

1 A bill to be entitled
2 An act relating to professional regulation;
3 amending s. 11.62, F.S.; adding criteria for
4 evaluating new regulation; amending s. 455.201,
5 F.S.; requiring the Department of Business and
6 Professional Regulation to consider the impact
7 on jobs when considering new regulation;
8 creating s. 455.2035, F.S.; providing the
9 department rulemaking authority; amending s.
10 455.213, F.S.; requiring payment of certain
11 fees or fines prior to the board or department
12 renewing or issuing an initial license or
13 registration; amending ss. 455.209, 455.218,
14 F.S.; conforming provisions to a previous
15 administrative reorganization; creating s.
16 455.2237, F.S.; providing authority to inspect
17 and investigate records, offices, and job
18 sites; amending s. 455.225, F.S.; revising
19 probable-cause provisions; prescribing
20 authority of the department or a board in cases
21 of failure to comply with continuing-education
22 requirements; conforming provisions to a
23 previous administrative reorganization;
24 amending s. 455.2285, F.S.; conforming
25 provisions to a previous administrative
26 reorganization; amending s. 489.129, F.S.;
27 providing procedures and responsibilities when
28 the department undertakes an investigation of a
29 contractor; deleting a ground for disciplinary
30 action; amending s. 489.131, F.S.; requiring
31 that bids for public projects be accompanied by

1 certain evidence; requiring local boards or
 2 agencies that license contractors to transmit
 3 quarterly reports; clarifying the department's
 4 authority to initiate disciplinary actions;
 5 providing that local boards that license and
 6 discipline contractors must have at least 2
 7 consumer representatives; amending s. 455.517,
 8 F.S.; requiring the Department of Health to
 9 consider the impact on jobs when creating new
 10 regulation; creating section 481.222, relating
 11 to architects providing building inspection
 12 services; creating 471.029, relating to
 13 engineers providing building inspection
 14 services; amending s. 465.003, F.S.; defining
 15 the term "data communication device"; revising
 16 the definition of the term "practice of the
 17 profession of pharmacy"; amending s. 465.016,
 18 F.S.; authorizing the redispensing of unused or
 19 returned unit-dose medication by correctional
 20 facilities under certain conditions; amending
 21 s. 465.016, F.S.; providing a ground for which
 22 a pharmacist may be subject to discipline by
 23 the Board of Pharmacy; amending s. 465.017,
 24 F.S.; providing additional persons and entities
 25 to whom records relating to the filling of
 26 prescriptions and the dispensing of medicinal
 27 drugs that are maintained by a pharmacy may be
 28 furnished; specifying authorized uses of
 29 patient records by pharmacy owners; providing
 30 restrictions on such records when transmitted
 31 through a data communication device; amending

1 s. 465.019, F.S.; providing for certain
2 dispensing of medicinal drugs to patients in
3 emergency departments of certain hospitals;
4 amending ss. 465.014, 465.015, 465.0196,
5 468.812, and 499.003, F.S.; correcting cross
6 references, to conform; amending s. 499.012,
7 F.S.; redefining the term "wholesale
8 distribution," relating to the distribution of
9 prescription drugs, by providing for the
10 exclusion of certain activities; creating s.
11 499.0722, F.S.; creating the Drug Regulation
12 Advisory Group; providing membership; providing
13 terms of office; providing for meetings, for
14 reimbursement of expenses, and for purposes and
15 duties of the group; allowing the Department of
16 Health to publish compliance policy guidelines
17 that include recommendations of the group;
18 providing effective dates.

19
20 Be It Enacted by the Legislature of the State of Florida:

21
22 Section 1. Effective October 1, 1998, subsections (3)
23 and (4) of section 11.62, Florida Statutes, are amended to
24 read:

25 11.62 Legislative review of proposed regulation of
26 unregulated functions.--

27 (3) In determining whether to regulate a profession or
28 occupation, the Legislature shall consider the following
29 factors:

30 (a) Whether the unregulated practice of the profession
31 or occupation will substantially harm or endanger the public

1 health, safety, or welfare and whether the potential for harm
2 is recognizable and not remote;

3 (b) Whether the practice of the profession or
4 occupation requires specialized skill or training, and whether
5 that skill or training is readily measurable or quantifiable
6 so that examination or training requirements would reasonably
7 assure initial and continuing professional or occupational
8 ability;

9 (c) Whether the regulation will have an unreasonable
10 effect on the job creation or job retention in the state or
11 will place unreasonable restrictions on the ability of
12 individuals who seek to practice or who are practicing a given
13 profession or occupation to find employment;

14 (d)~~(c)~~ Whether the public is or can be effectively
15 protected by other means; and

16 (e)~~(d)~~ Whether the overall cost-effectiveness and
17 economic impact of the proposed regulation, including the
18 indirect costs to consumers, will be favorable.

19 (4) The proponents of legislation that provides for
20 the regulation of a profession or occupation not already
21 expressly subject to state regulation shall provide, upon
22 request, the following information in writing to the state
23 agency that is proposed to have jurisdiction over the
24 regulation and to the legislative committees to which the
25 legislation is referred:

26 (a) The number of individuals or businesses that would
27 be subject to the regulation;

28 (b) The name of each association that represents
29 members of the profession or occupation, together with a copy
30 of its codes of ethics or conduct;

31

1 (c) Documentation of the nature and extent of the harm
2 to the public caused by the unregulated practice of the
3 profession or occupation, including a description of any
4 complaints that have been lodged against persons who have
5 practiced the profession or occupation in this state during
6 the preceding 3 years;

7 (d) A list of states that regulate the profession or
8 occupation, and the dates of enactment of each law providing
9 for such regulation and a copy of each law;

10 (e) A list and description of state and federal laws
11 that have been enacted to protect the public with respect to
12 the profession or occupation and a statement of the reasons
13 why these laws have not proven adequate to protect the public;

14 (f) A description of the voluntary efforts made by
15 members of the profession or occupation to protect the public
16 and a statement of the reasons why these efforts are not
17 adequate to protect the public;

18 (g) A copy of any federal legislation mandating
19 regulation;

20 (h) An explanation of the reasons why other types of
21 less restrictive regulation would not effectively protect the
22 public;

23 (i) The cost, availability, and appropriateness of
24 training and examination requirements;

25 (j)~~(i)~~ The cost of regulation, including the indirect
26 cost to consumers, and the method proposed to finance the
27 regulation;

28 (k) The cost imposed on applicants or practitioners or
29 on employers of applicants or practitioners as a result of the
30 regulation;

31

1 ~~(l)(j)~~ The details of any previous efforts in this
2 state to implement regulation of the profession or occupation;
3 and

4 ~~(m)(k)~~ Any other information the agency or the
5 committee considers relevant to the analysis of the proposed
6 legislation.

7 Section 2. Effective October 1, 1998, subsection (4)
8 of section 455.201, Florida Statutes, is amended to read:

9 455.201 Professions and occupations regulated by
10 department; legislative intent; requirements.--

11 (4)(a) Neither ~~No board, nor~~ the department nor any
12 board may, shall create unreasonably restrictive and
13 extraordinary standards that deter qualified persons from
14 entering the various professions. Neither ~~No board, nor~~ the
15 department nor any board may, shall take any action that which
16 tends to create or maintain an economic condition that
17 unreasonably restricts competition, except as specifically
18 provided by law.

19 (b) Neither the department nor any board may create a
20 regulation that has an unreasonable effect on job creation or
21 job retention in the state or that places unreasonable
22 restrictions on the ability of individuals who seek to
23 practice or who are practicing a given profession or
24 occupation to find employment.

25 (c) The Legislature shall evaluate proposals to
26 increase regulation of professions or occupations that are
27 already regulated to determine their effect on job creation or
28 retention and job opportunities.

29 Section 3. Section 455.2035, Florida Statutes, is
30 created to read:

31

1 455.2035 Rulemaking authority.--The department may
2 adopt rules pursuant to ss. 120.54 and 120.536(1) to implement
3 the regulatory requirements of any profession within the
4 department's jurisdiction which does not have a statutorily
5 authorized governing board.

6 Section 4. Subsection (2) of section 455.209, Florida
7 Statutes, is amended to read:

8 455.209 Accountability and liability of board
9 members.--

10 (2) Each board member and each former board member
11 serving on a probable cause panel shall be exempt from civil
12 liability for any act or omission when acting in the member's
13 official capacity, and the department, or the Department of
14 Legal Affairs shall defend any such member in any action
15 against any board or member of a board arising from any such
16 act or omission. In addition, the department or the Department
17 of Legal Affairs may defend the member's company or business
18 in any action against the company or business if the
19 department or the Department of Legal Affairs determines that
20 the actions from which the suit arises are actions taken by
21 the member in the member's official capacity and were not
22 beyond the member's statutory authority. In providing such
23 defense, the department, ~~the agency,~~ or the Department of
24 Legal Affairs may employ or utilize the legal services of
25 outside counsel.

26 Section 5. Subsection (1) of section 455.213, Florida
27 Statutes, is amended and a new subsection (10) is added to
28 said section to read:

29 455.213 General licensing provisions.--

30 (1) Any person desiring to be licensed shall apply to
31 the department in writing. The application for licensure shall

1 be made on a form prepared and furnished by the department and
 2 include the applicant's social security number. The
 3 application shall be supplemented as needed to reflect any
 4 material change in any circumstance or condition stated in the
 5 application which takes place between the initial filing of
 6 the application and the final grant or denial of the license
 7 and which might affect the decision of the department ~~agency~~.
 8 In order to further the economic development goals of the
 9 state, and notwithstanding any law to the contrary, the
 10 department may enter into an agreement with the county tax
 11 collector for the purpose of appointing the county tax
 12 collector as the department's agent to accept applications for
 13 licenses and applications for renewals of licenses. The
 14 agreement must specify the time within which the tax collector
 15 must forward any applications and accompanying application
 16 fees to the department. In cases where a person applies or
 17 schedules directly with a national examination organization or
 18 examination vendor to take an examination required for
 19 licensure, any organization- or vendor-related fees associated
 20 with the examination may be paid directly to the organization
 21 or vendor.

22 (10) The board, or the department when there is no
 23 board, shall not issue or renew a license to any applicant or
 24 licensee that the board, or the department when there is no
 25 board, has assessed a fine, interest, or costs associated with
 26 investigation and prosecution until the applicant or licensee
 27 has paid in full such fine, interest, or costs associated with
 28 investigation and prosecution, or until the applicant or
 29 licensee complies with or satisfies all terms and conditions
 30 of the final order.

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1 Section 6. Subsection (6) of section 455.218, Florida
2 Statutes, is amended to read:

3 455.218 Foreign-trained professionals; special
4 examination and license provisions.--

5 (6) The department, for its boards, shall not issue an
6 initial license to, or renew a license of, any applicant or
7 licensee who is under investigation or prosecution in any
8 jurisdiction for an action which would constitute a violation
9 of this part or the professional practice acts administered by
10 the department ~~or agency~~ and the boards until such time as the
11 investigation or prosecution is complete, at which time the
12 provisions of the professional practice acts shall apply.

13 Section 7. Subsections (2), (3), (4), and (9) of
14 section 455.225, Florida Statutes, are amended to read:

15 455.225 Disciplinary proceedings.--Disciplinary
16 proceedings for each board shall be within the jurisdiction of
17 the department.

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

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

25 (3)(a) As an alternative to the provisions of
26 subsections (1) and (2), when a complaint is received, the
27 department may provide a licensee with a notice of
28 noncompliance for an initial offense of a minor violation. A
29 violation is a minor violation if it does not demonstrate a
30 serious inability to practice the profession, result in
31 economic or physical harm to a person, or adversely affect the

1 public health, safety, or welfare or create a significant
 2 threat of such harm. Each board, or the department if there is
 3 no board, shall establish by rule those violations which are
 4 minor violations under this provision. Failure of a licensee
 5 to take action in correcting the violation within 15 days
 6 after notice may result in the institution of regular
 7 disciplinary proceedings.

8 (b) The department may issue a notice of noncompliance
 9 for an initial offense of a minor violation, notwithstanding a
 10 board's failure to designate a particular minor violation by
 11 rule as provided in paragraph (a).

12 (c) In any instance in which a licensee is charged
 13 with failure to comply with continuing-education requirements,
 14 the department's or board's, as appropriate, initial response
 15 may only be to issue a notice of noncompliance, including
 16 granting the licensee a reasonable time to comply. However,
 17 if the department finds that the licensee's failure to comply
 18 was done knowingly, the department or board, as appropriate,
 19 may levy any other penalty otherwise available to it under the
 20 circumstances. This paragraph does not apply to any licensee
 21 for which failure to comply with continuing-education
 22 requirements is not grounds for discipline but is instead only
 23 a prerequisite for renewal.

24 (4) The determination as to whether probable cause
 25 exists shall be made by majority vote of a probable cause
 26 panel of the board, or the department, as appropriate. Each
 27 regulatory board shall provide by rule that the determination
 28 of probable cause shall be made by a panel of its members or
 29 by the department. Each board may provide by rule for multiple
 30 probable cause panels composed of at least two members. Each
 31 board may provide by rule that one or more members of the

1 panel or panels may be a former board member. The length of
2 term or repetition of service of any such former board member
3 on a probable cause panel may vary according to the direction
4 of the board when authorized by board rule. Any probable cause
5 panel must include one of the board's former or present
6 consumer members, if one is available, willing to serve, and
7 is authorized to do so by the board chair. Any probable cause
8 panel must include a present board member. Any probable cause
9 panel must include a former or present professional board
10 member. However, any former professional board member serving
11 on the probable cause panel must hold an active valid license
12 for that profession. All proceedings of the panel are exempt
13 from s. 286.011 until 10 days after probable cause has been
14 found to exist by the panel or until the subject of the
15 investigation waives his or her privilege of confidentiality.
16 The probable cause panel may make a reasonable request, and
17 upon such request the department shall provide such additional
18 investigative information as is necessary to the determination
19 of probable cause. A request for additional investigative
20 information shall be made within 15 days from the date of
21 receipt by the probable cause panel of the investigative
22 report of the department. The probable cause panel or the
23 department, as may be appropriate, shall make its
24 determination of probable cause within 30 days after receipt
25 by it of the final investigative report of the department. The
26 secretary may grant extensions of the 15-day and the 30-day
27 time limits. In lieu of a finding of probable cause, the
28 probable cause panel, or the department when there is no
29 board, may issue a letter of guidance to the subject. If,
30 within the 30-day time limit, as may be extended, the probable
31 cause panel does not make a determination regarding the

1 existence of probable cause or does not issue a letter of
2 guidance in lieu of a finding of probable cause, the
3 department ~~agency~~, for disciplinary cases under its
4 jurisdiction, must make a determination regarding the
5 existence of probable cause within 10 days after the
6 expiration of the time limit. If the probable cause panel
7 finds no probable cause the department may petition within 10
8 days for a determination of the existence of probable cause
9 pursuant to s. 120.574. Such actions shall be held
10 confidential as provided in s. 455.225(10). The
11 administrative law judge's order shall constitute final action
12 with respect to the existence of probable cause. If the
13 probable cause panel finds that probable cause exists, it
14 shall direct the department to file a formal complaint against
15 the licensee. The department shall follow the directions of
16 the probable cause panel regarding the filing of a formal
17 complaint. If directed to do so, the department shall file a
18 formal complaint against the subject of the investigation and
19 prosecute that complaint pursuant to chapter 120. However, the
20 department may decide not to prosecute the complaint if it
21 finds that probable cause had been improvidently found by the
22 panel. In such cases, the department shall refer the matter to
23 the board. The board may then file a formal complaint and
24 prosecute the complaint pursuant to chapter 120. The
25 department shall also refer to the board any investigation or
26 disciplinary proceeding not before the Division of
27 Administrative Hearings pursuant to chapter 120 or otherwise
28 completed by the department within 1 year after the filing of
29 a complaint. The department ~~agency~~, for disciplinary cases
30 under its jurisdiction, must establish a uniform reporting
31 system to quarterly refer to each board the status of any

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

15 (9)(a) The department shall periodically notify the
16 person who filed the complaint of the status of the
17 investigation, whether probable cause has been found, and the
18 status of any civil action or administrative proceeding or
19 appeal.

20 (b) ~~In any disciplinary case under the jurisdiction of~~
21 ~~the Agency for Health Care Administration for which probable~~
22 ~~cause has been found, the Agency for Health Care~~
23 ~~Administration shall provide to the person who filed the~~
24 ~~complaint a copy of the administrative complaint, including:~~

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

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

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

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

11 Section 8. Section 455.2285, Florida Statutes, is
12 amended to read:

13 455.2285 Annual report concerning finances,
14 administrative complaints, disciplinary actions, and
15 recommendations.--The department is directed to prepare and
16 submit a report to the President of the Senate and Speaker of
17 the House of Representatives by November 1 of each year. In
18 addition to finances and any other information the Legislature
19 may require, the report shall include statistics and relevant
20 information, profession by profession, detailing:

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

23 (2) The number of complaints received and
24 investigated.

25 (3) The number of findings of probable cause made.

26 (4) The number of findings of no probable cause made.

27 (5) The number of administrative complaints filed.

28 (6) The disposition of all administrative complaints.

29 (7) A description of disciplinary actions taken.

30 (8) A description of any effort by the department
31 ~~agency~~, for any disciplinary cases under its jurisdiction, to

1 reduce or otherwise close any investigation or disciplinary
2 proceeding not before the Division of Administrative Hearings
3 under chapter 120 or otherwise not completed within 1 year
4 after the initial filing of a complaint under this chapter.

5 (9) The status of the development and implementation
6 of rules providing for disciplinary guidelines pursuant to s.
7 455.2273.

8 (10) Such recommendations for administrative and
9 statutory changes necessary to facilitate efficient and
10 cost-effective operation of the department and the various
11 boards.

12 Section 9. Effective October 1, 1998, paragraph (d) of
13 subsection (1) of section 489.129, Florida Statutes, is
14 amended and subsection (12) is added to that section to read:

15 489.129 Disciplinary proceedings.--

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

30
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1 ~~(d) Knowingly violating the applicable building codes~~
2 ~~or laws of the state or of any municipalities or counties~~
3 ~~thereof.~~

4 (12) When an investigation of a contractor is
5 undertaken, the department shall promptly furnish to the
6 contractor or the contractor's attorney a copy of the
7 complaint or document that resulted in the initiation of the
8 investigation. The department shall make the complaint and
9 supporting documents available to the contractor. The
10 complaint or supporting documents shall contain information
11 regarding the specific facts that serve as the basis for the
12 complaint. The contractor may submit a written response to the
13 information contained in such complaint or document within 20
14 days after service to the contractor of the complaint or
15 document. The contractor's written response shall be
16 considered by the probable cause panel. The right to respond
17 does not prohibit the issuance of a summary emergency order if
18 necessary to protect the public. However, if the secretary, or
19 the secretary's designee, and the chair of the board or the
20 chair of the probable cause panel agree in writing that such
21 notification would be detrimental to the investigation, the
22 department may withhold notification. The department may
23 conduct an investigation without notification to a contractor
24 if the act under investigation is a criminal offense.

25 Section 10. Effective October 1, 1998, subsections
26 (2), (7) and (10) and paragraphs (c) of subsection (6) of
27 section 489.131, Florida Statutes, are amended to read:

28 489.131 Applicability.--

29 (2) The state or any county or municipality shall
30 require that bids submitted for construction, improvement,
31 remodeling, or repair on ~~of~~ public projects ~~buildings~~ be

1 accompanied by evidence that the bidder holds an appropriate
2 certificate or registration, unless the work to be performed
3 is exempt under s. 489.103.

4 (6)

5 (c) Each local board or agency that licenses
6 contractors must transmit quarterly ~~monthly~~ to the board a
7 report of any disciplinary action taken against contractors
8 and of any administrative or disciplinary action taken against
9 unlicensed persons for engaging in the business or acting in
10 the capacity of a contractor including any cease and desist
11 orders issued pursuant to s. 489.113(2)(b) and any fine issued
12 pursuant to s. 489.127(5).

13 (7)(a) It is the policy of the state that the purpose
14 of regulation is to protect the public by attaining compliance
15 with the policies established in law. Fines and other
16 penalties are provided in order to ensure compliance; however,
17 the collection of fines and the imposition of penalties are
18 intended to be secondary to the primary goal of attaining
19 compliance with state laws and local jurisdiction ordinances.
20 It is the intent of the Legislature that a local jurisdiction
21 agency charged with enforcing regulatory laws shall issue a
22 notice of noncompliance as its first response to a minor
23 violation of a regulatory law in any instance in which it is
24 reasonable to assume that the violator was unaware of such a
25 law or unclear as to how to comply with it. A violation of a
26 regulatory law is a "minor violation" if it does not result in
27 economic or physical harm to a person or adversely affect the
28 public health, safety, or welfare or create a significant
29 threat of such harm. A "notice of noncompliance" is a
30 notification by the local jurisdiction agency charged with
31 enforcing the ordinance, which is issued to the licensee that

1 is subject to the ordinance. A notice of noncompliance should
 2 not be accompanied with a fine or other disciplinary penalty.
 3 It should identify the specific ordinance that is being
 4 violated, provide information on how to comply with the
 5 ordinance, and specify a reasonable time for the violator to
 6 comply with the ordinance. Failure of a licensee to take
 7 action correcting the violation within a set period of time
 8 would then result in the institution of further disciplinary
 9 proceedings.

10 (b) The local governing body of a county or
 11 municipality, or its local enforcement body, is authorized to
 12 enforce the provisions of this part as well as its local
 13 ordinances against locally licensed or registered contractors,
 14 as appropriate. The local jurisdiction enforcement body may
 15 conduct disciplinary proceedings against a locally licensed or
 16 registered contractor and may require restitution, impose a
 17 suspension or revocation of his or her local license, or a
 18 fine not to exceed \$5,000, or a combination thereof, against
 19 the locally licensed or registered contractor, according to
 20 ordinances which a local jurisdiction may enact. In addition,
 21 the local jurisdiction may assess reasonable investigative and
 22 legal costs for the prosecution of the violation against the
 23 violator, according to such ordinances as the local
 24 jurisdiction may enact.

25 (c) In addition to any action the local jurisdiction
 26 enforcement body may take against the individual's local
 27 license, and any fine the local jurisdiction may impose, the
 28 local jurisdiction enforcement body shall issue a recommended
 29 penalty for board action. This recommended penalty may
 30 include a recommendation for no further action, or a
 31 recommendation for suspension, revocation, or restriction of

1 the registration, or a fine to be levied by the board, or a
 2 combination thereof. The local jurisdiction enforcement body
 3 shall inform the disciplined contractor and the complainant of
 4 the local license penalty imposed, the board penalty
 5 recommended, his or her rights to appeal, and the consequences
 6 should he or she decide not to appeal. The local jurisdiction
 7 enforcement body shall, upon having reached adjudication or
 8 having accepted a plea of nolo contendere, immediately inform
 9 the board of its action and the recommended board penalty.

10 (d) The department, the disciplined contractor, or the
 11 complainant may challenge the local jurisdiction enforcement
 12 body's recommended penalty for board action to the
 13 Construction Industry Licensing Board. A challenge shall be
 14 filed within 60 days after the issuance of the recommended
 15 penalty to the board. If challenged, there is a presumptive
 16 finding of probable cause and the case may proceed without the
 17 need for a probable cause hearing.

18 (e) Failure of the department, the disciplined
 19 contractor, or the complainant to challenge the local
 20 jurisdiction's recommended penalty within the time period set
 21 forth in this subsection shall constitute a waiver of the
 22 right to a hearing before the board. A waiver of the right to
 23 a hearing before the board shall be deemed an admission of the
 24 violation, and the penalty recommended shall become a final
 25 order according to procedures developed by board rule without
 26 further board action. The disciplined contractor may appeal
 27 this board action to the district court.

28 (f)1. The department may investigate any complaint
 29 which is made with the department. However, the department
 30 may not initiate or pursue any ~~if the department determines~~
 31 ~~that the~~ complaint against a registered contractor who is not

1 also a certified contractor where a local jurisdiction
2 enforcement body has jurisdiction over the complaint, unless
3 summary procedures are initiated by the secretary pursuant to
4 s. 455.225(8), or unless the local jurisdiction enforcement
5 body has failed to investigate and prosecute a complaint, or
6 make a finding of no violation, within 6 months of receiving
7 the complaint. The department shall refer the complaint to the
8 local jurisdiction enforcement body for investigation, and if
9 appropriate, prosecution. However, the department may
10 investigate such complaints to the extent necessary to
11 determine whether summary procedures should be initiated ~~is~~
12 ~~for an action which a local jurisdiction enforcement body has~~
13 ~~investigated and reached adjudication or accepted a plea of~~
14 ~~nolo contendere, including a recommended penalty to the board,~~
15 ~~the department shall not initiate prosecution for that action,~~
16 ~~unless the secretary has initiated summary procedures pursuant~~
17 ~~to s. 455.225(8).~~

18 2. Upon a recommendation by the department, the board
19 may make conditional, suspend, or rescind its determination of
20 the adequacy of the local government enforcement body's
21 disciplinary procedures granted under s. 489.117(2).

22 (g) Nothing in this subsection shall be construed to
23 allow local jurisdictions to exercise disciplinary authority
24 over certified contractors.

25 (10) No municipal or county government may issue any
26 certificate of competency or license for any contractor
27 defined in s. 489.105(3)(a)-(o) after July 1, 1993, unless
28 such local government exercises disciplinary control and
29 oversight over such locally licensed contractors, including
30 forwarding a recommended order in each action to the board as
31 provided in subsection (7). Each local board that licenses and

1 disciplines contractors must have at least two consumer
2 representatives on that board. If the board has seven or more
3 members, at least three of those members must be consumer
4 representatives. The consumer representative may be any
5 resident of the local jurisdiction that is not, and has never
6 been, a member or practitioner of a profession regulated by
7 the board or a member of any closely related profession.

8 Section 11. The amendments to paragraph (f) of
9 subsection (7) of section 489.131 of this act shall not affect
10 any investigative activities or administrative actions
11 commenced by the department as a result of complaints filed
12 prior to the effective date of this legislation.

13 Section 12. Effective October 1, 1998, subsection (4)
14 of section 455.517, Florida Statutes, is amended to read:

15 455.517 Professions and occupations regulated by
16 department; legislative intent; requirements.--

17 (4)(a) Neither ~~No board, nor~~ the department nor any
18 board may, shall create unreasonably restrictive and
19 extraordinary standards that deter qualified persons from
20 entering the various professions. Neither ~~No board, nor~~ the
21 department nor any board may, shall take any action that ~~which~~
22 tends to create or maintain an economic condition that
23 unreasonably restricts competition, except as specifically
24 provided by law.

25 (b) Neither the department nor any board may create a
26 regulation that has an unreasonable effect on job creation or
27 job retention in the state or that places unreasonable
28 restrictions on the ability of individuals who seek to
29 practice or who are practicing a profession or occupation to
30 find employment.

31

1 (c) The Legislature shall evaluate proposals to
2 increase regulation of professions or occupations to determine
3 their effect on job creation or retention and employment
4 opportunities.

5 Section 13. Section 481.222, Florida Statutes, is
6 created to read:

7 481.222 Architects performing building code inspector
8 duties.--Notwithstanding any other provision of this part, a
9 person currently licensed to practice as an architect under
10 this part may provide building inspection services described
11 in s. 468.603(6) and (7) to a local government or state agency
12 upon its request, without being certified by the Board of
13 Building Code Administrators and Inspectors under part XIII of
14 chapter 468. When performing these building inspection
15 services, the architect is subject to the disciplinary
16 guidelines of this part and s. 468.621(1)(c)-(g). The
17 complaint processing, investigation, and discipline shall be
18 conducted by the Board of Architecture and Interior Design
19 rather than the Board of Building Code Administrators and
20 Inspectors. An architect may not perform plans review as an
21 employee of a local government upon any job that the architect
22 or the architect's company designed.

23 Section 14. Section 471.029, Florida Statutes, is
24 created to read:

25 471.029 Professional engineers performing building
26 code inspector duties.--Notwithstanding any other provision of
27 this part, a person currently licensed to practice as a
28 professional engineer under this part may provide building
29 inspection services described in s. 468.603(6) and (7) to a
30 local government or state agency upon its request, without
31 being certified by the Board of Building Code Administrators

1 and Inspectors under part XIII of chapter 468. When
2 performing these building inspection services, the
3 professional engineer is subject to the disciplinary
4 guidelines of this chapter and s. 468.621(1)(c)-(g). The
5 complaint processing, investigation, and discipline shall be
6 conducted by the Board of Professional Engineers rather than
7 the Board of Building code Administrators and Inspectors. A
8 professional engineer may not perform plans review as an
9 employee of a local government upon any job that the
10 professional engineer or the professional engineer's company
11 designed.

12 Section 15. Effective July 1, 1998, subsection (12) of
13 section 465.003, Florida Statutes, is amended, subsections (4)
14 through (14) are renumbered as subsections (5) through (15),
15 respectively, and a new subsection (4) is added to said
16 section, to read:

17 465.003 Definitions.--As used in this chapter, the
18 term:

19 (4) "Data communication device" means an electronic
20 device that receives electronic information from one source
21 and transmits or routes it to another, including, but not
22 limited to, any such bridge, router, switch, or gateway.

23 (13)(12) "Practice of the profession of pharmacy"
24 includes compounding, dispensing, and consulting concerning
25 contents, therapeutic values, and uses of any medicinal drug;
26 and consulting concerning therapeutic values and interactions
27 of patent or proprietary preparations, whether pursuant to
28 prescriptions or in the absence and entirely independent of
29 such prescriptions or orders; and other pharmaceutical
30 services. For purposes of this subsection, "other
31 pharmaceutical services" means the evaluation and monitoring

1 of the patient's health as it relates to drug therapy and
 2 assisting the patient in the management of his or her drug
 3 therapy, and includes the review of the patient's drug therapy
 4 and communication with the patient and the patient's
 5 prescribing health care provider as licensed under chapter
 6 458, chapter 459, chapter 461, or chapter 466, or similar
 7 statutory provision in another jurisdiction, or such
 8 provider's agent or such other persons as specifically
 9 authorized by the patient, regarding the drug therapy. Nothing
 10 herein shall be interpreted to permit an alteration of a
 11 prescriber's directions, unless otherwise permitted by law.
 12 "Practice of the profession of pharmacy"~~The phrase~~ also
 13 includes any other act, service, operation, research, or
 14 transaction incidental to, or forming a part of, any of the
 15 foregoing acts, requiring, involving, or employing the science
 16 or art of any branch of the pharmaceutical profession, study,
 17 or training, and shall expressly permit a pharmacist to
 18 transmit information from persons authorized to prescribe
 19 medicinal drugs to their patients. A pharmacist may also
 20 administer immunizations within the framework of an
 21 established protocol under a supervisory practitioner who is a
 22 physician licensed under chapter 458 or chapter 459 or by
 23 written agreement with a county health department. Each
 24 protocol must contain specific procedures to address any
 25 unforeseen allergic reaction to an immunization. A pharmacist
 26 may not enter into a protocol unless he or she maintains at
 27 least \$200,000 of professional liability insurance, and not
 28 until the pharmacist has completed training in immunizations
 29 as may be required by the board. The decision by a supervisory
 30 practitioner to enter into such a protocol is a professional
 31 decision of the practitioner, and no person may interfere with

1 a supervisory practitioner's decision as to whether to enter
2 into such a protocol. A pharmacist may not enter into a
3 protocol that is to be performed while acting as an employee
4 without the written approval of the owner of the pharmacy.

5 Section 16. Paragraph (1) of subsection (1) of section
6 465.016, Florida Statutes, is amended to read:

7 465.016 Disciplinary actions.--

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

10 (1) Placing in the stock of any pharmacy any part of
11 any prescription compounded or dispensed which is returned by
12 a patient; however, in a hospital, nursing home, correctional
13 facility, or extended care facility in which unit-dose
14 medication is dispensed to inpatients, each dose being
15 individually sealed and the individual unit dose or unit-dose
16 system labeled with the name of the drug, dosage strength,
17 manufacturer's control number, and expiration date, if any,
18 the unused unit dose of medication may be returned to the
19 pharmacy for redispensing. Each pharmacist shall maintain
20 appropriate records for any unused or returned medicinal
21 drugs.

22 Section 17. Effective July 1, 1998, a new paragraph
23 (q) is added to subsection (1) of section 465.016, Florida
24 Statutes, to read:

25 465.016 Disciplinary actions.--

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

28 (q) Using or releasing a patient's records except as
29 authorized by this chapter and chapter 455.

30 Section 18. Effective July 1, 1998, subsection (2) of
31 section 465.017, Florida Statutes, is amended to read:

1 465.017 Authority to inspect.--
2 (2) Except as permitted by this chapter, and chapters
3 406, 409, 455, 499, and 893, records maintained by ~~in~~ a
4 pharmacy relating to the filling of prescriptions and the
5 dispensing of medicinal drugs shall not be furnished, except
6 upon the written authorization of the patient, to any person
7 other than to the patient for whom the drugs were dispensed,
8 ~~or her or his legal representative, or to the department~~
9 ~~pursuant to existing law,~~ or, in the event that the patient is
10 incapacitated or unable to request said records, her or his
11 spouse; to the department pursuant to existing law; to health
12 care practitioners and pharmacists consulting or dispensing to
13 the patient; or to insurance carriers or other payors
14 authorized by the patient to receive such records. For
15 purposes of this section, records held in a pharmacy shall be
16 considered owned by the owner of the pharmacy. The pharmacy
17 owner may use such records in the aggregate without patient
18 identification data, regardless of where such records are
19 held, for purposes reasonably related to the business and
20 practice of pharmacy ~~except upon the written authorization of~~
21 ~~such patient~~. Such records may be furnished in any civil or
22 criminal proceeding, upon the issuance of a subpoena from a
23 court of competent jurisdiction and proper notice to the
24 patient or her or his legal representative by the party
25 seeking such records. Such records or any part thereof, if
26 transmitted through a data communication device and not
27 directly between a pharmacy and a treating practitioner, may
28 not be accessed, used, or maintained by the operator or owner
29 of the data communication device unless specifically
30 authorized by this section. It is the intent of this
31 subsection to allow the use and sharing of such records to

1 improve patient care, provided the pharmacist acts in the best
2 interests of their patient. Nothing herein shall be construed
3 to authorize or expand solicitation or marketing to patients
4 or potential patients in any manner not otherwise specifically
5 authorized by law.

6 Section 19. Effective July 1, 1998, subsection (4) of
7 section 465.019, Florida Statutes, is amended to read:

8 465.019 Institutional pharmacies; permits.--

9 (4) Medicinal drugs shall be dispensed in an
10 institutional pharmacy to outpatients only when that
11 institution has secured a community pharmacy permit from the
12 department. However, an individual licensed to prescribe
13 medicinal drugs in this state may dispense up to a 24-hour
14 supply of a medicinal drug to any patient of an emergency
15 department of a hospital that operates a Class II
16 institutional pharmacy, provided the physician treating the
17 patient in such hospital's emergency department determines
18 that the medicinal drug is warranted and that community
19 pharmacy services are not readily accessible, geographically
20 or otherwise, to the patient. Such dispensing from the
21 emergency department shall be in accordance with the
22 procedures of the hospital. For any such patient for whom a
23 medicinal drug is warranted for a period to exceed 24 hours,
24 an individual licensed to prescribe such drug shall dispense a
25 24-hour supply of such drug to the patient and shall provide
26 the patient a prescription for such drug for use after the
27 initial 24-hour period. The board may adopt rules necessary to
28 carry out the provisions of this subsection.

29 Section 20. Effective July 1, 1998, section 465.014,
30 Florida Statutes, is amended to read:

31

1 465.014 Pharmacy technician.--No person other than a
2 licensed pharmacist or pharmacy intern may engage in the
3 practice of the profession of pharmacy, except that a licensed
4 pharmacist may delegate to nonlicensed pharmacy technicians
5 those duties, tasks, and functions which do not fall within
6 the purview of s. 465.003(13)~~(12)~~. All such delegated acts
7 shall be performed under the direct supervision of a licensed
8 pharmacist who shall be responsible for all such acts
9 performed by persons under his or her supervision. A pharmacy
10 technician, under the supervision of a pharmacist, may
11 initiate or receive communications with a practitioner or his
12 or her agent, on behalf of a patient, regarding refill
13 authorization requests. No licensed pharmacist shall supervise
14 more than one pharmacy technician unless otherwise permitted
15 by the guidelines adopted by the board. The board shall
16 establish guidelines to be followed by licensees or permittees
17 in determining the circumstances under which a licensed
18 pharmacist may supervise more than one but not more than three
19 pharmacy technicians.

20 Section 21. Effective July 1, 1998, paragraph (c) of
21 subsection (2) of section 465.015, Florida Statutes, is
22 amended to read:

23 465.015 Violations and penalties.--

24 (2) It is unlawful for any person:

25 (c) To sell or dispense drugs as defined in s.
26 465.003(8)~~(7)~~without first being furnished with a
27 prescription.

28 Section 22. Effective July 1, 1998, section 465.0196,
29 Florida Statutes, is amended to read:

30 465.0196 Special pharmacy permits.--Any person
31 desiring a permit to operate a pharmacy which does not fall

1 within the definitions set forth in s. 465.003(11)~~(10)~~(a)1.,
 2 2., and 3. shall apply to the department for a special
 3 pharmacy permit. If the board certifies that the application
 4 complies with the applicable laws and rules of the board
 5 governing the practice of the profession of pharmacy, the
 6 department shall issue the permit. No permit shall be issued
 7 unless a licensed pharmacist is designated to undertake the
 8 professional supervision of the compounding and dispensing of
 9 all drugs dispensed by the pharmacy. The licensed pharmacist
 10 shall be responsible for maintaining all drug records and for
 11 providing for the security of the area in the facility in
 12 which the compounding, storing, and dispensing of medicinal
 13 drugs occurs. The permittee shall notify the department
 14 within 10 days of any change of the licensed pharmacist
 15 responsible for such duties.

16 Section 23. Effective July 1, 1998, subsection (3) of
 17 section 468.812, Florida Statutes, is amended to read:

18 468.812 Exemptions from licensure.--

19 (3) The provisions of this act relating to orthotics
 20 or pedorthics do not apply to any licensed pharmacist or to
 21 any person acting under the supervision of a licensed
 22 pharmacist. The practice of orthotics or pedorthics by a
 23 pharmacist or any of the pharmacist's employees acting under
 24 the supervision of a pharmacist shall be construed to be
 25 within the meaning of the term "practice of the profession of
 26 pharmacy" as set forth in s. 465.003(13)~~(12)~~, and shall be
 27 subject to regulation in the same manner as any other pharmacy
 28 practice. The Board of Pharmacy shall develop rules regarding
 29 the practice of orthotics and pedorthics by a pharmacist. Any
 30 pharmacist or person under the supervision of a pharmacist
 31 engaged in the practice of orthotics or pedorthics shall not

1 be precluded from continuing that practice pending adoption of
2 these rules.

3 Section 24. Effective July 1, 1998, subsection (19) of
4 section 499.003, Florida Statutes, is amended to read:

5 499.003 Definitions of terms used in ss.
6 499.001-499.081.--As used in ss. 499.001-499.081, the term:
7 (19) "Legend drug," "prescription drug," or "medicinal
8 drug" means any drug, including, but not limited to, finished
9 dosage forms, or active ingredients subject to, defined by, or
10 described by s. 503(b) of the Federal Food, Drug, and Cosmetic
11 Act or s. 465.003~~(8)(7)~~, s. 499.007(12), or s. 499.0122(1)(b)
12 or (c).

13 Section 25. Effective July 1, 1998, paragraph (a) of
14 subsection (1) of section 499.012, Florida Statutes, is
15 amended to read:

16 499.012 Wholesale distribution; definitions; permits;
17 general requirements.--

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

19 (a) "Wholesale distribution" means distribution of
20 prescription drugs to persons other than a consumer or
21 patient, but does not include lawful dispensing of a
22 prescription drug in accordance with chapter 465; however:

23 1. As used in s. 499.005(21), the term "wholesale
24 distribution" does not include any of the following activities
25 if the activity is conducted in accordance with s. 499.014:

26 a.1. The purchase or other acquisition by a hospital
27 or other health care entity that is a member of a group
28 purchasing organization of a prescription drug for its own use
29 from the group purchasing organization or from other hospitals
30 or health care entities that are members of that organization;

31

1 ~~b.2.~~ The sale, purchase, or trade of a prescription
2 drug or an offer to sell, purchase, or trade a prescription
3 drug by a charitable organization described in s. 501(c)(3) of
4 the Internal Revenue Code of 1986, as amended and revised, to
5 a nonprofit affiliate of the organization to the extent
6 otherwise permitted by law;

7 ~~c.3.~~ The sale, purchase, or trade of a prescription
8 drug or an offer to sell, purchase, or trade a prescription
9 drug among hospitals or other health care entities that are
10 under common control. For purposes of this section, "common
11 control" means the power to direct or cause the direction of
12 the management and policies of a person or an organization,
13 whether by ownership of stock, by voting rights, by contract,
14 or otherwise.

15 2. As used in s. 499.005(21), the term "wholesale
16 distribution" also does not include any of the following
17 activities if the activity is done in accordance with rules
18 established by the department:

19 ~~a.4.~~ The sale, purchase, or trade of a prescription
20 drug among federal, state, or local government health care
21 entities that are under common control and are authorized to
22 purchase such prescription drug.

23 b. The sale, purchase, trade, or other transfer of a
24 prescription drug from or for any of the following entities: a
25 federal, state, or local government agency or any entity
26 eligible to purchase prescription drugs at public health
27 services prices pursuant to s. 602 of Pub. L. No. 102-585 to a
28 contract provider or its subcontractor for eligible patients
29 of the entity if:

30 (I) The entity obtains written authorization for the
31 sale, purchase, trade, or other transfer of a prescription

1 drug under this paragraph from the Secretary of Health. This
2 written authorization must be based on a favorable
3 recommendation by the Drug Regulation Advisory Group after the
4 group has reviewed the entity's submission to the department
5 of a detailed plan and justification for the sale, purchase,
6 trade, or other transfer of a prescription drug under this
7 paragraph and must enhance the public's health by improving
8 needed access, quality, or safety because current patient drug
9 delivery systems are inadequate;

10 (II) The contract provider or subcontractor is
11 authorized by law to administer or dispense prescription
12 drugs;

13 (III) In the case of a subcontractor, the entity is a
14 party to and executes the subcontract;

15 (IV) A contract provider or subcontractor maintains
16 separate and apart any prescription drugs of the entity in its
17 possession from other prescription drug inventory;

18 (V) The contract provider and subcontractor maintains
19 and produces immediately for inspection all records of
20 movement or transfer of all the prescription drugs belonging
21 to the entity, including, but not limited to, the records of
22 receipt and disposition of prescription drugs. Each contractor
23 and subcontractor dispensing or administering these drugs must
24 maintain and produce records documenting the dispensing or
25 administration. Records that are required to be maintained
26 include, but are not limited to, a perpetual inventory
27 itemizing drugs received and drugs dispensed by prescription
28 number or administered by patient identifier, which must be
29 submitted to the entity monthly;

30 (VI) The contract provider or subcontractor either
31 administers or dispenses the prescription drugs only to the

1 eligible patients of the entity or returns the prescription
2 drug for or to the entity. The contract provider or
3 subcontractor must require proof from each person seeking to
4 fill a prescription or obtain treatment that the person is an
5 eligible patient of the entity and must, at a minimum,
6 maintain a copy of this proof as part of the records of the
7 contractor or subcontractor required under
8 sub-sub-subparagraph (V);

9 (VII) The prescription drugs transferred pursuant to
10 this paragraph may not be billed to Medicaid; and

11 (VIII) In addition to the departmental inspection
12 authority set forth in s. 499.051, the establishment of the
13 contract provider and subcontractor and all records pertaining
14 to prescription drugs subject to this sub-subparagraph are
15 subject to inspection by the entity. All records relating to
16 prescription drugs of a manufacturer under this
17 sub-subparagraph are subject to audit by the manufacturer of
18 those drugs, without identifying individual patient
19 information.

20 c.5. The sale, purchase, or trade of a prescription
21 drug or an offer to sell, purchase, or trade a prescription
22 drug for emergency medical reasons; for purposes of this
23 sub-subparagraph ~~subparagraph~~, the term "emergency medical
24 reasons" includes transfers of prescription drugs by a retail
25 pharmacy to another retail pharmacy to alleviate a temporary
26 shortage.

27 d.6. The ~~transfer purchase or acquisition~~ of a
28 prescription drug acquired by a medical director on behalf of
29 ~~a licensed an~~ emergency medical services provider to that
30 ~~medical director for use by~~ emergency medical services
31 ~~provider and its transport vehicles for use in accordance with~~

1 the provider's license under ~~providers acting within the scope~~
2 ~~of their professional practice pursuant to chapter 401.~~

3 ~~7. The dispensing of a prescription drug pursuant to a~~
4 ~~prescription;~~

5 ~~e.8.~~ The distribution of prescription drug samples by
6 manufacturers' representatives or distributors'
7 representatives conducted in accordance with s. 499.028. ~~or~~

8 ~~f.9.~~ The sale, purchase, or trade of blood and blood
9 components intended for transfusion. As used in this section,
10 the term "blood" means whole blood collected from a single
11 donor and processed either for transfusion or further
12 manufacturing, and the term "blood components" means that part
13 of the blood separated by physical or mechanical means.

14 Section 26. Effective July 1, 1998, section 499.0722,
15 Florida Statutes, is created to read:

16 499.0722 Drug Regulation Advisory Group; exemptions.--

17 (1) There is created the Drug Regulation Advisory
18 Group, which is an independent advisory group composed of at
19 least 11 members appointed by the Secretary of Health and
20 including:

21 (a) One member representing the prescription drug
22 wholesale industry in this state;

23 (b) One member representing pharmaceutical
24 manufacturers, who may represent pharmaceutical manufacturers
25 nationwide;

26 (c) One member who is a practicing pharmacist;

27 (d) One member representing the Agency for Health Care
28 Administration;

29 (e) One member who is a physician licensed under
30 chapter 458 or chapter 459;

31 (f) One consumer representative;

- 1 (g) One member representing the cosmetic industry;
2 (h) One member representing the compressed medical gas
3 industry;
4 (i) One member representing the medical device
5 manufacturing industry;
6 (j) The Executive Director of the Board of Pharmacy,
7 who shall be an ex officio member; and
8 (k) One member representing the department, who shall
9 chair group meetings.
10 (l) One member representing hospitals.
11 (m) One member representing the long-term care
12 industry.
13 (2) Members shall be appointed for terms of 4 years,
14 except for the Executive Director of the Board of Pharmacy and
15 the departmental representative, who may serve indefinitely.
16 Members of the group may be reappointed. A vacancy in
17 membership which occurs before the expiration of a term shall
18 be filled by a member appointed by the Secretary of Health for
19 a full term.
20 (3) The group shall meet upon request of the
21 department, but no more than four times a year. Members of the
22 group shall serve without compensation, but may be reimbursed
23 for per diem and travel expenses as provided in s. 112.061.
24 (4) The purposes and duties of the Drug Regulation
25 Advisory Group include, but are not limited to:
26 (a) Making recommendations to the Secretary of Health
27 regarding authorizations for the sale, purchase, trade, or
28 other transfer of a prescription drug under s. 499.012(1)(b)2.
29 (b) Making recommendations to the department regarding
30 enforcement priorities under this chapter.
31

1 (c) Briefing the department on industry trends that
2 affect this chapter.

3 (d) Providing information and guidance on issues
4 submitted by the department to the group.

5 (e) Facilitating the dissemination of relevant
6 information concerning current issues affecting the public
7 health within the scope and responsibility of this chapter.

8 (5) The department may publish compliance policy
9 guidelines that set forth enforcement priorities or other
10 recommendations of the Drug Regulation Advisory Group when
11 that is in the best interest of the public health.

12 Section 27. Except as otherwise provided in this act,
13 this act shall take effect upon becoming a law.

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