to  
13 exceed \$500. An applicant for a renewed license must also  
14 submit the information required under s. 455.565 to the  
15 department on a form and under procedures specified by the  
16 department, along with payment in an amount equal to the costs  
17 incurred by the Department of Health for the statewide  
18 criminal background check of the applicant. The applicant must  
19 submit a set of fingerprints to the Department of Health on a  
20 form and under procedures specified by the department, along  
21 with payment in an amount equal to the costs incurred by the  
22 department for a national criminal background check of the  
23 applicant for the initial renewal of his or her license after  
24 January 1, 2000. If the applicant fails to submit either the  
25 information required under s. 455.565 or a set of fingerprints  
26 to the department as required by this section, the department  
27 shall issue a notice of noncompliance, and the applicant will  
28 be given 30 additional days to comply. If the applicant fails  
29 to comply within 30 days after the notice of noncompliance is  
30 issued, the department or board, as appropriate, may issue a  
31 citation to the applicant and may fine the applicant up to \$50

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

18 Section 54. Subsection (4) of section 461.004, Florida  
19 Statutes, is amended to read:

20 461.004 Board of Podiatric Medicine; membership;  
21 appointment; terms.--

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

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

3 Section 55. 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 56. 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 57. 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 58. 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 59. 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 60. 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 61. 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 62. 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 63. 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 64. 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 65. 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(1)(b)  
21 ~~455.217(1)(b)~~ for all examiners prior to each practical or  
22 clinical examination and shall retain for employment only  
23 those dentists and dental hygienists who have substantially  
24 adhered to the standard of grading established at such  
25 exercise. It is the intent of the Legislature that the  
26 examinations relate to those procedures which are actually  
27 performed by a dental hygienist in general practice.

28           Section 66. 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 67. 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. 455.621(11)  
11 ~~455.225(11)~~. Furthermore, a professional organization or  
12 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 68. 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 69. 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 70. 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 71. 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 72. 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 73. 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 74. 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 75. 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(1)  
21 ~~455.227(1)~~ 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 76. 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 77. 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 78. 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 79. 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 80. 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 81. 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 82. 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 83. 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 84. 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 85. 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 86. 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 87. 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 88. 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 89. 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 90. 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 91. 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 92. 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 93. 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 94. 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 95. 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. 455.501(4)  
8 ~~s. 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 96. 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 97. 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 98. 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 99. 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 100. 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(2)~~455.227(2)~~ against any  
10 person who violates any provision of subsection (1).

11 Section 101. Paragraph (b) of subsection (1) of  
12 section 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 102. Subsection (4) of section 470.003,  
31 Florida 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 103. Paragraph (h) of subsection (1) of  
7 section 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 104. 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 105. 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 106. 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 107. 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 108. 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 109. 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 110. 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 111. 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 112. 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 113. 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 114. 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 115. 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 116. 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 117. 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 118. 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 119. 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 120. 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 121. 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 122. 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 123. 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 124. 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 125. 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 126. 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 127. 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 128. 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 129. 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 130. 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 131. 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 132. Paragraph (j) of subsection (4) and  
12 paragraph (b) of subsection (5) of section 483.901, Florida  
13 Statutes, are amended, and paragraph (k) is added to  
14 subsection (6) of that section, to read:

15           483.901 Medical physicists; definitions; licensure.--

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

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

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

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

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

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

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

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

3 (6) LICENSE REQUIRED.--An individual may not engage in  
4 the practice of medical physics, including the specialties of  
5 diagnostic radiological physics, therapeutic radiological  
6 physics, medical nuclear radiological physics, or medical  
7 health physics, without a license issued by the department for  
8 the appropriate specialty.

9 (k) Upon receipt of a complete application and the fee  
10 set forth by rule, the department may issue a  
11 physicist-in-training certificate to a person qualified to  
12 practice medical physics under direct supervision. The  
13 department may establish by rule requirements for initial  
14 certification and renewal of a physicist-in-training  
15 certificate.

16 Section 133. Subsection (1) of section 484.002,  
17 Florida Statutes, is amended to read:

18 484.002 Definitions.--As used in this part:

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

21 Section 134. Subsection (1) of section 484.003,  
22 Florida Statutes, is amended to read:

23 484.003 Board of Opticianry; membership; appointment;  
24 terms.--

25 (1) The Board of Opticianry is created within the  
26 Department of Health ~~Business and Professional Regulation~~ and  
27 shall consist of seven members to be appointed by the Governor  
28 and confirmed by the Senate.

29 Section 135. Subsection (1) of section 484.014,  
30 Florida Statutes, is amended to read:

31 484.014 Disciplinary actions.--

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

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

11           (b) Procuring or attempting to procure a license for  
12 any other person by making or causing to be made any false  
13 representation.

14           (c) Making or filing a report or record which the  
15 licensee knows to be false, intentionally or negligently  
16 failing to file a report or record required by federal or  
17 state law, willfully impeding or obstructing such filing, or  
18 inducing another person to do so. Such reports or records  
19 shall include only those which the person is required to make  
20 or file as an optician.

21           (d) Failing to make fee or price information readily  
22 available by providing such information upon request or upon  
23 the presentation of a prescription.

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

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

29           (g) Violation or repeated violation of this part or of  
30 part II of chapter 455 or any rules promulgated pursuant  
31 thereto.

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

3           (i) Violation of a lawful order of the board or  
4 department previously entered in a disciplinary hearing or  
5 failing to comply with a lawfully issued subpoena of the  
6 department.

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

8           (k) Conspiring with another licensee or with any  
9 person to commit an act, or committing an act, which would  
10 coerce, intimidate, or preclude another licensee from lawfully  
11 advertising her or his services.

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

14           (m) Failing to keep written prescription files.

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

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

21           (p) Gross or repeated malpractice.

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

26           (r) Being convicted or found guilty of, or entering a  
27 plea of nolo contendere to, regardless of adjudication, in a  
28 court of this state or other jurisdiction, a crime which  
29 relates to the ability to practice opticianry or to the  
30 practice of opticianry.

31

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

4           (t) Being unable to practice opticianry with  
5 reasonable skill and safety by reason of illness or use of  
6 drugs, narcotics, chemicals, or any other type of material or  
7 as a result of any mental or physical condition. An optician  
8 affected under this paragraph shall at reasonable intervals be  
9 afforded an opportunity to demonstrate that she or he can  
10 resume the competent practice of opticianry with reasonable  
11 skill and safety to her or his customers.

12           Section 136. Subsection (4) of section 484.042,  
13 Florida Statutes, is amended to read:

14           484.042 Board of Hearing Aid Specialists; membership,  
15 appointment, terms.--

16           (4) All provisions of part II of chapter 455 relating  
17 to activities of regulatory boards apply to the board.  
18 However, notwithstanding the requirement of s. 455.621(4)  
19 ~~455.225(4)~~ that the board provide by rule for the  
20 determination of probable cause by a panel composed of its  
21 members or by the department, the board may provide by rule  
22 that its probable cause panel may be composed of one current  
23 member of the board and one past member of the board, as long  
24 as the past member is a licensed hearing aid specialist in  
25 good standing. The past board member shall be appointed to  
26 the panel for a maximum of 2 years by the chair of the board  
27 with the approval of the secretary.

28           Section 137. Subsection (1) of section 484.056,  
29 Florida Statutes, is amended to read:

30           484.056 Disciplinary proceedings.--

31

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

8           (a) Violation of any provision of s. 455.624(1)  
9 ~~455.227(1)~~ or s. 484.053.

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

13           (c) Having a license to dispense hearing aids revoked,  
14 suspended, or otherwise acted against, including the denial of  
15 licensure, by the licensing authority of another state,  
16 territory, or country.

17           (d) Being convicted or found guilty of, or entering a  
18 plea of nolo contendere to, regardless of adjudication, a  
19 crime in any jurisdiction which directly relates to the  
20 practice of dispensing hearing aids or the ability to practice  
21 dispensing hearing aids, including violations of any federal  
22 laws or regulations regarding hearing aids.

23           (e) Making or filing a report or record which the  
24 licensee knows to be false, intentionally or negligently  
25 failing to file a report or record required by state or  
26 federal law, willfully impeding or obstructing such filing, or  
27 inducing another person to impede or obstruct such filing.  
28 Such reports or records shall include only those reports or  
29 records which are signed in one's capacity as a licensed  
30 hearing aid specialist.

31



1 (f) Advertising goods or services in a manner which is  
2 fraudulent, false, deceptive, or misleading in form or  
3 content.

4 (g) Proof that the licensee is guilty of fraud or  
5 deceit or of negligence, incompetency, or misconduct in the  
6 practice of dispensing hearing aids.

7 (h) Violation or repeated violation of this part or of  
8 part II of chapter 455, or any rules promulgated pursuant  
9 thereto.

10 (i) Violation of a lawful order of the board or  
11 department previously entered in a disciplinary hearing or  
12 failure to comply with a lawfully issued subpoena of the board  
13 or department.

14 (j) Practicing with a revoked, suspended, inactive, or  
15 delinquent license.

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

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

24 (m) Misrepresentation of professional services  
25 available in the fitting, sale, adjustment, service, or repair  
26 of a hearing aid, or use of the terms "doctor," "clinic,"  
27 "clinical," "medical audiologist," "clinical audiologist,"  
28 "research audiologist," or "audiologic" or any other term or  
29 title which might connote the availability of professional  
30 services when such use is not accurate.

31

1           (n) Representation, advertisement, or implication that  
2 a hearing aid or its repair is guaranteed without providing  
3 full disclosure of the identity of the guarantor; the nature,  
4 extent, and duration of the guarantee; and the existence of  
5 conditions or limitations imposed upon the guarantee.

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

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

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

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

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

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

31

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

5 (v) Failing to provide all information as described in  
6 s. 484.051(1).

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

10 Section 138. Subsection (4) of section 486.023,  
11 Florida Statutes, is amended to read:

12 486.023 Board of Physical Therapy Practice.--

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

15 Section 139. Section 486.115, Florida Statutes, is  
16 amended to read:

17 486.115 Disposition of fees.--All moneys collected by  
18 the department under this chapter shall be deposited and  
19 expended pursuant to the provisions of s. 455.587 ~~215.37~~.

20 Section 140. Section 486.172, Florida Statutes, is  
21 amended to read:

22 486.172 Application of s. 455.514 ~~455.11~~--The  
23 provisions of s. 455.514 ~~455.11~~ shall also be applicable to  
24 the provisions of this chapter.

25 Section 141. Paragraph (c) of subsection (1) and  
26 paragraph (a) of subsection (11) of section 489.129, Florida  
27 Statutes, are amended to read:

28 489.129 Disciplinary proceedings.--

29 (1) The board may take any of the following actions  
30 against any certificateholder or registrant: place on  
31 probation or reprimand the licensee, revoke, suspend, or deny

1 the issuance or renewal of the certificate, registration, or  
2 certificate of authority, require financial restitution to a  
3 consumer for financial harm directly related to a violation of  
4 a provision of this part, impose an administrative fine not to  
5 exceed \$5,000 per violation, require continuing education, or  
6 assess costs associated with investigation and prosecution, if  
7 the contractor, financially responsible officer, or business  
8 organization for which the contractor is a primary qualifying  
9 agent, a financially responsible officer, or a secondary  
10 qualifying agent responsible under s. 489.1195 is found guilty  
11 of any of the following acts:

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

13

14 For the purposes of this subsection, construction is  
15 considered to be commenced when the contract is executed and  
16 the contractor has accepted funds from the customer or lender.

17 (11)(a) Notwithstanding the provisions of chapter  
18 ~~chapters~~ 120 and part I of chapter 455, upon receipt of a  
19 legally sufficient consumer complaint alleging a violation of  
20 this part, the department may provide by rule for binding  
21 arbitration between the complainant and the certificateholder  
22 or registrant, provided the following conditions exist:

23 1. There is evidence that the complainant has suffered  
24 or is likely to suffer monetary damages resulting from the  
25 violation of this part;

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

28 3. Reasonable grounds exist to believe that the public  
29 interest will be better served by arbitration than by  
30 disciplinary action; and

31

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

5           Section 142. Paragraph (a) of subsection (1) and  
6 paragraphs (a) and (e) of subsection (7) of section 489.533,  
7 Florida Statutes, are amended to read:

8           489.533 Disciplinary proceedings.--

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

11           (a) Violating any provision of s. 489.531 or part I of  
12 chapter 455.

13  
14 For the purposes of this subsection, construction is  
15 considered to be commenced when the contract is executed and  
16 the contractor has accepted funds from the customer or lender.

17           (7)(a) The department may, by rule, provide for a  
18 mediation process for the complainant and the licensee.  
19 Notwithstanding the provisions of chapter ~~chapters~~ 120 and  
20 part I of chapter 455, upon receipt of a legally sufficient  
21 consumer complaint alleging a violation of this part, both the  
22 licensee and the complainant may consent in writing to  
23 mediation within 15 days following notification of this  
24 process by the department. The department may suspend all  
25 action in the matter for 45 days when notice of consent to  
26 mediation is received by the department. If the mediation  
27 process is successfully concluded within the 60-day period,  
28 the department may close the case file with a notation of the  
29 disposition and the licensee's record shall reflect only that  
30 a complaint was filed and resolved through mediation. If  
31 mediation is rejected by either the complainant or licensee,

1 or should said parties fail to reach a mediated solution  
2 within the 60-day period, the department shall process the  
3 complaint in the manner required by chapter ~~chapters~~ 120 and  
4 part I of chapter 455. The mediator shall provide a written  
5 report to the department of the mediation results within 10  
6 days of the conclusion of the mediation process as provided by  
7 rule.

8 (e) The department, in conjunction with the board,  
9 shall determine by rule the types of cases which may be  
10 included in the mediation process. The department may initiate  
11 or continue disciplinary action, pursuant to part I of chapter  
12 455 and this chapter against the licensee as determined by  
13 rule.

14 Section 143. Subsection (5) of section 490.004,  
15 Florida Statutes, is amended to read:

16 490.004 Board of Psychology.--

17 (5) All applicable provisions of part II of chapter  
18 455 relating to activities of regulatory boards shall apply to  
19 the board.

20 Section 144. Section 490.00515, Florida Statutes, is  
21 amended to read:

22 490.00515 Exemptions from public records and meetings  
23 requirements.--The exemptions from s. 119.07(1) provided by  
24 ss. 455.621(2)~~455.225(2)~~and (10) and 455.707(3)(e)

25 ~~455.261(3)(e)~~and (5)(a) also apply to information concerning  
26 a provisional psychologist regulated by the Agency for Health  
27 Care Administration and the Department of Health under this  
28 chapter, a registered clinical social worker intern, a  
29 registered marriage and family therapist intern, a registered  
30 mental health counselor intern, a provisional clinical social  
31 worker, a provisional marriage and family therapist, or a

1 provisional mental health counselor regulated by the Agency  
2 for Health Care Administration and the Department of Health  
3 under chapter 491. The exemption from s. 286.011 provided by  
4 s. 455.621(4)~~455.225(4)~~ also applies to the proceedings of a  
5 probable cause panel with respect to an investigation  
6 concerning a provisional psychologist, a registered clinical  
7 social worker intern, a registered marriage and family  
8 therapist intern, a registered mental health counselor intern,  
9 a provisional clinical social worker, a provisional marriage  
10 and family therapist, or a provisional mental health counselor  
11 regulated by the agency and department under this chapter or  
12 chapter 491. This section is subject to the Open Government  
13 Sunset Review Act of 1995 in accordance with s. 119.15 and  
14 shall stand repealed on October 2, 2002, unless reviewed and  
15 saved from repeal through reenactment by the Legislature.

16 Section 145. Paragraph (q) of subsection (2) of  
17 section 490.009, Florida Statutes, is amended to read:

18 490.009 Discipline.--

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

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

24 Section 146. Subsection (1) of section 490.015,  
25 Florida Statutes, is amended to read:

26 490.015 Duties of the department.--

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

31

1           Section 147. Subsection (6) of section 491.004,  
2 Florida Statutes, is amended to read:

3           491.004 Board of Clinical Social Work, Marriage and  
4 Family Therapy, and Mental Health Counseling.--

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

8           Section 148. Section 491.0047, Florida Statutes, is  
9 amended to read:

10          491.0047 Exemptions from public records and meetings  
11 requirements.--The exemptions from s. 119.07(1) provided by  
12 ss. 455.621(2)~~455.225(2)~~and (10) and 455.707(3)(e)  
13 ~~455.261(3)(e)~~and (5)(a) also apply to information concerning  
14 a provisional psychologist regulated by the Agency for Health  
15 Care Administration and the Department of Health under chapter  
16 490, a registered clinical social worker intern, a registered  
17 marriage and family therapist intern, a registered mental  
18 health counselor intern, a provisional clinical social worker,  
19 a provisional marriage and family therapist, or a provisional  
20 mental health counselor regulated by the Agency for Health  
21 Care Administration and the Department of Health under this  
22 chapter. The exemption from s. 286.011 provided by s.  
23 455.621(4)~~455.225(4)~~also applies to the proceedings of a  
24 probable cause panel with respect to an investigation  
25 concerning a provisional psychologist, a registered clinical  
26 social worker intern, a registered marriage and family  
27 therapist intern, a registered mental health counselor intern,  
28 a provisional clinical social worker, a provisional marriage  
29 and family therapist, or a provisional mental health counselor  
30 regulated by the agency and department under chapter 490 or  
31 this chapter. This section is subject to the Open Government



1 Sunset Review Act of 1995 in accordance with s. 119.15 and  
2 shall stand repealed on October 2, 2002, unless reviewed and  
3 saved from repeal through reenactment by the Legislature.

4 Section 149. Paragraph (q) of subsection (2) of  
5 section 491.009, Florida Statutes, is amended to read:

6 491.009 Discipline.--

7 (2) The following acts of a licensee, provisional  
8 licensee, registered intern, certificateholder, or applicant  
9 are grounds for which the disciplinary actions listed in  
10 subsection (1) may be taken:

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

13 Section 150. Subsection (1) of section 491.015,  
14 Florida Statutes, is amended to read:

15 491.015 Duties of the department as to certified  
16 master social workers.--

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

22 Section 151. Subsection (2) of section 492.103,  
23 Florida Statutes, is amended to read:

24 492.103 Board of Professional Geologists.--

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

27 Section 152. Paragraph (h) of subsection (1) of  
28 section 492.113, Florida Statutes, is amended to read:

29 492.113 Disciplinary proceedings.--

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

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

2 Section 153. Subsection (3) of section 627.668,  
3 Florida Statutes, is amended to read:

4 627.668 Optional coverage for mental and nervous  
5 disorders required; exception.--

6 (3) Insurers must maintain strict confidentiality  
7 regarding psychiatric and psychotherapeutic records submitted  
8 to an insurer for the purpose of reviewing a claim for  
9 benefits payable under this section. These records submitted  
10 to an insurer are subject to the limitations of s. 455.667  
11 ~~455.241~~, relating to the furnishing of patient records.

12 Section 154. Paragraph (e) of subsection (2) and  
13 subsections (1) and (3) of section 627.912, Florida Statutes,  
14 are amended to read:

15 627.912 Professional liability claims and actions;  
16 reports by insurers.--

17 (1) Each self-insurer authorized under s. 627.357 and  
18 each insurer or joint underwriting association providing  
19 professional liability insurance to a practitioner of medicine  
20 licensed under chapter 458, to a practitioner of osteopathic  
21 medicine licensed under chapter 459, to a podiatrist licensed  
22 under chapter 461, to a dentist licensed under chapter 466, to  
23 a hospital licensed under chapter 395, to a crisis  
24 stabilization unit licensed under part IV of chapter 394, to a  
25 health maintenance organization certificated under part I of  
26 chapter 641, to clinics included in chapter 390, to an  
27 ambulatory surgical center as defined in s. 395.002, or to a  
28 member of The Florida Bar shall report in duplicate to the  
29 Department of Insurance any claim or action for damages for  
30 personal injuries claimed to have been caused by error,  
31 omission, or negligence in the performance of such insured's

1 professional services or based on a claimed performance of  
2 professional services without consent, if the claim resulted  
3 in:

- 4 (a) A final judgment in any amount.  
5 (b) A settlement in any amount.  
6 (c) A final disposition not resulting in payment on  
7 behalf of the insured.

8  
9 Reports shall be filed with the department and, if the insured  
10 party is licensed under chapter 458, chapter 459, chapter 461,  
11 or chapter 466, with the Department of Health Agency for  
12 ~~Health Care Administration~~, no later than 30 days following  
13 the occurrence of any event listed in paragraph (a), paragraph  
14 (b), or paragraph (c). The Department of Health Agency for  
15 ~~Health Care Administration~~ shall review each report and  
16 determine whether any of the incidents that resulted in the  
17 claim potentially involved conduct by the licensee that is  
18 subject to disciplinary action, in which case the provisions  
19 of s. 455.621 ~~455.225~~ shall apply. The Department of Health  
20 ~~Agency for Health Care Administration~~, as part of the annual  
21 report required by s. 455.644 ~~455.2285~~, shall publish annual  
22 statistics, without identifying licensees, on the reports it  
23 receives, including final action taken on such reports by the  
24 Department of Health agency or the appropriate regulatory  
25 board.

26 (2) The reports required by subsection (1) shall  
27 contain:

- 28 (e) The name and address of the injured person. This  
29 information is confidential and exempt from the provisions of  
30 s. 119.07(1), and must not be disclosed by the department  
31 without the injured person's consent, except for disclosure by

1 the department to the Department of Health ~~Agency for Health~~  
2 ~~Care Administration~~. This information may be used by the  
3 department for purposes of identifying multiple or duplicate  
4 claims arising out of the same occurrence.

5 (3) Upon request by the Department of Health ~~Agency~~  
6 ~~for Health Care Administration~~, the department shall provide  
7 the Department of Health ~~agency~~ with any information received  
8 under this section related to persons licensed under chapter  
9 458, chapter 459, chapter 461, or chapter 466. For purposes of  
10 safety management, the department shall annually provide the  
11 Department of Health with copies of the reports in cases  
12 resulting in an indemnity being paid to the claimants.

13 Section 155. Section 636.039, Florida Statutes, is  
14 amended to read:

15 636.039 Examination by the department.--The department  
16 shall examine the affairs, transactions, accounts, business  
17 records, and assets of any prepaid limited health service  
18 organization, in the same manner and subject to the same terms  
19 and conditions that apply to insurers under part II of chapter  
20 624, as often as it deems it expedient for the protection of  
21 the people of this state, but not less frequently than once  
22 every 3 years. In lieu of making its own financial  
23 examination, the department may accept an independent  
24 certified public accountant's audit report prepared on a  
25 statutory accounting basis consistent with this act. However,  
26 except when the medical records are requested and copies  
27 furnished pursuant to s. 455.667 ~~455.241~~, medical records of  
28 individuals and records of physicians providing service under  
29 contract to the prepaid limited health service organization  
30 are not subject to audit, but may be subject to subpoena by  
31 court order upon a showing of good cause. For the purpose of

1 examinations, the department may administer oaths to and  
2 examine the officers and agents of a prepaid limited health  
3 service organization concerning its business and affairs. The  
4 expenses of examination of each prepaid limited health service  
5 organization by the department are subject to the same terms  
6 and conditions as apply to insurers under part II of chapter  
7 624. Expenses of all examinations of a prepaid limited health  
8 service organization may never exceed a maximum of \$20,000 for  
9 any 1-year period.

10 Section 156. Subsection (1) of section 641.27, Florida  
11 Statutes, is amended to read:

12 641.27 Examination by the department.--

13 (1) The department shall examine the affairs,  
14 transactions, accounts, business records, and assets of any  
15 health maintenance organization as often as it deems it  
16 expedient for the protection of the people of this state, but  
17 not less frequently than once every 3 years. In lieu of  
18 making its own financial examination, the department may  
19 accept an independent certified public accountant's audit  
20 report prepared on a statutory accounting basis consistent  
21 with this part. However, except when the medical records are  
22 requested and copies furnished pursuant to s. 455.667 ~~455.241~~,  
23 medical records of individuals and records of physicians  
24 providing service under contract to the health maintenance  
25 organization shall not be subject to audit, although they may  
26 be subject to subpoena by court order upon a showing of good  
27 cause. For the purpose of examinations, the department may  
28 administer oaths to and examine the officers and agents of a  
29 health maintenance organization concerning its business and  
30 affairs. The examination of each health maintenance  
31 organization by the department shall be subject to the same

1 terms and conditions as apply to insurers under chapter 624.  
2 In no event shall expenses of all examinations exceed a  
3 maximum of \$20,000 for any 1-year period. Any rehabilitation,  
4 liquidation, conservation, or dissolution of a health  
5 maintenance organization shall be conducted under the  
6 supervision of the department, which shall have all power with  
7 respect thereto granted to it under the laws governing the  
8 rehabilitation, liquidation, reorganization, conservation, or  
9 dissolution of life insurance companies.

10 Section 157. Paragraph (b) of subsection (2) and  
11 subsection (5) of section 641.316, Florida Statutes, are  
12 amended to read:

13 641.316 Fiscal intermediary services.--

14 (2)

15 (b) The term "fiscal intermediary services  
16 organization" means a person or entity which performs  
17 fiduciary or fiscal intermediary services to health care  
18 professionals who contract with health maintenance  
19 organizations other than a fiscal intermediary services  
20 organization owned, operated, or controlled by a hospital  
21 licensed under chapter 395, an insurer licensed under chapter  
22 624, a third-party administrator licensed under chapter 626, a  
23 prepaid limited health organization licensed under chapter  
24 636, a health maintenance organization licensed under this  
25 chapter, or physician group practices as defined in s.  
26 455.654(3)(f)~~455.236(3)(f)~~.

27 (5) Any fiscal intermediary services organization,  
28 other than a fiscal intermediary services organization owned,  
29 operated, or controlled by a hospital licensed under chapter  
30 395, an insurer licensed under chapter 624, a third-party  
31 administrator licensed under chapter 626, a prepaid limited

1 health organization licensed under chapter 636, a health  
2 maintenance organization licensed under this chapter, or  
3 physician group practices as defined in s. 455.654(3)(f)  
4 ~~455.236(3)(f)~~, must register with the department and meet the  
5 requirements of this section. In order to register as a fiscal  
6 intermediary services organization, the organization must  
7 comply with ss. 641.21(1)(c) and (d) and 641.22(6). Should the  
8 department determine that the fiscal intermediary services  
9 organization does not meet the requirements of this section,  
10 the registration shall be denied. In the event that the  
11 registrant fails to maintain compliance with the provisions of  
12 this section, the department may revoke or suspend the  
13 registration. In lieu of revocation or suspension of the  
14 registration, the department may levy an administrative  
15 penalty in accordance with s. 641.25.

16 Section 158. Paragraphs (b) and (c) of subsection (5)  
17 and subsections (6) and (8) of section 641.55, Florida  
18 Statutes, are amended to read:

19 641.55 Internal risk management program.--

20 (5)

21 (b) The information reported to the agency under  
22 paragraph (a) which relates to providers licensed under  
23 chapter 458, chapter 459, chapter 461, or chapter 466 must  
24 also be reported to the agency quarterly. The agency shall  
25 review the information and determine whether any of the  
26 incidents potentially involved conduct by a licensee that is  
27 subject to disciplinary action, in which case s. 455.621  
28 ~~455.225~~ applies.

29 (c) Except as otherwise provided in this subsection,  
30 any identifying information contained in the annual report and  
31 the quarterly reports under paragraphs (a) and (b) is

1 confidential and exempt from s. 119.07(1). This information  
2 must not be available to the public as part of the record of  
3 investigation for and prosecution in disciplinary proceedings  
4 made available to the public by the agency or the appropriate  
5 regulatory board. However, the agency shall make available,  
6 upon written request by a practitioner against whom probable  
7 cause has been found, any such information contained in the  
8 records that form the basis of the determination of probable  
9 cause under s. 455.621 ~~455.225~~.

10 (6) If an adverse or untoward incident, whether  
11 occurring in the facilities of the organization or arising  
12 from health care prior to enrollment by the organization or  
13 admission to the facilities of the organization or in a  
14 facility of one of its providers, results in:

15 (a) The death of a patient;

16 (b) Severe brain or spinal damage to a patient;

17 (c) A surgical procedure being performed on the wrong  
18 patient; or

19 (d) A surgical procedure unrelated to the patient's  
20 diagnosis or medical needs being performed on any patient,

21  
22 the organization must report this incident to the agency  
23 within 3 working days after its occurrence. A more detailed  
24 followup report must be submitted to the agency within 10 days  
25 after the first report. The agency may require an additional,  
26 final report. Reports under this subsection must be sent  
27 immediately by the agency to the appropriate regulatory board  
28 whenever they contain references to a provider licensed under  
29 chapter 458, chapter 459, chapter 461, or chapter 466. These  
30 reports are confidential and are exempt from s. 119.07(1).

31 This information is not available to the public as part of the



1 record of investigation for and prosecution in disciplinary  
2 proceedings made available to the public by the agency or the  
3 appropriate regulatory board. However, the agency shall make  
4 available, upon written request by a practitioner against whom  
5 probable cause has been found, any such information contained  
6 in the records that form the basis of the determination of  
7 probable cause under s. 455.621 ~~455.225~~. The agency may  
8 investigate, as it deems appropriate, any such incident and  
9 prescribe measures that must or may be taken by the  
10 organization in response to the incident. The agency shall  
11 review each incident and determine whether it potentially  
12 involved conduct by the licensee which is subject to  
13 disciplinary action, in which case s. 455.621 ~~455.225~~ applies.

14 (8) The agency and, upon subpoena issued under s.  
15 455.611 ~~455.223~~, the appropriate regulatory board must be  
16 given access to all organization records necessary to carry  
17 out the provisions of this section. Any identifying  
18 information contained in the records obtained under this  
19 section is confidential and exempt from s. 119.07(1). The  
20 identifying information contained in records obtained under s.  
21 455.611 ~~455.223~~ is exempt from s. 119.07(1) to the extent that  
22 it is part of the record of investigation for and prosecution  
23 in disciplinary proceedings made available to the public by  
24 the 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 information contained in the records that form the basis  
28 of the determination of probable cause under s. 455.621  
29 ~~455.225~~, except that, with respect to medical review committee  
30 records, s. 766.101 controls.

31

1 The gross data compiled under this section or s. 395.0197  
2 shall be furnished by the agency upon request to organizations  
3 to be utilized for risk management purposes. The agency shall  
4 adopt rules necessary to carry out the provisions of this  
5 section.

6 Section 159. Subsection (2) of section 766.106,  
7 Florida Statutes, is amended to read:

8 766.106 Notice before filing action for medical  
9 malpractice; presuit screening period; offers for admission of  
10 liability and for arbitration; informal discovery; review.--

11 (2) After completion of presuit investigation pursuant  
12 to s. 766.203 and prior to filing a claim for medical  
13 malpractice, a claimant shall notify each prospective  
14 defendant and, if any prospective defendant is a health care  
15 provider licensed under chapter 458, chapter 459, chapter 460,  
16 chapter 461, or chapter 466, the Department of Health Business  
17 ~~and Professional Regulation~~ by certified mail, return receipt  
18 requested, of intent to initiate litigation for medical  
19 malpractice. Notice to the Department of Health Business ~~and~~  
20 ~~Professional Regulation~~ must include the full name and address  
21 of the claimant; the full names and any known addresses of any  
22 health care providers licensed under chapter 458, chapter 459,  
23 chapter 460, chapter 461, or chapter 466 who are prospective  
24 defendants identified at the time; the date and a summary of  
25 the occurrence giving rise to the claim; and a description of  
26 the injury to the claimant. The requirement for notice to the  
27 Department of Health Business ~~and Professional Regulation~~ does  
28 not impair the claimant's legal rights or ability to seek  
29 relief for his or her claim, and the notice provided to the  
30 department is not discoverable or admissible in any civil or  
31 administrative action. The Department of Health Business ~~and~~

1 ~~Professional Regulation~~ shall review each incident and  
2 determine whether it involved conduct by a licensee which is  
3 potentially subject to disciplinary action, in which case the  
4 provisions of s. 455.621 ~~455.225~~ apply.

5 Section 160. Subsection (4) of section 766.305,  
6 Florida Statutes, is amended to read:

7 766.305 Filing of claims and responses; medical  
8 disciplinary review.--

9 (4) Upon receipt of such petition, the Division of  
10 Medical Quality Assurance shall review the information therein  
11 and determine whether it involved conduct by a physician  
12 licensed under chapter 458 or an osteopathic physician  
13 licensed under chapter 459 that is subject to disciplinary  
14 action, in which case the provisions of s. 455.621 ~~455.225~~  
15 shall apply.

16 Section 161. Subsection (2) of section 766.308,  
17 Florida Statutes, is amended to read:

18 766.308 Medical advisory panel review and  
19 recommendations; procedure.--

20 (2) The Department of Insurance shall develop a plan  
21 which provides the method and procedure for such medical  
22 advisory panel review and shall develop such plan in  
23 coordination with ~~the Division of Medical Quality Assurance of~~  
24 ~~the Department of Health Business and Professional Regulation~~  
25 ~~and the Children's Medical Services Program Office of the~~  
26 ~~Department of Health and Rehabilitative Services.~~

27 Section 162. Paragraph (b) of subsection (4) of  
28 section 766.314, Florida Statutes, is amended to read:

29 766.314 Assessments; plan of operation.--

30  
31

1           (4) The following persons and entities shall pay into  
2 the association an initial assessment in accordance with the  
3 plan of operation:

4           (b)1. On or before October 15, 1988, all physicians  
5 licensed pursuant to chapter 458 or chapter 459 as of October  
6 1, 1988, other than participating physicians, shall be  
7 assessed an initial assessment of \$250, which must be paid no  
8 later than December 1, 1988.

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

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

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

18           a. A resident physician, assistant resident physician,  
19 or intern in an approved postgraduate training program, as  
20 defined by the Board of Medicine or the Board of Osteopathic  
21 Medicine by rule;

22           b. A retired physician who has withdrawn from the  
23 practice of medicine but who maintains an active license as  
24 evidenced by an affidavit filed with the Department of Health  
25 ~~Business and Professional Regulation~~. Prior to reentering the  
26 practice of medicine in this state, a retired physician as  
27 herein defined must notify the Board of Medicine or the Board  
28 of Osteopathic Medicine and pay the appropriate assessments  
29 pursuant to this section;

30  
31

1 c. A physician who holds a limited license pursuant to  
2 s. 458.317 and who is not being compensated for medical  
3 services;

4 d. A physician who is employed full time by the United  
5 States Department of Veterans Affairs and whose practice is  
6 confined to United States Department of Veterans Affairs  
7 hospitals; or

8 e. A physician who is a member of the Armed Forces of  
9 the United States and who meets the requirements of s. 455.507  
10 ~~455.02~~.

11 f. A physician who is employed full time by the State  
12 of Florida and whose practice is confined to state-owned  
13 correctional institutions, a county health department, or  
14 state-owned mental health or developmental services  
15 facilities, or who is employed full time by the Department of  
16 Health.

17 Section 163. Paragraph (b) of subsection (3) of  
18 section 817.505, Florida Statutes, is amended to read:

19 817.505 Patient brokering prohibited; exceptions;  
20 penalties.--

21 (3) This section shall not apply to:

22 (b) Any payment, compensation, or financial  
23 arrangement within a group practice as defined in s. 455.654  
24 ~~455.236~~, provided such payment, compensation, or arrangement  
25 is not to or from persons who are not members of the group  
26 practice.

27 Section 164. Section 937.031, Florida Statutes, is  
28 amended to read:

29 937.031 Dental records of missing persons; access and  
30 use.--When a person has been reported missing and has not been  
31 located within 30 days after such report, the law enforcement

1 agency conducting the investigation of the missing person  
2 shall request the family or next of kin to provide written  
3 consent to contact the dentist of the missing person and  
4 request that person's dental records. Notwithstanding the  
5 provisions of s. 455.667 ~~455.241~~, a dentist, upon receipt of  
6 proof of written consent, shall release a copy of the dental  
7 records of the missing person to the law enforcement agency  
8 requesting such records, providing or encoding the dental  
9 records in a form requested by the Department of Law  
10 Enforcement. The law enforcement agency shall then enter the  
11 dental records into the criminal justice information system  
12 for the purpose of comparing such records to those of  
13 unidentified deceased persons.

14 Section 165. Paragraph (hh) of subsection (4) of  
15 section 215.20, Florida Statutes, is amended to read:

16 215.20 Certain income and certain trust funds to  
17 contribute to the General Revenue Fund.--

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

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

24  
25 The enumeration of the foregoing moneys or trust funds shall  
26 not prohibit the applicability thereto of s. 215.24 should the  
27 Governor determine that for the reasons mentioned in s. 215.24  
28 the money or trust funds should be exempt herefrom, as it is  
29 the purpose of this law to exempt income from its force and  
30 effect when, by the operation of this law, federal matching  
31

1 funds or contributions or private grants to any trust fund  
2 would be lost to the state.

3 Section 166. Subsection (3) of section 391.208,  
4 Florida Statutes, is amended to read:

5 391.208 Administrative fines; disposition of fees and  
6 fines.--

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

10 Section 167. Section 391.217, Florida Statutes, is  
11 amended to read:

12 391.217 Disposition of moneys from fines and  
13 fees.--All moneys received from administrative fines pursuant  
14 to s. 391.208 and all moneys received from fees collected  
15 pursuant to s. 391.205 shall be deposited in the Health Care  
16 Trust Fund created in s. 408.16 ~~455.2205~~.

17 Section 168. Section 400.5575, Florida Statutes, is  
18 amended to read:

19 400.5575 Disposition of fees and administrative  
20 fines.--Fees and fines received by the agency under this part  
21 shall be deposited in the Health Care Trust Fund established  
22 pursuant to s. 408.16 ~~455.2205~~. These funds may be used to  
23 offset the costs of the licensure program, including the costs  
24 of conducting background investigations, verifying information  
25 submitted, and processing applications.

26 Section 169. Subsection (2) of section 408.20, Florida  
27 Statutes, is amended to read:

28 408.20 Assessments; Health Care Trust Fund.--

29 (2) All moneys collected are to be deposited into the  
30 Health Care Trust Fund created pursuant to s. 408.16 ~~455.2205~~.

31

1 ~~The Health Care Trust Fund shall be subject to the service~~  
2 ~~charge imposed pursuant to chapter 215.~~

3 Section 170. Paragraph (b) of subsection (5) of  
4 section 641.60, Florida Statutes, is amended to read:

5 641.60 Statewide Managed Care Ombudsman Committee.--

6 (5)

7 (b) Travel expenses for the statewide committee shall  
8 be funded from the Health ~~Maintenance Organization Quality~~  
9 Care Trust Fund, created by s. 408.16 ~~641.57~~. The statewide  
10 committee may solicit grants, gifts, donations, bequests, or  
11 other payments including money, property, or services from any  
12 governmental or public entity or private entity or person to  
13 fund other expenses of the committee and the district  
14 committees. Any such moneys received shall be deposited into  
15 a trust fund administered by the agency.

16 Section 171. Subsection (36) of section 39.01, Florida  
17 Statutes, is amended to read:

18 39.01 Definitions.--When used in this chapter:

19 (36) "Neglect" occurs when the parent or legal  
20 custodian of a child or, in the absence of a parent or legal  
21 custodian, the person primarily responsible for the child's  
22 welfare deprives a child of, or allows a child to be deprived  
23 of, necessary food, clothing, shelter, or medical treatment or  
24 permits a child to live in an environment when such  
25 deprivation or environment causes the child's physical,  
26 mental, or emotional health to be significantly impaired or to  
27 be in danger of being significantly impaired. The foregoing  
28 circumstances shall not be considered neglect if caused  
29 primarily by financial inability unless actual services for  
30 relief have been offered to and rejected by such person. A  
31 parent or guardian legitimately practicing religious beliefs



1 in accordance with a recognized church or religious  
2 organization who thereby does not provide specific medical  
3 treatment for a child shall not, for that reason alone, be  
4 considered a negligent parent or guardian; however, such an  
5 exception does not preclude a court from ordering the  
6 following services to be provided, when the health of the  
7 child so requires:

8 (a) Medical services from a licensed physician,  
9 dentist, optometrist, podiatric physician ~~podiatrist~~, or other  
10 qualified health care provider; or

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

15 Section 172. Paragraph (a) of subsection (1) of  
16 section 320.0848, Florida Statutes, is amended to read:

17 320.0848 Persons who have disabilities; issuance of  
18 disabled parking permits; temporary permits; permits for  
19 certain providers of transportation services to persons who  
20 have disabilities.--

21 (1)(a) The Department of Highway Safety and Motor  
22 Vehicles or its authorized agents shall, upon application and  
23 receipt of the fee, issue a disabled parking permit for a  
24 period of up to 4 years that ends on the applicant's birthday  
25 to any person who has long-term mobility problems, or a  
26 temporary disabled parking permit not to exceed 1 year to any  
27 person who has temporary mobility problems. The person must  
28 be currently certified by a physician licensed under chapter  
29 458, chapter 459, or chapter 460, or by a podiatric physician  
30 ~~podiatrist~~ licensed under chapter 461, by the Division of  
31 Blind Services of the Department of Labor and Employment

1 Security, or by the Adjudication Office of the United States  
2 Department of Veterans Affairs or its predecessor as being  
3 legally blind or as having any of the following disabilities  
4 that limit or impair his or her ability to walk:  
5       1. Inability to walk 200 feet without stopping to  
6 rest.  
7       2. Inability to walk without the use of or assistance  
8 from a brace, cane, crutch, prosthetic device, or other  
9 assistive device, or without the assistance of another person.  
10 If the assistive device significantly restores the person's  
11 ability to walk to the extent that the person can walk without  
12 severe limitation, the person is not eligible for the  
13 exemption parking permit.  
14       3. The need to permanently use a wheelchair.  
15       4. Restriction by lung disease to the extent that the  
16 person's forced (respiratory) expiratory volume for 1 second,  
17 when measured by spirometry, is less than 1 liter, or the  
18 person's arterial oxygen is less than 60 mm/hg on room air at  
19 rest.  
20       5. Use of portable oxygen.  
21       6. Restriction by cardiac condition to the extent that  
22 the person's functional limitations are classified in severity  
23 as Class III or Class IV according to standards set by the  
24 American Heart Association.  
25       7. Severe limitation in the person's ability to walk  
26 due to an arthritic, neurological, or orthopedic condition.  
27       Section 173. Paragraph (b) of subsection (2) of  
28 section 381.026, Florida Statutes, is amended to read:  
29       381.026 Florida Patient's Bill of Rights and  
30 Responsibilities.--  
31       (2) DEFINITIONS.--As used in this section, the term:

1 (b) "Health care provider" means a physician licensed  
2 under chapter 458, an osteopathic physician licensed under  
3 chapter 459, or a podiatric physician ~~podiatrist~~ licensed  
4 under chapter 461.

5 Section 174. Section 381.0261, Florida Statutes, is  
6 amended to read:

7 381.0261 Distribution of summary.--The Department of  
8 Health and Rehabilitative Services shall have printed and made  
9 continuously available to health care facilities licensed  
10 under chapter 395, physicians licensed under chapter 458,  
11 osteopathic physicians licensed under chapter 459, and  
12 podiatric physicians ~~podiatrists~~ licensed under chapter 461 a  
13 summary of the Florida Patient's Bill of Rights and  
14 Responsibilities. In adopting and making public the summary  
15 of the Florida Patient's Bill of Rights and Responsibilities,  
16 health care providers and health care facilities are not  
17 limited to the format in which the Department of Health and  
18 Rehabilitative Services prints and distributes the summary.

19 Section 175. Paragraph (b) of subsection (2) of  
20 section 381.0302, Florida Statutes, is amended to read:

21 381.0302 Florida Health Services Corps.--

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

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

25 1. Offers scholarships to allopathic, osteopathic,  
26 chiropractic, podiatric, dental, physician assistant, and  
27 nursing students, and loan repayment assistance and travel and  
28 relocation expenses to allopathic and osteopathic residents  
29 and physicians, chiropractors, podiatric physicians  
30 ~~podiatrists~~, nurse practitioners, dentists, and physician  
31

1 assistants, in return for service in a public health care  
2 program or in a medically underserved area.

3 2. Offers membership on a voluntary basis to  
4 physicians and other health care personnel who provide  
5 uncompensated care.

6 Section 176. Subsection (1) of section 395.0191,  
7 Florida Statutes, is amended to read:

8 395.0191 Staff membership and clinical privileges.--

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

20 Section 177. Paragraph (g) of subsection (3) of  
21 section 395.1041, Florida Statutes, is amended to read:

22 395.1041 Access to emergency services and care.--

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

25 (g) Neither the hospital nor its employees, nor any  
26 physician, dentist, or podiatric physician ~~podiatrist~~ shall be  
27 liable in any action arising out of a refusal to render  
28 emergency services or care if the refusal is made after  
29 screening, examining, and evaluating the patient, and is based  
30 on the determination, exercising reasonable care, that the  
31 person is not suffering from an emergency medical condition or

1 a determination, exercising reasonable care, that the hospital  
2 does not have the service capability or is at service capacity  
3 to render those services.

4 Section 178. Subsection (6) of section 395.301,  
5 Florida Statutes, is amended to read:

6 395.301 Itemized patient bill; form and content  
7 prescribed by the agency.--

8 (6) No physician, dentist, podiatric physician  
9 ~~podiatrist~~, or licensed facility may add to the price charged  
10 by any third party except for a service or handling charge  
11 representing a cost actually incurred as an item of expense;  
12 however, the physician, dentist, podiatric physician  
13 ~~podiatrist~~, or licensed facility is entitled to fair  
14 compensation for all professional services rendered. The  
15 amount of the service or handling charge, if any, shall be set  
16 forth clearly in the bill to the patient.

17 Section 179. Paragraph (b) of subsection (5) of  
18 section 404.22, Florida Statutes, is amended to read:

19 404.22 Radiation machines and components;  
20 inspection.--

21 (5)

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

24 1. Radiation machines which are used in the practice  
25 of medicine, chiropractic medicine, osteopathic medicine, or  
26 naturopathic medicine shall be inspected at least once every 2  
27 years, but not more than annually, for an annual fee which is  
28 not less than \$83 or more than \$145 for the first radiation  
29 machine within an office or facility and not less than \$36 or  
30 more than \$85 for each additional radiation machine therein.

31

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

7           3. Radiation machines which are used for educational  
8 or industrial purposes shall be inspected at least once every  
9 3 years for an annual fee which is not less than \$26 or more  
10 than \$47 for the first radiation machine within an office or  
11 facility and not less than \$12 or more than \$23 for each  
12 additional radiation machine therein.

13           4. Radiation machines which are used in the practice  
14 of dentistry or podiatric medicine ~~podiatry~~ shall be inspected  
15 at least once every 5 years but not more often than once every  
16 4 years for an annual fee which is not less than \$16 or more  
17 than \$31 for the first radiation machine within an office or  
18 facility and not less than \$5 or more than \$11 for each  
19 additional radiation machine therein.

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

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

1           7. If a radiation machine fails to meet the applicable  
2 standards upon initial inspection, the department may  
3 reinspect the radiation machine and charge a reinspection fee  
4 in accordance with the same schedule of fees as in  
5 subparagraphs 1. through 6.

6           Section 180. Subsection (18) of section 409.906,  
7 Florida Statutes, is amended to read:

8           409.906 Optional Medicaid services.--Subject to  
9 specific appropriations, the agency may make payments for  
10 services which are optional to the state under Title XIX of  
11 the Social Security Act and are furnished by Medicaid  
12 providers to recipients who are determined to be eligible on  
13 the dates on which the services were provided. Any optional  
14 service that is provided shall be provided only when medically  
15 necessary and in accordance with state and federal law.  
16 Nothing in this section shall be construed to prevent or limit  
17 the agency from adjusting fees, reimbursement rates, lengths  
18 of stay, number of visits, or number of services, or making  
19 any other adjustments necessary to comply with the  
20 availability of moneys and any limitations or directions  
21 provided for in the General Appropriations Act or chapter 216.  
22 Optional services may include:

23           (18) PODIATRIC SERVICES.--The agency may pay for  
24 services, including diagnosis and medical, surgical,  
25 palliative, and mechanical treatment, related to ailments of  
26 the human foot and lower leg, if provided to a recipient by a  
27 podiatric physician ~~podiatrist~~ licensed under state law.

28           Section 181. Subsection (14) of section 415.503,  
29 Florida Statutes, is amended to read:

30           415.503 Definitions of terms used in ss.  
31 415.502-415.514.--As used in ss. 415.502-415.514:

1           (14) "Physician" means any licensed physician,  
2 dentist, podiatric physician ~~podiatrist~~, or optometrist and  
3 includes any intern or resident.

4           Section 182. Subsection (2) of section 440.106,  
5 Florida Statutes, is amended to read:

6           440.106 Civil remedies; administrative penalties.--

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

18           Section 183. Paragraph (r) of subsection (1) of  
19 section 440.13, Florida Statutes, is amended to read:

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

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

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

30           Section 184. Paragraph (k) of subsection (1) of  
31 section 440.134, Florida Statutes, is amended to read:



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

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

4           (k) "Primary care provider" means, except in the case  
5 of emergency treatment, the initial treating physician and,  
6 when appropriate, continuing treating physician, who may be a  
7 family practitioner, general practitioner, or internist  
8 physician licensed under chapter 458; a family practitioner,  
9 general practitioner, or internist osteopathic physician  
10 licensed under chapter 459; a chiropractor licensed under  
11 chapter 460; a podiatric physician ~~podiatrist~~ licensed under  
12 chapter 461; an optometrist licensed under chapter 463; or a  
13 dentist licensed under chapter 466.

14           Section 185. Paragraph (a) of subsection (3) of  
15 section 440.15, Florida Statutes, is amended to read:

16           440.15 Compensation for disability.--Compensation for  
17 disability shall be paid to the employee, subject to the  
18 limits provided in s. 440.12(2), as follows:

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

20           (a) Impairment benefits.--

21           1. Once the employee has reached the date of maximum  
22 medical improvement, impairment benefits are due and payable  
23 within 20 days after the carrier has knowledge of the  
24 impairment.

25           2. The three-member panel, in cooperation with the  
26 division, shall establish and use a uniform permanent  
27 impairment rating schedule. This schedule must be based on  
28 medically or scientifically demonstrable findings as well as  
29 the systems and criteria set forth in the American Medical  
30 Association's Guides to the Evaluation of Permanent  
31 Impairment; the Snellen Charts, published by American Medical

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

27         3. All impairment income benefits shall be based on an  
28 impairment rating using the impairment schedule referred to in  
29 subparagraph 2. Impairment income benefits are paid weekly at  
30 the rate of 50 percent of the employee's average weekly  
31 temporary total disability benefit not to exceed the maximum

1 weekly benefit under s. 440.12. An employee's entitlement to  
2 impairment income benefits begins the day after the employee  
3 reaches maximum medical improvement or the expiration of  
4 temporary benefits, whichever occurs earlier, and continues  
5 until the earlier of:

6       a. The expiration of a period computed at the rate of  
7 3 weeks for each percentage point of impairment; or  
8       b. The death of the employee.

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

15 Compensation is not payable for the mental, psychological, or  
16 emotional injury arising out of depression from being out of  
17 work. If the certification and evaluation are performed by a  
18 doctor other than the employee's treating doctor, the  
19 certification and evaluation must be submitted to the treating  
20 doctor, and the treating doctor must indicate agreement or  
21 disagreement with the certification and evaluation. The  
22 certifying doctor shall issue a written report to the  
23 division, the employee, and the carrier certifying that  
24 maximum medical improvement has been reached, stating the  
25 impairment rating, and providing any other information  
26 required by the division. If the employee has not been  
27 certified as having reached maximum medical improvement before  
28 the expiration of 102 weeks after the date temporary total  
29 disability benefits begin to accrue, the carrier shall notify  
30 the treating doctor of the requirements of this section.  
31

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

3           Section 186. Section 455.684, Florida Statutes, is  
4 amended to read:

5           455.684 Chiropractic and podiatric health care; denial  
6 of payment; limitation.--A chiropractic physician licensed  
7 under chapter 460 or a podiatric physician ~~podiatrist~~ licensed  
8 under chapter 461 shall not be denied payment for treatment  
9 rendered solely on the basis that the chiropractor or  
10 podiatric physician ~~podiatrist~~ is not a member of a particular  
11 preferred provider organization or exclusive provider  
12 organization which is composed only of physicians licensed  
13 under the same chapter.

14           Section 187. Paragraph (a) of subsection (1) of  
15 section 455.691, Florida Statutes, is amended to read:

16           455.691 Treatment of Medicare beneficiaries; refusal,  
17 emergencies, consulting physicians.--

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

20           (a) "Physician" means a physician licensed under  
21 chapter 458, an osteopathic physician licensed under chapter  
22 459, a chiropractor licensed under chapter 460, a podiatric  
23 physician ~~podiatrist~~ licensed under chapter 461, or an  
24 optometrist licensed under chapter 463.

25           Section 188. Subsection (1) of section 455.697,  
26 Florida Statutes, is amended to read:

27           455.697 Health care practitioners; reports on  
28 professional liability claims and actions.--

29           (1) Any practitioner of medicine licensed pursuant to  
30 the provisions of chapter 458, practitioner of osteopathic  
31 medicine licensed pursuant to the provisions of chapter 459,

1 podiatric physician ~~podiatrist~~ licensed pursuant to the  
2 provisions of chapter 461, or dentist licensed pursuant to the  
3 provisions of chapter 466 shall report to the department any  
4 claim or action for damages for personal injury alleged to  
5 have been caused by error, omission, or negligence in the  
6 performance of such licensee's professional services or based  
7 on a claimed performance of professional services without  
8 consent if the claim was not covered by an insurer required to  
9 report under s. 627.912 and the claim resulted in:

- 10           (a) A final judgment in any amount.  
11           (b) A settlement in any amount.  
12           (c) A final disposition not resulting in payment on  
13 behalf of the licensee.

14  
15 Reports shall be filed with the department no later than 60  
16 days following the occurrence of any event listed in paragraph  
17 (a), paragraph (b), or paragraph (c).

18           Section 189. Subsection (2) of section 455.698,  
19 Florida Statutes, is amended to read:

20           455.698 Reports of professional liability actions;  
21 bankruptcies; Department of Health's responsibility to  
22 provide.--

23           (2) Any information in the possession of the  
24 Department of Health which relates to a bankruptcy proceeding  
25 by a practitioner of medicine licensed under chapter 458, a  
26 practitioner of osteopathic medicine licensed under chapter  
27 459, a podiatric physician ~~podiatrist~~ licensed under chapter  
28 461, or a dentist licensed under chapter 466 is public  
29 information. The Department of Health shall, upon request,  
30 make such information available to any person.

31

1           Section 190. Subsection (2) of section 456.31, Florida  
2 Statutes, is amended to read:

3           456.31 Legislative intent.--

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

14           Section 191. Subsections (2) and (3) of section  
15 456.32, Florida Statutes, are amended to read:

16           456.32 Definitions.--In construing this chapter, the  
17 words, phrases, or terms, unless the context otherwise  
18 indicates, shall have the following meanings:

19           (2) "Healing arts" shall mean the practice of  
20 medicine, surgery, psychiatry, dentistry, osteopathic  
21 medicine, chiropractic, naturopathy, podiatric medicine  
22 ~~podiatry~~, chiropody, psychology, clinical social work,  
23 marriage and family therapy, mental health counseling, and  
24 optometry.

25           (3) "Practitioner of the healing arts" shall mean a  
26 person licensed under the laws of the state to practice  
27 medicine, surgery, psychiatry, dentistry, osteopathic  
28 medicine, chiropractic, naturopathy, podiatric medicine  
29 ~~podiatry~~, chiropody, psychology, clinical social work,  
30 marriage and family therapy, mental health counseling, or  
31 optometry within the scope of his or her professional training

1 and competence and within the purview of the statutes  
2 applicable to his or her respective profession, and who may  
3 refer a patient for treatment by a qualified person, who shall  
4 employ hypnotic techniques under the supervision, direction,  
5 prescription, and responsibility of such referring  
6 practitioner.

7 Section 192. Chapter 461, Florida Statutes, entitled  
8 "Podiatry," is retitled "Podiatric Medicine."

9 Section 193. Section 461.001, Florida Statutes, is  
10 amended to read:

11 461.001 Legislative findings; intent; scope.--The  
12 Legislature finds that the practice of podiatric medicine by  
13 unskilled and incompetent practitioners presents a danger to  
14 the public health and safety. The Legislature finds further  
15 that it is difficult for the public to make an informed choice  
16 about podiatric physicians ~~podiatrists~~ and that the  
17 consequences of a wrong choice could seriously endanger their  
18 health and safety. The sole legislative purpose for enacting  
19 this chapter is to ensure that every podiatric physician  
20 ~~podiatrist~~ practicing in this state meet minimum requirements  
21 for safe practice. It is the legislative intent that  
22 podiatric physicians ~~podiatrists~~ who fall below minimum  
23 competency or who otherwise present a danger to the public  
24 health be prohibited from practicing in this state.

25 Section 194. Subsection (3) of section 461.002,  
26 Florida Statutes, is amended to read:

27 461.002 Exceptions.--

28 (3) This chapter shall not apply to the practice of  
29 podiatric medicine by graduate podiatric physicians  
30 ~~podiatrists~~ in the United States Army, Air Force, Marines,  
31 Navy, Public Health Service, Coast Guard, or United States

1 Department of Veterans Affairs in the discharge of their  
2 official duties.

3 Section 195. Subsections (3) and (4) of section  
4 461.003, Florida Statutes, are amended to read:

5 461.003 Definitions.--As used in this chapter:

6 (3) "Practice of podiatric medicine" means the  
7 diagnosis or medical, surgical, palliative, and mechanical  
8 treatment of ailments of the human foot and leg. The surgical  
9 treatment of ailments of the human foot and leg shall be  
10 limited anatomically to that part below the anterior tibial  
11 tubercle. The practice of podiatric medicine shall include  
12 the amputation of the toes or other parts of the foot but  
13 shall not include the amputation of the foot or leg in its  
14 entirety. A podiatric physician ~~podiatrist~~ may prescribe  
15 drugs that relate specifically to the scope of practice  
16 authorized herein.

17 (4) "Podiatric physician ~~Podiatrist~~" means any person  
18 licensed to practice podiatric medicine pursuant to this  
19 chapter.

20 Section 196. Subsections (2) and (4) of section  
21 461.004, Florida Statutes, are amended to read:

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

24 (2) Five members of the board must be licensed  
25 podiatric physicians ~~podiatrists~~ who are residents of the  
26 state and who have been licensed podiatric physicians  
27 ~~podiatrists~~ engaged in the practice of podiatric medicine for  
28 at least 4 years. The remaining two members must be residents  
29 of the state who are not, and have never been, licensed as  
30 podiatric physicians ~~podiatrists~~ or members of any closely  
31



1 related profession. At least one member of the board must be  
2 60 years of age or older.

3 (4) All provisions of chapter 455 relating to the  
4 board shall apply. However, notwithstanding the requirement  
5 of s. 455.225(4) that the board provide by rule for the  
6 determination of probable cause by a panel composed of its  
7 members or by the department, the board may provide by rule  
8 that its probable cause panel may be composed of one current  
9 member of the board and one past member of the board, as long  
10 as the past member is a licensed podiatric physician  
11 ~~podiatrist~~ in good standing. The past board member must be  
12 appointed to the panel by the chair of the board with the  
13 approval of the secretary for a maximum of 2 years.

14 Section 197. Subsection (1) of section 461.006,  
15 Florida Statutes, is amended to read:

16 461.006 Licensure by examination.--

17 (1) Any person desiring to be licensed as a podiatric  
18 physician ~~podiatrist~~ shall apply to the department to take the  
19 licensure examination. The department shall examine each  
20 applicant who the board certifies:

21 (a) Has completed the application form and remitted a  
22 nonrefundable application fee set by the board not to exceed  
23 \$100 and an examination fee set by the board not to exceed  
24 \$350.

25 (b) Is at least 18 years of age.

26 (c) Has received a degree from a school or college of  
27 podiatric medicine or chiropody recognized and approved by the  
28 Council on Podiatry Education of the American Podiatric  
29 Medical Association. For applicants who matriculated prior to  
30 1953, the course of study shall have been at least 3 years.  
31 For applicants who matriculated during or subsequent to 1953,

1 the course of study shall be at least 4 years or the total  
2 hourly equivalent of a 4-year course of study.

3 (d) Beginning October 1, 1995, has satisfactorily  
4 completed one of the following clinical experience  
5 requirements:

6 1. One year of residency in a residency program  
7 approved by the board.

8 2. Ten years of continuous, active licensed practice  
9 of podiatric medicine in another state immediately preceding  
10 the submission of the application and completion of at least  
11 the same continuing educational requirements during those 10  
12 years as are required of podiatric physicians ~~podiatrists~~  
13 licensed in this state.

14 (e) Has submitted to the department a set of  
15 fingerprints on a form and under procedures specified by the  
16 department, along with payment in an amount equal to the costs  
17 incurred by the Department of Health for the criminal  
18 background check of the applicant.

19 Section 198. Section 461.009, Florida Statutes, is  
20 amended to read:

21 461.009 Itemized patient billing.--Whenever a  
22 podiatric physician ~~podiatrist~~ licensed under this chapter  
23 renders professional services to a patient, the podiatric  
24 physician ~~podiatrist~~ is required, upon request, to submit to  
25 the patient, to the patient's insurer, or to the  
26 administrative agency for any federal or state health program  
27 under which the patient is entitled to benefits, an itemized  
28 statement of the specific services rendered and the charge for  
29 each, no later than the podiatric physician's ~~podiatrist's~~  
30 next regular billing cycle which follows the fifth day after  
31 rendering of professional services. A podiatric physician

1 ~~podiatrist~~ may not condition the furnishing of an itemized  
2 statement upon prior payment of the bill.

3 Section 199. Paragraphs (a) and (c) of subsection (2)  
4 of section 461.012, Florida Statutes, are amended to read:

5 461.012 Violations and penalties.--

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

9 (a) Selling or fraudulently obtaining or furnishing  
10 any podiatric medicine ~~podiatry~~ diploma, license, or record of  
11 registration or aiding or abetting in the same.

12 (c) Using the name or title "Podiatrist," "Doctor of  
13 Podiatry," or "Doctor of Podiatric Medicine" or using the  
14 phrase "foot clinic," "foot doctor," "quiropedista," or any  
15 other name, title, or phrase which would lead the public to  
16 believe that such person is engaging in the practice of  
17 podiatric medicine unless such person is licensed as a  
18 podiatric physician ~~podiatrist~~ in this state.

19 Section 200. Paragraphs (h), (i), (o), (p), (r), (s),  
20 and (aa) of subsection (1), paragraph (f) of subsection (2),  
21 and subsections (3), (5), and (6) of section 461.013, Florida  
22 Statutes, are amended to read:

23 461.013 Grounds for disciplinary action; action by the  
24 board; investigations by department.--

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

28 (h) Failing to perform any statutory or legal  
29 obligation placed upon a licensed podiatric physician  
30 ~~podiatrist~~.

31

1           (i) Making or filing a report which the licensee knows  
2 to be false, intentionally or negligently failing to file a  
3 report or record required by state or federal law, willfully  
4 impeding or obstructing such filing or inducing another person  
5 to do so. Such report or records shall include only those  
6 which are signed in the capacity of a licensed podiatric  
7 physician ~~podiatrist~~.

8           (o) Prescribing, dispensing, administering, mixing, or  
9 otherwise preparing a legend drug, including all controlled  
10 substances, other than in the course of the podiatric  
11 physician's ~~podiatrist's~~ professional practice. For the  
12 purposes of this paragraph, it shall be legally presumed that  
13 prescribing, dispensing, administering, mixing, or otherwise  
14 preparing legend drugs, including all controlled substances,  
15 inappropriately or in excessive or inappropriate quantities is  
16 not in the best interest of the patient and is not in the  
17 course of the podiatric physician's ~~podiatrist's~~ professional  
18 practice, without regard to her or his intent.

19           (p) Prescribing, dispensing, or administering any  
20 medicinal drug appearing on any schedule set forth in chapter  
21 893 by the podiatric physician ~~podiatrist~~ to herself or  
22 himself except those prescribed, dispensed, or administered to  
23 the podiatric physician ~~podiatrist~~ by another practitioner  
24 authorized to prescribe, dispense, or administer them.

25           (r) Being unable to practice podiatric medicine with  
26 reasonable skill and safety to patients by reason of illness  
27 or use of alcohol, drugs, narcotics, chemicals, or any other  
28 type of material or as a result of any mental or physical  
29 condition. In enforcing this paragraph the department shall,  
30 upon probable cause, have authority to compel a podiatric  
31 physician ~~podiatrist~~ to submit to a mental or physical

1 examination by physicians designated by the department.  
2 Failure of a podiatric physician ~~podiatrist~~ to submit to such  
3 examination when directed shall constitute an admission of the  
4 allegations against her or him, unless the failure was due to  
5 circumstances beyond her or his control, consequent upon which  
6 a default and final order may be entered without the taking of  
7 testimony or presentation of evidence. A podiatric physician  
8 ~~podiatrist~~ affected under this paragraph shall at reasonable  
9 intervals be afforded an opportunity to demonstrate that she  
10 or he can resume the competent practice of podiatric medicine  
11 with reasonable skill and safety to patients.

12 (s) Gross or repeated malpractice or the failure to  
13 practice podiatric medicine at a level of care, skill, and  
14 treatment which is recognized by a reasonably prudent  
15 podiatric physician ~~podiatrist~~ as being acceptable under  
16 similar conditions and circumstances. The board shall give  
17 great weight to the standards for malpractice in s. 766.102 in  
18 interpreting this section. As used in this paragraph,  
19 "repeated malpractice" includes, but is not limited to, three  
20 or more claims for medical malpractice within the previous  
21 5-year period resulting in indemnities being paid in excess of  
22 \$10,000 each to the claimant in a judgment or settlement and  
23 which incidents involved negligent conduct by the podiatric  
24 physicians ~~podiatrists~~. As used in this paragraph, "gross  
25 malpractice" or "the failure to practice podiatric medicine  
26 ~~podiatry~~ with the level of care, skill, and treatment which is  
27 recognized by a reasonably prudent similar podiatric physician  
28 ~~podiatrist~~ as being acceptable under similar conditions and  
29 circumstances" shall not be construed so as to require more  
30 than one instance, event, or act.

31

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

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

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

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

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 podiatric physician ~~podiatrist~~ pursuant to s. 627.912, or upon  
29 the receipt from a claimant of a presuit notice against a  
30 podiatric physician ~~podiatrist~~ pursuant to s. 766.106, the  
31 department shall review each report and determine whether it

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

10 (b) Upon the department's receipt from the Department  
11 of Health and Rehabilitative Services pursuant to s. 395.0197  
12 of the name of the podiatric physician ~~podiatrist~~ whose  
13 conduct may constitute grounds for disciplinary action by the  
14 department, the department shall investigate the occurrences  
15 upon which the report was based and determine if action by the  
16 department against the podiatric physician ~~podiatrist~~ is  
17 warranted.

18 (6) When an investigation of a podiatric physician  
19 ~~podiatrist~~ is undertaken, the department shall promptly  
20 furnish to the podiatric physician ~~podiatrist~~ or her or his  
21 attorney a copy of the complaint or document which resulted in  
22 the initiation of the investigation. The podiatric physician  
23 ~~podiatrist~~ may submit a written response to the information  
24 contained in such complaint or document within 45 days after  
25 service to the podiatric physician ~~podiatrist~~ of the complaint  
26 or document. The podiatric physician's ~~podiatrist's~~ written  
27 response shall be considered by the probable cause panel.

28 Section 201. Section 461.0134, Florida Statutes, is  
29 amended to read:  
30  
31

1           461.0134 Prescription or administration of dimethyl  
2 sulfoxide (DMSO); written release and information  
3 requirements.--

4           (1) A podiatric physician ~~No podiatrist~~ licensed under  
5 this chapter may not ~~shall~~ be subject to disciplinary action  
6 by the board for prescribing or administering dimethyl  
7 sulfoxide (DMSO) to a patient under the podiatric physician's  
8 ~~podiatrist's~~ care who has requested the substance as long as  
9 the podiatric physician ~~podiatrist~~ complies with the  
10 requirements of this section.

11           (2) The patient, after being fully informed as to  
12 alternative methods of treatment and their potential for cure  
13 and upon request for the administration of dimethyl sulfoxide  
14 (DMSO) by the patient's podiatric physician ~~podiatrist~~, shall  
15 sign a written release, releasing the podiatric physician  
16 ~~podiatrist~~ and, when applicable, the hospital or health  
17 facility from any liability therefor.

18           (3) The podiatric physician ~~podiatrist~~ shall inform  
19 the patient in writing if dimethyl sulfoxide (DMSO) has not  
20 been approved as a treatment or cure by the Food and Drug  
21 Administration of the United States Department of Health and  
22 Human Services for the disorder for which it is being  
23 prescribed.

24           Section 202. Subsection (2) of section 461.014,  
25 Florida Statutes, is amended to read:

26           461.014 Residency.--The board shall encourage and  
27 develop podiatric residency programs in hospitals in this  
28 state and shall establish such programs by the promulgation of  
29 rules, subject to the following conditions:

30           (2) A residency program may be established only at a  
31 hospital where a duly licensed podiatric physician ~~podiatrist~~



1 is on the hospital staff or is otherwise in a supervisory  
2 position.

3 Section 203. Subsection (2) of section 461.015,  
4 Florida Statutes, is amended to read:

5 461.015 Saving clauses.--

6 (2) Each podiatric physician ~~podiatrist~~ who is duly  
7 licensed on June 30, 1979, shall be entitled to hold such  
8 license. Henceforth, such license shall be renewed in  
9 accordance with the provisions of this act.

10 Section 204. Section 461.018, Florida Statutes, is  
11 amended to read:

12 461.018 Limited scope of practice; area of  
13 need.--Those persons holding valid certificates on October 1,  
14 1991, who were certified pursuant to chapters 88-205 and  
15 88-392, Laws of Florida, and who have been practicing under a  
16 board-approved protocol for at least 2 years are eligible to  
17 receive a podiatry license to practice podiatric medicine  
18 without supervision under their present limited scope of  
19 practice of the nonsurgical treatment of corns, calluses, and  
20 ingrown toenails in a specially designated area of need as  
21 provided by rule of the board.

22 Section 205. Paragraph (b) of subsection (3) of  
23 section 464.003, Florida Statutes, is amended to read:

24 464.003 Definitions.--As used in this chapter:

25 (3)

26 (b) "Practice of practical nursing" means the  
27 performance of selected acts, including the administration of  
28 treatments and medications, in the care of the ill, injured,  
29 or infirm and the promotion of wellness, maintenance of  
30 health, and prevention of illness of others under the  
31 direction of a registered nurse, a licensed physician, a

1 licensed osteopathic physician, a licensed podiatric physician  
2 ~~podiatrist~~, or a licensed dentist.

3

4 The professional nurse and the practical nurse shall be  
5 responsible and accountable for making decisions that are  
6 based upon the individual's educational preparation and  
7 experience in nursing.

8 Section 206. Subsections (2), (6), (8), and (10) of  
9 section 468.301, Florida Statutes, are amended to read:

10 468.301 Definitions.--As used in this part, the term:

11 (2) "Basic X-ray machine operator-podiatric medicine  
12 ~~operator-podiatry~~" means a person who is employed by and under  
13 the direct supervision of a licensed podiatric physician  
14 ~~podiatrist~~ to perform only those radiographic functions that  
15 are within the scope of practice of a podiatric physician  
16 ~~podiatrist~~ licensed pursuant to chapter 461, specifically  
17 excluding nuclear medicine and radiation therapy procedures.

18 (6) "Direct supervision" means supervision and control  
19 by a licensed practitioner who assumes legal liability for the  
20 services rendered by the basic X-ray machine operator or basic  
21 X-ray machine operator-podiatric medicine ~~operator-podiatry~~,  
22 which supervision requires the physical presence of the  
23 licensed practitioner for consultation and direction of the  
24 actions of the basic X-ray machine operator or basic X-ray  
25 machine operator-podiatric medicine ~~operator-podiatry~~.

26 (8) "General radiographer" means a person who is  
27 employed and certificated in radiography, other than a basic  
28 X-ray machine operator or basic X-ray machine  
29 operator-podiatric medicine ~~operator-podiatry~~.

30 (10) "Licensed practitioner" means a person who is  
31 licensed or otherwise authorized by law to practice medicine,

1 podiatric medicine ~~podiatry~~, chiropody, osteopathic medicine,  
2 naturopathy, or chiropractic in this state.

3 Section 207. Paragraph (b) of subsection (2),  
4 paragraphs (b) and (c) of subsection (3), and paragraph (a) of  
5 subsection (6) of section 468.302, Florida Statutes, are  
6 amended to read:

7 468.302 Use of radiation; identification of certified  
8 persons; limitations; exceptions.--

9 (2)

10 (b) A person holding a certificate as a basic X-ray  
11 machine operator-podiatric medicine ~~operator-podiatry~~ may use  
12 the title "Basic X-ray Machine Operator-Podiatric Medicine  
13 ~~Operator-Podiatry~~."

14

15 No other person is entitled to so use a title or letters  
16 contained in this subsection or to hold himself or herself out  
17 in any way, whether orally or in writing, expressly or by  
18 implication, as being so certified.

19 (3)

20 (b) A basic X-ray machine operator or basic X-ray  
21 machine operator-podiatric medicine ~~operator-podiatry~~ may not  
22 practice radiologic technology in walk-in emergency centers,  
23 freestanding breast clinics, freestanding cancer clinics,  
24 state mental hospitals, state correctional institutions, or in  
25 any facility regulated under chapter 390, chapter 392, chapter  
26 393, chapter 394, or chapter 641. For a facility licensed  
27 under chapter 395, a basic X-ray machine operator may only  
28 perform the procedures specified in paragraph (a) in a  
29 hospital with a capacity of 150 beds or less. If such a  
30 hospital has or acquires radiographic or fluoroscopic  
31 equipment other than general diagnostic radiographic and

1 general fluoroscopic equipment, that hospital shall keep a  
2 record documenting which personnel performed each radiographic  
3 or fluoroscopic procedure. For purposes of this paragraph, a  
4 walk-in emergency center shall not include a  
5 physician-operated walk-in clinic which operates with or  
6 without appointments and with extended hours and which does  
7 not hold itself out to the public as an emergency center.

8 (c) A person holding a certificate as a basic X-ray  
9 machine operator-podiatric medicine ~~operator-podiatry~~ may  
10 perform only podiatric radiographic procedures under the  
11 direct supervision and control of a licensed podiatric  
12 physician podiatrist.

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

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

21 Section 208. Paragraph (b) of subsection (4) of  
22 section 468.304, Florida Statutes, is amended to read:

23 468.304 Certification examination; admission.--The  
24 department shall admit to examination for certification any  
25 applicant who pays to the department a nonrefundable fee not  
26 to exceed \$100 and submits satisfactory evidence, verified by  
27 oath or affirmation, that she or he:

28 (4)

29 (b)1. With respect to an applicant for a basic X-ray  
30 machine operator's certificate, has completed a course of  
31

1 study approved by the department with appropriate study  
2 material provided the applicant by the department;

3 2. With respect to an applicant for a basic X-ray  
4 machine operator-podiatric medicine ~~operator-podiatry~~  
5 certificate, has completed a course of study approved by the  
6 department, provided that such course of study shall be  
7 limited to that information necessary to perform radiographic  
8 procedures within the scope of practice of a podiatric  
9 physician ~~podiatrist~~ licensed pursuant to chapter 461;

10 3. With respect only to an applicant for a general  
11 radiographer's certificate who is a basic X-ray machine  
12 operator certificateholder, has completed an educational  
13 program or a 2-year training program that takes into account  
14 the types of procedures and level of supervision usually and  
15 customarily practiced in a hospital, which educational or  
16 training program complies with the rules of the department; or

17 4. With respect only to an applicant for a nuclear  
18 medicine technologist's certificate who is a general  
19 radiographer certificateholder, has completed an educational  
20 program or a 2-year training program that takes into account  
21 the types of procedures and level of supervision usually and  
22 customarily practiced in a hospital, which educational or  
23 training program complies with the rules of the department.

24  
25 No application for a limited computed tomography certificate  
26 shall be accepted. All persons holding valid computed  
27 tomography certificates as of October 1, 1984, are subject to  
28 the provisions of s. 468.309.

29 Section 209. Paragraph (a) of subsection (2) of  
30 section 468.307, Florida Statutes, is amended to read:

31 468.307 Certificate; issuance; possession; display.--

1           (2)(a) The department may, at its discretion, issue a  
2 temporary certificate to:

3           1. An applicant who has completed an educational  
4 program and is awaiting examination for a certificate  
5 specified in s. 468.302(2)(b), (c), (e), or (f), if the  
6 applicant has met all other requirements established pursuant  
7 to s. 468.304.

8           2. A basic X-ray machine operator, if such person is  
9 under the direct supervision of a licensed practitioner and  
10 the licensed practitioner has not requested issuance of a  
11 temporary certificate within the previous 18 months, upon  
12 application by a licensed practitioner who is practicing in an  
13 office of five or fewer licensed practitioners.

14           3. A basic X-ray machine operator-podiatric medicine  
15 ~~operator-podiatry~~, if such person is under the direct  
16 supervision of a licensed podiatric physician podiatrist and  
17 the licensed podiatric physician podiatrist has not requested  
18 issuance of a temporary certificate within the previous 18  
19 months, upon application by a licensed podiatric physician  
20 ~~podiatrist~~ who is practicing in an office of five or fewer  
21 licensed podiatric physicians ~~podiatrists~~.

22           Section 210. Paragraph (k) of subsection (2) of  
23 section 468.314, Florida Statutes, is amended to read:

24           468.314 Advisory Council on Radiation Protection;  
25 appointment; terms; powers; duties.--

26           (2) The council shall be comprised of:

27           (k) A board-certified podiatric physician podiatrist.

28           Section 211. Section 476.044, Florida Statutes, is  
29 amended to read:

30  
31

1           476.044 Exemptions.--This chapter does not apply to  
2 the following persons when practicing pursuant to their  
3 professional responsibilities and duties:

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

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

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

10           (4) Persons practicing cosmetology under the laws of  
11 this state;

12           (5) Persons employed in federal, state, or local  
13 institutions, hospitals, or military bases as barbers whose  
14 practice is limited to the inmates, patients, or authorized  
15 military personnel of such institutions, hospitals, or bases;

16           (6) Persons who practice only shampooing as defined in  
17 s. 477.013 and whose practice is limited to the acts described  
18 therein; or

19           (7) Persons whose occupation or practice is confined  
20 solely to cutting, trimming, polishing, or cleansing the  
21 fingernails of any person when said cutting, trimming,  
22 polishing, or cleansing is done in a barbershop licensed  
23 pursuant to this chapter which is carrying on a regular and  
24 customary business of barbering, and such individual has been  
25 practicing the activities set forth in this subsection prior  
26 to October 1, 1985.

27           Section 212. Paragraph (a) of subsection (1) of  
28 section 477.0135, Florida Statutes, is amended to read:

29           477.0135 Exemptions.--  
30  
31

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

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

8           Section 213. Paragraph (i) of subsection (3) of  
9 section 483.901, Florida Statutes, is amended to read:

10           483.901 Medical physicists; definitions; licensure.--

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

12           (i) "Physician" means a doctor of medicine,  
13 osteopathic medicine, podiatric medicine ~~podiatry~~, dentistry,  
14 or chiropractic who is licensed in this state and who  
15 prescribes a radiological procedure.

16           Section 214. Subsection (1) of section 486.161,  
17 Florida Statutes, is amended to read:

18           486.161 Exemptions.--

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

27           Section 215. Subsection (1) of section 621.03, Florida  
28 Statutes, is amended to read:

29           621.03 Definitions.--As used in this act the following  
30 words shall have the meaning indicated:

31



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

13           Section 216. Paragraph (h) of subsection (4) of  
14 section 627.351, Florida Statutes, is amended to read:

15           627.351 Insurance risk apportionment plans.--

16           (4) MEDICAL MALPRACTICE RISK APPORTIONMENT.--

17           (h) As used in this subsection:

18           1. "Health care provider" means hospitals licensed  
19 under chapter 395; physicians licensed under chapter 458;  
20 osteopathic physicians licensed under chapter 459; podiatric  
21 physicians ~~podiatrists~~ licensed under chapter 461; dentists  
22 licensed under chapter 466; chiropractors licensed under  
23 chapter 460; naturopaths licensed under chapter 462; nurses  
24 licensed under chapter 464; midwives licensed under chapter  
25 467; clinical laboratories registered under chapter 483;  
26 physician assistants certified under chapter 458; physical  
27 therapists and physical therapist assistants licensed under  
28 chapter 486; health maintenance organizations certificated  
29 under part I of chapter 641; ambulatory surgical centers  
30 licensed under chapter 395; other medical facilities as  
31 defined in subparagraph 2.; blood banks, plasma centers,

1 industrial clinics, and renal dialysis facilities; or  
2 professional associations, partnerships, corporations, joint  
3 ventures, or other associations for professional activity by  
4 health care providers.

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

16           3. "Health care facility" means any hospital licensed  
17 under chapter 395, health maintenance organization  
18 certificated under part I of chapter 641, ambulatory surgical  
19 center licensed under chapter 395, or other medical facility  
20 as defined in subparagraph 2.

21           Section 217. Paragraph (b) of subsection (1) of  
22 section 627.357, Florida Statutes, is amended to read:

23           627.357 Medical malpractice self-insurance.--

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

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

26           1. Hospital licensed under chapter 395.

27           2. Physician licensed, or physician assistant  
28 certified, under chapter 458.

29           3. Osteopathic physician licensed under chapter 459.

30           4. Podiatric physician ~~Podiatrist~~ licensed under  
31 chapter 461.

- 1           5. Health maintenance organization certificated under  
2 part I of chapter 641.
- 3           6. Ambulatory surgical center licensed under chapter  
4 395.
- 5           7. Chiropractor licensed under chapter 460.
- 6           8. Psychologist licensed under chapter 490.
- 7           9. Optometrist licensed under chapter 463.
- 8           10. Dentist licensed under chapter 466.
- 9           11. Pharmacist licensed under chapter 465.
- 10          12. Registered nurse, licensed practical nurse, or  
11 advanced registered nurse practitioner licensed or registered  
12 under chapter 464.

13          13. Other medical facility.

14          14. Professional association, partnership,  
15 corporation, joint venture, or other association established  
16 by the individuals set forth in subparagraphs 2., 3., 4., 7.,  
17 8., 9., 10., 11., and 12. for professional activity.

18          Section 218. Subsection (3) of section 627.419,  
19 Florida Statutes, is amended to read:

20           627.419 Construction of policies.--

21           (3) Notwithstanding any other provision of law, when  
22 any health insurance policy, health care services plan, or  
23 other contract provides for the payment for procedures  
24 specified in the policy or contract which are within the scope  
25 of an optometrist's or podiatric physician's ~~podiatrist's~~  
26 professional license, such policy shall be construed to  
27 include payment to an optometrist or podiatric physician  
28 ~~podiatrist~~ who performs such procedures. In the case of  
29 podiatric ~~podiatry~~ services, such payments shall be made in  
30 accordance with the coverage now provided for medical and  
31 surgical benefits.

1           Section 219. Subsection (10) of section 627.6482,  
2 Florida Statutes, is amended to read:

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

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

11           Section 220. Subsection (1) of section 627.912,  
12 Florida Statutes, is amended to read:

13           627.912 Professional liability claims and actions;  
14 reports by insurers.--

15           (1) Each self-insurer authorized under s. 627.357 and  
16 each insurer or joint underwriting association providing  
17 professional liability insurance to a practitioner of medicine  
18 licensed under chapter 458, to a practitioner of osteopathic  
19 medicine licensed under chapter 459, to a podiatric physician  
20 ~~podiatrist~~ licensed under chapter 461, to a dentist licensed  
21 under chapter 466, to a hospital licensed under chapter 395,  
22 to a crisis stabilization unit licensed under part IV of  
23 chapter 394, to a health maintenance organization certificated  
24 under part I of chapter 641, to clinics included in chapter  
25 390, to an ambulatory surgical center as defined in s.  
26 395.002, or to a member of The Florida Bar shall report in  
27 duplicate to the Department of Insurance any claim or action  
28 for damages for personal injuries claimed to have been caused  
29 by error, omission, or negligence in the performance of such  
30 insured's professional services or based on a claimed

31

1 performance of professional services without consent, if the  
2 claim resulted in:

- 3 (a) A final judgment in any amount.  
4 (b) A settlement in any amount.  
5 (c) A final disposition not resulting in payment on  
6 behalf of the insured.

7  
8 Reports shall be filed with the department and, if the insured  
9 party is licensed under chapter 458, chapter 459, chapter 461,  
10 or chapter 466, with the Agency for Health Care  
11 Administration, no later than 30 days following the occurrence  
12 of any event listed in paragraph (a), paragraph (b), or  
13 paragraph (c). The Agency for Health Care Administration shall  
14 review each report and determine whether any of the incidents  
15 that resulted in the claim potentially involved conduct by the  
16 licensee that is subject to disciplinary action, in which case  
17 the provisions of s. 455.225 shall apply. The Agency for  
18 Health Care Administration, as part of the annual report  
19 required by s. 455.2285, shall publish annual statistics,  
20 without identifying licensees, on the reports it receives,  
21 including final action taken on such reports by the agency or  
22 the appropriate regulatory board.

23 Section 221. Subsection (3) of section 641.425,  
24 Florida Statutes, is amended to read:

25 641.425 Construction of contracts.--

26 (3) Notwithstanding any other provision of law, when  
27 any contract provides for the payment for procedures which are  
28 specified in the contract and are within the scope of an  
29 optometrist's or podiatric physician's ~~podiatrist's~~  
30 professional license, such contract shall be construed to  
31 include payment to an optometrist or podiatric physician

1 ~~podiatrist~~ who performs such procedures. In the case of  
2 podiatric medicine podiatry services, payments shall be made  
3 in accordance with the coverage now provided for medical and  
4 surgical benefits.

5 Section 222. Section 725.01, Florida Statutes, is  
6 amended to read:

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

30 Section 223. Paragraph (b) of subsection (1) of  
31 section 766.101, Florida Statutes, is amended to read:

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

3           (1) As used in this section:

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

12           Section 224. Paragraph (a) of subsection (6) of  
13 section 766.102, Florida Statutes, is amended to read:

14           766.102 Medical negligence; standards of recovery.--

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

26           Section 225. Subsection (3) of section 766.103,  
27 Florida Statutes, is amended to read:

28           766.103 Florida Medical Consent Law.--

29           (3) No recovery shall be allowed in any court in this  
30 state against any physician licensed under chapter 458,  
31 osteopathic physician licensed under chapter 459, chiropractor

1 licensed under chapter 460, podiatric physician ~~podiatrist~~  
2 licensed under chapter 461, or dentist licensed under chapter  
3 466 in an action brought for treating, examining, or operating  
4 on a patient without his or her informed consent when:

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

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

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

29 Section 226. Paragraphs (b) and (i) of subsection (1),  
30 paragraph (e) of subsection (2), and paragraph (b) of

31



1 subsection (3) of section 766.105, Florida Statutes, are  
2 amended to read:

3 766.105 Florida Patient's Compensation Fund.--

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

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

7 1. Hospital licensed under chapter 395.

8 2. Physician licensed, or physician assistant  
9 certified, under chapter 458.

10 3. Osteopathic physician licensed under chapter 459.

11 4. Podiatric physician ~~Podiatrist~~ licensed under  
12 chapter 461.

13 5. Health maintenance organization certificated under  
14 part I of chapter 641.

15 6. Ambulatory surgical center licensed under chapter  
16 395.

17 7. "Other medical facility" as defined in paragraph  
18 (c).

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

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

1           (2) COVERAGE.--

2           (e) The coverage afforded by the fund for a  
3 participating hospital or ambulatory surgical center shall  
4 apply to the officers, trustees, volunteer workers, trainees,  
5 committee members (including physicians, osteopathic  
6 physicians, podiatric physicians ~~podiatrists~~, and dentists),  
7 and employees of the hospital or ambulatory surgical center,  
8 other than employed physicians licensed under chapter 458,  
9 physician assistants licensed under chapter 458, osteopathic  
10 physicians licensed under chapter 459, dentists licensed under  
11 chapter 466, and podiatric physicians ~~podiatrists~~ licensed  
12 under chapter 461. However, the coverage afforded by the fund  
13 for a participating hospital shall apply to house physicians,  
14 interns, employed physician residents in a resident training  
15 program, or physicians performing purely administrative duties  
16 for the participating hospitals other than the treatment of  
17 patients. This coverage shall apply to the hospital or  
18 ambulatory surgical center and those included in this  
19 subsection as one health care provider.

20           (3) THE FUND.--

21           (b) Fund administration and operation.--

22           1. The fund shall operate subject to the supervision  
23 and approval of a board of governors consisting of a  
24 representative of the insurance industry appointed by the  
25 Insurance Commissioner, an attorney appointed by The Florida  
26 Bar, a representative of physicians appointed by the Florida  
27 Medical Association, a representative of physicians' insurance  
28 appointed by the Insurance Commissioner, a representative of  
29 physicians' self-insurance appointed by the Insurance  
30 Commissioner, two representatives of hospitals appointed by  
31 the Florida Hospital Association, a representative of hospital

1 insurance appointed by the Insurance Commissioner, a  
2 representative of hospital self-insurance appointed by the  
3 Insurance Commissioner, a representative of the osteopathic  
4 physicians' or podiatric physicians'~~podiatrists'~~ insurance or  
5 self-insurance appointed by the Insurance Commissioner, and a  
6 representative of the general public appointed by the  
7 Insurance Commissioner. The board of governors shall, during  
8 the first meeting after June 30 of each year, choose one of  
9 its members to serve as chair of the board and another member  
10 to serve as vice chair of the board. The members of the board  
11 shall be appointed to serve terms of 4 years, except that the  
12 initial appointments of a representative of the general public  
13 by the Insurance Commissioner, an attorney by The Florida Bar,  
14 a representative of physicians by the Florida Medical  
15 Association, and one of the two representatives of the Florida  
16 Hospital Association shall be for terms of 3 years;  
17 thereafter, such representatives shall be appointed for terms  
18 of 4 years. Subsequent to initial appointments for 4-year  
19 terms, the representative of the osteopathic physicians' or  
20 podiatric physicians'~~podiatrists'~~ insurance or self-insurance  
21 appointed by the Insurance Commissioner and the representative  
22 of hospital self-insurance appointed by the Insurance  
23 Commissioner shall be appointed for 2-year terms; thereafter,  
24 such representatives shall be appointed for terms of 4 years.  
25 Each appointed member may designate in writing to the chair an  
26 alternate to act in the member's absence or incapacity. A  
27 member of the board, or the member's alternate, may be  
28 reimbursed from the assets of the fund for expenses incurred  
29 by him or her as a member, or alternate member, of the board  
30 and for committee work, but he or she may not otherwise be  
31

1 compensated by the fund for his or her service as a board  
2 member or alternate.

3           2. There shall be no liability on the part of, and no  
4 cause of action of any nature shall arise against, the fund or  
5 its agents or employees, professional advisers or consultants,  
6 members of the board of governors or their alternates, or the  
7 Department of Insurance or its representatives for any action  
8 taken by them in the performance of their powers and duties  
9 pursuant to this section.

10           Section 227. Subsection (2) of section 766.110,  
11 Florida Statutes, is amended to read:

12           766.110 Liability of health care facilities.--

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

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

16 Section 228. Paragraph (d) of subsection (3) of  
17 section 766.1115, Florida Statutes, is amended to read:

18 766.1115 Health care providers; creation of agency  
19 relationship with governmental contractors.--

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

21 (d) "Health care provider" or "provider" means:

- 22 1. A birth center licensed under chapter 383.
- 23 2. An ambulatory surgical center licensed under  
24 chapter 395.
- 25 3. A hospital licensed under chapter 395.
- 26 4. A physician licensed, or physician assistant  
27 certified, under chapter 458.
- 28 5. An osteopathic physician licensed, or osteopathic  
29 physician assistant certified, under chapter 459.
- 30 6. A chiropractic physician licensed under chapter  
31 460.

1           7. A podiatric physician ~~podiatrist~~ licensed under  
2 chapter 461.

3           8. A registered nurse, nurse midwife, licensed  
4 practical nurse, or advanced registered nurse practitioner  
5 licensed or registered under chapter 464 or any facility which  
6 employs nurses licensed or registered under chapter 464 to  
7 supply all or part of the care delivered under this section.

8           9. A midwife licensed under chapter 467.

9           10. A health maintenance organization certificated  
10 under part I of chapter 641.

11           11. A health care professional association and its  
12 employees or a corporate medical group and its employees.

13           12. Any other medical facility the primary purpose of  
14 which is to deliver human medical diagnostic services or which  
15 delivers nonsurgical human medical treatment, and which  
16 includes an office maintained by a provider.

17           13. A dentist and dental hygienist licensed under  
18 chapter 466.

19           ~~14.13.~~ Any other health care professional,  
20 practitioner, provider, or facility under contract with a  
21 governmental contractor.

22  
23 The term includes any nonprofit corporation qualified as  
24 exempt from federal income taxation under s. 501(c) of the  
25 Internal Revenue Code which delivers health care services  
26 provided by licensed professionals listed in this paragraph,  
27 any federally funded community health center, and any  
28 volunteer corporation or volunteer health care provider that  
29 delivers health care services.

30           Section 229. Subsection (18) of section 893.02,  
31 Florida Statutes, is amended to read:

1           893.02 Definitions.--The following words and phrases  
2 as used in this chapter shall have the following meanings,  
3 unless the context otherwise requires:

4           (18) "Practitioner" means a physician licensed  
5 pursuant to chapter 458, a dentist licensed pursuant to  
6 chapter 466, a veterinarian licensed pursuant to chapter 474,  
7 an osteopathic physician licensed pursuant to chapter 459, a  
8 naturopath licensed pursuant to chapter 462, or a podiatric  
9 physician ~~podiatrist~~ licensed pursuant to chapter 461,  
10 provided such practitioner holds a valid federal controlled  
11 substance registry number.

12           Section 230. Subsection (39) of section 984.03,  
13 Florida Statutes, is amended to read:

14           984.03 Definitions.--When used in this chapter, the  
15 term:

16           (39) "Neglect" occurs when the parent or legal  
17 custodian of a child or, in the absence of a parent or legal  
18 custodian, the person primarily responsible for the child's  
19 welfare deprives a child of, or allows a child to be deprived  
20 of, necessary food, clothing, shelter, or medical treatment or  
21 permits a child to live in an environment when such  
22 deprivation or environment causes the child's physical,  
23 mental, or emotional health to be significantly impaired or to  
24 be in danger of being significantly impaired. The foregoing  
25 circumstances shall not be considered neglect if caused  
26 primarily by financial inability unless actual services for  
27 relief have been offered to and rejected by such person. A  
28 parent or guardian legitimately practicing religious beliefs  
29 in accordance with a recognized church or religious  
30 organization who thereby does not provide specific medical  
31 treatment for a child shall not, for that reason alone, be

1 considered a negligent parent or guardian; however, such an  
2 exception does not preclude a court from ordering the  
3 following services to be provided, when the health of the  
4 child so requires:

5 (a) Medical services from a licensed physician,  
6 dentist, optometrist, podiatric physician ~~podiatrist~~, or other  
7 qualified health care provider; or

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

12 Section 231. Paragraph (d) of subsection (12) of  
13 section 409.908, Florida Statutes, is amended to read:

14 409.908 Reimbursement of Medicaid providers.--Subject  
15 to specific appropriations, the agency shall reimburse  
16 Medicaid providers, in accordance with state and federal law,  
17 according to methodologies set forth in the rules of the  
18 agency and in policy manuals and handbooks incorporated by  
19 reference therein. These methodologies may include fee  
20 schedules, reimbursement methods based on cost reporting,  
21 negotiated fees, competitive bidding pursuant to s. 287.057,  
22 and other mechanisms the agency considers efficient and  
23 effective for purchasing services or goods on behalf of  
24 recipients. Payment for Medicaid compensable services made on  
25 behalf of Medicaid eligible persons is subject to the  
26 availability of moneys and any limitations or directions  
27 provided for in the General Appropriations Act or chapter 216.  
28 Further, nothing in this section shall be construed to prevent  
29 or limit the agency from adjusting fees, reimbursement rates,  
30 lengths of stay, number of visits, or number of services, or  
31 making any other adjustments necessary to comply with the



1 availability of moneys and any limitations or directions  
2 provided for in the General Appropriations Act, provided the  
3 adjustment is consistent with legislative intent.

4 (12)

5 (d) Notwithstanding paragraph (b), reimbursement fees  
6 to physicians for providing total obstetrical services to  
7 Medicaid recipients, which include prenatal, delivery, and  
8 postpartum care, shall be at least \$1,500 per delivery for a  
9 pregnant woman with low medical risk and at least \$2,000 per  
10 delivery for a pregnant woman with high medical risk. However,  
11 reimbursement to physicians working in Regional Perinatal  
12 Intensive Care Centers designated pursuant to chapter 383, for  
13 services to certain pregnant Medicaid recipients with a high  
14 medical risk, may be made according to obstetrical care and  
15 neonatal care groupings and rates established by the agency.  
16 Nurse midwives licensed under chapter 464 or midwives licensed  
17 under chapter 467 shall be reimbursed at no less than 80  
18 percent of the low medical risk fee. The agency shall by rule  
19 determine, for the purpose of this paragraph, what constitutes  
20 a high or low medical risk pregnant woman and shall not pay  
21 more based solely on the fact that a caesarean section was  
22 performed, rather than a vaginal delivery. The agency shall by  
23 rule determine a prorated payment for obstetrical services in  
24 cases where only part of the total prenatal, delivery, or  
25 postpartum care was performed. The Department of Health Agency  
26 ~~for Health Care Administration~~ shall adopt rules within  
27 ~~chapter 467~~ for appropriate insurance coverage for midwives  
28 licensed under chapter 467 ~~by such licensees~~. Prior to the  
29 issuance and renewal of an active license, or reactivation of  
30 an inactive license for midwives licensed under chapter 467,  
31

1 such licensees shall submit proof of coverage with each  
2 application.

3 Section 232. Subsection (5) of section 455.564,  
4 Florida Statutes, is amended to read:

5 455.564 Department; general licensing provisions.--

6 (5) As a condition of renewal of a license, the Board  
7 of Medicine, the Board of Osteopathic Medicine, the Board of  
8 Chiropractic, and the Board of Podiatric Medicine shall each  
9 require licensees which they respectively regulate to  
10 periodically demonstrate their professional competency by  
11 completing at least 40 hours of continuing education every 2  
12 years, which may include up to 1 hour of risk management or  
13 cost containment and up to 2 hours of other topics related to  
14 the applicable medical specialty, if required by board rule.  
15 Each of such boards shall determine whether any specific  
16 course requirements not otherwise mandated by law shall be  
17 mandated and shall approve criteria for, and the content of,  
18 any course mandated by such board. Notwithstanding any other  
19 provision of law, the board, or the department when there is  
20 no board, may approve by rule alternative methods of obtaining  
21 continuing education credits in risk management. The  
22 alternative methods may include attending a board meeting at  
23 which a licensee is disciplined, serving as a volunteer expert  
24 witness for the department in a disciplinary case, or serving  
25 as a member of a probable cause panel following the expiration  
26 of a board member's term.

27 Section 233. Subsection (1) of section 455.574,  
28 Florida Statutes, is amended to read:

29 455.574 Department of Health; examinations.--

30 (1)(a) The department shall provide, contract, or  
31 approve services for the development, preparation,

1 administration, scoring, score reporting, and evaluation of  
2 all examinations, in consultation with the appropriate board.  
3 The department shall certify that examinations developed and  
4 approved by the department adequately and reliably measure an  
5 applicant's ability to practice the profession regulated by  
6 the department. After an examination developed or approved by  
7 the department has been administered, the board, or the  
8 department when there is no board, may reject any question  
9 which does not reliably measure the general areas of  
10 competency specified in the rules of the board. The  
11 department may contract for the preparation, administration,  
12 scoring, score reporting, and evaluation of examinations, when  
13 such services are available and approved by the board.

14 (b) For each examination developed by the department  
15 or contracted vendor, to the extent not otherwise specified by  
16 statute, the board, or the department when there is no board,  
17 shall by rule specify the general areas of competency to be  
18 covered by each examination, the relative weight to be  
19 assigned in grading each area tested, and the score necessary  
20 to achieve a passing grade, and fees, where applicable, to  
21 cover the actual cost for any purchase, development, and  
22 administration of required examinations. This subsection does  
23 not apply to national examinations approved and administered  
24 pursuant to paragraph (c). If a practical examination is  
25 deemed to be necessary, the rules shall specify the criteria  
26 by which examiners are to be selected, the grading criteria to  
27 be used by the examiner, the relative weight to be assigned in  
28 grading each criterion, and the score necessary to achieve a  
29 passing grade. When a mandatory standardization exercise for a  
30 practical examination is required by law, the board, or the  
31 department when there is no board, may conduct such exercise.

1 Therefore, board members, or employees of the department when  
2 there is no board, may serve as examiners at a practical  
3 examination with the consent of the board or department, as  
4 appropriate.

5 (c) The board, or the department when there is no  
6 board, may approve by rule the use of any national examination  
7 which the department has certified as meeting requirements of  
8 national examinations and generally accepted testing standards  
9 pursuant to department rules. Providers of examinations  
10 seeking certification by the department shall pay the actual  
11 costs incurred by the department in making a determination  
12 regarding the certification. The name and number of a  
13 candidate may be provided to a national contractor for the  
14 limited purpose of preparing the grade tape and information to  
15 be returned to the board or department; or, to the extent  
16 otherwise specified by rule, the candidate may apply directly  
17 to the vendor of the national examination and supply test  
18 score information to the department. The department may  
19 delegate to the board the duty to provide and administer the  
20 examination. Any national examination approved by a board, or  
21 the department when there is no board, prior to October 1,  
22 1997, is deemed certified under this paragraph.

23 (d) Each board, or the department when there is no  
24 board, shall adopt rules regarding the security and monitoring  
25 of examinations. The department shall implement those rules  
26 adopted by the respective boards. In order to maintain the  
27 security of examinations, the department may employ the  
28 procedures set forth in s. 455.637 to seek fines and  
29 injunctive relief against an examinee who violates the  
30 provisions of s. 455.577 or the rules adopted pursuant to this  
31 paragraph. The department, or any agent thereof, may, for the

1 purposes of investigation, confiscate any written,  
2 photographic, or recording material or device in the  
3 possession of the examinee at the examination site which the  
4 department deems necessary to enforce such provisions or  
5 rules.

6 (e) If the professional board with jurisdiction over  
7 an examination concurs, the department may, for a fee, share  
8 with any other state's licensing authority an examination  
9 developed by or for the department unless prohibited by a  
10 contract entered into by the department for development or  
11 purchase of the examination. The department, with the  
12 concurrence of the appropriate board, shall establish  
13 guidelines that ensure security of a shared exam and shall  
14 require that any other state's licensing authority comply with  
15 those guidelines. Those guidelines shall be approved by the  
16 appropriate professional board. All fees paid by the user  
17 shall be applied to the department's examination and  
18 development program for professions regulated by this part.

19 (f) The department may adopt rules necessary to  
20 administer this subsection.

21 Section 234. Section 468.705, Florida Statutes, is  
22 amended to read:

23 468.705 Rulemaking authority.--The department is  
24 authorized to adopt such rules not inconsistent with law as  
25 may be necessary to carry out the duties and authority  
26 conferred on the department by this part and as may be  
27 necessary to protect the health, safety, and welfare of the  
28 public. Such rules shall include, but not be limited to, the  
29 allowable scope of practice regarding the use of equipment,  
30 procedures, and medication and requirements for a written

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1 protocol between the athletic trainer and a supervising  
2 physician.

3 Section 235. Subsection (7) of section 865.09, Florida  
4 Statutes, is amended to read:

5 865.09 Fictitious name registration.--

6 (7) EXEMPTIONS.--A business formed by an attorney  
7 licensed to practice law in this state, or by a person  
8 licensed by the Department of Business and Professional  
9 Regulation or the Department of Health, for the purpose of  
10 practicing his or her licensed profession need not be  
11 registered under this section, notwithstanding that it  
12 transacts business ancillary to the practice of such  
13 profession.

14 Section 236. Section 627.6407, Florida Statutes, is  
15 amended to read:

16 627.6407 Massage.--Any policy of health insurance that  
17 provides coverage for massage shall also cover the services of  
18 persons licensed to practice massage pursuant to chapter 480,  
19 where the massage, as defined in chapter 480, has been  
20 prescribed by a physician licensed under chapter 458, chapter  
21 459, chapter 460, or chapter 461, as being medically necessary  
22 and the prescription specifies the number of treatments.

23 Section 237. Section 627.6619, Florida Statutes, is  
24 amended to read:

25 627.6619 Massage.--Any policy of health insurance that  
26 provides coverage for massage shall also cover the services of  
27 persons licensed to practice massage pursuant to chapter 480,  
28 where the massage, as defined in chapter 480, has been  
29 prescribed by a physician licensed under chapter 458, chapter  
30 459, chapter 460, or chapter 461, as being medically necessary  
31 and the prescription specifies the number of treatments.

1           Section 238. Subsection (1) of section 458.317,  
2 Florida Statutes, is amended to read:

3           458.317 Limited licenses.--

4           (1)(a) Any person desiring to obtain a limited license  
5 shall:

6           1. Submit to the board, with an application and fee  
7 not to exceed \$300, an affidavit stating that he or she has  
8 been licensed to practice medicine in any jurisdiction in the  
9 United States for at least 10 years and intends to practice  
10 only pursuant to the restrictions of a limited license granted  
11 pursuant to this section. However, a physician who is not  
12 fully retired in all jurisdictions may use a limited license  
13 only for noncompensated practice. If the person applying for  
14 a limited license submits a notarized statement from the  
15 employing agency or institution stating that he or she will  
16 not receive compensation for any service involving the  
17 practice of medicine, the application fee and all licensure  
18 fees shall be waived. However, any person who receives a  
19 waiver of fees for a limited license shall pay such fees if  
20 the person receives compensation for the practice of medicine.

21           2. Meet the requirements in s. 458.311(1)(b)-(g) and  
22 (5). If the applicant graduated from medical school prior to  
23 1946, the board or its appropriate committee may accept  
24 military medical training or medical experience as a  
25 substitute for the approved 1-year residency requirement in s.  
26 458.311(1)(f).

27           (b) After approval of an application under this  
28 section, no license shall be issued until the applicant  
29 provides to the board an affidavit that there have been no  
30 substantial changes in status since initial application.

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1           (c) If it has been more than 3 years since active  
2 practice was conducted by the applicant, the full-time  
3 director of the county health department or a licensed  
4 physician, approved by the board, shall supervise the  
5 applicant for a period of 6 months after he or she is granted  
6 a limited license for practice, unless the board determines  
7 that a shorter period of supervision will be sufficient to  
8 ensure that the applicant is qualified for licensure.  
9 Procedures for such supervision shall be established by the  
10 board.

11           (d) The recipient of a limited license may practice  
12 only in the employ of public agencies or institutions or  
13 nonprofit agencies or institutions meeting the requirements of  
14 s. 501(c)(3) of the Internal Revenue Code, which agencies or  
15 institutions are located in the areas of critical medical need  
16 as determined by the board. Determination of medically  
17 underserved areas shall be made by the board after  
18 consultation with the Department of Health ~~and Rehabilitative~~  
19 ~~Services~~ and statewide medical organizations; however, such  
20 determination shall include, but not be limited to, health  
21 professional shortage areas designated by the United States  
22 Department of Health and Human Services. A recipient of a  
23 limited license may use the license to work for any approved  
24 employer in any area of critical need approved by the board.

25           (e) The recipient of a limited license shall, within  
26 30 days after accepting employment, notify the board of all  
27 approved institutions in which the licensee practices and of  
28 all approved institutions where practice privileges have been  
29 denied.

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1 Nothing herein limits in any way any policy by the board,  
2 otherwise authorized by law, to grant licenses to physicians  
3 duly licensed in other states under conditions less  
4 restrictive than the requirements of this section.  
5 Notwithstanding the other provisions of this section, the  
6 board may refuse to authorize a physician otherwise qualified  
7 to practice in the employ of any agency or institution  
8 otherwise qualified if the agency or institution has caused or  
9 permitted violations of the provisions of this chapter which  
10 it knew or should have known were occurring.

11 Section 239. Subsection (4) of section 465.019,  
12 Florida Statutes, is amended to read:

13 465.019 Institutional pharmacies; permits.--

14 (4) Medicinal drugs shall be dispensed in an  
15 institutional pharmacy to outpatients only when that  
16 institution has secured a community pharmacy permit from the  
17 department. However, an individual licensed to prescribe  
18 medicinal drugs in this state may dispense up to a 24-hour  
19 supply of a medicinal drug to any patient of an emergency  
20 department of a hospital that operates a Class II  
21 institutional pharmacy, provided that the physician treating  
22 the patient in such hospital's emergency department determines  
23 that the medicinal drug is warranted and that community  
24 pharmacy services are not readily accessible, geographically  
25 or otherwise, to the patient. Such dispensing from the  
26 emergency department must be in accordance with the procedures  
27 of the hospital. For any such patient for whom a medicinal  
28 drug is warranted for a period to exceed 24 hours, an  
29 individual licensed to prescribe such drug must dispense a  
30 24-hour supply of such drug to the patient and must provide  
31 the patient with a prescription for such drug for use after

1 the initial 24-hour period. The board may adopt rules  
2 necessary to carry out the provisions of this subsection.

3 Section 240. Subsection (2) of section 468.703,  
4 Florida Statutes, is amended to read:

5 468.703 Council of Athletic Training.--

6 (2) Four members of the council shall be licensed  
7 athletic trainers. One member of the council shall be a  
8 physician licensed under chapter 458 or chapter 459. One  
9 member of the council shall be a physician licensed under  
10 chapter 460 ~~and certified in the specialty of sports medicine~~  
11 ~~by the Chiropractic Council on Sports Medicine.~~ One member of  
12 the council shall be a resident of this state who has never  
13 worked as an athletic trainer, who has no financial interest  
14 in the practice of athletic training, and who has never been a  
15 licensed health care practitioner as defined in s. 455.01(4).  
16 Members of the council shall serve staggered 4-year terms as  
17 determined by rule of the department; however, no member may  
18 serve more than two consecutive terms.

19 Section 241. Subsection (1) of section 766.204,  
20 Florida Statutes, is amended to read:

21 766.204 Availability of medical records for presuit  
22 investigation of medical negligence claims and defenses;  
23 penalty.--

24 (1) Copies of any medical record relevant to any  
25 litigation of a medical negligence claim or defense shall be  
26 provided to a claimant or a defendant, or to the attorney  
27 thereof, at a reasonable charge within 10 business days of a  
28 request for copies, except that an independent special  
29 hospital district with taxing authority which owns two or more  
30 hospitals shall have 20 days. It shall not be grounds to  
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1 refuse copies of such medical records that they are not yet  
2 completed or that a medical bill is still owing.

3 Section 242. This act shall take effect July 1, 1998.  
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1 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN  
2 COMMITTEE SUBSTITUTE FOR  
3 Senate Bill 2128

4 Authorizes the Department of Health to issue a  
5 physicist-in-training certificate to a person qualified to  
6 establish by rule requirements for initial certification and  
7 renewal of a physicist-in-training certificate.

8 Grants rulemaking authority to the Department of Health or the  
9 appropriate board within the department to approve alternative  
10 methods of obtaining continuing education credits in risk  
11 management. The alternative methods may include attending a  
12 board meeting at which a licensee is disciplined, serving as a  
13 volunteer expert witness for the department in a disciplinary  
14 case, or serving as a member of a probable cause panel  
15 following the expiration of a board member's term. Grants  
16 rulemaking authority to the Department of Health to adopt  
17 rules to administer and develop examinations for health care  
18 professions and for establishing requirements for a written  
19 protocol between athletic trainers and their supervising  
20 physicians.

21 Extends exemptions to the fictitious name registration  
22 requirements to persons licensed by the Department of Health,  
23 for the purpose of practicing their licensed profession and  
24 the transaction of business ancillary to the practice of the  
25 profession.

26 Revises health insurance coverage of massage services.

27 Authorizes the Board of Medicine and the Board of Osteopathic  
28 Medicine, respectively, to establish by rule, standards of  
29 practice and standards of care for particular practice  
30 settings.

31 Adds dentists and dental hygienists, to the definition of  
health care provider for purposes of extending sovereign  
immunity to their practice under certain circumstances.

Allows physicians who hold limited licenses to practice  
medicine, to work for any approved employer in an area of  
critical need approved by the Board of Medicine. The  
physicians holding limited licenses must within 30 days after  
accepting employment, notify the Board of Medicine of all  
approved institutions in which the limited license holders  
practice and of all approved institutions where practice  
privileges have been denied.

Allows an individual who is licensed to prescribe medicinal  
drugs in Florida to dispense up to a 24-hour supply of a  
medicinal drug to any patient of an emergency department of a  
hospital that operates a Class II institutional pharmacy, if  
the physician treating the patient in such hospital's  
emergency department determines that the medicinal drug is  
warranted and that community pharmacy services are not readily  
accessible, geographically or otherwise, to the patient.

Deletes the requirement that the chiropractor member of the  
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1 Council of Athletic Training be certified in the specialty of  
2 sports medicine by the Chiropractic Council on Sports  
3 Medicine.

3 Requires any independent special hospital district with taxing  
4 authority which owns two or more hospitals to provide  
5 requested medical records within 20 days of the request for  
6 the records relevant to any litigation of medical negligence  
7 claim or defense, rather than 10 days of the request for the  
8 records.

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