

1 A bill to be entitled
2 An act relating to health care; providing for
3 the issuance of Medicaid numbers to certain
4 children; amending s. 20.43, F.S.; revising
5 powers and the internal structure of the
6 department; amending s. 110.205, F.S.;
7 exempting certain positions from career
8 service; amending s. 120.80, F.S.; exempting
9 certain hearings within the department from the
10 requirement of being conducted by an
11 administrative law judge from the Division of
12 Administrative Hearings; amending s. 154.504,
13 F.S.; revising standards for eligibility to
14 participate in a primary care for children and
15 families challenge grant; amending s. 287.155,
16 F.S.; authorizing the department to purchase
17 vehicles and automotive equipment for county
18 health departments; amending s. 372.6672, F.S.;
19 deleting an obsolete reference to the
20 Department of Health and Rehabilitative
21 Services; amending s. 381.004, F.S.;
22 prescribing conditions under which an HIV test
23 may be performed without obtaining consent;
24 amending s. 381.0051, F.S.; authorizing the
25 Department of Health to adopt rules to
26 implement the Comprehensive Family Planning
27 Act; amending s. 381.006, F.S.; providing the
28 department with rule authority relating to
29 inspection of certain group care facilities;
30 amending s. 381.0061, F.S.; providing the
31 department with authority to impose certain

1 fines; amending s. 381.0062, F.S.; redefining
2 the term "private water system" and defining
3 the term "multi-family water system"; providing
4 that either type of system may include a rental
5 residence in its service; regulating
6 multi-family systems; amending s. 381.90, F.S.;
7 revising membership of the Health Information
8 Systems Council; prescribing its duties with
9 respect to developing a review process;
10 requiring a report; amending s. 382.003, F.S.;
11 revising powers and duties of the department
12 with respect to vital records; providing for
13 forms and documents to be submitted under oath;
14 amending s. 382.004, F.S.; restating the
15 admissibility of copies of records; amending s.
16 382.008, F.S.; deleting provisions relating to
17 restriction on disclosure of a decedent's
18 social security number; amending s. 382.013,
19 F.S.; revising provisions relating to who must
20 file a birth registration; amending s. 382.015,
21 F.S.; revising provisions relating to issuance
22 of new birth certificates upon determination of
23 paternity; amending s. 382.016, F.S.;
24 prescribing procedures for amending records;
25 amending s. 382.019, F.S.; providing for
26 dismissal of an application for delayed
27 registration which is not actively pursued;
28 amending s. 382.025, F.S.; exempting certain
29 birth records from confidentiality
30 requirements; amending s. 382.0255, F.S.;
31 revising provisions relating to disposition of

1 the additional fee imposed on certification of
2 birth records; amending s. 383.14, F.S.;
3 conforming a reference to the name of a
4 program; amending s. 385.202, F.S.; deleting
5 provisions relating to reimbursing hospitals
6 reporting information for the statewide cancer
7 registry; amending s. 385.203, F.S.;
8 establishing requirements and membership for
9 the Diabetes Advisory Council; amending s.
10 391.028, F.S.; revising provisions relating to
11 administration of the Children's Medical
12 Services program; amending s. 391.0315, F.S.;
13 revising standards for benefits provided under
14 the program for certain children; amending s.
15 392.69, F.S.; providing for an advisory board
16 for the A. G. Holley State Hospital; amending
17 s. 401.25, F.S.; providing qualifications for
18 licensure as basic or advanced life support
19 service; amending s. 401.27, F.S.; providing
20 standards for certification of emergency
21 medical technicians and paramedics; creating s.
22 401.2701, F.S.; establishing criteria for
23 emergency medical services training programs;
24 creating s. 401.2715, F.S.; providing for
25 recertification training of emergency medical
26 technicians and paramedics; providing for fees;
27 amending s. 401.30, F.S.; providing for use and
28 maintenance of records; amending s. 401.35,
29 F.S.; providing rulemaking authority; amending
30 s. 409.9126, F.S.; revising requirements for
31 capitation payments to Children's Medical

1 Services programs; amending s. 465.019, F.S.;
2 revising definitions; amending s. 499.005,
3 F.S.; revising the elements of certain offenses
4 relating to purchase or receipt of legend
5 drugs, recordkeeping with respect to drugs,
6 cosmetics, and household products, and permit
7 and registration requirements; amending s.
8 499.007, F.S.; revising conditions under which
9 a drug is considered misbranded; amending s.
10 499.028, F.S.; providing an exemption from the
11 prohibition against possession of a drug
12 sample; amending s. 499.069, F.S.; providing
13 penalties for certain violations of s. 499.005,
14 F.S.; amending s. 742.10, F.S.; revising
15 procedures relating to establishing paternity
16 for children born out of wedlock; amending ss.
17 39.303, 385.203, 391.021, 391.221, 391.222,
18 391.223, F.S., to conform to the renaming of
19 the Division of Children's Medical Services;
20 repealing s. 381.731(3), F.S., relating to the
21 date for submission of a report; repealing s.
22 383.307(5), F.S., relating to licensure of
23 birth center staff and consultants; repealing
24 s. 404.20(7), F.S., relating to transportation
25 of radioactive materials; repealing s.
26 409.9125, F.S., relating to the study of
27 Medicaid alternative networks; naming a certain
28 building in Jacksonville the "Wilson T. Sowder,
29 M.D., Building"; naming a certain building in
30 Tampa the "William G. 'Doc' Myers, M.D.,
31 Building"; naming the department headquarters

1 building the "Charlton E. Prather, M.D.,
2 Building"; authorizing the Department of Health
3 to become an accrediting authority for
4 environmental laboratory standards; providing
5 intent and rulemaking authority for the
6 Department of Health to implement standards of
7 the National Environmental Laboratory
8 Accreditation Program Accreditation Program;
9 amending s. 381.0022, F.S.; authorizing the
10 Department of Health to share certain
11 information on Medicaid recipients regarding
12 payment for services; amending s. 383.011,
13 F.S.; amending requirements for rules relating
14 to the Child Care Food Program; amending s.
15 468.304, F.S.; revising the application fees to
16 be paid for radiologic technology certification
17 examination; amending s. 468.306, F.S.;
18 revising certain fees for radiologic technology
19 certification examination; amending s. 468.309,
20 F.S.; amending the timing of biennial
21 certification renewal for radiologic
22 technologists; amending ss. 455.57 and 455.565,
23 F.S.; ensuring that an intern in a hospital is
24 not subject to the credentialing or profiling
25 laws; providing for clinical trials to be
26 conducted on the use of the drug Secretin by a
27 nonprofit provider; requiring a report;
28 providing an appropriation; amending s.
29 232.435, F.S.; correcting a reference; amending
30 s. 381.026, F.S.; providing a definition;
31 amending s. 381.0261, F.S.; providing that the

1 Department of Health or a regulatory board,
2 rather than the Agency for Health Care
3 Administration, may impose an administrative
4 fine against any health care provider who fails
5 to make available to patients a summary of
6 their rights as required by law; amending s.
7 409.906, F.S.; authorizing the Agency for
8 Health Care Administration to develop a
9 certified-match program for Healthy Start
10 services under certain circumstances; amending
11 s. 409.910, F.S.; providing for use of Medicare
12 standard billing formats for certain
13 data-exchange purposes; creating s. 409.9101,
14 F.S.; providing a short title; providing
15 legislative intent relating to Medicaid estate
16 recovery; requiring certain notice of
17 administration of the estate of a deceased
18 Medicaid recipient; providing that receipt of
19 Medicaid benefits creates a claim and interest
20 by the agency against an estate; specifying the
21 right of the agency to amend the amount of its
22 claim based on medical claims submitted by
23 providers subsequent to the agency's initial
24 claim calculation; providing the basis of
25 calculation of the amount of the agency's
26 claim; specifying a claim's class standing;
27 providing circumstances for nonenforcement of
28 claims; providing criteria for use in
29 considering hardship requests; providing for
30 recovery when estate assets result from a claim
31 against a third party; providing for estate

1 recovery in instances involving real property;
2 providing agency rulemaking authority; amending
3 s. 409.912, F.S.; eliminating a requirement
4 that a Medicaid provider service network
5 demonstration project be located in Orange
6 County; amending s. 409.913, F.S.; revising
7 provisions relating to the agency's authority
8 to withhold Medicaid payments pending
9 completion of certain legal proceedings;
10 providing for disbursement of withheld Medicaid
11 provider payments; creating s. 409.9131, F.S.;
12 providing legislative findings and intent
13 relating to integrity of the Medicaid program;
14 providing definitions; authorizing onsite
15 reviews of physician records by the agency;
16 requiring notice for such reviews; requiring
17 notice of due process rights in certain
18 circumstances; specifying procedures for
19 determinations of overpayment; requiring a
20 study of certain statistical models used by the
21 agency; requiring a report; amending s.
22 455.501, F.S.; redefining the terms "health
23 care practitioner" and "licensee"; amending s.
24 455.507, F.S.; revising provisions relating to
25 good standing of members of the Armed Forces
26 with administrative boards to provide
27 applicability to the department when there is
28 no board; providing gender neutral language;
29 amending s. 455.521, F.S.; providing powers and
30 duties of the department for the professions,
31 rather than boards, under its jurisdiction;

1 amending s. 455.557, F.S.; revising the
2 credentials collection program for health care
3 practitioners; revising and providing
4 definitions; providing requirements for health
5 care practitioners and the Department of Health
6 under the program; renaming the advisory
7 council and abolishing it at a future date;
8 prohibiting duplication of data available from
9 the department; authorizing collection of
10 certain other information; revising
11 requirements for registration of credentials
12 verification organizations; providing for
13 biennial renewal of registration; providing
14 grounds for suspension or revocation of
15 registration; revising liability insurance
16 requirements; revising rulemaking authority;
17 specifying authority of the department after
18 the council is abolished; amending s. 455.564,
19 F.S.; prescribing the expiration date of an
20 incomplete license application; revising the
21 form and style of licenses; providing authority
22 to the department when there is no board to
23 adopt rules; revising and providing
24 requirements relating to obtaining continuing
25 education credit in risk management; correcting
26 a reference; amending s. 455.5651, F.S.;
27 prohibiting inclusion of certain information in
28 practitioner profiles; amending s. 455.567,
29 F.S.; defining sexual misconduct and
30 prohibiting it in the practice of a health care
31 profession; providing penalties; amending s.

1 455.574, F.S.; revising provisions relating to
2 review of an examination after failure to pass
3 it; amending s. 455.587, F.S.; providing
4 authority to the department when there is no
5 board to determine by rule the amount of
6 license fees for the profession regulated;
7 providing for a fee for issuance of a wall
8 certificate to certain licensees or for a
9 duplicate wall certificate; amending s.
10 455.601, F.S.; providing, for purposes of
11 workers' compensation, a rebuttable presumption
12 relating to blood-borne infections; amending s.
13 455.604, F.S.; requiring instruction on human
14 immunodeficiency virus and acquired immune
15 deficiency syndrome as a condition of licensure
16 and relicensure to practice dietetics and
17 nutrition or nutrition counseling; amending s.
18 455.607, F.S.; correcting a reference; amending
19 s. 455.624, F.S.; revising and providing
20 grounds for discipline; providing penalties;
21 providing for assessment of certain costs;
22 amending s. 455.664, F.S.; requiring additional
23 health care practitioners to include a certain
24 statement in advertisements for free or
25 discounted services; correcting terminology;
26 amending s. 455.667, F.S.; authorizing the
27 department to obtain patient records, billing
28 records, insurance information, provider
29 contracts, and all attachments thereto under
30 certain circumstances for purposes of
31 disciplinary proceedings; providing for charges

1 for making reports or records available for
2 digital scanning; amending s. 455.687, F.S.;
3 providing for the suspension or restriction of
4 the license of any health care practitioner who
5 tests positive for drugs under certain
6 circumstances; amending s. 455.694, F.S.;
7 providing financial responsibility requirements
8 for midwives; creating s. 455.712, F.S.;
9 providing requirements for active status
10 licensure of certain business establishments;
11 amending s. 457.102, F.S.; defining the term
12 "prescriptive rights" with respect to
13 acupuncture; amending s. 458.307, F.S.;
14 correcting terminology and a reference;
15 removing an obsolete date; amending s. 458.309,
16 F.S.; providing for registration and inspection
17 of certain offices performing levels 2 and 3
18 surgery; amending s. 458.311, F.S.; revising
19 provisions relating to licensure as a physician
20 by examination; eliminating an obsolete
21 provision relating to licensure of medical
22 students from Nicaragua and another provision
23 relating to taking the examination without
24 applying for a license; amending s. 458.3115,
25 F.S.; updating terminology; amending s.
26 458.313, F.S.; revising provisions relating to
27 licensure by endorsement; repealing provisions
28 relating to reactivation of certain licenses
29 issued by endorsement; amending s. 458.315,
30 F.S.; providing additional requirements for
31 recipients of a temporary certificate for

1 practice in areas of critical need; amending s.
2 458.3165, F.S.; prescribing authorized
3 employment for holders of public psychiatry
4 certificates; correcting a reference; amending
5 s. 458.317, F.S.; providing for conversion of
6 an active license to a limited license for a
7 specified purpose; amending s. 458.319, F.S.;
8 revising requirements for submitting
9 fingerprints to the department for renewal of
10 licensure as a physician; amending s. 458.331,
11 F.S.; providing grounds for discipline;
12 providing penalties; amending s. 458.347, F.S.;
13 revising provisions relating to temporary
14 licensure as a physician assistant; amending s.
15 459.005, F.S.; providing for registration and
16 inspection of certain offices performing levels
17 2 and 3 surgery; amending s. 459.0075, F.S.;
18 providing for conversion of an active license
19 to a limited license for a specified purpose;
20 amending s. 459.008, F.S.; revising
21 requirements for submitting fingerprints to the
22 department for renewal of licensure as an
23 osteopathic physician; amending s. 459.015,
24 F.S.; revising and providing grounds for
25 discipline; providing penalties; amending s.
26 460.402, F.S.; providing an exemption from
27 regulation under ch. 460, F.S., relating to
28 chiropractic, for certain students; amending s.
29 460.403, F.S.; defining the term
30 "community-based internship" for purposes of
31 ch. 460, F.S.; redefining the terms "direct

1 supervision" and "registered chiropractic
2 assistant"; amending s. 460.406, F.S.; revising
3 requirements for licensure as a chiropractic
4 physician by examination to remove a provision
5 relating to a training program; amending s.
6 460.407, F.S.; revising requirements for
7 submitting fingerprints to the department for
8 renewal of licensure as a chiropractic
9 physician; amending s. 460.413, F.S.;
10 increasing the administrative fine; conforming
11 cross-references; amending s. 460.4165, F.S.;
12 revising requirements for certification of
13 chiropractic physician's assistants; providing
14 for supervision of registered chiropractic
15 physician's assistants; providing for biennial
16 renewal; providing fees; providing
17 applicability to current certificateholders;
18 amending s. 460.4166, F.S.; authorizing
19 registered chiropractic assistants to be under
20 the direct supervision of a certified
21 chiropractic physician's assistant; amending s.
22 461.003, F.S.; defining the term "certified
23 podiatric X-ray assistant" and the term "direct
24 supervision" with respect thereto; redefining
25 the term "practice of podiatric medicine";
26 amending s. 461.006, F.S.; revising the
27 residency requirement to practice podiatric
28 medicine; amending s. 461.007, F.S.; revising
29 requirements for renewal of license to practice
30 podiatric medicine; revising requirements for
31 submitting fingerprints to the department for

1 renewal of licensure; amending s. 461.013,
2 F.S.; revising and providing grounds for
3 discipline; providing penalties; creating s.
4 461.0135, F.S.; providing requirements for
5 operation of X-ray machines by certified
6 podiatric X-ray assistants; amending s.
7 464.008, F.S.; providing for remediation upon
8 failure to pass the examination to practice
9 nursing a specified number of times; amending
10 s. 464.022, F.S.; providing an exemption from
11 regulation relating to remedial courses;
12 amending s. 465.003, F.S.; defining the term
13 "data communication device"; revising the
14 definition of the term "practice of the
15 profession of pharmacy"; amending s. 465.016,
16 F.S.; authorizing the redispensing of unused or
17 returned unit-dose medication by correctional
18 facilities under certain conditions; providing
19 a ground for which a pharmacist may be subject
20 to discipline by the Board of Pharmacy;
21 increasing the administrative fine; amending
22 ss. 465.014, 465.015, 465.0196, 468.812,
23 499.003, F.S.; correcting cross-references, to
24 conform; creating the Task Force for the Study
25 of Collaborative Drug Therapy Management;
26 providing for staff support from the
27 department; providing for participation by
28 specified associations and entities; providing
29 responsibilities; requiring a report to the
30 Legislature; amending s. 466.021, F.S.;
31 revising requirements relating to dental work

1 orders required of unlicensed persons; amending
2 s. 468.1155, F.S.; revising requirements for
3 provisional licensure to practice
4 speech-language pathology or audiology;
5 amending s. 468.1215, F.S.; revising
6 requirements for certification as a
7 speech-language pathologist or audiologist
8 assistant; amending s. 468.307, F.S.;
9 authorizing the issuance of subcategory
10 certificates in the field of radiologic
11 technology; amending s. 468.506, F.S.;
12 correcting references; amending s. 468.701,
13 F.S.; revising and removing definitions;
14 amending s. 468.703, F.S.; replacing the
15 Council of Athletic Training with a Board of
16 Athletic Training; providing for appointment of
17 board members and their successors; providing
18 for staggering of terms; providing for
19 applicability of other provisions of law
20 relating to activities of regulatory boards;
21 providing for the board's headquarters;
22 amending ss. 468.705, 468.707, 468.709,
23 468.711, 468.719, 468.721, F.S., relating to
24 rulemaking authority, licensure by examination,
25 fees, continuing education, disciplinary
26 actions, and certain regulatory transition;
27 transferring to the board certain duties of the
28 department relating to regulation of athletic
29 trainers; amending s. 20.43, F.S.; placing the
30 board under the Division of Medical Quality
31 Assurance of the department; providing for

1 termination of the council and the terms of
2 council members; authorizing consideration of
3 former council members for appointment to the
4 board; amending s. 468.805, F.S.; revising
5 grandfathering provisions for the practice of
6 orthotics, prosthetics, or pedorthics; amending
7 s. 468.806, F.S.; providing for approval of
8 continuing education providers; amending s.
9 478.42, F.S.; redefining the term "electrolysis
10 or electrology"; amending s. 483.041, F.S.,
11 redefining the terms "clinical laboratory" and
12 "licensed practitioner" and defining the term
13 "clinical laboratory examination"; amending s.
14 483.803, F.S.; redefining the terms "clinical
15 laboratory examination" and "licensed
16 practitioner of the healing arts"; revising a
17 reference; amending s. 483.807, F.S.; revising
18 provisions relating to fees for approval as a
19 laboratory training program; amending s.
20 483.809, F.S.; revising requirements relating
21 to examination of clinical laboratory personnel
22 for licensure and to registration of clinical
23 laboratory trainees; amending s. 483.812, F.S.;
24 revising qualification requirements for
25 licensure of public health laboratory
26 scientists; amending s. 483.813, F.S.;
27 eliminating a provision authorizing conditional
28 licensure of clinical laboratory personnel for
29 a specified period; amending s. 483.821, F.S.;
30 authorizing continuing education or retraining
31 for candidates who fail an examination a

1 specified number of times; amending s. 483.824,
2 F.S.; revising qualifications of clinical
3 laboratory directors; amending s. 483.825,
4 F.S.; revising and providing grounds for
5 discipline; providing penalties; amending s.
6 483.901, F.S.; correcting a reference;
7 eliminating a provision authorizing temporary
8 licensure as a medical physicist; correcting
9 the name of a trust fund; amending s. 484.007,
10 F.S.; revising requirements for opticians who
11 supervise apprentices; amending s. 484.0512,
12 F.S.; requiring sellers of hearing aids to
13 refund within a specified period all moneys
14 required to be refunded under trial-period
15 provisions; amending s. 484.053, F.S.;
16 increasing the penalty applicable to prohibited
17 acts relating to the dispensing of hearing
18 aids; amending s. 484.056, F.S.; providing that
19 violation of trial-period requirements is a
20 ground for disciplinary action; providing
21 penalties; amending ss. 486.041, 486.081,
22 486.103, and 486.107, F.S.; eliminating
23 provisions authorizing issuance of a temporary
24 permit to work as a physical therapist or
25 physical therapist assistant; amending s.
26 490.005, F.S.; revising educational
27 requirements for licensure as a psychologist by
28 examination; changing a date, to defer certain
29 educational requirements; amending s. 490.006,
30 F.S.; providing additional requirements for
31 licensure as a psychologist by endorsement;

1 amending s. 490.0085, F.S.; correcting the name
2 of a trust fund; amending s. 491.0045, F.S.;
3 revising requirements for registration as a
4 clinical social worker intern, marriage and
5 family therapist intern, or mental health
6 counselor intern; amending s. 491.0046, F.S.;
7 revising requirements for provisional licensure
8 of clinical social workers, marriage and family
9 therapists, and mental health counselors;
10 amending s. 491.005, F.S.; revising
11 requirements for licensure of clinical social
12 workers, marriage and family therapists, and
13 mental health counselors; providing for
14 certification of education of interns;
15 providing rulemaking authority to implement
16 education and experience requirements for
17 licensure as a clinical social worker, marriage
18 and family therapist, or mental health
19 counselor; revising future licensure
20 requirements for mental health counselors and
21 providing rulemaking authority for
22 implementation thereof; amending s. 491.006,
23 F.S.; revising requirements for licensure or
24 certification by endorsement; amending s.
25 491.0085, F.S.; requiring laws and rules
26 courses and providing for approval thereof,
27 including providers and programs; correcting
28 the name of a trust fund; amending s. 491.014,
29 F.S.; revising an exemption from regulation
30 relating to certain temporally limited
31 services; amending s. 499.012, F.S.; redefining

1 the term "wholesale distribution," relating to
2 the distribution of prescription drugs, to
3 provide for the exclusion of certain
4 activities; amending ss. 626.883, 641.316,
5 F.S.; requiring payments to a health care
6 provider by a fiscal intermediary to include an
7 explanation of services provided; creating a
8 Task Force on Telehealth; providing its duties;
9 requiring a report; amending s. 468.352, F.S.;
10 redefining the term "board"; amending s.
11 468.353, F.S.; conforming provision; providing
12 for the adoption of rules; amending s. 468.354,
13 F.S.; creating the Board of Respiratory Care;
14 providing for membership, powers, and duties;
15 amending s. 468.355, F.S.; providing for
16 periodic rather than annual review of certain
17 examinations and standards; amending s.
18 458.357, F.S.; conforming provisions; deleting
19 obsolete provisions; amending s. 468.364, F.S.;
20 deleting an examination fee; amending s.
21 468.365, F.S.; conforming provisions; amending
22 s. 464.016, F.S., providing that the use of the
23 title "nurse" without being licensed or
24 certified is a crime; amending s. 458.3115,
25 F.S.; revising requirements with respect to
26 eligibility of certain foreign-licensed
27 physicians to take and pass standardized
28 examinations; amending s. 458.3124, F.S.;
29 changing the date by which application for a
30 restricted license must be submitted; amending
31 s. 301, ch. 98-166, Laws of Florida;

1 prescribing fees for foreign-licensed
2 physicians taking a certain examination;
3 providing for a detailed study and analysis of
4 clinical laboratory services for kidney
5 dialysis patients; amending s. 455.651, F.S.;
6 providing for treble damages, reasonable
7 attorney fees, and costs for improper
8 disclosure of confidential information;
9 amending ss. 641.261 and 641.411, F.S.;
10 conforming references and cross-references;
11 amending s. 733.212, F.S.; establishing the
12 agency as a reasonably ascertainable creditor
13 with respect to administration of certain
14 estates; requiring that a task force be
15 appointed to review sources of revenue for the
16 trust fund; providing for appointments of its
17 members and specifying topics to be studied;
18 providing for its staffing; providing for
19 meetings; requiring a report and
20 recommendations; creating s. 395.40, F.S.;
21 declaring legislative findings and intent with
22 respect to creation of a statewide inclusive
23 trauma system, as defined; amending s. 395.401,
24 F.S.; deleting the definitions of the terms
25 "local trauma agency" and "regional trauma
26 agency"; defining the terms "trauma agency" and
27 "trauma alert victim"; prescribing duties of
28 the Department of Health with respect to
29 implementation of inclusive trauma systems and
30 trauma agency plans; amending s. 395.402, F.S.;
31 removing legislative findings; prescribing

1 duties of the department with respect to
2 assignment of counties to trauma service areas;
3 amending s. 395.4045, F.S.; prescribing
4 transport requirements for emergency medical
5 services providers; creating ss. 458.351 and
6 459.026, F.S.; requiring reports to the
7 Department of Health of adverse incidents in
8 specified settings; providing for review of
9 such incidents and initiation of disciplinary
10 proceedings, where appropriate; authorizing
11 department access to certain records and
12 preserving exemption from public access
13 thereto; providing rulemaking authority;
14 requiring the Department of Health to establish
15 standards for compressed air used in
16 recreational sport diving; providing that
17 certain persons and entities are exempt from
18 compliance with such standards; providing for
19 testing compressed air; requiring that test
20 results be provided to the department;
21 requiring that persons or entities selling
22 compressed air post a certificate of testing in
23 a conspicuous location; providing a penalty;
24 authorizing rules; creating the Minority HIV
25 and AIDS Task Force within the Department of
26 Health; requiring the task force to develop
27 recommendations on ways to strengthen HIV and
28 AIDS prevention and treatment programs in
29 minority communities; requiring the Secretary
30 of Health to appoint the members of the task
31 force; requiring that the task force include

1 representatives of certain groups and
2 organizations; providing for the members to
3 serve without compensation; requiring a report
4 to the Legislature; providing for the task
5 force to be abolished on a specified date;
6 requiring that the Department of Health develop
7 and implement a statewide HIV and AIDS
8 prevention campaign that is directed to
9 minorities; providing requirements for the
10 campaign; requiring the department to establish
11 positions within the department for regional
12 and statewide coordinators; requiring that the
13 department conduct a Black Leadership
14 Conference on HIV and AIDS by a specified date;
15 providing an appropriation; amending s. 20.41,
16 F.S.; providing that area agencies on aging are
17 subject to ch. 119 and ss. 286.011-286.012,
18 F.S., as specified; creating part XV of chapter
19 468, F.S.; providing definitions; requiring
20 that the Department of Health maintain a state
21 registry of certified nursing assistants;
22 authorizing the department to contract for
23 examination services; providing requirements
24 for obtaining certification as a certified
25 nursing assistant; requiring that the
26 department adopt rules governing initial
27 certification; specifying grounds for which the
28 department may deny, suspend, or revoke a
29 person's certification; authorizing the
30 department to exempt an applicant or
31 certificateholder from disqualification of

1 certification; providing requirements for
2 records and meetings held for disciplinary
3 actions; exempting an employer from liability
4 for terminating a certified nursing assistant
5 under certain circumstances; providing
6 penalties; providing for background screening;
7 providing rulemaking authority; requiring
8 persons who employ certified nursing assistants
9 to make certain reports to the Department of
10 Health; requiring that the department update
11 the certified nursing assistant registry;
12 providing for future repeal of such provisions;
13 amending s. 400.211, F.S.; deleting obsolete
14 provisions with respect to the regulation of
15 certified nursing assistants; amending s.
16 409.912, F.S.; requiring the Agency for Health
17 Care Administration to enter into agreements
18 with certain organizations for purposes of
19 providing vision screening; providing effective
20 dates.

21

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

23

24 Section 1. The Department of Children and Family
25 Services and the Agency for Health Care Administration shall,
26 by October 1, 1999, develop a system to allow unborn children
27 of Medicaid-eligible mothers to be issued a Medicaid number
28 that shall be used for billing purposes and for monitoring of
29 care for the child beginning with the child's date of birth.

30

31 Section 2. Paragraphs (e) and (f) of subsection (3)
and paragraphs (a) and (b) of subsection (7) of section 20.43,

1 Florida Statutes, 1998 Supplement, are amended, and paragraphs
2 (h), (i), and (j) are added to subsection (3) of that section,
3 to read:

4 20.43 Department of Health.--There is created a
5 Department of Health.

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

8 (e) Division of Children's Medical Services Network.

9 (f) Division of Emergency Medical Services and
10 Community Health Resources ~~Local Health Planning, Education,~~
11 ~~and Workforce Development~~.

12 (h) Division of Children's Medical Services Prevention
13 and Intervention.

14 (i) Division of Information Resource Management.

15 (j) Division of Health Awareness and Tobacco.

16 (7) To protect and improve the public health, the
17 department may use state or federal funds to:

18 (a) Provide incentives, including, but not limited to,
19 the promotional items listed in paragraph (b), food and
20 including food coupons, and or payment for travel expenses,
21 for encouraging healthy lifestyle and disease prevention
22 behaviors and patient compliance with medical treatment, such
23 as tuberculosis therapy and smoking cessation programs. Such
24 incentives shall be intended to cause individuals to take
25 action to improve their health. Any incentive for food, food
26 coupons, or travel expenses may not exceed the limitations in
27 s. 112.061.

28 (b) Plan and conduct health education campaigns for
29 the purpose of protecting or improving public health. The
30 department may purchase promotional items, such as, but not
31 limited to, t-shirts, hats, sports items such as water bottles

1 and sweat bands, calendars, nutritional charts, baby bibs,
2 growth charts, and other items printed with health-promotion
3 messages, and advertising, such as space on billboards or in
4 publications or radio or television time, for health
5 information and promotional messages that recognize that the
6 following behaviors, among others, are detrimental to public
7 health: unprotected sexual intercourse, other than with one's
8 spouse; cigarette and cigar smoking, use of smokeless tobacco
9 products, and exposure to environmental tobacco smoke; alcohol
10 consumption or other substance abuse during pregnancy; alcohol
11 abuse or other substance abuse; lack of exercise and poor diet
12 and nutrition habits; and failure to recognize and address a
13 genetic tendency to suffer from sickle-cell anemia, diabetes,
14 high blood pressure, cardiovascular disease, or cancer. For
15 purposes of activities under this paragraph, the Department of
16 Health may establish requirements for local matching funds or
17 in-kind contributions to create and distribute advertisements,
18 in either print or electronic format, which are concerned with
19 each of the targeted behaviors, establish an independent
20 evaluation and feedback system for the public health
21 communication campaign, and monitor and evaluate the efforts
22 to determine which of the techniques and methodologies are
23 most effective.

24 Section 3. Paragraphs (l), (p), and (s) of subsection
25 (2) of section 110.205, Florida Statutes, are amended to read:

26 110.205 Career service; exemptions.--

27 (2) EXEMPT POSITIONS.--The exempt positions which are
28 not covered by this part include the following, provided that
29 no position, except for positions established for a limited
30 period of time pursuant to paragraph (h), shall be exempted if
31 the position reports to a position in the career service:

1 (1) All assistant division director, deputy division
2 director, and bureau chief positions in any department, and
3 those positions determined by the department to have
4 managerial responsibilities comparable to such positions,
5 which positions include, but are not limited to, positions in
6 the Department of Health, the Department of Children and
7 Family Services, ~~and Rehabilitative Services~~ and the
8 Department of Corrections that are assigned primary duties of
9 serving as the superintendent of an institution: positions in
10 the Department of Transportation that are assigned primary
11 duties of serving as regional toll managers and managers of
12 offices as defined in s. 20.23(3)(d)3. and (4)(d); positions
13 in the Department of Environmental Protection that are
14 assigned the duty of an Environmental Administrator or program
15 administrator; and positions in the Department of Health ~~and~~
16 ~~Rehabilitative Services~~ that are assigned the duties ~~duty~~ of
17 ~~an~~ Environmental Administrator, Assistant County Health
18 Department Director, and County Health Department Financial
19 Administrator. Unless otherwise fixed by law, the department
20 shall set the salary and benefits of these positions in
21 accordance with the rules established for the Selected Exempt
22 Service.

23 (p) The staff directors, assistant staff directors,
24 district program managers, district program coordinators,
25 district subdistrict administrators, district administrative
26 services directors, district attorneys, ~~county health~~
27 ~~department directors, county health department administrators,~~
28 and the Deputy Director of Central Operations Services of the
29 Department of Children and Family ~~Health and Rehabilitative~~
30 Services and the county health department directors and county
31 health department administrators of the Department of Health.

1 Unless otherwise fixed by law, the department shall establish
2 the salary range and benefits for these positions in
3 accordance with the rules of the Selected Exempt Service.

4 (s) The executive director of each board or commission
5 established within the Department of Business and Professional
6 Regulation or the Department of Health. Unless otherwise fixed
7 by law, the department shall establish the salary and benefits
8 for these positions in accordance with the rules established
9 for the Selected Exempt Service.

10 Section 4. Subsection (15) of section 120.80, Florida
11 Statutes, 1998 Supplement, is amended to read:

12 120.80 Exceptions and special requirements;
13 agencies.--

14 (15) DEPARTMENT OF HEALTH.--Notwithstanding s.
15 120.57(1)(a), formal hearings may not be conducted by the
16 Secretary of Health, the director of the Agency for Health
17 Care Administration, or a board or member of a board within
18 the Department of Health or the Agency for Health Care
19 Administration for matters relating to the regulation of
20 professions, as defined by part II of chapter 455.
21 Notwithstanding s. 120.57(1)(a), hearings conducted within the
22 Department of Health in execution of the Special Supplemental
23 Nutrition Program for Women, Infants, and Children; Child Care
24 Food Program; Children's Medical Services Program; and the
25 exemption from disqualification reviews for certified nurse
26 assistants program need not be conducted by an administrative
27 law judge assigned by the division. The Department of Health
28 may contract with the Department of Children and Family
29 Services for a hearing officer in these matters.

30 Section 5. Subsection (1) of section 154.504, Florida
31 Statutes, 1998 Supplement, is amended to read:

1 154.504 Eligibility and benefits.--

2 (1) Any county or counties may apply for a primary
3 care for children and families challenge grant to provide
4 primary health care services to children and families with
5 incomes of up to 150 percent of the federal poverty level.
6 Participants shall pay no monthly premium for participation,
7 but shall be required to pay a copayment at the time a service
8 is provided. Copayments may be paid from sources other than
9 the participant, including, but not limited to, the child's or
10 parent's employer, or other private sources. Providers may
11 enter into contracts pursuant to ~~As used in s. 766.1115,~~
12 provided copayments, ~~the term "copayment"~~ may not be
13 considered and may not be used as compensation for services to
14 health care providers, and all funds generated from copayments
15 shall be used by the governmental contractor and all other
16 provisions in s. 766.1115 are met.

17 Section 6. Subsection (3) is added to section 287.155,
18 Florida Statutes, to read:

19 287.155 Motor vehicles; purchase by Division of
20 Universities, Department of Health and Rehabilitative
21 Services, Department of Juvenile Justice, and Department of
22 Corrections.--

23 (3) The Department of Health is authorized, subject to
24 the approval of the Department of Management Services, to
25 purchase automobiles, trucks, and other automotive equipment
26 for use by county health departments.

27 Section 7. Subsection (3) of section 372.6672, Florida
28 Statutes, 1998 Supplement, is amended to read:

29 372.6672 Alligator management and trapping program
30 implementation; commission authority.--

31

1 (3) The powers and duties of the commission hereunder
2 shall not be construed so as to supersede the regulatory
3 authority or lawful responsibility of the ~~Department of Health~~
4 ~~and Rehabilitative Services~~, the Department of Agriculture and
5 Consumer Services, or any local governmental entity regarding
6 the processing or handling of food products, but shall be
7 deemed supplemental thereto.

8 Section 8. Paragraph (h) of subsection (3) of section
9 381.004, Florida Statutes, 1998 Supplement, is amended to
10 read:

11 381.004 Testing for human immunodeficiency virus.--

12 (3) HUMAN IMMUNODEFICIENCY VIRUS TESTING; INFORMED
13 CONSENT; RESULTS; COUNSELING; CONFIDENTIALITY.--

14 (h) Notwithstanding the provisions of paragraph (a),
15 informed consent is not required:

16 1. When testing for sexually transmissible diseases is
17 required by state or federal law, or by rule including the
18 following situations:

19 a. HIV testing pursuant to s. 796.08 of persons
20 convicted of prostitution or of procuring another to commit
21 prostitution.

22 b. Testing for HIV by a medical examiner in accordance
23 with s. 406.11.

24 2. Those exceptions provided for blood, plasma,
25 organs, skin, semen, or other human tissue pursuant to s.
26 381.0041.

27 3. For the performance of an HIV-related test by
28 licensed medical personnel in bona fide medical emergencies
29 when the test results are necessary for medical diagnostic
30 purposes to provide appropriate emergency care or treatment to
31 the person being tested and the patient is unable to consent,

1 as supported by documentation in the medical record.
2 Notification of test results in accordance with paragraph (c)
3 is required.

4 4. For the performance of an HIV-related test by
5 licensed medical personnel for medical diagnosis of acute
6 illness where, in the opinion of the attending physician,
7 obtaining informed consent would be detrimental to the
8 patient, as supported by documentation in the medical record,
9 and the test results are necessary for medical diagnostic
10 purposes to provide appropriate care or treatment to the
11 person being tested. Notification of test results in
12 accordance with paragraph (c) is required if it would not be
13 detrimental to the patient. This subparagraph does not
14 authorize the routine testing of patients for HIV infection
15 without informed consent.

16 5. When HIV testing is performed as part of an autopsy
17 for which consent was obtained pursuant to s. 872.04.

18 6. For the performance of an HIV test upon a defendant
19 pursuant to the victim's request in a prosecution for any type
20 of sexual battery where a blood sample is taken from the
21 defendant voluntarily, pursuant to court order for any
22 purpose, or pursuant to the provisions of s. 775.0877, s.
23 951.27, or s. 960.003; however, the results of any HIV test
24 performed shall be disclosed solely to the victim and the
25 defendant, except as provided in ss. 775.0877, 951.27, and
26 960.003.

27 7. When an HIV test is mandated by court order.

28 8. For epidemiological research pursuant to s.
29 381.0032, for research consistent with institutional review
30 boards created by 45 C.F.R. part 46, or for the performance of
31 an HIV-related test for the purpose of research, if the

1 testing is performed in a manner by which the identity of the
2 test subject is not known and may not be retrieved by the
3 researcher.

4 9. When human tissue is collected lawfully without the
5 consent of the donor for corneal removal as authorized by s.
6 732.9185 or enucleation of the eyes as authorized by s.
7 732.919.

8 10. For the performance of an HIV test upon an
9 individual who comes into contact with medical personnel in
10 such a way that a significant exposure has occurred during the
11 course of employment or within the scope of practice and where
12 a blood sample is available that was taken from that
13 individual voluntarily by medical personnel for other
14 purposes. "Medical personnel" includes a licensed or
15 certified health care professional; an employee of a health
16 care professional, health care facility, or blood bank; and a
17 paramedic or emergency medical technician as defined in s.
18 401.23.

19 a. Prior to performance of an HIV test on a
20 voluntarily obtained blood sample, the individual from whom
21 the blood was obtained shall be requested to consent to the
22 performance of the test and to the release of the results.
23 The individual's refusal to consent and all information
24 concerning the performance of an HIV test and any HIV test
25 result shall be documented only in the medical personnel's
26 record unless the individual gives written consent to entering
27 this information on the individual's medical record.

28 b. Reasonable attempts to locate the individual and to
29 obtain consent shall be made and all attempts must be
30 documented. If the individual cannot be found, an HIV test may
31 be conducted on the available blood sample. If the individual

1 does not voluntarily consent to the performance of an HIV
2 test, the individual shall be informed that an HIV test will
3 be performed, and counseling shall be furnished as provided in
4 this section. However, HIV testing shall be conducted only
5 after a licensed physician documents, in the medical record of
6 the medical personnel, that there has been a significant
7 exposure and that, in the physician's medical judgment, the
8 information is medically necessary to determine the course of
9 treatment for the medical personnel.

10 c. Costs of any HIV test of a blood sample performed
11 with or without the consent of the individual, as provided in
12 this subparagraph, shall be borne by the medical personnel or
13 the employer of the medical personnel. However, costs of
14 testing or treatment not directly related to the initial HIV
15 tests or costs of subsequent testing or treatment shall not be
16 borne by the medical personnel or the employer of the medical
17 personnel.

18 d. In order to utilize the provisions of this
19 subparagraph, the medical personnel must either be tested for
20 HIV pursuant to this section or provide the results of an HIV
21 test taken within 6 months prior to the significant exposure
22 if such test results are negative.

23 e. A person who receives the results of an HIV test
24 pursuant to this subparagraph shall maintain the
25 confidentiality of the information received and of the persons
26 tested. Such confidential information is exempt from s.
27 119.07(1).

28 f. If the source of the exposure will not voluntarily
29 submit to HIV testing and a blood sample is not available, the
30 medical personnel or the employer of such person acting on
31 behalf of the employee may seek a court order directing the

1 source of the exposure to submit to HIV testing. A sworn
2 statement by a physician licensed under chapter 458 or chapter
3 459 that a significant exposure has occurred and that, in the
4 physician's medical judgment, testing is medically necessary
5 to determine the course of treatment constitutes probable
6 cause for the issuance of an order by the court. The results
7 of the test shall be released to the source of the exposure
8 and to the person who experienced the exposure.

9 11. For the performance of an HIV test upon an
10 individual who comes into contact with medical personnel in
11 such a way that a significant exposure has occurred during the
12 course of employment or within the scope of practice of the
13 medical personnel while the medical personnel provides
14 emergency medical treatment to the individual; or who comes
15 into contact with nonmedical personnel in such a way that a
16 significant exposure has occurred while the nonmedical
17 personnel provides emergency medical assistance during a
18 medical emergency. For the purposes of this subparagraph, a
19 medical emergency means an emergency medical condition outside
20 of a hospital or health care facility that provides physician
21 care. The test may be performed only during the course of
22 treatment for the medical emergency.

23 a. An individual who is capable of providing consent
24 shall be requested to consent to an HIV test prior to the
25 testing. The individual's refusal to consent, and all
26 information concerning the performance of an HIV test and its
27 result, shall be documented only in the medical personnel's
28 record unless the individual gives written consent to entering
29 this information on the individual's medical record.

30 b. HIV testing shall be conducted only after a
31 licensed physician documents, in the medical record of the

1 medical personnel or nonmedical personnel, that there has been
2 a significant exposure and that, in the physician's medical
3 judgment, the information is medically necessary to determine
4 the course of treatment for the medical personnel or
5 nonmedical personnel.

6 c. Costs of any HIV test performed with or without the
7 consent of the individual, as provided in this subparagraph,
8 shall be borne by the medical personnel or the employer of the
9 medical personnel or nonmedical personnel. However, costs of
10 testing or treatment not directly related to the initial HIV
11 tests or costs of subsequent testing or treatment shall not be
12 borne by the medical personnel or the employer of the medical
13 personnel or nonmedical personnel.

14 d. In order to utilize the provisions of this
15 subparagraph, the medical personnel or nonmedical personnel
16 shall be tested for HIV pursuant to this section or shall
17 provide the results of an HIV test taken within 6 months prior
18 to the significant exposure if such test results are negative.

19 e. A person who receives the results of an HIV test
20 pursuant to this subparagraph shall maintain the
21 confidentiality of the information received and of the persons
22 tested. Such confidential information is exempt from s.
23 119.07(1).

24 f. If the source of the exposure will not voluntarily
25 submit to HIV testing and a blood sample was not obtained
26 during treatment for the medical emergency, the medical
27 personnel, the employer of the medical personnel acting on
28 behalf of the employee, or the nonmedical personnel may seek a
29 court order directing the source of the exposure to submit to
30 HIV testing. A sworn statement by a physician licensed under
31 chapter 458 or chapter 459 that a significant exposure has

1 occurred and that, in the physician's medical judgment,
2 testing is medically necessary to determine the course of
3 treatment constitutes probable cause for the issuance of an
4 order by the court. The results of the test shall be released
5 to the source of the exposure and to the person who
6 experienced the exposure.

7 12. For the performance of an HIV test by the medical
8 examiner or attending physician upon an ~~a deceased~~ individual
9 ~~who is the source of a significant exposure to medical~~
10 ~~personnel or nonmedical personnel who provided emergency~~
11 ~~medical assistance and who expired or could not be~~
12 ~~resuscitated while receiving during treatment for the medical~~
13 ~~emergency medical assistance or care and who was the source of~~
14 a significant exposure to medical or nonmedical personnel
15 providing such assistance or care.

16 a. HIV testing may be conducted only after a licensed
17 physician documents in the medical record of the medical
18 personnel or nonmedical personnel that there has been a
19 significant exposure and that, in the physician's medical
20 judgment, the information is medically necessary to determine
21 the course of treatment for the medical personnel or
22 nonmedical personnel.

23 b. Costs of any HIV test performed under this
24 subparagraph may not be charged to the deceased or to the
25 family of the deceased person.

26 c. For the provisions of this subparagraph to be
27 applicable, the medical personnel or nonmedical personnel must
28 be tested for HIV under this section or must provide the
29 results of an HIV test taken within 6 months before the
30 significant exposure if such test results are negative.

31

1 d. A person who receives the results of an HIV test
2 pursuant to this subparagraph shall comply with paragraph (e).

3 13. For the performance of an HIV-related test
4 medically indicated by licensed medical personnel for medical
5 diagnosis of a hospitalized infant as necessary to provide
6 appropriate care and treatment of the infant when, after a
7 reasonable attempt, a parent cannot be contacted to provide
8 consent. The medical records of the infant shall reflect the
9 reason consent of the parent was not initially obtained. Test
10 results shall be provided to the parent when the parent is
11 located.

12 14. For the performance of HIV testing conducted to
13 monitor the clinical progress of a patient previously
14 diagnosed to be HIV positive.

15 15. For the performance of repeated HIV testing
16 conducted to monitor possible conversion from a significant
17 exposure.

18 Section 9. Subsection (7) is added to section
19 381.0051, Florida Statutes, to read:

20 381.0051 Family planning.--

21 (7) RULES.--The Department of Health may adopt rules
22 to implement this section.

23 Section 10. Subsection (16) is added to section
24 381.006, Florida Statutes, 1998 Supplement, to read:

25 381.006 Environmental health.--The department shall
26 conduct an environmental health program as part of fulfilling
27 the state's public health mission. The purpose of this program
28 is to detect and prevent disease caused by natural and manmade
29 factors in the environment. The environmental health program
30 shall include, but not be limited to:

31

1 (16) A group-care-facilities function, where a
2 group-care facility means any public or private school,
3 housing, building or buildings, section of a building, or
4 distinct part of a building or other place, whether operated
5 for profit or not, which undertakes, through its ownership or
6 management, to provide one or more personal services, care,
7 protection, and supervision to persons who require such
8 services and who are not related to the owner or
9 administrator. The department may adopt rules necessary to
10 protect the health and safety of residents, staff, and patrons
11 of group-care facilities, such as child care facilities,
12 family day-care homes, assisted-living facilities, adult
13 day-care centers, adult family-care homes, hospices,
14 residential treatment facilities, crisis-stabilization units,
15 pediatric extended-care centers, intermediate-care facilities
16 for the developmentally disabled, group-care homes, and,
17 jointly with the Department of Education, private and public
18 schools. These rules may include provisions relating to
19 operation and maintenance of facilities, buildings, grounds,
20 equipment, furnishings, and occupant-space requirements;
21 lighting; heating, cooling, and ventilation; water supply,
22 plumbing; sewage; sanitary facilities; insect and rodent
23 control; garbage; safety; personnel health, hygiene, and work
24 practices; and other matters the department finds are
25 appropriate or necessary to protect the safety and health of
26 the residents, staff, or patrons. The department may not adopt
27 rules that conflict with rules adopted by the licensing or
28 certifying agency. The department may enter and inspect at
29 reasonable hours to determine compliance with applicable
30 statutes or rules. In addition to any sanctions that the
31 department may impose for violations of rules adopted under

1 this section, the department shall also report such violations
2 to any agency responsible for licensing or certifying the
3 group-care facility. The licensing or certifying agency may
4 also impose any sanction based solely on the findings of the
5 department.

6
7 The department may adopt rules to carry out the provisions of
8 this section.

9 Section 11. Subsection (1) of section 381.0061,
10 Florida Statutes, is amended to read:

11 381.0061 Administrative fines.--

12 (1) In addition to any administrative action
13 authorized by chapter 120 or by other law, the department may
14 impose a fine, which shall not exceed \$500 for each violation,
15 for a violation of s. 381.006(16), s. 381.0065, s. 381.0066,
16 s. 381.0072, or part III of chapter 489, for a violation of
17 any rule adopted under this chapter, or for a violation of any
18 of the provisions of chapter 386. Notice of intent to impose
19 such fine shall be given by the department to the alleged
20 violator. Each day that a violation continues may constitute
21 a separate violation.

22 Section 12. Subsections (2), (3), (4), and (5) of
23 section 381.0062, Florida Statutes, 1998 Supplement, are
24 amended to read:

25 381.0062 Supervision; private and certain public water
26 systems.--

27 (2) DEFINITIONS.--As used in this section:

28 (a) "Contaminant" means any physical, biological,
29 chemical, or radiological substance or matter in water.

30 (b) "Department" means the Department of Health,
31 including the county health departments.

1 (c) "Florida Safe Drinking Water Act" means part VI of
2 chapter 403.

3 (d) "Health hazard" means any condition, contaminant,
4 device, or practice in a water system or its operation which
5 will create or has the potential to create an acute or chronic
6 threat to the health and well-being of the water consumer.

7 (e) "Limited use commercial public water system" means
8 a public water system not covered or included in the Florida
9 Safe Drinking Water Act, which serves one or more
10 nonresidential establishments and provides piped water.

11 (f) "Limited use community public water system" means
12 a public water system not covered or included in the Florida
13 Safe Drinking Water Act, which serves five or more ~~private~~
14 residences or two or more rental residences, and provides
15 piped water.

16 (g) "Maximum contaminant level" means the maximum
17 permissible level of a contaminant in potable water delivered
18 to consumers.

19 (h) "Multi-family water system" means a water system
20 that provides piped water to three or four residences, one of
21 which may be a rental residence.

22 (i)~~(h)~~ "Person" means an individual, public or private
23 corporation, company, association, partnership, municipality,
24 agency of the state, district, federal, or any other legal
25 entity, or its legal representative, agent, or assignee.

26 (j)~~(i)~~ "Potable water" means water that is
27 satisfactory for human consumption, dermal contact, culinary
28 purposes, or dishwashing as approved by the department.

29 (k)~~(j)~~ "Private water system" means a water system
30 that provides piped water for one or two ~~no more than four~~
31 ~~nonrental~~ residences, one of which may be a rental residence.

1 ~~(l)(k)~~ "Public consumption" means oral ingestion or
2 physical contact with water by a person for any purpose other
3 than cleaning work areas or simple handwashing. Examples of
4 public consumption include, when making food or beverages
5 available to the general public, water used for washing food,
6 cooking utensils, or food service areas and water used for
7 preparing food or beverages; washing surfaces accessed by
8 children as in a child care center or similar setting; washing
9 medical instruments or surfaces accessed by a patient; any
10 water usage in health care facilities; emergency washing
11 devices such as eye washing sinks; washing in food processing
12 plants or establishments like slaughterhouses and
13 packinghouses; and water used in schools.

14 ~~(m)(l)~~ "Public water system" means a water system that
15 is not included or covered under the Florida Safe Drinking
16 Water Act, provides piped water to the public, and is not a
17 private or multi-family water system. For purposes of this
18 section, public water systems are classified as limited use
19 community or limited use commercial.

20 ~~(n)(m)~~ "Supplier of water" means the person, company,
21 or corporation that owns or operates a limited use community
22 or limited use commercial public water system, a multi-family
23 water system, or a private water system.

24 ~~(o)(n)~~ "Variance" means a sanction from the department
25 affording a supplier of water an extended time to correct a
26 maximum contaminant level violation caused by the raw water or
27 to deviate from construction standards established by rule of
28 the department.

29 (3) SUPERVISION.--The department and its agents shall
30 have general supervision and control over all private water
31 systems, multi-family water systems, and public water systems

1 not covered or included in the Florida Safe Drinking Water Act
2 (part VI of chapter 403), and over those aspects of the public
3 water supply program for which it has the duties and
4 responsibilities provided for in part VI of chapter 403. The
5 department shall:

6 (a) Administer and enforce the provisions of this
7 section and all rules and orders adopted or issued under this
8 section, including water quality and monitoring standards.

9 (b) Require any person wishing to construct, modify,
10 or operate a limited use community or limited use commercial
11 public water system or a multi-family ~~private~~ water system to
12 first make application to and obtain approval from the
13 department on forms adopted by rule of the department.

14 (c) Review and act upon any application for the
15 construction, modification, operation, or change of ownership
16 of, and conduct surveillance, enforcement, and compliance
17 investigations of, limited use community and limited use
18 commercial public water systems, and multi-family ~~private~~
19 water systems.

20 (d) Require a fee from the supplier of water in an
21 amount sufficient to cover the costs of reviewing and acting
22 upon any application for the construction, modification, or
23 operation of a limited use community and limited use
24 commercial public water system, of not less than \$10 or more
25 than \$90 annually.

26 (e) Require a fee from the supplier of water in an
27 amount sufficient to cover the costs of reviewing and acting
28 upon any application for the construction or change of
29 ownership of a multi-family ~~private~~ water system ~~servicing more~~
30 ~~than one residence~~, of not less than \$10 or more than \$90.

31

1 (f) Require a fee from the supplier of water in an
2 amount sufficient to cover the costs of sample collection,
3 review of analytical results, health-risk interpretations, and
4 coordination with other agencies when such work is not
5 included in paragraphs (b) and (c) and is requested by the
6 supplier of water, of not less than \$10 or more than \$90.

7 (g) Require suppliers of water to collect samples of
8 water, to submit such samples to a department-certified
9 drinking water laboratory for contaminant analysis, and to
10 keep sampling records as required by rule of the department.

11 (h) Require all fees collected by the department in
12 accordance with the provisions of this section to be deposited
13 in an appropriate trust fund of the department, and used
14 exclusively for the payment of costs incurred in the
15 administration of this section.

16 (i) Prohibit any supplier of water from, intentionally
17 or otherwise, introducing any contaminant which poses a health
18 hazard into a drinking water system.

19 (j) Require suppliers of water to give public notice
20 of water problems and corrective measures under the conditions
21 specified by rule of the department.

22 (k) Require a fee to cover the cost of reinspection of
23 any system regulated under this section, which may not be less
24 than \$25 or more than \$40.

25 (4) RIGHT OF ENTRY.--For purposes of this section,
26 department personnel may enter, at any reasonable time and if
27 they have reasonable cause to believe a violation of this
28 section is occurring or about to occur, upon any and all parts
29 of the premises of such limited use public and multi-family
30 ~~private~~ drinking water systems ~~serving more than one~~
31 ~~residence~~, to make an examination and investigation to

1 determine the sanitary and safety conditions of such systems.
2 Any person who interferes with, hinders, or opposes any
3 employee of the department in the discharge of his or her
4 duties pursuant to the provisions of this section is subject
5 to the penalties provided in s. 381.0025.

6 (5) ENFORCEMENT AND PENALTIES.--

7 (a) Any person who constructs, modifies, or operates a
8 limited use community or limited use commercial public water
9 system, a multi-family water system, or a private water
10 system, without first complying with the requirements of this
11 section, who operates a water system in violation of
12 department order, or who maintains or operates a water system
13 after revocation of the permit is guilty of a misdemeanor of
14 the second degree, punishable as provided in s. 775.082 or s.
15 775.083.

16 (b) This section and rules adopted pursuant to this
17 section may be enforced by injunction or restraining order
18 granted by a circuit court as provided in s. 381.0012(2).

19 (c) Additional remedies available to county health
20 department staff through any county or municipal ordinance may
21 be applied, over and above the penalties set forth in this
22 section, to any violation of this section or the rules adopted
23 pursuant to this section.

24 Section 13. Subsections (3) and (7) of section 381.90,
25 Florida Statutes, are amended to read:

26 381.90 Health Information Systems Council; legislative
27 intent; creation, appointment, duties.--

28 (3) The council shall be composed of the following
29 members or their senior executive-level designees:

30 (a) The secretary of the Department of Health;

31

1 (b) The secretary of the Department of Business and
2 Professional Regulation;

3 (c) The secretary of the Department of Children and
4 Family Services;

5 (d) The director of the Agency for Health Care
6 Administration;

7 (e) The secretary of the Department of Corrections;

8 (f) The Attorney General;

9 (g) The executive director of the Correctional Medical
10 Authority;

11 (h) Two members representing county health
12 departments, one from a small county and one from a large
13 county, appointed by the Governor; ~~and~~

14 (i) A representative from the Florida Association of
15 Counties; ~~-~~

16 (j) The State Treasurer and Insurance Commissioner;

17 (k) A representative from the Florida Healthy Kids
18 Corporation;

19 (l) A representative from a school of public health
20 chosen by the Board of Regents;

21 (m) The Commissioner of Education;

22 (n) The Secretary of the Department of Elderly
23 Affairs; and

24 (o) The Secretary of the Department of Juvenile
25 Justice.

26
27 Representatives of the Federal Government may serve without
28 voting rights.

29 (7) The council's duties and responsibilities include,
30 but are not limited to, the following:

31

1 (a) By March 1 of each year, to develop and approve a
2 strategic plan pursuant to the requirements set forth in s.
3 186.022(9). Copies of the plan shall be transmitted
4 electronically or in writing to the Executive Office of the
5 Governor, the Speaker of the House of Representatives, and the
6 President of the Senate.

7 (b) To develop a mission statement, goals, and plan of
8 action, based on the guiding principles specified in s.
9 282.3032, for the identification, collection, standardization,
10 sharing, and coordination of health-related data across
11 federal, state, and local government and private-sector
12 entities.

13 (c) To develop a review process to ensure cooperative
14 planning among agencies that collect or maintain
15 health-related data. The council shall submit a report on the
16 implementation of this requirement to the Executive Office of
17 the Governor, the President of the Senate, and the Speaker of
18 the House of Representatives by January 1, 2000.

19 ~~(d)(c)~~ To create ad hoc issue-oriented technical
20 workgroups, on an as-needed basis, to make recommendations to
21 the council.

22 Section 14. Subsection (10) of section 382.003,
23 Florida Statutes, is amended, and subsection (11) is added to
24 that section, to read:

25 382.003 Powers and duties of the department.--The
26 department may:

27 (10) Adopt, promulgate, and enforce rules necessary
28 for the creation, issuance, recording, ~~rescinding,~~
29 maintenance, and processing of vital records and for carrying
30 out the provisions of ss. 382.004-382.014 and ss.
31 382.016-382.019.

1 (11) By rule require that forms, documents, and
2 information submitted to the department in the creation or
3 amendment of a vital record be under oath.

4 Section 15. Subsection (3) of section 382.004, Florida
5 Statutes, is amended to read:

6 382.004 Reproduction and destruction of records.--

7 (3) Photographs, microphotographs, or reproductions of
8 any record in the form of film, prints, or electronically
9 produced certifications made in compliance with the provisions
10 of this chapter and certified by the department shall have the
11 same force and effect as the originals thereof, shall be
12 treated as originals for the purpose of their admissibility ~~in~~
13 ~~any court or case,~~ and shall be prima facie evidence ~~in all~~
14 ~~courts and cases~~ of the facts stated therein.

15 Section 16. Subsection (1) of section 382.008, Florida
16 Statutes, 1998 Supplement, is amended to read:

17 382.008 Death and fetal death registration.--

18 (1) A certificate for each death and fetal death which
19 occurs in this state shall be filed on a form prescribed by
20 the department with the local registrar of the district in
21 which the death occurred within 5 days after such death and
22 prior to final disposition, and shall be registered by such
23 registrar if it has been completed and filed in accordance
24 with this chapter or adopted rules. The certificate shall
25 include the decedent's social security number, if available.
26 ~~Disclosure of social security numbers obtained through this~~
27 ~~requirement shall be limited to the purpose of administration~~
28 ~~of the Title IV-D program for child support enforcement and as~~
29 ~~otherwise provided by law.~~ In addition, each certificate of
30 death or fetal death:

31

1 (a) If requested by the informant, shall include
2 aliases or "also known as" (AKA) names of a decedent in
3 addition to the decedent's name of record. Aliases shall be
4 entered on the face of the death certificate in the space
5 provided for name if there is sufficient space. If there is
6 not sufficient space, aliases may be recorded on the back of
7 the certificate and shall be considered part of the official
8 record of death;

9 (b) If the place of death is unknown, shall be
10 registered in the registration district in which the dead body
11 or fetus is found within 5 days after such occurrence; and

12 (c) If death occurs in a moving conveyance, shall be
13 registered in the registration district in which the dead body
14 was first removed from such conveyance.

15 Section 17. Subsections (1), (2), and (4) of section
16 382.013, Florida Statutes, 1998 Supplement, are amended to
17 read:

18 382.013 Birth registration.--A certificate for each
19 live birth that occurs in this state shall be filed within 5
20 days after such birth with the local registrar of the district
21 in which the birth occurred and shall be registered by the
22 local registrar if the certificate has been completed and
23 filed in accordance with this chapter and adopted rules. The
24 information regarding registered births shall be used for
25 comparison with information in the state case registry, as
26 defined in chapter 61.

27 (1) FILING.--

28 (a) If a birth occurs in a hospital, birth center, or
29 other health care facility, or en route thereto, the person in
30 charge of the facility shall be responsible for preparing the
31 certificate, certifying the facts of the birth, and filing the

1 certificate with the local registrar. Within 48 hours after
2 the birth, the physician, midwife, or person in attendance
3 during or immediately after the delivery shall provide the
4 facility with the medical information required by the birth
5 certificate.

6 (b) If a birth occurs outside a facility and a
7 physician licensed in this state, a certified nurse midwife, a
8 midwife licensed in this state, or a public health nurse
9 employed by the department was in attendance during or
10 immediately after the delivery, that person shall prepare and
11 file the certificate.

12 (c) If a birth occurs outside a facility and the
13 delivery is not attended by one of the persons described in
14 paragraph (b), the person in attendance, the mother, or the
15 father shall report the birth to the registrar and provide
16 proof of the facts of birth. The department may require such
17 documents to be presented and such proof to be filed as it
18 deems necessary and sufficient to establish the truth of the
19 facts to be recorded by the certificate and may withhold
20 registering the birth until its requirements are met.~~the~~
21 ~~child is not taken to the facility within 3 days after~~
22 ~~delivery, the certificate shall be prepared and filed by one~~
23 ~~of the following persons in the indicated order of priority:~~

24 1. ~~The physician or midwife in attendance during or~~
25 ~~immediately after the birth.~~

26 2. ~~In the absence of persons described in subparagraph~~
27 ~~1., any other person in attendance during or immediately after~~
28 ~~the birth.~~

29 3. ~~In the absence of persons described in subparagraph~~
30 ~~2., the father or mother.~~

31

1 ~~4. In the absence of the father and the inability of~~
2 ~~the mother, the person in charge of the premises where the~~
3 ~~birth occurred.~~

4 (d)~~(c)~~ If a birth occurs in a moving conveyance and
5 the child is first removed from the conveyance in this state,
6 the birth shall be filed and registered in this state and the
7 place to which the child is first removed shall be considered
8 the place of birth.

9 (e)~~(d)~~ The mother or the father ~~At least one of the~~
10 ~~parents~~ of the child shall attest to the accuracy of the
11 personal data entered on the certificate in time to permit the
12 timely registration of the certificate.

13 (f)~~(e)~~ If a certificate of live birth is incomplete,
14 the local registrar shall immediately notify the health care
15 facility or person filing the certificate and shall require
16 the completion of the missing items of information if they can
17 be obtained prior to issuing certified copies of the birth
18 certificate.

19 (g)~~(f)~~ Regardless of any plan to place a child for
20 adoption after birth, the information on the birth certificate
21 as required by this section must be as to the child's birth
22 parents unless and until an application for a new birth record
23 is made under s. 63.152.

24 (2) PATERNITY.--

25 (a) If the mother is married at the time of birth, the
26 name of the husband shall be entered on the birth certificate
27 as the father of the child, unless paternity has been
28 determined otherwise by a court of competent jurisdiction.

29 (b) Notwithstanding paragraph (a), if the husband of
30 the mother dies while the mother is pregnant but before the
31 birth of the child, the name of the deceased husband shall be

1 entered on the birth certificate as the father of the child,
2 unless paternity has been determined otherwise by a court of
3 competent jurisdiction.

4 (c) If the mother is not married at the time of birth,
5 the name of the father may not be entered on the birth
6 certificate without the execution of a consenting affidavit
7 signed by both the mother and the person to be named as the
8 father. After giving notice orally or through the use of
9 video or audio equipment, and in writing, of the alternatives
10 to, the legal consequences of, and the rights, including, if
11 one parent is a minor, any rights afforded due to minority
12 status, and responsibilities that arise from signing an
13 acknowledgment of paternity, the facility shall provide the
14 mother and the person to be named as the father with the
15 affidavit, as well as information provided by the Title IV-D
16 agency established pursuant to s. 409.2557, regarding the
17 benefits of voluntary establishment of paternity. Upon request
18 of the mother and the person to be named as the father, the
19 facility shall assist in the execution of the affidavit.

20 (d) If the paternity of the child is determined by a
21 court of competent jurisdiction as provided under s. 382.015,
22 the name of the father and the surname of the child shall be
23 entered on the certificate in accordance with the finding and
24 order of the court. If the court fails to specify a surname
25 for the child, the surname shall be entered in accordance with
26 subsection (3).

27 (e) If the father is not named on the certificate, no
28 other information about the father shall be entered on the
29 certificate.

30 (4) UNDETERMINED PARENTAGE.--The person having custody
31 of a child of undetermined parentage shall register a birth

1 certificate ~~shall be registered for every child of~~
2 ~~undetermined parentage~~ showing all known or approximate facts
3 relating to the birth. To assist in later determination,
4 information concerning the place and circumstances under which
5 the child was found shall be included on the portion of the
6 birth certificate relating to marital status and medical
7 details. In the event the child is later identified ~~to the~~
8 ~~satisfaction of the department~~, a new birth certificate shall
9 be prepared which shall bear the same number as the original
10 birth certificate, and the original certificate shall be
11 sealed and filed, shall be confidential and exempt from the
12 provisions of s. 119.07(1), and shall not be opened to
13 inspection by, nor shall certified copies of the same be
14 issued except by court order to, any person other than the
15 registrant if of legal age.

16 Section 18. Section 382.015, Florida Statutes, is
17 amended to read:

18 382.015 New certificates of live birth; duty of clerks
19 of court and department.--The clerk of the court in which any
20 proceeding for adoption, annulment of an adoption, affirmation
21 of parental status, or determination of paternity is to be
22 registered, shall within 30 days after the final disposition,
23 forward to the department a certified ~~court-certified~~ copy of
24 the court order ~~decree~~, or a report of the proceedings upon a
25 form to be furnished by the department, together with
26 sufficient information to identify the original birth
27 certificate and to enable the preparation of a new birth
28 certificate.

29 (1) ADOPTION AND ANNULMENT OF ADOPTION.--

30 (a) Upon receipt of the report or certified copy of an
31 adoption decree, together with the information necessary to

1 identify the original certificate of live birth, and establish
2 a new certificate, the department shall prepare and file a new
3 birth certificate, absent objection by the court decreeing the
4 adoption, the adoptive parents, or the adoptee if of legal
5 age. The certificate shall bear the same file number as the
6 original birth certificate. All names and identifying
7 information relating to the adoptive parents entered on the
8 new certificate shall refer to the adoptive parents, but
9 nothing in the certificate shall refer to or designate the
10 parents as being adoptive. All other items not affected by
11 adoption shall be copied as on the original certificate,
12 including the date of registration and filing.

13 (b) Upon receipt of the report or certified copy of an
14 annulment-of-adoption decree, together with the sufficient
15 information to identify the original certificate of live
16 birth, the department shall, if a new certificate of birth was
17 filed following an adoption report or decree, remove the new
18 certificate and restore the original certificate to its
19 original place in the files, and the certificate so removed
20 shall be sealed by the department.

21 (c) Upon receipt of a report or certified copy of an
22 adoption decree or annulment-of-adoption decree for a person
23 born in another state, the department shall forward the report
24 or decree to the state of the registrant's birth. If the
25 adoptee was born in Canada, the department shall send a copy
26 of the report or decree to the appropriate birth registration
27 authority in Canada.

28 (2) DETERMINATION OF PATERNITY.--

29 ~~(a)~~ Upon receipt of the report or a certified copy of
30 a final decree of determination of paternity, ~~or upon written~~
31 ~~request and receipt of a consenting affidavit signed by both~~

1 ~~parents acknowledging the paternity of the registrant,~~
2 together with sufficient information to identify the original
3 certificate of live birth, the department shall prepare and
4 file a new birth certificate which shall bear the same file
5 number as the original birth certificate. ~~If paternity has~~
6 ~~been established pursuant to court order,~~The registrant's
7 name shall be entered as decreed by the court. ~~Otherwise, the~~
8 ~~surname of the registrant may be changed from that shown on~~
9 ~~the original birth certificate at the request of the parents~~
10 ~~or the registrant if of legal age.~~The names and identifying
11 information of the parents shall be entered as of the date of
12 the registrant's birth.

13 ~~(b) If the parents marry each other at any time after~~
14 ~~the registrant's birth, the department shall, upon request of~~
15 ~~the parents or registrant if of legal age and proof of the~~
16 ~~marriage, amend the certificate with regard to the parent's~~
17 ~~marital status as though the parents were married at the time~~
18 ~~of birth.~~

19 ~~(c) If a father's name is already listed on the birth~~
20 ~~certificate, the birth certificate may only be amended to add~~
21 ~~a different father's name upon court order. If a change in~~
22 ~~the registrant's surname is also desired, such change must be~~
23 ~~included in the court order determining paternity or the name~~
24 ~~must be changed pursuant to s. 68.07.~~

25 (3) AFFIRMATION OF PARENTAL STATUS.--Upon receipt of
26 an order of affirmation of parental status issued pursuant to
27 s. 742.16, together with sufficient information to identify
28 the original certificate of live birth, the department shall
29 prepare and file a new birth certificate which shall bear the
30 same file number as the original birth certificate. The names
31 and identifying information of the registrant's parents

1 entered on the new certificate shall be the commissioning
2 couple, but the new certificate may not make reference to or
3 designate the parents as the commissioning couple.

4 (4) SUBSTITUTION OF NEW CERTIFICATE OF BIRTH FOR
5 ORIGINAL.--When a new certificate of birth is prepared, the
6 department shall substitute the new certificate of birth for
7 the original certificate on file. All copies of the original
8 certificate of live birth in the custody of a local registrar
9 or other state custodian of vital records shall be forwarded
10 to the State Registrar. Thereafter, when a certified copy of
11 the certificate of birth ~~of such person~~ or portion thereof is
12 issued, it shall be a copy of the new certificate of birth or
13 portion thereof, except when a court order requires issuance
14 of a certified copy of the original certificate of birth. In
15 an adoption, change in paternity, affirmation of parental
16 status, undetermined parentage, or court-ordered substitution,
17 the department shall place the original certificate of birth
18 and all papers pertaining thereto under seal, not to be broken
19 except by order of a court of competent jurisdiction or as
20 otherwise provided by law.

21 (5) FORM.--Except for certificates of foreign birth
22 which are registered as provided in s. 382.017, and delayed
23 certificates of birth which are registered as provided in ss.
24 382.019 and 382.0195, all original, new, or amended
25 certificates of livebirth shall be identical in form,
26 regardless of the marital status of the parents or the fact
27 that the registrant is adopted or of undetermined parentage.

28 (6) RULES.--The department shall adopt and enforce all
29 rules necessary for carrying out the provisions of this
30 section.

31

1 Section 19. Subsections (3), (4), and (5) are added to
2 section 382.016, Florida Statutes, to read:

3 382.016 Amendment of records.--

4 (3) Upon written request and receipt of an affidavit
5 signed by the mother and father acknowledging the paternity of
6 a registrant born out of wedlock, together with sufficient
7 information to identify the original certificate of live
8 birth, the department shall prepare a new birth certificate,
9 which shall bear the same file number as the original birth
10 certificate. The names and identifying information of the
11 parents shall be entered as of the date of the registrant's
12 birth. The surname of the registrant may be changed from that
13 shown on the original birth certificate at the request of the
14 mother and father of the registrant, or the registrant if of
15 legal age. If the mother and father marry each other at any
16 time after the registrant's birth, the department shall, upon
17 the request of the mother and father or registrant if of legal
18 age and proof of the marriage, amend the certificate with
19 regard to the parents' marital status as though the parents
20 were married at the time of birth.

21 (4) When a new certificate of birth is prepared
22 pursuant to subsection (3), the department shall substitute
23 the new certificate of birth for the original certificate on
24 file. All copies of the original certificate of live birth in
25 the custody of a local registrar or other state custodian of
26 vital records shall be forwarded to the State Registrar.
27 Thereafter, when a certified copy of the certificate of birth
28 or portion thereof is issued, it shall be a copy of the new
29 certificate of birth or portion thereof, except when a court
30 order requires issuance of a certified copy of the original
31 certificate of birth. The department shall place the original

1 certificate of birth and all papers pertaining thereto under
2 seal, not to be broken except by order of a court of competent
3 jurisdiction or as otherwise provided by law.

4 (5) If a father's name is listed on the birth
5 certificate, the birth certificate may only be amended to
6 remove the father's name or to add a different father's name
7 upon court order. If a change in the registrant's surname is
8 also desired, such change must be included in the court order
9 or the name must be changed pursuant to s. 68.07.

10 Section 20. Section 382.019, Florida Statutes, is
11 amended to read:

12 382.019 Delayed registration; administrative
13 procedures.--

14 (1) Registration after 1 year is a delayed
15 registration, and the department may, upon receipt of an
16 application and the fee required under s. 382.0255, and proof
17 of the birth, death, or fetal death as prescribed by this
18 section or rule, register a delayed certificate if the
19 department does not already have a certificate of the birth,
20 death, or fetal death on file.

21 (2) The department may require such supporting
22 documents to be presented and such proof to be filed as it
23 deems necessary and sufficient to establish the truth of the
24 facts to be recorded by the certificate, and may withhold
25 registering the birth, death, or fetal death certificate until
26 its requirements are met.

27 (3) Certificates registered under this section are
28 admissible as prima facie evidence of the facts recited
29 therein with like force and effect as other vital records
30 received or admitted in evidence.

31

1 (4) A delayed certificate of birth filed under this
2 section shall include a summary statement of the evidence
3 submitted in support of the delayed registration.

4 (5) A delayed certificate of birth submitted for
5 registration under this section shall be signed before a
6 notarizing official by the registrant if of legal age, or by
7 the parent or guardian of a minor registrant.

8 (6) A person may not establish more than one birth
9 certificate, and a delayed certificate of birth may not be
10 registered for a deceased person.

11 (7) A delayed death or fetal death record shall be
12 registered on a certificate of death or fetal death and marked
13 "delayed."

14 (8) In addition to the rulemaking authority found at
15 s. 382.003(10), the department may, by rule, provide for the
16 dismissal of an application that is not pursued within 1 year.

17 Section 21. Subsections (1) and (2) of section
18 382.025, Florida Statutes, are amended to read:

19 382.025 Certified copies of vital records;
20 confidentiality; research.--

21 (1) BIRTH RECORDS.--Except for birth records over 100
22 years old which are not under seal pursuant to court order,
23 all birth records of this state shall be confidential and are
24 exempt from the provisions of s. 119.07(1).

25 (a) Certified copies of the original birth certificate
26 or a new or amended certificate, or affidavits thereof, are
27 confidential and exempt from the provisions of s. 119.07(1)
28 and, upon receipt of a request and payment of the fee
29 prescribed in s. 382.0255, shall be issued only as authorized
30 by the department and in the form prescribed by the
31 department, and only:

- 1 1. To the registrant, if of legal age;
- 2 2. To the registrant's parent or guardian or other
- 3 legal representative;
- 4 3. Upon receipt of the registrant's death certificate,
- 5 to the registrant's spouse or to the registrant's child,
- 6 grandchild, or sibling, if of legal age, or to the legal
- 7 representative of any of such persons;
- 8 4. To any person if the birth record is over 100 years
- 9 old and not under seal pursuant to court order;
- 10 5. To a law enforcement agency for official purposes;
- 11 6. To any agency of the state or the United States for
- 12 official purposes upon approval of the department; or
- 13 7. Upon order of any court of competent jurisdiction.
- 14 (b) To protect the integrity of vital records and
- 15 prevent the fraudulent use of the birth certificates of
- 16 deceased persons, the department shall match birth and death
- 17 certificates and post the fact of death to the appropriate
- 18 birth certificate. Except for a commemorative birth
- 19 certificate, any ~~A~~ certification of a birth certificate of a
- 20 deceased registrant shall be marked "deceased." In the case of
- 21 a commemorative birth certificate, such indication of death
- 22 shall be made on the back of the certificate.
- 23 (c) The department shall issue, upon request and upon
- 24 payment of an additional fee as prescribed under s. 382.0255,
- 25 a commemorative birth certificate representing that the birth
- 26 of the person named thereon is recorded in the office of the
- 27 registrar. The certificate issued under this paragraph shall
- 28 be in a form consistent with the need to protect the integrity
- 29 of vital records but shall be suitable for display. It may
- 30 bear the seal of the state printed thereon and may be signed
- 31 by the Governor.

1 (2) OTHER RECORDS.--

2 (a) The department shall authorize the issuance of a
3 certified copy of all or part of any marriage, dissolution of
4 marriage, or death or fetal death certificate, excluding that
5 portion which is confidential and exempt from the provisions
6 of s. 119.07(1) as provided under s. 382.008, to any person
7 requesting it upon receipt of a request and payment of the fee
8 prescribed by this section. A certification of the death or
9 fetal death certificate which includes the confidential
10 portions shall be issued only:

11 1. To the registrant's spouse or parent, or to the
12 registrant's child, grandchild, or sibling, if of legal age,
13 or to any person ~~family member~~ who provides a will that has
14 been executed pursuant to s. 732.502, insurance policy, or
15 other document that demonstrates his or her ~~the family~~
16 ~~member's~~ interest in the estate of the registrant, or to any
17 person who provides documentation that he or she is acting on
18 behalf of any of them;

19 2. To any agency of the state or local government or
20 the United States for official purposes upon approval of the
21 department; or

22 3. Upon order of any court of competent jurisdiction.

23 (b) All portions of a certificate of death shall cease
24 to be exempt from the provisions of s. 119.07(1) 50 years
25 after the date of death.

26 (c) The department shall issue, upon request and upon
27 payment of an additional fee prescribed by this section, a
28 commemorative marriage license representing that the marriage
29 of the persons named thereon is recorded in the office of the
30 registrar. The certificate issued under this paragraph shall
31 be in a form consistent with the need to protect the integrity

1 of vital records but shall be suitable for display. It may
2 bear the seal of the state printed thereon and may be signed
3 by the Governor.

4 Section 22. Subsection (2) of section 382.0255,
5 Florida Statutes, is amended to read:

6 382.0255 Fees.--

7 (2) The fee charged for each request for a
8 certification of a birth record issued by the department or by
9 the local registrar shall be subject to an additional fee of
10 \$4 which shall be deposited in the appropriate departmental
11 trust fund. On a quarterly basis, the department shall
12 ~~transfer \$2 of this additional fee to the General Revenue Fund~~
13 ~~and \$1.50 to the Child Welfare Training Trust Fund created in~~
14 ~~s. 402.40. Fifty cents of the fee shall be available for~~
15 ~~appropriation to the department for administration of this~~
16 ~~chapter.~~

17 Section 23. Paragraph (e) of subsection (3) and
18 subsection (5) of section 383.14, Florida Statutes, are
19 amended to read:

20 383.14 Screening for metabolic disorders, other
21 hereditary and congenital disorders, and environmental risk
22 factors.--

23 (3) DEPARTMENT OF HEALTH; POWERS AND DUTIES.--The
24 department shall administer and provide certain services to
25 implement the provisions of this section and shall:

26 (e) Supply the necessary dietary treatment products
27 where practicable for diagnosed cases of phenylketonuria and
28 other metabolic diseases for as long as medically indicated
29 when the products are not otherwise available. Provide
30 nutrition education and supplemental foods to those families

31

1 eligible for the Special Supplemental Nutrition ~~Food~~ Program
2 for Women, Infants, and Children as provided in s. 383.011.

3
4 All provisions of this subsection must be coordinated with the
5 provisions and plans established under this chapter, chapter
6 411, and Pub. L. No. 99-457.

7 (5) ADVISORY COUNCIL.--There is established a Genetics
8 and Infant Screening Advisory Council made up of 12 members
9 appointed by the Secretary of Health. The council shall be
10 composed of two consumer members, three practicing
11 pediatricians, at least one of whom must be a pediatric
12 hematologist, one representative from each of the four medical
13 schools in the state, the Secretary of Health or his or her
14 designee, one representative from the Department of Health
15 representing ~~Division of~~ Children's Medical Services, and one
16 representative from the Developmental Services Program Office
17 of the Department of Children and Family Services. All
18 appointments shall be for a term of 4 years. The chairperson
19 of the council shall be elected from the membership of the
20 council and shall serve for a period of 2 years. The council
21 shall meet at least semiannually or upon the call of the
22 chairperson. The council may establish ad hoc or temporary
23 technical advisory groups to assist the council with specific
24 topics which come before the council. Council members shall
25 serve without pay. Pursuant to the provisions of s. 112.061,
26 the council members are entitled to be reimbursed for per diem
27 and travel expenses. It is the purpose of the council to
28 advise the department about:

29 (a) Conditions for which testing should be included
30 under the screening program and the genetics program;

31

1 (b) Procedures for collection and transmission of
2 specimens and recording of results; and

3 (c) Methods whereby screening programs and genetics
4 services for children now provided or proposed to be offered
5 in the state may be more effectively evaluated, coordinated,
6 and consolidated.

7 Section 24. Subsection (4) of section 385.202, Florida
8 Statutes, is amended to read:

9 385.202 Statewide cancer registry.--

10 (4) Funds appropriated for this section shall be used
11 for establishing, administering, compiling, processing, and
12 providing biometric and statistical analyses to the reporting
13 facilities. Funds may also be used to ensure the quality and
14 accuracy of the information reported and to provide management
15 information to the reporting facilities. ~~Such reporting~~
16 ~~hospitals shall be reimbursed for reasonable costs.~~

17 Section 25. Section 385.203, Florida Statutes, is
18 amended to read:

19 385.203 Diabetes Advisory Council; creation; function;
20 membership.--

21 (1) To guide a statewide comprehensive approach to
22 diabetes prevention, diagnosis, education, care, treatment,
23 impact, and costs thereof, there is created a Diabetes
24 Advisory Council that serves as the advisory unit to the
25 ~~diabetes centers, the Board of Regents, and the Department of~~
26 ~~Health, other governmental agencies, professional and other~~
27 organizations, and the general public. The council shall:

28 (a) Provide statewide leadership to continuously
29 improve the lives of Floridians with diabetes and reduce the
30 burden of diabetes.

31

1 **(b)** Serve as a forum for the discussion and study of
2 issues related to the public health approach for the delivery
3 of health care services to persons with diabetes.

4 ~~(b) Provide advice and consultation to the deans of~~
5 ~~the medical schools in which are located diabetes centers, and~~
6 ~~by June 30 of each year, the council shall submit written~~
7 ~~recommendations to the deans regarding the need for diabetes~~
8 ~~education, treatment, and research activities to promote the~~
9 ~~prevention and control of diabetes.~~

10 (c) By June 30 of each year, meet with the Secretary
11 of Health or ~~his or her~~ designee to make specific
12 recommendations regarding the public health aspects of the
13 prevention and control of diabetes.

14 (2) The members of the council shall be appointed by
15 the Governor with advice from ~~nominations by the Board of~~
16 ~~Regents, the Board of Trustees of the University of Miami, and~~
17 the Secretary of Health. Members shall serve 4-year terms or
18 until their successors are appointed or qualified.

19 (3) The council shall be composed of 25 ~~18~~ citizens of
20 the state who have knowledge of, or work in the area of
21 diabetes mellitus as follows:

22 **(a)** Five interested citizens, three of whom are
23 affected by diabetes.

24 **(b)** Twenty members, who must include one
25 representative from each of the following areas: nursing with
26 diabetes-educator certification; dietary with diabetes
27 educator certification; podiatry; ophthalmology or optometry;
28 psychology; pharmacy; adult endocrinology; pediatric
29 endocrinology; the American Diabetes Association (ADA); the
30 Juvenile Diabetes Foundation (JDF); a community health center;
31 a county health department; an American Diabetes

1 Association-recognized community education program; each
2 medical school in the state; an osteopathic medical school;
3 the insurance industry; a Children's Medical Services diabetes
4 regional program; and an employer.

5 (c) One or more representatives from the Department of
6 Health, who shall serve on the council as ex officio members.
7 ~~four practicing physicians; one representative from each~~
8 ~~medical school; seven interested citizens, at least three of~~
9 ~~whom shall be persons who have or have had diabetes mellitus~~
10 ~~or who have a child with diabetes mellitus; the Secretary of~~
11 ~~Health or his or her designee; one representative from the~~
12 ~~Division of Children's Medical Services of the Department of~~
13 ~~Health; and one professor of nutrition.~~

14 (4)(a) The council shall annually elect from its
15 members a chair and vice chair ~~a secretary~~. The council shall
16 meet at the chair's discretion; however, at least three
17 meetings shall be held each year.

18 (b) In conducting its meetings, the council shall use
19 accepted rules of procedure. A majority of the members of the
20 council constitutes a quorum, and action by a majority of a
21 quorum is necessary for the council to take any official
22 action. The Department of Health ~~secretary~~ shall keep a
23 complete record of the proceedings of each meeting. The
24 record shall show the names of the members present and the
25 actions taken. The records shall be kept on file with the
26 department, and these and other documents about matters within
27 the jurisdiction of the council may be inspected by members of
28 the council.

29 (5) Members of the council shall serve without
30 remuneration but may be reimbursed for per diem and travel
31

1 expenses as provided in s. 112.061, to the extent resources
2 are available.

3 (6) The department shall serve as an intermediary for
4 the council if the council coordinates, applies for, or
5 accepts any grants, funds, gifts, or services made available
6 to it by any agency or department of the Federal Government,
7 or any private agency or individual, for assistance in the
8 operation of the council ~~or the diabetes centers established~~
9 ~~in the various medical schools.~~

10 Section 26. Section 391.028, Florida Statutes, 1998
11 Supplement, is amended to read:

12 391.028 Administration.--The Children's Medical
13 Services program shall have a central office and area offices.

14 (1) The Director of ~~the Division of~~ Children's Medical
15 Services must be a physician licensed under chapter 458 or
16 chapter 459 who has specialized training and experience in the
17 provision of health care to children and who has recognized
18 skills in leadership and the promotion of children's health
19 programs. The ~~division~~ director shall be the deputy secretary
20 and the Deputy State Health Officer for Children's Medical
21 Services and is appointed by and reports to the secretary. The
22 director may appoint division directors subject to the
23 approval of the secretary.

24 (2) The ~~division~~ director shall designate Children's
25 Medical Services area offices to perform operational
26 activities, including, but not limited to:

27 (a) Providing case management services for the
28 network.

29 (b) Providing local oversight of the program.

30 (c) Determining an individual's medical and financial
31 eligibility for the program.

1 (d) Participating in the determination of a level of
2 care and medical complexity for long-term care services.

3 (e) Authorizing services in the program and developing
4 spending plans.

5 (f) Participating in the development of treatment
6 plans.

7 (g) Taking part in the resolution of complaints and
8 grievances from participants and health care providers.

9 (3) Each Children's Medical Services area office shall
10 be directed by a physician licensed under chapter 458 or
11 chapter 459 who has specialized training and experience in the
12 provision of health care to children. The director of a
13 Children's Medical Services area office shall be appointed by
14 the ~~division~~ director from the active panel of Children's
15 Medical Services physician consultants.

16 Section 27. Section 391.0315, Florida Statutes, 1998
17 Supplement, is amended to read:

18 391.0315 Benefits.--Benefits provided under the
19 program for children with special health care needs shall be
20 the same benefits provided to children as specified in ss.
21 409.905 and 409.906. The department may offer additional
22 benefits for early intervention services, respite services,
23 genetic testing, genetic and nutritional counseling, and
24 parent support services, if such services are determined to be
25 medically necessary. No child or person determined eligible
26 for the program who is eligible under Title XIX or Title XXI
27 of the Social Security Act shall receive any service other
28 than an initial health care screening or treatment of an
29 emergency medical condition as defined in s. 395.002, until
30 such child or person is enrolled in Medicaid or a Title XXI
31 program.

1 Section 28. Subsection (3) of section 392.69, Florida
2 Statutes, is amended, and subsection (4) is added to that
3 section, to read:

4 392.69 Appropriation, sinking, and maintenance trust
5 funds; additional powers of the department.--

6 (3) In the execution of its public health program
7 functions, notwithstanding s. 216.292(5)(b), the department is
8 hereby authorized to use any sums of money which it may
9 heretofore have saved or which it may hereafter save from its
10 regular operating appropriation, or use any sums of money
11 acquired by gift or grant, or any sums of money it may acquire
12 by the issuance of revenue certificates of the hospital to
13 match or supplement any state or federal funds, or any moneys
14 received by said department by gift or otherwise, for the
15 construction or maintenance of additional facilities or
16 improvement to existing facilities, as the department deems
17 necessary.

18 (4) The department shall appoint an advisory board,
19 which shall meet quarterly to review and make recommendations
20 relating to patient care at A. G. Holley State Hospital.
21 Members shall be appointed for terms of 3 years, with such
22 appointments being staggered so that terms of no more than two
23 members expire in any one year. Members shall serve without
24 compensation, but they are entitled to be reimbursed for per
25 diem and travel expenses under s. 112.061.

26 Section 29. Subsection (7) of section 401.25, Florida
27 Statutes, is added to read:

28 401.25 Licensure as a basic life support or an
29 advanced life support service.--

30 (7)(a) Each permitted basic life support ambulance not
31 specifically exempted from this part, when transporting a

1 person who is sick, injured, wounded, incapacitated, or
2 helpless, must be occupied by at least two persons: one
3 patient attendant who is a certified emergency medical
4 technician, certified paramedic, or licensed physician; and
5 one ambulance driver who meets the requirements of s. 401.281.
6 This paragraph does not apply to interfacility transfers
7 governed by s. 401.252(1).

8 (b) Each permitted advanced life support ambulance not
9 specifically exempted from this part, when transporting a
10 person who is sick, injured, wounded, incapacitated, or
11 helpless must be occupied by at least two persons: one who is
12 a certified paramedic or licensed physician; and one who is a
13 certified emergency medical technician, certified paramedic,
14 or licensed physician who also meets the requirements of s.
15 401.281 for drivers. The person with the highest medical
16 certifications shall be in charge of patient care. This
17 paragraph does not apply to interfacility transfers governed
18 by s. 401.252(1).

19 Section 30. Subsection (3) of section 401.27, Florida
20 Statutes, is amended to read:

21 401.27 Personnel; standards and certification.--

22 (3) Any person who desires to be certified or
23 recertified as an emergency medical technician or paramedic
24 must apply to the department under oath on forms provided by
25 the department which shall contain such information as the
26 department reasonably requires, which may include affirmative
27 evidence of ability to comply with applicable laws and rules.
28 The department shall determine whether the applicant meets the
29 requirements specified in this section and in rules of the
30 department and shall issue a certificate to any person who
31 meets such requirements.

1 Section 31. Section 401.2701, Florida Statutes, is
2 created to read:

3 401.2701 Emergency medical services training
4 programs.--

5 (1) Any private or public institution in Florida
6 desiring to conduct an approved program for the education of
7 emergency medical technicians and paramedics shall:

8 (a) Submit a completed application on a form provided
9 by the department, which must include:

10 1. Evidence that the institution is in compliance with
11 all applicable requirements of the Department of Education.

12 2. Evidence of an affiliation agreement with a
13 hospital that has an emergency department staffed by at least
14 one physician and one registered nurse.

15 3. Evidence of an affiliation agreement with a current
16 Florida-licensed emergency medical services provider. Such
17 agreement shall include, at a minimum, a commitment by the
18 provider to conduct the field experience portion of the
19 education program.

20 4. Documentation verifying faculty, including:

21 a. A medical director who is a licensed physician
22 meeting the applicable requirements for emergency medical
23 services medical directors as outlined in this chapter and
24 rules of the department. The medical director shall have the
25 duty and responsibility of certifying that graduates have
26 successfully completed all phases of the education program and
27 are proficient in basic or advanced life support techniques,
28 as applicable.

29 b. A program director responsible for the operation,
30 organization, periodic review, administration, development,
31 and approval of the program.

- 1 5. Documentation verifying that the curriculum:
2 a. Meets the course guides and instructor's lesson
3 plans in the most recent Emergency Medical Technician-Basic
4 National Standard Curricula for emergency medical technician
5 programs and Emergency Medical Technician-Paramedic National
6 Standard Curricula for paramedic programs.
7 b. Includes 2 hours of instruction on the trauma
8 scorecard methodologies for assessment of adult trauma
9 patients and pediatric trauma patients as specified by the
10 department by rule.
11 c. Includes 4 hours of instruction on HIV/AIDS
12 training consistent with the requirements of chapter 381.
13 6. Evidence of sufficient medical and educational
14 equipment to meet emergency medical services training program
15 needs.
16 (b) Receive a scheduled site visit from the department
17 to the applicant's institution. Such site visit shall be
18 conducted within 30 days after notification to the institution
19 that the application was accepted. During the site visit, the
20 department must determine the applicant's compliance with the
21 following criteria:
22 1. Emergency medical technician programs must be a
23 minimum of 110 hours, with at least 20 hours of supervised
24 clinical supervision, including 10 hours in a hospital
25 emergency department.
26 2. Paramedic programs must be available only to
27 Florida-certified emergency medical technicians or an
28 emergency medical technician applicant who will obtain Florida
29 certification prior to completion of phase one of the
30 paramedic program. Paramedic programs must be a minimum of 700
31 hours of didactic and skills practice components, with the

1 skills laboratory student-to-instructor ratio not exceeding
2 six to one. Paramedic programs must provide a field internship
3 experience aboard an advanced life support permitted
4 ambulance.

5 (2) After completion of the site visit, the department
6 shall prepare a report which shall be provided to the
7 institution. Upon completion of the report, the application
8 shall be deemed complete and the provisions of s. 120.60,
9 shall apply.

10 (3) If the program is approved, the department must
11 issue the institution a 2-year certificate of approval as an
12 emergency medical technician training program or a paramedic
13 training program. If the application is denied, the department
14 must notify the applicant of any areas of strength, areas
15 needing improvement, and any suggested means of improvement of
16 the program. A denial notification shall be provided to the
17 applicant so as to allow the applicant 5 days prior to the
18 expiration of the application processing time in s. 120.60 to
19 advise the department in writing of its intent to submit a
20 plan of correction. Such intent notification shall provide the
21 time for application processing in s. 120.60. The plan of
22 correction must be submitted to the department within 30 days
23 of the notice. The department shall advise the applicant of
24 its approval or denial of the plan of correction within 30
25 days of receipt. The denial of the plan of correction or
26 denial of the application may be reviewed as provided in
27 chapter 120.

28 (4) Approved emergency medical services training
29 programs must maintain records and reports that must be made
30 available to the department, upon written request. Such
31 records must include student applications, records of

1 attendance, records of participation in hospital clinic and
2 field training, medical records, course objectives and
3 outlines, class schedules, learning objectives, lesson plans,
4 number of applicants, number of students accepted, admission
5 requirements, description of qualifications, duties and
6 responsibilities of faculty, and correspondence.

7 (5) Each approved program must notify the department
8 within 30 days of any change in the professional or employment
9 status of faculty. Each approved program must require its
10 students to pass a comprehensive final written and practical
11 examination evaluating the skills described in the current
12 United States Department of Transportation EMT-Basic or
13 EMT-Paramedic, National Standard Curriculum. Each approved
14 program must issue a certificate of completion to program
15 graduates within 14 days of completion.

16 Section 32. Section 401.2715, Florida Statutes, is
17 created to read:

18 401.2715 Recertification training of emergency medical
19 technicians and paramedics.--

20 (1) The department shall establish by rule criteria
21 for all emergency medical technician and paramedic
22 recertification training. The rules shall provide that all
23 recertification training equals at least 30 hours, includes
24 the performance parameters for adult and pediatric emergency
25 medical clinical care, and is documented through a system of
26 recordkeeping.

27 (2) Any individual, institution, school, corporation,
28 or governmental entity may conduct emergency medical
29 technician or paramedic recertification training upon
30 application to the department and payment of a nonrefundable
31 fee to be deposited into the Emergency Medical Services Trust

1 Fund. Institutions conducting department-approved educational
2 programs as provided in this chapter and licensed ambulance
3 services are exempt from the application process and payment
4 of fees. The department shall adopt rules for the application
5 and payment of a fee not to exceed the actual cost of
6 administering this approval process.

7 (3) To be eligible for recertification as provided in
8 s. 401.27, certified emergency medical technicians and
9 paramedics must provide proof of completion of training
10 conducted pursuant to this section. The department shall
11 accept the written affirmation of a licensee's or a
12 department-approved educational program's medical director as
13 documentation that the certificateholder has completed a
14 minimum of 30 hours of recertification training as provided
15 herein.

16 Section 33. Present subsections (2), (3), and (4) of
17 section 401.30, Florida Statutes, 1998 Supplement, are
18 renumbered as subsections (3), (4), and (5), respectively, and
19 a new subsection (2) is added to said section, to read:

20 401.30 Records.--

21 (2) Each licensee must provide the receiving hospital
22 with a copy of an individual patient care record for each
23 patient who is transported to the hospital. The information
24 contained in the record and the method and timeframe for
25 providing the record shall be prescribed by rule of the
26 department.

27 ~~(3)~~(2) Reports to the department from licensees which
28 cover statistical data are public records, except that the
29 names of patients and other patient-identifying information
30 contained in such reports are confidential and exempt from the
31 provisions of s. 119.07(1). Any record furnished by a

1 licensee at the request of the department must be a true and
2 certified copy of the original record and may not be altered
3 or have information deleted.

4 (4)~~(3)~~ Records of emergency calls which contain
5 patient examination or treatment information are confidential
6 and exempt from the provisions of s. 119.07(1) and may not be
7 disclosed without the consent of the person to whom they
8 pertain, but appropriate limited disclosure may be made
9 without such consent:

10 (a) To the person's guardian, to the next of kin if
11 the person is deceased, or to a parent if the person is a
12 minor;

13 (b) To hospital personnel for use in conjunction with
14 the treatment of the patient;

15 (c) To the department;

16 (d) To the service medical director;

17 (e) For use in a critical incident stress debriefing.

18 Any such discussions during a critical incident stress
19 debriefing shall be considered privileged communication under
20 s. 90.503;

21 (f) In any civil or criminal action, unless otherwise
22 prohibited by law, upon the issuance of a subpoena from a
23 court of competent jurisdiction and proper notice by the party
24 seeking such records, to the patient or his or her legal
25 representative; or

26 (g) To a local trauma agency or a regional trauma
27 agency, or a panel or committee assembled by such an agency to
28 assist the agency in performing quality assurance activities
29 in accordance with a plan approved under s. 395.401. Records
30 obtained under this paragraph are confidential and exempt from
31 s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

1
2 This subsection does not prohibit the department or a licensee
3 from providing information to any law enforcement agency or
4 any other regulatory agency responsible for the regulation or
5 supervision of emergency medical services and personnel.

6 ~~(5)(4)~~ The department shall adopt and enforce all
7 rules necessary to administer this section.

8 Section 34. Paragraph (1) is added to subsection (1)
9 of section 401.35, Florida Statutes, and paragraph (i) is
10 added to subsection (2) of said section, to read:

11 401.35 Rules.--The department shall adopt rules
12 necessary to carry out the purposes of this part.

13 (1) The rules must provide at least minimum standards
14 governing:

15 (1) Licensees' security and storage of controlled
16 substances, medications, and fluids, not inconsistent with the
17 provisions of chapter 499 or chapter 893.

18 (2) The rules must establish application requirements
19 for licensure and certification. Pursuant thereto, the
20 department must develop application forms for basic life
21 support services and advanced life support services. An
22 application for each respective service license must include,
23 but is not limited to:

24 (i) An oath, upon forms provided by the department
25 which shall contain such information as the department
26 reasonably requires, which may include affirmative evidence of
27 ability to comply with applicable laws and rules.

28 Section 35. Subsection (3) of section 409.9126,
29 Florida Statutes, 1998 Supplement, is amended to read:

30 409.9126 Children with special health care needs.--
31

1 (3) Services provided through the Children's Medical
2 Services network shall be reimbursed on a fee-for-service
3 basis and shall utilize a primary care case management
4 process. Beginning July 1, 1999, the Florida Medicaid program
5 shall phase in by geographical area, capitation payments to
6 Children's Medical Services for services provided to Medicaid
7 children with special healthcare needs. By January 1, 2001,
8 the Agency for Health Care Administration shall make
9 capitation payments for Children's Medical Services enrollees
10 statewide, to the extent provided by federal law.~~However,~~
11 ~~effective July 1, 1999, reimbursement to the Children's~~
12 ~~Medical Services program for services provided to~~
13 ~~Medicaid-eligible children with special health care needs~~
14 ~~through the Children's Medical Services network shall be on a~~
15 ~~capitated basis.~~

16 Section 36. Paragraph (a) of subsection (2) of section
17 465.019, Florida Statutes, 1998 Supplement, is amended to
18 read:

19 465.019 Institutional pharmacies; permits.--

20 (2) The following classes of institutional pharmacies
21 are established:

22 (a) "Class I institutional pharmacies" are those
23 institutional pharmacies in which all medicinal drugs are
24 administered from individual prescription containers to the
25 individual patient and in which medicinal drugs are not
26 dispensed on the premises, except that nursing homes licensed
27 under part II of chapter 400 may purchase medical oxygen for
28 administration to residents. No medicinal drugs may be
29 dispensed in a Class I institutional pharmacy.

30 Section 37. Subsections (14), (15), (16), (19), and
31 (22) of section 499.005, Florida Statutes, 1998 Supplement,

1 are amended, and subsection (24) is added to that section, to
2 read:

3 499.005 Prohibited acts.--It is unlawful to perform or
4 cause the performance of any of the following acts in this
5 state:

6 (14) The purchase or receipt of a legend drug from a
7 person that is not authorized under this chapter ~~the law of~~
8 ~~the state in which the person resides~~ to distribute legend
9 drugs.

10 (15) The sale or transfer of a legend drug to a person
11 that is not authorized under the law of the jurisdiction in
12 which the person receives the drug ~~resides~~ to purchase or
13 possess legend drugs.

14 (16) The purchase or receipt of a compressed medical
15 gas from a person that is not authorized under this chapter
16 ~~the law of the state in which the person resides~~ to distribute
17 compressed medical gases.

18 (19) Providing the department with false or fraudulent
19 records, or making false or fraudulent statements, regarding
20 any matter within the provisions of this chapter ~~a drug,~~
21 ~~device, or cosmetic.~~

22 (22) Failure to obtain a permit or registration, or
23 operating without a valid permit when a permit or registration
24 is, as required by ss. 499.001-499.081 for that activity.

25 (24) The distribution of a legend device to the
26 patient or ultimate consumer without a prescription or order
27 from a practitioner licensed by law to use or prescribe the
28 device.

29 Section 38. Subsection (13) of section 499.007,
30 Florida Statutes, is amended to read:

31

1 499.007 Misbranded drug or device.--A drug or device
2 is misbranded:

3 (13) If it is a drug that is subject to paragraph
4 (12)(a), and if, at any time before it is dispensed, its label
5 fails to bear the statement:

6 (a) "Caution: Federal Law Prohibits Dispensing
7 Without Prescription"; ~~or~~

8 (b) "Rx Only";

9 (c) The prescription symbol followed by the word
10 "Only"; or

11 (d)~~(b)~~ "Caution: State Law Prohibits Dispensing
12 Without Prescription."

13

14 A drug dispensed by filling or refilling a written or oral
15 prescription of a practitioner licensed by law to prescribe
16 such drug is exempt from the requirements of this section,
17 except subsections (1), (8), (10), and (11) and the packaging
18 requirements of subsections (6) and (7), if the drug bears a
19 label that contains the name and address of the dispenser or
20 seller, the prescription number and the date the prescription
21 was written or filled, the name of the prescriber and the name
22 of the patient, and the directions for use and cautionary
23 statements. This exemption does not apply to any drug
24 dispensed in the course of the conduct of a business of
25 dispensing drugs pursuant to diagnosis by mail or to any drug
26 dispensed in violation of subsection (12). The department
27 may, by rule, exempt drugs subject to ss. 499.062-499.064 from
28 subsection (12) if compliance with that subsection is not
29 necessary to protect the public health, safety, and welfare.

30 Section 39. Subsection (15) of section 499.028,
31 Florida Statutes, is amended to read:

1 499.028 Drug samples or complimentary drugs; starter
2 packs; permits to distribute.--

3 (15) A person may not possess a prescription drug
4 sample unless:

5 (a) The drug sample was prescribed to her or him as
6 evidenced by the label required in s. 465.0276(5).

7 (b) She or he is the employee of a complimentary drug
8 distributor that holds a permit issued under ss.
9 499.001-499.081.

10 (c) She or he is a person to whom prescription drug
11 samples may be distributed pursuant to this section.

12 (d) He or she is an officer or employee of a federal,
13 state, or local government acting within the scope of his or
14 her employment.

15 Section 40. Subsection (1) of section 499.069, Florida
16 Statutes, is amended to read:

17 499.069 Punishment for violations of s. 499.005;
18 dissemination of false advertisement.--

19 (1) Any person who violates any of the provisions of
20 s. 499.005 is guilty of a misdemeanor of the second degree,
21 punishable as provided in s. 775.082 or s. 775.083; but, if
22 the violation is committed after a conviction of such person
23 under this section has become final, such person is guilty of
24 a misdemeanor of the first degree, punishable as provided in
25 s. 775.082 or s. 775.083 or as otherwise provided in ss.
26 499.001-499.081, except that any person who violates
27 subsection (8), subsection (10), subsection (14), subsection
28 (15), ~~subsection (16)~~, or subsection (17) of s. 499.005 is
29 guilty of a felony of the third degree, punishable as provided
30 in s. 775.082, s. 775.083, or s. 775.084, or as otherwise
31 provided in ss. 499.001-499.081.

1 Section 41. Subsection (1) of section 742.10, Florida
2 Statutes, is amended to read:

3 742.10 Establishment of paternity for children born
4 out of wedlock.--

5 (1) This chapter provides the primary jurisdiction and
6 procedures for the determination of paternity for children
7 born out of wedlock. When the establishment of paternity has
8 been raised and determined within an adjudicatory hearing
9 brought under the statutes governing inheritance, or
10 dependency under workers' compensation or similar compensation
11 programs, or when an affidavit acknowledging paternity or a
12 stipulation of paternity is executed by both parties and filed
13 with the clerk of the court, or when a consenting affidavit as
14 provided for in s. 382.013 or s. 382.016 ~~s. 382.015~~ is
15 executed by both parties, it shall constitute the
16 establishment of paternity for purposes of this chapter. If no
17 adjudicatory proceeding was held, a voluntary acknowledgment
18 of paternity shall create a rebuttable presumption, as defined
19 by s. 90.304, of paternity and is subject to the right of any
20 signatory to rescind the acknowledgment within 60 days of the
21 date the acknowledgment was signed or the date of an
22 administrative or judicial proceeding relating to the child,
23 including a proceeding to establish a support order, in which
24 the signatory is a party, whichever is earlier. Both parents
25 are required to provide their social security numbers on any
26 acknowledgment of paternity, consent affidavit, or stipulation
27 of paternity. Except for consenting affidavits under seal
28 pursuant to ~~ss.~~s.382.015 and 382.016, the Office of Vital
29 Statistics shall provide certified copies of affidavits to the
30 Title IV-D agency upon request.

31

1 Section 42. Section 39.303, Florida Statutes, 1998
2 Supplement, is amended to read:

3 39.303 Child protection teams; services; eligible
4 cases.--~~The Division of Children's Medical Services of the~~
5 Department of Health shall develop, maintain, and coordinate
6 the services of one or more multidisciplinary child protection
7 teams in each of the service districts of the Department of
8 Children and Family Services. Such teams may be composed of
9 representatives of appropriate health, mental health, social
10 service, legal service, and law enforcement agencies. The
11 Legislature finds that optimal coordination of child
12 protection teams and sexual abuse treatment programs requires
13 collaboration between the Department of Health and the
14 Department of Children and Family Services. The two
15 departments shall maintain an interagency agreement that
16 establishes protocols for oversight and operations of child
17 protection teams and sexual abuse treatment programs. The
18 Secretary of Health and the director of ~~Deputy Secretary for~~
19 Children's Medical Services, in consultation with the
20 Secretary of Children and Family Services, shall maintain the
21 responsibility for the screening, employment, and, if
22 necessary, the termination of child protection team medical
23 directors, at headquarters and in the 15 districts. Child
24 protection team medical directors shall be responsible for
25 oversight of the teams in the districts.

26 (1) The Department of Health shall utilize and convene
27 the teams to supplement the assessment and protective
28 supervision activities of the family safety and preservation
29 program of the Department of Children and Family Services.
30 Nothing in this section shall be construed to remove or reduce
31 the duty and responsibility of any person to report pursuant

1 to this chapter all suspected or actual cases of child abuse,
2 abandonment, or neglect or sexual abuse of a child. The role
3 of the teams shall be to support activities of the program and
4 to provide services deemed by the teams to be necessary and
5 appropriate to abused, abandoned, and neglected children upon
6 referral. The specialized diagnostic assessment, evaluation,
7 coordination, consultation, and other supportive services that
8 a child protection team shall be capable of providing include,
9 but are not limited to, the following:

10 (a) Medical diagnosis and evaluation services,
11 including provision or interpretation of X rays and laboratory
12 tests, and related services, as needed, and documentation of
13 findings relative thereto.

14 (b) Telephone consultation services in emergencies and
15 in other situations.

16 (c) Medical evaluation related to abuse, abandonment,
17 or neglect, as defined by policy or rule of the Department of
18 Health.

19 (d) Such psychological and psychiatric diagnosis and
20 evaluation services for the child or the child's parent or
21 parents, legal custodian or custodians, or other caregivers,
22 or any other individual involved in a child abuse,
23 abandonment, or neglect case, as the team may determine to be
24 needed.

25 (e) Expert medical, psychological, and related
26 professional testimony in court cases.

27 (f) Case staffings to develop treatment plans for
28 children whose cases have been referred to the team. A child
29 protection team may provide consultation with respect to a
30 child who is alleged or is shown to be abused, abandoned, or
31 neglected, which consultation shall be provided at the request

1 of a representative of the family safety and preservation
2 program or at the request of any other professional involved
3 with a child or the child's parent or parents, legal custodian
4 or custodians, or other caregivers. In every such child
5 protection team case staffing, consultation, or staff activity
6 involving a child, a family safety and preservation program
7 representative shall attend and participate.

8 (g) Case service coordination and assistance,
9 including the location of services available from other public
10 and private agencies in the community.

11 (h) Such training services for program and other
12 employees of the Department of Children and Family Services,
13 employees of the Department of Health, and other medical
14 professionals as is deemed appropriate to enable them to
15 develop and maintain their professional skills and abilities
16 in handling child abuse, abandonment, and neglect cases.

17 (i) Educational and community awareness campaigns on
18 child abuse, abandonment, and neglect in an effort to enable
19 citizens more successfully to prevent, identify, and treat
20 child abuse, abandonment, and neglect in the community.

21 (2) The child abuse, abandonment, and neglect cases
22 that are appropriate for referral by the family safety and
23 preservation program to child protection teams of the
24 Department of Health for support services as set forth in
25 subsection (1) include, but are not limited to, cases
26 involving:

27 (a) Bruises, burns, or fractures in a child under the
28 age of 3 years or in a nonambulatory child of any age.

29 (b) Unexplained or implausibly explained bruises,
30 burns, fractures, or other injuries in a child of any age.

31

1 (c) Sexual abuse of a child in which vaginal or anal
2 penetration is alleged or in which other unlawful sexual
3 conduct has been determined to have occurred.

4 (d) Venereal disease, or any other sexually
5 transmitted disease, in a prepubescent child.

6 (e) Reported malnutrition of a child and failure of a
7 child to thrive.

8 (f) Reported medical, physical, or emotional neglect
9 of a child.

10 (g) Any family in which one or more children have been
11 pronounced dead on arrival at a hospital or other health care
12 facility, or have been injured and later died, as a result of
13 suspected abuse, abandonment, or neglect, when any sibling or
14 other child remains in the home.

15 (h) Symptoms of serious emotional problems in a child
16 when emotional or other abuse, abandonment, or neglect is
17 suspected.

18 (3) In all instances in which a child protection team
19 is providing certain services to abused, abandoned, or
20 neglected children, other offices and units of the Department
21 of Health, and offices and units of the Department of Children
22 and Family Services, shall avoid duplicating the provision of
23 those services.

24 Section 43. Subsection (3) of section 385.203, Florida
25 Statutes, is amended to read:

26 385.203 Diabetes Advisory Council; creation; function;
27 membership.--

28 (3) The council shall be composed of 18 citizens of
29 the state as follows: four practicing physicians; one
30 representative from each medical school; seven interested
31 citizens, at least three of whom shall be persons who have or

1 have had diabetes mellitus or who have a child with diabetes
2 mellitus; the Secretary of Health or his or her designee; one
3 representative from the ~~Division of Children's Medical~~
4 ~~Services of the~~ Department of Health who represents Children's
5 Medical Services; and one professor of nutrition.

6 Section 44. Subsection (8) of section 391.021, Florida
7 Statutes, 1998 Supplement, is amended to read:

8 391.021 Definitions.--When used in this act, unless
9 the context clearly indicates otherwise:

10 (8) "Program" means the Children's Medical Services
11 program established in the ~~Division of Children's Medical~~
12 ~~Services of the~~ department.

13 Section 45. Paragraph (b) of subsection (1) of section
14 391.221, Florida Statutes, 1998 Supplement, is amended to
15 read:

16 391.221 Statewide Children's Medical Services Network
17 Advisory Council.--

18 (1) The secretary of the department may appoint a
19 Statewide Children's Medical Services Network Advisory Council
20 for the purpose of acting as an advisory body to the
21 department. Specifically, the duties of the council shall
22 include, but not be limited to:

23 (b) Making recommendations to the director of ~~the~~
24 ~~Division of~~ Children's Medical Services concerning the
25 selection of health care providers for the Children's Medical
26 Services network.

27 Section 46. Subsection (1) of section 391.222, Florida
28 Statutes, 1998 Supplement, is amended to read:

29 391.222 Cardiac Advisory Council.--

30 (1) The secretary of the department may appoint a
31 Cardiac Advisory Council for the purpose of acting as the

1 advisory body to the Department of Health ~~Division of~~
2 ~~Children's Medical Services~~ in the delivery of cardiac
3 services to children. Specifically, the duties of the council
4 shall include, but not be limited to:

5 (a) Recommending standards for personnel and
6 facilities rendering cardiac services ~~for the Division of~~
7 ~~Children's Medical Services~~;

8 (b) Receiving reports of the periodic review of
9 cardiac personnel and facilities to determine if established
10 standards for the ~~Division of Children's Medical Services~~
11 cardiac services are met;

12 (c) Making recommendations to the ~~division~~ director as
13 to the approval or disapproval of reviewed personnel and
14 facilities;

15 (d) Making recommendations as to the intervals for
16 reinspection of approved personnel and facilities; and

17 (e) Providing input ~~to the Division of Children's~~
18 ~~Medical Services~~ on all aspects of Children's Medical Services
19 cardiac programs, including the rulemaking process.

20 Section 47. Section 391.223, Florida Statutes, 1998
21 Supplement, is amended to read:

22 391.223 Technical advisory panels.--The secretary of
23 the department may establish technical advisory panels to
24 assist ~~the Division of Children's Medical Services~~ in
25 developing specific policies and procedures for the Children's
26 Medical Services program.

27 Section 48. Subsection (3) of section 381.731, Florida
28 Statutes, as amended by section 2 of chapter 98-224, Laws of
29 Florida, is repealed.

30 Section 49. Subsection (5) of section 383.307, Florida
31 Statutes, is repealed.

1 Section 50. Subsection (7) of section 404.20, Florida
2 Statutes, is repealed.

3 Section 51. Section 409.9125, Florida Statutes, is
4 repealed.

5 Section 52. The building that is known as the "1911
6 State Board of Health Building" which is part of a
7 multi-building complex with the address of 1217 Pearl Street,
8 Jacksonville, Florida, shall be known as the "Wilson T.
9 Sowder, M.D., Building."

10 Section 53. The building authorized by chapter 98-307,
11 Laws of Florida, which will be located at the University of
12 South Florida which will house laboratory facilities for the
13 Department of Health shall be known as the "William G. 'Doc'
14 Myers, M.D., Building."

15 Section 54. The Department of Health headquarters
16 building which will comprise approximately 100,000 square feet
17 which is authorized by Specific Appropriation 1986 in the
18 1998-1999 General Appropriations Act shall be known as the "E.
19 Charlton Prather, M.D., Building."

20 Section 55. The Department of Health may apply for and
21 become a National Environmental Laboratory Accreditation
22 Program accrediting authority. The department, as an
23 accrediting entity, may adopt rules pursuant to sections
24 120.536(1) and 120.54, Florida Statutes, to implement
25 standards of the National Environmental Laboratory
26 Accreditation Program, including requirements for proficiency
27 testing providers and other rules that are not inconsistent
28 with this section, including rules pertaining to fees,
29 application procedures, standards applicable to environmental
30 or public water supply laboratories, and compliance.

31

1 Section 56. Section 381.0022, Florida Statutes, 1998
2 Supplement, is amended to read:

3 381.0022 Sharing confidential or exempt information.--

4 (1) Notwithstanding any other provision of law to the
5 contrary, the Department of Health and the Department of
6 Children and Family Services may share confidential
7 information or information exempt from disclosure under
8 chapter 119 on any individual who is or has been the subject
9 of a program within the jurisdiction of each agency.
10 Information so exchanged remains confidential or exempt as
11 provided by law.

12 (2) Notwithstanding any other provision of law to the
13 contrary, the Department of Health may share confidential
14 information or information exempt from disclosure under
15 chapter 119 on any individual who is or has been a Medicaid
16 recipient and is or was the subject of a program within the
17 jurisdiction of the Department of Health, for the purpose of
18 requesting, receiving, or auditing payment for services.
19 Information so exchanged remains confidential or exempt as
20 provided by law.

21 Section 57. Paragraph (c) of subsection (2) of section
22 383.011, Florida Statutes, 1998 Supplement, is amended to
23 read:

24 383.011 Administration of maternal and child health
25 programs.--

26 (2) The Department of Health shall follow federal
27 requirements and may adopt any rules necessary for the
28 implementation of the maternal and child health care program,
29 the WIC program, and the Child Care Food Program.

30 (c) With respect to the Child Care Food Program, the
31 department shall adopt rules that interpret and implement

1 relevant federal regulations, including 7 C.F.R. part 226. The
2 rules ~~may~~ must address at least those program requirements and
3 procedures identified in paragraph (1)(i).

4 Section 58. Section 468.304, Florida Statutes, 1998
5 Supplement, is amended to read:

6 468.304 Certification examination; admission.--The
7 department shall admit to examination for certification any
8 applicant who pays to the department a nonrefundable fee not
9 to exceed \$100 plus the actual per-applicant cost to the
10 department for purchasing the examination from a national
11 organization and submits satisfactory evidence, verified by
12 oath or affirmation, that she or he:

13 (1) Is at least 18 years of age at the time of
14 application;

15 (2) Is a high school graduate or has successfully
16 completed the requirements for a graduate equivalency diploma
17 (GED) or its equivalent;

18 (3) Is of good moral character; and

19 (4)(a) Has successfully completed an educational
20 program, which program may be established in a hospital
21 licensed pursuant to chapter 395 or in an accredited
22 postsecondary academic institution which is subject to
23 approval by the department as maintaining a satisfactory
24 standard; or

25 (b)1. With respect to an applicant for a basic X-ray
26 machine operator's certificate, has completed a course of
27 study approved by the department with appropriate study
28 material provided the applicant by the department;

29 2. With respect to an applicant for a basic X-ray
30 machine operator-podiatric medicine certificate, has completed
31 a course of study approved by the department, provided that

1 such course of study shall be limited to that information
2 necessary to perform radiographic procedures within the scope
3 of practice of a podiatric physician licensed pursuant to
4 chapter 461;

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

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

19
20 No application for a limited computed tomography certificate
21 shall be accepted. All persons holding valid computed
22 tomography certificates as of October 1, 1984, are subject to
23 the provisions of s. 468.309.

24 Section 59. Subsection (4) of section 468.306, Florida
25 Statutes, 1998 Supplement, is amended to read:

26 468.306 Examinations.--All applicants, except those
27 certified pursuant to s. 468.3065, shall be required to pass
28 an examination. The department is authorized to develop or
29 use examinations for each type of certificate.

30 (4) A nonrefundable fee not to exceed \$75 plus the
31 actual per-applicant cost for purchasing the examination from

1 a national organization shall be charged for any subsequent
2 examination.

3 Section 60. Paragraph (a) of subsection (1) of section
4 468.309, Florida Statutes, is amended to read:

5 468.309 Certificate; duration; renewal; reversion to
6 inactive status.--

7 (1)(a) A radiologic technologist's certificate issued
8 in accordance with this part ~~automatically~~ expires as
9 specified in rules adopted by the department which establish a
10 procedure for the biennial renewal of certificates on December
11 ~~31 of the year following the year of issuance.~~ A certificate
12 shall be renewed by the department for a period of 2 years
13 upon payment of a renewal fee in an amount not to exceed \$75
14 and upon submission of a renewal application containing such
15 information as the department deems necessary to show that the
16 applicant for renewal is a radiologic technologist in good
17 standing and has completed any continuing education
18 requirements that ~~which may be established by~~ the department
19 establishes.

20 Section 61. Subsection (1) of section 455.565, Florida
21 Statutes, 1998 Supplement, is amended to read:

22 455.565 Designated health care professionals;
23 information required for licensure.--

24 (1) Each person who applies for initial licensure as a
25 physician under chapter 458, chapter 459, chapter 460, or
26 chapter 461, except a person applying for registration
27 pursuant to ss. 458.345 and 459.021 must, at the time of
28 application, and each physician who applies for license
29 renewal under chapter 458, chapter 459, chapter 460, or
30 chapter 461, except a person registered pursuant to ss.
31 458.345 and 459.021 must, in conjunction with the renewal of

1 such license and under procedures adopted by the Department of
2 Health, and in addition to any other information that may be
3 required from the applicant, furnish the following information
4 to the Department of Health:

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

11 2. The name of each hospital at which the applicant
12 has privileges.

13 3. The address at which the applicant will primarily
14 conduct his or her practice.

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

18 5. The year that the applicant began practicing
19 medicine.

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

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

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

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

28 (b) In addition to the information required under
29 paragraph (a), each applicant who seeks licensure under
30 chapter 458, chapter 459, or chapter 461, and who has
31 practiced previously in this state or in another jurisdiction

1 or a foreign country must provide the information required of
2 licensees under those chapters pursuant to s. 455.697. An
3 applicant for licensure under chapter 460 who has practiced
4 previously in this state or in another jurisdiction or a
5 foreign country must provide the same information as is
6 required of licensees under chapter 458, pursuant to s.
7 455.697.

8 Section 62. (1) The Division of Children's Medical
9 Services of the Department of Health shall contract with a
10 private nonprofit provider affiliated with a teaching hospital
11 to conduct clinical trials, approved by a federally-sanctioned
12 institutional review board within the teaching hospital, on
13 the use of the drug Secretin to treat autism.

14 (2) The private nonprofit provider shall report its
15 findings to the Division of Children's Medical Services, the
16 President of the Senate, the Speaker of the House of
17 Representatives, and other appropriate bodies.

18 Section 63. The sum of \$50,000 is appropriated to the
19 Division of Children's Medical Services of the Department of
20 Health from the General Revenue Fund for the purpose of
21 implementing this act.

22 Section 64. Paragraph (b) of subsection (3) of section
23 232.435, Florida Statutes, is amended to read:

24 232.435 Extracurricular athletic activities; athletic
25 trainers.--

26 (3)

27 (b) If a school district uses the services of an
28 athletic trainer who is not a teacher athletic trainer or a
29 teacher apprentice trainer within the requirements of this
30 section, such athletic trainer must be licensed as required by
31 part XIII ~~XIV~~ of chapter 468.

1 Section 65. Subsection (2) of section 381.026, Florida
2 Statutes, 1998 Supplement, is amended to read:

3 381.026 Florida Patient's Bill of Rights and
4 Responsibilities.--

5 (2) DEFINITIONS.--As used in this section and s.
6 381.0261, the term:

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

8 (b)~~(a)~~ "Health care facility" means a facility
9 licensed under chapter 395.

10 (c)~~(b)~~ "Health care provider" means a physician
11 licensed under chapter 458, an osteopathic physician licensed
12 under chapter 459, or a podiatric physician licensed under
13 chapter 461.

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

17 Section 66. Subsection (4) of section 381.0261,
18 Florida Statutes, 1998 Supplement, is amended to read:

19 381.0261 Summary of patient's bill of rights;
20 distribution; penalty.--

21 (4)(a) An administrative fine may be imposed by the
22 Agency for Health Care Administration when any ~~health care~~
23 ~~provider~~ or health care facility fails to make available to
24 patients a summary of their rights, pursuant to s. 381.026 and
25 this section. Initial nonwillful violations shall be subject
26 to corrective action and shall not be subject to an
27 administrative fine. The Agency for Health Care Administration
28 may levy a fine against a health care facility of up to \$5,000
29 for nonwillful violations, and up to \$25,000 for intentional
30 and willful violations. Each intentional and willful violation
31

1 constitutes a separate violation and is subject to a separate
2 fine.

3 (b) An administrative fine may be imposed by the
4 appropriate regulatory board, or the department if there is no
5 board, when any health care provider fails to make available
6 to patients a summary of their rights, pursuant to s. 381.026
7 and this section. Initial nonwillful violations shall be
8 subject to corrective action and shall not be subject to an
9 administrative fine.The appropriate regulatory board or
10 department ~~agency~~ may levy a fine against a health care
11 provider of up to \$100 for nonwillful violations and up to
12 \$500 for willful violations. Each intentional and willful
13 violation constitutes a separate violation and is subject to a
14 separate fine.

15 Section 67. Subsection (11) of section 409.906,
16 Florida Statutes, 1998 Supplement, is amended to read:

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

1 (11) HEALTHY START SERVICES.--The agency may pay for a
2 continuum of risk-appropriate medical and psychosocial
3 services for the Healthy Start program in accordance with a
4 federal waiver. The agency may not implement the federal
5 waiver unless the waiver permits the state to limit enrollment
6 or the amount, duration, and scope of services to ensure that
7 expenditures will not exceed funds appropriated by the
8 Legislature or available from local sources. If the Health
9 Care Financing Administration does not approve a federal
10 waiver for Healthy Start services, the agency, in consultation
11 with the Department of Health and the Florida Association of
12 Healthy Start Coalitions, is authorized to establish a
13 Medicaid certified-match program for Healthy Start services.
14 Participation in the Healthy Start certified-match program
15 shall be voluntary and reimbursement shall be limited to the
16 federal Medicaid share to Medicaid-enrolled Healthy Start
17 coalitions for services provided to Medicaid recipients. The
18 agency shall take no action to implement a certified-match
19 program without ensuring that the amendment and review
20 requirements of ss. 216.177 and 216.181 have been met.

21 Section 68. Subsection (21) of section 409.910,
22 Florida Statutes, 1998 Supplement, is renumbered as subsection
23 (22), and a new subsection (21) is added to that section to
24 read:

25 409.910 Responsibility for payments on behalf of
26 Medicaid-eligible persons when other parties are liable.--

27 (21) Entities providing health insurance as defined in
28 s. 624.603, and health maintenance organizations as defined in
29 chapter 641, requiring tape or electronic billing formats from
30 the agency shall accept Medicaid billings that are prepared
31 using the current Medicare standard billing format. If the

1 insurance entity or health maintenance organization is unable
2 to use the agency format, the entity shall accept paper claims
3 from the agency in lieu of tape or electronic billing,
4 provided that these claims are prepared using current Medicare
5 standard billing formats.

6 Section 69. Section 409.9101, Florida Statutes, is
7 created to read:

8 409.9101 Recovery for payments made on behalf of
9 Medicaid-eligible persons.--

10 (1) This section may be cited as the "Medicaid Estate
11 Recovery Act."

12 (2) It is the intent of the Legislature by this
13 section to supplement Medicaid funds that are used to provide
14 medical services to eligible persons. Medicaid estate recovery
15 shall generally be accomplished through the filing of claims
16 against the estates of deceased Medicaid recipients. The
17 recoveries shall be made pursuant to federal authority in s.
18 13612 of the Omnibus Budget Reconciliation Act of 1993, which
19 amends s. 1917(b)(1) of the Social Security Act (42 U.S.C. s.
20 1396p(b)(1)).

21 (3) Pursuant to s. 733.212(4)(a), the personal
22 representative of the estate of the decedent shall serve the
23 agency with a copy of the notice of administration of the
24 estate within 3 months after the first publication of the
25 notice, unless the agency has already filed a claim pursuant
26 to this section.

27 (4) The acceptance of public medical assistance, as
28 defined by Title XIX (Medicaid) of the Social Security Act,
29 including mandatory and optional supplemental payments under
30 the Social Security Act, shall create a claim, as defined in
31 s. 731.201, in favor of the agency as an interested person as

1 defined in s. 731.201. The claim amount is calculated as the
2 total amount paid to or for the benefit of the recipient for
3 medical assistance on behalf of the recipient after he or she
4 reached 55 years of age. There is no claim under this section
5 against estates of recipients who had not yet reached 55 years
6 of age.

7 (5) At the time of filing the claim, the agency may
8 reserve the right to amend the claim amounts based on medical
9 claims submitted by providers subsequent to the agency's
10 initial claim calculation.

11 (6) The claim of the agency shall be the current total
12 allowable amount of Medicaid payments as denoted in the
13 agency's provider payment processing system at the time the
14 agency's claim or amendment is filed. The agency's provider
15 processing system reports shall be admissible as prima facie
16 evidence in substantiating the agency's claim.

17 (7) The claim of the agency under this section shall
18 constitute a Class 3 claim under s. 733.707(1)(c), as provided
19 in s. 414.28(1).

20 (8) The claim created under this section shall not be
21 enforced if the recipient is survived by:

22 (a) A spouse;

23 (b) A child or children under 21 years of age; or

24 (c) A child or children who are blind or permanently
25 and totally disabled pursuant to the eligibility requirements
26 of Title XIX of the Social Security Act.

27 (9) In accordance with s. 4, Art. X of the State
28 Constitution, no claim under this section shall be enforced
29 against any property that is determined to be the homestead of
30 the deceased Medicaid recipient and is determined to be exempt
31

1 from the claims of creditors of the deceased Medicaid
2 recipient.

3 (10) The agency shall not recover from an estate if
4 doing so would cause undue hardship for the qualified heirs,
5 as defined in s. 731.201. The personal representative of an
6 estate and any heir may request that the agency waive recovery
7 of any or all of the debt when recovery would create a
8 hardship. A hardship does not exist solely because recovery
9 will prevent any heirs from receiving an anticipated
10 inheritance. The following criteria shall be considered by the
11 agency in reviewing a hardship request:

12 (a) The heir:

13 1. Currently resides in the residence of the decedent;

14 2. Resided there at the time of the death of the
15 decedent;

16 3. Has made the residence his or her primary residence
17 for the 12 months immediately preceding the death of the
18 decedent; and

19 4. Owns no other residence;

20 (b) The heir would be deprived of food, clothing,
21 shelter, or medical care necessary for the maintenance of life
22 or health;

23 (c) The heir can document that he or she provided
24 full-time care to the recipient which delayed the recipient's
25 entry into a nursing home. The heir must be either the
26 decedent's sibling or the son or daughter of the decedent and
27 must have resided with the recipient for at least 1 year prior
28 to the recipient's death; or

29 (d) The cost involved in the sale of the property
30 would be equal to or greater than the value of the property.

31

1 (11) Instances arise in Medicaid estate-recovery cases
2 where the assets include a settlement of a claim against a
3 liable third party. The agency's claim under s. 409.910 must
4 be satisfied prior to including the settlement proceeds as
5 estate assets. The remaining settlement proceeds shall be
6 included in the estate and be available to satisfy the
7 Medicaid estate-recovery claim. The Medicaid estate-recovery
8 share shall be one-half of the settlement proceeds included in
9 the estate. Nothing in this subsection is intended to limit
10 the agency's rights against other assets in the estate not
11 related to the settlement. However, in no circumstances shall
12 the agency's recovery exceed the total amount of Medicaid
13 medical assistance provided to the recipient.

14 (12) In instances where there are no liquid assets to
15 satisfy the Medicaid estate-recovery claim, if there is
16 nonhomestead real property and the costs of sale will not
17 exceed the proceeds, the property shall be sold to satisfy the
18 Medicaid estate-recovery claim. Real property shall not be
19 transferred to the agency in any instance.

20 (13) The agency is authorized to adopt rules to
21 implement the provisions of this section.

22 Section 70. Paragraph (d) of subsection (3) of section
23 409.912, Florida Statutes, 1998 Supplement, is amended to
24 read:

25 409.912 Cost-effective purchasing of health care.--The
26 agency shall purchase goods and services for Medicaid
27 recipients in the most cost-effective manner consistent with
28 the delivery of quality medical care. The agency shall
29 maximize the use of prepaid per capita and prepaid aggregate
30 fixed-sum basis services when appropriate and other
31 alternative service delivery and reimbursement methodologies,

1 including competitive bidding pursuant to s. 287.057, designed
2 to facilitate the cost-effective purchase of a case-managed
3 continuum of care. The agency shall also require providers to
4 minimize the exposure of recipients to the need for acute
5 inpatient, custodial, and other institutional care and the
6 inappropriate or unnecessary use of high-cost services.

7 (3) The agency may contract with:

8 (d) No more than four provider service networks for
9 demonstration projects to test Medicaid direct contracting.

10 ~~One demonstration project must be located in Orange County.~~

11 The demonstration projects may be reimbursed on a
12 fee-for-service or prepaid basis. A provider service network
13 which is reimbursed by the agency on a prepaid basis shall be
14 exempt from parts I and III of chapter 641, but must meet
15 appropriate financial reserve, quality assurance, and patient
16 rights requirements as established by the agency. The agency
17 shall award contracts on a competitive bid basis and shall
18 select bidders based upon price and quality of care. Medicaid
19 recipients assigned to a demonstration project shall be chosen
20 equally from those who would otherwise have been assigned to
21 prepaid plans and MediPass. The agency is authorized to seek
22 federal Medicaid waivers as necessary to implement the
23 provisions of this section. A demonstration project awarded
24 pursuant to this paragraph shall be for 2 years from the date
25 of implementation.

26 Section 71. Paragraph (a) of subsection (24) of
27 section 409.913, Florida Statutes, is amended to read:

28 409.913 Oversight of the integrity of the Medicaid
29 program.--The agency shall operate a program to oversee the
30 activities of Florida Medicaid recipients, and providers and
31 their representatives, to ensure that fraudulent and abusive

1 behavior and neglect of recipients occur to the minimum extent
2 possible, and to recover overpayments and impose sanctions as
3 appropriate.

4 (24)(a) The agency may withhold Medicaid payments, in
5 whole or in part, to a provider upon receipt of reliable
6 evidence that the circumstances giving rise to the need for a
7 withholding of payments involve fraud or willful
8 misrepresentation under the Medicaid program, or a crime
9 committed while rendering goods or services to Medicaid
10 recipients, up to the amount of the overpayment as determined
11 by final agency audit report, pending completion of legal
12 proceedings under this section. If the agency withholds
13 payments under this section, the Medicaid payment may not be
14 reduced by more than 10 percent. If it is has been determined
15 that fraud, willful misrepresentation, or a crime did not
16 occur an overpayment has not occurred, the payments withheld
17 must be paid to the provider within 14 ~~60~~ days after such
18 determination with interest at the rate of 10 percent a year.
19 Any money withheld in accordance with this paragraph shall be
20 placed in a suspended account, readily accessible to the
21 agency, so that any payment ultimately due the provider shall
22 be made within 14 days. Furthermore, the authority to withhold
23 payments under this paragraph shall not apply to physicians
24 whose alleged overpayments are being determined by
25 administrative proceedings pursuant to chapter 120. ~~if the~~
26 amount of the alleged overpayment exceeds \$75,000, the agency
27 may reduce the Medicaid payments by up to \$25,000 per month.

28 Section 72. Section 409.9131, Florida Statutes, is
29 created to read:

30 409.9131 Special provisions relating to integrity of
31 the Medicaid program.--

1 (1) LEGISLATIVE FINDINGS AND INTENT.--It is the intent
2 of the Legislature that physicians, as defined in this
3 section, be subject to Medicaid fraud and abuse investigations
4 in accordance with the provisions set forth in this section as
5 a supplement to the provisions contained in s. 409.913. If a
6 conflict exists between the provisions of this section and s.
7 409.913, it is the intent of the Legislature that the
8 provisions of this section shall control.

9 (2) DEFINITIONS.--For purposes of this section, the
10 term:

11 (a) "Active practice" means a physician must have
12 regularly provided medical care and treatment to patients
13 within the past 2 years.

14 (b) "Medical necessity" or "medically necessary" means
15 any goods or services necessary to palliate the effects of a
16 terminal condition or to prevent, diagnose, correct, cure,
17 alleviate, or preclude deterioration of a condition that
18 threatens life, causes pain or suffering, or results in
19 illness or infirmity, which goods or services are provided in
20 accordance with generally accepted standards of medical
21 practice. For purposes of determining Medicaid reimbursement,
22 the agency is the final arbiter of medical necessity. In
23 making determinations of medical necessity, the agency must,
24 to the maximum extent possible, use a physician in active
25 practice, either employed by or under contract with the
26 agency, of the same specialty or subspecialty as the physician
27 under review. Such determination must be based upon the
28 information available at the time the goods or services were
29 provided.

30 (c) "Peer" means a Florida licensed physician who is,
31 to the maximum extent possible, of the same specialty or

1 subspecialty, licensed under the same chapter, and in active
2 practice.

3 (d) "Peer review" means an evaluation of the
4 professional practices of a Medicaid physician provider by a
5 peer or peers in order to assess the medical necessity,
6 appropriateness, and quality of care provided, as such care is
7 compared to that customarily furnished by the physician's
8 peers and to recognized health care standards, and to
9 determine whether the documentation in the physician's records
10 is adequate.

11 (e) "Physician" means a person licensed to practice
12 medicine under chapter 458 or a person licensed to practice
13 osteopathic medicine under chapter 459.

14 (f) "Professional services" means procedures provided
15 to a Medicaid recipient, either directly by or under the
16 supervision of a physician who is a registered provider for
17 the Medicaid program.

18 (3) ONSITE RECORDS REVIEW.--As specified in s.
19 409.913(8), the agency may investigate, review, or analyze a
20 physician's medical records concerning Medicaid patients. The
21 physician must make such records available to the agency
22 during normal business hours. The agency must provide notice
23 to the physician at least 24 hours before such visit. The
24 agency and physician shall make every effort to set a mutually
25 agreeable time for the agency's visit during normal business
26 hours and within the 24-hour period. If such a time cannot be
27 agreed upon, the agency may set the time.

28 (4) NOTICE OF DUE PROCESS RIGHTS REQUIRED.--Whenever
29 the agency seeks an administrative remedy against a physician
30 pursuant to this section or s. 409.913, the physician must be
31 advised of his or her rights to due process under chapter 120.

1 This provision shall not limit or hinder the agency's ability
2 to pursue any remedy available to it under s. 409.913 or other
3 applicable law.

4 (5) DETERMINATIONS OF OVERPAYMENT.--In making a
5 determination of overpayment to a physician, the agency must:

6 (a) Use accepted and valid auditing, accounting,
7 analytical, statistical, or peer-review methods, or
8 combinations thereof. Appropriate statistical methods may
9 include, but are not limited to, sampling and extension to the
10 population, parametric and nonparametric statistics, tests of
11 hypotheses, other generally accepted statistical methods,
12 review of medical records, and a consideration of the
13 physician's client case mix. Before performing a review of the
14 physician's Medicaid records, however, the agency shall make
15 every effort to consider the physician's patient case mix,
16 including, but not limited to, patient age and whether
17 individual patients are clients of the Children's Medical
18 Services network established in chapter 391. In meeting its
19 burden of proof in any administrative or court proceeding, the
20 agency may introduce the results of such statistical methods
21 and its other audit findings as evidence of overpayment.

22 (b) Refer all physician service claims for peer review
23 when the agency's preliminary analysis indicates a potential
24 overpayment, and before any formal proceedings are initiated
25 against the physician, except as required by s. 409.913.

26 (c) By March 1, 2000, the agency shall study and
27 report to the Legislature on its current statistical model
28 used to calculate overpayments and advise the Legislature
29 what, if any, changes, improvements, or other modifications
30 should be made to the statistical model. Such review shall
31 include, but not be limited to, a review of the

1 appropriateness of including physician specialty and case-mix
2 parameters within the statistical model.

3 Section 73. Subsections (4) and (6) of section
4 455.501, Florida Statutes, are amended to read:

5 455.501 Definitions.--As used in this part, the term:

6 (4) "Health care practitioner" means any person
7 licensed under chapter 457; chapter 458; chapter 459; chapter
8 460; chapter 461; chapter 462; chapter 463; chapter 464;
9 chapter 465; chapter 466; chapter 467; part I, part II, part
10 III, part V, or part X, part XIII, or part XIV of chapter 468;
11 chapter 478; chapter 480; part III or part IV of chapter 483;
12 chapter 484; chapter 486; chapter 490; or chapter 491.

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

16 Section 74. Section 455.507, Florida Statutes, is
17 amended to read:

18 455.507 Members of Armed Forces in good standing with
19 administrative boards or department.--

20 (1) Any member of the Armed Forces of the United
21 States now or hereafter on active duty who, at the time of ~~his~~
22 becoming such a member, was in good standing with any
23 administrative board of the state, or the department when
24 there is no board, and was entitled to practice or engage in
25 his or her profession or vocation in the state shall be kept
26 in good standing by such administrative board, or the
27 department when there is no board, without registering, paying
28 dues or fees, or performing any other act on his or her part
29 to be performed, as long as he or she is a member of the Armed
30 Forces of the United States on active duty and for a period of
31 6 months after ~~his~~ discharge from active duty as a member of

1 the Armed Forces of the United States, provided he or she is
2 not engaged in his or her licensed profession or vocation in
3 the private sector for profit.

4 (2) The boards listed in ~~s.ss. 20.165 and 20.43~~, or
5 the department when there is no board, shall adopt rules
6 exempting the spouses of members of the Armed Forces of the
7 United States from licensure renewal provisions, but only in
8 cases of absence from the state because of their spouses'
9 duties with the Armed Forces.

10 Section 75. Section 455.521, Florida Statutes, 1998
11 Supplement, is amended to read:

12 455.521 Department; powers and duties.--The
13 department, for the professions ~~boards~~ under its jurisdiction,
14 shall:

15 (1) Adopt rules establishing a procedure for the
16 biennial renewal of licenses; however, the department may
17 issue up to a 4-year license to selected licensees
18 notwithstanding any other provisions of law to the contrary.
19 Fees for such renewal shall not exceed the fee caps for
20 individual professions on an annualized basis as authorized by
21 law.

22 (2) Appoint the executive director of each board,
23 subject to the approval of the board.

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

26 (4) Develop a training program for persons newly
27 appointed to membership on any board. The program shall
28 familiarize such persons with the substantive and procedural
29 laws and rules and fiscal information relating to the
30 regulation of the appropriate profession and with the
31 structure of the department.

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

3 (6) Establish by rules procedures by which the
4 department shall use the expert or technical advice of the
5 appropriate board for the purposes of investigation,
6 inspection, evaluation of applications, other duties of the
7 department, or any other areas the department may deem
8 appropriate.

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

15 (8) Select only those investigators, or consultants
16 who undertake investigations, who meet criteria established
17 with the advice of the respective boards.

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

1 Section 76. Section 455.557, Florida Statutes, 1998
2 Supplement, is amended to read:

3 455.557 Standardized credentialing for health care
4 practitioners.--

5 (1) INTENT.--The Legislature recognizes that an
6 efficient and effective health care practitioner credentialing
7 program helps to ensure access to quality health care and also
8 recognizes that health care practitioner credentialing
9 activities have increased significantly as a result of health
10 care reform and recent changes in health care delivery and
11 reimbursement systems. Moreover, the resulting duplication of
12 health care practitioner credentialing activities is
13 unnecessarily costly and cumbersome for both the practitioner
14 and the entity granting practice privileges. Therefore, it is
15 the intent of this section that a ~~mandatory~~ credentials
16 collection verification program be established which provides
17 that, once a health care practitioner's core credentials data
18 are collected, ~~validated, maintained, and stored,~~ they need
19 not be collected again, except for corrections, updates, and
20 modifications thereto. Participation ~~Mandatory credentialing~~
21 under this section shall initially include those individuals
22 licensed under chapter 458, chapter 459, chapter 460, or
23 chapter 461. However, the department shall, with the approval
24 of the applicable board, include other professions under the
25 jurisdiction of the Division of Medical Quality Assurance in
26 this ~~credentialing~~ program, provided they meet the
27 requirements of s. 455.565.

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

29 (a) "Advisory council" or "council" means the
30 Credentials ~~Verification~~ Advisory Council.

31

1 ~~(b) "Applicant" means an individual applying for~~
2 ~~licensure or a current licensee applying for credentialing.~~

3 **(b)(c)** "Certified" or "accredited," as applicable,
4 means approved by a quality assessment program, from the
5 National Committee for Quality Assurance, the Joint Commission
6 on Accreditation of Healthcare Organizations, the American
7 Accreditation HealthCare Commission/URAC Utilization Review
8 ~~Accreditation Commission~~, or any such other nationally
9 recognized and accepted organization authorized by the
10 department, used to assess and certify any credentials
11 verification program, entity, or organization that verifies
12 the credentials of any health care practitioner.

13 ~~(c)(d)~~ "Core credentials data" means the following
14 data: current name, any former name, and any alias, any
15 professional education, professional training, peer
16 references, licensure, current Drug Enforcement Administration
17 certification, social security number, specialty board
18 certification, Educational Commission for Foreign Medical
19 Graduates certification information, hospital or affiliations,
20 ~~managed care organization affiliations, other institutional~~
21 ~~affiliations, professional society memberships, evidence of~~
22 professional liability coverage or evidence of financial
23 responsibility as required by s. 458.320 or s. 459.0085
24 insurance, history of claims, suits, judgments, or
25 settlements, final disciplinary action reported pursuant to s.
26 455.565(1)(a)8., and Medicare or Medicaid sanctions, civil or
27 ~~criminal law violations, practitioner profiling data, special~~
28 ~~conditions of impairment, or regulatory exemptions not~~
29 ~~previously reported to the department in accordance with both~~
30 ~~s. 455.565 and the initial licensure reporting requirements~~
31 ~~specified in the applicable practice act.~~

1 ~~(d)(e)~~ "Credential" or "credentialing" means the
2 process of assessing and verifying ~~validating~~ the
3 qualifications of a licensed health care practitioner or
4 applicant for licensure as a health care practitioner.

5 ~~(e)(f)~~ "Credentials verification organization entity"
6 means any ~~program, entity, or organization that is organized~~
7 ~~and certified or accredited as a credentials verification~~
8 ~~organization for the express purpose of collecting, verifying,~~
9 ~~maintaining, storing, and providing to health care entities a~~
10 ~~health care practitioner's total core credentials data,~~
11 ~~including all corrections, updates, and modifications thereto,~~
12 ~~as authorized by the health care practitioner and in~~
13 ~~accordance with the provisions of this including all~~
14 ~~corrections, updates, and modifications thereto, as authorized~~
15 ~~by the health care practitioner and in accordance with the~~
16 ~~provisions of this section. The division, once certified,~~
17 ~~shall be considered a credentials verification entity for all~~
18 ~~health care practitioners.~~

19 ~~(f)(g)~~ "Department" means the Department of Health,
20 Division of Medical Quality Assurance.

21 ~~(g)(h)~~ "Designated credentials verification
22 organization entity" means the credentials verification
23 ~~program, entity, or organization organized and certified or~~
24 ~~accredited for the express purpose of collecting, verifying,~~
25 ~~maintaining, storing, and providing to health care entities a~~
26 ~~health care practitioner's total core credentials data,~~
27 ~~including all corrections, updates, and modifications thereto,~~
28 ~~which is selected by the health care practitioner as the~~
29 ~~credentials verification entity for all inquiries into his or~~
30 ~~her credentials, if the health care practitioner chooses to~~
31 ~~make such a designation. Notwithstanding any such designation~~

1 ~~by a health care practitioner, the division, once certified,~~
2 ~~shall also be considered a designated credentials verification~~
3 ~~entity for that health care practitioner.~~

4 (h) "Drug Enforcement Administration certification"
5 means certification issued by the Drug Enforcement
6 Administration for purposes of administration or prescription
7 of controlled substances. Submission of such certification
8 under this section must include evidence that the
9 certification is current and must also include all current
10 addresses to which the certificate is issued.

11 ~~(i) "Division" means the Division of Medical Quality~~
12 ~~Assurance within the Department of Health.~~

13 ~~(i)(j)~~ "Health care entity" means:

14 1. Any health care facility or other health care
15 organization licensed or certified to provide approved medical
16 and allied health services in this state Florida; or

17 2. Any entity licensed by the Department of Insurance
18 as a prepaid health care plan or health maintenance
19 organization or as an insurer to provide coverage for health
20 care services through a network of providers; or

21 3. Any accredited medical school in this state.

22 ~~(j)(k)~~ "Health care practitioner" means any person
23 licensed, or, for credentialing purposes only, any person
24 applying for licensure, under chapter 458, chapter 459,
25 chapter 460, or chapter 461 or any person licensed or applying
26 for licensure under a chapter subsequently made subject to
27 this section by the department with the approval of the
28 applicable board, except a person registered or applying for
29 registration pursuant to s. 458.345 or s. 459.021.

30 (k) "Hospital or other institutional affiliations"
31 means each hospital or other institution for which the health

1 care practitioner or applicant has provided medical services.
2 Submission of such information under this section must
3 include, for each hospital or other institution, the name and
4 address of the hospital or institution, the staff status of
5 the health care practitioner or applicant at that hospital or
6 institution, and the dates of affiliation with that hospital
7 or institution.

8 (l) "National accrediting organization" means an
9 organization that awards accreditation or certification to
10 hospitals, managed care organizations, credentials
11 verification organizations, or other health care
12 organizations, including, but not limited to, the Joint
13 Commission on Accreditation of Healthcare Organizations, the
14 American Accreditation HealthCare Commission/URAC, and the
15 National Committee for Quality Assurance.

16 (m) "Professional training" means any internship,
17 residency, or fellowship relating to the profession for which
18 the health care practitioner is licensed or seeking licensure.

19 (n) "Specialty board certification" means
20 certification in a specialty issued by a specialty board
21 recognized by the board in this state that regulates the
22 profession for which the health care practitioner is licensed
23 or seeking licensure.

24 ~~(m) "Primary source verification" means verification~~
25 ~~of professional qualifications based on evidence obtained~~
26 ~~directly from the issuing source of the applicable~~
27 ~~qualification.~~

28 ~~(n) "Recredentialing" means the process by which a~~
29 ~~credentials verification entity verifies the credentials of a~~
30 ~~health care practitioner whose core credentials data,~~

31

1 ~~including all corrections, updates, and modifications thereto,~~
2 ~~are currently on file with the entity.~~

3 ~~(o) "Secondary source verification" means confirmation~~
4 ~~of a professional qualification by means other than primary~~
5 ~~source verification, as outlined and approved by national~~
6 ~~accrediting organizations.~~

7 (3) STANDARDIZED CREDENTIALS VERIFICATION PROGRAM.--

8 (a) Every health care practitioner shall:

9 1. Report all core credentials data to the department
10 which is not already on file with the department, either by
11 designating a credentials verification organization to submit
12 the data or by submitting the data directly.

13 2. Notify the department within 45 days of any
14 corrections, updates, or modifications to the core credentials
15 data either through his or her designated credentials
16 verification organization or by submitting the data directly.
17 Corrections, updates, and modifications to the core
18 credentials data provided the department under this section
19 shall comply with the updating requirements of s. 455.565(3)
20 related to profiling.

21 ~~(b)(a) In accordance with the provisions of this~~
22 ~~section,The department shall:~~

23 1. Maintain a complete, current file of core
24 credentials data on each health care practitioner, which shall
25 include all updates provided in accordance with subparagraph
26 (3)(a)2.

27 2. Release the core credentials data that is otherwise
28 confidential or exempt from the provisions of chapter 119 and
29 s. 24(a), Art. I of the State Constitution and any
30 corrections, updates, and modifications thereto, if authorized
31 by the health care practitioner.

1 3. Charge a fee to access the core credentials data,
2 which may not exceed the actual cost, including prorated setup
3 and operating costs, pursuant to the requirements of chapter
4 119. The actual cost shall be set in consultation with the
5 advisory council.

6 4. Develop, in consultation with the advisory council,
7 standardized forms to be used by the health care practitioner
8 or designated credentials verification organization for the
9 initial reporting of core credentials data, for the health
10 care practitioner to authorize the release of core credentials
11 data, and for the subsequent reporting of corrections,
12 updates, and modifications thereto ~~develop standardized forms~~
13 ~~necessary for the creation of a standardized system as well as~~
14 ~~guidelines for collecting, verifying, maintaining, storing,~~
15 ~~and providing core credentials data on health care~~
16 ~~practitioners through credentials verification entities,~~
17 ~~except as otherwise provided in this section, for the purpose~~
18 ~~of eliminating duplication. Once the core credentials data are~~
19 ~~submitted, the health care practitioner is not required to~~
20 ~~resubmit this initial data when applying for practice~~
21 ~~privileges with health care entities. However, as provided in~~
22 ~~paragraph (d), each health care practitioner is responsible~~
23 ~~for providing any corrections, updates, and modifications to~~
24 ~~his or her core credentials data, to ensure that all~~
25 ~~credentialing data on the practitioner remains current.~~
26 ~~Nothing in this paragraph prevents the designated credentials~~
27 ~~verification entity from obtaining all necessary attestation~~
28 ~~and release form signatures and dates.~~

29 5.(b) Establish ~~There is established~~ a Credentials
30 ~~Verification~~ Advisory Council, consisting of 13 members, to
31 assist the department as provided in this section ~~with the~~

1 ~~development of guidelines for establishment of the~~
2 ~~standardized credentials verification program.~~ The secretary,
3 or his or her designee, shall serve as one member and chair of
4 the council and shall appoint the remaining 12 members. Except
5 for any initial lesser term required to achieve staggering,
6 such appointments shall be for 4-year staggered terms, with
7 one 4-year reappointment, as applicable. Three members shall
8 represent hospitals, and two members shall represent health
9 maintenance organizations. One member shall represent health
10 insurance entities. One member shall represent the credentials
11 verification industry. Two members shall represent physicians
12 licensed under chapter 458. One member shall represent
13 osteopathic physicians licensed under chapter 459. One member
14 shall represent chiropractic physicians licensed under chapter
15 460. One member shall represent podiatric physicians licensed
16 under chapter 461.

17 (c) A registered credentials verification organization
18 may be designated by a health care practitioner to assist the
19 health care practitioner to comply with the requirements of
20 subsection (3)(a)2. A designated credentials verification
21 organization shall:

22 1. Timely comply with the requirements of subsection
23 (3)(a)2., pursuant to rules adopted by the department.

24 2. Not provide the health care practitioner's core
25 data, including all corrections, updates, and modifications,
26 without the authorization of the practitioner.

27 ~~(c) The department, in consultation with the advisory~~
28 ~~council, shall develop standard forms for the initial~~
29 ~~reporting of core credentials data for credentialing purposes~~
30 ~~and for the subsequent reporting of corrections, updates, and~~
31 ~~modifications thereto for recredentialing purposes.~~

1 ~~(d) Each health care practitioner licensed under~~
2 ~~chapter 458, chapter 459, chapter 460, or chapter 461, or any~~
3 ~~person licensed under a chapter subsequently made subject to~~
4 ~~this section, must report any action or information as defined~~
5 ~~in paragraph (2)(d), including any correction, update, or~~
6 ~~modification thereto, as soon as possible but not later than~~
7 ~~30 days after such action occurs or such information is known,~~
8 ~~to the department or his or her designated credentials~~
9 ~~verification entity, if any, who must report it to the~~
10 ~~department. In addition, a licensee must update, at least~~
11 ~~quarterly, his or her data on a form prescribed by the~~
12 ~~department.~~

13 ~~(e) An individual applying for licensure under chapter~~
14 ~~458, chapter 459, chapter 460, or chapter 461, or any person~~
15 ~~applying for licensure under a chapter subsequently made~~
16 ~~subject to this section, must submit the individual's initial~~
17 ~~core credentials data to a credentials verification entity, if~~
18 ~~such information has not already been submitted to the~~
19 ~~department or the appropriate licensing board or to any other~~
20 ~~credentials verification entity.~~

21 ~~(f) Applicants may decide which credentials~~
22 ~~verification entity they want to process and store their core~~
23 ~~credentials data; however, such data shall at all times be~~
24 ~~maintained by the department. An applicant may choose not to~~
25 ~~designate a credentials verification entity, provided the~~
26 ~~applicant has a written agreement with the health care entity~~
27 ~~or entities that are responsible for his or her credentialing.~~
28 ~~In addition, any licensee may choose to move his or her core~~
29 ~~credentials data from one credentials verification entity to~~
30 ~~another.~~

31

1 ~~(g) Any health care entity that employs, contracts~~
2 ~~with, or allows health care practitioners to treat its~~
3 ~~patients must use the designated credentials verification~~
4 ~~entity to obtain core credentials data on a health care~~
5 ~~practitioner applying for privileges with that entity, if the~~
6 ~~health care practitioner has made such a designation, or may~~
7 ~~use the division in lieu thereof as the designated credentials~~
8 ~~verification entity required for obtaining core credentials~~
9 ~~data on such health care practitioner. Any additional~~
10 ~~information required by the health care entity's credentialing~~
11 ~~process may be collected from the primary source of that~~
12 ~~information either by the health care entity or its contractee~~
13 ~~or by the designated credentials verification entity.~~

14 ~~(h) Nothing in this section may be construed to~~
15 ~~restrict the right of any health care entity to request~~
16 ~~additional information necessary for credentialing.~~

17 ~~(i) Nothing in this section may be construed to~~
18 ~~restrict access to the National Practitioner Data Bank by the~~
19 ~~department, any health care entity, or any credentials~~
20 ~~verification entity.~~

21 ~~(d)(j)~~ Nothing in This section shall not ~~may~~ be
22 ~~construed to restrict in any way the authority of the health~~
23 ~~care entity to credential and~~ to approve or deny an
24 application for hospital staff membership, clinical
25 privileges, or managed care network participation.

26 ~~(4) DELEGATION BY CONTRACT.--A health care entity may~~
27 ~~contract with any credentials verification entity to perform~~
28 ~~the functions required under this section. The submission of~~
29 ~~an application for health care privileges with a health care~~
30 ~~entity shall constitute authorization for the health care~~
31 ~~entity to access the applicant's core credentials data with~~

1 ~~the department or the applicant's designated credentials~~
2 ~~verification entity, if the applicant has made such a~~
3 ~~designation.~~

4 ~~(5) AVAILABILITY OF DATA COLLECTED.--~~

5 ~~(a) The department shall make available to a health~~
6 ~~care entity or credentials verification entity registered with~~
7 ~~the department all core credentials data it collects on any~~
8 ~~licensee that is otherwise confidential and exempt from the~~
9 ~~provisions of chapter 119 and s. 24(a), Art. I of the State~~
10 ~~Constitution, including corrections, updates, and~~
11 ~~modifications thereto, if a health care entity submits proof~~
12 ~~of the licensee's current pending application for purposes of~~
13 ~~credentialing the applicant based on the core credentials data~~
14 ~~maintained by the department.~~

15 ~~(b) Each credentials verification entity shall make~~
16 ~~available to a health care entity the licensee has authorized~~
17 ~~to receive the data, and to the department at the credentials~~
18 ~~verification entity's actual cost of providing the data, all~~
19 ~~core credentials data it collects on any licensee, including~~
20 ~~all corrections, updates, and modifications thereto.~~

21 ~~(c) The department shall charge health care entities~~
22 ~~and other credentials verification entities a reasonable fee,~~
23 ~~pursuant to the requirements of chapter 119, to access all~~
24 ~~credentialing data it maintains on applicants and licensees.~~
25 ~~The fee shall be set in consultation with the advisory council~~
26 ~~and may not exceed the actual cost of providing the data.~~

27 ~~(4)(6) DUPLICATION OF DATA PROHIBITED.--~~

28 ~~(a) A health care entity or credentials verification~~
29 ~~organization is prohibited from collecting or attempting~~ may
30 ~~not collect or attempt~~ to collect duplicate core credentials
31 data from any individual health care practitioner ~~or from any~~

1 ~~primary source~~ if the information is available from already on
2 ~~file with the department or with any credentials verification~~
3 ~~entity. This section shall not be construed to restrict the~~
4 right of any health care entity or credentials verification
5 organization to collect additional information from the health
6 care practitioner which is not included in the core
7 credentials data file. This section shall not be construed to
8 prohibit a health care entity or credentials verification
9 organization from obtaining all necessary attestation and
10 release form signatures and dates.

11 (b) Effective July 1, 2002, a state agency in this
12 state which credentials health care practitioners may not
13 collect or attempt to collect duplicate core credentials data
14 from any individual health care practitioner if the
15 information is already available from the department. This
16 section shall not be construed to restrict the right of any
17 such state agency to request additional information not
18 included in the core credential data file, but which is deemed
19 necessary for the agency's specific credentialing purposes.

20 ~~(b) A credentials verification entity other than the~~
21 ~~department may not attempt to collect duplicate core~~
22 ~~credentials data from any individual health care practitioner~~
23 ~~if the information is already on file with another credentials~~
24 ~~verification entity or with the appropriate licensing board of~~
25 ~~another state, provided the other state's credentialing~~
26 ~~program meets national standards and is certified or~~
27 ~~accredited, as outlined by national accrediting organizations,~~
28 ~~and agrees to provide all data collected under such program on~~
29 ~~that health care practitioner.~~

30 ~~(7) RELIABILITY OF DATA. Any credentials verification~~
31 ~~entity may rely upon core credentials data, including all~~

1 ~~corrections, updates, and modifications thereto, from the~~
2 ~~department if the department certifies that the information~~
3 ~~was obtained in accordance with primary source verification~~
4 ~~procedures; and the department may rely upon core credentials~~
5 ~~data, including all corrections, updates, and modifications~~
6 ~~thereto, from any credentials verification entity if the~~
7 ~~designated credentials verification entity certifies that the~~
8 ~~information was obtained in accordance with primary source~~
9 ~~verification procedures.~~

10 ~~(5)(8)~~ STANDARDS AND REGISTRATION.--

11 ~~(a) The department's credentials verification~~
12 ~~procedures must meet national standards, as outlined by~~
13 ~~national accrediting organizations.~~

14 ~~(b) Any credentials verification organization entity~~
15 ~~that does business in this state Florida must be fully~~
16 ~~accredited or certified as a credentials verification~~
17 ~~organization meet national standards, as outlined by a~~
18 ~~national accrediting organization as specified in paragraph~~
19 ~~(2)(b) organizations, and must register with the department.~~
20 ~~The department may charge a reasonable registration fee, set~~
21 ~~in consultation with the advisory council, not to exceed an~~
22 ~~amount sufficient to cover its actual expenses in providing~~
23 ~~and enforcing for such registration. The department shall~~
24 ~~establish by rule for biennial renewal of such registration.~~
25 ~~Failure by a registered Any credentials verification~~
26 ~~organization to maintain full accreditation or certification,~~
27 ~~to provide data as authorized by the health care practitioner,~~
28 ~~to report to the department changes, updates, and~~
29 ~~modifications to a health care practitioner's records within~~
30 ~~the time period specified in subparagraph (3)(a)2., or to~~
31 ~~comply with the prohibition against collection of duplicate~~

1 core credentials data from a practitioner may result in denial
2 of an application for renewal of registration or in revocation
3 or suspension of a registration entity that fails to meet the
4 standards required to be certified or accredited, fails to
5 register with the department, or fails to provide data
6 collected on a health care practitioner may not be selected as
7 the designated credentials verification entity for any health
8 care practitioner.

9 (6)(9) LIABILITY.--No civil, criminal, or
10 administrative action may be instituted, and there shall be no
11 liability, against any registered credentials verification
12 organization or health care entity on account of its reliance
13 on any data obtained directly from the department a
14 credentials verification entity.

15 (10) REVIEW.--Before releasing a health care
16 practitioner's core credentials data from its data bank, a
17 designated credentials verification entity other than the
18 department must provide the practitioner up to 30 days to
19 review such data and make any corrections of fact.

20 (11) VALIDATION OF CREDENTIALS.--Except as otherwise
21 acceptable to the health care entity and applicable certifying
22 or accrediting organization listed in paragraph (2)(c), the
23 department and all credentials verification entities must
24 perform primary source verification of all credentialing
25 information submitted to them pursuant to this section;
26 however, secondary source verification may be utilized if
27 there is a documented attempt to contact primary sources. The
28 validation procedures used by the department and credentials
29 verification entities must meet the standards established by
30 rule pursuant to this section.

31

1 ~~(7)(12)~~ LIABILITY INSURANCE REQUIREMENTS.--The
2 department, in consultation with the Credentials Verification
3 Advisory Council, shall establish the minimum liability
4 insurance requirements for Each credentials verification
5 organization entity doing business in this state shall
6 maintain liability insurance appropriate to meet the
7 certification or accreditation requirements established in
8 this section.

9 ~~(8)(13)~~ RULES.--The department, in consultation with
10 the advisory council ~~applicable board~~, shall adopt rules
11 necessary to develop and implement the standardized core
12 credentials data collection verification program established
13 by this section.

14 ~~(9)~~ COUNCIL ABOLISHED; DEPARTMENT AUTHORITY.--The
15 council shall be abolished October 1, 1999. After the council
16 is abolished, all duties of the department required under this
17 section to be in consultation with the council may be carried
18 out by the department on its own.

19 Section 77. Subsections (1), (2), (6), (7), (8), and
20 (9) of section 455.564, Florida Statutes, 1998 Supplement, are
21 amended to read:

22 455.564 Department; general licensing provisions.--

23 (1) Any person desiring to be licensed in a profession
24 within the jurisdiction of the department shall apply to the
25 department in writing to take the licensure examination. The
26 application shall be made on a form prepared and furnished by
27 the department and shall require the social security number of
28 the applicant. The form shall be supplemented as needed to
29 reflect any material change in any circumstance or condition
30 stated in the application which takes place between the
31 initial filing of the application and the final grant or

1 denial of the license and which might affect the decision of
2 the department. An incomplete application shall expire 1 year
3 after initial filing.In order to further the economic
4 development goals of the state, and notwithstanding any law to
5 the contrary, the department may enter into an agreement with
6 the county tax collector for the purpose of appointing the
7 county tax collector as the department's agent to accept
8 applications for licenses and applications for renewals of
9 licenses. The agreement must specify the time within which the
10 tax collector must forward any applications and accompanying
11 application fees to the department.

12 (2) Before the issuance of any license, the department
13 may charge an initial license fee as determined by rule of the
14 applicable board or, if no such board exists, by rule of the
15 department. Upon receipt of the appropriate license fee, the
16 department shall issue a license to any person certified by
17 the appropriate board, or its designee, as having met the
18 licensure requirements imposed by law or rule. The license
19 ~~licensee~~ shall consist of ~~be issued~~ a wallet-size
20 identification card and a wall card measuring 6 1/2 inches by
21 5 inches. In addition to the two-part license, the department,
22 at the time of initial licensure, shall issue a wall
23 certificate suitable for conspicuous display, which shall be
24 no smaller than 8 1/2 inches by 14 inches. The licensee shall
25 surrender to the department the wallet-size identification
26 card, the wall card, and the wall certificate, if one has been
27 issued by the department, if the licensee's license is
28 ~~suspended or revoked. The department shall promptly return the~~
29 ~~wallet-size identification card and the wall certificate to~~
30 ~~the licensee upon reinstatement of a suspended or revoked~~
31 ~~license.~~

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

1 Quality Assurance, or the department if there is no board, may
2 adopt rules granting continuing education hours in risk
3 management for attending a board meeting at which another
4 licensee is disciplined, serving as a volunteer expert witness
5 for the department in a disciplinary case, or serving as a
6 member of a probable cause panel following the expiration of a
7 board member's term.

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

20 (8) Any board that currently requires continuing
21 education for renewal of a license, or the department if there
22 is no board, shall adopt rules to establish the criteria for
23 continuing education courses. The rules may provide that up
24 to a maximum of 25 percent of the required continuing
25 education hours can be fulfilled by the performance of pro
26 bono services to the indigent or to underserved populations or
27 in areas of critical need within the state where the licensee
28 practices. The board, or the department if there is no board,
29 must require that any pro bono services be approved in advance
30 in order to receive credit for continuing education under this
31 subsection. The standard for determining indigency shall be

1 that recognized by the Federal Poverty Income Guidelines
2 produced by the United States Department of Health and Human
3 Services. The rules may provide for approval by the board, or
4 the department if there is no board, that a part of the
5 continuing education hours can be fulfilled by performing
6 research in critical need areas or for training leading to
7 advanced professional certification. The board, or the
8 department if there is no board, may make rules to define
9 underserved and critical need areas. The department shall
10 adopt rules for administering continuing education
11 requirements adopted by the boards or the department if there
12 is no board.

13 (9) Notwithstanding any law to the contrary, an
14 elected official who is licensed under a practice act
15 administered by the Division of Medical Health Quality
16 Assurance may hold employment for compensation with any public
17 agency concurrent with such public service. Such dual service
18 must be disclosed according to any disclosure required by
19 applicable law.

20 Section 78. Present subsections (5), (6), and (7) of
21 section 455.5651, Florida Statutes, 1998 Supplement, are
22 renumbered as subsections (6), (7), and (8), respectively, and
23 a new subsection (5) is added to that section, to read:

24 455.5651 Practitioner profile; creation.--
25 (5) The Department of Health may not include
26 disciplinary action taken by a licensed hospital or an
27 ambulatory surgical center in the practitioner profile.

28 Section 79. Section 455.567, Florida Statutes, is
29 amended to read:

30 455.567 Sexual misconduct; disqualification for
31 license, certificate, or registration.--

1 (1) Sexual misconduct in the practice of a health care
2 profession means violation of the professional relationship
3 through which the health care practitioner uses such
4 relationship to engage or attempt to engage the patient or
5 client, or an immediate family member of the patient or client
6 in, or to induce or attempt to induce such person to engage
7 in, verbal or physical sexual activity outside the scope of
8 the professional practice of such health care profession.
9 Sexual misconduct in the practice of a health care profession
10 is prohibited.

11 (2) Each board within the jurisdiction of the
12 department, or the department if there is no board, shall
13 refuse to admit a candidate to any examination and refuse to
14 issue a license, certificate, or registration to any applicant
15 if the candidate or applicant has:

16 (a)~~(1)~~ Had any license, certificate, or registration
17 to practice any profession or occupation revoked or
18 surrendered based on a violation of sexual misconduct in the
19 practice of that profession under the laws of any other state
20 or any territory or possession of the United States and has
21 not had that license, certificate, or registration reinstated
22 by the licensing authority of the jurisdiction that revoked
23 the license, certificate, or registration; or

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

27
28 For purposes of this subsection, a licensing authority's
29 acceptance of a candidate's relinquishment of a license which
30 is offered in response to or in anticipation of the filing of
31

1 administrative charges against the candidate's license
2 constitutes the surrender of the license.

3 Section 80. Subsection (2) of section 455.574, Florida
4 Statutes, 1998 Supplement, is amended to read:

5 455.574 Department of Health; examinations.--

6 (2) For each examination developed by the department
7 or a contracted vendor, the board, or the department when
8 there is no board, shall adopt rules providing for
9 reexamination of any applicants who failed an examination
10 developed by the department or a contracted vendor. If both a
11 written and a practical examination are given, an applicant
12 shall be required to retake only the portion of the
13 examination on which the applicant failed to achieve a passing
14 grade, if the applicant successfully passes that portion
15 within a reasonable time, as determined by rule of the board,
16 or the department when there is no board, of passing the other
17 portion. Except for national examinations approved and
18 administered pursuant to this section, the department shall
19 provide procedures for applicants who fail an examination
20 developed by the department or a contracted vendor to review
21 their examination questions, answers, papers, grades, and
22 grading key for the questions the candidate answered
23 incorrectly or, if not feasible, the parts of the examination
24 failed. Applicants shall bear the actual cost for the
25 department to provide examination review pursuant to this
26 subsection. An applicant may waive in writing the
27 confidentiality of the applicant's examination grades.

28 Section 81. Subsection (1) of section 455.587, Florida
29 Statutes, is amended, present subsections (2) through (7) are
30 renumbered as subsections (3) through (8), respectively, and a
31 new subsection (2) is added to that section, to read:

1 455.587 Fees; receipts; disposition for boards within
2 the department.--

3 (1) Each board within the jurisdiction of the
4 department, or the department when there is no board, shall
5 determine by rule the amount of license fees for the ~~its~~
6 profession it regulates, based upon long-range estimates
7 prepared by the department of the revenue required to
8 implement laws relating to the regulation of professions by
9 the department and the board. Each board, or the department
10 if there is no board, shall ensure that license fees are
11 adequate to cover all anticipated costs and to maintain a
12 reasonable cash balance, as determined by rule of the agency,
13 with advice of the applicable board. If sufficient action is
14 not taken by a board within 1 year after notification by the
15 department that license fees are projected to be inadequate,
16 the department shall set license fees on behalf of the
17 applicable board to cover anticipated costs and to maintain
18 the required cash balance. The department shall include
19 recommended fee cap increases in its annual report to the
20 Legislature. Further, it is the legislative intent that no
21 regulated profession operate with a negative cash balance. The
22 department may provide by rule for advancing sufficient funds
23 to any profession operating with a negative cash balance. The
24 advancement may be for a period not to exceed 2 consecutive
25 years, and the regulated profession must pay interest.
26 Interest shall be calculated at the current rate earned on
27 investments of a trust fund used by the department to
28 implement this part. Interest earned shall be allocated to the
29 various funds in accordance with the allocation of investment
30 earnings during the period of the advance.

31

1 (2) Each board, or the department if there is no
2 board, may charge a fee not to exceed \$25, as determined by
3 rule, for the issuance of a wall certificate pursuant to s.
4 455.564(2) requested by a licensee who was licensed prior to
5 July 1, 1998, or for the issuance of a duplicate wall
6 certificate requested by any licensee.

7 Section 82. Section 455.601, Florida Statutes, is
8 amended to read:

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

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

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

31

1 Section 83. Subsections (1) and (6) of section
2 455.604, Florida Statutes, 1998 Supplement, are amended to
3 read:

4 455.604 Requirement for instruction for certain
5 licensees on human immunodeficiency virus and acquired immune
6 deficiency syndrome.--

7 (1) The appropriate board shall require each person
8 licensed or certified under chapter 457; chapter 458; chapter
9 459; chapter 460; chapter 461; chapter 463; chapter 464;
10 chapter 465; chapter 466; part II, part III, ~~or~~ part V, or
11 part X of chapter 468; or chapter 486 to complete a continuing
12 educational course, approved by the board, on human
13 immunodeficiency virus and acquired immune deficiency syndrome
14 as part of biennial relicensure or recertification. The course
15 shall consist of education on the modes of transmission,
16 infection control procedures, clinical management, and
17 prevention of human immunodeficiency virus and acquired immune
18 deficiency syndrome. Such course shall include information on
19 current Florida law on acquired immune deficiency syndrome and
20 its impact on testing, confidentiality of test results,
21 treatment of patients, and any protocols and procedures
22 applicable to human immunodeficiency virus counseling and
23 testing, reporting, the offering of HIV testing to pregnant
24 women, and partner notification issues pursuant to ss. 381.004
25 and 384.25.

26 (6) The board shall require as a condition of granting
27 a license under the chapters and parts specified in subsection
28 (1) that an applicant making initial application for licensure
29 complete an educational course acceptable to the board on
30 human immunodeficiency virus and acquired immune deficiency
31 syndrome. An applicant who has not taken a course at the time

1 of licensure shall, upon an affidavit showing good cause, be
2 allowed 6 months to complete this requirement.

3 Section 84. Subsection (1) of section 455.607, Florida
4 Statutes, is amended to read:

5 455.607 Athletic trainers and massage therapists;
6 requirement for instruction on human immunodeficiency virus
7 and acquired immune deficiency syndrome.--

8 (1) The board, or the department where there is no
9 board, shall require each person licensed or certified under
10 part XIII ~~XIV~~ of chapter 468 or chapter 480 to complete a
11 continuing educational course approved by the board, or the
12 department where there is no board, on human immunodeficiency
13 virus and acquired immune deficiency syndrome as part of
14 biennial relicensure or recertification. The course shall
15 consist of education on modes of transmission, infection
16 control procedures, clinical management, and prevention of
17 human immunodeficiency virus and acquired immune deficiency
18 syndrome, with an emphasis on appropriate behavior and
19 attitude change.

20 Section 85. Paragraphs (t), (u), (v), (w), and (x) are
21 added to subsection (1) of section 455.624, Florida Statutes,
22 subsection (2) of that section is amended, present subsection
23 (3) of that section is renumbered as subsection (4) and
24 amended, present subsections (4) and (5) of that subsection
25 are renumbered as subsections (5) and (6), respectively, and a
26 new subsection (3) is added to that section, to read:

27 455.624 Grounds for discipline; penalties;
28 enforcement.--

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

1 (t) Failing to comply with the requirements of ss.
2 381.026 and 381.0261 to provide patients with information
3 about their patient rights and how to file a patient
4 complaint.

5 (u) Engaging or attempting to engage a patient or
6 client in verbal or physical sexual activity. For the purposes
7 of this section, a patient or client shall be presumed to be
8 incapable of giving free, full, and informed consent to verbal
9 or physical sexual activity.

10 (v) Failing to comply with the requirements for
11 profiling and credentialing, including, but not limited to,
12 failing to provide initial information, failing to timely
13 provide updated information, or making misleading, untrue,
14 deceptive, or fraudulent representations on a profile,
15 credentialing, or initial or renewal licensure application.

16 (w) Failing to report to the board, or the department
17 if there is no board, in writing within 30 days after the
18 licensee has been convicted or found guilty of, or entered a
19 plea of nolo contendere to, regardless of adjudication, a
20 crime in any jurisdiction. Convictions, findings,
21 adjudications, and pleas entered into prior to the enactment
22 of this paragraph must be reported in writing to the board, or
23 department if there is no board, on or before October 1, 1999.

24 (x) Using information about people involved in motor
25 vehicle accidents which has been derived from accident reports
26 made by law enforcement officers or persons involved in
27 accidents pursuant to s. 316.066, or using information
28 published in a newspaper or other news publication or through
29 a radio or television broadcast that has used information
30 gained from such reports, for the purposes of commercial or
31

1 any other solicitation whatsoever of the people involved in
2 such accidents.

3 (2) When the board, or the department when there is no
4 board, finds any person guilty of the grounds set forth in
5 subsection (1) or of any grounds set forth in the applicable
6 practice act, including conduct constituting a substantial
7 violation of subsection (1) or a violation of the applicable
8 practice act which occurred prior to obtaining a license, it
9 may enter an order imposing one or more of the following
10 penalties:

11 (a) Refusal to certify, or to certify with
12 restrictions, an application for a license.

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

14 (c) Restriction of practice.

15 (d) Imposition of an administrative fine not to exceed
16 ~~\$10,000~~~~\$5,000~~ for each count or separate offense.

17 (e) Issuance of a reprimand.

18 (f) Placement of the licensee on probation for a
19 period of time and subject to such conditions as the board, or
20 the department when there is no board, may specify. Those
21 conditions may include, but are not limited to, requiring the
22 licensee to undergo treatment, attend continuing education
23 courses, submit to be reexamined, work under the supervision
24 of another licensee, or satisfy any terms which are reasonably
25 tailored to the violations found.

26 (g) Corrective action.

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

29
30 In determining what action is appropriate, the board, or
31 department when there is no board, must first consider what

1 sanctions are necessary to protect the public or to compensate
2 the patient. Only after those sanctions have been imposed may
3 the disciplining authority consider and include in the order
4 requirements designed to rehabilitate the practitioner. All
5 costs associated with compliance with orders issued under this
6 subsection are the obligation of the practitioner.

7 (3) Notwithstanding subsection (2), if the ground for
8 disciplinary action is the first-time failure of the licensee
9 to satisfy continuing education requirements established by
10 the board, or by the department if there is no board, the
11 board or department, as applicable, shall issue a citation in
12 accordance with s. 455.617 and assess a fine, as determined by
13 the board or department by rule. In addition, for each hour of
14 continuing education not completed or completed late, the
15 board or department, as applicable, may require the licensee
16 to take 1 additional hour of continuing education for each
17 hour not completed or completed late.

18 (4)(3) In addition to any other discipline imposed
19 pursuant to this section or discipline imposed for a violation
20 of any practice act, the board, or the department when there
21 is no board, may assess costs related to the investigation and
22 prosecution of the case ~~excluding costs associated with an~~
23 ~~attorney's time~~. In any case where the board or the department
24 imposes a fine or assessment and the fine or assessment is not
25 paid within a reasonable time, such reasonable time to be
26 prescribed in the rules of the board, or the department when
27 there is no board, or in the order assessing such fines or
28 costs, the department or the Department of Legal Affairs may
29 contract for the collection of, or bring a civil action to
30 recover, the fine or assessment.

31

1 Section 86. Section 455.664, Florida Statutes, is
2 amended to read:

3 455.664 Advertisement by a health care practitioner
4 ~~provider~~ of free or discounted services; required
5 statement.--In any advertisement for a free, discounted fee,
6 or reduced fee service, examination, or treatment by a health
7 care practitioner ~~provider~~ licensed under chapter 458, chapter
8 459, chapter 460, chapter 461, chapter 462, chapter 463,
9 chapter 464, chapter 465, chapter 466, chapter 467, chapter
10 478, chapter 483, chapter 484, or chapter 486, chapter 490, or
11 chapter 491, the following statement shall appear in capital
12 letters clearly distinguishable from the rest of the text:
13 THE PATIENT AND ANY OTHER PERSON RESPONSIBLE FOR PAYMENT HAS A
14 RIGHT TO REFUSE TO PAY, CANCEL PAYMENT, OR BE REIMBURSED FOR
15 PAYMENT FOR ANY OTHER SERVICE, EXAMINATION, OR TREATMENT THAT
16 IS PERFORMED AS A RESULT OF AND WITHIN 72 HOURS OF RESPONDING
17 TO THE ADVERTISEMENT FOR THE FREE, DISCOUNTED FEE, OR REDUCED
18 FEE SERVICE, EXAMINATION, OR TREATMENT. However, the required
19 statement shall not be necessary as an accompaniment to an
20 advertisement of a licensed health care practitioner ~~provider~~
21 defined by this section if the advertisement appears in a
22 classified directory the primary purpose of which is to
23 provide products and services at free, reduced, or discounted
24 prices to consumers and in which the statement prominently
25 appears in at least one place.

26 Section 87. Subsections (7) and (16) of section
27 455.667, Florida Statutes, 1998 Supplement, are amended to
28 read:

29 455.667 Ownership and control of patient records;
30 report or copies of records to be furnished.--

31

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

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

25 3. The department may obtain patient records, billing
26 records, insurance information, provider contracts, and all
27 attachments thereto pursuant to a subpoena without written
28 authorization from the patient if the department and probable
29 cause panel of the appropriate board, if any, find reasonable
30 cause to believe that a health care practitioner has submitted
31 a claim, statement, or bill using a billing code that would

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

19 (b) Patient records, billing records, insurance
20 information, provider contracts, and all attachments thereto
21 ~~record~~ obtained by the department pursuant to this subsection
22 shall be used solely for the purpose of the department and the
23 appropriate regulatory board in disciplinary proceedings. ~~The~~
24 ~~records shall otherwise be confidential and exempt from s.~~
25 ~~119.07(1).~~ This section does not limit the assertion of the
26 psychotherapist-patient privilege under s. 90.503 in regard to
27 records of treatment for mental or nervous disorders by a
28 medical practitioner licensed pursuant to chapter 458 or
29 chapter 459 who has primarily diagnosed and treated mental and
30 nervous disorders for a period of not less than 3 years,
31 inclusive of psychiatric residency. However, the health care

1 practitioner shall release records of treatment for medical
2 conditions even if the health care practitioner has also
3 treated the patient for mental or nervous disorders. If the
4 department has found reasonable cause under this section and
5 the psychotherapist-patient privilege is asserted, the
6 department may petition the circuit court for an in camera
7 review of the records by expert medical practitioners
8 appointed by the court to determine if the records or any part
9 thereof are protected under the psychotherapist-patient
10 privilege.

11 (16) A health care practitioner or records owner
12 furnishing copies of reports or records or making the reports
13 or records available for digital scanning pursuant to this
14 section shall charge no more than the actual cost of copying,
15 including reasonable staff time, or the amount specified in
16 administrative rule by the appropriate board, or the
17 department when there is no board.

18 Section 88. Subsection (3) is added to section
19 455.687, Florida Statutes, to read:

20 455.687 Certain health care practitioners; immediate
21 suspension of license.--

22 (3) The department may issue an emergency order
23 suspending or restricting the license of any health care
24 practitioner as defined in s. 455.501(4) who tests positive
25 for any drug on any government or private-sector preemployment
26 or employer-ordered confirmed drug test, as defined in s.
27 112.0455, when the practitioner does not have a lawful
28 prescription and legitimate medical reason for using such
29 drug. The practitioner shall be given 48 hours from the time
30 of notification to the practitioner of the confirmed test
31

1 result to produce a lawful prescription for the drug before an
2 emergency order is issued.

3 Section 89. Section 455.694, Florida Statutes, 1998
4 Supplement, is amended to read:

5 455.694 Financial responsibility requirements for
6 ~~Boards regulating~~ certain health care practitioners.--

7 (1) As a prerequisite for licensure or license
8 renewal, the Board of Acupuncture, the Board of Chiropractic
9 Medicine, the Board of Podiatric Medicine, and the Board of
10 Dentistry shall, by rule, require that all health care
11 practitioners licensed under the respective board, and the
12 Board of Nursing shall, by rule, require that advanced
13 registered nurse practitioners certified under s. 464.012, and
14 the department shall, by rule, require that midwives maintain
15 medical malpractice insurance or provide proof of financial
16 responsibility in an amount and in a manner determined by the
17 board or department to be sufficient to cover claims arising
18 out of the rendering of or failure to render professional care
19 and services in this state.

20 (2) The board or department may grant exemptions upon
21 application by practitioners meeting any of the following
22 criteria:

23 (a) Any person licensed under chapter 457, chapter
24 460, chapter 461, s. 464.012, ~~or~~ chapter 466, or chapter 467
25 who practices exclusively as an officer, employee, or agent of
26 the Federal Government or of the state or its agencies or its
27 subdivisions. For the purposes of this subsection, an agent
28 of the state, its agencies, or its subdivisions is a person
29 who is eligible for coverage under any self-insurance or
30 insurance program authorized by the provisions of s.
31 768.28(15) or who is a volunteer under s. 110.501(1).

1 (b) Any person whose license or certification has
2 become inactive under chapter 457, chapter 460, chapter 461,
3 chapter 464, ~~or~~ chapter 466, or chapter 467 and who is not
4 practicing in this state. Any person applying for
5 reactivation of a license must show either that such licensee
6 maintained tail insurance coverage which provided liability
7 coverage for incidents that occurred on or after October 1,
8 1993, or the initial date of licensure in this state,
9 whichever is later, and incidents that occurred before the
10 date on which the license became inactive; or such licensee
11 must submit an affidavit stating that such licensee has no
12 unsatisfied medical malpractice judgments or settlements at
13 the time of application for reactivation.

14 (c) Any person holding a limited license pursuant to
15 s. 455.561, and practicing under the scope of such limited
16 license.

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

25 (e) Any person holding an active license or
26 certification under chapter 457, chapter 460, chapter 461, s.
27 464.012, ~~or~~ chapter 466, or chapter 467 who is not practicing
28 in this state. If such person initiates or resumes practice
29 in this state, he or she must notify the department of such
30 activity.

31

1 (f) Any person who can demonstrate to the board or
2 department that he or she has no malpractice exposure in the
3 state.

4 (3) Notwithstanding the provisions of this section,
5 the financial responsibility requirements of ss. 458.320 and
6 459.0085 shall continue to apply to practitioners licensed
7 under those chapters.

8 Section 90. Section 455.712, Florida Statutes, is
9 created to read:

10 455.712 Business establishments; requirements for
11 active status licenses.--

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

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

27 (3) A delinquent business establishment must apply
28 with a complete application, as defined by rule of the board,
29 or the department if there is no board, for active status
30 within 6 months after becoming delinquent. Failure of a
31 delinquent business establishment to renew the license within

1 the 6 months after the expiration date of the license renders
2 the license null without any further action by the board or
3 the department. Any subsequent licensure shall be as a result
4 of applying for and meeting all requirements imposed on a
5 business establishment for new licensure.

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

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

19 Section 91. Subsection (7) is added to section
20 457.102, Florida Statutes, 1998 Supplement, to read:

21 457.102 Definitions.--As used in this chapter:

22 (7) "Prescriptive rights" means the prescription,
23 administration, and use of needles and devices, restricted
24 devices, and prescription devices that are used in the
25 practice of acupuncture and oriental medicine.

26 Section 92. Subsections (2) and (4) of section
27 458.307, Florida Statutes, 1998 Supplement, are amended to
28 read:

29 458.307 Board of Medicine.--

30 (2) Twelve members of the board must be licensed
31 physicians in good standing in this state who are residents of

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

14 (4) The board, in conjunction with the department,
15 shall establish a disciplinary training program for board
16 members. The program shall provide for initial and periodic
17 training in the grounds for disciplinary action, the actions
18 which may be taken by the board and the department, changes in
19 relevant statutes and rules, and any relevant judicial and
20 administrative decisions. ~~After January 1, 1989,~~ No member of
21 the board shall participate on probable cause panels or in
22 disciplinary decisions of the board unless he or she has
23 completed the disciplinary training program.

24 Section 93. Subsection (3) is added to section
25 458.309, Florida Statutes, 1998 Supplement, to read:

26 458.309 Authority to make rules.--

27 (3) All physicians who perform level 2 procedures
28 lasting more than 5 minutes and all level 3 surgical
29 procedures in an office setting must register the office with
30 the department unless that office is licensed as a facility
31 pursuant to chapter 395. The department shall inspect the

1 physician's office annually unless the office is accredited by
2 a nationally recognized accrediting agency or an accrediting
3 organization subsequently approved by the Board of Medicine.
4 The actual costs for registration and inspection or
5 accreditation shall be paid by the person seeking to register
6 and operate the office setting in which office surgery is
7 performed.

8 Section 94. Section 458.311, Florida Statutes, 1998
9 Supplement, is amended to read:

10 458.311 Licensure by examination; requirements;
11 fees.--

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

17 (a) Has completed the application form and remitted a
18 nonrefundable application fee not to exceed \$500 ~~and an~~
19 ~~examination fee not to exceed \$300 plus the actual per~~
20 ~~applicant cost to the department for purchase of the~~
21 ~~examination from the Federation of State Medical Boards of the~~
22 ~~United States or a similar national organization, which is~~
23 ~~refundable if the applicant is found to be ineligible to take~~
24 ~~the examination.~~

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

26 (c) Is of good moral character.

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

30 (e) For any applicant who has graduated from medical
31 school after October 1, 1992, has completed the equivalent of

1 2 academic years of preprofessional, postsecondary education,
2 as determined by rule of the board, which shall include, at a
3 minimum, courses in such fields as anatomy, biology, and
4 chemistry prior to entering medical school.

5 (f) Meets one of the following medical education and
6 postgraduate training requirements:

7 1.a. Is a graduate of an allopathic medical school or
8 allopathic college recognized and approved by an accrediting
9 agency recognized by the United States Office of Education or
10 is a graduate of an allopathic medical school or allopathic
11 college within a territorial jurisdiction of the United States
12 recognized by the accrediting agency of the governmental body
13 of that jurisdiction;

14 b. If the language of instruction of the medical
15 school is other than English, has demonstrated competency in
16 English through presentation of a satisfactory grade on the
17 Test of Spoken English of the Educational Testing Service or a
18 similar test approved by rule of the board; and

19 c. Has completed an approved residency of at least 1
20 year.

21 2.a. Is a graduate of an allopathic ~~a~~ foreign medical
22 school registered with the World Health Organization and
23 certified pursuant to s. 458.314 as having met the standards
24 required to accredit medical schools in the United States or
25 reasonably comparable standards;

26 b. If the language of instruction of the foreign
27 medical school is other than English, has demonstrated
28 competency in English through presentation of the Educational
29 Commission for Foreign Medical Graduates English proficiency
30 certificate or by a satisfactory grade on the Test of Spoken
31

1 English of the Educational Testing Service or a similar test
2 approved by rule of the board; and

3 c. Has completed an approved residency of at least 1
4 year.

5 3.a. Is a graduate of an allopathic ~~a~~ foreign medical
6 school which has not been certified pursuant to s. 458.314;

7 b. Has had his or her medical credentials evaluated by
8 the Educational Commission for Foreign Medical Graduates,
9 holds an active, valid certificate issued by that commission,
10 and has passed the examination utilized by that commission;
11 and

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

19 (g) Has submitted to the department a set of
20 fingerprints on a form and under procedures specified by the
21 department, along with a payment in an amount equal to the
22 costs incurred by the Department of Health for the criminal
23 background check of the applicant.

24 (h) Has obtained a passing score, as established by
25 rule of the board, on the licensure examination of the United
26 States Medical Licensing Examination (USMLE); or a combination
27 of the United States Medical Licensing Examination (USMLE),
28 the examination of the Federation of State Medical Boards of
29 the United States, Inc. (FLEX), or the examination of the
30 National Board of Medical Examiners up to the year 2000; or
31 for the purpose of examination of any applicant who was

1 licensed on the basis of a state board examination and who is
2 currently licensed in at least one other jurisdiction of the
3 United States or Canada, and who has practiced pursuant to
4 such licensure for a period of at least 10 years, use of the
5 Special Purpose Examination of the Federation of State Medical
6 Boards of the United States (SPEX) upon receipt of a passing
7 score as established by rule of the board. However, for the
8 purpose of examination of any applicant who was licensed on
9 the basis of a state board examination prior to 1974, who is
10 currently licensed in at least three other jurisdictions of
11 the United States or Canada, and who has practiced pursuant to
12 such licensure for a period of at least 20 years, this
13 paragraph does not apply.

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

22 (3) Notwithstanding the provisions of subparagraph
23 (1)(f)3., a graduate of a foreign medical school need not
24 present the certificate issued by the Educational Commission
25 for Foreign Medical Graduates or pass the examination utilized
26 by that commission if the graduate:

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

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

31

1 (c) Has completed all of the formal requirements of
2 the foreign medical school, except the internship or social
3 service requirements, and has passed part I of the National
4 Board of Medical Examiners examination or the Educational
5 Commission for Foreign Medical Graduates examination
6 equivalent.

7 (d) Has completed an academic year of supervised
8 clinical training in a hospital affiliated with a medical
9 school approved by the Council on Medical Education of the
10 American Medical Association and upon completion has passed
11 part II of the National Board of Medical Examiners examination
12 or the Educational Commission for Foreign Medical Graduates
13 examination equivalent.

14 (4) The department and the board shall assure that
15 applicants for licensure meet the criteria in subsection (1)
16 through an investigative process. When the investigative
17 process is not completed within the time set out in s.
18 120.60(1) and the department or board has reason to believe
19 that the applicant does not meet the criteria, the secretary
20 or the secretary's designee may issue a 90-day licensure delay
21 which shall be in writing and sufficient to notify the
22 applicant of the reason for the delay. The provisions of this
23 subsection shall control over any conflicting provisions of s.
24 120.60(1).

25 (5) The board may not certify to the department for
26 licensure any applicant who is under investigation in another
27 jurisdiction for an offense which would constitute a violation
28 of this chapter until such investigation is completed. Upon
29 completion of the investigation, the provisions of s. 458.331
30 shall apply. Furthermore, the department may not issue an
31 unrestricted license to any individual who has committed any

1 act or offense in any jurisdiction which would constitute the
2 basis for disciplining a physician pursuant to s. 458.331.
3 When the board finds that an individual has committed an act
4 or offense in any jurisdiction which would constitute the
5 basis for disciplining a physician pursuant to s. 458.331,
6 then the board may enter an order imposing one or more of the
7 terms set forth in subsection (9).

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

11 (7) Upon certification by the board, the department
12 shall impose conditions, limitations, or restrictions on a
13 license ~~by examination~~ if the applicant is on probation in
14 another jurisdiction for an act which would constitute a
15 violation of this chapter.

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

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

23 (b) Certification to the department of an application
24 for licensure, certification, or registration with
25 restrictions on the scope of practice of the licensee; or

26 (c) Certification to the department of an application
27 for licensure, certification, or registration with placement
28 of the physician on probation for a period of time and subject
29 to such conditions as the board may specify, including, but
30 not limited to, requiring the physician to submit to
31 treatment, attend continuing education courses, submit to

1 reexamination, or work under the supervision of another
2 physician.

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

16 1. ~~Is a graduate of a World Health Organization~~
17 ~~recognized foreign medical institution located in a country in~~
18 ~~the Western Hemisphere.~~

19 2. ~~Received a medical education which has been~~
20 ~~determined by the board to be substantially similar, at the~~
21 ~~time of the applicant's graduation, to approved United States~~
22 ~~medical programs.~~

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

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

28 5. ~~Successfully completed the Educational Commission~~
29 ~~for Foreign Medical Graduates Examination or Foreign Medical~~
30 ~~Graduate Examination in the Medical Sciences or successfully~~
31 ~~completed a course developed for the University of Miami for~~

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

14

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

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

25 ~~(c) Upon recommendation of the supervising physician~~
26 ~~and demonstration of clinical competency to the satisfaction~~
27 ~~of the board that the holder of a restricted license issued~~
28 ~~pursuant to this subsection has practiced for 1 year under~~
29 ~~direct supervision, such licenseholder shall work for 1 year~~
30 ~~under general supervision, as defined by board rule, of a~~
31 ~~Florida-licensed physician in an area of critical need as~~

1 ~~determined by the board. Prior to commencing such~~
2 ~~supervision, the supervising physician shall notify the board.~~

3 ~~(d) Upon completion of the 1 year of work under~~
4 ~~general supervision and demonstration to the board that the~~
5 ~~holder of the restricted license has satisfactorily completed~~
6 ~~the requirements of this subsection, and has not committed any~~
7 ~~act or is not under investigation for any act which would~~
8 ~~constitute a violation of this chapter, the department shall~~
9 ~~issue an unrestricted license to such licenseholder.~~

10 ~~(e) Rules necessary to implement and carry out the~~
11 ~~provisions of this subsection shall be promulgated by the~~
12 ~~board.~~

13 ~~(10) Notwithstanding any other provision of this~~
14 ~~section, the department shall examine any person who meets the~~
15 ~~criteria set forth in sub-subparagraph (1)(f)1.a.,~~
16 ~~sub-subparagraphs (1)(f)3.a. and b., or subsection (3), if the~~
17 ~~person:~~

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

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

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

27 ~~(d) Remits a nonrefundable administration fee, not to~~
28 ~~exceed \$50, and an examination fee, not to exceed \$300, plus~~
29 ~~the actual cost per person to the department for the purchase~~
30 ~~of the examination from the Federation of State Medical Boards~~
31 ~~of the United States or a similar national organization. The~~

1 ~~examination fee is refundable if the person is found to be~~
2 ~~ineligible to take the examination.~~

3 Section 95. Section 458.3115, Florida Statutes, 1998
4 Supplement, is amended to read:

5 458.3115 Restricted license; certain foreign-licensed
6 physicians; ~~United States Medical Licensing Examination~~
7 ~~(USMLE) or agency-developed~~ examination; restrictions on
8 practice; full licensure.--

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

31

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

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

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

22 2. Applies to the department ~~agency~~ and submits an
23 application fee that is nonrefundable and equivalent to the
24 fee required for full licensure;

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

27 4. Submits an examination fee that is nonrefundable
28 and equivalent to the fee required for full licensure plus the
29 actual per-applicant cost to the department ~~agency~~ to provide
30 either examination described in this section;

31

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

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

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

20 (e) The department ~~Agency for Health Care~~
21 ~~Administration~~ and the board shall be responsible for working
22 with one or more organizations to offer a medical refresher
23 course designed to prepare applicants to take either licensure
24 examination described in this section. The organizations may
25 develop the medical refresher course, purchase such a course,
26 or contract for such a course from a private organization that
27 specializes in developing such courses.

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

1 (2)(a) Before the department ~~agency~~ may issue a
2 restricted license to an applicant under this section, the
3 applicant must have passed either of the two examinations
4 described in this section. However, the board may impose
5 reasonable restrictions on the applicant's license to
6 practice. These restrictions may include, but are not limited
7 to:

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

11 2. Periodic appearances of the licensee before the
12 board or the department ~~agency~~.

13 3. Submission of written reports to the board or the
14 department ~~agency~~.

15 (b) A restricted licensee under this section shall
16 practice under the supervision of a full licensee approved by
17 the board with the first year of the licensure period being
18 under direct supervision as defined by board rule and the
19 second year being under indirect supervision as defined by
20 board rule.

21 (c) The board may adopt rules necessary to implement
22 this subsection.

23 (3)(a) A restricted license issued by the department
24 ~~agency~~ under this section is valid for 2 years unless sooner
25 revoked or suspended, and a restricted licensee is subject to
26 the requirements of this chapter, part II of chapter 455, and
27 any other provision of law not in conflict with this section.
28 Upon expiration of such restricted license, a restricted
29 licensee shall become a full licensee if the restricted
30 licensee:

31

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

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

5 (b) The department ~~agency~~ shall renew a restricted
6 license under this section upon payment of the same fees
7 required for renewal for a full license if the restricted
8 licensee is under discipline, investigation, or prosecution
9 for a violation which posed or poses a substantial threat to
10 the public health, safety, or welfare and the board has not
11 permanently revoked the restricted license. A restricted
12 licensee who has renewed such restricted license shall become
13 eligible for full licensure when the licensee is no longer
14 under discipline, investigation, or prosecution.

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

17 Section 96. Subsections (1), (2), and (8) of section
18 458.313, Florida Statutes, are amended to read:

19 458.313 Licensure by endorsement; requirements;
20 fees.--

21 (1) The department shall issue a license by
22 endorsement to any applicant who, upon applying to the
23 department on forms furnished by the department and remitting
24 a fee set by the board not to exceed \$500 ~~set by the board~~,
25 the board certifies:

26 (a) Has met the qualifications for licensure in s.
27 458.311(1)(b)-(g) or in s. 458.311(1)(b)-(e) and (g) and (3);

28 (b) Prior to January 1, 2000, has obtained a passing
29 score, as established by rule of the board, on the licensure
30 examination of the Federation of State Medical Boards of the
31 United States, Inc. (FLEX), on ~~or of~~ the United States Medical

1 Licensing Examination (USMLE), or on the examination of the
2 National Board of Medical Examiners, or on a combination
3 thereof, and on or after January 1, 2000, has obtained a
4 passing score on the United States Medical Licensing
5 Examination (USMLE)~~provided the board certifies as eligible~~
6 ~~for licensure by endorsement any applicant who took the~~
7 ~~required examinations more than 10 years prior to application;~~
8 and

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

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

31

1 **(b)** The board may require an applicant for licensure
2 by endorsement to take and pass the appropriate licensure
3 examination prior to certifying the applicant as eligible for
4 licensure.

5 ~~(8) The department shall reactivate the license of any~~
6 ~~physician whose license has become void by failure to practice~~
7 ~~in Florida for a period of 1 year within 3 years after~~
8 ~~issuance of the license by endorsement, if the physician was~~
9 ~~issued a license by endorsement prior to 1989, has actively~~
10 ~~practiced medicine in another state for the last 4 years,~~
11 ~~applies for licensure before October 1, 1998, pays the~~
12 ~~applicable fees, and otherwise meets any continuing education~~
13 ~~requirements for reactivation of the license as determined by~~
14 ~~the board.~~

15 Section 97. Subsection (1) of section 458.315, Florida
16 Statutes, is amended to read:

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

30 (1) The board shall determine the areas of critical
31 need, and the physician so certified may practice in any of

1 those areas ~~only in that specific area~~ for a time to be
2 determined by the board. Such areas shall include, but not be
3 limited to, health professional shortage areas designated by
4 the United States Department of Health and Human Services.

5 (a) A recipient of a temporary certificate for
6 practice in areas of critical need may use the license to work
7 for any approved employer in any area of critical need
8 approved by the board.

9 (b) The recipient of a temporary certificate for
10 practice in areas of critical need shall, within 30 days after
11 accepting employment, notify the board of all approved
12 institutions in which the licensee practices and of all
13 approved institutions where practice privileges have been
14 denied.

15 Section 98. Section 458.3165, Florida Statutes, is
16 amended to read:

17 458.3165 Public psychiatry certificate.--The board
18 shall issue a public psychiatry certificate to an individual
19 who remits an application fee not to exceed \$300, as set by
20 the board, who is a board-certified psychiatrist, who is
21 licensed to practice medicine without restriction in another
22 state, and who meets the requirements in s. 458.311(1)(a)-(g)
23 and (5). A recipient of a public psychiatry certificate may
24 use the certificate to work at any public mental health
25 facility or program funded in part or entirely by state funds.

26 (1) Such certificate shall:

27 (a) Authorize the holder to practice only in a public
28 mental health facility or program funded in part or entirely
29 by state funds.

30 (b) Be issued and renewable biennially if the
31 secretary of the Department of Health ~~and Rehabilitative~~

1 ~~Services~~ and the chair of the department of psychiatry at one
2 of the public medical schools or the chair of the department
3 of psychiatry at the accredited medical school at the
4 University of Miami recommend in writing that the certificate
5 be issued or renewed.

6 (c) Automatically expire if the holder's relationship
7 with a public mental health facility or program expires.

8 (d) Not be issued to a person who has been adjudged
9 unqualified or guilty of any of the prohibited acts in this
10 chapter.

11 (2) The board may take disciplinary action against a
12 certificateholder for noncompliance with any part of this
13 section or for any reason for which a regular licensee may be
14 subject to discipline.

15 Section 99. Subsection (4) is added to section
16 458.317, Florida Statutes, 1998 Supplement, to read:

17 458.317 Limited licenses.--

18 (4) Any person holding an active license to practice
19 medicine in the state may convert that license to a limited
20 license for the purpose of providing volunteer, uncompensated
21 care for low-income Floridians. The applicant must submit a
22 statement from the employing agency or institution stating
23 that he or she will not receive compensation for any service
24 involving the practice of medicine. The application and all
25 licensure fees, including neurological injury compensation
26 assessments, shall be waived.

27 Section 100. Paragraph (mm) is added to subsection (1)
28 of section 458.331, Florida Statutes, 1998 Supplement, and
29 subsection (2) of that section is amended to read:

30 458.331 Grounds for disciplinary action; action by the
31 board and department.--

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

4 (mm) Failing to comply with the requirements of ss.
5 381.026 and 381.0261 to provide patients with information
6 about their patient rights and how to file a patient
7 complaint.

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

13 (a) Refusal to certify, or certification with
14 restrictions, to the department an application for licensure,
15 certification, or registration.

16 (b) Revocation or suspension of a license.

17 (c) Restriction of practice.

18 (d) Imposition of an administrative fine not to exceed
19 ~~\$10,000~~\$5,000 for each count or separate offense.

20 (e) Issuance of a reprimand.

21 (f) Placement of the physician on probation for a
22 period of time and subject to such conditions as the board may
23 specify, including, but not limited to, requiring the
24 physician to submit to treatment, to attend continuing
25 education courses, to submit to reexamination, or to work
26 under the supervision of another physician.

27 (g) Issuance of a letter of concern.

28 (h) Corrective action.

29 (i) Refund of fees billed to and collected from the
30 patient.

31

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

3
4 In determining what action is appropriate, the board must
5 first consider what sanctions are necessary to protect the
6 public or to compensate the patient. Only after those
7 sanctions have been imposed may the disciplining authority
8 consider and include in the order requirements designed to
9 rehabilitate the physician. All costs associated with
10 compliance with orders issued under this subsection are the
11 obligation of the physician.

12 Section 101. Subsection (7) of section 458.347,
13 Florida Statutes, 1998 Supplement, is amended to read:

14 458.347 Physician assistants.--

15 (7) PHYSICIAN ASSISTANT LICENSURE.--

16 (a) Any person desiring to be licensed as a physician
17 assistant must apply to the department. The department shall
18 issue a license to any person certified by the council as
19 having met the following requirements:

- 20 1. Is at least 18 years of age.
- 21 2. Has satisfactorily passed a proficiency examination
22 by an acceptable score established by the National Commission
23 on Certification of Physician Assistants. If an applicant
24 does not hold a current certificate issued by the National
25 Commission on Certification of Physician Assistants and has
26 not actively practiced as a physician assistant within the
27 immediately preceding 4 years, the applicant must retake and
28 successfully complete the entry-level examination of the
29 National Commission on Certification of Physician Assistants
30 to be eligible for licensure.

31

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

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

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

8 c. A sworn statement of any previous revocation or
9 denial of licensure or certification in any state.

10 d. Two letters of recommendation.

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

14 a. Has completed the application form and remitted a
15 nonrefundable application fee not to exceed \$500 and an
16 examination fee not to exceed \$300, plus the actual cost to
17 the department to provide the examination. The examination
18 fee is refundable if the applicant is found to be ineligible
19 to take the examination. The department shall not require the
20 applicant to pass a separate practical component of the
21 examination. For examinations given after July 1, 1998,
22 competencies measured through practical examinations shall be
23 incorporated into the written examination through a
24 multiple-choice format. The department shall translate the
25 examination into the native language of any applicant who
26 requests and agrees to pay all costs of such translation,
27 provided that the translation request is filed with the board
28 office no later than 9 months before the scheduled examination
29 and the applicant remits translation fees as specified by the
30 department no later than 6 months before the scheduled
31 examination, and provided that the applicant demonstrates to

1 the department the ability to communicate orally in basic
2 English. If the applicant is unable to pay translation costs,
3 the applicant may take the next available examination in
4 English if the applicant submits a request in writing by the
5 application deadline and if the applicant is otherwise
6 eligible under this section. To demonstrate the ability to
7 communicate orally in basic English, a passing score or grade
8 is required, as determined by the department or organization
9 that developed it, on one of the following English
10 examinations:

- 11 (I) The test for spoken English (TSE) by the
12 Educational Testing Service (ETS);
13 (II) The test of English as a foreign language
14 (TOEFL), by ETS;
15 (III) A high school or college level English course;
16 (IV) The English examination for citizenship,
17 Immigration and Naturalization Service.

18
19 A notarized copy of an Educational Commission for Foreign
20 Medical Graduates (ECFMG) certificate may also be used to
21 demonstrate the ability to communicate in basic English.

22 b. Is an unlicensed physician who graduated from a
23 foreign medical school listed with the World Health
24 Organization who has not previously taken and failed the
25 examination of the National Commission on Certification of
26 Physician Assistants and who has been certified by the Board
27 of Medicine as having met the requirements for licensure as a
28 medical doctor by examination as set forth in s. 458.311(1),
29 (3), (4), and (5), with the exception that the applicant is
30 not required to have completed an approved residency of at
31 least 1 year and the applicant is not required to have passed

1 the licensing examination specified under s. 458.311 or hold a
2 valid, active certificate issued by the Educational Commission
3 for Foreign Medical Graduates.

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

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

10 2. The department may grant temporary licensure to an
11 applicant who meets the requirements of subparagraph 1.
12 Between meetings of the council, the department may grant
13 temporary licensure to practice based on the completion of all
14 temporary licensure requirements. All such administratively
15 issued licenses shall be reviewed and acted on at the next
16 regular meeting of the council. A temporary license expires
17 30 days after ~~upon~~ receipt and notice of scores to the
18 licenseholder from the first available examination specified
19 in subparagraph 1. following licensure by the department. An
20 applicant who fails the proficiency examination is no longer
21 temporarily licensed, but may apply for a one-time extension
22 of temporary licensure after reapplying for the next available
23 examination. Extended licensure shall expire upon failure of
24 the licenseholder to sit for the next available examination or
25 upon receipt and notice of scores to the licenseholder from
26 such examination.

27 3. Notwithstanding any other provision of law, the
28 examination specified pursuant to subparagraph 1. shall be
29 administered by the department only five times. Applicants
30 certified by the board for examination shall receive at least
31 6 months' notice of eligibility prior to the administration of

1 the initial examination. Subsequent examinations shall be
2 administered at 1-year intervals following the reporting of
3 the scores of the first and subsequent examinations. For the
4 purposes of this paragraph, the department may develop,
5 contract for the development of, purchase, or approve an
6 examination, ~~including a practical component,~~ that adequately
7 measures an applicant's ability to practice with reasonable
8 skill and safety. The minimum passing score on the
9 examination shall be established by the department, with the
10 advice of the board. Those applicants failing to pass that
11 examination or any subsequent examination shall receive notice
12 of the administration of the next examination with the notice
13 of scores following such examination. Any applicant who
14 passes the examination and meets the requirements of this
15 section shall be licensed as a physician assistant with all
16 rights defined thereby.

17 (c) The license must be renewed biennially. Each
18 renewal must include:

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

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

23 (d) Each licensed physician assistant shall biennially
24 complete 100 hours of continuing medical education or shall
25 hold a current certificate issued by the National Commission
26 on Certification of Physician Assistants.

27 (e) Upon employment as a physician assistant, a
28 licensed physician assistant must notify the department in
29 writing within 30 days after such employment or after any
30 subsequent changes in the supervising physician. The
31 notification must include the full name, Florida medical

1 license number, specialty, and address of the supervising
2 physician.

3 (f) Notwithstanding subparagraph (a)2., the department
4 may grant to a recent graduate of an approved program, as
5 specified in subsection (6), who expects to take the first
6 examination administered by the National Commission on
7 Certification of Physician Assistants available for
8 registration after the applicant's graduation, a temporary
9 license. The temporary license shall ~~to~~ expire 30 days after

10 ~~upon~~ receipt of scores of the proficiency examination
11 administered by the National Commission on Certification of
12 Physician Assistants. Between meetings of the council, the
13 department may grant a temporary license to practice based on
14 the completion of all temporary licensure requirements. All
15 such administratively issued licenses shall be reviewed and
16 acted on at the next regular meeting of the council. The
17 recent graduate may be licensed prior to employment, but must
18 comply with paragraph (e). An applicant who has passed the
19 proficiency examination may be granted permanent licensure. An
20 applicant failing the proficiency examination is no longer
21 temporarily licensed, but may reapply for a 1-year extension
22 of temporary licensure. An applicant may not be granted more
23 than two temporary licenses and may not be licensed as a
24 physician assistant until he or she passes the examination
25 administered by the National Commission on Certification of
26 Physician Assistants. As prescribed by board rule, the council
27 may require an applicant who does not pass the licensing
28 examination after five or more attempts to complete additional
29 remedial education or training. The council shall prescribe
30 the additional requirements in a manner that permits the
31 applicant to complete the requirements and be reexamined

1 within 2 years after the date the applicant petitions the
2 council to retake the examination a sixth or subsequent time.

3 (g) The Board of Medicine may impose any of the
4 penalties specified in ss. 455.624 and 458.331(2) upon a
5 physician assistant if the physician assistant or the
6 supervising physician has been found guilty of or is being
7 investigated for any act that constitutes a violation of this
8 chapter or part II of chapter 455.

9 Section 102. Section 459.005, Florida Statutes, 1998
10 Supplement, is amended to read:

11 459.005 Rulemaking authority.--

12 (1) The board has authority to adopt rules pursuant to
13 ss. 120.536(1) and 120.54 to implement the provisions of this
14 chapter conferring duties upon it.

15 (2) All physicians who perform level 2 procedures
16 lasting more than 5 minutes and all level 3 surgical
17 procedures in an office setting must register the office with
18 the department unless that office is licensed as a facility
19 pursuant to chapter 395. The department shall inspect the
20 physician's office annually unless the office is accredited by
21 a nationally recognized accrediting agency or an accrediting
22 organization subsequently approved by the Board of Osteopathic
23 Medicine. The actual costs for registration and inspection or
24 accreditation shall be paid by the person seeking to register
25 and operate the office setting in which office surgery is
26 performed.

27 Section 103. Subsection (7) is added to section
28 459.0075, Florida Statutes, to read:

29 459.0075 Limited licenses.--

30 (7) Any person holding an active license to practice
31 osteopathic medicine in the state may convert that license to

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

9 Section 104. Paragraph (oo) is added to subsection (1)
10 of section 459.015, Florida Statutes, 1998 Supplement, and
11 subsection (2) of that section is amended to read:

12 459.015 Grounds for disciplinary action by the
13 board.--

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

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

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

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

27 (b) Revocation or suspension of a license or
28 certificate.

29 (c) Restriction of practice.

30 (d) Imposition of an administrative fine not to exceed
31 \$10,000~~\$5,000~~ for each count or separate offense.

1 (e) Issuance of a reprimand.

2 (f) Issuance of a letter of concern.

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

10 (h) Corrective action.

11 (i) Refund of fees billed to and collected from the
12 patient.

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

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

24 Section 105. Subsection (6) is added to section
25 460.402, Florida Statutes, to read:

26 460.402 Exceptions.--The provisions of this chapter
27 shall not apply to:

28 (6) A chiropractic student enrolled in a chiropractic
29 college accredited by the Council on Chiropractic Education
30 and participating in a community-based internship under the
31 direct supervision of a doctor of chiropractic medicine who is

1 credentialed as an adjunct faculty member of a chiropractic
2 college in which the student is enrolled.

3 Section 106. Present subsections (4) through (10) of
4 section 460.403, Florida Statutes, 1998 Supplement, are
5 renumbered as subsections (5) through (11), respectively, a
6 new subsection (4) is added to that section, and present
7 subsections (6) and (9) are amended, to read:

8 460.403 Definitions.--As used in this chapter, the
9 term:

10 (4) "Community-based internship" means a program in
11 which a student enrolled in the last year of a chiropractic
12 college accredited by the Council on Chiropractic Education is
13 approved to obtain required pregraduation clinical experience
14 in a chiropractic clinic or practice under the direct
15 supervision of a doctor of chiropractic medicine approved as
16 an adjunct faculty member of the chiropractic college in which
17 the student is enrolled, according to the teaching protocols
18 for the clinical practice requirements of the college.

19 ~~(7)~~(6) "Direct supervision" means responsible
20 supervision and control, with the licensed chiropractic
21 physician assuming legal liability for the services rendered
22 by a registered chiropractic assistant or a chiropractic
23 student enrolled in a community-based intern program. Except
24 in cases of emergency, direct supervision shall require the
25 physical presence of the licensed chiropractic physician for
26 consultation and direction of the actions of the registered
27 chiropractic assistant or a chiropractic student enrolled in a
28 community-based intern program. The board shall further
29 establish rules as to what constitutes responsible direct
30 supervision of a registered chiropractic assistant.

31

1 ~~(10)(9)~~ "Registered chiropractic assistant" means a
2 person who is registered by the board to perform chiropractic
3 services under the direct supervision of a chiropractic
4 physician or certified chiropractic physician's assistant.

5 Section 107. Subsection (1) of section 460.406,
6 Florida Statutes, 1998 Supplement, is amended to read:

7 460.406 Licensure by examination.--

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

20 (a) Completed the application form and remitted the
21 appropriate fee.

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

24 (c) Submitted proof satisfactory to the department
25 that he or she is a graduate of a chiropractic college which
26 is accredited by or has status with the Council on
27 Chiropractic Education or its predecessor agency. However, any
28 applicant who is a graduate of a chiropractic college that was
29 initially accredited by the Council on Chiropractic Education
30 in 1995, who graduated from such college within the 4 years
31 immediately preceding such accreditation, and who is otherwise

1 qualified shall be eligible to take the examination. No
2 application for a license to practice chiropractic medicine
3 shall be denied solely because the applicant is a graduate of
4 a chiropractic college that subscribes to one philosophy of
5 chiropractic medicine as distinguished from another.

6 (d)1. For an applicant who has matriculated in a
7 chiropractic college prior to July 2, 1990, completed at least
8 2 years of residence college work, consisting of a minimum of
9 one-half the work acceptable for a bachelor's degree granted
10 on the basis of a 4-year period of study, in a college or
11 university accredited by an accrediting agency recognized and
12 approved by the United States Department of Education.
13 However, prior to being certified by the board to sit for the
14 examination, each applicant who has matriculated in a
15 chiropractic college after July 1, 1990, shall have been
16 granted a bachelor's degree, based upon 4 academic years of
17 study, by a college or university accredited by a regional
18 accrediting agency which is a member of the Commission on
19 Recognition of Postsecondary Accreditation.

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

1 Education. The applicant's chiropractic degree must consist
2 of credits earned in the chiropractic program and may not
3 include academic credit for courses from the bachelor's
4 degree.

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

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

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

29 Section 108. Paragraphs (p) and (dd) of subsection (1)
30 and paragraph (b) of subsection (2) of section 460.413,
31 Florida Statutes, 1998 Supplement, are amended to read:

1 460.413 Grounds for disciplinary action; action by the
2 board.--

3 (1) The following acts shall constitute grounds for
4 which the disciplinary actions specified in subsection (2) may
5 be taken:

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

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

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

15 (d) Imposition of an administrative fine not to exceed
16 \$10,000~~\$2,000~~ for each count or separate offense.

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

26 Section 109. Section 460.4165, Florida Statutes, is
27 amended to read:

28 460.4165 Certified chiropractic physician's
29 assistants.--

30 (1) LEGISLATIVE INTENT.--The purpose of this section
31 is to encourage the more effective utilization of the skills

1 of chiropractic physicians by enabling them to delegate health
2 care tasks to qualified assistants when such delegation is
3 consistent with the patient's health and welfare and to allow
4 for innovative development of programs for the education of
5 physician's assistants.

6 (2) PERFORMANCE BY CERTIFIED CHIROPRACTIC PHYSICIAN'S
7 ASSISTANT.--Notwithstanding any other provision of law, a
8 certified chiropractic physician's assistant may perform
9 chiropractic services in the specialty area or areas for which
10 the certified chiropractic physician's assistant is trained or
11 experienced when such services are rendered under the
12 supervision of a licensed chiropractic physician or group of
13 chiropractic physicians certified by the board. Any certified
14 chiropractic physician's assistant certified under this
15 section to perform services may perform those services only:

16 (a) In the office of the chiropractic physician to
17 whom the certified chiropractic physician's assistant has been
18 assigned, in which office such physician maintains her or his
19 primary practice;

20 (b) Under indirect supervision of ~~when~~ the
21 chiropractic physician to whom she or he is assigned as
22 defined by rule of the board ~~is present~~;

23 (c) In a hospital in which the chiropractic physician
24 to whom she or he is assigned is a member of the staff; or

25 (d) On calls outside of the ~~said~~ office of the
26 chiropractic physician to whom she or he is assigned, on the
27 direct order of the chiropractic physician to whom she or he
28 is assigned.

29 (3) THIRD-PARTY PAYOR. This chapter does not prevent
30 third-party payors from reimbursing employers of chiropractic
31

1 physicians' assistants for covered services rendered by
2 certified chiropractic physicians' assistants.

3 ~~(4)(3)~~ PERFORMANCE BY TRAINEES.--Notwithstanding any
4 other provision of law, a trainee may perform chiropractic
5 services when such services are rendered within the scope of
6 an approved program.

7 ~~(5)(4)~~ PROGRAM APPROVAL.--The department shall issue
8 certificates of approval for programs for the education and
9 training of certified chiropractic physician's assistants
10 which meet board standards. Any basic program curriculum
11 certified by the board shall cover a period of 24 months. The
12 curriculum must consist of at least 200 didactic classroom
13 hours during those 24 months.

14 (a) In developing criteria for program approval, the
15 board shall give consideration to, and encourage, the
16 utilization of equivalency and proficiency testing and other
17 mechanisms whereby full credit is given to trainees for past
18 education and experience in health fields.

19 (b) The board shall create groups of specialty
20 classifications of training for certified chiropractic
21 physician's assistants. These classifications shall reflect
22 the training and experience of the certified chiropractic
23 physician's assistant. The certified chiropractic physician's
24 assistant may receive training in one or more such
25 classifications, which shall be shown on the certificate
26 issued.

27 (c) The board shall adopt and publish standards to
28 ensure that such programs operate in a manner which does not
29 endanger the health and welfare of the patients who receive
30 services within the scope of the program. The board shall
31 review the quality of the curricula, faculties, and facilities

1 of such programs; issue certificates of approval; and take
2 whatever other action is necessary to determine that the
3 purposes of this section are being met.

4 (6)(5) APPLICATION APPROVAL.--Any person desiring to
5 be licensed as a certified chiropractic physician's assistant
6 must apply to the department. The department shall issue a
7 certificate to any person certified by the board as having met
8 the following requirements:

9 (a) Is at least 18 years of age.

10 (b) Is a graduate of an approved program or its
11 equivalent and is fully certified by reason of experience and
12 education, as defined by board rule, to perform chiropractic
13 services under the responsible supervision of a licensed
14 chiropractic physician and when the board is satisfied that
15 the public will be adequately protected by the arrangement
16 proposed in the application.

17 (c) Has completed the application form and remitted an
18 application fee set by the board pursuant to this section. An
19 application for certification made by a chiropractic
20 physician's assistant must include:

21 1. A certificate of completion of a physician's
22 assistant training program specified in subsection (5).

23 2. A sworn statement of any prior felony conviction in
24 any jurisdiction.

25 3. A sworn statement of any previous revocation or
26 denial of licensure or certification in any state or
27 jurisdiction.

28 ~~(a) The board shall adopt rules for the consideration~~
29 ~~of applications by a licensed chiropractic physician or a~~
30 ~~group of licensed chiropractic physicians to supervise~~
31 ~~certified chiropractic physician's assistants. Each~~

1 ~~application made by a chiropractic physician or group of~~
2 ~~chiropractic physicians shall include all of the following:~~

3 ~~1. The qualifications, including related experience,~~
4 ~~of the certified chiropractic physician's assistant intended~~
5 ~~to be employed.~~

6 ~~2. The professional background and specialty of the~~
7 ~~chiropractic physician or the group of chiropractic~~
8 ~~physicians.~~

9 ~~3. A description by the chiropractic physician of her~~
10 ~~or his practice, or by the chiropractic physicians of their~~
11 ~~practice, and of the way in which the assistant or assistants~~
12 ~~are to be utilized.~~

13
14 ~~The board shall certify an application by a licensed~~
15 ~~chiropractic physician to supervise a certified chiropractic~~
16 ~~physician's assistant when the proposed assistant is a~~
17 ~~graduate of an approved program or its equivalent and is fully~~
18 ~~qualified by reason of experience and education to perform~~
19 ~~chiropractic services under the responsible supervision of a~~
20 ~~licensed chiropractic physician and when the board is~~
21 ~~satisfied that the public will be adequately protected by the~~
22 ~~arrangement proposed in the application.~~

23 ~~(b) The board shall certify no more than two certified~~
24 ~~chiropractic physician's assistants for any chiropractic~~
25 ~~physician practicing alone; no more than four chiropractic~~
26 ~~physician's assistants for two chiropractic physicians~~
27 ~~practicing together formally or informally; or no more than a~~
28 ~~ratio of two certified chiropractic physician's assistants to~~
29 ~~three chiropractic physicians in any group of chiropractic~~
30 ~~physicians practicing together formally or informally.~~

31

1 ~~(7)(6)~~ PENALTY.--Any person who has not been certified
2 by the board and approved by the department and who represents
3 herself or himself as a certified chiropractic physician's
4 assistant or who uses any other term in indicating or implying
5 that she or he is a certified chiropractic physician's
6 assistant is guilty of a felony of the third degree,
7 punishable as provided in s. 775.082 or s. 775.084 or by a
8 fine not exceeding \$5,000.

9 ~~(8)(7)~~ REVOCATION OF APPROVAL.--The certificate of
10 approval to supervise a certified chiropractic physician's
11 assistant held by any chiropractic physician or group of
12 chiropractic physicians may be revoked when the board
13 determines that the intent of this section is not being
14 carried out.

15 ~~(9)(8)~~ FEES.--

16 (a) A fee not to exceed \$100 set by the board shall
17 accompany the application by a chiropractic physician for
18 authorization to supervise a certified chiropractic
19 physician's assistant.

20 (b) Upon approval of an application for certification
21 of a certified chiropractic physician's assistant in a
22 specialty area, the applicant shall be charged an initial
23 certification fee for the first biennium not to exceed \$250;
24 and a biennial renewal fee not to exceed \$250 shall accompany
25 each application for renewal of the certified chiropractic
26 physician's assistant certificate.

27 ~~(10)(9)~~ EXISTING PROGRAMS.--Nothing in this section
28 shall be construed to eliminate or supersede existing laws
29 relating to other paramedical professions or services. It is
30 the intent of this section to supplement all such existing
31

1 programs relating to the certification and the practice of
2 paramedical professions as may be authorized by law.

3 (11)(10) LIABILITY.--Each chiropractic physician or
4 group of chiropractic physicians utilizing certified
5 chiropractic physician's assistants shall be liable for any
6 act or omission of any physician's assistant acting under her
7 or his or its supervision and control.

8 (12) SUPERVISION OF REGISTERED CHIROPRACTIC
9 ASSISTANT.--A certified chiropractic physician's assistant may
10 directly supervise a registered chiropractic assistant and
11 other persons who are not licensed as chiropractic physicians
12 who are employed or supervised by the chiropractic physician
13 to whom the certified chiropractic physician's assistant is
14 assigned.

15 (13) CERTIFIED CHIROPRACTIC ASSISTANT CERTIFICATION
16 RENEWAL.--The certification must be renewed biennially.

17 (a) Each renewal must include:

18 1. A renewal fee as set by board pursuant to this
19 section.

20 2. A sworn statement of no felony convictions in the
21 previous 2 years in any jurisdiction.

22 (b) Each certified chiropractic physician's assistant
23 shall biennially complete 24 hours of continuing education
24 courses sponsored by chiropractic colleges accredited by the
25 Council on Chiropractic Education and approved by the board.
26 The board shall approve those courses that build upon the
27 basic courses required for the practice of chiropractic
28 medicine, and the board may also approve courses in adjunctive
29 modalities. The board may make exception from the requirements
30 of this section in emergency or hardship cases. The board may
31

1 adopt rules within the requirements of this section which are
2 necessary for its implementation.

3 (c) Upon employment as a certified chiropractic
4 physician's assistant, a certified chiropractic physician's
5 assistant must notify the department in writing within 30 days
6 after such employment or any change of the supervising
7 chiropractic physician. The notification must include the full
8 name, Florida chiropractic medical license number, specialty,
9 and address of the supervising chiropractic physician.

10 Section 110. Persons holding certificates as certified
11 chiropractic physicians' assistants on the effective date of
12 this act need not reapply for certification, but must comply
13 with biennial renewal requirements as provided in section
14 460.4165(6), Florida Statutes. The requirement for completion
15 of the continuing education requirements for biennial renewal
16 of the certificate shall not take effect until the beginning
17 of the next biennial renewal period following the effective
18 date of this act.

19 Section 111. Section 460.4166, Florida Statutes, 1998
20 Supplement, is amended to read:

21 460.4166 Registered chiropractic assistants.--

22 (1) DEFINITION.--As used in this section, "registered
23 chiropractic assistant" means a professional, multiskilled
24 person dedicated to assisting in all aspects of chiropractic
25 medical practice under the direct supervision and
26 responsibility of a chiropractic physician or certified
27 chiropractic physician's assistant. A registered chiropractic
28 assistant assists with patient care management, executes
29 administrative and clinical procedures, and often performs
30 managerial and supervisory functions. Competence in the field
31 also requires that a registered chiropractic assistant adhere

1 to ethical and legal standards of professional practice,
2 recognize and respond to emergencies, and demonstrate
3 professional characteristics.

4 (2) DUTIES.--Under the direct supervision and
5 responsibility of a licensed chiropractic physician or
6 certified chiropractic physician's assistant, a registered
7 chiropractic assistant may:

8 (a) Perform clinical procedures, which include:

9 1. Preparing patients for the chiropractic physician's
10 care.

11 2. Taking vital signs.

12 3. Observing and reporting patients' signs or
13 symptoms.

14 (b) Administer basic first aid.

15 (c) Assist with patient examinations or treatments
16 other than manipulations or adjustments.

17 (d) Operate office equipment.

18 (e) Collect routine laboratory specimens as directed
19 by the chiropractic physician or certified chiropractic
20 physician's assistant.

21 (f) Administer nutritional supplements as directed by
22 the chiropractic physician or certified chiropractic
23 physician's assistant.

24 (g) Perform office procedures required by the
25 chiropractic physician or certified chiropractic physician's
26 assistant under direct supervision of the chiropractic
27 physician or certified chiropractic physician's assistant.

28 (3) REGISTRATION.--Registered chiropractic assistants
29 may be registered by the board for a biennial fee not to
30 exceed \$25.

31

1 Section 112. Section 461.003, Florida Statutes, 1998
2 Supplement, is amended to read:

3 461.003 Definitions.--As used in this chapter:

4 ~~(1) "Department" means the Department of Health.~~

5 (1)(2) "Board" means the Board of Podiatric Medicine
6 as created in this chapter.

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

17 (3) "Department" means the Department of Health.

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

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

31

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

12 Section 113. Paragraph (d) of subsection (1) of
13 section 461.006, Florida Statutes, 1998 Supplement, is amended
14 to read:

15 461.006 Licensure by examination.--

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

20 (d) ~~Beginning October 1, 1995,~~Has satisfactorily
21 completed one of the following clinical experience
22 requirements:

23 1. One year of residency in a residency program
24 approved by the board, and if it has been 4 or more years
25 since the completion of that residency, active licensed
26 practice of podiatric medicine in another jurisdiction for at
27 least 2 of the immediately preceding 4 years, or successful
28 completion of a board-approved postgraduate program or
29 board-approved course within the year preceding the filing of
30 the application. For the purpose of this subparagraph, "active
31 licensed practice" means the licensed practice of podiatric

1 medicine as defined in s. 461.003(5) by podiatric physicians,
2 including podiatric physicians employed by any governmental
3 entity, on the active teaching faculty of an accredited school
4 of podiatric medicine, or practicing administrative podiatric
5 medicine.

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

12 Section 114. Subsection (1) of section 461.007,
13 Florida Statutes, 1998 Supplement, is amended to read:

14 461.007 Renewal of license.--

15 (1) The department shall renew a license upon receipt
16 of the renewal application and a fee not to exceed \$350 set by
17 the board, and evidence that the applicant has actively
18 practiced podiatric medicine or has been on the active
19 teaching faculty of an accredited school of podiatric medicine
20 for at least 2 years of the immediately preceding 4 years. If
21 the licensee has not actively practiced podiatric medicine for
22 at least 2 years of the immediately preceding 4 years, the
23 board shall require that the licensee successfully complete a
24 board-approved course prior to renewal of the license. For
25 purposes of this subsection, "actively practiced podiatric
26 medicine" means the licensed practice of podiatric medicine as
27 defined in s. 461.003(5) by podiatric physicians, including
28 podiatric physicians employed by any governmental entity, on
29 the active teaching faculty of an accredited school of
30 podiatric medicine, or practicing administrative podiatric
31 medicine. An applicant for a renewed license must also submit

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

1 check upon initial licensure and is renewing his or her
2 license for the first time, then the applicant need only
3 submit the information and fee required for a statewide
4 criminal history check.

5 Section 115. Paragraph (bb) is added to subsection (1)
6 of section 461.013, Florida Statutes, 1998 Supplement, and
7 subsection (2) of that section is amended, to read:

8 461.013 Grounds for disciplinary action; action by the
9 board; investigations by department.--

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

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

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

20 (a) Refusal to certify to the department an
21 application for licensure.

22 (b) Revocation or suspension of a license.

23 (c) Restriction of practice.

24 (d) Imposition of an administrative fine not to exceed
25 \$10,000~~\$1,000~~ for each count or separate offense.

26 (e) Issuance of a reprimand.

27 (f) Placing the podiatric physician on probation for a
28 period of time and subject to such conditions as the board may
29 specify, including requiring the podiatric physician to submit
30 to treatment, to attend continuing education courses, to
31

1 submit to reexamination, and to work under the supervision of
2 another podiatric physician.

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

5 Section 116. Section 461.0135, Florida Statutes, is
6 created to read:

7 461.0135 Operation of X-ray machines by podiatric
8 X-ray assistants.--A licensed podiatric physician may utilize
9 an X-ray machine, expose X-ray films, and interpret or read
10 such films. The provision of part IV of chapter 468 to the
11 contrary notwithstanding, a licensed podiatric physician may
12 authorize or direct a certified podiatric X-ray assistant to
13 operate such equipment and expose such films under the
14 licensed podiatric physician's direction and supervision,
15 pursuant to rules adopted by the board in accordance with s.
16 461.004, which ensures that such certified podiatric X-ray
17 assistant is competent to operate such equipment in a safe and
18 efficient manner by reason of training, experience, and
19 passage of a board-approved course which includes an
20 examination. The board shall issue a certificate to an
21 individual who successfully completes the board-approved
22 course and passes the examination to be administered by the
23 training authority upon completion of such course.

24 Section 117. Subsection (3) is added to section
25 464.008, Florida Statutes, to read:

26 464.008 Licensure by examination.--

27 (3) Any applicant who fails the examination three
28 consecutive times, regardless of the jurisdiction in which the
29 examination is taken, shall be required to complete a
30 board-approved remedial course before the applicant will be
31 approved for reexamination. After taking the remedial course,

1 the applicant may be approved to retake the examination up to
2 three additional times before the applicant is required to
3 retake remediation. The applicant shall apply for
4 reexamination within 6 months after completion of remediation.
5 The board shall by rule establish guidelines for remedial
6 courses.

7 Section 118. Subsection (13) is added to section
8 464.022, Florida Statutes, to read:

9 464.022 Exceptions.--No provision of this chapter
10 shall be construed to prohibit:

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

13 Section 119. Subsection (12) of section 465.003,
14 Florida Statutes, is amended, subsections (4) through (14) of
15 said section are renumbered as subsections (5) through (15),
16 respectively, and a new subsection (4) is added to said
17 section, to read:

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

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

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

1 pharmaceutical services" means the monitoring of the patient's
2 drug therapy and assisting the patient in the management of
3 his or her drug therapy, and includes review of the patient's
4 drug therapy and communication with the patient's prescribing
5 health care provider as licensed under chapter 458, chapter
6 459, chapter 461, or chapter 466, or similar statutory
7 provision in another jurisdiction, or such provider's agent or
8 such other persons as specifically authorized by the patient,
9 regarding the drug therapy. However, nothing in this
10 subsection may be interpreted to permit an alteration of a
11 prescriber's directions, the diagnosis or treatment of any
12 disease, the initiation of any drug therapy, the practice of
13 medicine, or the practice of osteopathic medicine, unless
14 otherwise permitted by law."Practice of the profession of
15 pharmacy"~~The phrase~~ also includes any other act, service,
16 operation, research, or transaction incidental to, or forming
17 a part of, any of the foregoing acts, requiring, involving, or
18 employing the science or art of any branch of the
19 pharmaceutical profession, study, or training, and shall
20 expressly permit a pharmacist to transmit information from
21 persons authorized to prescribe medicinal drugs to their
22 patients.

23 Section 120. Paragraph (1) of subsection (1) and
24 paragraph (c) of subsection (2) of section 465.016, Florida
25 Statutes, are amended, and paragraph (q) is added to
26 subsection (1) of that section, to read:

27 465.016 Disciplinary actions.--

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

30 (1) Placing in the stock of any pharmacy any part of
31 any prescription compounded or dispensed which is returned by

1 a patient; however, in a hospital, nursing home, correctional
2 facility, or extended care facility in which unit-dose
3 medication is dispensed to inpatients, each dose being
4 individually sealed and the individual unit dose or unit-dose
5 system labeled with the name of the drug, dosage strength,
6 manufacturer's control number, and expiration date, if any,
7 the unused unit dose of medication may be returned to the
8 pharmacy for redispensing. Each pharmacist shall maintain
9 appropriate records for any unused or returned medicinal
10 drugs.

11 (g) Using or releasing a patient's records except as
12 authorized by this chapter and chapter 455.

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

16 (c) Imposition of an administrative fine not to exceed
17 ~~\$5,000~~~~\$1,000~~ for each count or separate offense.

18 Section 121. Section 465.014, Florida Statutes, is
19 amended to read:

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

1 authorization requests. No licensed pharmacist shall
2 supervise more than one pharmacy technician unless otherwise
3 permitted by the guidelines adopted by the board. The board
4 shall establish guidelines to be followed by licensees or
5 permittees in determining the circumstances under which a
6 licensed pharmacist may supervise more than one but not more
7 than three pharmacy technicians.

8 Section 122. Paragraph (c) of subsection (2) of
9 section 465.015, Florida Statutes, is amended to read:

10 465.015 Violations and penalties.--

11 (2) It is unlawful for any person:

12 (c) To sell or dispense drugs as defined in s.
13 465.003(8)~~(7)~~ without first being furnished with a
14 prescription.

15 Section 123. Section 465.0196, Florida Statutes, is
16 amended to read:

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

1 within 10 days of any change of the licensed pharmacist
2 responsible for such duties.

3 Section 124. Subsection (3) of section 468.812,
4 Florida Statutes, is amended to read:

5 468.812 Exemptions from licensure.--

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

21 Section 125. Subsection (19) of section 499.003,
22 Florida Statutes, is amended to read:

23 499.003 Definitions of terms used in ss.

24 499.001-499.081.--As used in ss. 499.001-499.081, the term:

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

31

1 Section 126. (1) There is created within the
2 Department of Health a Task Force for the Study of
3 Collaborative Drug Therapy Management. The department shall
4 provide staff support for the task force. The task force shall
5 consist of not more than 13 members nominated by the
6 associations and entities named in this section and appointed
7 by the Secretary of Health. Members of the task force shall
8 not receive compensation, per diem, or reimbursement for
9 travel expenses for service on the task force. Participation
10 in the task force is optional and at the discretion of each
11 identified group or entity. The task force shall include:

12 (a) One representative from each of the following
13 associations:

- 14 1. Florida Society of Health-System Pharmacists.
- 15 2. Florida Pharmacy Association.
- 16 3. Florida Medical Association.
- 17 4. Florida Osteopathic Medical Association.
- 18 5. Florida Retail Federation.
- 19 6. Florida Nurses Association.
- 20 7. Florida Academy of Family Physicians.
- 21 8. Pharmaceutical Research Manufacturing Association.
- 22 9. American Society of Consultant Pharmacists.
- 23 10. American Society of Health-System Pharmacists.

24 (b) One representative from each of the following
25 entities:

- 26 1. Department of Health.
- 27 2. Board of Medicine, which representative must be a
28 member of the board who is licensed under chapter 458, Florida
29 Statutes.

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

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

7 5. Agency for Health Care Administration.

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

15 (3) The task force shall be charged with the
16 responsibility to:

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

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

24 (c) Determine the efficacy of collaborative drug
25 therapy management in improving health care outcomes of
26 patients.

27 Section 127. Section 466.021, Florida Statutes, is
28 amended to read:

29 466.021 Employment of unlicensed persons by dentist;
30 penalty.--Every duly licensed dentist who uses the services of
31 any unlicensed person for the purpose of constructing,

1 altering, repairing, or duplicating any denture, partial
2 denture, bridge splint, or orthodontic or prosthetic appliance
3 shall be required to furnish such unlicensed person with a
4 written work order in such form as prescribed ~~shall be~~
5 ~~approved by rule of the board department. This form shall be~~
6 ~~supplied to the dentist by the department at a cost not to~~
7 ~~exceed that of printing and handling. The work order blanks~~
8 ~~shall be assigned to individual dentists and are not~~
9 ~~transferable.~~ This form shall be dated and signed by such
10 dentist and shall include the patient's name or number with
11 sufficient descriptive information to clearly identify the
12 case for each separate and individual piece of work. A ~~said~~
13 ~~work order shall be made in duplicate form, the duplicate copy~~
14 of such work order shall ~~to~~ be retained in a permanent file in
15 the dentist's office for a period of 2 years, and the original
16 work order shall ~~to~~ be retained in a permanent file for a
17 period of 2 years by such ~~said~~ unlicensed person in her or his
18 place of business. Such permanent file of work orders to be
19 kept by such dentist or by such unlicensed person shall be
20 open to inspection at any reasonable time by the department or
21 its duly constituted agent. Failure of the dentist to keep
22 such permanent records of such ~~said~~ work orders shall subject
23 the dentist to suspension or revocation of her or his license
24 to practice dentistry. Failure of such unlicensed person to
25 have in her or his possession a work order as required by this
26 section ~~above defined~~ shall be admissible evidence of a
27 violation of this chapter and shall constitute a misdemeanor
28 of the second degree, punishable as provided in s. 775.082 or
29 s. 775.083. Nothing in this section shall preclude a
30 registered dental laboratory from working for another
31 registered dental laboratory, provided that such work is

1 performed pursuant to written authorization, in a form to be
2 prescribed by rule of the board ~~department~~, which evidences
3 that the originating laboratory has obtained a valid work
4 order and which sets forth the work to be performed.
5 Furthermore, nothing in this section shall preclude a
6 registered laboratory from providing its services to dentists
7 licensed and practicing in another state, provided that such
8 work is requested or otherwise authorized in written form
9 which clearly identifies the name and address of the
10 requesting dentist and which sets forth the work to be
11 performed.

12 Section 128. Paragraph (b) of subsection (2),
13 paragraph (b) of subsection (3), and subsection (4) of section
14 468.1155, Florida Statutes, are amended to read:

15 468.1155 Provisional license; requirements.--

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

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

1 Accreditation in order to qualify. The applicant must have
2 completed 60 semester hours that include:

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

8 2. Six semester hours in audiology.

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

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

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

30 1. Fundamental information applicable to the normal
31 development and use of speech, hearing, and language;

1 information about training in management of speech, hearing,
2 and language disorders; and information supplementary to these
3 fields.

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

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

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

18 Section 129. Section 468.1215, Florida Statutes, is
19 amended to read:

20 468.1215 Speech-language pathology assistant and
21 audiology assistant; certification.--

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

25 (1)~~(2)~~ The department shall issue a certificate as a
26 speech-language pathology assistant ~~or as an audiology~~
27 ~~assistant~~ to each applicant who the board certifies has:

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

30 (b) Earned a bachelor's degree from a college or
31 university accredited by a regional association of colleges

1 and schools recognized by the Department of Education which
2 includes at least 24 semester hours of coursework as approved
3 by the board at an institution accredited by an accrediting
4 agency recognized by the Commission on Recognition of
5 Postsecondary Accreditation.

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

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

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

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

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

23 Section 130. Subsection (1) of section 468.307,
24 Florida Statutes, 1998 Supplement, is amended to read:

25 468.307 Certificate; issuance; possession; display.--

26 (1) The department shall issue a certificate to each
27 candidate who has met the requirements of ss. 468.304 and
28 468.306 or has qualified under s. 468.3065. The department may
29 by rule establish a subcategory of a certificate issued under
30 this part limiting the certificateholder to a specific
31 procedure or specific type of equipment.

1 Section 131. Section 468.506, Florida Statutes, 1998
2 Supplement, is amended to read:

3 468.506 Dietetics and Nutrition Practice
4 Council.--There is created the Dietetics and Nutrition
5 Practice Council under the supervision of the board. The
6 council shall consist of four persons licensed under this part
7 and one consumer who is 60 years of age or older. Council
8 members shall be appointed by the board. Licensed members
9 shall be appointed based on the proportion of licensees within
10 each of the respective disciplines. Members shall be
11 appointed for 4-year staggered terms. In order to be eligible
12 for appointment, each licensed member must have been a
13 licensee under this part for at least 3 years prior to his or
14 her appointment. No council member shall serve more than two
15 successive terms. The board may delegate such powers and
16 duties to the council as it may deem proper to carry out the
17 operations and procedures necessary to effectuate the
18 provisions of this part. However, the powers and duties
19 delegated to the council by the board must encompass both
20 dietetics and nutrition practice and nutrition counseling. Any
21 time there is a vacancy on the council, any professional
22 association composed of persons licensed under this part may
23 recommend licensees to fill the vacancy to the board in a
24 number at least twice the number of vacancies to be filled,
25 and the board may appoint from the submitted list, in its
26 discretion, any of those persons so recommended. Any
27 professional association composed of persons licensed under
28 this part may file an appeal regarding a council appointment
29 with the secretary ~~director~~ of the department ~~agency~~, whose
30 decision shall be final. The board shall fix council members'

31

1 compensation and pay their expenses in the same manner as
2 provided in s. 455.534.

3 Section 132. Section 468.701, Florida Statutes, 1998
4 Supplement, is amended to read:

5 468.701 Definitions.--As used in this part, the term:

6 (1) "Athlete" means a person who participates in an
7 athletic activity.

8 (2) "Athletic activity" means the participation in an
9 activity, conducted by an educational institution, a
10 professional athletic organization, or an amateur athletic
11 organization, involving exercises, sports, games, or
12 recreation requiring any of the physical attributes of
13 strength, agility, flexibility, range of motion, speed, and
14 stamina.

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

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

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

22 (6) "Board Council" means the Board Council of
23 Athletic Training.

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

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

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

29 (9)~~(10)~~ "Supervision" means the easy availability of
30 the supervisor to the athletic trainer, which includes the
31 ability to communicate by telecommunications.

1 Section 133. Section 468.703, Florida Statutes, 1998
2 Supplement, is amended to read:

3 468.703 Board ~~Council~~ of Athletic Training.--

4 (1) The Board ~~Council~~ of Athletic Training is created
5 within the department and shall consist of nine ~~seven~~ members
6 ~~to be~~ appointed by the Governor and confirmed by the Senate
7 ~~secretary~~.

8 (2) Five ~~Four~~ members of the board ~~council shall~~
9 be licensed athletic trainers. One member of the board ~~must~~
10 ~~council shall~~ be a physician licensed under chapter 458 or
11 chapter 459. One member of the board ~~must~~ ~~council shall~~ be a
12 physician licensed under chapter 460. Two members ~~One member~~
13 of the board ~~shall~~ be consumer members, each of whom must
14 ~~council shall~~ be a resident of this state who has never worked
15 as an athletic trainer, who has no financial interest in the
16 practice of athletic training, and who has never been a
17 licensed health care practitioner as defined in s. 455.501(4).
18 ~~Members of the council shall serve staggered 4-year terms as~~
19 ~~determined by rule of the department; however, no member may~~
20 ~~serve more than two consecutive terms.~~

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

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

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

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

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

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

31

1 (6) The board shall maintain its official headquarters
2 in Tallahassee.

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

5 ~~(a) Developing rules relating to licensure~~
6 ~~requirements, the licensure examination, continuing education~~
7 ~~requirements, fees, records and reports to be filed by~~
8 ~~licensees, and any other requirements necessary to regulate~~
9 ~~the practice of athletic training.~~

10 ~~(b) Monitoring the practice of athletic training in~~
11 ~~other jurisdictions.~~

12 ~~(c) Educating the public about the role of athletic~~
13 ~~trainers.~~

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

16 ~~(e) Addressing concerns and problems of athletic~~
17 ~~trainers in order to promote improved safety in the practice~~
18 ~~of athletic training.~~

19 ~~(4) Members of the council shall be entitled to~~
20 ~~compensation and reimbursement for expenses in the same manner~~
21 ~~as board members are compensated and reimbursed under s.~~
22 ~~455.534.~~

23 Section 134. Section 468.705, Florida Statutes, 1998
24 Supplement, is amended to read:

25 468.705 Rulemaking authority.--The board ~~department~~ is
26 authorized to adopt rules pursuant to ss. 120.536(1) and
27 120.54 to implement provisions of this part conferring duties
28 upon it. Such rules shall include, but not be limited to, the
29 allowable scope of practice regarding the use of equipment,
30 procedures, and medication, and requirements for a written
31 protocol between the athletic trainer and a supervising

1 physician, licensure requirements, licensure examination,
2 continuing education requirements, fees, records, and reports
3 to be filed by licensees, protocols, and any other
4 requirements necessary to regulate the practice of athletic
5 training.

6 Section 135. Section 468.707, Florida Statutes, 1998
7 Supplement, is amended to read:

8 468.707 Licensure by examination; requirements.--

9 (1) Any person desiring to be licensed as an athletic
10 trainer shall apply to the department on a form approved by
11 the department.

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

13 1. Has completed the application form and remitted the
14 required fees.

15 2. Is at least 21 years of age.

16 3. Has obtained a baccalaureate degree from a college
17 or university accredited by an accrediting agency recognized
18 and approved by the United States Department of Education or
19 the Commission on Recognition of Postsecondary Accreditation,
20 or approved by the board ~~department~~.

21 4. Has completed coursework from a college or
22 university accredited by an accrediting agency recognized and
23 approved by the United States Department of Education or the
24 Commission on Recognition of Postsecondary Accreditation, or
25 approved by the board ~~department~~, in each of the following
26 areas, as provided by rule: health, human anatomy,
27 kinesiology/biomechanics, human physiology, physiology of
28 exercise, basic athletic training, and advanced athletic
29 training.

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

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

3 6. Has, within 2 of the preceding 5 years, attained a
4 minimum of 800 hours of athletic training experience under the
5 direct supervision of a licensed athletic trainer or an
6 athletic trainer certified by the National Athletic Trainers'
7 Association or a comparable national athletic standards
8 organization.

9 7. Has passed an examination administered or approved
10 by the board ~~department~~.

11 (b) The department shall also license each applicant
12 who:

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

15 2. Is at least 21 years of age.

16 3. Has current certification in standard first aid and
17 cardiovascular pulmonary resuscitation from the American Red
18 Cross or an equivalent certification as determined by the
19 board ~~department~~.

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

22 b. Is currently certified by the National Athletic
23 Trainers' Association or a comparable national athletic
24 standards organization.

25 (2) Pursuant to the requirements of s. 455.607
26 ~~455.604~~, each applicant shall complete a continuing education
27 course on human immunodeficiency virus and acquired immune
28 deficiency syndrome as part of initial licensure.

29 Section 136. Section 468.709, Florida Statutes, is
30 amended to read:

31 468.709 Fees.--

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

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

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

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

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

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

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

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

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

11 (2) The board ~~department~~ shall establish fees at a
12 level, not to exceed the statutory fee cap, that is adequate
13 to ensure the continued operation of the regulatory program
14 under this part. The board ~~department~~ shall neither set nor
15 maintain the fees at a level that will substantially exceed
16 this need.

17 Section 137. Subsections (2) and (3) of section
18 468.711, Florida Statutes, 1998 Supplement, are amended to
19 read:

20 468.711 Renewal of license; continuing education.--

21 (2) The board ~~department~~ may, by rule, prescribe
22 continuing education requirements, not to exceed 24 hours
23 biennially. The criteria for continuing education shall be
24 approved by the board ~~department~~ and shall include 4 hours in
25 standard first aid and cardiovascular pulmonary resuscitation
26 from the American Red Cross or equivalent training as
27 determined by board ~~department~~.

28 (3) Pursuant to the requirements of s. 455.607
29 ~~455.604~~, each licensee shall complete a continuing education
30 course on human immunodeficiency virus and acquired immune
31 deficiency syndrome as part of biennial relicensure.

1 Section 138. Subsection (2) of section 468.719,
2 Florida Statutes, 1998 Supplement, is amended to read:

3 468.719 Disciplinary actions.--

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

8 Section 139. Section 468.721, Florida Statutes, is
9 amended to read:

10 468.721 Saving clause.--

11 ~~(1) An athletic trainer registration which is valid on~~
12 ~~October 1, 1995, shall become for all purposes an athletic~~
13 ~~trainer license as required by this part, subject to any~~
14 ~~disciplinary or administrative action pending on October 1,~~
15 ~~1995, and shall be subject to all the same terms and~~
16 ~~conditions as athletic trainer licenses issued after October~~
17 ~~1, 1995. The department shall retain jurisdiction to impose~~
18 ~~discipline for any violation of this part which occurred prior~~
19 ~~to October 1, 1995, but is discovered after October 1, 1995,~~
20 ~~under the terms of this part prior to October 1, 1995.~~

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

24 ~~(3) Rules adopted by the department relating to the~~
25 regulation registration of athletic trainers under this part
26 prior to July 1, 1999, shall remain in effect until the board
27 ~~department~~ adopts rules relating to the regulation licensure
28 of athletic trainers under this part which supersede such
29 earlier rules.

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1 Section 140. Paragraph (g) of subsection (3) of
2 section 20.43, Florida Statutes, 1998 Supplement, is amended
3 to read:

4 20.43 Department of Health.--There is created a
5 Department of Health.

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

8 (g) Division of Medical Quality Assurance, which is
9 responsible for the following boards and professions
10 established within the division:

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

12 2. Health care services pools, as provided under s.
13 402.48.

14 3. The Board of Acupuncture, created under chapter
15 457.

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

17 5. The Board of Osteopathic Medicine, created under
18 chapter 459.

19 6. The Board of Chiropractic Medicine, created under
20 chapter 460.

21 7. The Board of Podiatric Medicine, created under
22 chapter 461.

23 8. Naturopathy, as provided under chapter 462.

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

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

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

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

28 13. Midwifery, as provided under chapter 467.

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

31

- 1 15. The Board of Nursing Home Administrators, created
2 under part II of chapter 468.
- 3 16. The Board of Occupational Therapy, created under
4 part III of chapter 468.
- 5 17. Respiratory therapy, as provided under part V of
6 chapter 468.
- 7 18. Dietetics and nutrition practice, as provided
8 under part X of chapter 468.
- 9 19. The Board of Athletic Training ~~trainers~~, created
10 ~~as provided~~ under part XIII of chapter 468.
- 11 20. The Board of Orthotists and Prosthetists, created
12 under part XIV of chapter 468.
- 13 21. Electrolysis, as provided under chapter 478.
- 14 22. The Board of Massage Therapy, created under
15 chapter 480.
- 16 23. The Board of Clinical Laboratory Personnel,
17 created under part III of chapter 483.
- 18 24. Medical physicists, as provided under part IV of
19 chapter 483.
- 20 25. The Board of Opticianry, created under part I of
21 chapter 484.
- 22 26. The Board of Hearing Aid Specialists, created
23 under part II of chapter 484.
- 24 27. The Board of Physical Therapy Practice, created
25 under chapter 486.
- 26 28. The Board of Psychology, created under chapter
27 490.
- 28 29. School psychologists, as provided under chapter
29 490.
- 30
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1 30. The Board of Clinical Social Work, Marriage and
2 Family Therapy, and Mental Health Counseling, created under
3 chapter 491.

4
5 The department may contract with the Agency for Health Care
6 Administration who shall provide consumer complaint,
7 investigative, and prosecutorial services required by the
8 Division of Medical Quality Assurance, councils, or boards, as
9 appropriate.

10 Section 141. The Council of Athletic Training and the
11 terms of all council members are terminated on July 1, 1999.
12 However, such termination in no way precludes the Governor
13 from considering any former council member for appointment to
14 the Board of Athletic Training created by this act.

15 Section 142. Section 468.805, Florida Statutes, is
16 amended to read:

17 468.805 Grandfathering ~~Licensure without examination~~
18 ~~provisional licensure.--~~

19 (1) A person who has practiced orthotics, prosthetics,
20 or pedorthics in this state for the required period since July
21 1, 1990, who, before March 1, 1998, applies to the department
22 for a license to practice orthotics, prosthetics, or
23 pedorthics, may be licensed as a prosthetist, orthotist,
24 prosthetist-orthotist, orthotic fitter, orthotic fitter
25 assistant, or pedorthist, as determined from the person's
26 experience, certification, and educational preparation,
27 without meeting the educational requirements set forth in s.
28 468.803, upon receipt of the application fee and licensing fee
29 and after the board has completed an investigation into the
30 applicant's background and experience. The board shall require
31 an application fee not to exceed \$500, which shall be

1 nonrefundable. The board shall complete its investigation
2 within 6 months after receipt of the completed application.
3 The period of experience required for licensure under this
4 section ~~subsection~~ is 5 years for a prosthetist; 2 years for
5 an orthotic fitter, an orthotic fitter assistant, or a
6 pedorthist; and 5 years for an orthotist whose scope of
7 practice is defined under s. 468.80(7).

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

13 (b) An applicant for provisional licensure shall
14 submit proof that he or she has been actively practicing as a
15 nationally certified orthotist, prosthetist, or
16 prosthetist-orthotist, an application fee, and a provisional
17 license fee.

18 (c) A provisional licensee is required to practice
19 under supervision of a fully licensed orthotist, prosthetist,
20 or prosthetist-orthotist for up to 3 years in order to meet
21 the 5-year experience requirement of subsection (1) to be
22 licensed as an orthotist, prosthetist, or
23 prosthetist-orthotist.

24 (d) After appropriate investigation, the board shall
25 license as an orthotist, prosthetist, or prosthetist-orthotist
26 the provisional licensee who has successfully completed the
27 period of experience required and otherwise meets the
28 requirements of subsection (1).

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

1 (3) An applicant who has received certification as an
2 orthotist, a prosthetist, a prosthetist-orthotist, or a
3 pedorthist from a national certifying body which requires the
4 successful completion of an examination, may be licensed under
5 this section without taking an additional examination. An
6 applicant who has not received certification from a national
7 certifying body which requires the successful completion of an
8 examination shall be required to take an examination as
9 determined by the board. This examination shall be designed to
10 determine if the applicant has the minimum qualifications
11 needed to be licensed under this section. The board may charge
12 an examination fee and the actual per applicant cost to the
13 department for purchase or development of the examination.

14 (4) An applicant who successfully completed prior to
15 March 1, 1998, at least one-half of the examination required
16 for national certification and successfully completed the
17 remaining portion of the examination and became certified
18 prior to July 1, 1998, shall be considered as nationally
19 certified by March 1, 1998, for purposes of this section.

20 ~~(5)(4)~~ This section is repealed July 1, 2002.

21 Section 143. Subsection (3) of section 468.806,
22 Florida Statutes, is amended to read:

23 468.806 Biennial renewal of license.--

24 (3) The board may by rule prescribe continuing
25 education requirements and approve course criteria, not to
26 exceed 30 hours biennially, as a condition for license
27 renewal. The board shall establish a procedure for approving
28 continuing education courses and providers and may set a fee
29 for continuing education course and provider approval.

30 Section 144. Subsection (5) of section 478.42, Florida
31 Statutes, is amended to read:

1 478.42 Definitions.--As used in this chapter, the
2 term:

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

13 Section 145. Section 483.041, Florida Statutes, is
14 amended to read:

15 483.041 Definitions.--As used in this part, the term:

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

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

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

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

29 (c) Cytology laboratory services are the examinations
30 of cells from individual tissues or fluid taken from the human
31 body.

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

5 ~~(4)(3)~~ "Clinical laboratory proficiency testing
6 program" means a program approved by the agency for evaluating
7 the performance of clinical laboratories.

8 ~~(5)(4)~~ "Collection station" or "branch office" means a
9 facility operated by a clinical laboratory where materials or
10 specimens are withdrawn or collected from patients or
11 assembled after being withdrawn or collected from patients
12 elsewhere, for subsequent delivery to another location for
13 examination.

14 ~~(6)(5)~~ "Hospital laboratory" means a laboratory
15 located in a hospital licensed under chapter 395 that provides
16 services solely to that hospital and that is owned by the
17 hospital and governed by the hospital medical staff or
18 governing board.

19 ~~(7)(6)~~ "Licensed practitioner" means a physician
20 licensed under chapter 458, chapter 459, chapter 460, or
21 chapter 461; a dentist licensed under chapter 466; a person
22 licensed under chapter 462; or an advanced registered nurse
23 practitioner licensed under chapter 464 or a duly licensed
24 practitioner from another state licensed under similar
25 statutes who orders examinations on materials or specimens for
26 non residents of the State of Florida, but who reside in the
27 same state as the requesting licensed practitioner.

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

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 146. 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 147. Subsection (9) of section 483.807,
27 Florida Statutes, 1998 Supplement, is amended to read:

28 483.807 Fees; establishment; disposition.--

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

1 Section 148. Subsections (2) and (3) of section
2 483.809, Florida Statutes, are amended to read:

3 483.809 Licensure; examinations; registration of
4 trainees; approval of curricula.--

5 (2) EXAMINATIONS.--The department shall conduct
6 examinations required by board rules to determine in part the
7 qualification of clinical laboratory personnel for licensure.
8 The board by rule may designate a ~~An approved~~ national
9 certification examination that may be accepted in lieu of
10 state examination for clinical laboratory personnel or public
11 health scientists.

12 (3) REGISTRATION OF TRAINEES.--The department shall
13 provide for ~~annual~~ registration of clinical laboratory
14 trainees who are enrolled in a training program ~~employed by~~
15 ~~laboratories~~ approved pursuant to s. 483.811, which
16 registration may not be renewed except upon special
17 authorization of the board.

18 Section 149. Section 483.812, Florida Statutes, is
19 amended to read:

20 483.812 Public health laboratory scientists;
21 licensure.--

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

24 (2)~~(1)~~ Applicants at the ~~director and~~ supervisor level
25 in the category of public health who are certified ~~registered~~
26 by the National Registry in ~~of~~ Clinical Chemistry
27 ~~Certification~~ or the American Society for ~~of~~ Microbiology,
28 licensed as a technologist, and have 5 years of pertinent
29 clinical laboratory experience may qualify ~~under board rules~~
30 by passing the state-administered ~~appropriate~~ supervision and
31 administration examination.

1 (3)~~(2)~~(a) A technologist applicant for licensure in
2 the category of public health microbiology, with a
3 baccalaureate degree in one of the biological sciences from an
4 accredited institution, may use the American Society for ~~of~~
5 Microbiology or the National Registry in ~~of~~ Microbiology
6 Certification in Public Health Microbiology to qualify for a
7 technologist license in public health microbiology. Such a
8 technologist may work in a public health microbiology
9 laboratory.

10 (b) A technologist applicant for licensure in the
11 category of public health chemistry, with a baccalaureate
12 degree in one of the chemical, biological, or physical
13 sciences from an accredited institution, may use the National
14 Registry of Clinical Chemistry Certification to qualify for a
15 technologist license in public health chemistry. Such a
16 technologist may work in a public health chemistry laboratory.

17 (c) A technician applicant for licensure in the
18 category of public health, with a baccalaureate degree in one
19 of the chemical or biological sciences from an accredited
20 institution, may obtain a 2-year ~~one-time, 3-year,~~ conditional
21 public health technician license, which may be renewed once
22 ~~pending national certification by the American Society of~~
23 ~~Microbiology or the National Registry of Clinical Chemistry~~
24 ~~Certification~~. Such a technician may perform testing only
25 under the direct supervision of a licensed pathologist,
26 director, supervisor, or technologist.

27 (4)~~(3)~~ A person licensed by the Board of Clinical
28 Laboratory Personnel may work in a public health laboratory at
29 the appropriate level and specialty.

30 Section 150. Section 483.813, Florida Statutes, is
31 amended to read:

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

13 Section 151. Subsection (3) is added to section
14 483.821, Florida Statutes, to read:

15 483.821 Periodic demonstration of competency;
16 continuing education or reexamination.--

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

20 Section 152. Section 483.824, Florida Statutes, is
21 amended to read:

22 483.824 Qualifications of clinical laboratory
23 director.--A clinical laboratory director must have 4 years of
24 clinical laboratory experience with 2 years of experience in
25 the speciality to be directed or be nationally board certified
26 in the specialty to be directed, and must meet one of the
27 following requirements:

28 (1) Be a physician licensed under chapter 458 or
29 chapter 459;

30
31

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

4 (3) For the subspecialty of oral pathology, be a
5 physician licensed under chapter 458 or chapter 459 or a
6 dentist licensed under chapter 466.

7 Section 153. 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 adopted
28 hereunder.

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 subsection shall not be construed to
15 prevent a clinical laboratory professional from receiving a
16 fee for 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 154. Paragraph (g) of subsection (4) and
10 subsections (6) and (8) of section 483.901, Florida Statutes,
11 1998 Supplement, are amended to read:

12 483.901 Medical physicists; definitions; licensure.--

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

17 (g) If a vacancy on the council occurs, the secretary
18 ~~director~~ shall appoint a member to serve for a 4-year term.

19 (6) LICENSE REQUIRED.--An individual may not engage in
20 the practice of medical physics, including the specialties of
21 diagnostic radiological physics, therapeutic radiological
22 physics, medical nuclear radiological physics, or medical
23 health physics, without a license issued by the department for
24 the appropriate specialty.

25 (a) The department shall adopt rules to administer
26 this section which specify license application and renewal
27 fees, continuing education requirements, and standards for
28 practicing medical physics. The council shall recommend to
29 the department continuing education requirements that shall be
30 a condition of license renewal. The department shall require
31 a minimum of 24 hours per biennium of continuing education

1 offered by an organization recommended by the council and
2 approved by the department. The department, upon
3 recommendation of the council, may adopt rules to specify
4 continuing education requirements for persons who hold a
5 license in more than one specialty.

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

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

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

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

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

26 a. Earned from an accredited college or university a
27 doctoral degree in physics, medical physics, biophysics,
28 radiological physics, medical health physics, or nuclear
29 engineering and has at least 2 years' experience in the
30 practice of the medical physics specialty for which
31 application is made.

1 b. Earned from an accredited college or university a
2 master's degree in physics, medical physics, biophysics,
3 radiological physics, medical health physics, or nuclear
4 engineering and has at least 3 years' experience in the
5 practice of the medical physics specialty for which
6 application is made.

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

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

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

25 2. On or after October 1, 1997, to a person who is
26 board certified in the medical physics specialty in which the
27 applicant applies to practice by the American Board of
28 Radiology for diagnostic radiological physics, therapeutic
29 radiological physics, or medical nuclear radiological physics;
30 by the American Board of Medical Physics for diagnostic
31 radiological physics, therapeutic radiological physics, or

1 medical nuclear radiological physics; or by the American Board
2 of Health Physics or an equivalent certifying body approved by
3 the department.

4 (f) A licensee shall:

5 1. Display the license in a place accessible to the
6 public; and

7 2. Report immediately any change in the licensee's
8 address or name to the department.

9 (g) The following acts are grounds for which the
10 disciplinary actions in paragraph (h) may be taken:

11 1. Obtaining or attempting to obtain a license by
12 bribery, fraud, knowing misrepresentation, or concealment of
13 material fact or through an error of the department.

14 2. Having a license denied, revoked, suspended, or
15 otherwise acted against in another jurisdiction.

16 3. Being convicted or found guilty of, or entering a
17 plea of nolo contendere to, regardless of adjudication, a
18 crime in any jurisdiction which relates to the practice of, or
19 the ability to practice, the profession of medical physics.

20 4. Willfully failing to file a report or record
21 required for medical physics or willfully impeding or
22 obstructing the filing of a report or record required by this
23 section or inducing another person to do so.

24 5. Making misleading, deceptive, or fraudulent
25 representations in or related to the practice of medical
26 physics.

27 6. Willfully failing to report any known violation of
28 this section or any rule adopted thereunder.

29 7. Willfully or repeatedly violating a rule adopted
30 under this section or an order of the department.

31

1 8. Failing to perform any statutory or legal
2 obligation placed upon a licensee.

3 9. Aiding, assisting, procuring, employing, or
4 advising any unlicensed person to practice medical physics
5 contrary to this section or any rule adopted thereunder.

6 10. Delegating or contracting for the performance of
7 professional responsibilities by a person when the licensee
8 delegating or contracting such responsibilities knows, or has
9 reason to know, such person is not qualified by training,
10 experience, and authorization to perform them.

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

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

17 13. Judicially determined mental incompetency.

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

23 a. The department may, upon probable cause, compel a
24 licensee to submit to a mental or physical examination by
25 physicians designated by the department. The cost of an
26 examination shall be borne by the licensee, and the licensee's
27 failure to submit to such an examination constitutes an
28 admission of the allegations against the licensee, consequent
29 upon which a default and a final order may be entered without
30 the taking of testimony or presentation of evidence, unless
31

1 the failure was due to circumstances beyond the licensee's
2 control.

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

7 c. With respect to any proceeding under this
8 subparagraph, the record of proceedings or the orders entered
9 by the department may not be used against a licensee in any
10 other proceeding.

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

16 1. Deny the application for licensure.

17 2. Revoke or suspend the license.

18 3. Impose an administrative fine for each count or
19 separate offense.

20 4. Place the licensee on probation for a specified
21 time and subject the licensee to such conditions as the
22 department determines necessary, including requiring
23 treatment, continuing education courses, or working under the
24 monitoring or supervision of another licensee.

25 5. Restrict a licensee's practice.

26 6. Issue a reprimand to the licensee.

27 (i) The department may not issue or reinstate a
28 license to a person it has deemed unqualified until it is
29 satisfied that such person has complied with the terms and
30 conditions of the final order and that the licensee can safely
31 practice medical physics.

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

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

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

14 Section 155. Paragraph (d) of subsection (1) of
15 section 484.007, Florida Statutes, is amended to read:

16 484.007 Licensure of opticians; permitting of optical
17 establishments.--

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

22 (d)1. Has received an associate degree, or its
23 equivalent, in opticianry from an educational institution the
24 curriculum of which is accredited by an accrediting agency
25 recognized and approved by the United States Department of
26 Education or the Council on Postsecondary Education or
27 approved by the board;

28 2. Is an individual licensed to practice the
29 profession of opticianry pursuant to a regulatory licensing
30 law of another state, territory, or jurisdiction of the United
31 States, who has actively practiced in such other state,

1 territory, or jurisdiction for more than 3 years immediately
2 preceding application, and who meets the examination
3 qualifications as provided in this subsection;

4 3. Is an individual who has actively practiced in
5 another state, territory, or jurisdiction of the United States
6 for more than 5 years immediately preceding application and
7 who provides tax or business records, affidavits, or other
8 satisfactory documentation of such practice and who meets the
9 examination qualifications as provided in this subsection; or

10 4. Has registered as an apprentice with the department
11 and paid a registration fee not to exceed \$60, as set by rule
12 of the board. The apprentice shall complete 6,240 hours of
13 training under the supervision of an optician licensed in this
14 state for at least 1 year or of~~a physician~~~~or an~~
15 optometrist licensed under the laws of this state. These
16 requirements must be met within 5 years after the date of
17 registration. However, any time spent in a recognized school
18 may be considered as part of the apprenticeship program
19 provided herein. The board may establish administrative
20 processing fees sufficient to cover the cost of administering
21 apprentice rules as promulgated by the board.

22 Section 156. Subsection (3) is added to section
23 484.0512, Florida Statutes, to read:

24 484.0512 Thirty-day trial period; purchaser's right to
25 cancel; notice; refund; cancellation fee.--

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

29 Section 157. Section 484.053, Florida Statutes, is
30 amended to read:

31 484.053 Prohibitions; penalties.--

- 1 (1) A person may not:
- 2 (a) Practice dispensing hearing aids unless the person
- 3 is a licensed hearing aid specialist;
- 4 (b) Use the name or title "hearing aid specialist"
- 5 when the person has not been licensed under this part;
- 6 (c) Present as her or his own the license of another;
- 7 (d) Give false, incomplete, or forged evidence to the
- 8 board or a member thereof for the purposes of obtaining a
- 9 license;
- 10 (e) Use or attempt to use a hearing aid specialist
- 11 license that is delinquent or has been suspended, revoked, or
- 12 placed on inactive ~~or delinquent~~ status;
- 13 (f) Knowingly employ unlicensed persons in the
- 14 practice of dispensing hearing aids; or
- 15 (g) Knowingly conceal information relative to
- 16 violations of this part.
- 17 (2) Any person who violates any of the provisions of
- 18 this section is guilty of a felony ~~misdemeanor~~ of the third
- 19 ~~second degree~~, punishable as provided in s. 775.082 or s.
- 20 775.083.
- 21 (3) If a person licensed under this part allows the
- 22 sale of a hearing aid by an unlicensed person not registered
- 23 as a trainee or fails to comply with the requirements of s.
- 24 484.0445(2) relating to supervision of trainees, the board
- 25 shall, upon determination of that violation, order the full
- 26 refund of moneys paid by the purchaser upon return of the
- 27 hearing aid to the seller's place of business.
- 28 Section 158. Paragraph (a) of subsection (1) of
- 29 section 484.056, Florida Statutes, 1998 Supplement, is amended
- 30 to read:
- 31 484.056 Disciplinary proceedings.--

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

8 (a) Violation of any provision of s. 455.624(1), s.
9 484.0512, or s. 484.053.

10 Section 159. Section 486.041, Florida Statutes, is
11 amended to read:

12 486.041 Physical therapist; application for license;
13 ~~fee; temporary permit.--~~

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

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

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

30

31

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

4 Section 160. Section 486.081, Florida Statutes, is
5 amended to read:

6 486.081 Physical therapist; issuance of license
7 without examination to person passing examination of another
8 authorized examining board; ~~temporary permit; fee.--~~

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

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

28 ~~(3) If a person desires to practice physical therapy~~
29 ~~before becoming licensed through endorsement, she or he shall~~
30 ~~apply to the board for a temporary permit in accordance with~~
31 ~~rules adopted pursuant to this chapter. A temporary permit~~

1 ~~shall only be issued for a limited period of time, not to~~
2 ~~exceed 1 year, and shall not be renewable.~~

3 Section 161. Section 486.103, Florida Statutes, is
4 amended to read:

5 486.103 Physical therapist assistant; application for
6 license; ~~fee; temporary permit.~~--

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

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

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

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

26 Section 162. Section 486.107, Florida Statutes, is
27 amended to read:

28 486.107 Physical therapist assistant; issuance of
29 license without examination to person licensed in another
30 jurisdiction; ~~temporary permit; fee.~~--

31

1 (1) The board may cause a license to be issued through
2 the department without examination to any applicant who
3 presents evidence to the board, under oath, of licensure in
4 another state, the District of Columbia, or a territory, if
5 the standards for registering as a physical therapist
6 assistant or licensing of a physical therapist assistant, as
7 the case may be, in such other state are determined by the
8 board to be as high as those of this state, as established by
9 rules adopted pursuant to this chapter. Any person who holds a
10 license pursuant to this section may use the words "physical
11 therapist assistant," or the letters "P.T.A.," in connection
12 with her or his name to denote licensure hereunder.

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

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

23 Section 163. Paragraph (b) of subsection (1) of
24 section 490.005, Florida Statutes, 1998 Supplement, is amended
25 to read:

26 490.005 Licensure by examination.--

27 (1) Any person desiring to be licensed as a
28 psychologist shall apply to the department to take the
29 licensure examination. The department shall license each
30 applicant who the board certifies has:

31

1 (b) Submitted proof satisfactory to the board that the
2 applicant has:

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

5 2. Received the equivalent of a doctoral-level
6 psychological education, as defined in s. 490.003(3), from a
7 program at a school or university located outside the United
8 States of America and Canada, which was officially recognized
9 by the government of the country in which it is located as an
10 institution or program to train students to practice
11 professional psychology. The burden of establishing that the
12 requirements of this provision have been met shall be upon the
13 applicant;

14 3. Received and submitted to the board, prior to July
15 1, 1999, certification of an augmented doctoral-level
16 psychological education from the program director of a
17 doctoral-level psychology program accredited by a programmatic
18 agency recognized and approved by the United States Department
19 of Education; or

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

1 psychology program accredited by a programmatic agency
2 recognized and approved by the United States Department of
3 Education.

4 Section 164. Subsection (1) of section 490.006,
5 Florida Statutes, is amended to read:

6 490.006 Licensure by endorsement.--

7 (1) The department shall license a person as a
8 psychologist or school psychologist who, upon applying to the
9 department and remitting the appropriate fee, demonstrates to
10 the department or, in the case of psychologists, to the board
11 that the applicant:

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

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

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

28 Section 165. Subsection (2) of section 490.0085,
29 Florida Statutes, is amended to read:

30 490.0085 Continuing education; approval of providers,
31 programs, and courses; proof of completion.--

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

6 Section 166. Section 491.0045, Florida Statutes, is
7 amended to read:

8 491.0045 Intern registration; requirements.--

9 (1) Effective January 1, 1998, an individual who
10 intends to practice in Florida to satisfy the postgraduate or
11 post-master's level experience requirements, as specified in
12 s. 491.005(1)(c), (3)(c), or (4)(c), must register as an
13 intern in the profession for which he or she is seeking
14 licensure prior to commencing the post-master's experience
15 requirement or an individual who intends to satisfy part of
16 the required graduate-level practicum, internship, or field
17 experience, outside the academic arena for any profession,
18 must register as an intern in the profession for which he or
19 she is seeking licensure prior to commencing the practicum,
20 internship, or field experience.

21 (2) The department shall register as a clinical social
22 worker intern, marriage and family therapist intern, or mental
23 health counselor intern each applicant who the board certifies
24 has:

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

28 (b)1. Completed the education requirements as
29 specified in s. 491.005(1)(c), (3)(c), or (4)(c)for the
30 profession for which he or she is applying for licensure, if
31 needed; and

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

5 (c) Identified a qualified supervisor.

6 (3) An individual registered under this section must
7 remain under supervision until he or she is in receipt of a
8 license or a letter from the department stating that he or she
9 is licensed to practice the profession for which he or she
10 applied.

11 (4) An individual who has applied for intern
12 registration on or before December 31, 2001, and has satisfied
13 the education requirements of s. 491.005 that are in effect
14 through December 31, 2000, will have met the educational
15 requirements for licensure for the profession for which he or
16 she has applied.

17 (5) Individuals who have commenced the experience
18 requirement as specified in s. 491.005(1)(c), (3)(c), or
19 (4)(c) but failed to register as required by subsection (1)
20 shall register with the department before January 1, 2000.
21 Individuals who fail to comply with this subsection shall not
22 be granted a license, and any time spent by the individual
23 completing the experience requirement prior to registering as
24 an intern shall not count toward completion of such
25 requirement.

26 Section 167. 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 168. Section 491.005, Florida Statutes, is
4 amended to read:

5 491.005 Licensure by examination.--

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

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

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

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

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

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

1 the United States or Canada must present documentation of the
2 equivalency determination from the council in order to
3 qualify.

4 2. The applicant's graduate program must have
5 emphasized direct clinical patient or client health care
6 services, including, but not limited to, coursework in
7 clinical social work, psychiatric social work, medical social
8 work, social casework, psychotherapy, or group therapy. The
9 applicant's graduate program must have included all of the
10 following coursework:

11 a. A supervised field placement which was part of the
12 applicant's advanced concentration in direct practice, during
13 which the applicant provided clinical services directly to
14 clients.

15 b. Completion of 24 semester hours or 32 ~~37~~ quarter
16 hours in theory of human behavior and practice methods as
17 courses in clinically oriented services, including a minimum
18 of one course in psychopathology, and no more than one course
19 in research, taken in a school of social work accredited or
20 approved pursuant to subparagraph 1.

21 3. If the course title which appears on the
22 applicant's transcript does not clearly identify the content
23 of the coursework, the applicant shall be required to provide
24 additional documentation, including, but not limited to, a
25 syllabus or catalog description published for the course.

26 (c) Has had not less than 2 years of clinical social
27 work experience, which took place subsequent to completion of
28 a graduate degree in social work at an institution meeting the
29 accreditation requirements of this section, under the
30 supervision of a licensed clinical social worker or the
31 equivalent who is a qualified supervisor as determined by the

1 board. An individual who intends to practice in Florida to
2 satisfy clinical experience requirements must register
3 pursuant to s. 491.0045 prior to commencing practice. If the
4 applicant's graduate program was not a program which
5 emphasized direct clinical patient or client health care
6 services as described in subparagraph (b)2.s. 491.003, the
7 supervised experience requirement must take place after the
8 applicant has completed a minimum of 15 semester hours or 22
9 quarter hours of the coursework required. A doctoral
10 internship may be applied toward the clinical social work
11 experience requirement. The experience requirement may be met
12 by work performed on or off the premises of the supervising
13 clinical social worker or the equivalent, provided the
14 off-premises work is not the independent private practice
15 rendering of clinical social work that does not have a
16 licensed mental health professional, as determined by the
17 board, on the premises at the same time the intern is
18 providing services.

19 (d) Has passed a theory and practice examination
20 provided by the department for this purpose.

21 (e) Has demonstrated, in a manner designated by rule
22 of the board, knowledge of the laws and rules governing the
23 practice of clinical social work, marriage and family therapy,
24 and mental health counseling.

25 (2) CLINICAL SOCIAL WORK.--

26 (a) Notwithstanding the provisions of paragraph
27 (1)(b), coursework which was taken at a baccalaureate level
28 shall not be considered toward completion of education
29 requirements for licensure unless an official of the graduate
30 program certifies in writing on the graduate school's
31 stationery that a specific course, which students enrolled in

1 the same graduate program were ordinarily required to complete
2 at the graduate level, was waived or exempted based on
3 completion of a similar course at the baccalaureate level. If
4 this condition is met, the board shall apply the baccalaureate
5 course named toward the education requirements.

6 (b) An applicant from a master's or doctoral program
7 in social work which did not emphasize direct patient or
8 client services may complete the clinical curriculum content
9 requirement by returning to a graduate program accredited by
10 the Council on Social Work Education or the Canadian
11 Association of Schools of Social Work, or to a clinical social
12 work graduate program with comparable standards, in order to
13 complete the education requirements for examination. However,
14 a maximum of 6 semester or 9 quarter hours of the clinical
15 curriculum content requirement may be completed by credit
16 awarded for independent study coursework as defined by board
17 rule.

18 (3) MARRIAGE AND FAMILY THERAPY.--Upon verification
19 of documentation and payment of a fee not to exceed \$200, as
20 set by board rule, plus the actual cost to the department for
21 the purchase of the examination from the Association of
22 Marital and Family Therapy Regulatory Board, or similar
23 national organization, the department shall issue a license as
24 a marriage and family therapist to an applicant who the board
25 certifies:

26 (a) Has made application therefor and paid the
27 appropriate fee.

28 (b)1. Has a minimum of a master's degree with major
29 emphasis in marriage and family therapy, or a closely related
30 field, and has completed all of the following requirements:

31

1 a. Twenty-seven semester hours or 41 quarter hours of
2 graduate coursework, which must include a minimum of 2
3 semester hours or 3 quarter hours of graduate-level course
4 credits in each of the following nine areas: dynamics of
5 marriage and family systems; marriage therapy and counseling
6 theory and techniques; family therapy and counseling theory
7 and techniques; individual human development theories
8 throughout the life cycle; personality theory;
9 psychopathology; human sexuality theory and counseling
10 techniques; general counseling theory and techniques; and
11 psychosocial theory. Content may be combined, provided no more
12 than two of the nine content areas are included in any one
13 graduate-level course and the applicant can document that the
14 equivalent of 2 semester hours of coursework was devoted to
15 each content area. Courses in research, evaluation, appraisal,
16 assessment, or testing theories and procedures; thesis or
17 dissertation work; or practicums, internships, or fieldwork
18 may not be applied toward this requirement.

19 b. A minimum of one graduate-level course of 2
20 semester hours or 3 quarter hours in legal, ethical, and
21 professional standards issues in the practice of marriage and
22 family therapy or a course determined by the board to be
23 equivalent.

24 c. A minimum of one graduate-level course of 2
25 semester hours or 3 quarter hours in diagnosis, appraisal,
26 assessment, and testing for individual or interpersonal
27 disorder or dysfunction; and a minimum of one 2-semester-hour
28 or 3-quarter-hour graduate-level course in behavioral research
29 which focuses on the interpretation and application of
30 research data as it applies to clinical practice. Credit for
31

1 thesis or dissertation work, practicums, internships, or
2 fieldwork may not be applied toward this requirement.

3 d. A minimum of one supervised clinical practicum,
4 internship, or field experience in a marriage and family
5 counseling setting, during which the student provided 180
6 direct client contact hours of marriage and family therapy
7 services under the supervision of an individual who met the
8 requirements for supervision under paragraph (c). This
9 requirement may be met by a supervised practice experience
10 which took place outside the academic arena, but which is
11 certified as equivalent to a graduate-level practicum or
12 internship program which required a minimum of 180 direct
13 client contact hours of marriage and family therapy services
14 currently offered within an academic program of a college or
15 university accredited by an accrediting agency approved by the
16 United States Department of Education, or an institution which
17 is publicly recognized as a member in good standing with the
18 Association of Universities and Colleges of Canada or a
19 training institution accredited by the Commission on
20 Accreditation for Marriage and Family Therapy Education
21 recognized by the United States Department of Education.
22 Certification shall be required from an official of such
23 college, university, or training institution.

24 2. If the course title which appears on the
25 applicant's transcript does not clearly identify the content
26 of the coursework, the applicant shall be required to provide
27 additional documentation, including, but not limited to, a
28 syllabus or catalog description published for the course.

29
30 The required master's degree must have been received in an
31 institution of higher education which at the time the

1 applicant graduated was: fully accredited by a regional
2 accrediting body recognized by the Commission on Recognition
3 of Postsecondary Accreditation; publicly recognized as a
4 member in good standing with the Association of Universities
5 and Colleges of Canada; or an institution of higher education
6 located outside the United States and Canada, which at the
7 time the applicant was enrolled and at the time the applicant
8 graduated maintained a standard of training substantially
9 equivalent to the standards of training of those institutions
10 in the United States which are accredited by a regional
11 accrediting body recognized by the Commission on Recognition
12 of Postsecondary Accreditation. Such foreign education and
13 training must have been received in an institution or program
14 of higher education officially recognized by the government of
15 the country in which it is located as an institution or
16 program to train students to practice as professional marriage
17 and family therapists or psychotherapists. The burden of
18 establishing that the requirements of this provision have been
19 met shall be upon the applicant, and the board shall require
20 documentation, such as, but not limited to, an evaluation by a
21 foreign equivalency determination service, as evidence that
22 the applicant's graduate degree program and education were
23 equivalent to an accredited program in this country. An
24 applicant with a master's degree from a program which did not
25 emphasize marriage and family therapy may complete the
26 coursework requirement in a training institution fully
27 accredited by the Commission on Accreditation for Marriage and
28 Family Therapy Education recognized by the United States
29 Department of Education.

30 (c) Has had not less than 2 years of clinical
31 experience during which 50 percent of the applicant's clients

1 were receiving marriage and family therapy services, which
2 must be at the post-master's level under the supervision of a
3 licensed marriage and family therapist with at least 5 years
4 of experience, or the equivalent, who is a qualified
5 supervisor as determined by the board. An individual who
6 intends to practice in Florida to satisfy the clinical
7 experience requirements must register pursuant to s. 491.0045
8 prior to commencing practice. If a graduate has a master's
9 degree with a major emphasis in marriage and family therapy or
10 a closely related field that did not include all the
11 coursework required under sub-subparagraphs (b)1.a.-c., credit
12 for the post-master's level clinical experience shall not
13 commence until the applicant has completed a minimum of 10 of
14 the courses required under sub-subparagraphs (b)1.a.-c., as
15 determined by the board, and at least 6 semester hours or 9
16 quarter hours of the course credits must have been completed
17 in the area of marriage and family systems, theories, or
18 techniques. Within the 3 years of required experience, the
19 applicant shall provide direct individual, group, or family
20 therapy and counseling, to include the following categories of
21 cases: unmarried dyads, married couples, separating and
22 divorcing couples, and family groups including children. A
23 doctoral internship may be applied toward the clinical
24 experience requirement. The clinical experience requirement
25 may be met by work performed on or off the premises of the
26 supervising marriage and family therapist or the equivalent,
27 provided the off-premises work is not the independent private
28 practice rendering of marriage and family therapy services
29 that does not have a licensed mental health professional, as
30 determined by the board, on the premises at the same time the
31 intern is providing services.

1 (d) Has passed a theory and practice examination
2 provided by the department for this purpose.

3 (e) Has demonstrated, in a manner designated by rule
4 of the board, knowledge of the laws and rules governing the
5 practice of clinical social work, marriage and family therapy,
6 and mental health counseling.

7 (f) For the purposes of dual licensure, the department
8 shall license as a marriage and family therapist any person
9 who meets the requirements of s. 491.0057. Fees for dual
10 licensure shall not exceed those stated in this subsection.

11 (4) MENTAL HEALTH COUNSELING.--Upon verification of
12 documentation and payment of a fee not to exceed \$200, as set
13 by board rule, plus the actual per applicant cost to the
14 department for purchase of the examination from the
15 Professional Examination Service for the National Academy of
16 Certified Clinical Mental Health Counselors or a similar
17 national organization, the department shall issue a license as
18 a mental health counselor to an applicant who the board
19 certifies:

20 (a) Has made application therefor and paid the
21 appropriate fee.

22 (b)1. Has received a minimum of an earned master's
23 degree with a major related to the practice of mental health
24 counseling, and has completed all of the following
25 requirements:

26 a. Twenty-one semester hours or 32 quarter hours of
27 graduate coursework, which must include a minimum of 2
28 semester hours or 3 quarter hours of graduate-level coursework
29 in each of the following seven content areas: counseling
30 theories and practice; human development theories; personality
31 theory; psychopathology or abnormal psychology; human

1 sexuality theories; group theories and practice; and
2 individual evaluation and assessment. Content may be
3 combined, provided no more than two of the seven content areas
4 are included in any one graduate-level course and the
5 applicant can document that the equivalent of 2 semester hours
6 of content was devoted to each content area. Courses in
7 research, thesis or dissertation work, practicums,
8 internships, or fieldwork may not be applied toward this
9 requirement.

10 b. A minimum of one 2-semester-hour or 3-quarter-hour
11 graduate-level course in research or in career or vocational
12 counseling. Credit for thesis or dissertation work,
13 practicums, internships, or fieldwork may not be applied
14 toward this requirement.

15 c. A minimum of 2 semester hours or 3 quarter hours of
16 graduate-level coursework in legal, ethical, and professional
17 standards issues in the practice of mental health counseling,
18 which includes goals and objectives of professional counseling
19 organizations, codes of ethics, legal considerations,
20 standards of preparation, certifications and licensing, and
21 the role identity of counselors. Courses in research, thesis
22 or dissertation work, practicums, internships, or fieldwork
23 may not be applied toward this requirement.

24 d. A minimum of one supervised practicum, internship,
25 or field experience in a counseling setting. This requirement
26 may be met by a supervised practice experience which takes
27 place outside the academic arena, but which is certified as
28 equivalent to a graduate-level practicum in a clinical mental
29 health counseling setting currently offered within an academic
30 program of a college or university accredited by an
31 accrediting agency approved by the United States Department of

1 Education. Such certification shall be required from an
2 official of such college or university.

3 2. If the course title which appears on the
4 applicant's transcript does not clearly identify the content
5 of the coursework, the applicant shall be required to provide
6 additional documentation, including, but not limited to, a
7 syllabus or catalog description published for the course.

8
9 Except as provided in sub-subparagraph 1.d., education and
10 training in mental health counseling must have been received
11 in an institution of higher education which at the time the
12 applicant graduated was: fully accredited by a regional
13 accrediting body recognized by the Commission on Recognition
14 of Postsecondary Accreditation; publicly recognized as a
15 member in good standing with the Association of Universities
16 and Colleges of Canada; or an institution of higher education
17 located outside the United States and Canada, which at the
18 time the applicant was enrolled and at the time the applicant
19 graduated maintained a standard of training substantially
20 equivalent to the standards of training of those institutions
21 in the United States which are accredited by a regional
22 accrediting body recognized by the Commission on Recognition
23 of Postsecondary Accreditation. Such foreign education and
24 training must have been received in an institution or program
25 of higher education officially recognized by the government of
26 the country in which it is located as an institution or
27 program to train students to practice as mental health
28 counselors. The burden of establishing that the requirements
29 of this provision have been met shall be upon the applicant,
30 and the board shall require documentation, such as, but not
31 limited to, an evaluation by a foreign equivalency

1 determination service, as evidence that the applicant's
2 graduate degree program and education were equivalent to an
3 accredited program in this country.

4 (c) Has had not less than 2 years of clinical
5 experience in mental health counseling, which must be at the
6 post-master's level under the supervision of a licensed mental
7 health counselor or the equivalent who is a qualified
8 supervisor as determined by the board. An individual who
9 intends to practice in Florida to satisfy the clinical
10 experience requirements must register pursuant to s. 491.0045
11 prior to commencing practice. If a graduate has a master's
12 degree with a major related to the practice of mental health
13 counseling which did not include all the coursework required
14 under sub-subparagraphs (b)1.a.-c., credit for the
15 post-master's level clinical experience shall not commence
16 until the applicant has completed a minimum of seven of the
17 courses required under sub-subparagraphs (b)1.a.-c., as
18 determined by the board, one of which must be a course in
19 psychopathology or abnormal psychology. A doctoral internship
20 may be applied toward the clinical experience requirement. The
21 clinical experience requirement may be met by work performed
22 on or off the premises of the supervising mental health
23 counselor or the equivalent, provided the off-premises work is
24 not the independent private practice rendering of services
25 that does not have a licensed mental health professional, as
26 determined by the board, on the premises at the same time the
27 intern is providing services.

28 (d) Has passed a theory and practice examination
29 provided by the department for this purpose.

30 (e) Has demonstrated, in a manner designated by rule
31 of the board, knowledge of the laws and rules governing the

1 practice of clinical social work, marriage and family therapy,
2 and mental health counseling.

3 (5) INTERNSHIP.--An individual who is registered as an
4 intern and has satisfied all of the educational requirements
5 for the profession for which the applicant seeks licensure
6 shall be certified as having met the educational requirements
7 for licensure under this section.

8 (6) RULES.--The board may adopt rules necessary to
9 implement any education or experience requirement of this
10 section for licensure as a clinical social worker, marriage
11 and family therapist, or mental health counselor.

12 Section 169. Effective January 1, 2001, paragraph (b)
13 of subsection (4) of section 491.005, Florida Statutes, as
14 amended by section 13 of chapter 97-198 and section 205 of
15 chapter 97-264, Laws of Florida, and as amended by this act,
16 is amended, and subsection (6) of that section, as created by
17 this act, is reenacted, to read:

18 491.005 Licensure by examination.--

19 (4) MENTAL HEALTH COUNSELING.--Upon verification of
20 documentation and payment of a fee not to exceed \$200, as set
21 by board rule, plus the actual per applicant cost to the
22 department for purchase of the examination from the
23 Professional Examination Service for the National Academy of
24 Certified Clinical Mental Health Counselors or a similar
25 national organization, the department shall issue a license as
26 a mental health counselor to an applicant who the board
27 certifies:

28 (b)1. Has a minimum of an earned master's degree from
29 a mental health counseling program accredited by the Council
30 for the Accreditation of Counseling and Related Educational
31 Programs that consists of at least 60 semester hours or 80

1 quarter hours of clinical and didactic instruction, including
2 a course in human sexuality and a course in substance abuse.
3 If the master's degree is earned from a program related to the
4 practice of mental health counseling that is not accredited by
5 the Council for the Accreditation of Counseling and Related
6 Educational Programs, then the coursework and practicum,
7 internship, or fieldwork must consist of at least 60 semester
8 hours or 80 quarter hours and meet the following requirements:

9 a. Thirty-three ~~Thirty-six~~ semester hours or 44 ~~48~~
10 quarter hours of graduate coursework, which must include a
11 minimum of 3 semester hours or 4 quarter hours of
12 graduate-level coursework in each of the following 11 ~~12~~
13 content areas: counseling theories and practice; human growth
14 and development; diagnosis and treatment of psychopathology;
15 human sexuality; group theories and practice; individual
16 evaluation and assessment; career and lifestyle assessment;
17 research and program evaluation; social and cultural
18 foundations; ~~foundations of mental health counseling;~~
19 counseling in community settings; and substance abuse. Courses
20 in research, thesis or dissertation work, practicums,
21 internships, or fieldwork may not be applied toward this
22 requirement.

23 b. A minimum of 3 semester hours or 4 quarter hours of
24 graduate-level coursework in legal, ethical, and professional
25 standards issues in the practice of mental health counseling,
26 which includes goals, objectives, and practices of
27 professional counseling organizations, codes of ethics, legal
28 considerations, standards of preparation, certifications and
29 licensing, and the role identity and professional obligations
30 of mental health counselors. Courses in research, thesis or
31

1 dissertation work, practicums, internships, or fieldwork may
2 not be applied toward this requirement.

3 c. The equivalent, as determined by the board, of at
4 least 1,000 hours of university-sponsored supervised clinical
5 practicum, internship, or field experience as required in the
6 accrediting standards of the Council for Accreditation of
7 Counseling and Related Educational Programs for mental health
8 counseling programs. ~~If the academic practicum, internship, or~~
9 ~~field experience was less than 1,000 hours, experience gained~~
10 ~~outside the academic arena in clinical mental health settings~~
11 ~~under the supervision of a qualified supervisor as determined~~
12 ~~by the board may be applied.~~ This experience may not be used
13 to satisfy the post-master's clinical experience requirement.

14 2. If the course title which appears on the
15 applicant's transcript does not clearly identify the content
16 of the coursework, the applicant shall be required to provide
17 additional documentation, including, but not limited to, a
18 syllabus or catalog description published for the course.

19
20 Education and training in mental health counseling must have
21 been received in an institution of higher education which at
22 the time the applicant graduated was: fully accredited by a
23 regional accrediting body recognized by the Commission on
24 Recognition of Postsecondary Accreditation; publicly
25 recognized as a member in good standing with the Association
26 of Universities and Colleges of Canada; or an institution of
27 higher education located outside the United States and Canada,
28 which at the time the applicant was enrolled and at the time
29 the applicant graduated maintained a standard of training
30 substantially equivalent to the standards of training of those
31 institutions in the United States which are accredited by a

1 regional accrediting body recognized by the Commission on
2 Recognition of Postsecondary Accreditation. Such foreign
3 education and training must have been received in an
4 institution or program of higher education officially
5 recognized by the government of the country in which it is
6 located as an institution or program to train students to
7 practice as mental health counselors. The burden of
8 establishing that the requirements of this provision have been
9 met shall be upon the applicant, and the board shall require
10 documentation, such as, but not limited to, an evaluation by a
11 foreign equivalency determination service, as evidence that
12 the applicant's graduate degree program and education were
13 equivalent to an accredited program in this country.

14 (6) RULES.--The board may adopt rules necessary to
15 implement any education or experience requirement of this
16 section for licensure as a clinical social worker, marriage
17 and family therapist, or mental health counselor.

18 Section 170. Paragraph (b) of subsection (1) of
19 section 491.006, Florida Statutes, is amended to read:

20 491.006 Licensure or certification by endorsement.--

21 (1) The department shall license or grant a
22 certificate to a person in a profession regulated by this
23 chapter who, upon applying to the department and remitting the
24 appropriate fee, demonstrates to the board that he or she:

25 (b)1. Holds an active valid license to practice and
26 has actively practiced the profession for which licensure is
27 applied in another state for 3 of the last 5 years immediately
28 preceding licensure.

29 2. Meets the education requirements of this chapter
30 for the profession for which licensure is applied.

31

1 3. Has passed a substantially equivalent licensing
2 examination in another state or has passed the licensure
3 examination in this state in the profession for which the
4 applicant seeks licensure.

5 4. Holds a license in good standing, is not under
6 investigation for an act which would constitute a violation of
7 this chapter, and has not been found to have committed any act
8 which would constitute a violation of this chapter.

9 Section 171. Section 491.0085, Florida Statutes, is
10 amended to read:

11 491.0085 Continuing education and laws and rules
12 courses; approval of providers, programs, and courses; proof
13 of completion.--

14 (1) Continuing education providers, programs, and
15 courses and laws and rules courses and their providers and
16 programs shall be approved by the department or the board.

17 (2) The department or the board has the authority to
18 set a fee not to exceed \$200 for each applicant who applies
19 for or renews provider status. Such fees shall be deposited
20 into the Medical Quality Assurance ~~Health Care~~ Trust Fund.

21 (3) Proof of completion of the required number of
22 hours of continuing education and completion of the laws and
23 rules course shall be submitted to the department or the board
24 in the manner and time specified by rule and on forms provided
25 by the department or the board.

26 (4) The department or the board shall adopt rules and
27 guidelines to administer and enforce the provisions of this
28 section.

29 Section 172. Paragraph (d) of subsection (4) of
30 section 491.014, Florida Statutes, 1998 Supplement, is amended
31 to read:

1 491.014 Exemptions.--

2 (4) No person shall be required to be licensed,
3 provisionally licensed, registered, or certified under this
4 chapter who:

5 (d) Is not a resident of this state but offers
6 services in this state, provided:

7 1. Such services are performed for no more than ~~5 days~~
8 ~~in any month and no more than~~ 15 days in any calendar year;
9 and

10 2. Such nonresident is licensed or certified to
11 practice the services provided by a state or territory of the
12 United States or by a foreign country or province.

13 Section 173. Paragraph (a) of subsection (1) and
14 subsection (5) of section 499.012, Florida Statutes, 1998
15 Supplement, are amended to read:

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

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

19 (a) "Wholesale distribution" means distribution of
20 prescription drugs to persons other than a consumer or
21 patient, but does not include:

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

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

30 b. The sale, purchase, or trade of a prescription drug
31 or an offer to sell, purchase, or trade a prescription drug by

1 a charitable organization described in s. 501(c)(3) of the
2 Internal Revenue Code of 1986, as amended and revised, to a
3 nonprofit affiliate of the organization to the extent
4 otherwise permitted by law.

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

13 d. The sale, purchase, trade, or other transfer of a
14 prescription drug from or for any federal, state, or local
15 government agency or any entity eligible to purchase
16 prescription drugs at public health services prices pursuant
17 to s. 602 of Pub. L. No. 102-585 to a contract provider or its
18 subcontractor for eligible patients of the agency or entity
19 under the following conditions:

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

24 (II) The contract provider or subcontractor must be
25 authorized by law to administer or dispense prescription
26 drugs.

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

29 (IV) A contract provider or subcontractor must
30 maintain separate and apart from other prescription drug
31

1 inventory any prescription drugs of the agency or entity in
2 its possession.

3 (V) The contract provider and subcontractor must
4 maintain and produce immediately for inspection all records of
5 movement or transfer of all the prescription drugs belonging
6 to the agency or entity, including, but not limited to, the
7 records of receipt and disposition of prescription drugs.
8 Each contractor and subcontractor dispensing or administering
9 these drugs must maintain and produce records documenting the
10 dispensing or administration. Records that are required to be
11 maintained include, but are not limited to, a perpetual
12 inventory itemizing drugs received and drugs dispensed by
13 prescription number or administered by patient identifier,
14 which must be submitted to the agency or entity quarterly.

15 (VI) The contract provider or subcontractor may
16 administer or dispense the prescription drugs only to the
17 eligible patients of the agency or entity or must return the
18 prescription drugs for or to the agency or entity. The
19 contract provider or subcontractor must require proof from
20 each person seeking to fill a prescription or obtain treatment
21 that the person is an eligible patient of the agency or entity
22 and must, at a minimum, maintain a copy of this proof as part
23 of the records of the contractor or subcontractor required
24 under sub-sub-subparagraph (V).

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

27 (VIII) In addition to the departmental inspection
28 authority set forth in s. 499.051, the establishment of the
29 contract provider and subcontractor and all records pertaining
30 to prescription drugs subject to this sub-subparagraph shall
31 be subject to inspection by the agency or entity. All records

1 relating to prescription drugs of a manufacturer under this
2 sub-subparagraph shall be subject to audit by the manufacturer
3 of those drugs, without identifying individual patient
4 information.

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

8 a. The sale, purchase, or trade of a prescription drug
9 among federal, state, or local government health care entities
10 that are under common control and are authorized to purchase
11 such prescription drug.

12 b. The sale, purchase, or trade of a prescription drug
13 or an offer to sell, purchase, or trade a prescription drug
14 for emergency medical reasons. ~~For purposes of this~~
15 ~~sub-subparagraph~~ subparagraph, the term "emergency medical
16 reasons" includes transfers of prescription drugs by a retail
17 pharmacy to another retail pharmacy to alleviate a temporary
18 shortage.

19 c. The transfer ~~purchase or acquisition~~ of a
20 prescription drug acquired by a medical director on behalf of
21 a licensed an emergency medical services provider to that
22 ~~medical director for use by~~ emergency medical services
23 provider and its transport vehicles for use in accordance with
24 the provider's license under ~~providers acting within the scope~~
25 ~~of their professional practice pursuant to~~ chapter 401.

26 d. The revocation of a sale or the return of a
27 prescription drug to the person's prescription drug wholesale
28 supplier.

29 e. The donation of a prescription drug by a health
30 care entity to a charitable organization that has been granted
31 an exemption under s. 501(c)(3) of the Internal Revenue Code

1 of 1986, as amended, and that is authorized to possess
2 prescription drugs.

3 f. The transfer of a prescription drug by a person
4 authorized to purchase or receive prescription drugs to a
5 person licensed or permitted to handle reverse distributions
6 or destruction under the laws of the jurisdiction in which the
7 person handling the reverse distribution or destruction
8 receives the drug.

9 ~~3. The dispensing of a prescription drug pursuant to a~~
10 ~~prescription.~~

11 3.4. The distribution of prescription drug samples by
12 manufacturers' representatives or distributors'
13 representatives conducted in accordance with s. 499.028. ~~or~~

14 ~~4.5.~~ The sale, purchase, or trade of blood and blood
15 components intended for transfusion. As used in this
16 subparagraph section, the term "blood" means whole blood
17 collected from a single donor and processed either for
18 transfusion or further manufacturing, and the term "blood
19 components" means that part of the blood separated by physical
20 or mechanical means.

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

23 (5) The department may adopt rules governing the
24 recordkeeping, storage, and handling with respect to each of
25 the distributions of prescription drugs specified in
26 subparagraphs (1)(a)1.-4. ~~(1)(a)1., 2., 4., and 5.~~

27 Section 174. Subsection (6) is added to section
28 626.883, Florida Statutes, to read:

29 626.883 Administrator as intermediary; collections
30 held in fiduciary capacity; establishment of account;
31 disbursement; payments on behalf of insurer.--

1 (6) All payments to a health care provider by a fiscal
2 intermediary for noncapitated providers must include an
3 explanation of services being reimbursed which includes, at a
4 minimum, the patient's name, the date of service, the
5 procedure code, the amount of reimbursement, and the
6 identification of the plan on whose behalf the payment is
7 being made. For capitated providers, the statement of services
8 must include the number of patients covered by the contract,
9 the rate per patient, the total amount of the payment, and the
10 identification of the plan on whose behalf the payment is
11 being made.

12 Section 175. Paragraph (a) of subsection (2) of
13 section 641.316, Florida Statutes, 1998 Supplement, is amended
14 to read:

15 641.316 Fiscal intermediary services.--

16 (2)(a) The term "fiduciary" or "fiscal intermediary
17 services" means reimbursements received or collected on behalf
18 of health care professionals for services rendered, patient
19 and provider accounting, financial reporting and auditing,
20 receipts and collections management, compensation and
21 reimbursement disbursement services, or other related
22 fiduciary services pursuant to health care professional
23 contracts with health maintenance organizations. All payments
24 to a health care provider by a fiscal intermediary for
25 noncapitated providers must include an explanation of services
26 being reimbursed which includes, at a minimum, the patient's
27 name, the date of service, the procedure code, the amount of
28 reimbursement, and the identification of the plan on whose
29 behalf the payment is being made. For capitated providers, the
30 statement of services must include the number of patients
31 covered by the contract, the rate per patient, the total

1 amount of the payment, and the identification of the plan on
2 whose behalf the payment is being made.

3 Section 176. Task Force on Telehealth.--

4 (1) Because telecommunications technology has made it
5 possible to provide a wide range of health care services
6 across state lines between healthcare practitioners and
7 patients, it is the intent of the Legislature to protect the
8 health and safety of all patients in this state receiving
9 services by means of such technology and to ensure the
10 accountability of the healthcare profession with respect to
11 unsafe and incompetent practitioners using such technology to
12 provide health care services to patients in this state.

13 (2) The Secretary of Health shall appoint a task force
14 consisting of representatives from the affected medical and
15 allied health professions and other affected health care
16 industries.

17 (3) The task force shall address the following:

18 (a) Identification of various electronic
19 communications or telecommunications technologies currently
20 used within the state and by other states to provide
21 healthcare information.

22 (b) Identification of laws, regulations, and
23 reimbursement practices that serve as barriers to
24 implementation of electronic communications related to health
25 care.

26 (c) Recommendation of the appropriate level of
27 regulation of health care professionals necessary to protect
28 the health and safety of patients in this state, including
29 analysis of existing provisions governing in-state
30 professionals such as licensing, financial responsibility, and
31 medical malpractice insurance requirements.

1 (d) Potential preemption of state regulation by the
2 Commerce Clause of the United States Constitution.

3 (e) The effect of telehealth on access to health care
4 in rural and underserved areas.

5 (f) Potential antitrust concerns.

6 (g) The effect of regulations by other states or
7 jurisdictions on health care professionals in this state who
8 provide consultative services through telehealth to entities
9 and patients outside the state.

10 (h) Research on other public and private data and
11 initiatives related to telehealth.

12 (i) Any other issue affecting the health, safety, and
13 welfare of patients through telehealth identified by the task
14 force.

15 (4) The task force shall submit a report of its
16 findings and recommendations by January 1, 2000, to the
17 Governor, the President of the Senate, and the Speaker of the
18 House of Representatives.

19 Section 177. Subsection (1) of section 468.352,
20 Florida Statutes, is amended to read:

21 468.352 Definitions.--As used in this part, unless the
22 context otherwise requires, the term:

23 (1) "Board" means the Board of Respiratory Care
24 Medicine.

25 Section 178. Section 468.353, Florida Statutes, is
26 amended to read:

27 468.353 Board of Respiratory Care ~~Medicine~~; powers and
28 duties.--

29 (1) ~~The board, with the assistance of the Advisory~~
30 ~~Council on Respiratory Care,~~ is authorized to establish
31 minimum standards for the delivery of respiratory care

1 services and to adopt those rules necessary to administer this
2 part.

3 (2) The board may administer oaths, summon witnesses,
4 and take testimony in all matters relating to its duties under
5 this part.

6 (3) The board may adopt rules to administer this part,
7 including rules governing the investigation, inspection, and
8 review of schools and colleges that offer courses in
9 respiratory care in order to ascertain their compliance with
10 standards established by the board or appropriate accrediting
11 agencies ~~delegate such powers and duties to the council as it~~
12 ~~may deem proper.~~

13 Section 179. Section 468.354, Florida Statutes, is
14 amended to read:

15 468.354 Board of ~~Advisory Council on~~ Respiratory Care;
16 organization; function.--

17 (1) There is created within the department, the Board
18 of ~~Advisory Council on~~ Respiratory Care, composed of seven
19 members appointed by the Governor and confirmed by the Senate
20 ~~under the supervision of the board.~~

21 (2) The board council ~~shall consist of five members~~
22 ~~appointed by the board and shall include:~~

23 (a) A registered respiratory therapist.

24 (b) A certified respiratory therapist ~~care~~
25 ~~practitioner.~~

26 (c) A respiratory care professional from each of the
27 following areas:

28 1. Respiratory care education.

29 2. Respiratory care management and supervision.

30 3. Homecare/subacute ~~Cardiopulmonary diagnostics.~~

31

1 (d) Two consumer members, who are residents of this
2 state and have never been licensed as health care
3 practitioners.

4
5 Each ~~member of the council shall be a~~ respiratory care
6 professional on the board must have ~~who has~~ been actively
7 engaged in the delivery of respiratory care services in this
8 state for at least 4 consecutive years prior to appointment.

9 (3)(a) Except as provided in paragraph (b), the term
10 of office for each board ~~council~~ member shall be 4 years. No
11 member shall serve for more than two consecutive terms. Any
12 time there is a vacancy to be filled ~~on the council~~, all
13 professional organizations dealing with respiratory therapy
14 incorporated within the state as not for profit which register
15 their interest ~~with the board~~ shall recommend at least twice
16 as many persons to fill the vacancy ~~to the council~~ as the
17 number of vacancies to be filled, and the Governor ~~board~~ may
18 appoint from the submitted list, in his ~~its~~ discretion, any of
19 those persons so recommended. The Governor ~~board~~ shall,
20 insofar as possible, appoint persons from different
21 geographical areas.

22 (b) ~~In order~~ To achieve staggering of terms, within
23 120 days after July 1, 1999, ~~October 1, 1984~~, the Governor
24 ~~board~~ shall appoint the board members ~~of the council~~ as
25 follows:

26 1. Two members ~~One member~~ shall be appointed for terms
27 ~~a term~~ of 2 years.

28 2. Two members shall be appointed for terms of 3
29 years.

30 3. Three ~~Two~~ members shall be appointed for terms of 4
31 years.

1 (c) All provisions of part II of chapter 455, relating
2 to boards apply to this part.

3 (4)(a) The board ~~council~~ shall annually elect from
4 among its members a chair and vice chair.

5 (b) The board ~~council~~ shall meet at least twice a year
6 and shall hold ~~such~~ additional meetings as are deemed
7 necessary ~~by the board~~. Four ~~Three~~ members of the council
8 constitute a quorum.

9 (c) Unless otherwise provided by law, a board ~~council~~
10 member shall be compensated \$50 for each day he or she attends
11 an official board meeting ~~of the council~~ and for each day he
12 or she participates in any other board business ~~involving the~~
13 ~~council~~. A board ~~council~~ member shall also be entitled to
14 reimbursement for expenses pursuant to s. 112.061. Travel out
15 of the state shall require the prior approval of the secretary
16 of the department.

17 (5)~~(a)~~ The board ~~may council shall~~ recommend to the
18 department a code of ethics for those persons licensed
19 pursuant to this part.

20 ~~(b) The council shall make recommendations to the~~
21 ~~department for the approval of continuing education courses.~~

22 Section 180. Section 468.355, Florida Statutes, is
23 amended to read:

24 468.355 Eligibility for licensure; temporary
25 licensure.--

26 (1) To be eligible for licensure by the board as a
27 respiratory care practitioner, an applicant must:

28 (a) Be at least 18 years old.

29 (b) Possess a high school diploma or a graduate
30 equivalency diploma.

31 (c) Meet at least one of the following criteria:

1 1. The applicant has successfully completed a training
2 program for respiratory therapy technicians or respiratory
3 therapists approved by the Commission on Accreditation of
4 Allied Health Education Programs, or the equivalent thereof,
5 as accepted by the board.

6 2. The applicant is currently a "Certified Respiratory
7 Therapy Technician" certified by the National Board for
8 Respiratory Care, or the equivalent thereof, as accepted by
9 the board.

10 3. The applicant is currently a "Registered
11 Respiratory Therapist" registered by the National Board for
12 Respiratory Care, or the equivalent thereof, as accepted by
13 the board.

14 ~~4. The applicant is currently employed in this state
15 as a respiratory care practitioner or respiratory therapist on
16 October 1, 1984.~~

17
18 The criteria set forth in subparagraphs 2. and 3.
19 notwithstanding, the board shall periodically ~~annually~~ review
20 the examinations and standards of the National Board for
21 Respiratory Care and may reject those examinations and
22 standards if they are deemed inappropriate.

23 (2) To be eligible for licensure by the board as a
24 respiratory therapist, an applicant must:

25 (a) Be at least 18 years old.

26 (b) Possess a high school diploma or a graduate
27 equivalency diploma.

28 (c) Meet at least one of the following criteria:

29 1. The applicant has successfully completed a training
30 program for respiratory therapists approved by the Commission
31

1 on Accreditation of Allied Health Education Programs, or the
2 equivalent thereof, as accepted by the board.

3 2. The applicant is currently a "Registered
4 Respiratory Therapist" registered by the National Board for
5 Respiratory Care, or the equivalent thereof, as accepted by
6 the board.

7
8 The criteria set forth in subparagraphs 1. and 2.
9 notwithstanding, the board shall periodically ~~annually~~ review
10 the examinations and standards of the National Board for
11 Respiratory Care and may reject those examinations and
12 standards if they are deemed inappropriate.

13 (3) With respect to the delivery of respiratory care
14 services, the board shall establish procedures for temporary
15 licensure of eligible individuals entering the state and
16 temporary licensure of those persons who have graduated from a
17 program approved by the board. Such temporary licensure shall
18 be for a period not to exceed 1 year.

19 Section 181. Section 468.357, Florida Statutes, is
20 amended to read:

21 468.357 Licensure by examination.--

22 (1) A person who desires to be licensed as a
23 respiratory care practitioner may submit an application ~~to the~~
24 ~~department~~ to take the examination, in accordance with board
25 rule to be administered by the department.

26 ~~The department shall examine~~ Each applicant may
27 take the examination who is determined by the board to have:

28 1. Completed the application form and remitted the
29 applicable fee set by the board;

30 2. Submitted required documentation as required in s.
31 468.355; and

1 3. Remitted an examination fee set by the examination
2 provider board.

3 (b) ~~The department shall conduct~~ Examinations for
4 licensure of respiratory care practitioners must be conducted
5 no less than two times a year in such geographical locations
6 or by such methods as are deemed advantageous to the majority
7 of the applicants.

8 (c) The examination given for respiratory care
9 practitioners shall be the same as that given by the National
10 Board for Respiratory Care for entry-level certification of
11 respiratory therapy technicians. However, an equivalent
12 examination may be accepted by the board in lieu of that
13 examination.

14 (2) Each applicant who passes the examination shall be
15 entitled to licensure as a respiratory care practitioner, and
16 the department shall issue a license pursuant to this part to
17 any applicant who successfully completes the examination in
18 accordance with this section. However, the department shall
19 not issue a license to any applicant who is under
20 investigation in another jurisdiction for an offense which
21 would constitute a violation of this part. Upon completion of
22 such an investigation, if the applicant is found guilty of
23 such an offense, the applicable provisions of s. 468.365 will
24 apply.

25 ~~(3) Any person who was employed in this state on or~~
26 ~~before September 30, 1983, as a respiratory therapy technician~~
27 ~~or respiratory therapist, and who has performed services in~~
28 ~~such professional capacity for 4 years or more by October 1,~~
29 ~~1987, under the supervision of a licensed physician or in a~~
30 ~~hospital or licensed health care facility, shall be issued a~~
31 ~~license without examination, if such person provides~~

1 ~~acceptable documentation of performance of such services to~~
2 ~~the board. Such documentation shall include certification by~~
3 ~~a physician licensed pursuant to chapter 458 or chapter 459~~
4 ~~who has direct knowledge of the practice of, or who has~~
5 ~~supervised, the person. If such person is not determined to~~
6 ~~have performed critical care respiratory services for at least~~
7 ~~4 years, the board may limit the license of such person to the~~
8 ~~performance of noncritical care respiratory services.~~

9 Section 182. Section 468.364, Florida Statutes, 1998
10 Supplement, is amended to read:

11 468.364 Fees; establishment; disposition.--

12 (1) The board shall establish by rule fees for the
13 following purposes:

14 (a) Application, a fee not to exceed \$50.

15 ~~(b) Examination, a fee not to exceed \$125 plus the~~
16 ~~actual per applicant cost to the department for purchase of~~
17 ~~the examination from the National Board for Respiratory Care~~
18 ~~or a similar national organization.~~

19 (b)(c) Initial licensure, a fee not to exceed \$200.

20 (c)(d) Renewal of licensure, a fee not to exceed \$200
21 biennially.

22 (d)(e) Renewal of inactive licensure, a fee not to
23 exceed \$50.

24 (e)(f) Reactivation, a fee not to exceed \$50.

25 (2) The fees established pursuant to subsection (1)
26 shall be based upon the actual costs incurred by the
27 department in carrying out its responsibilities under this
28 part.

29 (3) All moneys collected by the department under this
30 part shall be deposited as required by s. 455.587.

31

1 Section 183. Paragraph (f) of subsection (1) of
2 section 468.365, Florida Statutes, 1998 Supplement, is amended
3 to read:

4 468.365 Disciplinary grounds and actions.--

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

7 (f) Unprofessional conduct, which includes, but is not
8 limited to, any departure from, or failure to conform to,
9 acceptable standards related to the delivery of respiratory
10 care services, as set forth by the board ~~and the Advisory~~
11 ~~Council on Respiratory Care~~ in rules adopted pursuant to this
12 part.

13 Section 184. Paragraph (a) of subsection (2) of
14 section 464.016, Florida Statutes, is amended to read:

15 464.016 Violations and penalties.--

16 (2) Each of the following acts constitutes a
17 misdemeanor of the first degree, punishable as provided in s.
18 775.082 or s. 775.083:

19 (a) Using the name or title "Nurse," "Registered
20 Nurse," "Licensed Practical Nurse," "Advanced Registered Nurse
21 Practitioner," or any other name or title which implies that a
22 person was licensed or certified as same, unless such person
23 is duly licensed or certified.

24 Section 185. Paragraphs (b) and (c) of subsection (1)
25 of section 458.3115, Florida Statutes, 1998 Supplement, are
26 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 (b) A person who is eligible to take and elects to
2 take the USMLE who has previously passed part 1 or part 2 of
3 the previously administered FLEX shall not be required to
4 retake or pass the equivalent parts of the USMLE up to the
5 year 2002 ~~2000~~.

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

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

22 2. Applies to the agency and submits an application
23 fee that is nonrefundable and equivalent to the fee required
24 for full licensure;

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

27 4. Submits an examination fee that is nonrefundable
28 and equivalent to the fee required for full licensure plus the
29 actual per-applicant cost to the agency to provide either
30 examination described in this section;

31

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

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

10 Section 186. Subsection (2) of section 458.3124,
11 Florida Statutes, 1998 Supplement, is amended to read:

12 458.3124 Restricted license; certain experienced
13 foreign-trained physicians.--

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

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

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

23 Section 187. Effective upon this act becoming a law,
24 section 301 of chapter 98-166, Laws of Florida, is amended to
25 read:

26 Section 301. The sum of \$1.2 million from the
27 unallocated balance in the Medical Quality Assurance Trust
28 Fund is appropriated to the Department of Health to allow the
29 department to develop the examination required for foreign
30 licensed physicians in section 458.3115(1)(a), Florida
31 Statutes, through a contract with the University of South

1 Florida. The department shall charge examinees a fee not to
2 exceed 25 percent of the cost of the actual costs of the first
3 examination administered pursuant to section 458.3115, Florida
4 Statutes, 1998 Supplement, and a fee not to exceed 75 percent
5 of the actual costs for any subsequent examination
6 administered pursuant to that section.

7 Section 188. The Agency for Health Care Administration
8 shall conduct a detailed study and analysis of clinical
9 laboratory services for kidney dialysis patients in the State
10 of Florida. The study shall include, but not be limited to, an
11 analysis of the past and present utilization rates of clinical
12 laboratory services for dialysis patients, financial
13 arrangements among kidney dialysis centers, their medical
14 directors, and any business relationships and affiliations
15 with clinical laboratories, any self referral to clinical
16 laboratories, the quality and responsiveness of clinical
17 laboratory services for dialysis patients in Florida, and the
18 average annual revenue for dialysis patients for clinical
19 laboratory services for the past ten years. The agency shall
20 report back to the President of the Senate, Speaker of the
21 House of Representatives, and chairs of the appropriate
22 substantive committees of the Legislature on its findings no
23 later than February 1, 2000.

24 Section 189. Subsection (3) is added to section
25 455.651, Florida Statutes, 1998 Supplement, to read:

26 455.651 Disclosure of confidential information.--

27 (1) No officer, employee, or person under contract
28 with the department, or any board therein, or any subject of
29 an investigation shall convey knowledge or information to any
30 person who is not lawfully entitled to such knowledge or
31 information about any public meeting or public record, which

1 at the time such knowledge or information is conveyed is
2 exempt from the provisions of s. 119.01, s. 119.07(1), or s.
3 286.011.

4 (2) Any person who willfully violates any provision of
5 this section is guilty of a misdemeanor of the first degree,
6 punishable as provided in s. 775.082 or s. 775.083, and may be
7 subject to discipline pursuant to s. 455.624, and, if
8 applicable, shall be removed from office, employment, or the
9 contractual relationship.

10 (3) Any person injured as a result of a violation of
11 this section shall have a civil cause of action for treble
12 damages, reasonable attorney fees, and costs.

13 Section 190. Section 641.261, Florida Statutes, is
14 amended to read:

15 641.261 Other reporting requirements.--

16 (1) Each authorized health maintenance organization
17 shall provide records and information to the Agency for Health
18 Care Administration ~~Department of Health and Rehabilitative~~
19 ~~Services~~ pursuant to s. 409.910(20) and (21)~~(22)~~ for the sole
20 purpose of identifying potential coverage for claims filed
21 with the agency ~~Department of Health and Rehabilitative~~
22 ~~Services~~ and its fiscal agents for payment of medical services
23 under the Medicaid program.

24 (2) Any information provided by a health maintenance
25 organization under this section to the agency ~~Department of~~
26 ~~Health and Rehabilitative Services~~ shall not be considered a
27 violation of any right of confidentiality or contract that the
28 health maintenance organization may have with covered persons.
29 The health maintenance organization is immune from any
30 liability that it may otherwise incur through its release of
31

1 information to the agency ~~Department of Health and~~
2 ~~Rehabilitative Services~~ under this section.

3 Section 191. Section 641.411, Florida Statutes, is
4 amended to read:

5 641.411 Other reporting requirements.--

6 (1) Each prepaid health clinic shall provide records
7 and information to the Agency for Health Care Administration
8 ~~Department of Health and Rehabilitative Services~~ pursuant to
9 s. 409.910(20) and (21)~~(22)~~ for the sole purpose of
10 identifying potential coverage for claims filed with the
11 agency ~~Department of Health and Rehabilitative Services~~ and
12 its fiscal agents for payment of medical services under the
13 Medicaid program.

14 (2) Any information provided by a prepaid health
15 clinic under this section to the agency ~~Department of Health~~
16 ~~and Rehabilitative Services~~ shall not be considered a
17 violation of any right of confidentiality or contract that the
18 prepaid health clinic may have with covered persons. The
19 prepaid health clinic is immune from any liability that it may
20 otherwise incur through its release of information to the
21 agency ~~Department of Health and Rehabilitative Services~~ under
22 this section.

23 Section 192. Paragraph (a) of subsection (4) of
24 section 733.212, Florida Statutes, is amended to read:

25 733.212 Notice of administration; filing of objections
26 and claims.--

27 (4)(a) The personal representative shall promptly make
28 a diligent search to determine the names and addresses of
29 creditors of the decedent who are reasonably ascertainable and
30 shall serve on those creditors a copy of the notice within 3
31 months after the first publication of the notice. Under s.

1 409.9101, the Agency for Health Care Administration is
2 considered a reasonably ascertainable creditor in instances
3 where the decedent had received Medicaid assistance for
4 medical care after reaching 55 years of age. Impracticable and
5 extended searches are not required. Service is not required
6 on any creditor who has filed a claim as provided in this
7 part; a creditor whose claim has been paid in full; or a
8 creditor whose claim is listed in a personal representative's
9 timely proof of claim if the personal representative notified
10 the creditor of that listing.

11 Section 193. (1) There is established a seven-member
12 task force to review sources of funds deposited into the
13 Public Medical Assistance Trust Fund as created by section
14 409.918, Florida Statutes. The task force shall consist of:

15 (a) Two members appointed by the President of the
16 Senate, one of whom must be a member of the Senate and one of
17 whom must represent a hospital subject to the assessment
18 imposed under section 395.701, Florida Statutes, 1998
19 Supplement, or section 394.4786, Florida Statutes;

20 (b) Two members appointed by the Speaker of the House
21 of Representatives, one of whom must be a member of the House
22 and one of whom must represent a health care entity subject to
23 the assessment imposed under section 395.7015, Florida
24 Statutes, 1998 Supplement;

25 (c) Three members appointed by the Governor, one of
26 whom must be the Director of the Agency for Health Care
27 Administration, or his or her designee; one of whom must be a
28 medical doctor licensed to practice in the state; and one of
29 whom must be a consumer who has no employment or investment
30 interest in any health care entity subject to the assessment
31

1 imposed for deposit into the Public Medical Assistance Trust
2 Fund and who is a representative of Florida TaxWatch.

3 (2) The Governor shall designate the task force chair
4 from among the members.

5 (3) The task force shall consider and make specific
6 recommendations concerning, but not limited to:

7 (a) Whether any provisions of sections 395.701,
8 395.7015, and 409.918, Florida Statutes, need to be revised;

9 (b) Whether the annual assessments imposed by these
10 statutes on the various health care entities are imposed
11 equitably;

12 (c) Whether additional exemptions from, or inclusions
13 within, the assessments are justified; and

14 (d) The extent to which modifications to other
15 statutory provisions that require deposit of specified revenue
16 into the Public Medical Assistance Trust Fund, including, but
17 not limited to, sections 210.20, 395.1041, 408.040, and
18 408.08, Florida Statutes, could result in increased revenue
19 for the trust fund.

20
21 The task force shall provide an analysis of the budgetary
22 impact of any recommended exemptions from, inclusions within,
23 or modifications to existing assessments.

24 (4) The Agency for Health Care Administration shall
25 provide necessary staff support and technical assistance to
26 the task force.

27 (5) The task force shall convene by August 1, 1999,
28 for its first meeting, and shall submit its findings and
29 recommendations, including any proposed legislation, to the
30 President of the Senate, the Speaker of the House of
31 Representatives, and the Governor by December 1, 1999.

1 Section 194. Section 395.40, Florida Statutes, is
2 created to read:

3 395.40 Legislative findings and intent.--

4 (1) The Legislature finds that there has been a lack
5 of timely access to trauma care due to the state's fragmented
6 trauma system. This finding is based on the 1999 Trauma System
7 Report on Timely Access to Trauma Care submitted by the
8 department in response to the request of the Legislature.

9 (2) The Legislature finds that it is necessary to plan
10 for and to establish an inclusive trauma system to meet the
11 needs of trauma victims. An "inclusive trauma system" means a
12 system designed to meet the needs of all injured trauma
13 victims who require care in an acute-care setting and into
14 which every health care provider or facility with resources to
15 care for the injured trauma victim is incorporated. The
16 Legislature deems the benefits of trauma care provided within
17 an inclusive trauma system to be of vital significance to the
18 outcome of a trauma victim.

19 (3) It is the intent of the Legislature to place
20 primary responsibility for the planning and establishment of a
21 statewide inclusive trauma system with the department. The
22 department shall undertake the implementation of a statewide
23 inclusive trauma system as funding is available.

24 (4) The Legislature finds that significant benefits
25 are to be obtained by directing the coordination of activities
26 by several state agencies, relative to access to trauma care
27 and the provision of trauma care to all trauma victims. It is
28 the intent of the Legislature that the department, the Agency
29 for Health Care Administration, the Board of Medicine, and the
30 Board of Nursing establish interagency teams and agreements
31 for the development of guidelines, standards, and rules for

1 those portions of the inclusive state trauma system within the
2 statutory authority of each agency. This coordinated approach
3 will provide the necessary continuum of care for the trauma
4 victim from injury to final hospital discharge. The department
5 has the leadership responsibility for this activity.

6 (5) In addition, the agencies listed in subsection (4)
7 should undertake to:

8 (a) Establish a coordinated methodology for
9 monitoring, evaluating, and enforcing the requirements of the
10 state's inclusive trauma system which recognizes the interests
11 of each agency.

12 (b) Develop appropriate roles for trauma agencies, to
13 assist in furthering the operation of trauma systems at the
14 regional level. This should include issues of system
15 evaluation as well as managed care.

16 (c) Develop and submit appropriate requests for
17 waivers of federal requirements which will facilitate the
18 delivery of trauma care.

19 (d) Develop criteria that will become the future basis
20 for mandatory consultation on the care of trauma victims and
21 mandatory transfer of appropriate trauma victims to trauma
22 centers.

23 (e) Develop a coordinated approach to the care of the
24 trauma victim. This shall include the movement of the trauma
25 victim through the system of care and the identification of
26 medical responsibility for each phase of care for
27 out-of-hospital and in-hospital trauma care.

28 (f) Require the medical director of an emergency
29 medical services provider to have medical accountability for a
30 trauma victim during interfacility transfer.

31

1 (6) Furthermore, the Legislature encourages the
2 department to actively foster the provision of trauma care and
3 serve as a catalyst for improvements in the process and
4 outcome of the provision of trauma care in an inclusive trauma
5 system. Among other considerations, the department is
6 encouraged to:

7 (a) Promote the development of at least one trauma
8 center in every trauma service area.

9 (b) Promote the development of a trauma agency for
10 each trauma region.

11 (c) Update the state trauma system plan by December
12 2000 and at least every 5th year thereafter.

13 Section 195. Subsection (1) and paragraphs (c) and (n)
14 of subsection (2) of section 395.401, Florida Statutes, 1998
15 Supplement, are amended to read:

16 395.401 Trauma services system plans; verification of
17 trauma centers and pediatric trauma referral centers;
18 procedures; renewal.--

19 (1) As used in this part, the term:

20 (a) "Agency" means the Agency for Health Care
21 Administration.

22 (b) "Charity care" or "uncompensated charity care"
23 means that portion of hospital charges reported to the agency
24 for which there is no compensation for care provided to a
25 patient whose family income for the 12 months preceding the
26 determination is less than or equal to 150 percent of the
27 federal poverty level, unless the amount of hospital charges
28 due from the patient exceeds 25 percent of the annual family
29 income. However, in no case shall the hospital charges for a
30 patient whose family income exceeds four times the federal
31 poverty level for a family of four be considered charity.

1 (c) "Department" means the Department of Health.

2 (d) "Level I trauma center" means a hospital that is
3 determined by the department to be in substantial compliance
4 with trauma center and pediatric trauma referral center
5 verification standards as established by rule of the
6 department, and which:

7 1. Has formal research and education programs for the
8 enhancement of trauma care.

9 2. Serves as a resource facility to Level II trauma
10 centers, pediatric trauma referral centers, and community
11 hospitals.

12 3. Ensures an organized system of trauma care.

13 (e) "Level II trauma center" means a hospital that is
14 determined by the department to be in substantial compliance
15 with trauma center verification standards as established by
16 rule of the department, and which:

17 1. Serves as a resource facility to community
18 hospitals.

19 2. Ensures an organized system of trauma care.

20 ~~(f) "Local trauma agency" means an agency established
21 and operated by a county or an entity with which the county
22 contracts for the purpose of administrative trauma services.~~

23 (f)(g) "Pediatric trauma referral center" means a
24 hospital that is determined to be in substantial compliance
25 with pediatric trauma referral center standards as established
26 by rule of the department.

27 ~~(h) "Regional trauma agency" means an agency created
28 and operated by two or more counties, or an entity with which
29 two or more counties contract, for the purpose of
30 administering trauma services.~~

31

1 ~~(g)(i)~~ "State-approved trauma center" means a hospital
2 that has successfully completed the state-approved selection
3 process pursuant to s. 395.4025 and has been approved by the
4 department to operate as a trauma center in the state.

5 ~~(h)(j)~~ "State-sponsored trauma center" means a
6 state-approved trauma center that receives state funding for
7 trauma care services.

8 (i) "Trauma agency" means an agency established and
9 operated by one or more counties, or an entity with which one
10 or more counties contract, for the purpose of administering an
11 inclusive regional trauma system.

12 (j) "Trauma alert victim" means a person who has
13 incurred a single or multisystem injury due to blunt or
14 penetrating means or burns; who requires immediate medical
15 intervention or treatment; and who meets one or more of the
16 adult or pediatric scorecard criteria established by the
17 department by rule.

18 (k) "Trauma center" means any hospital that has been
19 determined by the department to be in substantial compliance
20 with trauma center verification standards.

21 (l) "Trauma scorecard" means a statewide methodology
22 adopted by the department by rule under which a person who has
23 incurred a traumatic injury is graded as to the severity of
24 his or her injuries or illness and which methodology is used
25 as the basis for making destination decisions.

26 (m) "Trauma victim" means any person who has incurred
27 a single or multisystem ~~life-threatening~~ injury due to blunt
28 or penetrating means or burns and who requires immediate
29 medical intervention or treatment.

30 (2)

31

1 (c) The department shall receive plans for the
2 implementation of inclusive trauma ~~care~~ systems from ~~local and~~
3 ~~regional~~ trauma agencies. The department may approve or not
4 approve the ~~local or regional~~ trauma agency plans based on the
5 conformance of the plan ~~local or regional plans~~ with this
6 section and ss. 395.4015, 395.404, and 395.4045 and the rules
7 adopted by the department pursuant to those sections. The
8 department shall approve or disapprove the plans within 120
9 days after the date the plans are submitted to the department.

10 (n) After the submission of the initial ~~local or~~
11 ~~regional~~ trauma ~~care~~ system plan, each ~~local or regional~~
12 trauma agency shall, every 5th year, annually submit to the
13 department for approval an updated plan that ~~which~~ identifies
14 the changes, if any, to be made in the regional trauma ~~care~~
15 system. ~~The department shall approve or disapprove the updated~~
16 ~~plan within 120 days after the date the plan is submitted to~~
17 ~~the department. At least 60 days before the local or regional~~
18 ~~trauma agency submits a plan for a trauma care system to the~~
19 ~~department, the local or regional trauma agency shall hold a~~
20 ~~public hearing and give adequate notice of the public hearing~~
21 ~~to all hospitals and other interested parties in the area. A~~
22 ~~local or regional trauma agency shall submit to the department~~
23 ~~written notice of its intent to cease operation of the local~~
24 ~~or regional trauma agency at least 90 days before the date on~~
25 ~~which the local or regional trauma agency will cease~~
26 ~~operation.~~

27 Section 196. Subsections (1) and (3) of section
28 395.402, Florida Statutes, are amended to read:

29 395.402 Trauma service areas; number and location of
30 trauma centers.--

31

1 (1) ~~The Legislature finds that it is appropriate to~~
2 ~~recognize as a trauma patient someone with an injury severity~~
3 ~~score (ISS) of 9 or greater.~~ The Legislature also recognizes
4 that Level I and Level II trauma centers should each be
5 capable of annually treating a minimum of 1,000 and 500
6 patients, respectively, with an injury severity score(ISS)of
7 9 or greater. Further, the Legislature finds that, based on
8 the numbers and locations of trauma victims with these injury
9 severity scores, there should be 19 trauma service areas in
10 the state, and, at a minimum, there should be at least one
11 trauma center in each service area.

12 (3) Trauma service areas are to be used. The
13 department shall periodically review the assignment of the 67
14 counties to trauma service areas. These assignments are made
15 for the purpose of developing a system of trauma centers.
16 Revisions made by the department should take into
17 consideration the recommendations made as part of the regional
18 trauma system plans approved by the department, as well as the
19 recommendations made as part of the state trauma system plan.
20 These areas must, at a minimum, be reviewed in the year 2000
21 and every 5 years thereafter. Until the department completes
22 its initial review, the assignment of counties shall remain as
23 established pursuant to chapter 90-284, Laws of Florida.~~The~~
24 ~~following trauma service areas are to be utilized in~~
25 ~~developing a system of state-sponsored trauma centers. These~~
26 ~~areas are subject to periodic revision by the Legislature~~
27 ~~based on recommendations made as part of local or regional~~
28 ~~trauma plans approved by the department pursuant to s.~~
29 ~~395.401(2). These areas shall, at a minimum, be reviewed by~~
30 ~~the Legislature prior to the next 7-year verification cycle of~~
31 ~~state-sponsored trauma centers.~~

- 1 (a) The following trauma service areas are hereby
2 established:
- 3 1. Trauma service area 1 shall consist of Escambia,
4 Okaloosa, Santa Rosa, and Walton Counties.
- 5 2. Trauma service area 2 shall consist of Bay, Gulf,
6 Holmes, and Washington Counties.
- 7 3. Trauma service area 3 shall consist of Calhoun,
8 Franklin, Gadsden, Jackson, Jefferson, Leon, Liberty, Madison,
9 Taylor, and Wakulla Counties.
- 10 4. Trauma service area 4 shall consist of Alachua,
11 Bradford, Columbia, Dixie, Gilchrist, Hamilton, Lafayette,
12 Levy, Putnam, Suwannee, and Union Counties.
- 13 5. Trauma service area 5 shall consist of Baker, Clay,
14 Duval, Nassau, and St. Johns Counties.
- 15 6. Trauma service area 6 shall consist of Citrus,
16 Hernando, and Marion Counties.
- 17 7. Trauma service area 7 shall consist of Flagler and
18 Volusia Counties.
- 19 8. Trauma service area 8 shall consist of Lake,
20 Orange, Osceola, Seminole, and Sumter Counties.
- 21 9. Trauma service area 9 shall consist of Pasco and
22 Pinellas Counties.
- 23 10. Trauma service area 10 shall consist of
24 Hillsborough County.
- 25 11. Trauma service area 11 shall consist of Hardee,
26 Highlands, and Polk Counties.
- 27 12. Trauma service area 12 shall consist of Brevard
28 and Indian River Counties.
- 29 13. Trauma service area 13 shall consist of DeSoto,
30 Manatee, and Sarasota Counties.

31

1 14. Trauma service area 14 shall consist of Martin,
2 Okeechobee, and St. Lucie Counties.

3 15. Trauma service area 15 shall consist of Charlotte,
4 Glades, Hendry, and Lee Counties.

5 16. Trauma service area 16 shall consist of Palm Beach
6 County.

7 17. Trauma service area 17 shall consist of Collier
8 County.

9 18. Trauma service area 18 shall consist of Broward
10 County.

11 19. Trauma service area 19 shall consist of Dade and
12 Monroe Counties.

13 (b) Each trauma service area should have at least one
14 Level I or Level II trauma center.

15 (c) There shall be no more than a total of 44
16 state-sponsored trauma centers in the state.

17 Section 197. Subsection (1) of section 395.4045,
18 Florida Statutes, is amended to read:

19 395.4045 Emergency medical service providers;
20 transport of trauma victims to trauma centers.--

21 (1) Each emergency medical services provider licensed
22 under chapter 401 shall transport trauma alert victims to
23 hospitals approved as trauma centers, except as may be
24 provided for either in department-approved local or regional
25 trauma transport protocol or, if no local or regional trauma
26 transport protocol is in effect, as provided for in a
27 department-approved provider's trauma transport protocol.
28 Development of regional trauma protocols shall be through
29 consultation with interested parties, including, but not
30 limited to, each approved trauma center; physicians
31 specializing in trauma care, emergency care, and surgery in

1 the region; each trauma system administrator in the region;
2 and each emergency medical service provider in the region
3 licensed under chapter 401. Trauma alert victims shall be
4 identified through the use of a trauma scoring system. The
5 department shall specify by rule the subjects to be included
6 in an emergency medical service provider's trauma transport
7 protocol and shall approve or disapprove each such protocol.

8 Section 198. Section 458.351, Florida Statutes, is
9 created to read:

10 458.351 Reports of adverse incidents in office
11 practice settings.--

12 (1) Any adverse incident that occurs on or after
13 January 1, 2000, in any office maintained by a physician for
14 the practice of medicine which is not licensed under chapter
15 395 must be reported to the department in accordance with the
16 provisions of this section.

17 (2) Any physician or other licensee under this chapter
18 practicing in this state must notify the department if the
19 physician or licensee was involved in an adverse incident that
20 occurred on or after January 1, 2000, in any office maintained
21 by a physician for the practice of medicine which is not
22 licensed under chapter 395.

23 (3) The required notification to the department must
24 be submitted in writing by certified mail and postmarked
25 within 15 days after the occurrence of the adverse incident.

26 (4) For purposes of notification to the department
27 pursuant to this section, the term "adverse incident" means an
28 event over which the physician or licensee could exercise
29 control and which is associated in whole or in part with a
30 medical intervention, rather than the condition for which such
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1 intervention occurred, and which results in the following
2 patient injuries:
3 (a) The death of a patient.
4 (b) Brain or spinal damage to a patient.
5 (c) The performance of a surgical procedure on the
6 wrong patient.
7 (d)1. The performance of a wrong-site surgical
8 procedure;
9 2. The performance of a wrong surgical procedure; or
10 3. The surgical repair of damage to a patient
11 resulting from a planned surgical procedure where the damage
12 is not a recognized specific risk as disclosed to the patient
13 and documented through the informed-consent process
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15 if it results in: death; brain or spinal damage; permanent
16 disfigurement not to include the incision scar; fracture or
17 dislocation of bones or joints; a limitation of neurological,
18 physical or sensory function; or any condition that required
19 the transfer of the patient.
20 (e) A procedure to remove unplanned foreign objects
21 remaining from a surgical procedure.
22 (f) Any condition that required the transfer of a
23 patient to a hospital licensed under chapter 395 from an
24 ambulatory surgical center licensed under chapter 395 or any
25 facility or any office maintained by a physician for the
26 practice of medicine which is not licensed under chapter 395.
27 (5) The department shall review each incident and
28 determine whether it potentially involved conduct by a health
29 care professional who is subject to disciplinary action, in
30 which case s. 455.621 applies. Disciplinary action, if any,
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1 shall be taken by the board under which the health care
2 professional is licensed.

3 (6) The board may adopt rules to administer this
4 section.

5 Section 199. Section 459.026, Florida Statutes, is
6 created to read:

7 459.026 Reports of adverse incidents in office
8 practice settings.--

9 (1) Any adverse incident that occurs on or after
10 January 1, 2000, in any office maintained by an osteopathic
11 physician for the practice of osteopathic medicine which is
12 not licensed under chapter 395 must be reported to the
13 department in accordance with the provisions of this section.

14 (2) Any osteopathic physician or other licensee under
15 this chapter practicing in this state must notify the
16 department if the osteopathic physician or licensee was
17 involved in an adverse incident that occurred on or after
18 January 1, 2000, in any office maintained by an osteopathic
19 physician for the practice of osteopathic medicine which is
20 not licensed under chapter 395.

21 (3) The required notification to the department must
22 be submitted in writing by certified mail and postmarked
23 within 15 days after the occurrence of the adverse incident.

24 (4) For purposes of notification to the department
25 pursuant to this section, the term "adverse incident" means an
26 event over which the physician or licensee could exercise
27 control and which is associated in whole or in part with a
28 medical intervention, rather than the condition for which such
29 intervention occurred, and which results in the following
30 patient injuries:

31 (a) The death of a patient.

- 1 (b) Brain or spinal damage to a patient.
- 2 (c) The performance of a surgical procedure on the
3 wrong patient.
- 4 (d)1. The performance of a wrong-site surgical
5 procedure;
- 6 2. The performance of a wrong surgical procedure; or
7 3. The surgical repair of damage to a patient
8 resulting from a planned surgical procedure where the damage
9 is not a recognized specific risk as disclosed to the patient
10 and documented through the informed-consent process
11
- 12 if it results in: death; brain or spinal damage; permanent
13 disfigurement not to include the incision scar; fracture or
14 dislocation of bones or joints; a limitation of neurological,
15 physical or sensory function; or any condition that required
16 the transfer of the patient.
- 17 (e) A procedure to remove unplanned foreign objects
18 remaining from a surgical procedure.
- 19 (f) Any condition that required the transfer of a
20 patient to a hospital licensed under chapter 395 from an
21 ambulatory surgical center licensed under chapter 395 or any
22 facility or any office maintained by a physician for the
23 practice of medicine which is not licensed under chapter 395.
- 24 (5) The department shall review each incident and
25 determine whether it potentially involved conduct by a health
26 care professional who is subject to disciplinary action, in
27 which case s. 455.621 applies. Disciplinary action, if any,
28 shall be taken by the board under which the health care
29 professional is licensed.
- 30 (6) The board may adopt rules to administer this
31 section.

1 Section 200. (1) The Department of Health shall
2 establish maximum allowable levels for contaminants in
3 compressed air used for recreational sport diving in this
4 state. In developing the standards, the department must take
5 into consideration the levels of contaminants allowed by the
6 Grade "E" Recreational Diving Standards of the Compressed Gas
7 Association.

8 (2) The standards prescribed under this section do not
9 apply to:

10 (a) Any person providing compressed air for his or her
11 own use.

12 (b) Any governmental entity using a governmentally
13 owned compressed air source for work related to the
14 governmental entity.

15 (c) Foreign registered vessels upon which a compressor
16 is used to provide compressed air for work related to the
17 operation of the vessel.

18 (3) A person or entity that, for compensation,
19 provides compressed air for recreational sport diving in this
20 state, including compressed air provided as part of a dive
21 package of equipment rental, dive boat rental, or dive boat
22 charter, must ensure that the compressed air is tested
23 quarterly by a laboratory that is accredited by either the
24 American Industrial Hygiene Association or the American
25 Association for Laboratory Accreditation and that the results
26 of such tests are provided quarterly to the Department of
27 Health. In addition, the person or entity must post the
28 certificate issued by the laboratory accredited by the
29 American Industrial Hygiene Association or the American
30 Association for Laboratory Accreditation in a conspicuous
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1 location where it can readily be seen by any person purchasing
2 compressed air.

3 (4) The Department of Health shall maintain a record
4 of all quarterly test results provided under this section.

5 (5) It is a misdemeanor of the second degree for any
6 person or entity to provide, for compensation, compressed air
7 for recreational sport diving in this state, including
8 compressed air provided as part of a dive package of equipment
9 rental, dive boat rental, or dive boat charter, without:

10 (a) Having received a valid certificate issued by a
11 laboratory accredited by the American Industrial Hygiene
12 Association or the American Association for Laboratory
13 Accreditation which certifies that the compressed air meets
14 the standards for contaminant levels established by the
15 Department of Health.

16 (b) Posting the certificate issued by a laboratory
17 accredited by the American Industrial Hygiene Association or
18 the American Association for Laboratory Accreditation in a
19 conspicuous location where it can readily be seen by persons
20 purchasing compressed air.

21 (6) The department shall adopt rules necessary to
22 carry out the provisions of this section, which must include:

23 (a) Maximum allowable levels of contaminants in
24 compressed air used for sport diving.

25 (b) Procedures for the submission of test results to
26 the department.

27 (7) This section shall take effect January 1, 2000.

28 Section 201. The Minority HIV and AIDS Task Force.--

29 (1) There is created within the Department of Health
30 the Minority HIV and AIDS Task Force to develop and provide
31 specific recommendations to the Governor, the Legislature, and

1 the Department of Health on ways to strengthen HIV and AIDS
2 prevention programs and early intervention and treatment
3 efforts in the state's black, Hispanic, and other minority
4 communities, as well as ways to address the many needs of the
5 state's minorities infected with AIDS and their families.

6 (2) The Secretary of Health shall appoint at least 15
7 members to the task force. The members must include, but need
8 not be limited to, representatives from:

9 (a) Persons infected with the human immunodeficiency
10 virus (HIV) or acquired immune deficiency syndrome (AIDS).

11 (b) Minority community-based support organizations.

12 (c) Minority treatment providers.

13 (d) The religious community within groups of persons
14 infected with HIV or AIDS.

15 (e) The Department of Health.

16 (3) The task force shall meet as often as necessary to
17 carry out its duties and responsibilities. Within existing
18 resources, the Department of Health shall provide support
19 services to the task force.

20 (4) The members of the task force shall serve without
21 compensation.

22 (5) The task force shall prepare and submit a report
23 of its findings and recommendations to the Governor, the
24 President of the Senate, and the Speaker of the House of
25 Representatives by February 1, 2001. The report must include:

26 (a) Specific strategies for reducing the risk of HIV
27 and AIDS in the state's minority communities.

28 (b) A plan for establishing mentor programs and
29 exchanging information and ideas among minority
30 community-based organizations that provide HIV and AIDS
31 prevention services.

1 (c) The needs of prevention and treatment programs
2 within communities and the resources that are available within
3 minority communities.

4 (d) Specific strategies for ensuring that minority
5 persons who are at risk of HIV and AIDS infection seek
6 testing.

7 (e) Specific strategies for ensuring that persons who
8 test positive for HIV or AIDS are provided with access to
9 treatment and secondary prevention services.

10 (f) Specific strategies to help reduce or eliminate
11 high-risk behaviors in persons who test negative but continue
12 to practice high-risk behaviors.

13 (g) A plan to evaluate the implementation of the
14 recommendations of the task force.

15 (6) The task force is abolished on July 1, 2001.

16 Section 202. Statewide HIV and AIDS prevention
17 campaign.--

18 (1) The Department of Health shall develop and
19 implement a statewide HIV and AIDS prevention campaign that is
20 directed towards minorities who are at risk of HIV infection.
21 The campaign shall include television, radio, and outdoor
22 advertising; public service announcements; and peer-to-peer
23 outreach. Each campaign message and concept shall be evaluated
24 with members of the target group to ensure its effectiveness.
25 The campaign shall provide information on the risk of HIV and
26 AIDS infection and strategies to follow for prevention, early
27 detection, and treatment. The campaign shall use culturally
28 sensitive literature and educational materials and promote the
29 development of individual skills for behavior modification.

30 (2) The Department of Health shall establish four
31 positions within the department for HIV and AIDS regional

1 minority coordinators and one position for a statewide HIV and
2 AIDS minority coordinator. The coordinators shall facilitate
3 statewide efforts to implement and coordinate HIV and AIDS
4 prevention and treatment programs. The statewide coordinator
5 shall report directly to the chief of the Bureau of HIV and
6 AIDS within the Department of Health.

7 (3) The Department of Health shall, with assistance
8 from the Minority HIV and AIDS Task Force and the statewide
9 coordinator, plan and conduct a statewide Black Leadership
10 Conference on HIV and AIDS by January 2000. The conference
11 shall provide workshops for minority organizations in building
12 skills and improving an organization's capacity to conduct HIV
13 and AIDS prevention and treatment programs.

14 Section 203. The sum of \$250,000 is appropriated from
15 the General Revenue Fund to the Department of Health for the
16 purpose of carrying out the provisions of sections 201 and 202
17 of this act during the 1999-2000 fiscal year.

18 Section 204. Subsection (9) is added to section 20.41,
19 Florida Statutes, to read:

20 20.41 Department of Elderly Affairs.--There is created
21 a Department of Elderly Affairs.

22 (9) Area agencies on aging are subject to chapter 119,
23 relating to public records, and, when considering any
24 contracts requiring the expenditure of funds, are subject to
25 ss. 286.011-286.012, relating to public meetings.

26 Section 205. Effective October 1, 1999, part XV of
27 chapter 468, Florida Statutes, consisting of sections 468.821,
28 468.822, 468.823, 468.824, 468.825, 468.826, 468.827, and
29 468.828, Florida Statutes, is created to read:

30 468.821 Definitions.--As used in this part, the term:

31 (1) "Approved training program" means:

1 (a) A course of training conducted by a public sector
2 or private sector educational center licensed by the
3 Department of Education to implement the basic curriculum for
4 nursing assistants which is approved by the Department of
5 Education.

6 (b) A training program operated under s. 400.141.

7 (2) "Certified nursing assistant" means a person who
8 meets the qualifications specified in this part and who is
9 certified by the department as a certified nursing assistant.

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

11 (4) "Registry" means the listing of certified nursing
12 assistants maintained by the department.

13 468.822 Duties and powers of the department.--The
14 department shall maintain, or contract with or approve another
15 entity to maintain, a state registry of certified nursing
16 assistants. The registry must consist of the name of each
17 certified nursing assistant in this state; other identifying
18 information defined by department rule; certification status;
19 the effective date of certification; other information
20 required by state or federal law; information regarding any
21 crime or any abuse, neglect, or exploitation as provided under
22 chapter 435; and any disciplinary action taken against the
23 certified nursing assistant. The registry shall be accessible
24 to the public, the certificateholder, employers, and other
25 state agencies. The department shall adopt by rule testing
26 procedures for use in certifying nursing assistants and shall
27 adopt rules regulating the practice of certified nursing
28 assistants to enforce this part. The department may contract
29 with or approve another entity or organization to provide the
30 examination services, including the development and
31 administration of examinations. The provider shall pay all

1 reasonable costs and expenses incurred by the department in
2 evaluating the provider's application and performance during
3 the delivery of services, including examination services and
4 procedures for maintaining the certified nursing assistant
5 registry.

6 468.823 Certified nursing assistants; certification
7 requirement.--

8 (1) The department shall issue a certificate to
9 practice as a certified nursing assistant to any person who
10 demonstrates a minimum competency to read and write and meets
11 one of the following requirements:

12 (a) Has successfully completed an approved training
13 program and achieved a minimum score, established by rule of
14 the department, on the nursing assistant competency
15 examination, which consists of a written portion and
16 skills-demonstration portion approved by the department and
17 administered at a site and by personnel approved by the
18 department.

19 (b) Has achieved a minimum score, established by rule
20 of the department, on the nursing assistant competency
21 examination, which consists of a written portion and
22 skills-demonstration portion, approved by the department and
23 administered at a site and by personnel approved by the
24 department and:

- 25 1. Has a high school diploma, or its equivalent; or
- 26 2. Is at least 18 years of age.

27 (c) Is currently certified in another state; is listed
28 on that state's certified nursing assistant registry; has not
29 been found to have committed abuse, neglect, or exploitation
30 in that state; and has successfully completed a national
31

1 nursing assistant evaluation in order to receive certification
2 in that state.

3 (2) If an applicant fails to pass the nursing
4 assistant competency examination in three attempts, the
5 applicant is not eligible for reexamination unless the
6 applicant completes an approved training program.

7 (3) An oral examination shall be administered as a
8 substitute for the written portion of the examination upon
9 request. The oral examination shall be administered at a site
10 and by personnel approved by the department.

11 (4) The department shall adopt rules to provide for
12 the initial certification of certified nursing assistants.

13 (5) A certified nursing assistant shall maintain a
14 current address with the department in accordance with s.
15 455.717.

16 468.824 Denial, suspension, or revocation of
17 certification; disciplinary actions.--

18 (1) The following acts constitute grounds for which
19 the department may impose disciplinary sanctions as specified
20 in subsection (2):

21 (a) Obtaining or attempting to obtain an exemption, or
22 possessing or attempting to possess a letter of exemption, by
23 bribery, misrepresentation, deceit, or through an error of the
24 department.

25 (b) Intentionally violating any provision of this
26 chapter, chapter 455, or the rules adopted by the department.

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

30 (a) Denial, suspension, or revocation of
31 certification.

1 (b) Imposition of an administrative fine not to exceed
2 \$150 for each count or separate offense.

3 (c) Imposition of probation or restriction of
4 certification, including conditions such as corrective actions
5 as retraining or compliance with an approved treatment program
6 for impaired practitioners.

7 (3) The department may, upon the request of a
8 certificateholder, exempt the certificateholder from
9 disqualification of certification or disqualification of
10 employment in accordance with chapter 435 and issue a letter
11 of exemption.

12
13 After January 1, 2000, the department must notify an applicant
14 seeking an exemption from disqualification from certification
15 or employment of its decision to approve or deny the request
16 within 30 days after the date the department receives all
17 required documentation.

18 468.825 Availability of disciplinary records and
19 proceedings.--Pursuant to s. 455.621, any complaint or record
20 maintained by the Department of Health pursuant to the
21 discipline of a certified nursing assistant and any proceeding
22 held by the department to discipline a certified nursing
23 assistant shall remain open and available to the public.

24 468.826 Exemption from liability.--If an employer
25 terminates or denies employment to a certified nursing
26 assistant whose certification is inactive as shown on the
27 certified nursing assistant registry or whose name appears on
28 the central abuse registry and tracking system of the
29 Department of Children and Family Services or on a criminal
30 screening report of the Department of Law Enforcement, the
31 employer is not civilly liable for such termination and a

1 cause of action may not be brought against the employer for
2 damages, regardless of whether the employee has filed for an
3 exemption from the department under s. 468.824(1). There may
4 not be any monetary liability on the part of, and a cause of
5 action for damages may not arise against, any licensed
6 facility, its governing board or members thereof, medical
7 staff, disciplinary board, agents, investigators, witnesses,
8 employees, or any other person for any action taken in good
9 faith without intentional fraud in carrying out this section.

10 468.827 Penalties.--It is a misdemeanor of the first
11 degree, punishable as provided under s. 775.082 or s. 775.083,
12 for any person, knowingly or intentionally, to fail to
13 disclose, by false statement, misrepresentation,
14 impersonation, or other fraudulent means, in any application
15 for voluntary or paid employment or licensure regulated under
16 this part, a material fact used in making a determination as
17 to such person's qualifications to be an employee or licensee.

18 468.828 Background screening information; rulemaking
19 authority.--

20 (1) The Agency for Health Care Administration shall
21 allow the department to electronically access its background
22 screening database and records and the Department of Children
23 and Families shall allow the department to electronically
24 access its central abuse registry and tracking system under
25 chapter 415.

26 (2) An employer, or an agent thereof, may not use
27 criminal records, juvenile records, or information obtained
28 from the central abuse hotline under chapter 415 for any
29 purpose other than determining if the person meets the
30 requirements of this part. Such records and information

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1 obtained by the department shall remain confidential and
2 exempt from s. 119.07(1).

3 (3) If the requirements of the Omnibus Budget
4 Reconciliation Act of 1987, as amended, for the certification
5 of nursing assistants are in conflict with this part, the
6 federal requirements shall prevail for those facilities
7 certified to provide care under Title XVIII (Medicare) or
8 Title XIX (Medicaid) of the Social Security Act.

9 (4) The department shall adopt rules to administer
10 this part.

11 Section 206. Certified nursing assistant registry.--

12 (1) By October 1, 1999, and by October 1 of every year
13 thereafter, each employer of certified nursing assistants
14 shall submit to the Department of Health a list of the names
15 and social security numbers of each person employed by the
16 employer as a certified nursing assistant in a nursing-related
17 occupation for a minimum of 8 hours for monetary compensation
18 during the preceding 24 months. Employers may submit such
19 information electronically through the department's Internet
20 site.

21 (2) The department shall update the certified nursing
22 assistant registry upon receipt of the lists of certified
23 nursing assistants, and shall complete the first of such
24 updates by December 31, 1999.

25 (3) Each certified nursing assistant whose name is not
26 reported to the department under subsection (1) on October 1,
27 1999, shall be assigned an inactive certification on January
28 1, 2000. A certified nursing assistant may remove such an
29 inactive certification by submitting documentation to the
30 department that he or she was employed for a minimum of 8
31 hours for monetary compensation as a certified nursing

1 assistant in a nursing-related occupation during the preceding
2 24 months.

3 (4) This section is repealed October 2, 2001.

4 Section 207. Effective October 1, 1999, section
5 400.211, Florida Statutes, 1998 Supplement, is amended to
6 read:

7 400.211 Persons employed as nursing assistants;
8 certification requirement.--

9 (1) A person must be certified under part XV of
10 chapter 468 pursuant to this section, except a registered
11 nurse or practical nurse licensed in accordance with ~~the~~
12 ~~provisions of~~ chapter 464 or an applicant for such licensure
13 who is permitted to practice nursing in accordance with rules
14 adopted promulgated by the Board of Nursing pursuant to
15 chapter 464, to serve as a nursing assistant in any nursing
16 home. ~~The Department of Health shall issue a certificate to~~
17 ~~any person who:~~

18 ~~(a) Has successfully completed a nursing assistant~~
19 ~~program in a state-approved school and has achieved a minimum~~
20 ~~score of 75 percent on the written portion of the Florida~~
21 ~~Nursing Assistant Certification Test approved by the~~
22 ~~Department of Health and administered by state-approved test~~
23 ~~site personnel;~~

24 ~~(b) Has achieved a minimum score of 75 percent on the~~
25 ~~written and performance portions of the Florida Nursing~~
26 ~~Assistant Certification Test approved by the Department of~~
27 ~~Health and administered by state-approved test site personnel;~~
28 or

29 ~~(c) Is currently certified in another state, is on~~
30 ~~that state's registry, has no findings of abuse, and has~~
31 ~~achieved a minimum score of 75 percent on the written portion~~

1 ~~of the Florida Nursing Assistant Certification Test approved~~
2 ~~by the Department of Health and administered by state-approved~~
3 ~~test site personnel.~~

4
5 ~~An oral examination shall be administered upon request.~~

6 ~~(2) The agency may deny, suspend, or revoke the~~
7 ~~certification of any person to serve as a nursing assistant,~~
8 ~~based upon written notification from a court of competent~~
9 ~~jurisdiction, law enforcement agency, or administrative agency~~
10 ~~of any finding of guilt of, regardless of adjudication, or a~~
11 ~~plea of nolo contendere or guilty to, any offense set forth in~~
12 ~~the level 1 screening standards of chapter 435 or any~~
13 ~~confirmed report of abuse of a vulnerable adult.~~

14 ~~(2)(3)~~ (2) The following categories of persons who are not
15 certified as nursing assistants under this part may be
16 employed by a nursing facility for a period of 4 months:

17 (a) Persons who are enrolled in a state-approved
18 nursing assistant program; or

19 (b) Persons who have been positively verified by a
20 state-approved test site as certified and on the registry in
21 another state with no findings of abuse, but who have not
22 completed the written examination required under this section.

23
24 The certification requirement must be met within 4 months of
25 initial employment as a nursing assistant in a licensed
26 nursing facility.

27 ~~(4) A person certified under this section on or after~~
28 ~~September 30, 1990, who has not worked for pay as a nursing~~
29 ~~assistant in a nursing-related occupation for a period of time~~
30 ~~during a consecutive 24-month period must be recertified under~~
31 ~~this section to be eligible to work in a nursing facility.~~

1 (3)~~(5)~~ Nursing homes shall require persons seeking
2 employment as a certified nursing assistant to submit an
3 employment history to the facility. The facility shall verify
4 the employment history unless, through diligent efforts, such
5 verification is not possible. There shall be no monetary
6 liability on the part of, and no cause of action for damages
7 shall arise against, a former employer who reasonably and in
8 good faith communicates his or her honest opinion about a
9 former employee's job performance.

10 ~~(6) If the requirements pursuant to the Omnibus Budget~~
11 ~~Reconciliation Act of 1987, as amended, for the certification~~
12 ~~of nursing assistants are in conflict with this section, the~~
13 ~~federal requirements shall prevail for those facilities~~
14 ~~certified to provide care under Title XVIII (Medicare) or~~
15 ~~Title XIX (Medicaid) of the Social Security Act.~~

16 ~~(7) The Department of Health may adopt such rules as~~
17 ~~are necessary to carry out this section.~~

18 Section 208. Subsection (36) is added to section
19 409.912, Florida Statutes, 1998 Supplement, to read:

20 409.912 Cost-effective purchasing of health care.--The
21 agency shall purchase goods and services for Medicaid
22 recipients in the most cost-effective manner consistent with
23 the delivery of quality medical care. The agency shall
24 maximize the use of prepaid per capita and prepaid aggregate
25 fixed-sum basis services when appropriate and other
26 alternative service delivery and reimbursement methodologies,
27 including competitive bidding pursuant to s. 287.057, designed
28 to facilitate the cost-effective purchase of a case-managed
29 continuum of care. The agency shall also require providers to
30 minimize the exposure of recipients to the need for acute
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1 inpatient, custodial, and other institutional care and the
2 inappropriate or unnecessary use of high-cost services.

3 (36) The agency shall enter into agreements with
4 not-for-profit organizations based in this state for the
5 purpose of providing vision screening.

6 Section 209. Except as otherwise expressly provided in
7 this act, this act shall take effect July 1, 1999.

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