

1 A bill to be entitled
2 An act relating to the regulation of
3 professions, businesses, and occupations;
4 amending s. 11.62, F.S.; providing criteria for
5 evaluating proposals for new regulation of a
6 profession or occupation based on the effect of
7 such regulation on job creation or retention;
8 requiring proponents of legislation to regulate
9 a profession or occupation not already
10 regulated to provide additional cost
11 information; creating s. 210.155, F.S.;
12 defining "primary source of supply"; requiring
13 registration of entities acting as a primary
14 source of supply; prohibiting wholesale dealers
15 from shipping or accepting delivery of
16 cigarettes from outside the state other than
17 directly from a primary source of supply;
18 providing a limitation on the possession of
19 cigarettes with certain labels; providing that
20 no stamp or other cover may be affixed to a
21 cigarette package that does not meet specified
22 labeling requirements; providing for seizure
23 and forfeiture of cigarettes in violation, and
24 for suspension and revocation of permits;
25 providing application to holders of interim
26 permits; amending s. 210.15, F.S.; revising
27 application requirements for permits for
28 distributing agents, wholesale dealers, and
29 exporters, and provisions relating to renewal
30 thereof; requiring submission of manufacturers'
31 affirmation forms by distributing agents and

1 wholesale dealers; authorizing issuance of
2 interim permits without such affirmation to
3 certain permitholders; amending ss. 210.151 and
4 210.405, F.S., relating to temporary initial
5 cigarette and other tobacco products permits;
6 conforming language; revising provisions
7 relating to expiration of such permits;
8 specifying that manufacturers' affirmation
9 forms must be submitted prior to issuance of a
10 temporary cigarette permit; amending s. 210.16,
11 F.S.; providing for revocation and suspension
12 of registration of a primary source of supply;
13 providing limitations on renewal of
14 registration subsequent to revocation;
15 providing for civil penalties in lieu of
16 revocation or suspension and amounts thereof
17 for violations of s. 210.155, F.S., by
18 retailers, holders of wholesale permits, and
19 holders of registration as a primary source of
20 supply; specifying status of such fines;
21 amending ss. 455.201, 455.517, F.S.;
22 prohibiting the Department of Business and
23 Professional Regulation and the Department of
24 Health and their regulatory boards from
25 creating any regulation that has an
26 unreasonable effect on job creation or
27 retention or on employment opportunities;
28 providing for evaluation of proposals to
29 increase the regulation of already regulated
30 professions to determine the effect of such
31 regulation on job creation or retention and

1 employment opportunities; creating s. 455.2035,
 2 F.S.; providing rulemaking authority to the
 3 Department of Business and Professional
 4 Regulation for the regulation of any profession
 5 under its jurisdiction which does not have a
 6 regulatory board; creating s. 455.2123, F.S.;
 7 authorizing the use of distance learning to
 8 satisfy continuing education requirements;
 9 creating s. 455.2124, F.S.; authorizing
 10 proration of continuing education requirements;
 11 amending s. 455.213, F.S.; requiring
 12 fingerprint cards with applications for
 13 registration, certification, or licensure in
 14 certain professions; providing for use of such
 15 cards for criminal history record checks of
 16 applicants; amending s. 468.453, F.S.; applying
 17 such fingerprint card requirements to
 18 applicants for licensure as an athlete agent;
 19 amending s. 475.175, F.S.; applying such
 20 fingerprint card requirements to persons
 21 applying to take the examination for licensure
 22 as a real estate broker or salesperson;
 23 amending s. 475.615, F.S.; applying such
 24 fingerprint card requirements to applicants for
 25 registration, certification, or licensure as a
 26 real estate appraiser; creating s. 455.2255,
 27 F.S.; providing for the department to classify
 28 disciplinary actions according to severity;
 29 providing for the periodic clearing of certain
 30 violations from the disciplinary record;
 31 amending s. 455.227, F.S.; providing for denial

1 or renewal of a license under certain
 2 circumstances; amending ss. 455.557 and
 3 455.565, F.S.; ensuring that an intern in a
 4 hospital is not subject to the credentialing or
 5 profiling laws; amending s. 455.564, F.S.;
 6 clarifying continuing education requirements;
 7 amending s. 455.601, F.S.; providing the basis
 8 for presuming a blood-borne infection is
 9 contracted in the course of employment;
 10 amending s. 477.013, F.S.; redefining the terms
 11 "cosmetology" and "specialty" and defining the
 12 terms "body wrapping" and "skin care services";
 13 amending s. 477.0132, F.S.; requiring
 14 registration of persons whose occupation or
 15 practice is body wrapping; requiring a
 16 registration fee and certain education;
 17 amending s. 477.019, F.S.; exempting persons
 18 whose occupation or practice is confined solely
 19 to body wrapping from certain continuing
 20 education requirements; amending s. 477.026,
 21 F.S.; providing for the registration fee;
 22 amending s. 477.0265, F.S.; prohibiting
 23 advertising or implying that skin care services
 24 or body wrapping have any relationship to the
 25 practice of massage therapy; providing
 26 penalties; amending s. 477.029, F.S.;
 27 prohibiting holding oneself out as a body
 28 wrapper unless licensed, registered, or
 29 otherwise authorized under chapter 477, F.S.;
 30 providing penalties; providing rulemaking
 31 authority; amending ss. 455.209, 455.221,

1 455.541, and 455.594, F.S.; revising provisions
2 relating to the provision of legal services for
3 regulatory boards under the Department of
4 Business and Professional Regulation and the
5 Department of Health; providing for the funding
6 of such services; amending ss. 458.347 and
7 459.022, F.S., relating to physician
8 assistants, to conform; amending s. 458.3115,
9 F.S.; revising requirements with respect to
10 eligibility of certain foreign-licensed
11 physicians to take and pass standardized
12 examinations; amending s. 458.3124, F.S.;
13 changing the date by which application for a
14 restricted license must be submitted; amending
15 s. 301, ch. 98-166, Laws of Florida;
16 prescribing fees for foreign-licensed
17 physicians taking a certain examination;
18 providing effective dates.

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

21
22 Section 1. Subsections (3) and (4) of section 11.62,
23 Florida Statutes, are amended to read:

24 11.62 Legislative review of proposed regulation of
25 unregulated functions.--

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

7 Section 2. Subsection (4) of section 455.201, Florida
8 Statutes, is amended to read:

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

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

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

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

29 Section 3. Subsection (4) of section 455.517, Florida
30 Statutes, is amended to read:

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1 455.517 Professions and occupations regulated by
2 department; legislative intent; requirements.--

3 (4)(a) Neither the department nor any board may ~~No~~
4 ~~board, nor the department, shall~~ create unreasonably
5 restrictive and extraordinary standards that deter qualified
6 persons from entering the various professions. Neither the
7 department nor any board may ~~No board, nor the department,~~
8 ~~shall~~ take any action that ~~which~~ tends to create or maintain
9 an economic condition that unreasonably restricts competition,
10 except as specifically provided by law.

11 (b) Neither the department nor any board may create a
12 regulation that has an unreasonable effect on job creation or
13 job retention in the state or that places unreasonable
14 restrictions on the ability of individuals who seek to
15 practice or who are practicing a profession or occupation to
16 find employment.

17 (c) The Legislature shall evaluate proposals to
18 increase the regulation of regulated professions or
19 occupations to determine the effect of increased regulation on
20 job creation or retention and employment opportunities.

21 Section 4. (1) Section 210.155, Florida Statutes, is
22 created to read:

23 210.155 Registration as primary source of supply.--

24 (1) DEFINITION.--As used in this section, "primary
25 source of supply" means the cigarette manufacturer of the
26 brand, except that, for a cigarette manufacturer outside of
27 the United States, the primary source of supply may be the
28 exclusive agent of the manufacturer of the brand, who, if the
29 brand cannot be secured directly from the manufacturer by an
30 American wholesale dealer, is the source closest to the

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1 manufacturer in the channel of commerce from whom the brand
 2 can be secured by an American permitholder.

3 (2) TAX CONTROL REGISTRATION REQUIRED.--For purposes
 4 of tax revenue control, beginning on the effective date of
 5 this act, no person, firm, corporation, or other entity that
 6 is a primary source of supply may sell, offer for sale, accept
 7 orders for sale, ship, or cause to be shipped into this state
 8 any cigarettes to any wholesale dealer within the state
 9 without having first registered as a primary source of supply
 10 on forms provided by, and in such manner as prescribed by, the
 11 division. The registration information shall include a listing
 12 of the complete product line of the manufacturer which is
 13 offered in Florida and the domestic plants from which it is
 14 shipped, and shall be updated and submitted monthly, together
 15 with a report of all shipments into the state, on forms and in
 16 such manner prescribed by the division in rule. The division
 17 may adopt rules to promulgate forms and procedures to
 18 implement s. 210.55(2).

19 (3) CERTAIN INTERSTATE AND FOREIGN SHIPMENTS
 20 PROHIBITED; LIMITATION ON POSSESSION.--Beginning on the
 21 effective date of this act, no holder of a wholesale dealer
 22 permit may ship or cause to be shipped into this state, or
 23 accept delivery of, from another state or a foreign country,
 24 any cigarettes, except directly from a primary source of
 25 supply, registered as required by subsection (2), for the
 26 brand of cigarettes being shipped, except as provided in 26
 27 U.S.C. ss. 5704(d) and 5754 for reexport through a bonded
 28 warehouse or for return to the manufacturer.

29 (4) AFFIXING STAMPS; LABELING REQUIREMENTS.--No stamp,
 30 decal, or other cover, including a tax stamp, may be affixed
 31 to or made upon any package of cigarettes that is to be sold

1 within this state, except by the holder of an interim
2 wholesale dealer permit, unless that package complies with all
3 requirements of the Federal Cigarette Labeling and Advertising
4 Act for the placement of labels, warnings, and other
5 information. The placement of a tax stamp on any cigarette
6 package does not authorize or affect acts which are otherwise
7 prohibited by this part.

8 (5) VIOLATION; SEIZURE; FORFEITURE.--Any cigarettes in
9 the possession of a wholesale dealer in violation of this
10 section shall be seized by the division and subject to
11 forfeiture, and the permit of the wholesale dealer shall be
12 subject to suspension for the first such offense and to
13 revocation for any subsequent offense. Any cigarettes in the
14 possession of a retail dealer on or after March 1, 2000, in
15 violation of this section shall be seized by the division and
16 subject to forfeiture, and the retail tobacco products dealer
17 permit of the retailer shall be subject to suspension for the
18 first such violation and revocation for any subsequent
19 violation. The holder of an interim permit may possess
20 cigarettes brought into this state prior to January 1, 2000,
21 for a period of 30 days after the expiration of such permit if
22 said cigarettes are not affixed with stamps issued by this
23 state.

24 (2) Subsection (3) of s. 210.155, Florida Statutes, as
25 created by this act, shall not apply to the holder of an
26 interim permit pursuant to s. 210.15(1)(b), Florida Statutes,
27 until January 1, 2000.

28 Section 5. Paragraphs (a), (b), (e), and (f) of
29 subsection (1) and subsections (3) and (4) of section 210.15,
30 Florida Statutes, are amended to read:

31 210.15 Permits.--

1 (1)(a) Every person, firm, or corporation desiring to
2 deal in cigarettes as a distributing agent, wholesale dealer,
3 or exporter within this state shall file an application for a
4 cigarette permit for each place of business with the Division
5 of Alcoholic Beverages and Tobacco. Every application for a
6 cigarette permit shall be made on forms furnished by the
7 division and shall set forth the name under which the
8 applicant transacts or intends to transact business, the
9 location of the applicant's place of business within the
10 state, and such other information as the division may require.
11 If the applicant has or intends to have more than one place of
12 business dealing in cigarettes within this state, the
13 application shall state the location of each place of
14 business. If the applicant is an association, the application
15 shall set forth the names and addresses of the persons
16 constituting the association, and if a corporation, the names
17 and addresses of the principal officers thereof and any other
18 information prescribed by the division for the purpose of
19 identification. The application shall be signed and verified
20 by oath or affirmation by the owner, if a natural person, and
21 in the case of an association or partnership, any partner
22 ~~members or partners~~ thereof, and in the case of a corporation,
23 by an executive officer thereof or by any person specifically
24 authorized by the corporation to sign the application, to
25 which shall be attached the written evidence of this
26 authority. The cigarette permit for a distributing agent
27 shall be issued annually for which an annual fee of \$5 shall
28 be charged. No permit for a distributing agent or wholesale
29 dealer shall be issued prior to receipt of an affirmation, on
30 a form approved by the division, from each manufacturer whose
31 cigarettes the distributing agent or wholesale dealer intends

1 to stamp or distribute. This affirmation shall evidence the
 2 manufacturer's intent to provide cigarettes to the applicant
 3 and shall be signed and sworn to by an officer of the
 4 corporation or principal of the partnership or sole
 5 proprietorship manufacturing the cigarettes. In the case of
 6 cigarettes manufactured outside of the United States, the
 7 affirmation form may be executed by the primary source of
 8 supply registered with the division pursuant to s. 210.155.

9 (b) The holder of any duly issued, annual permit for a
 10 distributing agent shall be entitled to a renewal of his or
 11 her annual permit from year to year ~~as a matter of course~~, on
 12 or before July 1 unless an alternative renewal date is
 13 established by rule, upon making application to the division,
 14 ~~and upon payment of this annual permit fee, and receipt by the~~
 15 division of newly executed manufacturer's affirmation forms as
 16 required by paragraph (a). The holder of a permit which was
 17 issued prior to July 1, 1997, and continuously kept in effect
 18 since issuance through March 1, 1999, shall be issued an
 19 interim permit which is valid until March 1, 2000, without a
 20 manufacturer's affirmation form, if such holder is otherwise
 21 in compliance with this section.

22 (e) Prior to an application for a distributing agent,
 23 wholesale dealer, or exporter permit being approved, the
 24 applicant shall file a set of fingerprints when required by
 25 the division on forms provided by the division. The applicant
 26 shall also file a set of fingerprints for any person or
 27 persons interested directly or indirectly with the applicant
 28 in the business for which the permit is being sought, when so
 29 required by the division. If the applicant or any person
 30 interested with the applicant, either directly or indirectly,
 31 in the business for which the permit is sought shall be such a

1 person as is within the definition of persons to whom a
 2 distributing agent, wholesale dealer, or exporter permit shall
 3 be denied, then the application may be denied by the division.
 4 If the applicant is a partnership, all members of the
 5 partnership are required to file said fingerprints, or if a
 6 corporation, all principal officers of the corporation are
 7 required to file said fingerprints, when required by the
 8 division. The cigarette permit for a wholesale dealer or
 9 exporter shall be originally issued at a fee of \$100, which
 10 sum is to cover the cost of the investigation required before
 11 issuing such permit.

12 (f) The cigarette permit for a wholesale dealer or
 13 exporter shall be renewed from year to year ~~as a matter of~~
 14 ~~course~~, at an annual cost of \$100, on or before July 1 unless
 15 an alternative renewal date is established by rule, upon
 16 making application to the division, ~~and upon~~ payment of the
 17 annual renewal fee, and receipt by the division of newly
 18 executed manufacturer's affirmation forms as required by
 19 paragraph (a). The holder of a permit which was issued prior
 20 to July 1, 1997, and continuously kept in effect since
 21 issuance through March 1, 1999, shall be issued an interim
 22 permit which is valid until March 1, 2000, without a
 23 manufacturer's affirmation form, if such holder is otherwise
 24 in compliance with this section.

25 (3) Upon approval of the application, the division
 26 shall ~~grant and~~ issue to each applicant a cigarette permit for
 27 each place of business set forth in the application.
 28 Cigarette permits shall not be assignable and shall be valid
 29 only for the persons in whose names issued and for the
 30 transaction of business at the places designated therein and
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1 shall at all times be conspicuously displayed at the places
2 for which issued.

3 (4) All permits of distributing agents, wholesale
4 dealers, or exporters shall remain in force and effect until
5 July 1 following their issuance unless an alternative renewal
6 date is established, or until suspended or revoked for cause
7 by the division, or surrendered by the permit holder.

8 Section 6. Section 210.151, Florida Statutes, is
9 amended to read:

10 210.151 Initial temporary cigarette ~~and other tobacco~~
11 ~~products~~ permits.--When a person has filed a completed
12 application which does not on its face disclose any reason for
13 denying a cigarette permit under s. 210.15, ~~or other tobacco~~
14 ~~products~~ permit under s. 210.40, the Division of Alcoholic
15 Beverages and Tobacco of the Department of Business and
16 Professional Regulation shall issue a temporary initial permit
17 of the same type and series for which the application has been
18 submitted, which is valid for all purposes under this part
19 chapter. The application for a temporary cigarette permit must
20 be accompanied by the manufacturer's affirmation forms
21 required by s. 210.15(1)(a) prior to issuance of a temporary
22 permit.

23 ~~(1) A temporary initial permit shall be valid for up to~~
24 ~~to 90 days and may be extended by the division for up to an~~
25 ~~additional 90 days for good cause. The division may at any~~
26 ~~time during such period grant or deny the permit applied for,~~
27 ~~notwithstanding s. 120.60.~~

28 (1)(2) A temporary initial permit expires on ~~and may~~
29 ~~not be continued or extended beyond~~ the date the division
30 denies the permit applied for; or beyond 14 days after the
31 date the division approves the permit applied for; or beyond

1 the date the applicant pays the permit fee and the division
2 issues the permit applied for; ~~or beyond the date the~~
3 ~~temporary permit otherwise expires by law, whichever date~~
4 occurs first.

5 (2)~~(3)~~ Each applicant seeking a temporary initial
6 cigarette permit shall pay to the division for such permit a
7 fee of \$100. ~~Each applicant seeking a temporary initial permit~~
8 ~~for other tobacco products shall pay to the division for such~~
9 ~~permit a fee of \$25.~~

10 (3)~~(4)~~ Any fee or penalty collected under the
11 provisions of this act shall be deposited into the Alcoholic
12 Beverage and Tobacco Trust Fund.

13 Section 7. Section 210.405, Florida Statutes, is
14 amended to read:

15 210.405 Initial temporary ~~cigarette and other~~ tobacco
16 products permits.--When a person has filed a completed
17 application which does not on its face disclose any reason for
18 denying a ~~cigarette permit under s. 210.15, or other~~ tobacco
19 products permit under s. 210.40, the Division of Alcoholic
20 Beverages and Tobacco of the Department of Business and
21 Professional Regulation shall issue a temporary initial permit
22 of the same type and series for which the application has been
23 submitted, which is valid for all purposes under this chapter.

24 ~~(1) A temporary initial permit shall be valid for up~~
25 ~~to 90 days and may be extended by the division for up to an~~
26 ~~additional 90 days for good cause. The division may at any~~
27 ~~time during such period grant or deny the permit applied for,~~
28 ~~notwithstanding s. 120.60.~~

29 (1)~~(2)~~ A temporary initial permit expires on ~~and may~~
30 ~~not be continued or extended beyond~~ the date the division
31 denies the permit applied for; or ~~beyond~~ 14 days after the

1 date the division approves the permit applied for; or beyond
2 the date the applicant pays the permit fee and the division
3 issues the permit applied for; ~~or beyond the date the~~
4 ~~temporary permit otherwise expires by law~~, whichever date
5 occurs first.

6 ~~(2)(3) Each applicant seeking a temporary initial~~
7 ~~cigarette permit shall pay to the division for such permit a~~
8 ~~fee of \$100.~~ Each applicant seeking a temporary initial permit
9 for ~~other~~ tobacco products shall pay to the division for such
10 permit a fee of \$25.

11 ~~(3)(4)~~ Any fee or penalty collected under the
12 provisions of this act shall be deposited into the Alcoholic
13 Beverage and Tobacco Trust Fund.

14 Section 8. Section 210.16, Florida Statutes, is
15 amended to read:

16 210.16 Revocation or suspension of permit or
17 registration.--

18 (1) The Division of Alcoholic Beverages and Tobacco is
19 given full power and authority to revoke the permit of any
20 wholesale dealer receiving a permit to engage in business
21 under this part for violation of any of the provisions of this
22 part or the registration of any primary source of supply for
23 violation of s. 210.155(2).

24 (2) The division may suspend for a reasonable period
25 of time, in its discretion, the permit permits of any
26 wholesale dealer ~~dealers~~ issued under the provisions of this
27 part or the registration of any primary source of supply for
28 the same causes and under the same limitations as is
29 authorized hereunder to revoke the permit permits of such
30 wholesale dealer or the registration of such primary source of
31 supply ~~dealers~~.

1 (3) No wholesale dealer whose permit for any place of
2 business has been revoked shall engage in business under this
3 part at such place of business after such revocation until a
4 new permit is issued. No wholesale dealer whose permit for
5 any place of business has been revoked shall be permitted to
6 have said permit renewed, or to obtain an additional cigarette
7 permit for any other place of business, for a period of 6
8 months after the date such revocation becomes final. No
9 primary source of supply whose registration has been revoked
10 shall be permitted to have said registration renewed for a
11 period of 6 months after the date such revocation becomes
12 final.

13 (4) In lieu of the suspension or revocation of permits
14 or registrations, the division may impose civil penalties
15 against holders of permits for violations of this part or
16 rules and regulations relating thereto, or against holders of
17 registrations for violations of s. 210.155(2) or rules adopted
18 pursuant thereto. No civil penalty so imposed shall exceed
19 \$1,000 for each offense, except for violations of s. 210.155,
20 and all amounts collected shall be deposited with the State
21 Treasurer to the credit of the General Revenue Fund. Civil
22 penalties for violations of s. 210.155 by a retailer shall not
23 exceed \$1,000 for the first violation and \$5,000 for any
24 subsequent violation. Civil penalties for violations of s.
25 210.155 by the holder of a wholesale permit shall not exceed
26 \$10,000 for the first violation and \$25,000 for any subsequent
27 violation. Civil penalties for violations of s. 210.155(2) by
28 the holder of a registration as a primary source of supply
29 shall not exceed \$10,000 for the first violation and \$25,000
30 for any subsequent violation. A fine for violation of s.
31 210.155 shall count as a violation for purposes of s.

1 210.155(5).If the holder of the permit or registration fails
2 to pay the civil penalty, his or her permit or registration
3 shall be suspended for such period of time as the division may
4 specify.

5 Section 9. Section 455.2035, Florida Statutes, is
6 created to read:

7 455.2035 Rulemaking authority for professions not
8 under a board.--The department may adopt rules pursuant to ss.
9 120.54 and 120.536(1) to implement the regulatory requirements
10 of any profession within the department's jurisdiction which
11 does not have a statutorily authorized regulatory board.

12 Section 10. Section 455.2123, Florida Statutes, is
13 created to read:

14 455.2123 Continuing education.--A board, or the
15 department when there is no board, may provide by rule that
16 distance learning may be used to satisfy continuing education
17 requirements.

18 Section 11. Section 455.2124, Florida Statutes, is
19 created to read:

20 455.2124 Proration of continuing education.--A board,
21 or the department when there is no board, may:

22 (1) Prorate continuing education for new licensees by
23 requiring half of the required continuing education for any
24 applicant who becomes licensed with more than half the renewal
25 period remaining and no continuing education for any applicant
26 who becomes licensed with half or less than half of the
27 renewal period remaining; or

28 (2) Require no continuing education until the first
29 full renewal cycle of the licensee.

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1 These options shall also apply when continuing education is
2 first required or the number of hours required is increased by
3 law or the board, or the department when there is no board.

4 Section 12. Subsection (10) is added to section
5 455.213, Florida Statutes, 1998 Supplement, to read:

6 455.213 General licensing provisions.--

7 (10) For any profession requiring fingerprints as part
8 of the registration, certification, or licensure process or
9 for any profession requiring a criminal history record check
10 to determine good moral character, a fingerprint card
11 containing the fingerprints of the applicant must accompany
12 all applications for registration, certification, or
13 licensure. The fingerprint card shall be forwarded to the
14 Division of Criminal Justice Information Systems within the
15 Department of Law Enforcement for purposes of processing the
16 fingerprint card to determine if the applicant has a criminal
17 history record. The fingerprint card shall also be forwarded
18 to the Federal Bureau of Investigation for purposes of
19 processing the fingerprint card to determine if the applicant
20 has a criminal history record. The information obtained by the
21 processing of the fingerprint card by the Florida Department
22 of Law Enforcement and the Federal Bureau of Investigation
23 shall be sent to the department for the purpose of determining
24 if the applicant is statutorily qualified for registration,
25 certification, or licensure.

26 Section 13. Paragraph (e) of subsection (2) of section
27 468.453, Florida Statutes, 1998 Supplement, is amended to
28 read:

29 468.453 Licensure required; qualifications;
30 examination; bond.--

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

3 (e) Has ~~provided sufficient information which must be~~
4 ~~submitted to by~~ the department a fingerprint card for a
5 criminal history records check ~~through the Federal Bureau of~~
6 ~~Investigation~~. The fingerprint card shall be forwarded to the
7 Division of Criminal Justice Information Systems within the
8 Department of Law Enforcement for purposes of processing the
9 fingerprint card to determine if the applicant has a criminal
10 history record. The fingerprint card shall also be forwarded
11 to the Federal Bureau of Investigation for purposes of
12 processing the fingerprint card to determine if the applicant
13 has a criminal history record. The information obtained by the
14 processing of the fingerprint card by the Florida Department
15 of Law Enforcement and the Federal Bureau of Investigation
16 shall be sent to the department for the purpose of determining
17 if the applicant is statutorily qualified for licensure.

18 Section 14. Paragraph (a) of subsection (1) of section
19 475.175, Florida Statutes, is amended to read:

20 475.175 Examinations.--

21 (1) A person shall be entitled to take the license
22 examination to practice in this state if the person:

23 (a) Submits to the department the appropriate
24 notarized application and fee, two photographs of herself or
25 himself taken within the preceding year, and a fingerprint
26 card. The fingerprint card shall be forwarded to the Division
27 of Criminal Justice Information Systems within the Department
28 of Law Enforcement for purposes of processing the fingerprint
29 card to determine if the applicant has a criminal history
30 record. The fingerprint card shall also be forwarded to the
31 Federal Bureau of Investigation for purposes of processing the

1 fingerprint card to determine if the applicant has a criminal
2 history record. The information obtained by the processing of
3 the fingerprint card by the Florida Department of Law
4 Enforcement and the Federal Bureau of Investigation shall be
5 sent to the department for the purpose of determining if the
6 applicant is statutorily qualified for examination.
7 ~~fingerprints for processing through appropriate law~~
8 ~~enforcement agencies; and~~

9 Section 15. Subsection (3) of section 475.615, Florida
10 Statutes, 1998 Supplement, is amended to read:

11 475.615 Qualifications for registration, licensure, or
12 certification.--

13 (3) Appropriate fees, as set forth in the rules of the
14 board pursuant to s. 475.6147, and a fingerprint card
15 ~~fingerprints for processing through appropriate law~~
16 ~~enforcement agencies~~ must accompany all applications for
17 registration, ~~licensure, and certification,~~ or licensure. The
18 fingerprint card shall be forwarded to the Division of
19 Criminal Justice Information Systems within the Department of
20 Law Enforcement for purposes of processing the fingerprint
21 card to determine if the applicant has a criminal history
22 record. The fingerprint card shall also be forwarded to the
23 Federal Bureau of Investigation for purposes of processing the
24 fingerprint card to determine if the applicant has a criminal
25 history record. The information obtained by the processing of
26 the fingerprint card by the Florida Department of Law
27 Enforcement and the Federal Bureau of Investigation shall be
28 sent to the department for the purpose of determining if the
29 applicant is statutorily qualified for registration,
30 certification, or licensure.

31

1 Section 16. Section 455.2255, Florida Statutes, is
2 created to read:

3 455.2255 Classification of disciplinary actions.--

4 (1) A licensee may petition the department to review a
5 disciplinary incident to determine whether the specific
6 violation meets the standard of a minor violation as set forth
7 in s. 455.225(3). If the circumstances of the violation meet
8 that standard and 2 years have passed since the issuance of a
9 final order imposing discipline, the department shall
10 reclassify that violation as inactive if the licensee has not
11 been disciplined for any subsequent minor violation of the
12 same nature. After the department has reclassified the
13 violation as inactive, it is no longer considered to be part
14 of the licensee's disciplinary record, and the licensee may
15 lawfully deny or fail to acknowledge the incident as a
16 disciplinary action.

17 (2) The department may establish a schedule
18 classifying violations according to the severity of the
19 violation. After the expiration of set periods of time, the
20 department may provide for such disciplinary records to become
21 inactive, according to their classification. After the
22 disciplinary record has become inactive, the department may
23 clear the violation from the disciplinary record and the
24 subject person or business may lawfully deny or fail to
25 acknowledge such disciplinary actions. The department may
26 adopt rules to implement this subsection.

27 (3) Notwithstanding s. 455.017, this section applies
28 to the disciplinary records of all persons or businesses
29 licensed by the department.

30 Section 17. Subsection (3) of section 455.227, Florida
31 Statutes, is amended to read:

1 455.227 Grounds for discipline; penalties;
2 enforcement.--

3 (3)(a) In addition to any other discipline imposed
4 pursuant to this section or discipline imposed for a violation
5 of any practice act, the board, or the department when there
6 is no board, may assess costs related to the investigation and
7 prosecution of the case excluding costs associated with an
8 attorney's time.

9 (b) In any case where the board or the department
10 imposes a fine or assessment and the fine or assessment is not
11 paid within a reasonable time, such reasonable time to be
12 prescribed in the rules of the board, or the department when
13 there is no board, or in the order assessing such fines or
14 costs, the department or the Department of Legal Affairs may
15 contract for the collection of, or bring a civil action to
16 recover, the fine or assessment.

17 (c) The department shall not issue or renew a license
18 to any person against whom or business against which the board
19 has assessed a fine, interest, or costs associated with
20 investigation and prosecution until the person or business has
21 paid in full such fine, interest, or costs associated with
22 investigation and prosecution or until the person or business
23 complies with or satisfies all terms and conditions of the
24 final order.

25 Section 18. Paragraph (k) of subsection (2) of section
26 455.557, Florida Statutes, is amended to read:

27 455.557 Standardized credentialing for health care
28 practitioners.--

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

30 (k) "Health care practitioner" means any person
31 licensed, or, for credentialing purposes only, any person

1 applying for licensure, under chapter 458, chapter 459,
 2 chapter 460, or chapter 461 or any person licensed or applying
 3 for licensure under a chapter subsequently made subject to
 4 this section by the department with the approval of the
 5 applicable board, except a person registered or applying for
 6 registration pursuant to ss. 458.345 or 459.021.

7 Section 19. Subsection (6) of section 455.564, Florida
 8 Statutes, 1998 Supplement, is amended to read:

9 455.564 Department; general licensing provisions.--

10 (6) As a condition of renewal of a license, the Board
 11 of Medicine, the Board of Osteopathic Medicine, the Board of
 12 Chiropractic Medicine, and the Board of Podiatric Medicine
 13 shall each require licensees which they respectively regulate
 14 to periodically demonstrate their professional competency by
 15 completing at least 40 hours of continuing education every 2
 16 years, ~~which may include up to 1 hour of risk management or~~
 17 ~~cost containment and up to 2 hours of other topics related to~~
 18 ~~the applicable medical specialty, if required by board rule.~~
 19 The boards may require by rule that up to 1 hour of the
 20 required 40 or more hours be in the area of risk management or
 21 cost containment. This provision shall not be construed to
 22 limit the number of hours that a licensee may obtain in risk
 23 management or cost containment to be credited toward
 24 satisfying the 40 or more required hours. This provision shall
 25 not be construed to require the boards to impose any
 26 requirement on licensees except for the completion of at least
 27 40 hours of continuing education every 2 years. Each of such
 28 boards shall determine whether any specific continuing
 29 education ~~course~~ requirements not otherwise mandated by law
 30 shall be mandated and shall approve criteria for, and the
 31 content of, any continuing education ~~course~~ mandated by such

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

17 Section 20. Subsection (1) of section 455.565, Florida
 18 Statutes, 1998 Supplement, is amended to read:

19 455.565 Designated health care professionals;
 20 information required for licensure.--

21 (1) Each person who applies for initial licensure as a
 22 physician under chapter 458, chapter 459, chapter 460, or
 23 chapter 461, except a person applying for registration
 24 pursuant to ss. 458.345 and 459.021 must, at the time of
 25 application, and each physician who applies for license
 26 renewal under chapter 458, chapter 459, chapter 460, or
 27 chapter 461, except a person registered pursuant to ss.
 28 458.345 and 459.021 must, in conjunction with the renewal of
 29 such license and under procedures adopted by the Department of
 30 Health, and in addition to any other information that may be
 31

1 required from the applicant, furnish the following information
2 to the Department of Health:

3 (a)1. The name of each medical school that the
4 applicant has attended, with the dates of attendance and the
5 date of graduation, and a description of all graduate medical
6 education completed by the applicant, excluding any coursework
7 taken to satisfy medical licensure continuing education
8 requirements.

9 2. The name of each hospital at which the applicant
10 has privileges.

11 3. The address at which the applicant will primarily
12 conduct his or her practice.

13 4. Any certification that the applicant has received
14 from a specialty board that is recognized by the board to
15 which the applicant is applying.

16 5. The year that the applicant began practicing
17 medicine.

18 6. Any appointment to the faculty of a medical school
19 which the applicant currently holds and an indication as to
20 whether the applicant has had the responsibility for graduate
21 medical education within the most recent 10 years.

22 7. A description of any criminal offense of which the
23 applicant has been found guilty, regardless of whether
24 adjudication of guilt was withheld, or to which the applicant
25 has pled guilty or nolo contendere. A criminal offense
26 committed in another jurisdiction which would have been a
27 felony or misdemeanor if committed in this state must be
28 reported. If the applicant indicates that a criminal offense
29 is under appeal and submits a copy of the notice for appeal of
30 that criminal offense, the department must state that the
31 criminal offense is under appeal if the criminal offense is

1 reported in the applicant's profile. If the applicant
 2 indicates to the department that a criminal offense is under
 3 appeal, the applicant must, upon disposition of the appeal,
 4 submit to the department a copy of the final written order of
 5 disposition.

6 8. A description of any final disciplinary action
 7 taken within the previous 10 years against the applicant by
 8 the agency regulating the profession that the applicant is or
 9 has been licensed to practice, whether in this state or in any
 10 other jurisdiction, by a specialty board that is recognized by
 11 the American Board of Medical Specialities, the American
 12 Osteopathic Association, or a similar national organization,
 13 or by a licensed hospital, health maintenance organization,
 14 prepaid health clinic, ambulatory surgical center, or nursing
 15 home. Disciplinary action includes resignation from or
 16 nonrenewal of medical staff membership or the restriction of
 17 privileges at a licensed hospital, health maintenance
 18 organization, prepaid health clinic, ambulatory surgical
 19 center, or nursing home taken in lieu of or in settlement of a
 20 pending disciplinary case related to competence or character.
 21 If the applicant indicates that the disciplinary action is
 22 under appeal and submits a copy of the document initiating an
 23 appeal of the disciplinary action, the department must state
 24 that the disciplinary action is under appeal if the
 25 disciplinary action is reported in the applicant's profile.

26 (b) In addition to the information required under
 27 paragraph (a), each applicant who seeks licensure under
 28 chapter 458, chapter 459, or chapter 461, and who has
 29 practiced previously in this state or in another jurisdiction
 30 or a foreign country must provide the information required of
 31 licensees under those chapters pursuant to s. 455.697. An

1 applicant for licensure under chapter 460 who has practiced
2 previously in this state or in another jurisdiction or a
3 foreign country must provide the same information as is
4 required of licensees under chapter 458, pursuant to s.
5 455.697.

6 Section 21. Section 455.601, Florida Statutes is
7 amended to read:

8 455.601 Hepatitis B or human immunodeficiency
9 carriers.--

10 (1) The department and each appropriate board within
11 the Division of Medical Quality Assurance shall have the
12 authority to establish procedures to handle, counsel, and
13 provide other services to health care professionals within
14 their respective boards who are infected with hepatitis B or
15 the human immunodeficiency virus.

16 (2) Any person licensed by the department and any
17 other person employed by a health care facility who contracts
18 a blood-borne infection shall have a rebuttable presumption
19 that the illness was contracted in the course and scope of his
20 or her employment, provided that the person, as soon as
21 practicable, reports to the person's supervisor or the
22 facility's risk manager any significant exposure, as that term
23 is defined in s. 381.004(2)(c), to blood or body fluids. The
24 employer may test the blood or body fluid to determine if it
25 is infected with the same disease contracted by the employee.
26 The employer may rebut the presumption by the preponderance of
27 the evidence. Except as expressly provided in this
28 subsection, there shall be no presumption that a blood-borne
29 infection is a job-related injury or illness.

1 Section 22. Subsections (4) and (6) of section
2 477.013, Florida Statutes, 1998 Supplement, are amended, and
3 subsections (12) and (13) are added to that section, to read:

4 477.013 Definitions.--As used in this chapter:

5 (4) "Cosmetology" means the mechanical or chemical
6 treatment of the head, face, and scalp for aesthetic rather
7 than medical purposes, including, but not limited to, hair
8 shampooing, hair cutting, hair arranging, hair coloring,
9 permanent waving, and hair relaxing, ~~hair removing pedicuring,~~
10 ~~and manicuring~~, for compensation. This term also includes
11 performing hair removal, including wax treatments, manicures,
12 pedicures, and skin-care services.

13 (6) "Specialty" means the practice of one or more of
14 the following:

15 (a) Manicuring, or the cutting, polishing, tinting,
16 coloring, cleansing, adding, or extending of the nails, and
17 massaging of the hands. This term includes any procedure or
18 process for the affixing of artificial nails, except those
19 nails which may be applied solely by use of a simple adhesive.

20 (b) Pedicuring, or the shaping, polishing, tinting, or
21 cleansing of the nails of the feet, and massaging or
22 beautifying of the feet.

23 (c) Facials, or the massaging or treating of the face
24 or scalp with oils, creams, lotions, or other preparations,
25 and skin care services.

26 (12) "Body wrapping" means a treatment program that
27 uses herbal wraps for the purposes of weight loss and of
28 cleansing and beautifying the skin of the body, but does not
29 include:

1 (a) The application of oils, lotions, or other fluids
2 to the body, except fluids contained in presoaked materials
3 used in the wraps; or

4 (b) Manipulation of the body's superficial tissue,
5 other than that arising from compression emanating from the
6 wrap materials.

7 (13) "Skin care services" means the treatment of the
8 skin of the body, other than the head, face, and scalp, by the
9 use of a sponge, brush, cloth, or similar device to apply or
10 remove a chemical preparation or other substance, except that
11 chemical peels may be removed by peeling an applied
12 preparation from the skin by hand. Skin care services must be
13 performed by a licensed cosmetologist or facial specialist
14 within a licensed cosmetology or specialty salon, and such
15 services may not involve massage, as defined in s. 480.033(3),
16 through manipulation of the superficial tissue.

17 Section 23. Section 477.0132, Florida Statutes, 1998
18 Supplement, is amended to read:

19 477.0132 Hair braiding,~~and~~ hair wrapping, and body
20 wrapping registration.--

21 (1)(a) Persons whose occupation or practice is
22 confined solely to hair braiding must register with the
23 department, pay the applicable registration fee, and take a
24 two-day 16-hour course. The course shall be board approved and
25 consist of 5 hours of HIV/AIDS and other communicable
26 diseases, 5 hours of sanitation and sterilization, 4 hours of
27 disorders and diseases of the scalp, and 2 hours of studies
28 regarding laws affecting hair braiding.

29 (b) Persons whose occupation or practice is confined
30 solely to hair wrapping must register with the department, pay
31 the applicable registration fee, and take a one-day 6-hour

1 course. The course shall be board approved and consist of
2 education in HIV/AIDS and other communicable diseases,
3 sanitation and sterilization, disorders and diseases of the
4 scalp, and studies regarding laws affecting hair wrapping.

5 (c) Unless otherwise licensed or exempted from
6 licensure under this chapter, any person whose occupation or
7 practice is body wrapping must register with the department,
8 pay the applicable registration fee, and take a two-day
9 12-hour course. The course shall be board approved and consist
10 of education in HIV/AIDS and other communicable diseases,
11 sanitation and sterilization, disorders and diseases of the
12 skin, and studies regarding laws affecting body wrapping.

13 (2) Hair braiding,~~and~~ hair wrapping, and body
14 wrapping are not required to be practiced in a cosmetology
15 salon or specialty salon. When hair braiding,~~or~~ hair
16 wrapping, or body wrapping is practiced outside a cosmetology
17 salon or specialty salon, disposable implements must be used
18 or all implements must be sanitized in a disinfectant approved
19 for hospital use or approved by the federal Environmental
20 Protection Agency.

21 (3) Pending issuance of registration, a person is
22 eligible to practice hair braiding,~~or~~ hair wrapping, or body
23 wrapping upon submission of a registration application that
24 includes proof of successful completion of the education
25 requirements and payment of the applicable fees required by
26 this chapter.

27 Section 24. Paragraph (c) of subsection (7) of section
28 477.019, Florida Statutes, 1998 Supplement, is amended to
29 read:
30
31

1 477.019 Cosmetologists; qualifications; licensure;
2 supervised practice; license renewal; endorsement; continuing
3 education.--

4 (7)

5 (c) Any person whose occupation or practice is
6 confined solely to hair braiding,~~or~~ hair wrapping, or body
7 wrapping is exempt from the continuing education requirements
8 of this subsection.

9 Section 25. Paragraph (f) of subsection (1) of section
10 477.026, Florida Statutes, 1998 Supplement, is amended to
11 read:

12 477.026 Fees; disposition.--

13 (1) The board shall set fees according to the
14 following schedule:

15 (f) For hair braiders,~~and~~ hair wrappers, and body
16 wrappers, fees for registration shall not exceed \$25.

17 Section 26. Paragraph (g) is added to subsection (1)
18 of section 477.0265, Florida Statutes, to read:

19 477.0265 Prohibited acts.--

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

21 (g) Advertise or imply that skin care services or body
22 wrapping, as performed under this chapter, have any
23 relationship to the practice of massage therapy as defined in
24 s. 480.033(3), except those practices or activities defined in
25 s. 477.013.

26 Section 27. Paragraph (a) of subsection (1) of section
27 477.029, Florida Statutes, 1998 Supplement, is amended to
28 read:

29 477.029 Penalty.--

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

1 (a) Hold himself or herself out as a cosmetologist,
2 specialist, hair wrapper, ~~or hair braider,~~ or body wrapper
3 unless duly licensed or registered, or otherwise authorized,
4 as provided in this chapter.

5 Section 28. Subsection (2) of section 455.209, Florida
6 Statutes, 1998 Supplement, is amended to read:

7 455.209 Accountability and liability of board
8 members.--

9 (2) Each board member and each former board member
10 serving on a probable cause panel shall be exempt from civil
11 liability for any act or omission when acting in the member's
12 official capacity, and the department, ~~or the Department of~~
13 ~~Legal Affairs~~ shall defend any such member in any action
14 against any board or member of a board arising from any such
15 act or omission. In addition, the department ~~or the Department~~
16 ~~of Legal Affairs~~ may defend the member's company or business
17 in any action against the company or business if the
18 department ~~or the Department of Legal Affairs~~ determines that
19 the actions from which the suit arises are actions taken by
20 the member in the member's official capacity and were not
21 beyond the member's statutory authority. In providing such
22 defense, the department ~~or the Department of Legal Affairs~~ may
23 employ or utilize the legal services of the Department of
24 Legal Affairs or outside counsel retained pursuant to s.
25 287.059. Fees and costs of providing legal services provided
26 under this subsection shall be paid from the Professional
27 Regulation Trust Fund, subject to the provisions of ss.
28 455.219 and 215.37.

29 Section 29. Subsection (1) of section 455.221, Florida
30 Statutes, is amended to read:

31 455.221 Legal and investigative services.--

1 (1) The department shall provide board counsel for
 2 boards within the department by contracting with the
 3 Department of Legal Affairs, by retaining private counsel
 4 pursuant to s. 287.059, or by providing department staff
 5 counsel ~~A board shall retain, through the department's~~
 6 ~~contract procedures, board counsel from the Department of~~
 7 ~~Legal Affairs. The Department of Legal Affairs shall provide~~
 8 ~~legal services to each board within the Department of Business~~
 9 ~~and Professional Regulation, but the primary responsibility of~~
 10 board counsel ~~the Department of Legal Affairs shall be to~~
 11 ~~represent the interests of the citizens of the state by~~
 12 ~~vigorously counseling the boards with respect to their~~
 13 ~~obligations under the laws of the state. A board shall provide~~
 14 ~~for the periodic review and evaluation of the services~~
 15 ~~provided by its board counsel. Subject to the prior approval~~
 16 ~~of the Attorney General, any board may retain, through the~~
 17 ~~department's contract procedures, independent legal counsel to~~
 18 ~~provide legal advice to the board on a specific matter. Fees~~
 19 ~~and costs of such counsel by the Department of Legal Affairs~~
 20 ~~or independent legal counsel approved by the Attorney General~~
 21 ~~shall be paid from the Professional Regulation Trust Fund,~~
 22 subject to the provisions of ss. 455.219 and 215.37. All
 23 contracts for independent counsel shall provide for periodic
 24 review and evaluation by the board and the department of
 25 services provided.

26 Section 30. Subsection (2) of section 455.541, Florida
 27 Statutes, is amended to read:

28 455.541 Accountability and liability of board
 29 members.--

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

1 liability for any act or omission when acting in the member's
 2 official capacity, and the department ~~or the Department of~~
 3 ~~Legal Affairs~~ shall defend any such member in any action
 4 against any board or member of a board arising from any such
 5 act or omission. In addition, the department ~~or the Department~~
 6 ~~of Legal Affairs~~ may defend the member's company or business
 7 in any action against the company or business if the
 8 department ~~or the Department of Legal Affairs~~ determines that
 9 the actions from which the suit arises are actions taken by
 10 the member in the member's official capacity and were not
 11 beyond the member's statutory authority. In providing such
 12 defense, the department ~~or the Department of Legal Affairs~~ may
 13 employ or utilize the legal services of the Department of
 14 Legal Affairs or outside counsel retained pursuant to s.
 15 287.059. Fees and costs of providing legal services provided
 16 under this subsection shall be paid from a trust fund used by
 17 the department to implement this part, subject to the
 18 provisions of s. 455.587.

19 Section 31. Subsection (1) of section 455.594, Florida
 20 Statutes, is amended to read:

21 455.594 Legal and investigative services.--

22 (1) The department shall provide board counsel for
 23 boards within the department by contracting with the
 24 Department of Legal Affairs, by retaining private counsel
 25 pursuant to s. 287.059, or by providing department staff
 26 counsel ~~A board shall retain, through the department's~~
 27 ~~contract procedures, board counsel from the Department of~~
 28 ~~Legal Affairs. The Department of Legal Affairs shall provide~~
 29 ~~legal services to each board within the Department of Health,~~
 30 ~~but the primary responsibility of board counsel the Department~~
 31 ~~of Legal Affairs shall be to represent the interests of the~~

1 citizens of the state ~~by vigorously counseling the boards with~~
 2 ~~respect to their obligations under the laws of the state.~~ A
 3 board shall provide for the periodic review and evaluation of
 4 the services provided by its board counsel. ~~Subject to the~~
 5 ~~prior approval of the Attorney General, any board may retain,~~
 6 ~~through the department's contract procedures, independent~~
 7 ~~legal counsel to provide legal advice to the board on a~~
 8 ~~specific matter.~~ Fees and costs of such counsel ~~by the~~
 9 ~~Department of Legal Affairs or independent legal counsel~~
 10 ~~approved by the Attorney General~~ shall be paid from a trust
 11 fund used by the department to implement this part, subject to
 12 the provisions of s. 455.587. All contracts for independent
 13 counsel shall provide for periodic review and evaluation by
 14 the board and the department of services provided.

15 Section 32. Subsection (16) of section 458.347,
 16 Florida Statutes, 1998 Supplement, is amended to read:

17 458.347 Physician assistants.--

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

21 Section 33. Subsection (16) of section 459.022,
 22 Florida Statutes, 1998 Supplement, is amended to read:

23 459.022 Physician assistants.--

24 (16) LEGAL SERVICES.--~~The Department of Legal Affairs~~
 25 ~~shall provide~~ Legal services shall be provided to the council
 26 pursuant to ~~as authorized in~~ s. 455.594(1).

27 Section 34. Paragraphs (b) and (c) of subsection (1)
 28 of section 458.3115, Florida Statutes, 1998 Supplement, are
 29 amended to read:

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

1 (USMLE) or agency-developed examination; restrictions on
2 practice; full licensure.--

3 (1)

4 (b) A person who is eligible to take and elects to
5 take the USMLE who has previously passed part 1 or part 2 of
6 the previously administered FLEX shall not be required to
7 retake or pass the equivalent parts of the USMLE up to the
8 year 2002 ~~2000~~.

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

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

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

28 3. Documents no less than 2 years of the active
29 practice of medicine in any ~~another~~ jurisdiction;

30 4. Submits an examination fee that is nonrefundable
31 and equivalent to the fee required for full licensure plus the

1 actual per-applicant cost to the agency to provide either
2 examination described in this section;

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

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

12 Section 35. Subsection (2) of section 458.3124,
13 Florida Statutes, 1998 Supplement, is amended to read:

14 458.3124 Restricted license; certain experienced
15 foreign-trained physicians.--

16 (2) A person applying for licensure under this section
17 must submit to the Department of Health on or before December
18 31, 2000 ~~1998~~:

19 (a) A completed application and documentation required
20 by the Board of Medicine to prove compliance with subsection
21 (1); and

22 (b) A nonrefundable application fee not to exceed \$500
23 and a nonrefundable examination fee not to exceed \$300 plus
24 the actual cost to purchase and administer the examination.

25 Section 36. Effective upon this act becoming a law,
26 section 301 of chapter 98-166, Laws of Florida, is amended to
27 read:

28 Section 301. The sum of \$1.2 million from the
29 unallocated balance in the Medical Quality Assurance Trust
30 Fund is appropriated to the Department of Health to allow the
31 department to develop the examination required for foreign

1 licensed physicians in section 458.3115(1)(a), Florida
2 Statutes, through a contract with the University of South
3 Florida. The department shall charge examinees a fee not to
4 exceed 25 percent of the cost of the actual costs of the first
5 examination administered pursuant to section 458.3115, Florida
6 Statutes, 1998 Supplement, and a fee not to exceed 75 percent
7 of the actual costs for any subsequent examination
8 administered pursuant to that section.

9 Section 37. Except as otherwise provided herein, this
10 act shall take effect July 1, 1999.

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