

STORAGE NAME: h1467z.hcl

DATE: June 30, 1999

****FINAL ACTION****

****SEE FINAL ACTION STATUS SECTION****

**HOUSE OF REPRESENTATIVES
AS FURTHER REVISED BY THE COMMITTEE ON
HEALTH CARE LICENSING & REGULATION
FINAL ANALYSIS**

BILL #: CS/HB 1467 (PCB HCL 99-03) **(Most of the provisions of CS/HB 1467 passed as HB 2125)**

RELATING TO: Regulation of Health Care Practitioners

SPONSOR(S): Committees on Business Regulation and Consumer Affairs and Health Care Licensing and Regulation and Representative Ogles, Fasano, & others

COMPANION BILL(S): SB 2562(s), CS/HB 287(c), HB 669(c), CS/HB 319(c), HB 981(c), SB 812(c), SB 1020(c), SB 1016(c), SB 1100(c), SB 1378(c), and others

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:

(1)	HEALTH CARE LICENSING & REGULATION	YEAS 11 NAYS 0
(2)	BUSINESS REGULATION AND CONSUMER AFFAIRS	YEAS 9 NAYS 0
(3)	HEALTH AND HUMAN SERVICES APPROPRIATIONS	YEAS 8 NAYS 0

I. FINAL ACTION STATUS:

CS/HB 1467 died in Messages in the Senate. However, most of its provisions were contained in HB 2125, which was approved by the Governor on June 18, 1999, and was codified as chapter 99-397, Laws of Florida. While there were several changes made between the language contained in CS/HB 1467 and that as passed in HB 2125, the major differences related to kidney dialysis and the requirement for fingerprinting certain physicians upon license renewal after January 1, 2000.

II. SUMMARY:

CS/HB 1467 relates to the various health care practitioners regulated by the Department of Health. It makes a number of mostly technical changes and corrections to obsolete language to ch. 455, F.S., and the 22 practice acts of the approximately 37 professions regulated by the department.

The professions included in this bill are: acupuncture; medicine; osteopathic medicine; chiropractic medicine; podiatric medicine; nursing; pharmacy; dentistry; midwifery; athletic trainers; speech-language pathology and audiology; dietetics and nutrition; orthotics and prosthetics; electrolysis; clinical laboratory personnel; medical physicists; opticianry; physical therapy; psychology; clinical social work, marriage and family therapy; and mental health counseling.

Chapter 455, F.S., is the administrative chapter that applies to all medical "health care practitioners" regulated under the Division of Medical Quality Assurance (MQA) within the Department of Health. Among the more substantive changes to ch. 455, F.S., is the establishment of a uniform definition for sexual misconduct and its prohibition. Other changes expand the opportunity for regulatory boards to discipline practitioners for certain violations such as: sexual misconduct; failing to comply with the requirements of profiling and credentialing; testing positive for drugs or illegal drugs without a legitimate medical reason for such drug; failing to inform patients about their rights. The bill also clarifies that business establishments regulated by MQA are required to maintain an active business license.

See the Effect of Proposed Changes section for more details on the various changes, by profession. Many of the technical/obsolete changes were the result of computerized testing and changes in educational or experience requirements. A number of caps for allowable fines in disciplinary actions for several professions were increased.

The Department of Health states that this bill will have minimal fiscal impact on state government, and will have no fiscal effect on local government or the private sector. However, the Agency for Health Care Administration is required to do a study and analysis of clinical laboratory services for kidney dialysis patients with the findings due to the Legislature by 2/1/2000.

III. SUBSTANTIVE ANALYSIS:

A. PRESENT SITUATION:

GENERAL PROVISIONS - CHAPTER 455, F.S.

Chapter 455, Part II, F.S., is the administrative chapter that applies to all medical "health care practitioners" contained in the Division of Medical Quality Assurance (MQA) within the Department of Health.

The present status of the following sections of ch. 455, F.S., is:

455.501 - This section is supposed to list all of the various medical professions. However, through oversight and because various professions have been added to the Division without being added to the section, the following "health care practitioners" are not included: certified nursing assistants; midwives; nursing home administrators; athletic trainers; orthotists; prosthetists and pedorthetists; electrologists; clinical laboratory personnel; or medical physicists. While all these professions are regulated under MQA, because they are not listed in this definition, technically none of the provisions of Ch. 455 currently apply to these professions.

455.564 - Authority to grant continuing education credits for attending risk management courses, disciplinary portions of board meetings, or for serving as a volunteer expert witness or member of a probable cause panel is limited to only four boards named in this section (medical, osteopathic, chiropractic, and podiatric). Other boards in MQA have requested this authority.

455.565 - Required profiling information is unclear as to whether practitioners (medical, osteopathic, chiropractic, and podiatric) are to report the year they began practicing in Florida or the year they began practice in any jurisdiction. Information on hospital discipline of a health care practitioner is currently required to be included in the practitioner profile report prepared by the Department of Health. Also, all such licensed practitioners must submit a set of fingerprints with their application for renewal of their license after January 1, 2000.

455.567 - This section allows the department or boards to refuse to license applicants for examination or licensure if they have committed an act of sexual misconduct or had a license in another jurisdiction revoked or surrendered based on a violation of sexual misconduct. However, this section does not have a definition for sexual misconduct which has made it difficult to implement.

455.574 - Examination services do not have the authority to restrict a candidate's access to only the incorrect answers when the candidate asks for a review of his or her score. This causes security and confidentiality problems.

455.587 - MQA does not currently have the authority to charge a fee to recoup its costs when printing a duplicate wall certificate or a wall certificate for a practitioner licensed prior to July 1, 1998.

455.604 - Licensees under Part X, Ch. 468 (dietetics and nutrition), are not currently required to complete a continuing education course on human immunodeficiency virus and acquired immune deficiency syndrome for licensure renewal.

455.607 - Licensed athletic trainers are not currently required to complete a course on human immunodeficiency virus and acquired immune deficiency syndrome for licensure renewal.

455.624 - MQA has been unsuccessful in prosecuting cases against licensees because they lack authority "as grounds for discipline" in the following situations: failure to provide patients with information about their patient rights and how to file a complaint; attempting to engage or engaging a patient of a client in verbal or physical sexual activity; failure to comply with the requirements of profiling and credentialing; failure to report within 30 days a conviction or adjudication of a crime in any jurisdiction, or improperly using information gained from police accident reports.

Also, the present cap of a \$5,000 fine per count for violations of ch. 455 is not felt to be punitive enough in some disciplinary situations.

455.654 - Currently deals with financial arrangements between referring health care providers and providers of health care services. It defines a health care provider as any one licensed under chs. 458, 459, 460, 461, 463, or 466. It also provides a number of exceptions (12) to the definition of referrals. Services such as: by a radiologist for an MIR; by a physician specializing in radiation therapy services; by a provider for diagnostic laboratory services related to renal dialysis; and by a nephrologist for renal dialysis services and supplies, to name a few of the exceptions.

455.667 - Provides for the ownership and control of patient records. In certain instances, the department may obtain patient records and insurance records if a complaint has been filed alleging inadequate medical care based on termination of insurance. In the course of their investigations, the department has determined that the patient's billing records are needed to determine if fraud has been committed. However, the department has had difficulty obtaining these records in the past. The keeper of the records maintain that the department is only entitled to patient records, and that billing records are not part of these records.

455.687 - The department states that they currently have no authority to suspend, on an emergency basis, any practitioner who tests positive on a drug screen conducted for purposes of employment.

455.694 - Currently deals with financial responsibility for a selected number of professions (acupuncture, dentistry, advanced registered nurse practitioner, and chiropractic and podiatric medicine). Midwives are not currently required to comply with financial responsibility laws.

455.712 - Currently, business establishments licensed under the various MQA chapters are not required to meet the same conditions as practitioners in maintaining active status licenses or held to the same disciplinary standards.

Section 381.0261, F.S., deals with the Florida Patient's Bill of Rights. It provides for a health care practitioner or a health care facility to provide upon request by a patient, a summary of their rights, pursuant to this section. Currently, the responsibility for enforcement of these provisions rests with the Agency for Health Care Administration. MQA has no enforcement responsibility for these requirements with health care practitioners.

Under current law, kidney dialysis or nephrology is included as one of a limited number of services that are exempt from the prohibition against self-referral in s. 455.654, F.S. Such services are exempted because of the highly specialized nature of the services and the limited number of providers available.

ACUPUNCTURE - CHAPTER 457, F.S.

Currently, there is no approval process, registration, or regulation of visiting faculty who wish to teach, demonstrate or lecture in the arena of professional acupuncture education. Many other professions currently have provision for faculty permits or licenses.

MEDICINE - CHAPTER 458, F.S.

The current definition of the "practice of medicine" does not encompass making or approving a diagnosis, treatment plan, operation, procedure, or prescription as the medical director of an institution, program, health plan, or insurer. The Board of Medicine maintains there is no accountability to the Board of Medicine under its standards by these individuals for the practice of medicine. It is silent as to whether or not the practice of medicine includes coverage decisions for purposes of insurance benefits.

Current law requires all applicants for testing to apply to the Board of Medicine. However, as of 1999, all medical examinations will be given by the Federation of State Medical Boards and the applications are to be submitted to the Federation and not the various states. Also, effective January 1, 2000, only applicants for licensure who have passed all parts of the USMLE examination will be accepted for licensure. The examination requirement section of the medical

practice act needs conforming to the existing requirements of national medical examinations and removal of obsolete language.

The endorsement requirement section in ch. 458 needs conformation to the current requirements of the national medical examinations and contains obsolete language. Effective January 1, 2000, only applicants for licensure who have passed all parts of the USMLE examination will be accepted for licensure by endorsement.

Current law as it relates to the issuance of temporary licenses provides that each time a licensee wants to move between areas of critical need, they must make an application of the Board of Medicine for approval. There has been an expressed need for portability of a temporary certificate for practice in areas of critical need instead of requiring re-licensure whenever a practitioner moves from one locale to another.

Current law requires a full application and review process before a licensee with an active license may convert it to a limited license.(part-time/retirement). There is a need for a simple conversion of a full license to a limited license under certain conditions without a lengthy re-application and certification process.

The Board of Medicine does not currently have the authority to discipline a licensee for failure to comply with the law regarding patient rights. Also, the current cap is a \$5,000 fine per count for disciplinary offenses. This has been in effect for a long period and it is felt by the board that the cap of a \$5,000 fine per count for disciplinary offenses is not punitive enough for some situations, such as cases of egregious fraud.

There is currently no statutory time limit on a temporary license issued to a physician assistant under ch. 458. Also, the current law requires a practical examination as a component of the licensure examination for physician assistants.

OSTEOPATHIC MEDICINE - CHAPTER 459, F.S.

The current definition of the "practice of medicine" does not encompass making or approving a diagnosis, treatment plan, operation, procedure, or prescription as the medical director of an institution, program, health plan, or insurer. The Board of Osteopathic Medicine maintains there is no accountability to the board under its standards by these individuals for the practice of medicine. It is silent as to whether or not the practice of osteopathic medicine includes coverage decisions for purposes of insurance benefits.

Current law requires a full application and review process before a licensee with an active license may convert it to a limited license (part-time/retirement). There is a need for a simple conversion of a full license to a limited license under certain conditions without a lengthy re-application and certification process.

The Board of Osteopathic Medicine does not currently have the authority to discipline a licensee for failure to comply with the law regarding patient rights. Also, the current cap is a \$5,000 fine per count for disciplinary offenses. This has been in effect for a long period and it is felt that the cap of a \$5,000 fine per count for disciplinary offenses is not punitive enough for some situations, such as cases of egregious fraud.

CHIROPRACTIC MEDICINE - CHAPTER 460, F.S.

Presently, a requirement exists for chiropractic licensure candidates to complete a post graduate internship. In the past, the Board of Chiropractic Medicine had established rules for the qualifications and procedures of a supervising physician. However, these rules were determined to exceed the board's authority. The board is of the opinion that the law should be changed to grant them the authority to establish rules for the qualifications and procedures of a supervising physician.

Also, the board may not fine a licensee more than \$2,000 per count in any disciplinary case, even in such cases as egregious fraud.

PODIATRIC MEDICINE - CHAPTER 461, F.S.

Currently, podiatric X-ray assistants are not regulated under the Board of Podiatric Medicine. They are certified under the provisions of a different chapter of law and by a different division of the Department of Health. There are no requirements or practice guidelines specified in the podiatric medicine practice act for the use of X-ray machines by podiatric X-ray assistants. They are currently certified under ch. 468, part IV, F.S., relating to radiologic technology. Section 468.307, F.S., does not contain any provision for the department to establish by rule a subcategory of a certificate limiting the holder to a specific procedure or specified type of equipment.

The licensure requirements for podiatric medicine presently does not have any provisions to require that an applicant has been actively training, teaching, or practicing within a certain time frame before licensure. There is no definition of "actively practiced of podiatric medicine". In some instances, this prevents the board from denying licensure to an applicant who has been out of active practice for many years.

Also, the Board of Podiatric Medicine does not have authority to discipline licensees who violate the patient's rights law. The board can not impose more than a \$1,000 fine per count for disciplinary offenses, no matter how serious the violation.

NURSING - CHAPTER 464, F. S.

There is currently no limit on the number of times an applicant may take the nursing licensure examination or authority for the board to establish by rule, guidelines, or conditions for re-training in the event of failure.

The definition of the practice of nursing does not encompass those individuals who may be enrolled in remedial courses in order to be approved for examination.

PHARMACY - CHAPTER 465, F.S.

There is currently no definition in the pharmacy statute for a "data communication device" as used in a pharmacy setting.

The return of unit-dose prescriptions in institutions does not currently encompass pharmacies located in correctional facilities. Also, the pharmacy practice act does not make provision for disciplining licensees who do not protect the confidentiality of patients' records. The board may not fine more than \$1,000 per disciplinary offense, no matter how serious the violation.

Also, the present law is unclear as to who owns the records maintained in a pharmacy and does not specify the conditions under which those records may be released by a patient to other parties. There is no prohibition on the use of records obtained through data communication devices, and no explicit ground for disciplining a pharmacist for unauthorized release of a patient's records.

DENTISTRY - CHAPTER 466, F.S.

Work orders for use by unlicensed personnel to perform dental laboratory services are now required to be on a form approved by the department. This form must be supplied to the dentists by the department at a cost not to exceed that of printing and handling.

The current definition of the "practice of dentistry" does not encompass making or approving a diagnosis, treatment plan, operation, procedure, or prescription. It is silent as to whether or not the practice of dentistry includes coverage decisions for purposes of insurance benefits.

SPEECH-LANGUAGE PATHOLOGY & AUDIOLOGY - CHAPTER 468, PART I, F.S.

Currently, there are two avenues for licensure. One avenue is to meet the requirements of the practice act. The second avenue, or exception, is through the Department of Education, which expires on January 1, 2000. After this date, there will only be one licensure procedure, which will provide for uniform licensure.

The current law only requires a master's degree with a major emphasis in speech-language pathology. However, the University of Florida has a program that does not offer a master's degree, only a doctoral degree. There is currently confusion as to whether or not they will comply with the letter of the law.

Also, the board may certify certain persons who meet specific criteria as a speech-language pathology assistant, or as an audiology assistant. While its not clear, the Department of Education has requested that the statutory language reflect the reality that these applicants must obtain a bachelor's degree.

DIETITIANS & NUTRITIONISTS - CHAPTER 468, PART X, F.S.

The practice act for dietitians and nutritionists does not currently define sexual misconduct. This makes it extremely difficult to prosecute a licensee for a violation.

ATHLETIC TRAINERS - CHAPTER 468, PART XIII, F.S.

There is currently a Council of Athletic Training composed of seven members reporting to the department. Four of the council members are required to be athletic trainers, one member a physician licensed under ch. 460, F.S., one member a physician licensed under either chapter 458 or 459, F.S., and one consumer member. The council is to advise and assist the department in regulating this profession.

ORTHOTICS, PROSTHETICS, & PEDORTHICS - CHAPTER 468, PART XIV, F.S.

A new Board of Orthotics and Prosthetics was created in 1997, to regulate this profession. A March 1, 1998, date was provided to grandfather in certain professionals who were currently practicing or in the process of becoming certified to practice this profession. Provision was provided to either issue a license or a provisional license based on the qualifications of these individuals.

ELECTROLYSIS - CHAPTER 478, F.S.

Electrolysis has an advisory council that makes recommendations to the Board of Medicine which actually regulates this profession. Electrolysis or electrology means the permanent removal of hair using needle type epilation devices that are registered with the United States Food and Drug Administration. These devices are used pursuant to protocols approved by the council and the board. Recently, new types of devices have become available that no longer fit the above definition. The board wants to change s. 478.42, F.S. to reflect this new type of equipment and clarify the approved equipment that may be used in the practice of electrology.

CLINICAL LABORATORIES - CHAPTER 483, PART I, F.S.

Clinical laboratories are regulated by the Agency for Health Care Administration. Clinical laboratory personnel are regulated by the Department of Health. They are classified as health care practitioners. Section 483.041, F.S., provides definitions for clinical laboratories, but the definition of clinical laboratory services is not provided in much detail. An expansion of this definition would benefit regulation of this service.

CLINICAL LABORATORY PERSONNEL - CHAPTER 483, PART III, F.S.

Sections 483.800 through 483.828, F.S., provide for the regulation of clinical laboratory personnel. A number of the provisions for applications and renewal fees for laboratory training need clarification. The Board of Clinical Laboratory Personnel needs rule-making authority to designate approved certification examinations. The annual registration of clinical laboratory trainees is onerous and unnecessary according to the department. The current requirements for public health laboratory scientists restrict the number of applicants that may qualify for licensure as laboratory scientists in public health.

Also, the board does not have rule-making authority to impose remedial training on failed applicants.

State requirements for licensure of laboratory directors do not necessarily conform to federal standards. In addition, the board lacks the authority to discipline for criminal convictions under the same provisions as other boards in MQA. Much of the language in one section (483.825), does not conform to provisions similar to those of other regulatory boards.

MEDICAL PHYSICS - CHAPTER 483, PART IV, F.S.

Medical physics have been regulated by the state for approximately four years. The law that initially provided for their regulation could not be implemented because of several technical difficulties. It was recently discovered that s. 483.901, F.S., provides for the department to issue a temporary license for an indefinite period. The department needs to delete the authority to issue a temporary license for an indefinite time period.

OPTICIANS - CHAPTER 484, PART I, F.S.

Currently, s. 484.007, F.S., provides no guidance as to the experience required prior to an optician being able to supervise an optician trainee. Without any guidance, a newly licensed optician can supervise trainees immediately. The board is of the opinion that additional experience is necessary prior to the supervision of a trainee.

FITTING/DISPENSING OF HEARING AIDS - CHAPTER 484, PART II, F.S.

Current statutes provide a 30-day trial period in which the purchase of a hearing aid may be returned for a full refund. However, there are many instances reported where the refund is not made in a prompt manner. It has been suggested that the period for a refund should mirror language that speech-language pathology and audiology have in their practice act. It requires a refund within 30 days of the return or attempted return of the hearing aid.

PHYSICAL THERAPY - CHAPTER 486, F.S.

Currently, the Board of Physical Therapy issues a temporary license as a physical therapist or for a physical therapist assistant. Because the board has recently changed to computer-based testing, there is no longer a need to issue temporary licenses.

PSYCHOLOGY - CHAPTER 490, F.S.

To become licensed as a psychologist in Florida, an applicant must meet various requirements which include graduation from a school with a psychology program accredited by an agency recognized and approved by the United States Department of Education. It also the definition applied to education received prior to July 1, 1999. However, a provision was passed last year which provided that an applicant could submit to the board prior to July 1, 2001, that the applicant was enrolled and graduated from a school, not accredited, but with a standard of education and training comparable to programs accredited by an agency recognized by the United States Department of Education. The comparability was to be determined by the board.

Also, a psychologist licensed in another state may become licensed in Florida by endorsement provided the requirements in the other state were substantially equivalent to those of Florida, or the psychologist is a diplomate in good standing with the American Board of Professional Psychology, Inc.

CLINICAL SOCIAL WORK, MARRIAGE & FAMILY THERAPY, & MENTAL HEALTH COUNSELING - CHAPTER 491, F.S.

The current statute provides that effective January 1, 1998, any individual who intends to practice in Florida to satisfy postgraduate or post-master's level experience requirements, must register (with the board) as an intern in the profession for which they are seeking licensure prior to

beginning such experience. Also, such individual must be certified by the board that they have met certain other requirements.

Section 491.0045, F.S., provides certain educational requirements for clinical social workers, mental health counselors, and marriage and family therapists.

Section 491.0046, F.S., provides that any individual who has satisfied the clinical experience requirements and is applying for licensure by examination or endorsement intending to provide clinical social work, marriage and family therapy, or mental health counseling services in Florida must have a provisional license while satisfying the examination requirements. The provisional license must be obtained prior to beginning practice.

Subsection (4) of s. 491.005, F.S., as passed last year, changes the educational requirements for licensure as a mental health counselor effective January 1, 2001. The board needs rule promulgation authority for administering the new requirements for licensure of mental health counselors.

Pursuant to the requirements of s. 491.0085, F.S., the board is now required to give laws and rules examinations four times a year. The law does not currently allow the providers of laws and rules courses to test licensees upon completion of the courses.

The exemptions contained in s. 491.014, F.S., provides that a nonlicensed person may perform services authorized in this chapter no more than 5 days in any month, and no more than 15 days in any calendar year.

FISCAL INTERMEDIARY SERVICES - SECTIONS 626.883 and 641.316, F. S.

Effective January 1, 1999, all fiscal intermediaries were required to meet certain bond requirements and register with the Department of Insurance. The current requirements for a fiscal intermediary do not include any provisions relating to an explanation of benefits for payments to a health care provider. These payments are usually the result of contracts with health maintenance organizations.

B. EFFECT OF PROPOSED CHANGES:

The following is a listing of the major provisions of the bill.

GENERAL PROVISIONS - CHAPTER 455, F.S.

Establishes a uniform definition for sexual misconduct and its prohibition that is applicable to all professions.

Expands the opportunity for regulatory boards to discipline practitioners for certain violations: sexual misconduct; failing to comply with the requirements of profiling and credentialing; testing positive for drugs or illegal drugs without a legitimate medical reason for such drug; and failing to inform patients about their rights.

Clarifies that business establishments regulated by MQA are required to maintain an active business license.

Removes information on hospital discipline of a health care practitioner from the practitioner profile report prepared by the Department of Health.

Expands the definitions in s. 455.667, F.S., to provide that in certain instances, the department may obtain patient records, billing records, and insurance records without patient consent if a complaint has been filed alleging inadequate medical care, fraud, kickbacks, etc., and certain conditions are met.

Requires the Agency for Health Care Administration to perform a study and analysis of clinical laboratory services for kidney dialysis patients with their findings to be reported to the Legislature by 2/1/2000.

ACUPUNCTURE - CHAPTER 457, F.S.

Provides for acupuncture teaching permits and allows faculty from other countries and states to teach in schools in Florida, for a period of up to 12 months, without a Florida license.

MEDICINE - CHAPTER 458, F.S.

Specifies that individuals possessing temporary licenses to practice in areas of critical need may use work for approved employers in any area of critical need without getting approval for each area.

Establishes authority to convert active licenses to limited licenses for retirement/volunteer practice without making a full application and meeting the other requirements. The licenses are free if the licensee receives no compensation.

Increases the board's administrative fine cap for practice act violations from a maximum of \$5,000 per violation to \$10,000.

OSTEOPATHIC MEDICINE - CHAPTER 459, F.S.

Specifies that individuals possessing temporary licenses to practice in areas of critical need may use work for approved employers in any area of critical need without getting approval for each area.

Establishes authority to convert active licenses to limited licenses for retirement/volunteer practice without making a full application and meeting the other requirements. The licenses are free if the licensee receives no compensation.

Increases the board's administrative fine cap for practice act violations from a maximum of \$5,000 per violation to \$10,000, and adds authority to impose an administrative fine for a violation of a patient's rights.

CHIROPRACTIC MEDICINE - CHAPTER 460, F.S.

Authorizes the board to establish by rule, qualifications for serving as a supervising chiropractic physician and procedures for approving a supervisor.

Increases the board's administrative fine cap for practice act violations from a maximum of \$2,000 per violation to \$10,000.

Deletes the requirement for a post graduate internship for chiropractic licensure candidate, and allows for an undergraduate, "community-based" internship.

PODIATRIC MEDICINE - CHAPTER 461, F.S.

Provides a definition of the "practice of podiatric medicine" that includes the active practice of not less than 2 years of the 4 years prior to application.

Defines a certified podiatric X-ray assistant as a person employed under the direct supervision of a licensed podiatric physician to perform specific radiologic functions. Directs the board to adopt rules to implement this program.

Amends s. 468.307, F.S., relating to radiologic technology to include provision for the department to establish by rule a subcategory of a certificate limiting the holder to a specific procedure or specified type of equipment.

Increases the board's administrative fine cap for practice act violations from a maximum of \$1,000 per violation to \$10,000.

NURSING - CHAPTER 464, F.S.

Limits the number of times an applicant is permitted to take the examination to 3 consecutive times and requires remedial training approved by the board prior to subsequent examinations.

PHARMACY - CHAPTER 465, F.S.

Provides a definition for a "data communication device" as used in a pharmacy setting. Prohibits the use of records obtained through data communication devices.

Provides for the return of unit-dose prescriptions in institutions to include pharmacies located in correctional facilities. Also, provision is made for disciplining licensees who do not protect the confidentiality of patients' records.

Makes it clear that the pharmacy owns the records and provides conditions under which the records may be released by a patient to other parties, and explicitly provides that a pharmacist may be disciplined for unauthorized release of a patient's records.

Creates within the Department of Health a Task Force to consist of not more than 13 members for the Study of Collaborative Drug Therapy. However, the bill provides for the appointment of 15 members from certain associations and state entities. It is charged with certain responsibilities. The Task Force shall hold its first meeting no later than August 1, 1999, and submit its report to the Legislature no later than December 31, 1999.

Increases the board's administrative fine cap for practice act violations from a maximum of \$1,000 per violation to \$5,000.

DENTISTRY - CHAPTER 466, F.S.

Clarifies that written work order forms are no longer required to be furnished by the department. Dentists are required to obtain their own forms, but the board approves the form.

MIDWIFERY - CHAPTER 467, F.S.

Requires midwives to meet the financial requirements contained in s. 455.694.

**SPEECH-LANGUAGE PATHOLOGY & AUDIOLOGY -
CHAPTER 468, PART I, F.S.**

Clarifies that a master's degree or a doctor's degree with a major emphasis in speech-language pathology qualifies for licensure.

Requires a bachelor's degree for all speech-language pathology or audiology assistants. This meets the Department of Education request that the statutory language reflect the reality that these applicants must obtain a bachelor's degree.

DIETETICS AND NUTRITION - CHAPTER 468, PART X, F.S.

Provides for technical changes.

ATHLETIC TRAINER - CHAPTER 468, PART XIII, F.S.

Converts the Council of Athletic Training composed of seven members reporting to the department to a Board of Athletic Training composed of nine members. Five of the council members are required to be athletic trainers, one member a physician licensed under ch. 460, a physician licensed under either chapter 458 or 459, and two consumer members. Provides for staggered terms. The board shall maintain its headquarters in Tallahassee. All council member terms are terminated on July 1, 1999. Council members may be considered for appointment to the new board.

**ORTHOTICS, PROSTHETICS, & PEDORTHICS -
CHAPTER 468, PART XIV, F.S.**

Provides a "grandfather" provision for certain professionals. Applicants who successfully completed, prior to March 1, 1998, at least half of the examination requirements for national certification, and completed the remaining portion prior to July 1, 1998, are "grandfathered" in and considered as nationally certified by March 1, 1998.

ELECTROLYSIS - CHAPTER 478, F.S.

Clarifies the definition of electrolysis to mean the permanent removal of hair by destroying the hair-producing cells using equipment and devices approved by the Board of Medicine and cleared by and registered with the U.S. Food and Drug Administration.

CLINICAL LABORATORIES - CHAPTER 483, PART I, F.S.

Expands the definition in s. 483.041, F.S., for clinical laboratories, by including specific services that are provided.

Expands the definition in s. 483.041(7), F.S., for licensed practitioner, to include a licensed practitioner in another state who orders examinations on materials or specimens for non residents of Florida, but who reside in the same state as the requesting practitioner.

CLINICAL LABORATORIES PERSONNEL - CHAPTER 483, PART III, F.S.

Revises several sections of law relating to this profession, mainly to conform clinical lab director qualifications to federal regulation. Strengthens and conforms grounds for disciplinary action to mirror provisions in other practice acts of professions regulated by MQA.

MEDICAL PHYSICISTS - CHAPTER 483, PART IV, F.S.

Removes the provision for the issuance of a temporary license. It is no longer necessary because the department is able to process applications in a timely manner.

OPTICIANS - CHAPTER 484, PART I, F.S.

Provides a licensed optician must have been licensed for at least one year prior to being able to supervise an apprentice.

**FITTING/DISPENSING OF HEARING AIDS -
CHAPTER 484, PART II, F.S.**

Provides that the period for a refund mirrors language that speech-language pathology and audiology have in their practice act. It requires a refund within 30 days of the return or attempted return of the hearing aid.

Increases the penalty for the unlicensed practice of the profession from a second-degree misdemeanor to a third-degree felony.

PHYSICAL THERAPY - CHAPTER 486, F.S.

Revises several sections of statutes to repeal temporary permit status.

PSYCHOLOGY - CHAPTER 490, F.S.

Amends a provision passed last year which provided that the date an applicant could submit to the board from prior to July 1, 2001, to August 31, 2001, and that the applicant was enrolled and graduated from a school, not accredited, but with a standard of education and training comparable to programs accredited by an agency recognized by the United States Department of Education. The comparability is changed from as determined by the board, to providing a certificate of comparability provided by the program director of an accredited doctoral-level psychology program.

Also, it provides that a psychologist with a doctoral degree in psychology and has at least 20 years of experience as a licensee in any jurisdiction of the United States within 25 years preceding the date of application may be licensed in Florida.

**CLINICAL SOCIAL WORK, MARRIAGE & FAMILY THERAPY, &
MENTAL HEALTH COUNSELING - CHAPTER 491, F.S.**

Provides that applicants who register as interns on or before December 31, 2001, and meet the education requirements in effect on December 31, 2000, are deemed to have met the educational requirements for licensure.

Provides for minimum coursework requirements for the professions of clinical social work, marriage and family therapy, and mental health counseling.

Clarifies that an applicant may be issued a dual license and charged a fee.

Authorizes the board to adopt the necessary rules to implement any education or experience requirement for licensure as a clinical social worker, marriage and family therapist, or mental health counselor.

FISCAL INTERMEDIARY SERVICES - SECTION 641.316, F. S.

Provides that all fiscal intermediaries are required to include a detailed explanation of benefits for payments to a health care provider. It includes specific requirements for noncapitated providers and capitated providers.

C. APPLICATION OF PRINCIPLES:

1. Less Government:

a. Does the bill create, increase or reduce, either directly or indirectly:

(1) any authority to make rules or adjudicate disputes?

Yes, the bill authorizes the various boards to make rules to implement several of the provisions contained in the bill.

(2) any new responsibilities, obligations or work for other governmental or private organizations or individuals?

None in general. However, certain fiscal intermediaries and health maintenance organizations may be affected.

(3) any entitlement to a government service or benefit?

No.

b. If an agency or program is eliminated or reduced:

(1) what responsibilities, costs and powers are passed on to another program, agency, level of government, or private entity?

None.

(2) what is the cost of such responsibility at the new level/agency?

N/A

(3) how is the new agency accountable to the people governed?

N/A

2. Lower Taxes:

a. Does the bill increase anyone's taxes?

No.

b. Does the bill require or authorize an increase in any fees?

No. However, the bill does raise the caps on fines for disciplinary actions against certain health care practitioners.

c. Does the bill reduce total taxes, both rates and revenues?

No.

d. Does the bill reduce total fees, both rates and revenues?

No.

e. Does the bill authorize any fee or tax increase by any local government?

No.

3. Personal Responsibility:

a. Does the bill reduce or eliminate an entitlement to government services or subsidy?

N/A

b. Do the beneficiaries of the legislation directly pay any portion of the cost of implementation and operation?

N/A

4. Individual Freedom:

a. Does the bill increase the allowable options of individuals or private organizations/associations to conduct their own affairs?

N/A

b. Does the bill prohibit, or create new government interference with, any presently lawful activity?

N/A

5. Family Empowerment:

a. If the bill purports to provide services to families or children:

(1) Who evaluates the family's needs?

N/A

(2) Who makes the decisions?

N/A

(3) Are private alternatives permitted?

N/A

(4) Are families required to participate in a program?

N/A

(5) Are families penalized for not participating in a program?

N/A

b. Does the bill directly affect the legal rights and obligations between family members?

N/A

c. If the bill creates or changes a program providing services to families or children, in which of the following does the bill vest control of the program, either through direct participation or appointment authority:

(1) parents and guardians?

N/A

(2) service providers?

N/A

(3) government employees/agencies?

N/A

D. STATUTE(S) AFFECTED:

Chapters 20, 232, 381, 395, 408, 455, 457, 458, 459, 460, 461, 464, 465, 466, 468, 478, 483, 484, 486, 490, 491, 499, and 641, Florida Statutes.

E. SECTION-BY-SECTION ANALYSIS:

See Final Analysis of HB 2025 for a section-by-section analysis of the changes to chapter 455 F.S., and the various practice acts of the professions contained in CS/HB 1467.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

See Fiscal Comments.

2. Recurring Effects:

See Fiscal Comments.

3. Long Run Effects Other Than Normal Growth:

See Fiscal Comments.

4. Total Revenues and Expenditures:

See Fiscal Comments.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

None.

2. Recurring Effects:

None.

3. Long Run Effects Other Than Normal Growth:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

None.

2. Direct Private Sector Benefits:

None.

3. Effects on Competition, Private Enterprise and Employment Markets:

None.

D. FISCAL COMMENTS:

Per the Department of Health, the provisions of this bill will have a minimal fiscal impact on the state or local government.

The department projects that up to 38 acupuncturists may apply for teaching permits at \$300 per application. If the full 38 apply, then additional revenue of \$11,400 would be generated. No projections were available for fine increases, if any, from the increase in the fine cap for disciplinary actions.

The conversion of the Athletic Trainers Advisory Council to a board would cost \$7,852 the first year and \$6,560 each year thereafter. These costs are mostly travel and related expenses for the two additional members.

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill does not reduce the authority that municipalities or counties have to raise revenues in the aggregate.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the authority that municipalities or counties have to raise revenues in the aggregate.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

This bill does not reduce the percentage of a state tax shared with counties or municipalities.

V. COMMENTS:

None.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

The Committee on Business Regulation and Consumer Affairs adopted eleven amendments on March 29, 1999, making the bill into a committee substitute. Significant changes in the committee substitute include:

- Removing information on hospital discipline of health care professionals from the practitioner profiles compiled by the Department of Health;
- Allowing release of a patient's psychological record to an employer or insurance carrier, or the attorney for the employer or carrier;
- Removing a requirement that chiropractic licensure candidates complete a post-graduate internship, and instead establishing a voluntary undergraduate internship program; and
- Prohibiting health care professionals from soliciting business, through information obtained from police accident reports.

On April 20, 1999, the Health and Human Services Appropriations Committee adopted one amendment relating to charging for costs of copying reports and records of patients.

VII. SIGNATURES:

COMMITTEE ON HEALTH CARE LICENSING & REGULATION:

Prepared by:

Staff Director:

Robert W. Coggins

Lucretia Shaw Collins

AS REVISED BY THE COMMITTEE ON BUSINESS REGULATION AND CONSUMER AFFAIRS:

Prepared by:

Staff Director:

Gip Arthur

Rebecca R. Everhart

AS FURTHER REVISED BY THE COMMITTEE ON HEALTH AND HUMAN SERVICES APPROPRIATIONS:

Prepared by:

Staff Director:

Lynn Dixon

Lynn Dixon

FINAL ANALYSIS PREPARED BY THE COMMITTEE ON HEALTH CARE LICENSING & REGULATION:

Prepared by:

Staff Director:

Robert W. Coggins

Lucretia Shaw Collins

STORAGE NAME: h1467z.hcl

DATE: June 30, 1999

PAGE 17