

By the Committees on Business Regulation & Consumer Affairs, Health Care Licensing & Regulation and Representatives Fasano, Ogles, Villalobos, Kelly, Harrington, Johnson, Morroni, Minton, Healey, Heyman and Ritter

1 A bill to be entitled
2 An act relating to regulation of health care
3 practitioners; amending s. 232.435, F.S.;
4 correcting a reference; amending s. 381.026,
5 F.S.; providing a definition; amending s.
6 381.0261, F.S.; providing that the Department
7 of Health, rather than the Agency for Health
8 Care Administration, may impose an
9 administrative fine against any health care
10 provider who fails to make available to
11 patients a summary of their rights as required
12 by law; amending s. 455.501, F.S.; redefining
13 the terms "health care practitioner" and
14 "licensee"; amending s. 455.507, F.S.; revising
15 provisions relating to good standing of members
16 of the Armed Forces with administrative boards
17 to provide applicability to the department when
18 there is no board; providing gender neutral
19 language; amending s. 455.521, F.S.; providing
20 powers and duties of the department for the
21 professions, rather than boards, under its
22 jurisdiction; amending s. 455.564, F.S., and
23 reenacting one version of subsection (2) and
24 repealing another conflicting version;
25 providing authority to the department when
26 there is no board to adopt rules on
27 videocassette courses used for continuing
28 education purposes; revising and providing
29 requirements relating to obtaining continuing
30 education credit in risk management; correcting
31 terminology; amending s. 455.565, F.S.;

1 revising information required for licensure of
2 designated health care professionals; amending
3 s. 455.567, F.S.; defining sexual misconduct
4 and prohibiting it in the practice of a health
5 care profession; providing penalties; amending
6 s. 455.574, F.S.; revising provisions relating
7 to review of an examination after failure to
8 pass it; amending s. 455.587, F.S.; providing
9 authority to the department when there is no
10 board to determine by rule the amount of
11 license fees for the profession regulated;
12 providing for a fee for issuance of a wall
13 certificate to certain licensees or for a
14 duplicate wall certificate; amending s.
15 455.604, F.S.; requiring instruction on human
16 immunodeficiency virus and acquired immune
17 deficiency syndrome as a condition of licensure
18 and relicensure to practice dietetics and
19 nutrition or nutrition counseling; amending s.
20 455.607, F.S.; correcting a reference; amending
21 s. 455.624, F.S.; revising and providing
22 grounds for discipline; providing penalties;
23 providing for assessment of certain costs;
24 amending s. 455.654, F.S.; redefining the terms
25 "health care provider" and "referral" under the
26 Patient Self-Referral Act of 1992; amending s.
27 455.664, F.S.; requiring additional health care
28 practitioners to include a certain statement in
29 advertisements for free or discounted services;
30 correcting terminology; amending s. 455.667,
31 F.S.; authorizing the department to obtain

1 patient records, billing records, insurance
2 information, provider contracts, and all
3 attachments thereto under certain circumstances
4 for purposes of disciplinary proceedings;
5 amending s. 455.687, F.S.; providing for the
6 suspension or restriction of the license of any
7 health care practitioner who tests positive for
8 drugs under certain circumstances; amending s.
9 455.694, F.S.; providing financial
10 responsibility requirements for midwives;
11 creating s. 455.712, F.S.; providing
12 requirements for active status licensure of
13 certain business establishments; creating s.
14 457.1095, F.S.; providing requirements for
15 teaching permits for acupuncture faculty;
16 providing a fee; providing for rules; amending
17 s. 458.305, F.S.; redefining the term "practice
18 of medicine"; amending s. 458.307, F.S.;
19 correcting terminology and a reference;
20 removing an obsolete date; amending s. 458.311,
21 F.S.; revising provisions relating to licensure
22 as a physician by examination; eliminating an
23 obsolete provision relating to licensure of
24 medical students from Nicaragua and another
25 provision relating to taking the examination
26 without applying for a license; amending s.
27 458.3115, F.S.; updating terminology; amending
28 s. 458.313, F.S., and repealing subsection (8),
29 relating to reactivation of certain licenses
30 issued by endorsement; revising provisions
31 relating to licensure by endorsement; amending

1 s. 458.315, F.S.; providing additional
2 requirements for recipients of a temporary
3 certificate for practice in areas of critical
4 need; amending s. 458.3165, F.S.; correcting
5 terminology; amending s. 458.317, F.S.;
6 providing for conversion of an active license
7 to a limited license for a specified purpose;
8 amending s. 458.331, F.S.; revising and
9 providing grounds for discipline; providing
10 penalties; amending s. 458.347, F.S.; revising
11 provisions relating to temporary licensure as a
12 physician assistant; amending s. 459.003, F.S.;
13 redefining the term "practice of osteopathic
14 medicine"; amending s. 459.0075, F.S.;
15 providing for conversion of an active license
16 to a limited license for a specified purpose;
17 amending s. 459.015, F.S.; revising and
18 providing grounds for discipline; providing
19 penalties; amending s. 460.402, F.S.; providing
20 an exemption from regulation under ch. 460,
21 F.S., relating to chiropractic, for certain
22 students; amending s. 460.403, F.S.; defining
23 the term "community-based internship";
24 redefining the term "direct supervision";
25 amending s. 460.406, F.S.; revising
26 requirements for licensure as a chiropractic
27 physician by examination to remove a provision
28 relating to a training program; amending s.
29 460.413, F.S.; correcting cross references;
30 increasing the administrative fine; amending s.
31 461.003, F.S.; defining the term "certified

1 podiatric X-ray assistant" and the term "direct
2 supervision" with respect thereto; amending s.
3 461.006, F.S.; revising the residency
4 requirement to practice podiatric medicine;
5 amending s. 461.007, F.S.; revising
6 requirements for renewal of license to practice
7 podiatric medicine; amending s. 461.013, F.S.;
8 revising and providing grounds for discipline;
9 providing penalties; creating s. 461.0135,
10 F.S.; providing requirements for operation of
11 X-ray machines by certified podiatric X-ray
12 assistants; amending s. 464.008, F.S.;
13 providing for remediation upon failure to pass
14 the examination to practice nursing a specified
15 number of times; amending s. 464.022, F.S.;
16 providing an exemption from regulation relating
17 to remedial courses; amending s. 465.003, F.S.;
18 defining the term "data communication device";
19 redefining the term "practice of the profession
20 of pharmacy"; amending s. 465.016, F.S.;
21 authorizing the redispensing of unused or
22 returned unit-dose medication by correctional
23 facilities under certain conditions; providing
24 a ground for which a pharmacist may be subject
25 to discipline by the Board of Pharmacy;
26 increasing the administrative fine; amending s.
27 465.017, F.S.; providing additional persons to
28 whom and entities to which records relating to
29 the filling of prescriptions and the dispensing
30 of medicinal drugs that are maintained by a
31 pharmacy may be furnished; specifying

1 authorized uses of patient records by pharmacy
2 owners; providing restrictions on such records
3 when transmitted through a data communication
4 device; amending ss. 465.014, 465.015,
5 465.0196, 468.812, and 499.003, F.S.;
6 correcting cross references, to conform;
7 amending s. 499.012, F.S.; redefining the term
8 "wholesale distribution," relating to the
9 distribution of prescription drugs, to provide
10 for the exclusion of certain activities;
11 creating the Task Force for the Study of
12 Collaborative Drug Therapy Management;
13 providing for staff support from the
14 department; providing for participation by
15 specified associations and entities; providing
16 responsibilities; requiring a report to the
17 Legislature; amending s. 466.003, F.S.;
18 redefining the term "dentistry"; amending s.
19 466.021, F.S.; revising requirements relating
20 to dental work orders required of unlicensed
21 persons; amending s. 468.1115, F.S.; revising
22 an exemption from regulation as a
23 speech-language pathologist or audiologist;
24 amending s. 468.1155, F.S.; revising
25 requirements for provisional licensure to
26 practice speech-language pathology or
27 audiology; amending s. 468.1215, F.S.; revising
28 requirements for certification as a
29 speech-language pathologist or audiologist
30 assistant; amending s. 468.307, F.S.;
31 authorizing the issuance of subcategory

1 certificates in the field of radiologic
2 technology; creating s. 468.519, F.S.;
3 prohibiting sexual misconduct in the practice
4 of dietetics and nutrition; providing
5 penalties; amending s. 468.701, F.S.; revising
6 and removing definitions; amending s. 468.703,
7 F.S.; replacing the Council of Athletic
8 Training with a Board of Athletic Training;
9 providing for appointment of board members and
10 their successors; providing for staggering of
11 terms; providing for applicability of other
12 provisions of law relating to activities of
13 regulatory boards; providing for the board's
14 headquarters; amending ss. 468.705, 468.707,
15 468.709, 468.711, 468.719, and 468.721, F.S.,
16 relating to rulemaking authority, licensure by
17 examination, fees, continuing education,
18 disciplinary actions, and certain regulatory
19 transition; transferring to the board certain
20 duties of the department relating to regulation
21 of athletic trainers; amending s. 20.43, F.S.;
22 placing the board under the Division of Medical
23 Quality Assurance of the department; providing
24 for termination of the council and the terms of
25 council members; authorizing consideration of
26 former council members for appointment to the
27 board; amending s. 468.805, F.S.; revising
28 grandfathering provisions for the practice of
29 orthotics, prosthetics, or pedorthics; amending
30 s. 478.42, F.S.; redefining the term
31 "electrolysis or electrology"; amending s.

1 483.041, F.S.; redefining the terms "clinical
2 laboratory" and "licensed practitioner" and
3 defining the term "clinical laboratory
4 examination"; amending s. 483.803, F.S.;
5 redefining the terms "clinical laboratory
6 examination" and "licensed practitioner of the
7 healing arts"; revising a reference; amending
8 ss. 395.7015 and 408.07, F.S.; correcting cross
9 references, to conform; amending s. 483.807,
10 F.S.; revising provisions relating to fees for
11 approval as a laboratory training program;
12 amending s. 483.809, F.S.; revising
13 requirements relating to examination of
14 clinical laboratory personnel for licensure and
15 to registration of clinical laboratory
16 trainees; amending s. 483.812, F.S.; revising
17 qualification requirements for licensure of
18 public health laboratory scientists; amending
19 s. 483.813, F.S.; eliminating a provision
20 authorizing conditional licensure of clinical
21 laboratory personnel for a specified period;
22 amending s. 483.821, F.S.; authorizing
23 continuing education or retraining for
24 candidates who fail an examination a specified
25 number of times; amending s. 483.824, F.S.;
26 revising qualifications of clinical laboratory
27 directors; amending s. 483.825, F.S.; revising
28 and providing grounds for discipline; providing
29 penalties; amending s. 483.901, F.S.;
30 eliminating a provision authorizing temporary
31 licensure as a medical physicist; correcting

1 the name of a trust fund; amending s. 484.007,
2 F.S.; revising requirements for opticians who
3 supervise apprentices; amending s. 484.0512,
4 F.S.; requiring sellers of hearing aids to
5 refund within a specified period all moneys
6 required to be refunded under trial-period
7 provisions; amending s. 484.053, F.S.;
8 increasing the penalty applicable to prohibited
9 acts relating to the dispensing of hearing
10 aids; amending s. 484.056, F.S.; providing that
11 violation of trial-period requirements is a
12 ground for disciplinary action; providing
13 penalties; amending ss. 486.041, 486.081,
14 486.103, and 486.107, F.S.; eliminating
15 provisions authorizing issuance of a temporary
16 permit to work as a physical therapist or
17 physical therapist assistant; amending s.
18 490.005, F.S.; revising educational
19 requirements for licensure as a psychologist by
20 examination; changing a date, to defer certain
21 educational requirements; amending s. 490.006,
22 F.S.; providing additional requirements for
23 licensure as a psychologist by endorsement;
24 amending s. 490.0085, F.S.; correcting the name
25 of a trust fund; amending s. 490.0148, F.S.;
26 authorizing release of a patient's
27 psychological record to certain persons
28 pursuant to certain workers' compensation
29 provisions; amending s. 491.0045, F.S.;
30 revising requirements for registration as a
31 clinical social worker intern, marriage and

1 family therapist intern, or mental health
2 counselor intern; amending s. 491.0046, F.S.;
3 revising requirements for provisional licensure
4 of clinical social workers, marriage and family
5 therapists, and mental health counselors;
6 amending s. 491.005, F.S.; revising
7 requirements for licensure of clinical social
8 workers, marriage and family therapists, and
9 mental health counselors; providing for
10 certification of education of interns;
11 providing rulemaking authority to implement
12 education and experience requirements for
13 licensure as a clinical social worker, marriage
14 and family therapist, or mental health
15 counselor; revising future licensure
16 requirements for mental health counselors and
17 providing rulemaking authority for
18 implementation thereof; amending s. 491.006,
19 F.S.; revising requirements for licensure or
20 certification by endorsement; amending s.
21 491.0085, F.S.; requiring laws and rules
22 courses and providing for approval thereof,
23 including providers and programs; correcting
24 the name of a trust fund; amending s. 491.014,
25 F.S.; revising an exemption from regulation
26 relating to certain temporally limited
27 services; amending ss. 626.883 and 641.316,
28 F.S.; providing for a detailed explanation of
29 benefits to be included in all payments to a
30 health care provider by a fiscal intermediary;
31 providing effective dates.

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

2

3 Section 1. Paragraph (b) of subsection (3) of section
4 232.435, Florida Statutes, is amended to read:

5 232.435 Extracurricular athletic activities; athletic
6 trainers.--

7 (3)

8 (b) If a school district uses the services of an
9 athletic trainer who is not a teacher athletic trainer or a
10 teacher apprentice trainer within the requirements of this
11 section, such athletic trainer must be licensed as required by
12 part XIII ~~XIV~~ of chapter 468.

13 Section 2. Subsection (2) of section 381.026, Florida
14 Statutes, 1998 Supplement, is amended to read:

15 381.026 Florida Patient's Bill of Rights and
16 Responsibilities.--

17 (2) DEFINITIONS.--As used in this section and s.
18 381.0261, the term:

19 (a) "Department" means the Department of Health.

20 (b) ~~(a)~~ "Health care facility" means a facility
21 licensed under chapter 395.

22 (c) ~~(b)~~ "Health care provider" means a physician
23 licensed under chapter 458, an osteopathic physician licensed
24 under chapter 459, or a podiatric physician licensed under
25 chapter 461.

26 (d) ~~(c)~~ "Responsible provider" means a health care
27 provider who is primarily responsible for patient care in a
28 health care facility or provider's office.

29 Section 3. Subsection (4) of section 381.0261, Florida
30 Statutes, 1998 Supplement, is amended to read:

31

1 381.0261 Summary of patient's bill of rights;
2 distribution; penalty.--

3 (4)(a) An administrative fine may be imposed by the
4 Agency for Health Care Administration when any ~~health care~~
5 ~~provider or~~ health care facility fails to make available to
6 patients a summary of their rights, pursuant to s. 381.026 and
7 this section. Initial nonwillful violations shall be subject
8 to corrective action and shall not be subject to an
9 administrative fine. The Agency for Health Care Administration
10 may levy a fine against a health care facility of up to \$5,000
11 for nonwillful violations, and up to \$25,000 for intentional
12 and willful violations. Each intentional and willful violation
13 constitutes a separate violation and is subject to a separate
14 fine.

15 (b) An administrative fine may be imposed by the
16 department when any health care provider fails to make
17 available to patients a summary of their rights, pursuant to
18 s. 381.026 and this section. Initial nonwillful violations
19 shall be subject to corrective action and shall not be subject
20 to an administrative fine.The department ~~agency~~ may levy a
21 fine against a health care provider of up to \$100 for
22 nonwillful violations and up to \$500 for willful violations.
23 Each intentional and willful violation constitutes a separate
24 violation and is subject to a separate fine.

25 Section 4. Subsections (4) and (6) of section 455.501,
26 Florida Statutes, are amended to read:

27 455.501 Definitions.--As used in this part, the term:

28 (4) "Health care practitioner" means any person
29 licensed under s. 400.211; chapter 457; chapter 458; chapter
30 459; chapter 460; chapter 461; chapter 462; chapter 463;
31 chapter 464; chapter 465; chapter 466; chapter 467; part I,

1 part II, part III, part V, ~~or~~ part X, part XIII, or part XIV
2 of chapter 468; chapter 478; chapter 480; part III or part IV
3 of chapter 483; chapter 484; chapter 486; chapter 490; or
4 chapter 491.

5 (6) "Licensee" means any person or entity issued a
6 permit, registration, certificate, or license by the
7 department.

8 Section 5. Section 455.507, Florida Statutes, is
9 amended to read:

10 455.507 Members of Armed Forces in good standing with
11 administrative boards or department.--

12 (1) Any member of the Armed Forces of the United
13 States now or hereafter on active duty who, at the time of ~~his~~
14 becoming such a member, was in good standing with any
15 administrative board of the state, or the department when
16 there is no board, and was entitled to practice or engage in
17 his or her profession or vocation in the state shall be kept
18 in good standing by such administrative board, or the
19 department when there is no board, without registering, paying
20 dues or fees, or performing any other act on his or her part
21 to be performed, as long as he or she is a member of the Armed
22 Forces of the United States on active duty and for a period of
23 6 months after ~~his~~ discharge from active duty as a member of
24 the Armed Forces of the United States, provided he or she is
25 not engaged in his or her licensed profession or vocation in
26 the private sector for profit.

27 (2) The boards listed in ~~s. ss. 20.165 and 20.43~~, or
28 the department when there is no board, shall adopt rules
29 exempting the spouses of members of the Armed Forces of the
30 United States from licensure renewal provisions, but only in
31

1 cases of absence from the state because of their spouses'
2 duties with the Armed Forces.

3 Section 6. Section 455.521, Florida Statutes, 1998
4 Supplement, is amended to read:

5 455.521 Department; powers and duties.--The
6 department, for the professions ~~boards~~ under its jurisdiction,
7 shall:

8 (1) Adopt rules establishing a procedure for the
9 biennial renewal of licenses; however, the department may
10 issue up to a 4-year license to selected licensees
11 notwithstanding any other provisions of law to the contrary.
12 Fees for such renewal shall not exceed the fee caps for
13 individual professions on an annualized basis as authorized by
14 law.

15 (2) Appoint the executive director of each board,
16 subject to the approval of the board.

17 (3) Submit an annual budget to the Legislature at a
18 time and in the manner provided by law.

19 (4) Develop a training program for persons newly
20 appointed to membership on any board. The program shall
21 familiarize such persons with the substantive and procedural
22 laws and rules and fiscal information relating to the
23 regulation of the appropriate profession and with the
24 structure of the department.

25 (5) Adopt rules pursuant to ss. 120.536(1) and 120.54
26 to implement the provisions of this part.

27 (6) Establish by rules procedures by which the
28 department shall use the expert or technical advice of the
29 appropriate board for the purposes of investigation,
30 inspection, evaluation of applications, other duties of the
31

1 department, or any other areas the department may deem
2 appropriate.

3 (7) Require all proceedings of any board or panel
4 thereof and all formal or informal proceedings conducted by
5 the department, an administrative law judge, or a hearing
6 officer with respect to licensing or discipline to be
7 electronically recorded in a manner sufficient to assure the
8 accurate transcription of all matters so recorded.

9 (8) Select only those investigators, or consultants
10 who undertake investigations, who meet criteria established
11 with the advice of the respective boards.

12 (9) Allow applicants for new or renewal licenses and
13 current licensees to be screened by the Title IV-D child
14 support agency pursuant to s. 409.2598 to assure compliance
15 with a support obligation. The purpose of this subsection is
16 to promote the public policy of this state as established in
17 s. 409.2551. The department shall, when directed by the court,
18 suspend or deny the license of any licensee found to have a
19 delinquent support obligation. The department shall issue or
20 reinstate the license without additional charge to the
21 licensee when notified by the court that the licensee has
22 complied with the terms of the court order. The department
23 shall not be held liable for any license denial or suspension
24 resulting from the discharge of its duties under this
25 subsection.

26 Section 7. Subsection (2) of section 455.564, Florida
27 Statutes, 1998 Supplement, as amended by section 262 of
28 chapter 98-166, Laws of Florida, is reenacted, subsection (2)
29 of said section as amended by section 237 of said chapter is
30 repealed, and subsections (6), (7), and (9) of said section
31 are amended, to read:

1 455.564 Department; general licensing provisions.--
2 (2) Before the issuance of any license, the department
3 may charge an initial license fee as determined by rule of the
4 applicable board or, if no such board exists, by rule of the
5 department. Upon receipt of the appropriate license fee, the
6 department shall issue a license to any person certified by
7 the appropriate board, or its designee, as having met the
8 licensure requirements imposed by law or rule. The licensee
9 shall be issued a wallet-size identification card and a wall
10 certificate suitable for conspicuous display, which shall be
11 no smaller than 8 1/2 inches by 14 inches. The licensee shall
12 surrender to the department the wallet-size identification
13 card and the wall certificate if the licensee's license is
14 suspended or revoked. The department shall promptly return the
15 wallet-size identification card and the wall certificate to
16 the licensee upon reinstatement of a suspended or revoked
17 license.

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

1 no board, may approve by rule alternative methods of obtaining
2 continuing education credits in risk management. The
3 alternative methods may include attending a board meeting at
4 which another ~~a~~ licensee is disciplined, serving as a
5 volunteer expert witness for the department in a disciplinary
6 case, or serving as a member of a probable cause panel
7 following the expiration of a board member's term. Other
8 boards within the Division of Medical Quality Assurance, or
9 the department if there is no board, may adopt rules granting
10 continuing education hours in risk management for attending a
11 board meeting at which another licensee is disciplined,
12 serving as a volunteer expert witness for the department in a
13 disciplinary case, or serving as a member of a probable cause
14 panel following the expiration of a board member's term.

15 (7) The respective boards within the jurisdiction of
16 the department, or the department when there is no board, may
17 adopt rules to provide for the use of approved videocassette
18 courses, not to exceed 5 hours per subject, to fulfill the
19 continuing education requirements of the professions they
20 regulate. Such rules shall provide for prior ~~board~~ approval of
21 the board, or the department when there is no board, of the
22 criteria for and content of such courses and shall provide for
23 a videocassette course validation form to be signed by the
24 vendor and the licensee and submitted to the department, along
25 with the license renewal application, for continuing education
26 credit.

27 (9) Notwithstanding any law to the contrary, an
28 elected official who is licensed under a practice act
29 administered by the Division of Medical ~~Health~~ Quality
30 Assurance may hold employment for compensation with any public
31 agency concurrent with such public service. Such dual service

1 must be disclosed according to any disclosure required by
2 applicable law.

3 Section 8. Paragraph (a) of subsection (1) of section
4 455.565, Florida Statutes, 1998 Supplement, is amended to
5 read:

6 455.565 Designated health care professionals;
7 information required for licensure.--

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

17 (a)1. The name of each medical school that the
18 applicant has attended, with the dates of attendance and the
19 date of graduation, and a description of all graduate medical
20 education completed by the applicant, excluding any coursework
21 taken to satisfy medical licensure continuing education
22 requirements.

23 2. The name of each hospital at which the applicant
24 has privileges.

25 3. The address at which the applicant will primarily
26 conduct his or her practice.

27 4. Any certification that the applicant has received
28 from a specialty board that is recognized by the board to
29 which the applicant is applying.

30 5. The year that the applicant began practicing
31 medicine in any jurisdiction.

1 6. Any appointment to the faculty of a medical school
2 which the applicant currently holds and an indication as to
3 whether the applicant has had the responsibility for graduate
4 medical education within the most recent 10 years.

5 7. A description of any criminal offense of which the
6 applicant has been found guilty, regardless of whether
7 adjudication of guilt was withheld, or to which the applicant
8 has pled guilty or nolo contendere. A criminal offense
9 committed in another jurisdiction which would have been a
10 felony or misdemeanor if committed in this state must be
11 reported. If the applicant indicates that a criminal offense
12 is under appeal and submits a copy of the notice for appeal of
13 that criminal offense, the department must state that the
14 criminal offense is under appeal if the criminal offense is
15 reported in the applicant's profile. If the applicant
16 indicates to the department that a criminal offense is under
17 appeal, the applicant must, upon disposition of the appeal,
18 submit to the department a copy of the final written order of
19 disposition.

20 8. A description of any final disciplinary action
21 taken within the previous 10 years against the applicant by
22 the agency regulating the profession that the applicant is or
23 has been licensed to practice, whether in this state or in any
24 other jurisdiction, by a specialty board that is recognized by
25 the American Board of Medical Specialities, the American
26 Osteopathic Association, or a similar national organization,
27 or by a ~~licensed hospital~~, health maintenance organization,
28 prepaid health clinic, ambulatory surgical center, or nursing
29 home. Disciplinary action includes resignation from or
30 nonrenewal of medical staff membership or the restriction of
31 privileges at a ~~licensed hospital~~, health maintenance

1 organization, prepaid health clinic, ambulatory surgical
2 center, or nursing home taken in lieu of or in settlement of a
3 pending disciplinary case related to competence or character.
4 If the applicant indicates that the disciplinary action is
5 under appeal and submits a copy of the document initiating an
6 appeal of the disciplinary action, the department must state
7 that the disciplinary action is under appeal if the
8 disciplinary action is reported in the applicant's profile.

9 Section 9. Section 455.567, Florida Statutes, is
10 amended to read:

11 455.567 Sexual misconduct; disqualification for
12 license, certificate, or registration.--

13 (1) Sexual misconduct in the practice of a health care
14 profession means violation of the professional relationship
15 through which the health care practitioner uses such
16 relationship to engage or attempt to engage the patient or
17 client, or an immediate family member of the patient or client
18 in, or to induce or attempt to induce such person to engage
19 in, verbal or physical sexual activity outside the scope of
20 the professional practice of such health care profession.
21 Sexual misconduct in the practice of a health care profession
22 is prohibited.

23 (2) Each board within the jurisdiction of the
24 department, or the department if there is no board, shall
25 refuse to admit a candidate to any examination and refuse to
26 issue a license, certificate, or registration to any applicant
27 if the candidate or applicant has:

28 (a)~~(1)~~ Had any license, certificate, or registration
29 to practice any profession or occupation revoked or
30 surrendered based on a violation of sexual misconduct in the
31 practice of that profession under the laws of any other state

1 or any territory or possession of the United States and has
2 not had that license, certificate, or registration reinstated
3 by the licensing authority of the jurisdiction that revoked
4 the license, certificate, or registration; or

5 (b)~~(2)~~ Committed any act in any other state or any
6 territory or possession of the United States which if
7 committed in this state would constitute sexual misconduct.

8
9 For purposes of this subsection, a licensing authority's
10 acceptance of a candidate's relinquishment of a license which
11 is offered in response to or in anticipation of the filing of
12 administrative charges against the candidate's license
13 constitutes the surrender of the license.

14 Section 10. Subsection (2) of section 455.574, Florida
15 Statutes, 1998 Supplement, is amended to read:

16 455.574 Department of Health; examinations.--

17 (2) For each examination developed by the department
18 or a contracted vendor, the board, or the department when
19 there is no board, shall adopt rules providing for
20 reexamination of any applicants who failed an examination
21 developed by the department or a contracted vendor. If both a
22 written and a practical examination are given, an applicant
23 shall be required to retake only the portion of the
24 examination on which the applicant failed to achieve a passing
25 grade, if the applicant successfully passes that portion
26 within a reasonable time, as determined by rule of the board,
27 or the department when there is no board, of passing the other
28 portion. Except for national examinations approved and
29 administered pursuant to this section, the department shall
30 provide procedures for applicants who fail an examination
31 developed by the department or a contracted vendor to review

1 their examination questions, answers, papers, grades, and
2 grading key for the questions the candidate answered
3 incorrectly or, if not feasible, the parts of the examination
4 failed. Applicants shall bear the actual cost for the
5 department to provide examination review pursuant to this
6 subsection. An applicant may waive in writing the
7 confidentiality of the applicant's examination grades.

8 Section 11. Subsection (1) of section 455.587, Florida
9 Statutes, is amended, subsections (2) through (7) are
10 renumbered as subsections (3) through (8), respectively, and a
11 new subsection (2) is added to said section, to read:

12 455.587 Fees; receipts; disposition for boards within
13 the department.--

14 (1) Each board within the jurisdiction of the
15 department, or the department when there is no board, shall
16 determine by rule the amount of license fees for the ~~its~~
17 profession it regulates, based upon long-range estimates
18 prepared by the department of the revenue required to
19 implement laws relating to the regulation of professions by
20 the department and the board. Each board, or the department
21 if there is no board, shall ensure that license fees are
22 adequate to cover all anticipated costs and to maintain a
23 reasonable cash balance, as determined by rule of the agency,
24 with advice of the applicable board. If sufficient action is
25 not taken by a board within 1 year after notification by the
26 department that license fees are projected to be inadequate,
27 the department shall set license fees on behalf of the
28 applicable board to cover anticipated costs and to maintain
29 the required cash balance. The department shall include
30 recommended fee cap increases in its annual report to the
31 Legislature. Further, it is the legislative intent that no

1 regulated profession operate with a negative cash balance. The
2 department may provide by rule for advancing sufficient funds
3 to any profession operating with a negative cash balance. The
4 advancement may be for a period not to exceed 2 consecutive
5 years, and the regulated profession must pay interest.
6 Interest shall be calculated at the current rate earned on
7 investments of a trust fund used by the department to
8 implement this part. Interest earned shall be allocated to the
9 various funds in accordance with the allocation of investment
10 earnings during the period of the advance.

11 (2) Each board, or the department if there is no
12 board, may charge a fee not to exceed \$25, as determined by
13 rule, for the issuance of a wall certificate pursuant to s.
14 455.564(2) requested by a licensee who was licensed prior to
15 July 1, 1998, or for the issuance of a duplicate wall
16 certificate requested by any licensee.

17 Section 12. Subsections (1) and (6) of section
18 455.604, Florida Statutes, 1998 Supplement, are amended to
19 read:

20 455.604 Requirement for instruction for certain
21 licensees on human immunodeficiency virus and acquired immune
22 deficiency syndrome.--

23 (1) The appropriate board shall require each person
24 licensed or certified under chapter 457; chapter 458; chapter
25 459; chapter 460; chapter 461; chapter 463; chapter 464;
26 chapter 465; chapter 466; part II, part III, ~~or~~ part V, or
27 part X of chapter 468; or chapter 486 to complete a continuing
28 educational course, approved by the board, on human
29 immunodeficiency virus and acquired immune deficiency syndrome
30 as part of biennial relicensure or recertification. The course
31 shall consist of education on the modes of transmission,

1 infection control procedures, clinical management, and
2 prevention of human immunodeficiency virus and acquired immune
3 deficiency syndrome. Such course shall include information on
4 current Florida law on acquired immune deficiency syndrome and
5 its impact on testing, confidentiality of test results,
6 treatment of patients, and any protocols and procedures
7 applicable to human immunodeficiency virus counseling and
8 testing, reporting, the offering of HIV testing to pregnant
9 women, and partner notification issues pursuant to ss. 381.004
10 and 384.25.

11 (6) The board shall require as a condition of granting
12 a license under the chapters and parts specified in subsection
13 (1) that an applicant making initial application for licensure
14 complete an educational course acceptable to the board on
15 human immunodeficiency virus and acquired immune deficiency
16 syndrome. An applicant who has not taken a course at the time
17 of licensure shall, upon an affidavit showing good cause, be
18 allowed 6 months to complete this requirement.

19 Section 13. Subsection (1) of section 455.607, Florida
20 Statutes, is amended to read:

21 455.607 Athletic trainers and massage therapists;
22 requirement for instruction on human immunodeficiency virus
23 and acquired immune deficiency syndrome.--

24 (1) The board, or the department where there is no
25 board, shall require each person licensed or certified under
26 part XIII ~~XIV~~ of chapter 468 or chapter 480 to complete a
27 continuing educational course approved by the board, or the
28 department where there is no board, on human immunodeficiency
29 virus and acquired immune deficiency syndrome as part of
30 biennial relicensure or recertification. The course shall
31 consist of education on modes of transmission, infection

1 control procedures, clinical management, and prevention of
2 human immunodeficiency virus and acquired immune deficiency
3 syndrome, with an emphasis on appropriate behavior and
4 attitude change.

5 Section 14. Paragraphs (t), (u), (v), (w), and (x) are
6 added to subsection (1) of section 455.624, Florida Statutes,
7 and subsections (2) and (3) of said section are amended, to
8 read:

9 455.624 Grounds for discipline; penalties;
10 enforcement.--

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

14 (t) Failing to comply with the requirements of ss.
15 381.026 and 381.0261 to provide patients with information
16 about their patient rights and how to file a patient
17 complaint.

18 (u) Engaging or attempting to engage a patient or
19 client in verbal or physical sexual activity. For the purposes
20 of this section, a patient or client shall be presumed to be
21 incapable of giving free, full, and informed consent to verbal
22 or physical sexual activity.

23 (v) Failing to comply with the requirements for
24 profiling and credentialing, including, but not limited to,
25 failing to provide initial information, failing to timely
26 provide updated information, or making misleading, untrue,
27 deceptive, or fraudulent representations on a profile,
28 credentialing, or initial or renewal licensure application.

29 (w) Failing to report to the board, or the department
30 if there is no board, in writing within 30 days after the
31 licensee has been convicted or found guilty of, or entered a

1 plea of nolo contendere to, regardless of adjudication, a
2 crime in any jurisdiction. Convictions, findings,
3 adjudications, and pleas entered into prior to the enactment
4 of this paragraph must be reported in writing to the board, or
5 department if there is no board, on or before October 1, 1999.

6 (x) Using information about people involved in motor
7 vehicle accidents which has been derived from accident reports
8 made by law enforcement officers or persons involved in
9 accidents pursuant to s. 316.066, or using information
10 published in a newspaper or other news publication or through
11 a radio or television broadcast which has used information
12 gained from such reports, for the purposes of commercial or
13 any other solicitation whatsoever of the people involved in
14 such accidents.

15 (2) When the board, or the department when there is no
16 board, finds any person guilty of the grounds set forth in
17 subsection (1) or of any grounds set forth in the applicable
18 practice act, including conduct constituting a substantial
19 violation of subsection (1) or a violation of the applicable
20 practice act which occurred prior to obtaining a license, it
21 may enter an order imposing one or more of the following
22 penalties:

23 (a) Refusal to certify, or to certify with
24 restrictions, an application for a license.

25 (b) Suspension or permanent revocation of a license.

26 (c) Restriction of practice.

27 (d) Imposition of an administrative fine not to exceed
28 ~~\$10,000~~~~\$5,000~~ for each count or separate offense.

29 (e) Issuance of a reprimand.

30 (f) Placement of the licensee on probation for a
31 period of time and subject to such conditions as the board, or

1 the department when there is no board, may specify. Those
2 conditions may include, but are not limited to, requiring the
3 licensee to undergo treatment, attend continuing education
4 courses, submit to be reexamined, work under the supervision
5 of another licensee, or satisfy any terms which are reasonably
6 tailored to the violations found.

7 (g) Corrective action.

8 (h) Imposition of an administrative fine in accordance
9 with s. 381.0261 for violations regarding patient rights.

10
11 In determining what action is appropriate, the board must
12 first consider what sanctions are necessary to protect the
13 public or to compensate the patient. Only after those
14 sanctions have been imposed may the disciplining authority
15 consider and include in the order requirements designed to
16 rehabilitate the practitioner. All costs associated with
17 compliance with orders issued under this subsection are the
18 obligation of the practitioner.

19 (3) In addition to any other discipline imposed
20 pursuant to this section or discipline imposed for a violation
21 of any practice act, the board, or the department when there
22 is no board, may assess costs related to the investigation and
23 prosecution of the case ~~excluding costs associated with an~~
24 ~~attorney's time~~. In any case where the board or the department
25 imposes a fine or assessment and the fine or assessment is not
26 paid within a reasonable time, such reasonable time to be
27 prescribed in the rules of the board, or the department when
28 there is no board, or in the order assessing such fines or
29 costs, the department or the Department of Legal Affairs may
30 contract for the collection of, or bring a civil action to
31 recover, the fine or assessment.

1 Section 15. Paragraphs (g) and (k) of subsection (3)
2 of section 455.654, Florida Statutes, 1998 Supplement, are
3 amended to read:

4 455.654 Financial arrangements between referring
5 health care providers and providers of health care services.--

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

8 (g) "Health care provider" means any physician
9 licensed under chapter 458, chapter 459, chapter 460, or
10 chapter 461; ~~or any health care provider licensed under~~
11 chapter 463 or chapter 466; or any business entity that is
12 operating as a provider of clinical laboratory services for
13 kidney dialysis or nephrology and is vertically integrated
14 with another business entity providing related services,
15 except for any such entity licensed under chapter 395.

16 (k) "Referral" means any referral of a patient by a
17 health care provider for health care services, including,
18 without limitation:

19 1. The forwarding of a patient by a health care
20 provider to another health care provider or to an entity which
21 provides or supplies designated health services or any other
22 health care item or service; or

23 2. The request or establishment of a plan of care by a
24 health care provider, which includes the provision of
25 designated health services or other health care item or
26 service.

27 3. The following orders, recommendations, or plans of
28 care shall not constitute a referral by a health care
29 provider:

30 a. By a radiologist for diagnostic-imaging services.
31

1 b. By a physician specializing in the provision of
2 radiation therapy services for such services.

3 c. By a medical oncologist for drugs and solutions to
4 be prepared and administered intravenously to such
5 oncologist's patient, as well as for the supplies and
6 equipment used in connection therewith to treat such patient
7 for cancer and the complications thereof.

8 d. By a cardiologist for cardiac catheterization
9 services.

10 e. By a pathologist for diagnostic clinical laboratory
11 tests and pathological examination services, if furnished by
12 or under the supervision of such pathologist pursuant to a
13 consultation requested by another physician.

14 f. By a health care provider who is the sole provider
15 or member of a group practice for designated health services
16 or other health care items or services that are prescribed or
17 provided solely for such referring health care provider's or
18 group practice's own patients, and that are provided or
19 performed by or under the direct supervision of such referring
20 health care provider or group practice.

21 g. By a health care provider for services provided by
22 an ambulatory surgical center licensed under chapter 395.

23 h. By a health care provider for diagnostic clinical
24 laboratory services where such services are directly related
25 to renal dialysis.

26 i. By a urologist for lithotripsy services.

27 j. By a dentist for dental services performed by an
28 employee of or health care provider who is an independent
29 contractor with the dentist or group practice of which the
30 dentist is a member.

31

1 k. By a physician for infusion therapy services to a
2 patient of that physician or a member of that physician's
3 group practice.

4 ~~l. By a nephrologist for renal dialysis services and~~
5 ~~supplies.~~

6 Section 16. Section 455.664, Florida Statutes, is
7 amended to read:

8 455.664 Advertisement by a health care practitioner
9 ~~provider~~ of free or discounted services; required

10 statement.--In any advertisement for a free, discounted fee,
11 or reduced fee service, examination, or treatment by a health
12 care practitioner ~~provider~~ licensed under chapter 458, chapter
13 459, chapter 460, chapter 461, chapter 462, chapter 463,
14 chapter 464, chapter 465,chapter 466, chapter 467, chapter
15 478, chapter 483, chapter 484,~~or~~ chapter 486, chapter 490, or
16 chapter 491,the following statement shall appear in capital
17 letters clearly distinguishable from the rest of the text:

18 THE PATIENT AND ANY OTHER PERSON RESPONSIBLE FOR PAYMENT HAS A
19 RIGHT TO REFUSE TO PAY, CANCEL PAYMENT, OR BE REIMBURSED FOR
20 PAYMENT FOR ANY OTHER SERVICE, EXAMINATION, OR TREATMENT THAT
21 IS PERFORMED AS A RESULT OF AND WITHIN 72 HOURS OF RESPONDING
22 TO THE ADVERTISEMENT FOR THE FREE, DISCOUNTED FEE, OR REDUCED
23 FEE SERVICE, EXAMINATION, OR TREATMENT. However, the required
24 statement shall not be necessary as an accompaniment to an
25 advertisement of a licensed health care practitioner ~~provider~~
26 defined by this section if the advertisement appears in a
27 classified directory the primary purpose of which is to
28 provide products and services at free, reduced, or discounted
29 prices to consumers and in which the statement prominently
30 appears in at least one place.

31

1 Section 17. Subsection (7) of section 455.667, Florida
2 Statutes, 1998 Supplement, is amended to read:

3 455.667 Ownership and control of patient records;
4 report or copies of records to be furnished.--

5 ~~(7)(a)1. The department may obtain patient records and~~
6 ~~insurance information, if the complaint being investigated~~
7 ~~alleges inadequate medical care based on termination of~~
8 ~~insurance.~~The department may obtain patient access these
9 records pursuant to a subpoena without written authorization
10 from the patient if the department and the probable cause
11 panel of the appropriate board, if any, find reasonable cause
12 to believe that a health care practitioner has excessively or
13 inappropriately prescribed any controlled substance specified
14 in chapter 893 in violation of this part or any professional
15 practice act or that a health care practitioner has practiced
16 his or her profession below that level of care, skill, and
17 treatment required as defined by this part or any professional
18 practice act; ~~provided, however, the~~ and also find that
19 appropriate, reasonable attempts were made to obtain a patient
20 release.

21 2. The department may obtain patient records and
22 insurance information pursuant to a subpoena without written
23 authorization from the patient if the department and the
24 probable cause panel of the appropriate board, if any, find
25 reasonable cause to believe that a health care practitioner
26 has provided inadequate medical care based on termination of
27 insurance and also find that appropriate, reasonable attempts
28 were made to obtain a patient release.

29 3. The department may obtain patient records, billing
30 records, insurance information, provider contracts, and all
31 attachments thereto pursuant to a subpoena without written

1 authorization from the patient if the department and probable
2 cause panel of the appropriate board, if any, find reasonable
3 cause to believe that a health care practitioner has submitted
4 a claim, statement, or bill using a billing code that would
5 result in payment greater in amount than would be paid using a
6 billing code that accurately describes the services performed,
7 requested payment for services that were not performed by that
8 health care practitioner, used information derived from a
9 written report of an automobile accident generated pursuant to
10 chapter 316 to solicit or obtain patients personally or
11 through an agent regardless of whether the information is
12 derived directly from the report or a summary of that report
13 or from another person, solicited patients fraudulently,
14 received a kickback as defined in s. 455.657, violated the
15 patient brokering provisions of s. 817.505, or presented or
16 caused to be presented a false or fraudulent insurance claim
17 within the meaning of s. 817.234(1)(a), and also find that,
18 within the meaning of s. 817.234(1)(a), patient authorization
19 cannot be obtained because the patient cannot be located or is
20 deceased, incapacitated, or suspected of being a participant
21 in the fraud or scheme, and if the subpoena is issued for
22 specific and relevant records.

23 (b) Patient records, billing records, insurance
24 information, provider contracts, and all attachments thereto
25 ~~record~~ obtained by the department pursuant to this subsection
26 shall be used solely for the purpose of the department and the
27 appropriate regulatory board in disciplinary proceedings. ~~The~~
28 ~~records shall otherwise be confidential and exempt from s.~~
29 ~~19.07(1).~~ This section does not limit the assertion of the
30 psychotherapist-patient privilege under s. 90.503 in regard to
31 records of treatment for mental or nervous disorders by a

1 medical practitioner licensed pursuant to chapter 458 or
2 chapter 459 who has primarily diagnosed and treated mental and
3 nervous disorders for a period of not less than 3 years,
4 inclusive of psychiatric residency. However, the health care
5 practitioner shall release records of treatment for medical
6 conditions even if the health care practitioner has also
7 treated the patient for mental or nervous disorders. If the
8 department has found reasonable cause under this section and
9 the psychotherapist-patient privilege is asserted, the
10 department may petition the circuit court for an in camera
11 review of the records by expert medical practitioners
12 appointed by the court to determine if the records or any part
13 thereof are protected under the psychotherapist-patient
14 privilege.

15 Section 18. Subsection (3) is added to section
16 455.687, Florida Statutes, to read:

17 455.687 Certain health care practitioners; immediate
18 suspension of license.--

19 (3) The department may issue an emergency order
20 suspending or restricting the license of any health care
21 practitioner as defined in s. 455.501(4) who tests positive
22 for any drug on any government or private-sector preemployment
23 or employer-ordered confirmed drug test, as defined in s.
24 112.0455, when the practitioner does not have a lawful
25 prescription and legitimate medical reason for using such
26 drug. The practitioner shall be given 48 hours from the time
27 of notification to the practitioner of the confirmed test
28 result to produce a lawful prescription for the drug before an
29 emergency order is issued.

30 Section 19. Section 455.694, Florida Statutes, 1998
31 Supplement, is amended to read:

1 455.694 Financial responsibility requirements for
2 ~~Boards regulating~~ certain health care practitioners.--
3 (1) As a prerequisite for licensure or license
4 renewal, the Board of Acupuncture, the Board of Chiropractic
5 Medicine, the Board of Podiatric Medicine, and the Board of
6 Dentistry shall, by rule, require that all health care
7 practitioners licensed under the respective board, and the
8 Board of Nursing shall, by rule, require that advanced
9 registered nurse practitioners certified under s. 464.012, and
10 the department shall, by rule, require that midwives maintain
11 medical malpractice insurance or provide proof of financial
12 responsibility in an amount and in a manner determined by the
13 board or department to be sufficient to cover claims arising
14 out of the rendering of or failure to render professional care
15 and services in this state.
16 (2) The board or department may grant exemptions upon
17 application by practitioners meeting any of the following
18 criteria:
19 (a) Any person licensed under chapter 457, chapter
20 460, chapter 461, s. 464.012, ~~or~~ chapter 466, or chapter 467
21 who practices exclusively as an officer, employee, or agent of
22 the Federal Government or of the state or its agencies or its
23 subdivisions. For the purposes of this subsection, an agent
24 of the state, its agencies, or its subdivisions is a person
25 who is eligible for coverage under any self-insurance or
26 insurance program authorized by the provisions of s.
27 768.28(15) or who is a volunteer under s. 110.501(1).
28 (b) Any person whose license or certification has
29 become inactive under chapter 457, chapter 460, chapter 461,
30 chapter 464, ~~or~~ chapter 466, or chapter 467 and who is not
31 practicing in this state. Any person applying for

1 reactivation of a license must show either that such licensee
2 maintained tail insurance coverage which provided liability
3 coverage for incidents that occurred on or after October 1,
4 1993, or the initial date of licensure in this state,
5 whichever is later, and incidents that occurred before the
6 date on which the license became inactive; or such licensee
7 must submit an affidavit stating that such licensee has no
8 unsatisfied medical malpractice judgments or settlements at
9 the time of application for reactivation.

10 (c) Any person holding a limited license pursuant to
11 s. 455.561, and practicing under the scope of such limited
12 license.

13 (d) Any person licensed or certified under chapter
14 457, chapter 460, chapter 461, s. 464.012, ~~or~~ chapter 466, or
15 chapter 467 who practices only in conjunction with his or her
16 teaching duties at an accredited school or in its main
17 teaching hospitals. Such person may engage in the practice of
18 medicine to the extent that such practice is incidental to and
19 a necessary part of duties in connection with the teaching
20 position in the school.

21 (e) Any person holding an active license or
22 certification under chapter 457, chapter 460, chapter 461, s.
23 464.012, ~~or~~ chapter 466, or chapter 467 who is not practicing
24 in this state. If such person initiates or resumes practice
25 in this state, he or she must notify the department of such
26 activity.

27 (f) Any person who can demonstrate to the board or
28 department that he or she has no malpractice exposure in the
29 state.

30 (3) Notwithstanding the provisions of this section,
31 the financial responsibility requirements of ss. 458.320 and

1 459.0085 shall continue to apply to practitioners licensed
2 under those chapters.

3 Section 20. Section 455.712, Florida Statutes, is
4 created to read:

5 455.712 Business establishments; requirements for
6 active status licenses.--

7 (1) A business establishment regulated by the Division
8 of Medical Quality Assurance pursuant to this part may provide
9 regulated services only if the business establishment has an
10 active status license. A business establishment that provides
11 regulated services without an active status license is in
12 violation of this section and s. 455.624, and the board, or
13 the department if there is no board, may impose discipline on
14 the business establishment.

15 (2) A business establishment must apply with a
16 complete application, as defined by rule of the board, or the
17 department if there is no board, to renew an active status
18 license before the license expires. If a business
19 establishment fails to renew before the license expires, the
20 license becomes delinquent, except as otherwise provided in
21 statute, in the license cycle following expiration.

22 (3) A delinquent business establishment must apply
23 with a complete application, as defined by rule of the board,
24 or the department if there is no board, for active status
25 within 6 months after becoming delinquent. Failure of a
26 delinquent business establishment to renew the license within
27 the 6 months after the expiration date of the license renders
28 the license null without any further action by the board or
29 the department. Any subsequent licensure shall be as a result
30 of applying for and meeting all requirements imposed on a
31 business establishment for new licensure.

1 (4) The status or a change in status of a business
2 establishment license does not alter in any way the right of
3 the board, or of the department if there is no board, to
4 impose discipline or to enforce discipline previously imposed
5 on a business establishment for acts or omissions committed by
6 the business establishment while holding a license, whether
7 active or null.

8 (5) This section applies to any a business
9 establishment registered, permitted, or licensed by the
10 department to do business. Business establishments include,
11 but are not limited to, dental laboratories, electrology
12 facilities, massage establishments, pharmacies, and health
13 care services pools.

14 Section 21. Section 457.1095, Florida Statutes, is
15 created to read:

16 457.1095 Acupuncture teaching permit.--

17 (1) Acupuncturists from other states or countries, not
18 licensed in Florida, may engage in professional education
19 through lectures, clinics, or demonstrations in conjunction
20 with a school of acupuncture and oriental medicine licensed
21 pursuant to Florida law.

22 (2) Prior to issuing a teaching permit, such visiting
23 acupuncture faculty shall have at least 10 years' experience
24 as an acupuncturist or practitioner of oriental medicine. Such
25 persons shall establish, to the satisfaction and approval of
26 the board, that they possess such skills and education. Either
27 such persons shall be proficient in the English language or
28 the respective school of acupuncture shall provide
29 interpreters at lectures, clinics, or demonstrations.

30 (3) Visiting acupuncture faculty may engage in
31 professional education through lectures, clinics, and

1 demonstrations. Visiting acupuncture faculty may engage in the
2 teaching of acupuncture and oriental medicine in conjunction
3 with these lectures, clinics, or demonstrations for a maximum
4 of 12 consecutive calendar months on the school premises with
5 the option to renew for 12 additional months. Visiting
6 acupuncture faculty may not open an office or appoint a place
7 to meet patients or receive calls from patients or otherwise
8 engage in the practice of acupuncture within or outside of the
9 school's setting.

10 (4) Every visiting acupuncture faculty member approved
11 by the board shall pay a nonrefundable application fee for a
12 teaching permit not to exceed \$300.

13 (5) The names of visiting acupuncture faculty approved
14 by the board, and the school's name for which they are
15 approved, shall be provided, on a timely basis, to the State
16 Board of Nonpublic Career Education of the Department of
17 Education.

18 (6) Schools of acupuncture and oriental medicine may
19 only have two visiting faculty members on staff at one time.

20 (7) Visiting acupuncture faculty may not teach more
21 than two courses.

22 (8) The board shall adopt rules pursuant to ss.
23 120.536(1) and 120.54 to implement the provisions of this
24 section.

25 Section 22. Subsection (3) of section 458.305, Florida
26 Statutes, is amended to read:

27 458.305 Definitions.--As used in this chapter:

28 (3) "Practice of medicine" means making or approving a
29 the diagnosis, treatment, treatment plan, operation,
30 procedure, or prescription for any human disease, pain,
31 injury, deformity, or other physical or mental condition. The

1 "practice of medicine" does not include coverage decisions for
2 purposes of insurance benefits.

3 Section 23. Subsections (2) and (4) of section
4 458.307, Florida Statutes, 1998 Supplement, are amended to
5 read:

6 458.307 Board of Medicine.--

7 (2) Twelve members of the board must be licensed
8 physicians in good standing in this state who are residents of
9 the state and who have been engaged in the active practice or
10 teaching of medicine for at least 4 years immediately
11 preceding their appointment. One of the physicians must be on
12 the full-time faculty of a medical school in this state, and
13 one of the physicians must be in private practice and on the
14 full-time staff of a statutory teaching hospital in this state
15 as defined in s. 408.07. At least one of the physicians must
16 be a graduate of a foreign medical school. The remaining
17 three members must be residents of the state who are not, and
18 never have been, licensed health care practitioners. One
19 member must be a health care ~~hospital~~ risk manager licensed
20 ~~certified~~ under s. 395.10974 ~~part IX of chapter 626~~. At least
21 one member of the board must be 60 years of age or older.

22 (4) The board, in conjunction with the department,
23 shall establish a disciplinary training program for board
24 members. The program shall provide for initial and periodic
25 training in the grounds for disciplinary action, the actions
26 which may be taken by the board and the department, changes in
27 relevant statutes and rules, and any relevant judicial and
28 administrative decisions. ~~After January 1, 1989,~~ No member of
29 the board shall participate on probable cause panels or in
30 disciplinary decisions of the board unless he or she has
31 completed the disciplinary training program.

1 Section 24. Section 458.311, Florida Statutes, 1998
2 Supplement, is amended to read:

3 458.311 Licensure by examination; requirements;
4 fees.--

5 (1) Any person desiring to be licensed as a physician,
6 who does not hold a valid license in any state, shall apply to
7 the department on forms furnished by the department ~~to take~~
8 ~~the licensure examination.~~ The department shall license
9 ~~examine~~ each applicant who ~~whom~~ the board certifies:

10 (a) Has completed the application form and remitted a
11 nonrefundable application fee not to exceed \$500 ~~and an~~
12 ~~examination fee not to exceed \$300 plus the actual per~~
13 ~~applicant cost to the department for purchase of the~~
14 ~~examination from the Federation of State Medical Boards of the~~
15 ~~United States or a similar national organization, which is~~
16 ~~refundable if the applicant is found to be ineligible to take~~
17 ~~the examination.~~

18 (b) Is at least 21 years of age.

19 (c) Is of good moral character.

20 (d) Has not committed any act or offense in this or
21 any other jurisdiction which would constitute the basis for
22 disciplining a physician pursuant to s. 458.331.

23 (e) For any applicant who has graduated from medical
24 school after October 1, 1992, has completed the equivalent of
25 2 academic years of preprofessional, postsecondary education,
26 as determined by rule of the board, which shall include, at a
27 minimum, courses in such fields as anatomy, biology, and
28 chemistry prior to entering medical school.

29 (f) Meets one of the following medical education and
30 postgraduate training requirements:

31

- 1 1.a. Is a graduate of an allopathic medical school or
2 allopathic college recognized and approved by an accrediting
3 agency recognized by the United States Office of Education or
4 is a graduate of an allopathic medical school or allopathic
5 college within a territorial jurisdiction of the United States
6 recognized by the accrediting agency of the governmental body
7 of that jurisdiction;
- 8 b. If the language of instruction of the medical
9 school is other than English, has demonstrated competency in
10 English through presentation of a satisfactory grade on the
11 Test of Spoken English of the Educational Testing Service or a
12 similar test approved by rule of the board; and
- 13 c. Has completed an approved residency of at least 1
14 year.
- 15 2.a. Is a graduate of an allopathic ~~a~~ foreign medical
16 school registered with the World Health Organization and
17 certified pursuant to s. 458.314 as having met the standards
18 required to accredit medical schools in the United States or
19 reasonably comparable standards;
- 20 b. If the language of instruction of the foreign
21 medical school is other than English, has demonstrated
22 competency in English through presentation of the Educational
23 Commission for Foreign Medical Graduates English proficiency
24 certificate or by a satisfactory grade on the Test of Spoken
25 English of the Educational Testing Service or a similar test
26 approved by rule of the board; and
- 27 c. Has completed an approved residency of at least 1
28 year.
- 29 3.a. Is a graduate of an allopathic ~~a~~ foreign medical
30 school which has not been certified pursuant to s. 458.314;
31

1 b. Has had his or her medical credentials evaluated by
2 the Educational Commission for Foreign Medical Graduates,
3 holds an active, valid certificate issued by that commission,
4 and has passed the examination utilized by that commission;
5 and

6 c. Has completed an approved residency of at least 1
7 year; however, after October 1, 1992, the applicant shall have
8 completed an approved residency or fellowship of at least 2
9 years in one specialty area. However, to be acceptable, the
10 fellowship experience and training must be counted toward
11 regular or subspecialty certification by a board recognized
12 and certified by the American Board of Medical Specialties.

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

18 (h) Has obtained a passing score, as established by
19 rule of the board, on the licensure examination of the United
20 States Medical Licensing Examination (USMLE); or a combination
21 of the United States Medical Licensing Examination (USMLE),
22 the examination of the Federation of State Medical Boards of
23 the United States, Inc. (FLEX), or the examination of the
24 National Board of Medical Examiners up to the year 2000; or
25 for the purpose of examination of any applicant who was
26 licensed on the basis of a state board examination and who is
27 currently licensed in at least one other jurisdiction of the
28 United States or Canada, and who has practiced pursuant to
29 such licensure for a period of at least 10 years, use of the
30 Special Purpose Examination of the Federation of State Medical
31

1 Boards of the United States (SPEX) upon receipt of a passing
2 score as established by rule of the board.

3 (2) As prescribed by board rule, the board may require
4 an applicant who does not pass the national licensing
5 examination after five attempts to complete additional
6 remedial education or training. The board shall prescribe the
7 additional requirements in a manner that permits the applicant
8 to complete the requirements and be reexamined within 2 years
9 after the date the applicant petitions the board to retake the
10 examination a sixth or subsequent time.

11 (3) Notwithstanding the provisions of subparagraph
12 (1)(f)3., a graduate of a foreign medical school need not
13 present the certificate issued by the Educational Commission
14 for Foreign Medical Graduates or pass the examination utilized
15 by that commission if the graduate:

16 (a) Has received a bachelor's degree from an
17 accredited United States college or university.

18 (b) Has studied at a medical school which is
19 recognized by the World Health Organization.

20 (c) Has completed all of the formal requirements of
21 the foreign medical school, except the internship or social
22 service requirements, and has passed part I of the National
23 Board of Medical Examiners examination or the Educational
24 Commission for Foreign Medical Graduates examination
25 equivalent.

26 (d) Has completed an academic year of supervised
27 clinical training in a hospital affiliated with a medical
28 school approved by the Council on Medical Education of the
29 American Medical Association and upon completion has passed
30 part II of the National Board of Medical Examiners examination
31

1 or the Educational Commission for Foreign Medical Graduates
2 examination equivalent.

3 (4) The department and the board shall assure that
4 applicants for licensure meet the criteria in subsection (1)
5 through an investigative process. When the investigative
6 process is not completed within the time set out in s.
7 120.60(1) and the department or board has reason to believe
8 that the applicant does not meet the criteria, the secretary
9 or the secretary's designee may issue a 90-day licensure delay
10 which shall be in writing and sufficient to notify the
11 applicant of the reason for the delay. The provisions of this
12 subsection shall control over any conflicting provisions of s.
13 120.60(1).

14 (5) The board may not certify to the department for
15 licensure any applicant who is under investigation in another
16 jurisdiction for an offense which would constitute a violation
17 of this chapter until such investigation is completed. Upon
18 completion of the investigation, the provisions of s. 458.331
19 shall apply. Furthermore, the department may not issue an
20 unrestricted license to any individual who has committed any
21 act or offense in any jurisdiction which would constitute the
22 basis for disciplining a physician pursuant to s. 458.331.
23 When the board finds that an individual has committed an act
24 or offense in any jurisdiction which would constitute the
25 basis for disciplining a physician pursuant to s. 458.331,
26 then the board may enter an order imposing one or more of the
27 terms set forth in subsection (9).

28 (6) Each applicant who ~~passes the examination and~~
29 meets the requirements of this chapter shall be licensed as a
30 physician, with rights as defined by law.

31

1 (7) Upon certification by the board, the department
2 shall impose conditions, limitations, or restrictions on a
3 license ~~by examination~~ if the applicant is on probation in
4 another jurisdiction for an act which would constitute a
5 violation of this chapter.

6 (8) When the board determines that any applicant for
7 licensure ~~by examination~~ has failed to meet, to the board's
8 satisfaction, each of the appropriate requirements set forth
9 in this section, it may enter an order requiring one or more
10 of the following terms:

11 (a) Refusal to certify to the department an
12 application for licensure, certification, or registration;

13 (b) Certification to the department of an application
14 for licensure, certification, or registration with
15 restrictions on the scope of practice of the licensee; or

16 (c) Certification to the department of an application
17 for licensure, certification, or registration with placement
18 of the physician on probation for a period of time and subject
19 to such conditions as the board may specify, including, but
20 not limited to, requiring the physician to submit to
21 treatment, attend continuing education courses, submit to
22 reexamination, or work under the supervision of another
23 physician.

24 ~~(9)(a) Notwithstanding any of the provisions of this~~
25 ~~section, an applicant who, at the time of his or her medical~~
26 ~~education, was a citizen of the country of Nicaragua and, at~~
27 ~~the time of application for licensure under this subsection,~~
28 ~~is either a citizen of the country of Nicaragua or a citizen~~
29 ~~of the United States may make initial application to the~~
30 ~~department on or before July 1, 1992, for licensure subject to~~
31 ~~this subsection and may reapply pursuant to board rule. Upon~~

1 ~~receipt of such application, the department shall issue a~~
2 ~~2-year restricted license to any applicant therefor upon the~~
3 ~~applicant's successful completion of the licensure examination~~
4 ~~as described in paragraph (1)(a) and who the board certifies~~
5 ~~has met the following requirements:~~

6 ~~1. Is a graduate of a World Health Organization~~
7 ~~recognized foreign medical institution located in a country in~~
8 ~~the Western Hemisphere.~~

9 ~~2. Received a medical education which has been~~
10 ~~determined by the board to be substantially similar, at the~~
11 ~~time of the applicant's graduation, to approved United States~~
12 ~~medical programs.~~

13 ~~3. Practiced medicine in the country of Nicaragua for~~
14 ~~a period of 1 year prior to residing in the United States and~~
15 ~~has lawful employment authority in the United States.~~

16 ~~4. Has had his or her medical education verified by~~
17 ~~the Florida Board of Medicine.~~

18 ~~5. Successfully completed the Educational Commission~~
19 ~~for Foreign Medical Graduates Examination or Foreign Medical~~
20 ~~Graduate Examination in the Medical Sciences or successfully~~
21 ~~completed a course developed for the University of Miami for~~
22 ~~physician training equivalent to the course developed for such~~
23 ~~purposes pursuant to chapter 74-105, Laws of Florida. No~~
24 ~~person shall be permitted to enroll in the physician training~~
25 ~~course until he or she has been certified by the board as~~
26 ~~having met the requirements of this paragraph or conditionally~~
27 ~~certified by the board as having substantially complied with~~
28 ~~the requirements of this paragraph. Any person conditionally~~
29 ~~certified by the board shall be required to establish, to the~~
30 ~~board's satisfaction, full compliance with all the~~
31 ~~requirements of this paragraph prior to completion of the~~

1 ~~physician training course and shall not be permitted to sit~~
2 ~~for the licensure examination unless the board certifies that~~
3 ~~all of the requirements of this paragraph have been met.~~

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

11 ~~(b) The holder of a restricted license issued pursuant~~
12 ~~to this subsection may practice medicine for the first year~~
13 ~~only under the direct supervision, as defined by board rule,~~
14 ~~of a board-approved physician.~~

15 ~~(c) Upon recommendation of the supervising physician~~
16 ~~and demonstration of clinical competency to the satisfaction~~
17 ~~of the board that the holder of a restricted license issued~~
18 ~~pursuant to this subsection has practiced for 1 year under~~
19 ~~direct supervision, such licenseholder shall work for 1 year~~
20 ~~under general supervision, as defined by board rule, of a~~
21 ~~Florida-licensed physician in an area of critical need as~~
22 ~~determined by the board. Prior to commencing such~~
23 ~~supervision, the supervising physician shall notify the board.~~

24 ~~(d) Upon completion of the 1 year of work under~~
25 ~~general supervision and demonstration to the board that the~~
26 ~~holder of the restricted license has satisfactorily completed~~
27 ~~the requirements of this subsection, and has not committed any~~
28 ~~act or is not under investigation for any act which would~~
29 ~~constitute a violation of this chapter, the department shall~~
30 ~~issue an unrestricted license to such licenseholder.~~

31

1 ~~(e) Rules necessary to implement and carry out the~~
2 ~~provisions of this subsection shall be promulgated by the~~
3 ~~board.~~

4 ~~(10) Notwithstanding any other provision of this~~
5 ~~section, the department shall examine any person who meets the~~
6 ~~criteria set forth in sub-subparagraph (1)(f)1.a.,~~
7 ~~sub-subparagraphs (1)(f)3.a. and b., or subsection (3), if the~~
8 ~~person:~~

9 ~~(a) Submits proof of successful completion of Steps I~~
10 ~~and II of the United States Medical Licensing Examination or~~
11 ~~the equivalent, as defined by rule of the board;~~

12 ~~(b) Is participating in an allocated slot in an~~
13 ~~allopathic training program in this state on a full-time basis~~
14 ~~at the time of examination;~~

15 ~~(c) Makes a written request to the department that he~~
16 ~~or she be administered the examination without applying for a~~
17 ~~license as a physician in this state; and~~

18 ~~(d) Remits a nonrefundable administration fee, not to~~
19 ~~exceed \$50, and an examination fee, not to exceed \$300, plus~~
20 ~~the actual cost per person to the department for the purchase~~
21 ~~of the examination from the Federation of State Medical Boards~~
22 ~~of the United States or a similar national organization. The~~
23 ~~examination fee is refundable if the person is found to be~~
24 ~~ineligible to take the examination.~~

25 Section 25. Section 458.3115, Florida Statutes, 1998
26 Supplement, is amended to read:

27 458.3115 Restricted license; certain foreign-licensed
28 physicians; United States Medical Licensing Examination
29 ~~(USMLE) or agency-developed~~ examination; restrictions on
30 practice; full licensure.--

31

1 (1)(a) Notwithstanding any other provision of law, the
2 department ~~agency~~ shall provide procedures under which certain
3 physicians who are or were foreign-licensed and have practiced
4 medicine no less than 2 years may take the USMLE or an
5 ~~agency-developed~~ examination developed by the department, in
6 consultation with the board,to qualify for a restricted
7 license to practice medicine in this state. The
8 ~~department-developed~~ ~~agency and board-developed~~ examination
9 shall test the same areas of medical knowledge as the
10 Federation of State Medical Boards of the United States, Inc.
11 (FLEX) previously administered by the Florida Board of
12 Medicine to grant medical licensure in Florida. The
13 ~~department-developed~~ ~~agency-developed~~ examination must be made
14 available no later than December 31, 1998, to a physician who
15 qualifies for licensure. A person who is eligible to take and
16 elects to take the department-developed ~~agency and~~
17 ~~board-developed~~ examination, who has previously passed part 1
18 or part 2 of the previously administered FLEX shall not be
19 required to retake or pass the equivalent parts of the
20 department-developed ~~agency-developed~~ examination, and may sit
21 for the department-developed ~~agency and board-developed~~
22 examination five times within 5 years.

23 (b) A person who is eligible to take and elects to
24 take the USMLE who has previously passed part 1 or part 2 of
25 the previously administered FLEX shall not be required to
26 retake or pass the equivalent parts of the USMLE up to the
27 year 2000.

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

30 1. Has taken, upon approval by the board, and
31 completed, in November 1990 or November 1992, one of the

1 special preparatory medical update courses authorized by the
2 board and the University of Miami Medical School and
3 subsequently passed the final course examination; upon
4 approval by the board to take the course completed in 1990 or
5 in 1992, has a certificate of successful completion of that
6 course from the University of Miami or the Stanley H. Kaplan
7 course; or can document to the department that he or she was
8 one of the persons who took and successfully completed the
9 Stanley H. Kaplan course that was approved by the board of
10 ~~Medicine~~ and supervised by the University of Miami. At a
11 minimum, the documentation must include class attendance
12 records and the test score on the final course examination;
13 2. Applies to the department ~~agency~~ and submits an
14 application fee that is nonrefundable and equivalent to the
15 fee required for full licensure;
16 3. Documents no less than 2 years of the active
17 practice of medicine in another jurisdiction;
18 4. Submits an examination fee that is nonrefundable
19 and equivalent to the fee required for full licensure plus the
20 actual per-applicant cost to the department ~~agency~~ to provide
21 either examination described in this section;
22 5. Has not committed any act or offense in this or any
23 other jurisdiction that would constitute a substantial basis
24 for disciplining a physician under this chapter or part II of
25 chapter 455; and
26 6. Is not under discipline, investigation, or
27 prosecution in this or any other jurisdiction for an act that
28 would constitute a violation of this chapter or part II of
29 chapter 455 and that substantially threatened or threatens the
30 public health, safety, or welfare.
31

1 (d) Every person eligible for restricted licensure
2 under this section may sit for the USMLE or the
3 department-developed ~~agency and board-developed~~ examination
4 five times within 5 calendar years. Applicants desiring to
5 use portions of the FLEX and the USMLE may do so up to the
6 year 2000. However, notwithstanding subparagraph (c)3.,
7 applicants applying under this section who fail the
8 examination up to a total of five times will only be required
9 to pay the examination fee required for full licensure for the
10 second and subsequent times they take the examination.

11 (e) The department ~~Agency for Health Care~~
12 ~~Administration~~ and the board shall be responsible for working
13 with one or more organizations to offer a medical refresher
14 course designed to prepare applicants to take either licensure
15 examination described in this section. The organizations may
16 develop the medical refresher course, purchase such a course,
17 or contract for such a course from a private organization that
18 specializes in developing such courses.

19 (f) The course shall require no less than two 16-week
20 semesters of 16 contact hours per week for a total of 256
21 contact hours per student for each semester. The cost is to be
22 paid by the students taking the course.

23 (2)(a) Before the department ~~agency~~ may issue a
24 restricted license to an applicant under this section, the
25 applicant must have passed either of the two examinations
26 described in this section. However, the board may impose
27 reasonable restrictions on the applicant's license to
28 practice. These restrictions may include, but are not limited
29 to:

30
31

1 1. Periodic and random department ~~agency~~ audits of the
2 licensee's patient records and review of those records by the
3 board or the department ~~agency~~.

4 2. Periodic appearances of the licensee before the
5 board or the department ~~agency~~.

6 3. Submission of written reports to the board or the
7 department ~~agency~~.

8 (b) A restricted licensee under this section shall
9 practice under the supervision of a full licensee approved by
10 the board with the first year of the licensure period being
11 under direct supervision as defined by board rule and the
12 second year being under indirect supervision as defined by
13 board rule.

14 (c) The board may adopt rules necessary to implement
15 this subsection.

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

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

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

28 (b) The department ~~agency~~ shall renew a restricted
29 license under this section upon payment of the same fees
30 required for renewal for a full license if the restricted
31 licensee is under discipline, investigation, or prosecution

1 for a violation which posed or poses a substantial threat to
2 the public health, safety, or welfare and the board has not
3 permanently revoked the restricted license. A restricted
4 licensee who has renewed such restricted license shall become
5 eligible for full licensure when the licensee is no longer
6 under discipline, investigation, or prosecution.

7 (4) The board shall adopt rules necessary to carry out
8 the provisions of this section.

9 Section 26. Subsections (1) and (2) of section
10 458.313, Florida Statutes, are amended, and subsection (8) of
11 said section is repealed, to read:

12 458.313 Licensure by endorsement; requirements;
13 fees.--

14 (1) The department shall issue a license by
15 endorsement to any applicant who, upon applying to the
16 department on forms furnished by the department and remitting
17 a fee set by the board not to exceed \$500 ~~set by the board~~,
18 the board certifies:

19 (a) Has met the qualifications for licensure in s.
20 458.311(1)(b)-(g) or in s. 458.311(1)(b)-(e) and (g) and (3);

21 (b) Prior to January 1, 2000, has obtained a passing
22 score, as established by rule of the board, on the licensure
23 examination of the Federation of State Medical Boards of the
24 United States, Inc. (FLEX), on ~~or of~~ the United States Medical
25 Licensing Examination (USMLE), or on the examination of the
26 National Board of Medical Examiners, or on a combination
27 thereof, and on or after January 1, 2000, has obtained a
28 passing score on the United States Medical Licensing
29 Examination (USMLE) ~~provided the board certifies as eligible~~
30 ~~for licensure by endorsement any applicant who took the~~
31

1 ~~required examinations more than 10 years prior to application;~~
2 and

3 (c) Has submitted evidence of the active licensed
4 practice of medicine in another jurisdiction, for at least 2
5 of the immediately preceding 4 years, or evidence of
6 successful completion of either a board-approved postgraduate
7 training program within 2 years preceding filing of an
8 application, or a board-approved clinical competency
9 examination, within the year preceding the filing of an
10 application for licensure. For purposes of this paragraph,
11 "active licensed practice of medicine" means that practice of
12 medicine by physicians, including those employed by any
13 governmental entity in community or public health, as defined
14 by this chapter, medical directors under s. 641.495(11) who
15 are practicing medicine, and those on the active teaching
16 faculty of an accredited medical school.

17 ~~(2)(a) As prescribed by board rule, the board may~~
18 ~~require an applicant who does not pass the licensing~~
19 ~~examination after five attempts to complete additional~~
20 ~~remedial education or training. The board shall prescribe the~~
21 ~~additional requirements in a manner that permits the applicant~~
22 ~~to complete the requirements and be reexamined within 2 years~~
23 ~~after the date the applicant petitions the board to retake the~~
24 ~~examination a sixth or subsequent time.~~

25 ~~(b)~~ The board may require an applicant for licensure
26 by endorsement to take and pass the appropriate licensure
27 examination prior to certifying the applicant as eligible for
28 licensure.

29 ~~(8) The department shall reactivate the license of any~~
30 ~~physician whose license has become void by failure to practice~~
31 ~~in Florida for a period of 1 year within 3 years after~~

1 ~~issuance of the license by endorsement, if the physician was~~
2 ~~issued a license by endorsement prior to 1989, has actively~~
3 ~~practiced medicine in another state for the last 4 years,~~
4 ~~applies for licensure before October 1, 1998, pays the~~
5 ~~applicable fees, and otherwise meets any continuing education~~
6 ~~requirements for reactivation of the license as determined by~~
7 ~~the board.~~

8 Section 27. Subsection (1) of section 458.315, Florida
9 Statutes, is amended to read:

10 458.315 Temporary certificate for practice in areas of
11 critical need.--Any physician who is licensed to practice in
12 any other state, whose license is currently valid, and who
13 pays an application fee of \$300 may be issued a temporary
14 certificate to practice in communities of Florida where there
15 is a critical need for physicians. A certificate may be
16 issued to a physician who will be employed by a county health
17 department, correctional facility, community health center
18 funded by s. 329, s. 330, or s. 340 of the United States
19 Public Health Services Act, or other entity that provides
20 health care to indigents and that is approved by the State
21 Health Officer. The Board of Medicine may issue this
22 temporary certificate with the following restrictions:

23 (1) The board shall determine the areas of critical
24 need, and the physician so certified may practice in any of
25 those areas ~~only in that specific area~~ for a time to be
26 determined by the board. Such areas shall include, but not be
27 limited to, health professional shortage areas designated by
28 the United States Department of Health and Human Services.

29 (a) A recipient of a temporary certificate for
30 practice in areas of critical need may use the license to work
31

1 for any approved employer in any area of critical need
2 approved by the board.

3 (b) The recipient of a temporary certificate for
4 practice in areas of critical need shall, within 30 days after
5 accepting employment, notify the board of all approved
6 institutions in which the licensee practices and of all
7 approved institutions where practice privileges have been
8 denied.

9 Section 28. Paragraph (b) of subsection (1) of section
10 458.3165, Florida Statutes, is amended to read:

11 458.3165 Public psychiatry certificate.--The board
12 shall issue a public psychiatry certificate to an individual
13 who remits an application fee not to exceed \$300, as set by
14 the board, who is a board-certified psychiatrist, who is
15 licensed to practice medicine without restriction in another
16 state, and who meets the requirements in s. 458.311(1)(a)-(g)
17 and (5).

18 (1) Such certificate shall:

19 (b) Be issued and renewable biennially if the
20 secretary of the Department of Health ~~and Rehabilitative~~
21 ~~Services~~ and the chair of the department of psychiatry at one
22 of the public medical schools or the chair of the department
23 of psychiatry at the accredited medical school at the
24 University of Miami recommend in writing that the certificate
25 be issued or renewed.

26 Section 29. Subsection (4) is added to section
27 458.317, Florida Statutes, 1998 Supplement, to read:

28 458.317 Limited licenses.--

29 (4) Any person holding an active license to practice
30 medicine in the state may convert that license to a limited
31 license for the purpose of providing volunteer, uncompensated

1 care for low-income Floridians. Applicants must submit a
2 statement from the employing agency or institution stating
3 that he or she will not receive compensation for any service
4 involving the practice of medicine. The application and all
5 licensure fees, including neurological injury compensation
6 assessments, shall be waived.

7 Section 30. Paragraph (mm) is added to subsection (1)
8 of section 458.331, Florida Statutes, 1998 Supplement, and
9 subsection (2) of said section is amended, to read:

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

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

15 (mm) Failing to comply with the requirements of ss.
16 381.026 and 381.0261 to provide patients with information
17 about their patient rights and how to file a patient
18 complaint.

19 (2) When the board finds any person guilty of any of
20 the grounds set forth in subsection (1), including conduct
21 that would constitute a substantial violation of subsection
22 (1) which occurred prior to licensure, it may enter an order
23 imposing one or more of the following penalties:

24 (a) Refusal to certify, or certification with
25 restrictions, to the department an application for licensure,
26 certification, or registration.

27 (b) Revocation or suspension of a license.

28 (c) Restriction of practice.

29 (d) Imposition of an administrative fine not to exceed
30 \$10,000~~\$5,000~~ for each count or separate offense.

31 (e) Issuance of a reprimand.

1 (f) Placement of the physician on probation for a
2 period of time and subject to such conditions as the board may
3 specify, including, but not limited to, requiring the
4 physician to submit to treatment, to attend continuing
5 education courses, to submit to reexamination, or to work
6 under the supervision of another physician.

7 (g) Issuance of a letter of concern.

8 (h) Corrective action.

9 (i) Refund of fees billed to and collected from the
10 patient.

11 (j) Imposition of an administrative fine in accordance
12 with s. 381.0261 for violations regarding patient rights.

13

14 In determining what action is appropriate, the board must
15 first consider what sanctions are necessary to protect the
16 public or to compensate the patient. Only after those
17 sanctions have been imposed may the disciplining authority
18 consider and include in the order requirements designed to
19 rehabilitate the physician. All costs associated with
20 compliance with orders issued under this subsection are the
21 obligation of the physician.

22 Section 31. Subsection (7) of section 458.347, Florida
23 Statutes, 1998 Supplement, is amended to read:

24 458.347 Physician assistants.--

25 (7) PHYSICIAN ASSISTANT LICENSURE.--

26 (a) Any person desiring to be licensed as a physician
27 assistant must apply to the department. The department shall
28 issue a license to any person certified by the council as
29 having met the following requirements:

30 1. Is at least 18 years of age.

31

1 2. Has satisfactorily passed a proficiency examination
2 by an acceptable score established by the National Commission
3 on Certification of Physician Assistants. If an applicant
4 does not hold a current certificate issued by the National
5 Commission on Certification of Physician Assistants and has
6 not actively practiced as a physician assistant within the
7 immediately preceding 4 years, the applicant must retake and
8 successfully complete the entry-level examination of the
9 National Commission on Certification of Physician Assistants
10 to be eligible for licensure.

11 3. Has completed the application form and remitted an
12 application fee not to exceed \$300 as set by the boards. An
13 application for licensure made by a physician assistant must
14 include:

15 a. A certificate of completion of a physician
16 assistant training program specified in subsection (6).

17 b. A sworn statement of any prior felony convictions.

18 c. A sworn statement of any previous revocation or
19 denial of licensure or certification in any state.

20 d. Two letters of recommendation.

21 (b)1. Notwithstanding subparagraph (a)2. and
22 sub-subparagraph (a)3.a., the department shall examine each
23 applicant who the Board of Medicine certifies:

24 a. Has completed the application form and remitted a
25 nonrefundable application fee not to exceed \$500 and an
26 examination fee not to exceed \$300, plus the actual cost to
27 the department to provide the examination. The examination
28 fee is refundable if the applicant is found to be ineligible
29 to take the examination. The department shall not require the
30 applicant to pass a separate practical component of the
31 examination. For examinations given after July 1, 1998,

1 competencies measured through practical examinations shall be
2 incorporated into the written examination through a
3 multiple-choice format. The department shall translate the
4 examination into the native language of any applicant who
5 requests and agrees to pay all costs of such translation,
6 provided that the translation request is filed with the board
7 office no later than 9 months before the scheduled examination
8 and the applicant remits translation fees as specified by the
9 department no later than 6 months before the scheduled
10 examination, and provided that the applicant demonstrates to
11 the department the ability to communicate orally in basic
12 English. If the applicant is unable to pay translation costs,
13 the applicant may take the next available examination in
14 English if the applicant submits a request in writing by the
15 application deadline and if the applicant is otherwise
16 eligible under this section. To demonstrate the ability to
17 communicate orally in basic English, a passing score or grade
18 is required, as determined by the department or organization
19 that developed it, on one of the following English
20 examinations:

- 21 (I) The test for spoken English (TSE) by the
22 Educational Testing Service (ETS);
23 (II) The test of English as a foreign language
24 (TOEFL), by ETS;
25 (III) A high school or college level English course;
26 (IV) The English examination for citizenship,
27 Immigration and Naturalization Service.

28
29 A notarized copy of an Educational Commission for Foreign
30 Medical Graduates (ECFMG) certificate may also be used to
31 demonstrate the ability to communicate in basic English.

1 b. Is an unlicensed physician who graduated from a
2 foreign medical school listed with the World Health
3 Organization who has not previously taken and failed the
4 examination of the National Commission on Certification of
5 Physician Assistants and who has been certified by the Board
6 of Medicine as having met the requirements for licensure as a
7 medical doctor by examination as set forth in s. 458.311(1),
8 (3), (4), and (5), with the exception that the applicant is
9 not required to have completed an approved residency of at
10 least 1 year and the applicant is not required to have passed
11 the licensing examination specified under s. 458.311 or hold a
12 valid, active certificate issued by the Educational Commission
13 for Foreign Medical Graduates.

14 c. Was eligible and made initial application for
15 certification as a physician assistant in this state between
16 July 1, 1990, and June 30, 1991.

17 d. Was a resident of this state on July 1, 1990, or
18 was licensed or certified in any state in the United States as
19 a physician assistant on July 1, 1990.

20 2. The department may grant temporary licensure to an
21 applicant who meets the requirements of subparagraph 1.
22 Between meetings of the council, the department may grant
23 temporary licensure to practice based on the completion of all
24 temporary licensure requirements. All such administratively
25 issued licenses shall be reviewed and acted on at the next
26 regular meeting of the council. A temporary license expires
27 30 days after ~~upon~~ receipt and notice of scores to the
28 licenseholder from the first available examination specified
29 in subparagraph 1. following licensure by the department. An
30 applicant who fails the proficiency examination is no longer
31 temporarily licensed, but may apply for a one-time extension

1 of temporary licensure after reapplying for the next available
2 examination. Extended licensure shall expire upon failure of
3 the licenseholder to sit for the next available examination or
4 upon receipt and notice of scores to the licenseholder from
5 such examination.

6 3. Notwithstanding any other provision of law, the
7 examination specified pursuant to subparagraph 1. shall be
8 administered by the department only five times. Applicants
9 certified by the board for examination shall receive at least
10 6 months' notice of eligibility prior to the administration of
11 the initial examination. Subsequent examinations shall be
12 administered at 1-year intervals following the reporting of
13 the scores of the first and subsequent examinations. For the
14 purposes of this paragraph, the department may develop,
15 contract for the development of, purchase, or approve an
16 examination, ~~including a practical component,~~ that adequately
17 measures an applicant's ability to practice with reasonable
18 skill and safety. The minimum passing score on the
19 examination shall be established by the department, with the
20 advice of the board. Those applicants failing to pass that
21 examination or any subsequent examination shall receive notice
22 of the administration of the next examination with the notice
23 of scores following such examination. Any applicant who
24 passes the examination and meets the requirements of this
25 section shall be licensed as a physician assistant with all
26 rights defined thereby.

27 (c) The license must be renewed biennially. Each
28 renewal must include:

29 1. A renewal fee not to exceed \$500 as set by the
30 boards.

31

1 2. A sworn statement of no felony convictions in the
2 previous 2 years.

3 (d) Each licensed physician assistant shall biennially
4 complete 100 hours of continuing medical education or shall
5 hold a current certificate issued by the National Commission
6 on Certification of Physician Assistants.

7 (e) Upon employment as a physician assistant, a
8 licensed physician assistant must notify the department in
9 writing within 30 days after such employment or after any
10 subsequent changes in the supervising physician. The
11 notification must include the full name, Florida medical
12 license number, specialty, and address of the supervising
13 physician.

14 (f) Notwithstanding subparagraph (a)2., the department
15 may grant to a recent graduate of an approved program, as
16 specified in subsection (6), who expects to take the first
17 examination administered by the National Commission on
18 Certification of Physician Assistants available for
19 registration after the applicant's graduation, a temporary
20 license. The temporary license shall to expire 30 days after
21 upon receipt of scores of the proficiency examination
22 administered by the National Commission on Certification of
23 Physician Assistants. Between meetings of the council, the
24 department may grant a temporary license to practice based on
25 the completion of all temporary licensure requirements. All
26 such administratively issued licenses shall be reviewed and
27 acted on at the next regular meeting of the council. The
28 recent graduate may be licensed prior to employment, but must
29 comply with paragraph (e). An applicant who has passed the
30 proficiency examination may be granted permanent licensure. An
31 applicant failing the proficiency examination is no longer

1 temporarily licensed, but may reapply for a 1-year extension
2 of temporary licensure. An applicant may not be granted more
3 than two temporary licenses and may not be licensed as a
4 physician assistant until he or she passes the examination
5 administered by the National Commission on Certification of
6 Physician Assistants. As prescribed by board rule, the council
7 may require an applicant who does not pass the licensing
8 examination after five or more attempts to complete additional
9 remedial education or training. The council shall prescribe
10 the additional requirements in a manner that permits the
11 applicant to complete the requirements and be reexamined
12 within 2 years after the date the applicant petitions the
13 council to retake the examination a sixth or subsequent time.

14 (g) The Board of Medicine may impose any of the
15 penalties specified in ss. 455.624 and 458.331(2) upon a
16 physician assistant if the physician assistant or the
17 supervising physician has been found guilty of or is being
18 investigated for any act that constitutes a violation of this
19 chapter or part II of chapter 455.

20 Section 32. Subsection (3) of section 459.003, Florida
21 Statutes, is amended to read:

22 459.003 Definitions.--As used in this chapter:

23 (3) "Practice of osteopathic medicine" means making or
24 approving a ~~the~~ diagnosis, treatment, treatment plan,
25 operation, procedure, or prescription for any human disease,
26 pain, injury, deformity, or other physical or mental
27 condition, which practice is based in part upon educational
28 standards and requirements which emphasize the importance of
29 the musculoskeletal structure and manipulative therapy in the
30 maintenance and restoration of health. The "practice of

31

1 osteopathic medicine" does not include coverage decisions for
2 purposes of insurance benefits.

3 Section 33. Subsection (7) is added to section
4 459.0075, Florida Statutes, to read:

5 459.0075 Limited licenses.--

6 (7) Any person holding an active license to practice
7 osteopathic medicine in the state may convert that license to
8 a limited license for the purpose of providing volunteer,
9 uncompensated care for low-income Floridians. Applicants must
10 submit a statement from the employing agency or institution
11 stating that he or she will not receive compensation for any
12 service involving the practice of osteopathic medicine. The
13 application and all licensure fees, including neurological
14 injury compensation assessments, shall be waived.

15 Section 34. Paragraph (oo) is added to subsection (1)
16 of section 459.015, Florida Statutes, 1998 Supplement, and
17 subsection (2) of said section is amended, to read:

18 459.015 Grounds for disciplinary action by the
19 board.--

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

23 (oo) Failing to comply with the requirements of ss.
24 381.026 and 381.0261 to provide patients with information
25 about their patient rights and how to file a patient
26 complaint.

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

30
31

- 1 (a) Refusal to certify, or certify with restrictions,
2 to the department an application for certification, licensure,
3 renewal, or reactivation.
- 4 (b) Revocation or suspension of a license or
5 certificate.
- 6 (c) Restriction of practice.
- 7 (d) Imposition of an administrative fine not to exceed
8 ~~\$10,000~~~~\$5,000~~ for each count or separate offense.
- 9 (e) Issuance of a reprimand.
- 10 (f) Issuance of a letter of concern.
- 11 (g) Placement of the osteopathic physician on
12 probation for a period of time and subject to such conditions
13 as the board may specify, including, but not limited to,
14 requiring the osteopathic physician to submit to treatment,
15 attend continuing education courses, submit to reexamination,
16 or work under the supervision of another osteopathic
17 physician.
- 18 (h) Corrective action.
- 19 (i) Refund of fees billed to and collected from the
20 patient.
- 21 (j) Imposition of an administrative fine in accordance
22 with s. 381.0261 for violations regarding patient rights.
23
- 24 In determining what action is appropriate, the board must
25 first consider what sanctions are necessary to protect the
26 public or to compensate the patient. Only after those
27 sanctions have been imposed may the disciplining authority
28 consider and include in the order requirements designed to
29 rehabilitate the physician. All costs associated with
30 compliance with orders issued under this subsection are the
31 obligation of the physician.

1 Section 35. Subsection (6) is added to section
2 460.402, Florida Statutes, to read:

3 460.402 Exceptions.--The provisions of this chapter
4 shall not apply to:

5 (6) A chiropractic student enrolled in a chiropractic
6 college accredited by the Council on Chiropractic Education
7 and participating in a community-based internship under the
8 direct supervision of a doctor of chiropractic medicine who is
9 an adjunct faculty member of a chiropractic college in which
10 the student is enrolled.

11 Section 36. Subsections (4) through (10) of section
12 460.403, Florida Statutes, 1998 Supplement, are renumbered as
13 subsections (5) through (11), respectively, a new subsection
14 (4) is added to said section, and present subsection (6) of
15 said section is amended, to read:

16 460.403 Definitions.--As used in this chapter, the
17 term:

18 (4) "Community-based internship" means a program in
19 which a student enrolled in the last year of a chiropractic
20 college accredited by the Council on Chiropractic Education is
21 approved to obtain required pregraduation clinical experience
22 in a chiropractic clinic or practice under the direct
23 supervision of a doctor of chiropractic medicine who is an
24 adjunct faculty member of the chiropractic college in which
25 the student is enrolled, according to the teaching protocols
26 for the clinical practice requirements of the college.

27 ~~(7)(6)~~ "Direct supervision" means responsible
28 supervision and control, with the licensed chiropractic
29 physician assuming legal liability for the services rendered
30 by a registered chiropractic assistant or by a chiropractic
31 student enrolled in a community-based internship. Except in

1 cases of emergency, direct supervision shall require the
2 physical presence of the licensed chiropractic physician for
3 consultation and direction of the actions of the registered
4 chiropractic assistant or chiropractic student enrolled in a
5 community-based internship. The board shall further establish
6 rules as to what constitutes responsible direct supervision of
7 a registered chiropractic assistant.

8 Section 37. Subsection (1) of section 460.406, Florida
9 Statutes, 1998 Supplement, is amended to read:

10 460.406 Licensure by examination.--

11 (1) Any person desiring to be licensed as a
12 chiropractic physician shall apply to the department to take
13 the licensure examination. There shall be an application fee
14 set by the board not to exceed \$100 which shall be
15 nonrefundable. There shall also be an examination fee not to
16 exceed \$500 plus the actual per applicant cost to the
17 department for purchase of portions of the examination from
18 the National Board of Chiropractic Examiners or a similar
19 national organization, which may be refundable if the
20 applicant is found ineligible to take the examination. The
21 department shall examine each applicant who the board
22 certifies has:

23 (a) Completed the application form and remitted the
24 appropriate fee.

25 (b) Submitted proof satisfactory to the department
26 that he or she is not less than 18 years of age.

27 (c) Submitted proof satisfactory to the department
28 that he or she is a graduate of a chiropractic college which
29 is accredited by or has status with the Council on
30 Chiropractic Education or its predecessor agency. However, any
31 applicant who is a graduate of a chiropractic college that was

1 initially accredited by the Council on Chiropractic Education
2 in 1995, who graduated from such college within the 4 years
3 immediately preceding such accreditation, and who is otherwise
4 qualified shall be eligible to take the examination. No
5 application for a license to practice chiropractic medicine
6 shall be denied solely because the applicant is a graduate of
7 a chiropractic college that subscribes to one philosophy of
8 chiropractic medicine as distinguished from another.

9 (d)1. For an applicant who has matriculated in a
10 chiropractic college prior to July 2, 1990, completed at least
11 2 years of residence college work, consisting of a minimum of
12 one-half the work acceptable for a bachelor's degree granted
13 on the basis of a 4-year period of study, in a college or
14 university accredited by an accrediting agency recognized and
15 approved by the United States Department of Education.
16 However, prior to being certified by the board to sit for the
17 examination, each applicant who has matriculated in a
18 chiropractic college after July 1, 1990, shall have been
19 granted a bachelor's degree, based upon 4 academic years of
20 study, by a college or university accredited by a regional
21 accrediting agency which is a member of the Commission on
22 Recognition of Postsecondary Accreditation.

23 2. Effective July 1, 2000, completed, prior to
24 matriculation in a chiropractic college, at least 3 years of
25 residence college work, consisting of a minimum of 90 semester
26 hours leading to a bachelor's degree in a liberal arts college
27 or university accredited by an accrediting agency recognized
28 and approved by the United States Department of Education.
29 However, prior to being certified by the board to sit for the
30 examination, each applicant who has matriculated in a
31 chiropractic college after July 1, 2000, shall have been

1 granted a bachelor's degree from an institution holding
2 accreditation for that degree from a regional accrediting
3 agency which is recognized by the United States Department of
4 Education. The applicant's chiropractic degree must consist
5 of credits earned in the chiropractic program and may not
6 include academic credit for courses from the bachelor's
7 degree.

8 ~~(e) Completed not less than a 3-month training program~~
9 ~~in this state of not less than 300 hours with a chiropractic~~
10 ~~physician licensed in this state. The chiropractic physician~~
11 ~~candidate may perform all services offered by the licensed~~
12 ~~chiropractic physician, but must be under the supervision of~~
13 ~~the licensed chiropractic physician until the results of the~~
14 ~~first licensure examination for which the candidate has~~
15 ~~qualified have been received, at which time the candidate's~~
16 ~~training program shall be terminated. However, an applicant~~
17 ~~who has practiced chiropractic medicine in any other state,~~
18 ~~territory, or jurisdiction of the United States or any foreign~~
19 ~~national jurisdiction for at least 5 years as a licensed~~
20 ~~chiropractic physician need not be required to complete the~~
21 ~~3-month training program as a requirement for licensure.~~

22 (e)(f) Successfully completed the National Board of
23 Chiropractic Examiners certification examination in parts I
24 and II and clinical competency, with a score approved by the
25 board, within 10 years immediately preceding application to
26 the department for licensure.

27 (f)(g) Submitted to the department a set of
28 fingerprints on a form and under procedures specified by the
29 department, along with payment in an amount equal to the costs
30 incurred by the Department of Health for the criminal
31 background check of the applicant.

1 Section 38. Paragraphs (p) and (dd) of subsection (1)
2 and paragraph (d) of subsection (2) of section 460.413,
3 Florida Statutes, 1998 Supplement, are amended to read:

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

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

9 (p) Prescribing, dispensing, or administering any
10 medicinal drug except as authorized by s. 460.403(9)~~(8)~~(c)2.,
11 performing any surgery, or practicing obstetrics.

12 (dd) Using acupuncture without being certified
13 pursuant to s. 460.403(9)~~(8)~~(f).

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

17 (d) Imposition of an administrative fine not to exceed
18 \$10,000~~\$2,000~~ for each count or separate offense.

19
20 In determining what action is appropriate, the board must
21 first consider what sanctions are necessary to protect the
22 public or to compensate the patient. Only after those
23 sanctions have been imposed may the disciplining authority
24 consider and include in the order requirements designed to
25 rehabilitate the chiropractic physician. All costs associated
26 with compliance with orders issued under this subsection are
27 the obligation of the chiropractic physician.

28 Section 39. Section 461.003, Florida Statutes, 1998
29 Supplement, is amended to read:

30 461.003 Definitions.--As used in this chapter:
31

1 ~~(1)(2)~~ "Board" means the Board of Podiatric Medicine
2 as created in this chapter.

3 (2) "Certified podiatric X-ray assistant" means a
4 person who is employed by and under the direct supervision of
5 a licensed podiatric physician to perform only those
6 radiographic functions that are within the scope of practice
7 of a podiatric physician licensed under this chapter. For
8 purposes of this subsection, the term "direct supervision"
9 means supervision whereby a podiatric physician orders the X
10 ray, remains on the premises while the X ray is being
11 performed and exposed, and approves the work performed before
12 dismissal of the patient.

13 ~~(3)(1)~~ "Department" means the Department of Health.

14 (4) "Podiatric physician" means any person licensed to
15 practice podiatric medicine pursuant to this chapter.

16 ~~(5)(3)~~ "Practice of podiatric medicine" means the
17 diagnosis or medical, surgical, palliative, and mechanical
18 treatment of ailments of the human foot and leg. The surgical
19 treatment of ailments of the human foot and leg shall be
20 limited anatomically to that part below the anterior tibial
21 tubercle. The practice of podiatric medicine shall include
22 the amputation of the toes or other parts of the foot but
23 shall not include the amputation of the foot or leg in its
24 entirety. A podiatric physician may prescribe drugs that
25 relate specifically to the scope of practice authorized
26 herein.

27 Section 40. Paragraph (d) of subsection (1) of section
28 461.006, Florida Statutes, 1998 Supplement, is amended to
29 read:

30 461.006 Licensure by examination.--

31

1 (1) Any person desiring to be licensed as a podiatric
2 physician shall apply to the department to take the licensure
3 examination. The department shall examine each applicant who
4 the board certifies:

5 (d) ~~Beginning October 1, 1995,~~Has satisfactorily
6 completed one of the following clinical experience
7 requirements:

8 1. One year of residency in a residency program
9 approved by the board, and if it has been 4 or more years
10 since the completion of that residency, active licensed
11 practice of podiatric medicine in another jurisdiction for at
12 least 2 of the immediately preceding 4 years, or successful
13 completion of a board-approved postgraduate program or
14 board-approved course within the year preceding the filing of
15 the application. For the purpose of this subparagraph, "active
16 licensed practice" means the licensed practice of podiatric
17 medicine as defined in s. 461.003(5) by podiatric physicians,
18 including podiatric physicians employed by any governmental
19 entity, on the active teaching faculty of an accredited school
20 of podiatric medicine, or practicing administrative podiatric
21 medicine.

22 2. Ten years of continuous, active licensed practice
23 of podiatric medicine in another state immediately preceding
24 the submission of the application and completion of at least
25 the same continuing educational requirements during those 10
26 years as are required of podiatric physicians licensed in this
27 state.

28 Section 41. Subsection (1) of section 461.007, Florida
29 Statutes, 1998 Supplement, is amended to read:

30 461.007 Renewal of license.--
31

1 (1) The department shall renew a license upon receipt
2 of the renewal application and a fee not to exceed \$350 set by
3 the board, and evidence that the applicant has actively
4 practiced podiatric medicine or has been on the active
5 teaching faculty of an accredited school of podiatric medicine
6 for at least 2 years of the immediately preceding 4 years. If
7 the licensee has not actively practiced podiatric medicine for
8 at least 2 years of the immediately preceding 4 years, the
9 board shall require that the licensee successfully complete a
10 board-approved course prior to renewal of the license. For
11 purposes of this subsection, "actively practiced podiatric
12 medicine" means the licensed practice of podiatric medicine as
13 defined in s. 461.003(5) by podiatric physicians, including
14 podiatric physicians employed by any governmental entity, on
15 the active teaching faculty of an accredited school of
16 podiatric medicine, or practicing administrative podiatric
17 medicine. An applicant for a renewed license must also submit
18 the information required under s. 455.565 to the department on
19 a form and under procedures specified by the department, along
20 with payment in an amount equal to the costs incurred by the
21 Department of Health for the statewide criminal background
22 check of the applicant. The applicant must submit a set of
23 fingerprints to the Department of Health on a form and under
24 procedures specified by the department, along with payment in
25 an amount equal to the costs incurred by the department for a
26 national criminal background check of the applicant for the
27 initial renewal of his or her license after January 1, 2000.
28 If the applicant fails to submit either the information
29 required under s. 455.565 or a set of fingerprints to the
30 department as required by this section, the department shall
31 issue a notice of noncompliance, and the applicant will be

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

22 Section 42. Paragraph (bb) is added to subsection (1)
23 of section 461.013, Florida Statutes, 1998 Supplement, and
24 subsection (2) of said section is amended, to read:

25 461.013 Grounds for disciplinary action; action by the
26 board; investigations by department.--

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

30 (bb) Failing to comply with the requirements of ss.
31 381.026 and 381.0261 to provide patients with information

1 about their patient rights and how to file a patient
2 complaint.

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

6 (a) Refusal to certify to the department an
7 application for licensure.

8 (b) Revocation or suspension of a license.

9 (c) Restriction of practice.

10 (d) Imposition of an administrative fine not to exceed
11 ~~\$10,000~~~~\$1,000~~ for each count or separate offense.

12 (e) Issuance of a reprimand.

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

19 (g) Imposition of an administrative fine in accordance
20 with s. 381.0261 for violations regarding patient rights.

21 Section 43. Section 461.0135, Florida Statutes, is
22 created to read:

23 461.0135 Operation of X-ray machines by podiatric
24 X-ray assistants.--A licensed podiatric physician may utilize
25 an X-ray machine, expose X-ray films, and interpret or read
26 such films. The provision of part IV of chapter 468 to the
27 contrary notwithstanding, a licensed podiatric physician may
28 authorize or direct a certified podiatric X-ray assistant to
29 operate such equipment and expose such films under the
30 licensed podiatric physician's direction and supervision,
31 pursuant to rules adopted by the board in accordance with s.

1 461.004, which ensures that such certified podiatric X-ray
2 assistant is competent to operate such equipment in a safe and
3 efficient manner by reason of training, experience, and
4 passage of a board-approved course which includes an
5 examination. The board shall issue a certificate to an
6 individual who successfully completes the board-approved
7 course and passes the examination to be administered by the
8 training authority upon completion of such course.

9 Section 44. Subsection (3) is added to section
10 464.008, Florida Statutes, to read:

11 464.008 Licensure by examination.--

12 (3) Any applicant who fails the examination three
13 consecutive times, regardless of the jurisdiction in which the
14 examination is taken, shall be required to complete a
15 board-approved remedial course before the applicant will be
16 approved for reexamination. After taking the remedial course,
17 the applicant may be approved to retake the examination up to
18 three additional times before the applicant is required to
19 retake remediation. The applicant shall apply for
20 reexamination within 6 months after completion of remediation.
21 The board shall by rule establish guidelines for remedial
22 courses.

23 Section 45. Subsection (13) is added to section
24 464.022, Florida Statutes, to read:

25 464.022 Exceptions.--No provision of this chapter
26 shall be construed to prohibit:

27 (13) The practice of nursing by individuals enrolled
28 in board-approved remedial courses.

29 Section 46. Subsections (4) through (14) of section
30 465.003, Florida Statutes, are renumbered as subsections (5)
31 through (15), respectively, a new subsection (4) is added to

1 said section, and present subsection (12) of said section is
2 amended, to read:

3 465.003 Definitions.--As used in this chapter, the
4 term:

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

9 (13)~~(12)~~ "Practice of the profession of pharmacy"
10 includes compounding, dispensing, and consulting concerning
11 contents, therapeutic values, and uses of any medicinal drug;
12 and consulting concerning therapeutic values and interactions
13 of patent or proprietary preparations, whether pursuant to
14 prescriptions or in the absence and entirely independent of
15 such prescriptions or orders; and other pharmaceutical
16 services. For purposes of this subsection, "other
17 pharmaceutical services" means the monitoring of the patient's
18 drug therapy and assisting the patient in the management of
19 his or her drug therapy, and includes review of the patient's
20 drug therapy and communication with the patient's prescribing
21 health care provider as licensed under chapter 458, chapter
22 459, chapter 461, or chapter 466, or similar statutory
23 provision in another jurisdiction, or such provider's agent or
24 such other persons as specifically authorized by the patient,
25 regarding the drug therapy. However, nothing in this
26 subsection may be interpreted to permit an alteration of a
27 prescriber's directions, the diagnosis or treatment of any
28 disease, the initiation of any drug therapy, the practice of
29 medicine, or the practice of osteopathic medicine, unless
30 otherwise permitted by law."Practice of the profession of
31 pharmacy"The phrase also includes any other act, service,

1 operation, research, or transaction incidental to, or forming
2 a part of, any of the foregoing acts, requiring, involving, or
3 employing the science or art of any branch of the
4 pharmaceutical profession, study, or training, and shall
5 expressly permit a pharmacist to transmit information from
6 persons authorized to prescribe medicinal drugs to their
7 patients.

8 Section 47. Effective upon this act becoming a law,
9 paragraph (1) of subsection (1) of section 465.016, Florida
10 Statutes, is amended to read:

11 465.016 Disciplinary actions.--

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

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

26 Section 48. Paragraph (c) of subsection (2) of section
27 465.016, Florida Statutes, is amended, and paragraph (q) is
28 added to subsection (1) of said section, to read:

29 465.016 Disciplinary actions.--

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

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

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

6 (c) Imposition of an administrative fine not to exceed
7 \$5,000~~\$1,000~~ for each count or separate offense.

8 Section 49. Subsection (2) of section 465.017, Florida
9 Statutes, is amended to read:

10 465.017 Authority to inspect.--

11 (2) Except as permitted by this chapter, and chapters
12 406, 409, 455, 499, and 893, records maintained by in a
13 pharmacy relating to the filling of prescriptions and the
14 dispensing of medicinal drugs shall not be furnished, except
15 upon the written authorization of the patient, to any person
16 other than to the patient for whom the drugs were dispensed,
17 ~~or her or his legal representative, or to the department~~
18 ~~pursuant to existing law,~~ or, in the event that the patient is
19 incapacitated or unable to request such said records, her or
20 his spouse; to the department pursuant to law; to health care
21 practitioners and pharmacists consulting with or dispensing to
22 the patient; or to insurance carriers or other payors
23 authorized by the patient to receive such records. For
24 purposes of this section, records held in a pharmacy shall be
25 considered owned by the owner of the pharmacy. The pharmacy
26 owner may use such records in the aggregate without patient
27 identification data, regardless of where such records are
28 held, for purposes reasonably related to the business and
29 practice of pharmacy ~~except upon the written authorization of~~
30 ~~such patient.~~ Such records may be furnished in any civil or
31 criminal proceeding, upon the issuance of a subpoena from a

1 court of competent jurisdiction and proper notice to the
2 patient or her or his legal representative by the party
3 seeking such records. Such records or any part thereof, if
4 transmitted through a data communication device and not
5 directly between a pharmacy and a treating practitioner, may
6 not be accessed, used, or maintained by the operator or owner
7 of the data communication device unless specifically
8 authorized by this section. It is the intent of this
9 subsection to allow the use and sharing of such records to
10 improve patient care, provided the pharmacist acts in the best
11 interests of her or his patient. Nothing in this subsection
12 may be construed to authorize or expand solicitation or
13 marketing to patients or potential patients in any manner not
14 otherwise specifically authorized by law.

15 Section 50. Section 465.014, Florida Statutes, is
16 amended to read:

17 465.014 Pharmacy technician.--No person other than a
18 licensed pharmacist or pharmacy intern may engage in the
19 practice of the profession of pharmacy, except that a licensed
20 pharmacist may delegate to nonlicensed pharmacy technicians
21 those duties, tasks, and functions which do not fall within
22 the purview of s. 465.003(13)(~~12~~). All such delegated acts
23 shall be performed under the direct supervision of a licensed
24 pharmacist who shall be responsible for all such acts
25 performed by persons under his or her supervision. A pharmacy
26 technician, under the supervision of a pharmacist, may
27 initiate or receive communications with a practitioner or his
28 or her agent, on behalf of a patient, regarding refill
29 authorization requests. No licensed pharmacist shall
30 supervise more than one pharmacy technician unless otherwise
31 permitted by the guidelines adopted by the board. The board

1 shall establish guidelines to be followed by licensees or
2 permittees in determining the circumstances under which a
3 licensed pharmacist may supervise more than one but not more
4 than three pharmacy technicians.

5 Section 51. Paragraph (c) of subsection (2) of section
6 465.015, Florida Statutes, is amended to read:

7 465.015 Violations and penalties.--

8 (2) It is unlawful for any person:

9 (c) To sell or dispense drugs as defined in s.
10 465.003(8)~~(7)~~without first being furnished with a
11 prescription.

12 Section 52. Section 465.0196, Florida Statutes, is
13 amended to read:

14 465.0196 Special pharmacy permits.--Any person
15 desiring a permit to operate a pharmacy which does not fall
16 within the definitions set forth in s. 465.003(11)~~(10)~~(a)1.,
17 2., and 3. shall apply to the department for a special
18 pharmacy permit. If the board certifies that the application
19 complies with the applicable laws and rules of the board
20 governing the practice of the profession of pharmacy, the
21 department shall issue the permit. No permit shall be issued
22 unless a licensed pharmacist is designated to undertake the
23 professional supervision of the compounding and dispensing of
24 all drugs dispensed by the pharmacy. The licensed pharmacist
25 shall be responsible for maintaining all drug records and for
26 providing for the security of the area in the facility in
27 which the compounding, storing, and dispensing of medicinal
28 drugs occurs. The permittee shall notify the department
29 within 10 days of any change of the licensed pharmacist
30 responsible for such duties.

31

1 Section 53. Subsection (3) of section 468.812, Florida
2 Statutes, is amended to read:

3 468.812 Exemptions from licensure.--

4 (3) The provisions of this act relating to orthotics
5 or pedorthics do not apply to any licensed pharmacist or to
6 any person acting under the supervision of a licensed
7 pharmacist. The practice of orthotics or pedorthics by a
8 pharmacist or any of the pharmacist's employees acting under
9 the supervision of a pharmacist shall be construed to be
10 within the meaning of the term "practice of the profession of
11 pharmacy" as set forth in s. 465.003(13)(~~12~~), and shall be
12 subject to regulation in the same manner as any other pharmacy
13 practice. The Board of Pharmacy shall develop rules regarding
14 the practice of orthotics and pedorthics by a pharmacist. Any
15 pharmacist or person under the supervision of a pharmacist
16 engaged in the practice of orthotics or pedorthics shall not
17 be precluded from continuing that practice pending adoption of
18 these rules.

19 Section 54. Subsection (19) of section 499.003,
20 Florida Statutes, is amended to read:

21 499.003 Definitions of terms used in ss.

22 499.001-499.081.--As used in ss. 499.001-499.081, the term:

23 (19) "Legend drug," "prescription drug," or "medicinal
24 drug" means any drug, including, but not limited to, finished
25 dosage forms, or active ingredients subject to, defined by, or
26 described by s. 503(b) of the Federal Food, Drug, and Cosmetic
27 Act or s. 465.003(8)(~~7~~), s. 499.007(12), or s. 499.0122(1)(b)
28 or (c).

29 Section 55. Paragraph (a) of subsection (1) and
30 subsection (5) of section 499.012, Florida Statutes, 1998
31 Supplement, are amended to read:

1 499.012 Wholesale distribution; definitions; permits;
2 general requirements.--

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

4 (a) "Wholesale distribution" means distribution of
5 prescription drugs to persons other than a consumer or
6 patient, but does not include:

7 1. Any of the following activities, which is not a
8 violation of s. 499.005(21) if such activity is conducted in
9 accordance with s. 499.014:

10 a. The purchase or other acquisition by a hospital or
11 other health care entity that is a member of a group
12 purchasing organization of a prescription drug for its own use
13 from the group purchasing organization or from other hospitals
14 or health care entities that are members of that organization.

15 b. The sale, purchase, or trade of a prescription drug
16 or an offer to sell, purchase, or trade a prescription drug by
17 a charitable organization described in s. 501(c)(3) of the
18 Internal Revenue Code of 1986, as amended and revised, to a
19 nonprofit affiliate of the organization to the extent
20 otherwise permitted by law.

21 c. The sale, purchase, or trade of a prescription drug
22 or an offer to sell, purchase, or trade a prescription drug
23 among hospitals or other health care entities that are under
24 common control. For purposes of this section, "common control"
25 means the power to direct or cause the direction of the
26 management and policies of a person or an organization,
27 whether by ownership of stock, by voting rights, by contract,
28 or otherwise.

29 d. The sale, purchase, trade, or other transfer of a
30 prescription drug from or for any federal, state, or local
31 government agency or any entity eligible to purchase

1 prescription drugs at public health services prices pursuant
2 to s. 602 of Pub. L. No. 102-585 to a contract provider or its
3 subcontractor for eligible patients of the agency or entity
4 under the following conditions:

5 (I) The agency or entity must obtain written
6 authorization for the sale, purchase, trade, or other transfer
7 of a prescription drug under this sub-subparagraph from the
8 Secretary of Health or his or her designee.

9 (II) The contract provider or subcontractor must be
10 authorized by law to administer or dispense prescription
11 drugs.

12 (III) In the case of a subcontractor, the agency or
13 entity must be a party to and execute the subcontract.

14 (IV) A contract provider or subcontractor must
15 maintain separate and apart from other prescription drug
16 inventory any prescription drugs of the agency or entity in
17 its possession.

18 (V) The contract provider and subcontractor must
19 maintain and produce immediately for inspection all records of
20 movement or transfer of all the prescription drugs belonging
21 to the agency or entity, including, but not limited to, the
22 records of receipt and disposition of prescription drugs.

23 Each contractor and subcontractor dispensing or administering
24 these drugs must maintain and produce records documenting the
25 dispensing or administration. Records that are required to be
26 maintained include, but are not limited to, a perpetual
27 inventory itemizing drugs received and drugs dispensed by
28 prescription number or administered by patient identifier,
29 which must be submitted to the agency or entity quarterly.

30 (VI) The contract provider or subcontractor may
31 administer or dispense the prescription drugs only to the

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

9 (VII) The prescription drugs transferred pursuant to
10 this sub-subparagraph may not be billed to Medicaid.

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 shall
15 be subject to inspection by the agency or entity. All records
16 relating to prescription drugs of a manufacturer under this
17 sub-subparagraph shall be subject to audit by the manufacturer
18 of those drugs, without identifying individual patient
19 information.

20 2. Any of the following activities, which is not a
21 violation of s. 499.005(21) if such activity is conducted in
22 accordance with rules established by the department:

23 a. The sale, purchase, or trade of a prescription drug
24 among federal, state, or local government health care entities
25 that are under common control and are authorized to purchase
26 such prescription drug.

27 b. The sale, purchase, or trade of a prescription drug
28 or an offer to sell, purchase, or trade a prescription drug
29 for emergency medical reasons. ~~For purposes of this~~
30 sub-subparagraph ~~subparagraph~~, the term "emergency medical
31 reasons" includes transfers of prescription drugs by a retail

1 pharmacy to another retail pharmacy to alleviate a temporary
2 shortage.

3 c. The transfer ~~purchase or acquisition~~ of a
4 prescription drug acquired by a medical director on behalf of
5 a licensed an emergency medical services provider to that
6 ~~medical director for use by emergency medical services~~
7 provider and its transport vehicles for use in accordance with
8 the provider's license under providers acting within the scope
9 ~~of their professional practice pursuant to chapter 401.~~

10 d. The revocation of a sale or the return of a
11 prescription drug to the person's prescription drug wholesale
12 supplier.

13 e. The donation of a prescription drug by a health
14 care entity to a charitable organization that has been granted
15 an exemption under s. 501(c)(3) of the Internal Revenue Code
16 of 1986, as amended, and that is authorized to possess
17 prescription drugs.

18 f. The transfer of a prescription drug by a person
19 authorized to purchase or receive prescription drugs to a
20 person licensed or permitted to handle reverse distributions
21 or destruction under the laws of the jurisdiction in which the
22 person handling the reverse distribution or destruction
23 receives the drug.

24 ~~3. The dispensing of a prescription drug pursuant to a~~
25 ~~prescription;~~

26 ~~3.4.~~ The distribution of prescription drug samples by
27 manufacturers' representatives or distributors'
28 representatives conducted in accordance with s. 499.028. ~~or~~

29 ~~4.5.~~ The sale, purchase, or trade of blood and blood
30 components intended for transfusion. As used in this
31 subparagraph ~~section~~, the term "blood" means whole blood

1 collected from a single donor and processed either for
2 transfusion or further manufacturing, and the term "blood
3 components" means that part of the blood separated by physical
4 or mechanical means.

5 5. The lawful dispensing of a prescription drug in
6 accordance with chapter 465.

7 (5) The department may adopt rules governing the
8 recordkeeping, storage, and handling with respect to each of
9 the distributions of prescription drugs specified in
10 subparagraphs (1)(a)~~1.-4.1., 2., 4., and 5.~~

11 Section 56. (1) There is created within the
12 Department of Health a Task Force for the Study of
13 Collaborative Drug Therapy Management. The department shall
14 provide staff support for the task force. The task force shall
15 consist of not more than 10 members nominated by the
16 associations and entities named in this section and appointed
17 by the Secretary of Health. Members of the task force shall
18 not receive compensation, per diem, or reimbursement for
19 travel expenses for service on the task force. Participation
20 in the task force is optional and at the discretion of each
21 identified group or entity. The task force shall include:

22 (a) One representative from each of the following
23 associations:

- 24 1. Florida Society of Health-System Pharmacists.
- 25 2. Florida Pharmacy Association.
- 26 3. Florida Medical Association.
- 27 4. Florida Osteopathic Medical Association.
- 28 5. Florida Retail Federation.

29 (b) One representative from each of the following
30 entities:

- 31 1. Department of Health.

1 2. Board of Medicine, which representative must be a
2 member of the board who is licensed under chapter 458, Florida
3 Statutes.

4 3. Board of Osteopathic Medicine, which representative
5 must be a member of the board who is licensed under chapter
6 459, Florida Statutes.

7 4. Board of Pharmacy, which representative must be a
8 member of the board who is licensed under chapter 465, Florida
9 Statutes.

10 5. Agency for Health Care Administration.

11 (2) The task force shall hold its first meeting no
12 later than August 1, 1999, and shall report its findings to
13 the President of the Senate, the Speaker of the House of
14 Representatives, and the chairs of the applicable legislative
15 committees of substance not later than December 31, 1999. All
16 task force meetings must be held in Tallahassee at the
17 department in order to minimize costs to the state.

18 (3) The task force shall be charged with the
19 responsibility to:

20 (a) Determine the states in which collaborative drug
21 therapy management has been enacted by law or administrative
22 rule and summarize the content of all such laws and rules.

23 (b) Receive testimony from interested parties and
24 identify the extent to which collaborative drug therapy
25 management is currently being practiced in this state and
26 other states.

27 (c) Determine the efficacy of collaborative drug
28 therapy management in improving health care outcomes of
29 patients.

30 Section 57. Paragraph (j) is added to subsection (3)
31 of section 466.003, Florida Statutes, to read:

1 466.003 Definitions.--As used in this chapter:
2 (3) "Dentistry" means the healing art which is
3 concerned with the examination, diagnosis, treatment planning,
4 and care of conditions within the human oral cavity and its
5 adjacent tissues and structures. It includes the performance
6 or attempted performance of any dental operation, or oral or
7 oral-maxillofacial surgery and any procedures adjunct thereto,
8 including physical evaluation directly related to such
9 operation or surgery pursuant to hospital rules and
10 regulations. It also includes dental service of any kind
11 gratuitously or for any remuneration paid, or to be paid,
12 directly or indirectly, to any person or agency. The term
13 "dentistry" shall also include the following:

14 (j) Making or approving a diagnosis, treatment,
15 treatment plan, operation, procedure, or prescription. The
16 "practice of dentistry" does not include coverage decisions
17 for purposes of insurance benefits.

18 Section 58. Section 466.021, Florida Statutes, is
19 amended to read:

20 466.021 Employment of unlicensed persons by dentist;
21 penalty.--Every duly licensed dentist who uses the services of
22 any unlicensed person for the purpose of constructing,
23 altering, repairing, or duplicating any denture, partial
24 denture, bridge splint, or orthodontic or prosthetic appliance
25 shall be required to furnish such unlicensed person with a
26 written work order in such form as prescribed ~~shall be~~
27 ~~approved by rule of the board department. This form shall be~~
28 ~~supplied to the dentist by the department at a cost not to~~
29 ~~exceed that of printing and handling. The work order blanks~~
30 ~~shall be assigned to individual dentists and are not~~
31 ~~transferable.~~This form shall be dated and signed by such

1 dentist and shall include the patient's name or number with
2 sufficient descriptive information to clearly identify the
3 case for each separate and individual piece of work. ~~A said~~
4 ~~work order shall be made in duplicate form, the duplicate copy~~
5 of such work order shall ~~to~~ be retained in a permanent file in
6 the dentist's office for a period of 2 years, and the original
7 work order shall ~~to~~ be retained in a permanent file for a
8 period of 2 years by such ~~said~~ unlicensed person in her or his
9 place of business. Such permanent file of work orders to be
10 kept by such dentist or by such unlicensed person shall be
11 open to inspection at any reasonable time by the department or
12 its duly constituted agent. Failure of the dentist to keep
13 such permanent records of such ~~said~~ work orders shall subject
14 the dentist to suspension or revocation of her or his license
15 to practice dentistry. Failure of such unlicensed person to
16 have in her or his possession a work order as required by this
17 section ~~above defined~~ shall be admissible evidence of a
18 violation of this chapter and shall constitute a misdemeanor
19 of the second degree, punishable as provided in s. 775.082 or
20 s. 775.083. Nothing in this section shall preclude a
21 registered dental laboratory from working for another
22 registered dental laboratory, provided that such work is
23 performed pursuant to written authorization, in a form to be
24 prescribed by rule of the board ~~department~~, which evidences
25 that the originating laboratory has obtained a valid work
26 order and which sets forth the work to be performed.
27 Furthermore, nothing in this section shall preclude a
28 registered laboratory from providing its services to dentists
29 licensed and practicing in another state, provided that such
30 work is requested or otherwise authorized in written form
31 which clearly identifies the name and address of the

1 requesting dentist and which sets forth the work to be
2 performed.

3 Section 59. Paragraph (c) of subsection (2) of section
4 468.1115, Florida Statutes, is amended to read:

5 468.1115 Exemptions.--

6 (2) The provisions of this part shall not apply to:

7 (c) Persons certified in the areas of speech-language
8 impairment or hearing impairment in this state under chapter
9 231 when engaging in the profession for which they are
10 certified through January 1, 2000, or any person under the
11 direct supervision of such a certified person through January
12 1, 2000, or of a licensee under this chapter, when the person
13 under such supervision is performing hearing screenings in a
14 school setting for prekindergarten through grade 12.

15 Section 60. Paragraph (b) of subsection (2), paragraph
16 (b) of subsection (3), and subsection (4) of section 468.1155,
17 Florida Statutes, are amended to read:

18 468.1155 Provisional license; requirements.--

19 (2) The department shall issue a provisional license
20 to practice speech-language pathology to each applicant who
21 the board certifies has:

22 (b) Received a master's degree or doctoral degree with
23 a major emphasis in speech-language pathology from an
24 institution of higher learning which, at the time the
25 applicant was enrolled and graduated, was accredited by an
26 accrediting agency recognized by the Commission on Recognition
27 of Postsecondary Accreditation or from an institution which is
28 publicly recognized as a member in good standing with the
29 Association of Universities and Colleges of Canada. An
30 applicant who graduated from a program at a university or
31 college outside the United States or Canada must present

1 documentation of the determination of equivalency to standards
2 established by the Commission on Recognition of Postsecondary
3 Accreditation in order to qualify. The applicant must have
4 completed 60 semester hours that include:

5 1. Fundamental information applicable to the normal
6 development and use of speech, hearing, and language;
7 information about training in management of speech, hearing,
8 and language disorders; and information supplementary to these
9 fields.

10 2. Six semester hours in audiology.

11 3. Thirty of the required 60 semester hours in courses
12 acceptable toward a graduate degree by the college or
13 university in which these courses were taken, of which 24
14 semester hours must be in speech-language pathology.

15 (3) The department shall issue a provisional license
16 to practice audiology to each applicant who the board
17 certifies has:

18 (b) Received a master's degree or doctoral degree with
19 a major emphasis in audiology from an institution of higher
20 learning which at the time the applicant was enrolled and
21 graduated was accredited by an accrediting agency recognized
22 by the Commission on Recognition of Postsecondary
23 Accreditation or from an institution which is publicly
24 recognized as a member in good standing with the Association
25 of Universities and Colleges of Canada. An applicant who
26 graduated from a program at a university or college outside
27 the United States or Canada must present documentation of the
28 determination of equivalency to standards established by the
29 Commission on Recognition of Postsecondary Accreditation in
30 order to qualify. The applicant must have completed 60
31 semester hours that include:

1 1. Fundamental information applicable to the normal
2 development and use of speech, hearing, and language;
3 information about training in management of speech, hearing,
4 and language disorders; and information supplementary to these
5 fields.

6 2. Six semester hours in speech-language pathology.

7 3. Thirty of the required 60 semester hours in courses
8 acceptable toward a graduate degree by the college or
9 university in which these courses were taken, of which 24
10 semester hours must be in audiology.

11 (4) An applicant for a provisional license who has
12 received a master's degree or doctoral degree with a major
13 emphasis in speech-language pathology as provided in
14 subsection (2), or audiology as provided in subsection (3),
15 and who seeks licensure in the area in which the applicant is
16 not currently licensed, must have completed 30 semester hours
17 in courses acceptable toward a graduate degree and 200
18 supervised clinical clock hours in the second discipline from
19 an accredited institution.

20 Section 61. Section 468.1215, Florida Statutes, is
21 amended to read:

22 468.1215 Speech-language pathology assistant and
23 audiology assistant; certification.--

24 ~~(1) A person desiring to be certified as a~~
25 ~~speech-language pathology assistant or audiology assistant~~
26 ~~shall apply to the department.~~

27 (1)~~(2)~~ The department shall issue a certificate as a
28 speech-language pathology assistant ~~or as an audiology~~
29 ~~assistant~~ to each applicant who the board certifies has:

30 (a) Completed the application form and remitted the
31 required fees, including a nonrefundable application fee.

1 (b) Earned a bachelor's degree from a college or
2 university accredited by a regional association of colleges
3 and schools recognized by the Department of Education which
4 includes at least 24 semester hours of coursework as approved
5 by the board at an institution accredited by an accrediting
6 agency recognized by the Commission on Recognition of
7 Postsecondary Accreditation.

8 (2) The department shall issue a certificate as an
9 audiology assistant to each applicant who the board certifies
10 has:

11 (a) Completed the application form and remitted the
12 required fees, including a nonrefundable application fee.

13 (b) Completed at least 24 semester hours of coursework
14 as approved by the board at an institution accredited by an
15 accrediting agency recognized by the Commission on Recognition
16 of Postsecondary Accreditation.

17 (3) The board, by rule, shall establish minimum
18 education and on-the-job training and supervision requirements
19 for certification as a speech-language pathology assistant or
20 audiology assistant.

21 (4) The provisions of this section shall not apply to
22 any student, intern, or trainee performing speech-language
23 pathology or audiology services while completing the
24 supervised clinical clock hours as required in s. 468.1155.

25 Section 62. Subsection (1) of section 468.307, Florida
26 Statutes, 1998 Supplement, is amended to read:

27 468.307 Certificate; issuance; possession; display.--

28 (1) The department shall issue a certificate to each
29 candidate who has met the requirements of ss. 468.304 and
30 468.306 or has qualified under s. 468.3065. The department may
31 by rule establish a subcategory of a certificate issued under

1 this part limiting the certificateholder to a specific
2 procedure or specific type of equipment.

3 Section 63. Section 468.519, Florida Statutes, is
4 created to read:

5 468.519 Sexual misconduct in the practice of dietetics
6 and nutrition.--The dietitian/nutritionist-client or nutrition
7 counselor-client relationship is founded on mutual trust.

8 "Sexual misconduct in the practice of dietetics and nutrition"

9 means violation of the dietitian/nutritionist-client or
10 nutrition counselor-client relationship through which the
11 dietitian/nutritionist or nutrition counselor uses that
12 relationship to induce or attempt to induce the client to
13 engage, or to engage or attempt to engage the client, in
14 sexual activity outside the scope of practice or the scope of
15 generally accepted examination or treatment of the client.
16 Sexual misconduct in the practice of dietetics and nutrition
17 is prohibited.

18 Section 64. Section 468.701, Florida Statutes, 1998
19 Supplement, is amended to read:

20 468.701 Definitions.--As used in this part, the term:

21 (1) "Athlete" means a person who participates in an
22 athletic activity.

23 (2) "Athletic activity" means the participation in an
24 activity, conducted by an educational institution, a
25 professional athletic organization, or an amateur athletic
26 organization, involving exercises, sports, games, or
27 recreation requiring any of the physical attributes of
28 strength, agility, flexibility, range of motion, speed, and
29 stamina.

30
31

1 (3) "Athletic injury" means an injury sustained which
2 affects the athlete's ability to participate or perform in
3 athletic activity.

4 (4) "Athletic trainer" means a person licensed under
5 this part.

6 (5) "Athletic training" means the recognition,
7 prevention, and treatment of athletic injuries.

8 (6) "Board Council" means the Board Council of
9 Athletic Training.

10 (7) "Department" means the Department of Health.

11 (8) "Direct supervision" means the physical presence
12 of the supervisor on the premises so that the supervisor is
13 immediately available to the trainee when needed.

14 ~~(9) "Secretary" means the Secretary of Health.~~

15 (9)~~(10)~~ "Supervision" means the easy availability of
16 the supervisor to the athletic trainer, which includes the
17 ability to communicate by telecommunications.

18 Section 65. Section 468.703, Florida Statutes, 1998
19 Supplement, is amended to read:

20 468.703 Board Council of Athletic Training.--

21 (1) The Board Council of Athletic Training is created
22 within the department and shall consist of nine ~~seven~~ members
23 ~~to be~~ appointed by the Governor and confirmed by the Senate
24 ~~secretary~~.

25 (2) Five ~~Four~~ members of the board must ~~council shall~~
26 be licensed athletic trainers. One member of the board must
27 ~~council shall~~ be a physician licensed under chapter 458 or
28 chapter 459. One member of the board must ~~council shall~~ be a
29 physician licensed under chapter 460. Two members ~~One member~~
30 of the board shall be consumer members, each of whom must
31 ~~council shall~~ be a resident of this state who has never worked

1 as an athletic trainer, who has no financial interest in the
2 practice of athletic training, and who has never been a
3 licensed health care practitioner as defined in s. 455.501(4).
4 ~~Members of the council shall serve staggered 4-year terms as~~
5 ~~determined by rule of the department; however, no member may~~
6 ~~serve more than two consecutive terms.~~

7 (3) For the purpose of staggering terms, the Governor
8 shall appoint the initial members of the board as follows:

9 (a) Three members for terms of 2 years each.

10 (b) Three members for terms of 3 years each.

11 (c) Three members for terms of 4 years each.

12 (4) As the terms of the members expire, the Governor
13 shall appoint successors for terms of 4 years and such members
14 shall serve until their successors are appointed.

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

17 (6) The board shall maintain its official headquarters
18 in Tallahassee.

19 ~~(3) The council shall advise and assist the department~~
20 ~~in:~~

21 ~~(a) Developing rules relating to licensure~~
22 ~~requirements, the licensure examination, continuing education~~
23 ~~requirements, fees, records and reports to be filed by~~
24 ~~licensees, and any other requirements necessary to regulate~~
25 ~~the practice of athletic training.~~

26 ~~(b) Monitoring the practice of athletic training in~~
27 ~~other jurisdictions.~~

28 ~~(c) Educating the public about the role of athletic~~
29 ~~trainers.~~

30 ~~(d) Collecting and reviewing data regarding the~~
31 ~~licensed practice of athletic training.~~

1 ~~(e) Addressing concerns and problems of athletic~~
2 ~~trainers in order to promote improved safety in the practice~~
3 ~~of athletic training.~~

4 ~~(4) Members of the council shall be entitled to~~
5 ~~compensation and reimbursement for expenses in the same manner~~
6 ~~as board members are compensated and reimbursed under s.~~
7 ~~455.534.~~

8 Section 66. Section 468.705, Florida Statutes, 1998
9 Supplement, is amended to read:

10 468.705 Rulemaking authority.--The board ~~department~~ is
11 authorized to adopt rules pursuant to ss. 120.536(1) and
12 120.54 to implement provisions of this part conferring duties
13 upon it. Such rules shall include, but not be limited to, the
14 allowable scope of practice regarding the use of equipment,
15 procedures, and medication and requirements for a written
16 protocol between the athletic trainer and a supervising
17 physician.

18 Section 67. Section 468.707, Florida Statutes, 1998
19 Supplement, is amended to read:

20 468.707 Licensure by examination; requirements.--

21 (1) Any person desiring to be licensed as an athletic
22 trainer shall apply to the department on a form approved by
23 the department.

24 (a) The department shall license each applicant who:

25 1. Has completed the application form and remitted the
26 required fees.

27 2. Is at least 21 years of age.

28 3. Has obtained a baccalaureate degree from a college
29 or university accredited by an accrediting agency recognized
30 and approved by the United States Department of Education or
31

1 the Commission on Recognition of Postsecondary Accreditation,
2 or approved by the board ~~department~~.

3 4. Has completed coursework from a college or
4 university accredited by an accrediting agency recognized and
5 approved by the United States Department of Education or the
6 Commission on Recognition of Postsecondary Accreditation, or
7 approved by the board ~~department~~, in each of the following
8 areas, as provided by rule: health, human anatomy,
9 kinesiology/biomechanics, human physiology, physiology of
10 exercise, basic athletic training, and advanced athletic
11 training.

12 5. Has current certification in standard first aid and
13 cardiovascular pulmonary resuscitation from the American Red
14 Cross or an equivalent certification as determined by the
15 board ~~department~~.

16 6. Has, within 2 of the preceding 5 years, attained a
17 minimum of 800 hours of athletic training experience under the
18 direct supervision of a licensed athletic trainer or an
19 athletic trainer certified by the National Athletic Trainers'
20 Association or a comparable national athletic standards
21 organization.

22 7. Has passed an examination administered or approved
23 by the board ~~department~~.

24 (b) The department shall also license each applicant
25 who:

26 1. Has completed the application form and remitted the
27 required fees no later than October 1, 1996.

28 2. Is at least 21 years of age.

29 3. Has current certification in standard first aid and
30 cardiovascular pulmonary resuscitation from the American Red
31

1 Cross or an equivalent certification as determined by the
2 board ~~department~~.

3 4.a. Has practiced athletic training for at least 3 of
4 the 5 years preceding application; or

5 b. Is currently certified by the National Athletic
6 Trainers' Association or a comparable national athletic
7 standards organization.

8 (2) Pursuant to the requirements of s. 455.607
9 ~~455.604~~, each applicant shall complete a continuing education
10 course on human immunodeficiency virus and acquired immune
11 deficiency syndrome as part of initial licensure.

12 Section 68. Section 468.709, Florida Statutes, is
13 amended to read:

14 468.709 Fees.--

15 (1) The board ~~department~~ shall, by rule, establish
16 fees for the following purposes:

17 (a) An application fee, not to exceed \$100.

18 (b) An examination fee, not to exceed \$200.

19 (c) An initial licensure fee, not to exceed \$200.

20 (d) A biennial renewal fee, not to exceed \$200.

21 (e) An inactive fee, not to exceed \$100.

22 (f) A delinquent fee, not to exceed \$100.

23 (g) A reactivation fee, not to exceed \$100.

24 (h) A voluntary inactive fee, not to exceed \$100.

25 (2) The board ~~department~~ shall establish fees at a
26 level, not to exceed the statutory fee cap, that is adequate
27 to ensure the continued operation of the regulatory program
28 under this part. The board ~~department~~ shall neither set nor
29 maintain the fees at a level that will substantially exceed
30 this need.

31

1 Section 69. Subsections (2) and (3) of section
2 468.711, Florida Statutes, 1998 Supplement, are amended to
3 read:

4 468.711 Renewal of license; continuing education.--

5 (2) The board ~~department~~ may, by rule, prescribe
6 continuing education requirements, not to exceed 24 hours
7 biennially. The criteria for continuing education shall be
8 approved by the board ~~department~~ and shall include 4 hours in
9 standard first aid and cardiovascular pulmonary resuscitation
10 from the American Red Cross or equivalent training as
11 determined by board ~~department~~.

12 (3) Pursuant to the requirements of s. 455.607
13 ~~455.604~~, each licensee shall complete a continuing education
14 course on human immunodeficiency virus and acquired immune
15 deficiency syndrome as part of biennial relicensure.

16 Section 70. Subsection (2) of section 468.719, Florida
17 Statutes, 1998 Supplement, is amended to read:

18 468.719 Disciplinary actions.--

19 (2) When the board ~~department~~ finds any person guilty
20 of any of the acts set forth in subsection (1), the board
21 ~~department~~ may enter an order imposing one or more of the
22 penalties provided in s. 455.624.

23 Section 71. Section 468.721, Florida Statutes, is
24 amended to read:

25 468.721 Saving clause.--

26 ~~(1) An athletic trainer registration which is valid on~~
27 ~~October 1, 1995, shall become for all purposes an athletic~~
28 ~~trainer license as required by this part, subject to any~~
29 ~~disciplinary or administrative action pending on October 1,~~
30 ~~1995, and shall be subject to all the same terms and~~
31 ~~conditions as athletic trainer licenses issued after October~~

1 ~~1, 1995. The department shall retain jurisdiction to impose~~
2 ~~discipline for any violation of this part which occurred prior~~
3 ~~to October 1, 1995, but is discovered after October 1, 1995,~~
4 ~~under the terms of this part prior to October 1, 1995.~~

5 ~~(2) No judicial or administrative proceeding pending~~
6 ~~on July 1, 1995, shall be abated as a result of enactment of~~
7 ~~any provision of this act.~~

8 ~~(3) Rules adopted by the department relating to the~~
9 ~~regulation registration of athletic trainers under this part~~
10 ~~prior to July 1, 1999, shall remain in effect until the board~~
11 ~~department adopts rules relating to the regulation licensure~~
12 ~~of athletic trainers under this part which supersede such~~
13 ~~earlier rules.~~

14 Section 72. Paragraph (g) of subsection (3) of section
15 20.43, Florida Statutes, 1998 Supplement, is amended to read:

16 20.43 Department of Health.--There is created a
17 Department of Health.

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

20 (g) Division of Medical Quality Assurance, which is
21 responsible for the following boards and professions
22 established within the division:

- 23 1. Nursing assistants, as provided under s. 400.211.
- 24 2. Health care services pools, as provided under s.
25 402.48.
- 26 3. The Board of Acupuncture, created under chapter
27 457.
- 28 4. The Board of Medicine, created under chapter 458.
- 29 5. The Board of Osteopathic Medicine, created under
30 chapter 459.

31

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

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

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

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

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

9 29. School psychologists, as provided under chapter
10 490.

11 30. The Board of Clinical Social Work, Marriage and
12 Family Therapy, and Mental Health Counseling, created under
13 chapter 491.

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

20 Section 73. The Council of Athletic Training and the
21 terms of all council members are terminated on July 1, 1999.
22 However, such termination in no way precludes the Governor
23 from considering any former council member for appointment to
24 the Board of Athletic Training created by this act.

25 Section 74. Section 468.805, Florida Statutes, is
26 amended to read:

27 468.805 Grandfathering Licensure without examination
28 provisional licensure.--

29 (1) A person who has practiced orthotics, prosthetics,
30 or pedorthics in this state for the required period since July
31 1, 1990, who, before March 1, 1998, applies to the department

1 for a license to practice orthotics, prosthetics, or
2 pedorthics, may be licensed as a prosthetist, orthotist,
3 prosthetist-orthotist, orthotic fitter, orthotic fitter
4 assistant, or pedorthist, as determined from the person's
5 experience, certification, and educational preparation,
6 without meeting the educational requirements set forth in s.
7 468.803, upon receipt of the application fee and licensing fee
8 and after the board has completed an investigation into the
9 applicant's background and experience. The board shall require
10 an application fee not to exceed \$500, which shall be
11 nonrefundable. The board shall complete its investigation
12 within 6 months after receipt of the completed application.
13 The period of experience required for licensure under this
14 section ~~subsection~~ is 5 years for a prosthetist; 2 years for
15 an orthotic fitter, an orthotic fitter assistant, or a
16 pedorthist; and 5 years for an orthotist whose scope of
17 practice is defined under s. 468.80(7).

18 (2)(a) A person who has received certification as an
19 orthotist, a prosthetist, or a prosthetist-orthotist from a
20 national certifying body and who has practiced orthotics or
21 prosthetics in this state for at least 2 years but less than 5
22 years is eligible for a provisional license.

23 (b) An applicant for provisional licensure shall
24 submit proof that he or she has been actively practicing as a
25 nationally certified orthotist, prosthetist, or
26 prosthetist-orthotist, an application fee, and a provisional
27 license fee.

28 (c) A provisional licensee is required to practice
29 under supervision of a fully licensed orthotist, prosthetist,
30 or prosthetist-orthotist for up to 3 years in order to meet
31 the 5-year experience requirement of subsection (1) to be

1 licensed as an orthotist, prosthetist, or
2 prosthetist-orthotist.

3 (d) After appropriate investigation, the board shall
4 license as an orthotist, prosthetist, or prosthetist-orthotist
5 the provisional licensee who has successfully completed the
6 period of experience required and otherwise meets the
7 requirements of subsection (1).

8 (e) The board shall require an application fee, not to
9 exceed \$500, which is nonrefundable, and a provisional
10 licensure fee, not to exceed \$500.

11 (3) An applicant who has received certification as an
12 orthotist, a prosthetist, a prosthetist-orthotist, or a
13 pedorthist from a national certifying body which requires the
14 successful completion of an examination, may be licensed under
15 this section without taking an additional examination. An
16 applicant who has not received certification from a national
17 certifying body which requires the successful completion of an
18 examination shall be required to take an examination as
19 determined by the board. This examination shall be designed to
20 determine if the applicant has the minimum qualifications
21 needed to be licensed under this section. The board may charge
22 an examination fee and the actual per applicant cost to the
23 department for purchase or development of the examination.

24 (4) An applicant who successfully completed prior to
25 March 1, 1998, at least one-half of the examination required
26 for national certification and successfully completed the
27 remaining portion of the examination and became certified
28 prior to July 1, 1998, shall be considered as nationally
29 certified by March 1, 1998, for purposes of this section.

30 (5)~~(4)~~ This section is repealed July 1, 2002.

31

1 Section 75. Subsection (5) of section 478.42, Florida
2 Statutes, is amended to read:

3 478.42 Definitions.--As used in this chapter, the
4 term:

5 (5) "Electrolysis or electrology" means the permanent
6 removal of hair by destroying ~~introducing, into and beneath~~
7 ~~the skin, ionizing (galvanic current) or nonionizing radiation~~
8 ~~(thermolysis or high-frequency current) to destroy~~ the
9 hair-producing cells of the skin and vascular system, using
10 equipment and needle-type epilation devices approved by the
11 board that have been cleared by and are registered with the
12 United States Food and Drug Administration and that are used
13 pursuant to protocols approved by the ~~council and the~~ board.

14 Section 76. Section 483.041, Florida Statutes, is
15 amended to read:

16 483.041 Definitions.--As used in this part, the term:

17 (1) "Agency" means the Agency for Health Care
18 Administration.

19 (2) "Clinical laboratory" means the physical location
20 in which one or more of the following services ~~a laboratory~~
21 ~~where examinations are performed on materials or specimens~~
22 ~~taken from the human body~~ to provide information or materials
23 for use in the diagnosis, prevention, or treatment of a
24 disease or the identification or assessment of a medical or
25 physical condition.

26 (a) Clinical laboratory services are the examinations
27 of fluids or other materials taken from the human body.

28 (b) Anatomic laboratory services are the examinations
29 of tissue taken from the human body.

30
31

1 (c) Cytology laboratory services are the examinations
2 of cells from individual tissues or fluid taken from the human
3 body.

4 (3) "Clinical laboratory examination" means a
5 procedure performed to deliver the services defined in
6 subsection (2), including the oversight or interpretation
7 thereof.

8 ~~(4)(3)~~ "Clinical laboratory proficiency testing
9 program" means a program approved by the agency for evaluating
10 the performance of clinical laboratories.

11 ~~(5)(4)~~ "Collection station" or "branch office" means a
12 facility operated by a clinical laboratory where materials or
13 specimens are withdrawn or collected from patients or
14 assembled after being withdrawn or collected from patients
15 elsewhere, for subsequent delivery to another location for
16 examination.

17 ~~(6)(5)~~ "Hospital laboratory" means a laboratory
18 located in a hospital licensed under chapter 395 that provides
19 services solely to that hospital and that is owned by the
20 hospital and governed by the hospital medical staff or
21 governing board.

22 ~~(7)(6)~~ "Licensed practitioner" means a physician
23 licensed under chapter 458, chapter 459, chapter 460, or
24 chapter 461; a dentist licensed under chapter 466; a person
25 licensed under chapter 462; or an advanced registered nurse
26 practitioner licensed under chapter 464.

27 ~~(8)(7)~~ "Person" means the State of Florida or any
28 individual, firm, partnership, association, corporation,
29 county, municipality, political subdivision, or other entity,
30 whether organized for profit or not.

31

1 (9)(8) "Validation inspection" means an inspection of
2 a clinical laboratory by the agency to assess whether a review
3 by an accrediting organization has adequately evaluated the
4 clinical laboratory according to state standards.

5 (10)(9) "Waived test" means a test that the federal
6 Health Care Financing Administration has determined qualifies
7 for a certificate of waiver under the federal Clinical
8 Laboratory Improvement Amendments of 1988, and the federal
9 rules adopted thereunder.

10 Section 77. Subsections (2), (3), and (7) of section
11 483.803, Florida Statutes, are amended to read:

12 483.803 Definitions.--As used in this part, the term:

13 (2) "Clinical laboratory" means a clinical laboratory
14 as defined in s. 483.041(2).

15 (3) "Clinical laboratory examination" means a clinical
16 laboratory examination as defined in s. 483.041 ~~an examination~~
17 ~~performed on materials or specimens of the human body to~~
18 ~~provide information or materials for use in the diagnosis,~~
19 ~~prevention, or treatment of a disease or the identification or~~
20 ~~assessment of a medical or physical condition.~~

21 (7) "Licensed practitioner of the healing arts" means
22 a physician licensed under ~~pursuant to~~ chapter 458, chapter
23 459, ~~or~~ chapter 460, or chapter 461; a dentist licensed under
24 ~~pursuant to~~ chapter 466; or a person licensed under ~~pursuant~~
25 ~~to chapter 461 or~~ chapter 462.

26 Section 78. Paragraph (b) of subsection (2) of section
27 395.7015, Florida Statutes, 1998 Supplement, is amended to
28 read:

29 395.7015 Annual assessment on health care entities.--

30 (2) There is imposed an annual assessment against
31 certain health care entities as described in this section:

1 (b) For the purpose of this section, "health care
2 entities" include the following:

3 1. Ambulatory surgical centers and mobile surgical
4 facilities licensed under s. 395.003. This subsection shall
5 only apply to mobile surgical facilities operating under
6 contracts entered into on or after July 1, 1998.

7 2. Clinical laboratories licensed under s. 483.091,
8 excluding any hospital laboratory defined under s. 483.041~~(5)~~,
9 any clinical laboratory operated by the state or a political
10 subdivision of the state, any clinical laboratory which
11 qualifies as an exempt organization under s. 501(c)(3) of the
12 Internal Revenue Code of 1986, as amended, and which receives
13 70 percent or more of its gross revenues from services to
14 charity patients or Medicaid patients, and any blood, plasma,
15 or tissue bank procuring, storing, or distributing blood,
16 plasma, or tissue either for future manufacture or research or
17 distributed on a nonprofit basis, and further excluding any
18 clinical laboratory which is wholly owned and operated by 6 or
19 fewer physicians who are licensed pursuant to chapter 458 or
20 chapter 459 and who practice in the same group practice, and
21 at which no clinical laboratory work is performed for patients
22 referred by any health care provider who is not a member of
23 the same group.

24 3. Diagnostic-imaging centers that are freestanding
25 outpatient facilities that provide specialized services for
26 the identification or determination of a disease through
27 examination and also provide sophisticated radiological
28 services, and in which services are rendered by a physician
29 licensed by the Board of Medicine under s. 458.311, s.
30 458.313, or s. 458.317, or by an osteopathic physician
31 licensed by the Board of Osteopathic Medicine under s.

1 459.006, s. 459.007, or s. 459.0075. For purposes of this
2 paragraph, "sophisticated radiological services" means the
3 following: magnetic resonance imaging; nuclear medicine;
4 angiography; arteriography; computed tomography; positron
5 emission tomography; digital vascular imaging; bronchography;
6 lymphangiography; splenography; ultrasound, excluding
7 ultrasound providers that are part of a private physician's
8 office practice or when ultrasound is provided by two or more
9 physicians licensed under chapter 458 or chapter 459 who are
10 members of the same professional association and who practice
11 in the same medical specialties; and such other sophisticated
12 radiological services, excluding mammography, as adopted in
13 rule by the board.

14 Section 79. Subsection (11) of section 408.07, Florida
15 Statutes, 1998 Supplement, is amended to read:

16 408.07 Definitions.--As used in this chapter, with the
17 exception of ss. 408.031-408.045, the term:

18 (11) "Clinical laboratory" means a facility licensed
19 under s. 483.091, excluding: any hospital laboratory defined
20 under s. 483.041~~(5)~~; any clinical laboratory operated by the
21 state or a political subdivision of the state; any blood or
22 tissue bank where the majority of revenues are received from
23 the sale of blood or tissue and where blood, plasma, or tissue
24 is procured from volunteer donors and donated, processed,
25 stored, or distributed on a nonprofit basis; and any clinical
26 laboratory which is wholly owned and operated by physicians
27 who are licensed pursuant to chapter 458 or chapter 459 and
28 who practice in the same group practice, and at which no
29 clinical laboratory work is performed for patients referred by
30 any health care provider who is not a member of that same
31 group practice.

1 Section 80. Subsection (9) of section 483.807, Florida
2 Statutes, 1998 Supplement, is amended to read:

3 483.807 Fees; establishment; disposition.--

4 (9) The initial application and renewal fee for
5 approval as a laboratory training program may not exceed \$300.
6 The fee for late filing of a renewal application shall be \$50.

7 Section 81. Subsections (2) and (3) of section
8 483.809, Florida Statutes, are amended to read:

9 483.809 Licensure; examinations; registration of
10 trainees; approval of curricula.--

11 (2) EXAMINATIONS.--The department shall conduct
12 examinations required by board rules to determine in part the
13 qualification of clinical laboratory personnel for licensure.
14 The board by rule may designate a ~~An approved~~ national
15 certification examination that may be accepted in lieu of
16 state examination for clinical laboratory personnel or public
17 health scientists.

18 (3) REGISTRATION OF TRAINEES.--The department shall
19 provide for ~~annual~~ registration of clinical laboratory
20 trainees who are enrolled in a training program ~~employed by~~
21 ~~laboratories~~ approved pursuant to s. 483.811, which
22 registration may not be renewed except upon special
23 authorization of the board.

24 Section 82. Section 483.812, Florida Statutes, is
25 amended to read:

26 483.812 Public health laboratory scientists;
27 licensure.--

28 (1) Applicants at the director level in the category
29 of public health shall qualify under s. 483.824.

30 (2) ~~(1)~~ Applicants at the ~~director and~~ supervisor level
31 in the category of public health who are certified ~~registered~~

1 by the National Registry in ~~of~~ Clinical Chemistry
2 ~~Certification~~ or the American Society for ~~of~~ Microbiology,
3 licensed as a technologist, and have 5 years of pertinent
4 clinical laboratory experience may qualify ~~under board rules~~
5 by passing the state-administered ~~appropriate~~ supervision and
6 administration examination.

7 (3)~~(2)~~(a) A technologist applicant for licensure in
8 the category of public health microbiology, with a
9 baccalaureate degree in one of the biological sciences from an
10 accredited institution, may use the American Society for ~~of~~
11 Microbiology or the National Registry in ~~of~~ Microbiology
12 Certification in Public Health Microbiology to qualify for a
13 technologist license in public health microbiology. Such a
14 technologist may work in a public health microbiology
15 laboratory.

16 (b) A technologist applicant for licensure in the
17 category of public health chemistry, with a baccalaureate
18 degree in one of the chemical, biological, or physical
19 sciences from an accredited institution, may use the National
20 Registry of Clinical Chemistry Certification to qualify for a
21 technologist license in public health chemistry. Such a
22 technologist may work in a public health chemistry laboratory.

23 (c) A technician applicant for licensure in the
24 category of public health, with a baccalaureate degree in one
25 of the chemical or biological sciences from an accredited
26 institution, may obtain a 2-year ~~one-time, 3-year,~~ conditional
27 public health technician license, which may be renewed once
28 ~~pending national certification by the American Society of~~
29 ~~Microbiology or the National Registry of Clinical Chemistry~~
30 ~~Certification~~. Such a technician may perform testing only
31

1 under the direct supervision of a licensed pathologist,
2 director, supervisor, or technologist.

3 (4)~~(3)~~ A person licensed by the Board of Clinical
4 Laboratory Personnel may work in a public health laboratory at
5 the appropriate level and specialty.

6 Section 83. Section 483.813, Florida Statutes, is
7 amended to read:

8 483.813 Clinical laboratory personnel license.--A
9 person may not conduct a clinical laboratory examination or
10 report the results of such examination unless such person is
11 licensed under this part to perform such procedures. However,
12 this provision does not apply to any practitioner of the
13 healing arts authorized to practice in this state or to
14 persons engaged in testing performed by laboratories regulated
15 under s. 483.035(1) or exempt from regulation under s.
16 483.031(2). The department may grant a temporary license to
17 any candidate it deems properly qualified, for a period not to
18 exceed 1 year, ~~or a conditional license for a period not to~~
19 ~~exceed 3 years.~~

20 Section 84. Subsection (3) is added to section
21 483.821, Florida Statutes, to read:

22 483.821 Periodic demonstration of competency;
23 continuing education or reexamination.--

24 (3) The board may, by rule, provide for continuing
25 education or retraining requirements for candidates failing an
26 examination two or more times.

27 Section 85. Subsection (2) of section 483.824, Florida
28 Statutes, is amended to read:

29 483.824 Qualifications of clinical laboratory
30 director.--A clinical laboratory director must have 4 years of
31 clinical laboratory experience with 2 years of experience in

1 the speciality to be directed or be nationally board certified
2 in the specialty to be directed, and must meet one of the
3 following requirements:

4 (2) Hold an earned doctoral degree in a chemical,
5 physical, or biological science from a regionally accredited
6 institution and be nationally certified; or

7 Section 86. Section 483.825, Florida Statutes, is
8 amended to read:

9 483.825 Grounds for disciplinary action.--The
10 following acts constitute grounds for which disciplinary
11 actions specified in s. 483.827 may be taken against
12 applicants, registrants, and licensees under this part:

13 (1) Attempting to obtain, obtaining, or renewing a
14 license or registration under this part by bribery, by
15 fraudulent misrepresentation, or through an error of the
16 department or the board.

17 (2) Engaging in or attempting to engage in, or
18 representing herself or himself as entitled to perform, any
19 clinical laboratory procedure or category of procedures not
20 authorized pursuant to her or his license.

21 (3) Demonstrating incompetence or making consistent
22 errors in the performance of clinical laboratory examinations
23 or procedures or erroneous reporting.

24 (4) Performing a test and rendering a report thereon
25 to a person not authorized by law to receive such services.

26 (5) Has been convicted or found guilty of, or entered
27 a plea of nolo contendere to, regardless of adjudication, a
28 crime in any jurisdiction which directly relates to the
29 activities of clinical laboratory personnel or involves moral
30 turpitude or fraudulent or dishonest dealing. The record of a
31 conviction certified or authenticated in such form as to be

1 admissible in evidence under the laws of the state shall be
2 admissible as prima facie evidence of such guilt.~~Having been~~
3 ~~convicted of a felony or of any crime involving moral~~
4 ~~turpitude under the laws of any state or of the United States.~~
5 ~~The record of conviction or a certified copy thereof shall be~~
6 ~~conclusive evidence of such conviction.~~

7 (6) Having been adjudged mentally or physically
8 incompetent.

9 (7) Violating or aiding and abetting in the violation
10 of any provision of this part or the rules adopted hereunder.

11 (8) Reporting a test result when no laboratory test
12 was performed on a clinical specimen.

13 (9) Knowingly advertising false services or
14 credentials.

15 (10) Having a license revoked, suspended, or otherwise
16 acted against, including the denial of licensure, by the
17 licensing authority of another jurisdiction. The licensing
18 authority's acceptance of a relinquishment of a license,
19 stipulation, consent order, or other settlement, offered in
20 response to or in anticipation of the filing of administrative
21 charges against the licensee, shall be construed as action
22 against the licensee.

23 (11) Failing to report to the board, in writing,
24 within 30 days that an if action under subsection (5),
25 subsection (6), or subsection (10) has been taken against the
26 licensee or one's license to practice as clinical laboratory
27 personnel in another state, territory, ~~or~~ country, or other
28 jurisdiction.

29 (12) Being unable to perform or report clinical
30 laboratory examinations with reasonable skill and safety to
31 patients by reason of illness or use of alcohol, drugs,

1 narcotics, chemicals, or any other type of material or as a
2 result of any mental or physical condition. In enforcing this
3 subsection, the department shall have, upon a finding of the
4 secretary or his or her designee that probable cause exists to
5 believe that the licensee is unable to practice because of the
6 reasons stated in this subsection, the authority to issue an
7 order to compel a licensee to submit to a mental or physical
8 examination by physicians designated by the department. If
9 the licensee refuses to comply with such order, the
10 department's order directing such examination may be enforced
11 by filing a petition for enforcement in the circuit court
12 where the licensee resides or does business. The department
13 shall be entitled to the summary procedure provided in s.
14 51.011. A licensee affected under this subsection shall at
15 reasonable intervals be afforded an opportunity to demonstrate
16 that he or she can resume competent practice with reasonable
17 skill and safety to patients.

18 (13) Delegating professional responsibilities to a
19 person when the licensee delegating such responsibilities
20 knows, or has reason to know, that such person is not
21 qualified by training, experience, or licensure to perform
22 them.

23 (14) Violating a previous order of the board entered
24 in a disciplinary proceeding.

25 (15) Failing to report to the department a person or
26 other licensee who the licensee knows is in violation of this
27 chapter or the rules of the department or board promulgated
28 thereunder.

29 (16) Making or filing a report which the licensee
30 knows to be false, intentionally or negligently failing to
31 file a report or record required by state or federal law,

1 willfully impeding or obstructing such filing or inducing
2 another person to do so, including, but not limited to,
3 impeding an agent of the state from obtaining a report or
4 record for investigative purposes. Such reports or records
5 shall include only those generated in the capacity as a
6 licensed clinical laboratory personnel.

7 (17) Paying or receiving any commission, bonus,
8 kickback, or rebate, or engaging in any split-fee arrangement
9 in any form whatsoever with a physician, organization, agency,
10 or person, either directly or indirectly for patients referred
11 to providers of health care goods and services including, but
12 not limited to, hospitals, nursing homes, clinical
13 laboratories, ambulatory surgical centers, or pharmacies. The
14 provisions of this paragraph shall not be construed to prevent
15 a clinical laboratory professional from receiving a fee for
16 professional consultation services.

17 (18) Exercising influence on a patient or client in
18 such a manner as to exploit the patient or client for the
19 financial gain of the licensee or other third party, which
20 shall include, but not be limited to, the promoting, selling,
21 or withholding of services, goods, appliances, referrals, or
22 drugs.

23 (19) Practicing or offering to practice beyond the
24 scope permitted by law or rule, or accepting or performing
25 professional services or responsibilities which the licensee
26 knows or has reason to know that he or she is not competent to
27 perform.

28 (20) Misrepresenting or concealing a material fact at
29 any time during any phase of the licensing, investigative, or
30 disciplinary process, procedure, or proceeding.

31

1 (21) Improperly interfering with an investigation or
2 any disciplinary proceeding.

3 (22) Engaging in or attempting to engage in sexual
4 misconduct, causing undue embarrassment or using disparaging
5 language or language of a sexual nature towards a patient,
6 exploiting superior/subordinate, professional/patient,
7 instructor/student relationships for personal gain, sexual
8 gratification, or advantage.

9 Section 87. Subsections (6) and (8) of section
10 483.901, Florida Statutes, 1998 Supplement, are amended to
11 read:

12 483.901 Medical physicists; definitions; licensure.--

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

19 (a) The department shall adopt rules to administer
20 this section which specify license application and renewal
21 fees, continuing education requirements, and standards for
22 practicing medical physics. The council shall recommend to
23 the department continuing education requirements that shall be
24 a condition of license renewal. The department shall require
25 a minimum of 24 hours per biennium of continuing education
26 offered by an organization recommended by the council and
27 approved by the department. The department, upon
28 recommendation of the council, may adopt rules to specify
29 continuing education requirements for persons who hold a
30 license in more than one specialty.

31

1 (b) In order to apply for a medical physicist license
2 in one or more specialties, a person must file an individual
3 application for each specialty with the department. The
4 application must be on a form prescribed by the department and
5 must be accompanied by a nonrefundable application fee for
6 each specialty.

7 (c) The department may issue a license to an eligible
8 applicant if the applicant meets all license requirements. At
9 any time before the department issues a license, the applicant
10 may request in writing that the application be withdrawn. To
11 reapply, the applicant must submit a new application and an
12 additional nonrefundable application fee and must meet all
13 current licensure requirements.

14 (d) The department shall review each completed
15 application for a license which the department receives.

16 (e) On receipt of an application and fee as specified
17 in this section, the department may issue a license to
18 practice medical physics in this state:

19 1. Until October 1, 1998, to a person who meets any of
20 the following requirements:

21 a. Earned from an accredited college or university a
22 doctoral degree in physics, medical physics, biophysics,
23 radiological physics, medical health physics, or nuclear
24 engineering and has at least 2 years' experience in the
25 practice of the medical physics specialty for which
26 application is made.

27 b. Earned from an accredited college or university a
28 master's degree in physics, medical physics, biophysics,
29 radiological physics, medical health physics, or nuclear
30 engineering and has at least 3 years' experience in the
31

1 practice of the medical physics specialty for which
2 application is made.

3 c. Earned from an accredited college or university a
4 bachelor's degree in physics and has at least 5 years'
5 experience in the practice of the medical physics specialty
6 for which application is made.

7 d. Has at least 8 years' experience in the practice of
8 the medical physics specialty for which application is made, 2
9 years of which must have been earned within the 4 years
10 immediately preceding application for licensure.

11 e. Is board certified in the medical physics specialty
12 in which the applicant applies to practice by the American
13 Board of Radiology for diagnostic radiological physics,
14 therapeutic radiological physics, or medical nuclear
15 radiological physics; by the American Board of Medical Physics
16 or the Canadian Board of Medical Physics for diagnostic
17 radiological physics, therapeutic radiological physics, or
18 medical nuclear radiological physics; or by the American Board
19 of Health Physics or an equivalent certifying body approved by
20 the agency.

21 2. On or after October 1, 1997, to a person who is
22 board certified in the medical physics specialty in which the
23 applicant applies to practice by the American Board of
24 Radiology for diagnostic radiological physics, therapeutic
25 radiological physics, or medical nuclear radiological physics;
26 by the American Board of Medical Physics for diagnostic
27 radiological physics, therapeutic radiological physics, or
28 medical nuclear radiological physics; or by the American Board
29 of Health Physics or an equivalent certifying body approved by
30 the department.

31 (f) A licensee shall:

- 1 1. Display the license in a place accessible to the
2 public; and
- 3 2. Report immediately any change in the licensee's
4 address or name to the department.
- 5 (g) The following acts are grounds for which the
6 disciplinary actions in paragraph (h) may be taken:
- 7 1. Obtaining or attempting to obtain a license by
8 bribery, fraud, knowing misrepresentation, or concealment of
9 material fact or through an error of the department.
- 10 2. Having a license denied, revoked, suspended, or
11 otherwise acted against in another jurisdiction.
- 12 3. Being convicted or found guilty of, or entering a
13 plea of nolo contendere to, regardless of adjudication, a
14 crime in any jurisdiction which relates to the practice of, or
15 the ability to practice, the profession of medical physics.
- 16 4. Willfully failing to file a report or record
17 required for medical physics or willfully impeding or
18 obstructing the filing of a report or record required by this
19 section or inducing another person to do so.
- 20 5. Making misleading, deceptive, or fraudulent
21 representations in or related to the practice of medical
22 physics.
- 23 6. Willfully failing to report any known violation of
24 this section or any rule adopted thereunder.
- 25 7. Willfully or repeatedly violating a rule adopted
26 under this section or an order of the department.
- 27 8. Failing to perform any statutory or legal
28 obligation placed upon a licensee.
- 29 9. Aiding, assisting, procuring, employing, or
30 advising any unlicensed person to practice medical physics
31 contrary to this section or any rule adopted thereunder.

1 10. Delegating or contracting for the performance of
2 professional responsibilities by a person when the licensee
3 delegating or contracting such responsibilities knows, or has
4 reason to know, such person is not qualified by training,
5 experience, and authorization to perform them.

6 11. Practicing or offering to practice beyond the
7 scope permitted by law or accepting and performing
8 professional responsibilities the licensee knows, or has
9 reason to know, the licensee is not competent to perform.

10 12. Gross or repeated malpractice or the inability to
11 practice medical physics with reasonable skill and safety.

12 13. Judicially determined mental incompetency.

13 14. Being unable to practice medical physics with
14 reasonable skill and safety because of a mental or physical
15 condition or illness or the use of alcohol, controlled
16 substances, or any other substance which impairs one's ability
17 to practice.

18 a. The department may, upon probable cause, compel a
19 licensee to submit to a mental or physical examination by
20 physicians designated by the department. The cost of an
21 examination shall be borne by the licensee, and the licensee's
22 failure to submit to such an examination constitutes an
23 admission of the allegations against the licensee, consequent
24 upon which a default and a final order may be entered without
25 the taking of testimony or presentation of evidence, unless
26 the failure was due to circumstances beyond the licensee's
27 control.

28 b. A licensee who is disciplined under this
29 subparagraph shall, at reasonable intervals, be afforded an
30 opportunity to demonstrate that the licensee can resume the
31 practice of medical physics with reasonable skill and safety.

1 c. With respect to any proceeding under this
2 subparagraph, the record of proceedings or the orders entered
3 by the department may not be used against a licensee in any
4 other proceeding.

5 (h) When the department finds any person guilty of any
6 of the grounds set forth in paragraph (g), including conduct
7 that would constitute a substantial violation of paragraph (g)
8 which occurred prior to licensure, it may enter an order
9 imposing one or more of the following penalties:

10 1. Deny the application for licensure.

11 2. Revoke or suspend the license.

12 3. Impose an administrative fine for each count or
13 separate offense.

14 4. Place the licensee on probation for a specified
15 time and subject the licensee to such conditions as the
16 department determines necessary, including requiring
17 treatment, continuing education courses, or working under the
18 monitoring or supervision of another licensee.

19 5. Restrict a licensee's practice.

20 6. Issue a reprimand to the licensee.

21 (i) The department may not issue or reinstate a
22 license to a person it has deemed unqualified until it is
23 satisfied that such person has complied with the terms and
24 conditions of the final order and that the licensee can safely
25 practice medical physics.

26 ~~(j) The department may issue a temporary license to an~~
27 ~~applicant pending completion of the application process for~~
28 ~~board certification.~~

29 (j)~~(k)~~ Upon receipt of a complete application and the
30 fee set forth by rule, the department may issue a
31 physicist-in-training certificate to a person qualified to

1 practice medical physics under direct supervision. The
2 department may establish by rule requirements for initial
3 certification and renewal of a physicist-in-training
4 certificate.

5 (8) DISPOSITION OF FEES.--The department shall deposit
6 all funds received into the Medical Quality Assurance ~~Health~~
7 ~~Care~~ Trust Fund.

8 Section 88. Paragraph (d) of subsection (1) of section
9 484.007, Florida Statutes, is amended to read:

10 484.007 Licensure of opticians; permitting of optical
11 establishments.--

12 (1) Any person desiring to practice opticianry shall
13 apply to the department, upon forms prescribed by it, to take
14 a licensure examination. The department shall examine each
15 applicant who the board certifies:

16 (d)1. Has received an associate degree, or its
17 equivalent, in opticianry from an educational institution the
18 curriculum of which is accredited by an accrediting agency
19 recognized and approved by the United States Department of
20 Education or the Council on Postsecondary Education or
21 approved by the board;

22 2. Is an individual licensed to practice the
23 profession of opticianry pursuant to a regulatory licensing
24 law of another state, territory, or jurisdiction of the United
25 States, who has actively practiced in such other state,
26 territory, or jurisdiction for more than 3 years immediately
27 preceding application, and who meets the examination
28 qualifications as provided in this subsection;

29 3. Is an individual who has actively practiced in
30 another state, territory, or jurisdiction of the United States
31 for more than 5 years immediately preceding application and

1 who provides tax or business records, affidavits, or other
2 satisfactory documentation of such practice and who meets the
3 examination qualifications as provided in this subsection; or
4 4. Has registered as an apprentice with the department
5 and paid a registration fee not to exceed \$60, as set by rule
6 of the board. The apprentice shall complete 6,240 hours of
7 training under the supervision of an optician licensed in this
8 state for at least 1 year or of~~a physician, or an~~
9 optometrist licensed under the laws of this state. These
10 requirements must be met within 5 years after the date of
11 registration. However, any time spent in a recognized school
12 may be considered as part of the apprenticeship program
13 provided herein. The board may establish administrative
14 processing fees sufficient to cover the cost of administering
15 apprentice rules as promulgated by the board.

16 Section 89. Subsection (3) is added to section
17 484.0512, Florida Statutes, to read:

18 484.0512 Thirty-day trial period; purchaser's right to
19 cancel; notice; refund; cancellation fee.--

20 (3) Within 30 days after the return or attempted
21 return of the hearing aid, the seller shall refund all moneys
22 that must be refunded to a purchaser pursuant to this section.

23 Section 90. Section 484.053, Florida Statutes, is
24 amended to read:

25 484.053 Prohibitions; penalties.--

26 (1) A person may not:

27 (a) Practice dispensing hearing aids unless the person
28 is a licensed hearing aid specialist;

29 (b) Use the name or title "hearing aid specialist"
30 when the person has not been licensed under this part;

31 (c) Present as her or his own the license of another;

1 (d) Give false, incomplete, or forged evidence to the
2 board or a member thereof for the purposes of obtaining a
3 license;

4 (e) Use or attempt to use a hearing aid specialist
5 license that is delinquent or has been suspended, revoked, or
6 placed on inactive ~~or delinquent~~ status;

7 (f) Knowingly employ unlicensed persons in the
8 practice of dispensing hearing aids; or

9 (g) Knowingly conceal information relative to
10 violations of this part.

11 (2) Any person who violates any of the provisions of
12 this section is guilty of a felony ~~misdemeanor~~ of the third
13 ~~second degree~~, punishable as provided in s. 775.082 or s.
14 775.083.

15 (3) If a person licensed under this part allows the
16 sale of a hearing aid by an unlicensed person not registered
17 as a trainee or fails to comply with the requirements of s.
18 484.0445(2) relating to supervision of trainees, the board
19 shall, upon determination of that violation, order the full
20 refund of moneys paid by the purchaser upon return of the
21 hearing aid to the seller's place of business.

22 Section 91. Paragraph (a) of subsection (1) of section
23 484.056, Florida Statutes, 1998 Supplement, is amended to
24 read:

25 484.056 Disciplinary proceedings.--

26 (1) The following acts relating to the practice of
27 dispensing hearing aids shall be grounds for both disciplinary
28 action against a hearing aid specialist as set forth in this
29 section and cease and desist or other related action by the
30 department as set forth in s. 455.637 against any person
31

1 owning or operating a hearing aid establishment who engages
2 in, aids, or abets any such violation:

3 (a) Violation of any provision of s. 455.624(1), s.
4 484.0512, or s. 484.053.

5 Section 92. Section 486.041, Florida Statutes, is
6 amended to read:

7 486.041 Physical therapist; application for license;
8 ~~fee; temporary permit.--~~

9 (1) A person who desires to be licensed as a physical
10 therapist shall apply to the department in writing on a form
11 furnished by the department. She or he shall embody in that
12 application evidence under oath, satisfactory to the board, of
13 possession of the qualifications preliminary to examination
14 required by s. 486.031. The applicant shall pay to the
15 department at the time of filing the application a fee not to
16 exceed \$100, as fixed by the board.

17 ~~(2) If a person desires to practice physical therapy~~
18 ~~before becoming licensed through examination, she or he shall~~
19 ~~apply for a temporary permit in accordance with rules adopted~~
20 ~~pursuant to this chapter.~~

21 ~~(a) A temporary permit shall only be issued for a~~
22 ~~limited period of time, not to exceed 1 year, and shall not be~~
23 ~~renewable. A temporary permit shall automatically expire if an~~
24 ~~applicant fails the examination.~~

25 ~~(b) An applicant for licensure by examination and~~
26 ~~practicing under a temporary permit shall do so only under the~~
27 ~~direct supervision of a licensed physical therapist.~~

28 Section 93. Section 486.081, Florida Statutes, is
29 amended to read:

30
31

1 486.081 Physical therapist; issuance of license
2 without examination to person passing examination of another
3 authorized examining board; ~~temporary permit; fee.--~~

4 (1) The board may cause a license to be issued through
5 the department without examination to any applicant who
6 presents evidence satisfactory to the board of having passed
7 the American Registry Examination prior to 1971 or an
8 examination in physical therapy before a similar lawfully
9 authorized examining board of another state, the District of
10 Columbia, a territory, or a foreign country, if the standards
11 for licensure in physical therapy in such other state,
12 district, territory, or foreign country are determined by the
13 board to be as high as those of this state, as established by
14 rules adopted pursuant to this chapter. Any person who holds a
15 license pursuant to this section may use the words "physical
16 therapist" or "physiotherapist," or the letters "P.T.," in
17 connection with her or his name or place of business to denote
18 her or his licensure hereunder.

19 (2) At the time of making application for licensure
20 without examination pursuant to the terms of this section, the
21 applicant shall pay to the department a fee not to exceed \$175
22 as fixed by the board, no part of which will be returned.

23 ~~(3) If a person desires to practice physical therapy
24 before becoming licensed through endorsement, she or he shall
25 apply to the board for a temporary permit in accordance with
26 rules adopted pursuant to this chapter. A temporary permit
27 shall only be issued for a limited period of time, not to
28 exceed 1 year, and shall not be renewable.~~

29 Section 94. Section 486.103, Florida Statutes, is
30 amended to read:

31

1 486.103 Physical therapist assistant; application for
2 license; ~~fee; temporary permit.--~~

3 ~~(1)~~ A person who desires to be licensed as a physical
4 therapist assistant shall apply to the department in writing
5 on a form furnished by the department. She or he shall embody
6 in that application evidence under oath, satisfactory to the
7 board, of possession of the qualifications preliminary to
8 examination required by s. 486.104. The applicant shall pay to
9 the department at the time of filing the application a fee not
10 to exceed \$100, as fixed by the board.

11 ~~(2) If a person desires to work as a physical~~
12 ~~therapist assistant before being licensed through examination,~~
13 ~~she or he shall apply for a temporary permit in accordance~~
14 ~~with rules adopted pursuant to this chapter.~~

15 ~~(a) A temporary permit shall only be issued for a~~
16 ~~limited period of time, not to exceed 1 year, and shall not be~~
17 ~~renewable. A temporary permit shall automatically expire if an~~
18 ~~applicant fails the examination.~~

19 ~~(b) An applicant for licensure by examination who is~~
20 ~~practicing under a temporary permit shall do so only under the~~
21 ~~direct supervision of a licensed physical therapist.~~

22 Section 95. Section 486.107, Florida Statutes, is
23 amended to read:

24 486.107 Physical therapist assistant; issuance of
25 license without examination to person licensed in another
26 jurisdiction; ~~temporary permit; fee.--~~

27 (1) The board may cause a license to be issued through
28 the department without examination to any applicant who
29 presents evidence to the board, under oath, of licensure in
30 another state, the District of Columbia, or a territory, if
31 the standards for registering as a physical therapist

1 assistant or licensing of a physical therapist assistant, as
2 the case may be, in such other state are determined by the
3 board to be as high as those of this state, as established by
4 rules adopted pursuant to this chapter. Any person who holds a
5 license pursuant to this section may use the words "physical
6 therapist assistant," or the letters "P.T.A.," in connection
7 with her or his name to denote licensure hereunder.

8 (2) At the time of making application for licensing
9 without examination pursuant to the terms of this section, the
10 applicant shall pay to the department a fee not to exceed \$175
11 as fixed by the board, no part of which will be returned.

12 ~~(3) If a person desires to work as a physical~~
13 ~~therapist assistant before being licensed through endorsement,~~
14 ~~she or he shall apply for a temporary permit in accordance~~
15 ~~with rules adopted pursuant to this chapter. A temporary~~
16 ~~permit shall only be issued for a limited period of time, not~~
17 ~~to exceed 1 year, and shall not be renewable.~~

18 Section 96. Paragraph (b) of subsection (1) of section
19 490.005, Florida Statutes, 1998 Supplement, is amended to
20 read:

21 490.005 Licensure by examination.--

22 (1) Any person desiring to be licensed as a
23 psychologist shall apply to the department to take the
24 licensure examination. The department shall license each
25 applicant who the board certifies has:

26 (b) Submitted proof satisfactory to the board that the
27 applicant has:

28 1. Received doctoral-level psychological education, as
29 defined in s. 490.003(3);

30 2. Received the equivalent of a doctoral-level
31 psychological education, as defined in s. 490.003(3), from a

1 program at a school or university located outside the United
2 States of America and Canada, which was officially recognized
3 by the government of the country in which it is located as an
4 institution or program to train students to practice
5 professional psychology. The burden of establishing that the
6 requirements of this provision have been met shall be upon the
7 applicant;

8 3. Received and submitted to the board, prior to July
9 1, 1999, certification of an augmented doctoral-level
10 psychological education from the program director of a
11 doctoral-level psychology program accredited by a programmatic
12 agency recognized and approved by the United States Department
13 of Education; or

14 4. Received and submitted to the board, prior to
15 August 31, 2001 ~~July 1, 2001~~, certification of a
16 doctoral-level program that at the time the applicant was
17 enrolled and graduated maintained a standard of education and
18 training comparable to the standard of training of programs
19 accredited by a programmatic agency recognized and approved by
20 the United States Department of Education, ~~as such~~
21 ~~comparability was determined by the Board of Psychological~~
22 ~~Examiners immediately prior to the amendment of s. 490.005,~~
23 ~~Florida Statutes, 1994 Supplement, by s. 5, chapter 95-279,~~
24 ~~Laws of Florida.~~ Such certification of comparability shall be
25 provided by the program director of a doctoral-level
26 psychology program accredited by a programmatic agency
27 recognized and approved by the United States Department of
28 Education.

29 Section 97. Subsection (1) of section 490.006, Florida
30 Statutes, is amended to read:

31 490.006 Licensure by endorsement.--

1 (1) The department shall license a person as a
2 psychologist or school psychologist who, upon applying to the
3 department and remitting the appropriate fee, demonstrates to
4 the department or, in the case of psychologists, to the board
5 that the applicant:

6 (a) Holds a valid license or certificate in another
7 state to practice psychology or school psychology, as
8 applicable, provided that, when the applicant secured such
9 license or certificate, the requirements were substantially
10 equivalent to or more stringent than those set forth in this
11 chapter at that time; and, if no Florida law existed at that
12 time, then the requirements in the other state must have been
13 substantially equivalent to or more stringent than those set
14 forth in this chapter at the present time; ~~or~~

15 (b) Is a diplomate in good standing with the American
16 Board of Professional Psychology, Inc.; or

17 (c) Possesses a doctoral degree in psychology as
18 described in s. 490.003 and has at least 20 years of
19 experience as a licensed psychologist in any jurisdiction or
20 territory of the United States within 25 years preceding the
21 date of application.

22 Section 98. Subsection (2) of section 490.0085,
23 Florida Statutes, is amended to read:

24 490.0085 Continuing education; approval of providers,
25 programs, and courses; proof of completion.--

26 (2) The department or, in the case of psychologists,
27 the board has the authority to set a fee not to exceed \$500
28 for each applicant who applies for or renews provider status.
29 Such fees shall be deposited into the Medical Quality
30 Assurance ~~Health Care~~ Trust Fund.
31

1 Section 99. Section 490.0148, Florida Statutes, is
2 amended to read:

3 490.0148 Psychologist and school psychologist
4 records.--Each psychologist and school psychologist who
5 provides services as defined in this chapter shall maintain
6 records. The board or, in the case of a school psychologist,
7 the department may adopt rules defining the minimum
8 requirements for such records, including content, length of
9 time such records shall be maintained, and transfer of such
10 records or of a summary of such records, or both, to a
11 subsequent treating practitioner or other individual with the
12 written consent of the client or clients. A patient's
13 psychological report may be released to an employer or
14 carrier, or the attorney for either, pursuant to s. 440.13.

15 Section 100. Section 491.0045, Florida Statutes, is
16 amended to read:

17 491.0045 Intern registration; requirements.--

18 (1) Effective January 1, 1998, an individual who
19 intends to practice in Florida to satisfy the postgraduate or
20 post-master's level experience requirements, as specified in
21 s. 491.005(1)(c), (3)(c), or (4)(c), must register as an
22 intern in the profession for which he or she is seeking
23 licensure prior to commencing the post-master's experience
24 requirement or an individual who intends to satisfy part of
25 the required graduate-level practicum, internship, or field
26 experience, outside the academic arena for any profession,
27 must register as an intern in the profession for which he or
28 she is seeking licensure prior to commencing the practicum,
29 internship, or field experience.

30 (2) The department shall register as a clinical social
31 worker intern, marriage and family therapist intern, or mental

1 health counselor intern each applicant who the board certifies
2 has:

3 (a) Completed the application form and remitted a
4 nonrefundable application fee not to exceed \$200, as set by
5 board rule;

6 (b)1. Completed the education requirements as
7 specified in s. 491.005(1)(c), (3)(c), or (4)(c) for the
8 profession for which he or she is applying for licensure, if
9 needed; and

10 2. Submitted an acceptable supervision plan, as
11 determined by the board, for meeting the practicum,
12 internship, or field work required for licensure that was not
13 satisfied in his or her graduate program.

14 (c) Identified a qualified supervisor.

15 (3) An individual registered under this section must
16 remain under supervision until he or she is in receipt of a
17 license or a letter from the department stating that he or she
18 is licensed to practice the profession for which he or she
19 applied.

20 (4) An individual who has applied for intern
21 registration on or before December 31, 2001, and has satisfied
22 the education requirements of s. 491.005 that are in effect
23 through December 31, 2000, will have met the educational
24 requirements for licensure for the profession for which he or
25 she has applied.

26 Section 101. Subsections (1) and (2) of section
27 491.0046, Florida Statutes, are amended to read:

28 491.0046 Provisional license; requirements.--

29 (1) An individual applying for licensure by
30 examination who has satisfied the clinical experience
31 requirements of s. 491.005 or an individual applying for

1 licensure by endorsement pursuant to s. 491.006 intending to
2 provide clinical social work, marriage and family therapy, or
3 mental health counseling services in Florida while satisfying
4 coursework or examination requirements for licensure must be
5 provisionally licensed in the profession for which he or she
6 is seeking licensure prior to beginning practice.

7 (2) The department shall issue a provisional clinical
8 social worker license, provisional marriage and family
9 therapist license, or provisional mental health counselor
10 license to each applicant who the board certifies has:

11 (a) Completed the application form and remitted a
12 nonrefundable application fee not to exceed \$100, as set by
13 board rule; and

14 (b)~~1.~~ Earned a graduate degree in social work, a
15 graduate degree with a major emphasis in marriage and family
16 therapy or a closely related field, or a graduate degree in a
17 major related to the practice of mental health counseling;
18 ~~and, and satisfied the clinical experience requirements for~~
19 ~~licensure pursuant to s. 491.005; or~~

20 ~~2. Been approved for examination under the provisions~~
21 ~~for licensure by endorsement pursuant to s. 491.006.~~

22 (c) Has met the following minimum coursework
23 requirements:

24 1. For clinical social work, a minimum of 15 semester
25 hours or 22 quarter hours of the coursework required by s.
26 491.005(1)(b)2.b.

27 2. For marriage and family therapy, ten of the courses
28 required by s. 491.005(3)(b)1.a.-c., as determined by the
29 board, and at least 6 semester hours or 9 quarter hours of the
30 course credits must have been completed in the area of
31 marriage and family systems, theories, or techniques.

1 3. For mental health counseling, a minimum of seven of
2 the courses required under s. 491.005(b)1.a.-c.

3 Section 102. Section 491.005, Florida Statutes, is
4 amended to read:

5 491.005 Licensure by examination.--

6 (1) Upon verification of documentation and payment of
7 a fee not to exceed \$200, as set by board rule, plus the
8 actual per applicant cost to the department for purchase of
9 the examination from the American Association of State Social
10 Worker's Boards or a similar national organization, the
11 department shall issue a license as a clinical social worker
12 to an applicant who the board certifies:

13 (a) Has made application therefor and paid the
14 appropriate fee.

15 (b)1. Has received a doctoral degree in social work
16 from a graduate school of social work which at the time the
17 applicant graduated was accredited by an accrediting agency
18 recognized by the United States Department of Education or has
19 received a master's degree in social work from a graduate
20 school of social work which at the time the applicant
21 graduated:

22 a. Was accredited by the Council on Social Work
23 Education;

24 b. Was accredited by the Canadian Association of
25 Schools of Social Work; or

26 c. Has been determined to have been a program
27 equivalent to programs approved by the Council on Social Work
28 Education by the Foreign Equivalency Determination Service of
29 the Council on Social Work Education. An applicant who
30 graduated from a program at a university or college outside of
31 the United States or Canada must present documentation of the

1 equivalency determination from the council in order to
2 qualify.

3 2. The applicant's graduate program must have
4 emphasized direct clinical patient or client health care
5 services, including, but not limited to, coursework in
6 clinical social work, psychiatric social work, medical social
7 work, social casework, psychotherapy, or group therapy. The
8 applicant's graduate program must have included all of the
9 following coursework:

10 a. A supervised field placement which was part of the
11 applicant's advanced concentration in direct practice, during
12 which the applicant provided clinical services directly to
13 clients.

14 b. Completion of 24 semester hours or 32 ~~37~~ quarter
15 hours in theory of human behavior and practice methods as
16 courses in clinically oriented services, including a minimum
17 of one course in psychopathology, and no more than one course
18 in research, taken in a school of social work accredited or
19 approved pursuant to subparagraph 1.

20 3. If the course title which appears on the
21 applicant's transcript does not clearly identify the content
22 of the coursework, the applicant shall be required to provide
23 additional documentation, including, but not limited to, a
24 syllabus or catalog description published for the course.

25 (c) Has had not less than 2 years of clinical social
26 work experience, which took place subsequent to completion of
27 a graduate degree in social work at an institution meeting the
28 accreditation requirements of this section, under the
29 supervision of a licensed clinical social worker or the
30 equivalent who is a qualified supervisor as determined by the
31 board. An individual who intends to practice in Florida to

1 satisfy clinical experience requirements must register
2 pursuant to s. 491.0045 prior to commencing practice. If the
3 applicant's graduate program was not a program which
4 emphasized direct clinical patient or client health care
5 services as described in subparagraph (b)2, ~~s. 491.003~~, the
6 supervised experience requirement must take place after the
7 applicant has completed a minimum of 15 semester hours or 22
8 quarter hours of the coursework required. A doctoral
9 internship may be applied toward the clinical social work
10 experience requirement. The experience requirement may be met
11 by work performed on or off the premises of the supervising
12 clinical social worker or the equivalent, provided the
13 off-premises work is not the independent private practice
14 rendering of clinical social work that does not have a
15 licensed mental health professional, as determined by the
16 board, on the premises at the same time the intern is
17 providing services.

18 (d) Has passed a theory and practice examination
19 provided by the department for this purpose.

20 (e) Has demonstrated, in a manner designated by rule
21 of the board, knowledge of the laws and rules governing the
22 practice of clinical social work, marriage and family therapy,
23 and mental health counseling.

24 (2)(a) Notwithstanding the provisions of paragraph
25 (1)(b), coursework which was taken at a baccalaureate level
26 shall not be considered toward completion of education
27 requirements for licensure unless an official of the graduate
28 program certifies in writing on the graduate school's
29 stationery that a specific course, which students enrolled in
30 the same graduate program were ordinarily required to complete
31 at the graduate level, was waived or exempted based on

1 completion of a similar course at the baccalaureate level. If
2 this condition is met, the board shall apply the baccalaureate
3 course named toward the education requirements.

4 (b) An applicant from a master's or doctoral program
5 in social work which did not emphasize direct patient or
6 client services may complete the clinical curriculum content
7 requirement by returning to a graduate program accredited by
8 the Council on Social Work Education or the Canadian
9 Association of Schools of Social Work, or to a clinical social
10 work graduate program with comparable standards, in order to
11 complete the education requirements for examination. However,
12 a maximum of 6 semester or 9 quarter hours of the clinical
13 curriculum content requirement may be completed by credit
14 awarded for independent study coursework as defined by board
15 rule.

16 (3) Upon verification of documentation and payment of
17 a fee not to exceed \$200, as set by board rule, plus the
18 actual cost to the department for the purchase of the
19 examination from the Association of Marital and Family Therapy
20 Regulatory Board, or similar national organization, the
21 department shall issue a license as a marriage and family
22 therapist to an applicant who the board certifies:

23 (a) Has made application therefor and paid the
24 appropriate fee.

25 (b)1. Has a minimum of a master's degree with major
26 emphasis in marriage and family therapy, or a closely related
27 field, and has completed all of the following requirements:

28 a. Twenty-seven semester hours or 41 quarter hours of
29 graduate coursework, which must include a minimum of 2
30 semester hours or 3 quarter hours of graduate-level course
31 credits in each of the following nine areas: dynamics of

1 marriage and family systems; marriage therapy and counseling
2 theory and techniques; family therapy and counseling theory
3 and techniques; individual human development theories
4 throughout the life cycle; personality theory;
5 psychopathology; human sexuality theory and counseling
6 techniques; general counseling theory and techniques; and
7 psychosocial theory. Content may be combined, provided no more
8 than two of the nine content areas are included in any one
9 graduate-level course and the applicant can document that the
10 equivalent of 2 semester hours of coursework was devoted to
11 each content area. Courses in research, evaluation, appraisal,
12 assessment, or testing theories and procedures; thesis or
13 dissertation work; or practicums, internships, or fieldwork
14 may not be applied toward this requirement.

15 b. A minimum of one graduate-level course of 2
16 semester hours or 3 quarter hours in legal, ethical, and
17 professional standards issues in the practice of marriage and
18 family therapy or a course determined by the board to be
19 equivalent.

20 c. A minimum of one graduate-level course of 2
21 semester hours or 3 quarter hours in diagnosis, appraisal,
22 assessment, and testing for individual or interpersonal
23 disorder or dysfunction; and a minimum of one 2-semester-hour
24 or 3-quarter-hour graduate-level course in behavioral research
25 which focuses on the interpretation and application of
26 research data as it applies to clinical practice. Credit for
27 thesis or dissertation work, practicums, internships, or
28 fieldwork may not be applied toward this requirement.

29 d. A minimum of one supervised clinical practicum,
30 internship, or field experience in a marriage and family
31 counseling setting, during which the student provided 180

1 direct client contact hours of marriage and family therapy
2 services under the supervision of an individual who met the
3 requirements for supervision under paragraph (c). This
4 requirement may be met by a supervised practice experience
5 which took place outside the academic arena, but which is
6 certified as equivalent to a graduate-level practicum or
7 internship program which required a minimum of 180 direct
8 client contact hours of marriage and family therapy services
9 currently offered within an academic program of a college or
10 university accredited by an accrediting agency approved by the
11 United States Department of Education, or an institution which
12 is publicly recognized as a member in good standing with the
13 Association of Universities and Colleges of Canada or a
14 training institution accredited by the Commission on
15 Accreditation for Marriage and Family Therapy Education
16 recognized by the United States Department of Education.
17 Certification shall be required from an official of such
18 college, university, or training institution.

19 2. If the course title which appears on the
20 applicant's transcript does not clearly identify the content
21 of the coursework, the applicant shall be required to provide
22 additional documentation, including, but not limited to, a
23 syllabus or catalog description published for the course.
24

25 The required master's degree must have been received in an
26 institution of higher education which at the time the
27 applicant graduated was: fully accredited by a regional
28 accrediting body recognized by the Commission on Recognition
29 of Postsecondary Accreditation; publicly recognized as a
30 member in good standing with the Association of Universities
31 and Colleges of Canada; or an institution of higher education

1 located outside the United States and Canada, which at the
2 time the applicant was enrolled and at the time the applicant
3 graduated maintained a standard of training substantially
4 equivalent to the standards of training of those institutions
5 in the United States which are accredited by a regional
6 accrediting body recognized by the Commission on Recognition
7 of Postsecondary Accreditation. Such foreign education and
8 training must have been received in an institution or program
9 of higher education officially recognized by the government of
10 the country in which it is located as an institution or
11 program to train students to practice as professional marriage
12 and family therapists or psychotherapists. The burden of
13 establishing that the requirements of this provision have been
14 met shall be upon the applicant, and the board shall require
15 documentation, such as, but not limited to, an evaluation by a
16 foreign equivalency determination service, as evidence that
17 the applicant's graduate degree program and education were
18 equivalent to an accredited program in this country. An
19 applicant with a master's degree from a program which did not
20 emphasize marriage and family therapy may complete the
21 coursework requirement in a training institution fully
22 accredited by the Commission on Accreditation for Marriage and
23 Family Therapy Education recognized by the United States
24 Department of Education.

25 (c) Has had not less than 2 years of clinical
26 experience during which 50 percent of the applicant's clients
27 were receiving marriage and family therapy services, which
28 must be at the post-master's level under the supervision of a
29 licensed marriage and family therapist with at least 5 years
30 of experience, or the equivalent, who is a qualified
31 supervisor as determined by the board. An individual who

1 intends to practice in Florida to satisfy the clinical
2 experience requirements must register pursuant to s. 491.0045
3 prior to commencing practice. If a graduate has a master's
4 degree with a major emphasis in marriage and family therapy or
5 a closely related field that did not include all the
6 coursework required under sub-subparagraphs (b)1.a.-c., credit
7 for the post-master's level clinical experience shall not
8 commence until the applicant has completed a minimum of 10 of
9 the courses required under sub-subparagraphs (b)1.a.-c., as
10 determined by the board, and at least 6 semester hours or 9
11 quarter hours of the course credits must have been completed
12 in the area of marriage and family systems, theories, or
13 techniques. Within the 3 years of required experience, the
14 applicant shall provide direct individual, group, or family
15 therapy and counseling, to include the following categories of
16 cases: unmarried dyads, married couples, separating and
17 divorcing couples, and family groups including children. A
18 doctoral internship may be applied toward the clinical
19 experience requirement. The clinical experience requirement
20 may be met by work performed on or off the premises of the
21 supervising marriage and family therapist or the equivalent,
22 provided the off-premises work is not the independent private
23 practice rendering of marriage and family therapy services
24 that does not have a licensed mental health professional, as
25 determined by the board, on the premises at the same time the
26 intern is providing services.

27 (d) Has passed a theory and practice examination
28 provided by the department for this purpose.

29 (e) Has demonstrated, in a manner designated by rule
30 of the board, knowledge of the laws and rules governing the
31

1 practice of clinical social work, marriage and family therapy,
2 and mental health counseling.

3 (f) For the purposes of dual licensure, the department
4 shall license as a marriage and family therapist any person
5 who meets the requirements of s. 491.0057. Fees for dual
6 licensure shall not exceed those stated in this subsection.

7 (4) Upon verification of documentation and payment of
8 a fee not to exceed \$200, as set by board rule, plus the
9 actual per applicant cost to the department for purchase of
10 the examination from the Professional Examination Service for
11 the National Academy of Certified Clinical Mental Health
12 Counselors or a similar national organization, the department
13 shall issue a license as a mental health counselor to an
14 applicant who the board certifies:

15 (a) Has made application therefor and paid the
16 appropriate fee.

17 (b)1. Has received a minimum of an earned master's
18 degree with a major related to the practice of mental health
19 counseling, and has completed all of the following
20 requirements:

21 a. Twenty-one semester hours or 32 quarter hours of
22 graduate coursework, which must include a minimum of 2
23 semester hours or 3 quarter hours of graduate-level coursework
24 in each of the following seven content areas: counseling
25 theories and practice; human development theories; personality
26 theory; psychopathology or abnormal psychology; human
27 sexuality theories; group theories and practice; and
28 individual evaluation and assessment. Content may be
29 combined, provided no more than two of the seven content areas
30 are included in any one graduate-level course and the
31 applicant can document that the equivalent of 2 semester hours

1 of content was devoted to each content area. Courses in
2 research, thesis or dissertation work, practicums,
3 internships, or fieldwork may not be applied toward this
4 requirement.

5 b. A minimum of one 2-semester-hour or 3-quarter-hour
6 graduate-level course in research or in career or vocational
7 counseling. Credit for thesis or dissertation work,
8 practicums, internships, or fieldwork may not be applied
9 toward this requirement.

10 c. A minimum of 2 semester hours or 3 quarter hours of
11 graduate-level coursework in legal, ethical, and professional
12 standards issues in the practice of mental health counseling,
13 which includes goals and objectives of professional counseling
14 organizations, codes of ethics, legal considerations,
15 standards of preparation, certifications and licensing, and
16 the role identity of counselors. Courses in research, thesis
17 or dissertation work, practicums, internships, or fieldwork
18 may not be applied toward this requirement.

19 d. A minimum of one supervised practicum, internship,
20 or field experience in a counseling setting. This requirement
21 may be met by a supervised practice experience which takes
22 place outside the academic arena, but which is certified as
23 equivalent to a graduate-level practicum in a clinical mental
24 health counseling setting currently offered within an academic
25 program of a college or university accredited by an
26 accrediting agency approved by the United States Department of
27 Education. Such certification shall be required from an
28 official of such college or university.

29 2. If the course title which appears on the
30 applicant's transcript does not clearly identify the content
31 of the coursework, the applicant shall be required to provide

1 additional documentation, including, but not limited to, a
2 syllabus or catalog description published for the course.
3
4 Except as provided in sub-subparagraph 1.d., education and
5 training in mental health counseling must have been received
6 in an institution of higher education which at the time the
7 applicant graduated was: fully accredited by a regional
8 accrediting body recognized by the Commission on Recognition
9 of Postsecondary Accreditation; publicly recognized as a
10 member in good standing with the Association of Universities
11 and Colleges of Canada; or an institution of higher education
12 located outside the United States and Canada, which at the
13 time the applicant was enrolled and at the time the applicant
14 graduated maintained a standard of training substantially
15 equivalent to the standards of training of those institutions
16 in the United States which are accredited by a regional
17 accrediting body recognized by the Commission on Recognition
18 of Postsecondary Accreditation. Such foreign education and
19 training must have been received in an institution or program
20 of higher education officially recognized by the government of
21 the country in which it is located as an institution or
22 program to train students to practice as mental health
23 counselors. The burden of establishing that the requirements
24 of this provision have been met shall be upon the applicant,
25 and the board shall require documentation, such as, but not
26 limited to, an evaluation by a foreign equivalency
27 determination service, as evidence that the applicant's
28 graduate degree program and education were equivalent to an
29 accredited program in this country.
30 (c) Has had not less than 2 years of clinical
31 experience in mental health counseling, which must be at the

1 post-master's level under the supervision of a licensed mental
2 health counselor or the equivalent who is a qualified
3 supervisor as determined by the board. An individual who
4 intends to practice in Florida to satisfy the clinical
5 experience requirements must register pursuant to s. 491.0045
6 prior to commencing practice. If a graduate has a master's
7 degree with a major related to the practice of mental health
8 counseling which did not include all the coursework required
9 under sub-subparagraphs (b)1.a.-c., credit for the
10 post-master's level clinical experience shall not commence
11 until the applicant has completed a minimum of seven of the
12 courses required under sub-subparagraphs (b)1.a.-c., as
13 determined by the board, one of which must be a course in
14 psychopathology or abnormal psychology. A doctoral internship
15 may be applied toward the clinical experience requirement. The
16 clinical experience requirement may be met by work performed
17 on or off the premises of the supervising mental health
18 counselor or the equivalent, provided the off-premises work is
19 not the independent private practice rendering of services
20 that does not have a licensed mental health professional, as
21 determined by the board, on the premises at the same time the
22 intern is providing services.

23 (d) Has passed a theory and practice examination
24 provided by the department for this purpose.

25 (e) Has demonstrated, in a manner designated by rule
26 of the board, knowledge of the laws and rules governing the
27 practice of clinical social work, marriage and family therapy,
28 and mental health counseling.

29 (5) An individual who is registered as an intern and
30 has satisfied all of the educational requirements for the
31 profession for which the applicant seeks licensure shall be

1 certified as having met the educational requirements for
2 licensure under this section.

3 (6) The board may adopt rules necessary to implement
4 any education or experience requirement of this section for
5 licensure as a clinical social worker, marriage and family
6 therapist, or mental health counselor.

7 Section 103. Effective January 1, 2001, paragraph (b)
8 of subsection (4) of section 491.005, Florida Statutes, as
9 amended by section 13 of chapter 97-198 and section 205 of
10 chapter 97-264, Laws of Florida, is amended, and subsection
11 (6) of said section is reenacted, to read:

12 491.005 Licensure by examination.--

13 (4) Upon verification of documentation and payment of
14 a fee not to exceed \$200, as set by board rule, plus the
15 actual per applicant cost to the department for purchase of
16 the examination from the Professional Examination Service for
17 the National Academy of Certified Clinical Mental Health
18 Counselors or a similar national organization, the department
19 shall issue a license as a mental health counselor to an
20 applicant who the board certifies:

21 (b)1. Has a minimum of an earned master's degree from
22 a mental health counseling program accredited by the Council
23 for the Accreditation of Counseling and Related Educational
24 Programs that consists of at least 60 semester hours or 80
25 quarter hours of clinical and didactic instruction, including
26 a course in human sexuality and a course in substance abuse.
27 If the master's degree is earned from a program related to the
28 practice of mental health counseling that is not accredited by
29 the Council for the Accreditation of Counseling and Related
30 Educational Programs, then the coursework and practicum,

31

1 | internship, or fieldwork must consist of at least 60 semester
2 | hours or 80 quarter hours and meet the following requirements:
3 | a. Thirty-three ~~Thirty-six~~ semester hours or 44 ~~48~~
4 | quarter hours of graduate coursework, which must include a
5 | minimum of 3 semester hours or 4 quarter hours of
6 | graduate-level coursework in each of the following 11 ~~12~~
7 | content areas: counseling theories and practice; human growth
8 | and development; diagnosis and treatment of psychopathology;
9 | human sexuality; group theories and practice; individual
10 | evaluation and assessment; career and lifestyle assessment;
11 | research and program evaluation; social and cultural
12 | ~~foundations; foundations of mental health counseling;~~
13 | ~~counseling in community settings; and substance abuse.~~ Courses
14 | in research, thesis or dissertation work, practicums,
15 | internships, or fieldwork may not be applied toward this
16 | requirement.
17 | b. A minimum of 3 semester hours or 4 quarter hours of
18 | graduate-level coursework in legal, ethical, and professional
19 | standards issues in the practice of mental health counseling,
20 | which includes goals, objectives, and practices of
21 | professional counseling organizations, codes of ethics, legal
22 | considerations, standards of preparation, certifications and
23 | licensing, and the role identity and professional obligations
24 | of mental health counselors. Courses in research, thesis or
25 | dissertation work, practicums, internships, or fieldwork may
26 | not be applied toward this requirement.
27 | c. The equivalent, as determined by the board, of at
28 | least 1,000 hours of university-sponsored supervised clinical
29 | practicum, internship, or field experience as required in the
30 | accrediting standards of the Council for Accreditation of
31 | Counseling and Related Educational Programs for mental health

1 ~~counseling programs. If the academic practicum, internship, or~~
2 ~~field experience was less than 1,000 hours, experience gained~~
3 ~~outside the academic arena in clinical mental health settings~~
4 ~~under the supervision of a qualified supervisor as determined~~
5 ~~by the board may be applied.~~ This experience may not be used
6 to satisfy the post-master's clinical experience requirement.

7 2. If the course title which appears on the
8 applicant's transcript does not clearly identify the content
9 of the coursework, the applicant shall be required to provide
10 additional documentation, including, but not limited to, a
11 syllabus or catalog description published for the course.

12
13 Education and training in mental health counseling must have
14 been received in an institution of higher education which at
15 the time the applicant graduated was: fully accredited by a
16 regional accrediting body recognized by the Commission on
17 Recognition of Postsecondary Accreditation; publicly
18 recognized as a member in good standing with the Association
19 of Universities and Colleges of Canada; or an institution of
20 higher education located outside the United States and Canada,
21 which at the time the applicant was enrolled and at the time
22 the applicant graduated maintained a standard of training
23 substantially equivalent to the standards of training of those
24 institutions in the United States which are accredited by a
25 regional accrediting body recognized by the Commission on
26 Recognition of Postsecondary Accreditation. Such foreign
27 education and training must have been received in an
28 institution or program of higher education officially
29 recognized by the government of the country in which it is
30 located as an institution or program to train students to
31 practice as mental health counselors. The burden of

1 establishing that the requirements of this provision have been
2 met shall be upon the applicant, and the board shall require
3 documentation, such as, but not limited to, an evaluation by a
4 foreign equivalency determination service, as evidence that
5 the applicant's graduate degree program and education were
6 equivalent to an accredited program in this country.

7 (6) The board may adopt rules necessary to implement
8 any education or experience requirement of this section for
9 licensure as a clinical social worker, marriage and family
10 therapist, or mental health counselor.

11 Section 104. Paragraph (b) of subsection (1) of
12 section 491.006, Florida Statutes, is amended to read:

13 491.006 Licensure or certification by endorsement.--

14 (1) The department shall license or grant a
15 certificate to a person in a profession regulated by this
16 chapter who, upon applying to the department and remitting the
17 appropriate fee, demonstrates to the board that he or she:

18 (b)1. Holds an active valid license to practice and
19 has actively practiced the profession for which licensure is
20 applied in another state for 3 of the last 5 years immediately
21 preceding licensure.

22 2. Meets the education requirements of this chapter
23 for the profession for which licensure is applied.

24 3. Has passed a substantially equivalent licensing
25 examination in another state or has passed the licensure
26 examination in this state in the profession for which the
27 applicant seeks licensure.

28 4. Holds a license in good standing, is not under
29 investigation for an act which would constitute a violation of
30 this chapter, and has not been found to have committed any act
31 which would constitute a violation of this chapter.

1 Section 105. Section 491.0085, Florida Statutes, is
2 amended to read:

3 491.0085 Continuing education and laws and rules
4 courses; approval of providers, programs, and courses; proof
5 of completion.--

6 (1) Continuing education providers, programs, and
7 courses and laws and rules courses and their providers and
8 programs shall be approved by the department or the board.

9 (2) The department or the board has the authority to
10 set a fee not to exceed \$200 for each applicant who applies
11 for or renews provider status. Such fees shall be deposited
12 into the Medical Quality Assurance ~~Health Care~~ Trust Fund.

13 (3) Proof of completion of the required number of
14 hours of continuing education and completion of the laws and
15 rules course shall be submitted to the department or the board
16 in the manner and time specified by rule and on forms provided
17 by the department or the board.

18 (4) The department or the board shall adopt rules and
19 guidelines to administer and enforce the provisions of this
20 section.

21 Section 106. Paragraph (d) of subsection (4) of
22 section 491.014, Florida Statutes, 1998 Supplement, is amended
23 to read:

24 491.014 Exemptions.--

25 (4) No person shall be required to be licensed,
26 provisionally licensed, registered, or certified under this
27 chapter who:

28 (d) Is not a resident of this state but offers
29 services in this state, provided:

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31

1 1. Such services are performed for no more than ~~5 days~~
2 ~~in any month and no more than~~ 15 days in any calendar year;
3 and

4 2. Such nonresident is licensed or certified to
5 practice the services provided by a state or territory of the
6 United States or by a foreign country or province.

7 Section 107. Subsection (6) is added to section
8 626.883, Florida Statutes, to read:

9 626.883 Administrator as intermediary; collections
10 held in fiduciary capacity; establishment of account;
11 disbursement; payments on behalf of insurer.--

12 (6) All payments to a health care provider by a fiscal
13 intermediary must include an explanation of services being
14 reimbursed which includes, at a minimum, the patient's name,
15 the date of service, the provider code, the amount of
16 reimbursement for noncapitated providers, and the
17 identification of the plan on whose behalf the payment is
18 being made. For capitated providers, the statement of services
19 must include the number of patients covered by the contract,
20 the rate per patient, the total amount of the payment, and the
21 identification of the plan on whose behalf the payment is
22 being made.

23 Section 108. Paragraph (a) of subsection (2) of
24 section 641.316, Florida Statutes, 1998 Supplement, is amended
25 to read:

26 641.316 Fiscal intermediary services.--

27 (2)(a) The term "fiduciary" or "fiscal intermediary
28 services" means reimbursements received or collected on behalf
29 of health care professionals for services rendered, patient
30 and provider accounting, financial reporting and auditing,
31 receipts and collections management, compensation and

1 reimbursement disbursement services, or other related
2 fiduciary services pursuant to health care professional
3 contracts with health maintenance organizations. All payments
4 to a health care provider by a fiscal intermediary must
5 include an explanation of services being reimbursed which
6 includes, at a minimum, the patient's name, the date of
7 service, the provider code, the amount of reimbursement for
8 noncapitated providers, and the identification of the plan on
9 whose behalf the payment is being made. For capitated
10 providers, the statement of services must include the number
11 of patients covered by the contract, the rate per patient, the
12 total amount of the payment, and the identification of the
13 plan on whose behalf the payment is being made.

14 Section 109. Except as otherwise provided herein, this
15 act shall take effect July 1, 1999.

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