

Bill No. CS for SB 1028

Amendment No.

| | <u>Senate</u> | CHAMBER ACTION | <u>House</u> |
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| 11 | Senator Campbell moved the following amendment: | | |
| 12 | | | |
| 13 | Senate Amendment (with title amendment) | | |
| 14 | Delete everything after the enacting clause | | |
| 15 | | | |
| 16 | and insert: | | |
| 17 | Section 1. Subsections (1) and (3) of section 455.564, | | |
| 18 | Florida Statutes, are amended to read: | | |
| 19 | 455.564 Department; general licensing provisions.-- | | |
| 20 | (1)(a) Any person desiring to be licensed in a | | |
| 21 | profession within the jurisdiction of the department shall | | |
| 22 | apply to the department in writing to take the licensure | | |
| 23 | examination. The application shall be made on a form prepared | | |
| 24 | and furnished by the department. <u>The application form must be</u> | | |
| 25 | <u>available on the World Wide Web and the department may accept</u> | | |
| 26 | <u>electronically submitted applications beginning July 1, 2001.</u> | | |
| 27 | <u>The application</u> and shall require the social security number | | |
| 28 | of the applicant, <u>except as provided in paragraph (b).</u> The | | |
| 29 | form shall be supplemented as needed to reflect any material | | |
| 30 | change in any circumstance or condition stated in the | | |
| 31 | application which takes place between the initial filing of | | |

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1 the application and the final grant or denial of the license
2 and which might affect the decision of the department. If an
3 application is submitted electronically, the department may
4 require supplemental materials, including an original
5 signature of the applicant and verification of credentials, to
6 be submitted in a non-electronic format. An incomplete
7 application shall expire 1 year after initial filing. In order
8 to further the economic development goals of the state, and
9 notwithstanding any law to the contrary, the department may
10 enter into an agreement with the county tax collector for the
11 purpose of appointing the county tax collector as the
12 department's agent to accept applications for licenses and
13 applications for renewals of licenses. The agreement must
14 specify the time within which the tax collector must forward
15 any applications and accompanying application fees to the
16 department.

17 (b) If an applicant has not been issued a social
18 security number by the Federal Government at the time of
19 application because the applicant is not a citizen or resident
20 of this country, the department may process the application
21 using a unique personal identification number. If such an
22 applicant is otherwise eligible for licensure, the board, or
23 the department when there is no board, may issue a temporary
24 license to the applicant, which shall expire 30 days after
25 issuance unless a social security number is obtained and
26 submitted in writing to the department. Upon receipt of the
27 applicant's social security number, the department shall issue
28 a new license, which shall expire at the end of the current
29 biennium.

30 (3)(a) The board, or the department when there is no
31 board, may refuse to issue an initial license to any applicant

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1 who is under investigation or prosecution in any jurisdiction
2 for an action that would constitute a violation of this part
3 or the professional practice acts administered by the
4 department and the boards, until such time as the
5 investigation or prosecution is complete, and the time period
6 in which the licensure application must be granted or denied
7 shall be tolled until 15 days after the receipt of the final
8 results of the investigation or prosecution.

9 (b) If an applicant has been convicted of a felony
10 related to the practice or ability to practice any health care
11 profession, the board, or the department when there is no
12 board, may require the applicant to prove that his or her
13 civil rights have been restored.

14 (c) In considering applications for licensure, the
15 board, or the department when there is no board, may require a
16 personal appearance of the applicant. If the applicant is
17 required to appear, the time period in which a licensure
18 application must be granted or denied shall be tolled until
19 such time as the applicant appears. However, if the applicant
20 fails to appear before the board at either of the next two
21 regularly scheduled board meetings, or fails to appear before
22 the department within 30 days if there is no board, the
23 application for licensure shall be denied.

24 Section 2. Paragraph (d) is added to subsection (4) of
25 section 455.565, Florida Statutes, to read:

26 455.565 Designated health care professionals;
27 information required for licensure.--

28 (4)

29 (d) Any applicant for initial licensure or renewal of
30 licensure as a health care practitioner who submits to the
31 Department of Health a set of fingerprints or information

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1 required for the criminal history check required under this
2 section shall not be required to provide a subsequent set of
3 fingerprints or other duplicate information required for a
4 criminal history check to the Agency for Health Care
5 Administration, the Department of Juvenile Justice, or the
6 Department of Children and Family Services for employment or
7 licensure with such agency or department if the applicant has
8 undergone a criminal history check as a condition of initial
9 licensure or licensure renewal as a health care practitioner
10 with the Department of Health or any of its regulatory boards,
11 notwithstanding any other provision of law to the contrary. In
12 lieu of such duplicate submission, the Agency for Health Care
13 Administration, the Department of Juvenile Justice, and the
14 Department of Children and Family Services shall obtain
15 criminal history information for employment or licensure of
16 health care practitioners by such agency and departments from
17 the Department of Health's health care practitioner
18 credentialing system.

19 Section 3. Section 455.5651, Florida Statutes, is
20 amended to read:

21 455.5651 Practitioner profile; creation.--

22 (1) Beginning July 1, 1999, the Department of Health
23 shall compile the information submitted pursuant to s. 455.565
24 into a practitioner profile of the applicant submitting the
25 information, except that the Department of Health may develop
26 a format to compile uniformly any information submitted under
27 s. 455.565(4)(b).

28 (2) On the profile published ~~required~~ under subsection
29 (1), the department shall indicate if the information provided
30 under s. 455.565(1)(a)7. is not corroborated by a criminal
31 history check conducted according to this subsection. If the

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1 information provided under s. 455.565(1)(a)7. is corroborated
2 by the criminal history check, the fact that the criminal
3 history check was performed need not be indicated on the
4 profile. The department, or the board having regulatory
5 authority over the practitioner acting on behalf of the
6 department, shall investigate any information received by the
7 department or the board when it has reasonable grounds to
8 believe that the practitioner has violated any law that
9 relates to the practitioner's practice.

10 (3) The Department of Health may include in each
11 practitioner's practitioner profile that criminal information
12 that directly relates to the practitioner's ability to
13 competently practice his or her profession. The department
14 must include in each practitioner's practitioner profile the
15 following statement: "The criminal history information, if
16 any exists, may be incomplete; federal criminal history
17 information is not available to the public."

18 (4) The Department of Health shall include, with
19 respect to a practitioner licensed under chapter 458 or
20 chapter 459, a statement of how the practitioner has elected
21 to comply with the financial responsibility requirements of s.
22 458.320 or s. 459.0085. The department shall include, with
23 respect to practitioners subject to s. 455.694, a statement of
24 how the practitioner has elected to comply with the financial
25 responsibility requirements of that section.The department
26 shall include, with respect to practitioners licensed under
27 chapter 458, chapter 459, or chapter 461, information relating
28 to liability actions which has been reported under s. 455.697
29 or s. 627.912 within the previous 10 years for any paid claim
30 that exceeds \$5,000. Such claims information shall be reported
31 in the context of comparing an individual practitioner's

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1 claims to the experience of other practitioners ~~physicians~~
2 within the same specialty, or profession if the practitioner
3 is not a specialist, to the extent such information is
4 available to the Department of Health. If information relating
5 to a liability action is included in a practitioner's
6 practitioner profile, the profile must also include the
7 following statement: "Settlement of a claim may occur for a
8 variety of reasons that do not necessarily reflect negatively
9 on the professional competence or conduct of the practitioner
10 ~~physician~~. A payment in settlement of a medical malpractice
11 action or claim should not be construed as creating a
12 presumption that medical malpractice has occurred."

13 (5) The Department of Health may not include
14 disciplinary action taken by a licensed hospital or an
15 ambulatory surgical center in the practitioner profile.

16 (6) The Department of Health may include in the
17 practitioner's practitioner profile any other information that
18 is a public record of any governmental entity and that relates
19 to a practitioner's ability to competently practice his or her
20 profession. However, the department must consult with the
21 board having regulatory authority over the practitioner before
22 such information is included in his or her profile.

23 (7) Upon the completion of a practitioner profile
24 under this section, the Department of Health shall furnish the
25 practitioner who is the subject of the profile a copy of it.
26 The practitioner has a period of 30 days in which to review
27 the profile and to correct any factual inaccuracies in it. The
28 Department of Health shall make the profile available to the
29 public at the end of the 30-day period. The department shall
30 make the profiles available to the public through the World
31 Wide Web and other commonly used means of distribution.

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1 (8) Making a practitioner profile available to the
2 public under this section does not constitute agency action
3 for which a hearing under s. 120.57 may be sought.

4 Section 4. Section 455.5653, Florida Statutes, is
5 amended to read:

6 455.5653 Practitioner profiles; data
7 storage.--Effective upon this act becoming a law, the
8 Department of Health must develop or contract for a computer
9 system to accommodate the new data collection and storage
10 requirements under this act pending the development and
11 operation of a computer system by the Department of Health for
12 handling the collection, input, revision, and update of data
13 submitted by physicians as a part of their initial licensure
14 or renewal to be compiled into individual practitioner
15 profiles. The Department of Health must incorporate any data
16 required by this act into the computer system used in
17 conjunction with the regulation of health care professions
18 under its jurisdiction. ~~The department must develop, by the~~
19 ~~year 2000, a schedule and procedures for each practitioner~~
20 ~~within a health care profession regulated within the Division~~
21 ~~of Medical Quality Assurance to submit relevant information to~~
22 ~~be compiled into a profile to be made available to the public.~~
23 The Department of Health is authorized to contract with and
24 negotiate any interagency agreement necessary to develop and
25 implement the practitioner profiles. The Department of Health
26 shall have access to any information or record maintained by
27 the Agency for Health Care Administration, including any
28 information or record that is otherwise confidential and
29 exempt from the provisions of chapter 119 and s. 24(a), Art. I
30 of the State Constitution, so that the Department of Health
31 may corroborate any information that practitioners ~~physicians~~

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1 are required to report under s. 455.565.

2 Section 5. Section 455.5654, Florida Statutes, is
3 amended to read:

4 455.5654 Practitioner profiles; rules;
5 workshops.--Effective upon this act becoming a law, the
6 Department of Health shall adopt rules for the form of a
7 practitioner profile that the agency is required to prepare.
8 The Department of Health, pursuant to chapter 120, must hold
9 public workshops for purposes of rule development to implement
10 this section. An agency to which information is to be
11 submitted under this act may adopt by rule a form for the
12 submission of the information required under s. 455.565.

13 Section 6. Subsection (1) of section 455.567, Florida
14 Statutes, is amended to read:

15 455.567 Sexual misconduct; disqualification for
16 license, certificate, or registration.--

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

27 Section 7. Paragraphs (f) and (u) of subsection (1),
28 paragraph (c) of subsection (2), and subsection (3) of section
29 455.624, Florida Statutes, are amended, and paragraphs (y) and
30 (z) are added to subsection (1) of said section, to read:

31 455.624 Grounds for discipline; penalties;

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1 enforcement.--

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

5 (f) Having a license or the authority to practice any
6 ~~the~~ regulated profession revoked, suspended, or otherwise
7 acted against, including the denial of licensure, by the
8 licensing authority of any jurisdiction, including its
9 agencies or subdivisions, for a violation that would
10 constitute a violation under Florida law. The licensing
11 authority's acceptance of a relinquishment of licensure,
12 stipulation, consent order, or other settlement, offered in
13 response to or in anticipation of the filing of charges
14 against the license, shall be construed as action against the
15 license.

16 (u) Engaging or attempting to engage in sexual
17 misconduct as defined and prohibited in s. 455.567(1)~~a~~
18 ~~patient or client in verbal or physical sexual activity. For~~
19 ~~the purposes of this section, a patient or client shall be~~
20 ~~presumed to be incapable of giving free, full, and informed~~
21 ~~consent to verbal or physical sexual activity.~~

22 (y) Being unable to practice with reasonable skill and
23 safety to patients by reason of illness or use of alcohol,
24 drugs, narcotics, chemicals, or any other type of material or
25 as a result of any mental or physical condition. In enforcing
26 this paragraph, the department shall have, upon a finding of
27 the secretary or the secretary's designee that probable cause
28 exists to believe that the licensee is unable to practice
29 because of the reasons stated in this paragraph, the authority
30 to issue an order to compel a licensee to submit to a mental
31 or physical examination by physicians designated by the

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1 department. If the licensee refuses to comply with such order,
2 the department's order directing such examination may be
3 enforced by filing a petition for enforcement in the circuit
4 court where the licensee resides or does business. The
5 department shall be entitled to the summary procedure provided
6 in s. 51.011. A licensee or certificateholder affected under
7 this paragraph shall at reasonable intervals be afforded an
8 opportunity to demonstrate that he or she can resume the
9 competent practice of his or her profession with reasonable
10 skill and safety to patients.

11 (z) Testing positive for any drug, as defined in s.
12 112.0455, on any confirmed preemployment or employer-ordered
13 drug screening when the practitioner does not have a lawful
14 prescription and legitimate medical reason for using such
15 drug.

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

24 (c) Restriction of practice or license.

25
26 In determining what action is appropriate, the board, or
27 department when there is no board, must first consider what
28 sanctions are necessary to protect the public or to compensate
29 the patient. Only after those sanctions have been imposed may
30 the disciplining authority consider and include in the order
31 requirements designed to rehabilitate the practitioner. All

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1 costs associated with compliance with orders issued under this
2 subsection are the obligation of the practitioner.

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

14 (b) Notwithstanding subsection (2), if the ground for
15 disciplinary action is the first-time violation of a practice
16 act for unprofessional conduct, as used in ss. 464.018(1)(h),
17 467.203(1)(f), 468.365(1)(f), and 478.52(1)(f), and no actual
18 harm to the patient occurred, the board or department, as
19 applicable, shall issue a citation in accordance with s.
20 455.617 and assess a penalty as determined by rule of the
21 board or department.

22 Section 8. Sections 455.577 and 455.631, subsection
23 (2) of section 455.651, subsection (1) of section 455.712,
24 paragraph (g) of subsection (7) of section 458.347, paragraph
25 (f) of subsection (7) of section 459.022, paragraph (a) of
26 subsection (1) of section 468.1755, paragraph (a) of
27 subsection (1) and subsection (2) of section 468.719, and
28 section 468.811, Florida Statutes, are reenacted to read:

29 455.577 Penalty for theft or reproduction of an
30 examination.--In addition to, or in lieu of, any other
31 discipline imposed pursuant to s. 455.624, the theft of an

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1 examination in whole or in part or the act of reproducing or
2 copying any examination administered by the department,
3 whether such examination is reproduced or copied in part or in
4 whole and by any means, constitutes a felony of the third
5 degree, punishable as provided in s. 775.082, s. 775.083, or
6 s. 775.084.

7 455.631 Penalty for giving false information.--In
8 addition to, or in lieu of, any other discipline imposed
9 pursuant to s. 455.624, the act of knowingly giving false
10 information in the course of applying for or obtaining a
11 license from the department, or any board thereunder, with
12 intent to mislead a public servant in the performance of his
13 or her official duties, or the act of attempting to obtain or
14 obtaining a license from the department, or any board
15 thereunder, to practice a profession by knowingly misleading
16 statements or knowing misrepresentations constitutes a felony
17 of the third degree, punishable as provided in s. 775.082, s.
18 775.083, or s. 775.084.

19 455.651 Disclosure of confidential information.--

20 (2) Any person who willfully violates any provision of
21 this section is guilty of a misdemeanor of the first degree,
22 punishable as provided in s. 775.082 or s. 775.083, and may be
23 subject to discipline pursuant to s. 455.624, and, if
24 applicable, shall be removed from office, employment, or the
25 contractual relationship.

26 455.712 Business establishments; requirements for
27 active status licenses.--

28 (1) A business establishment regulated by the Division
29 of Medical Quality Assurance pursuant to this part may provide
30 regulated services only if the business establishment has an
31 active status license. A business establishment that provides

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1 regulated services without an active status license is in
2 violation of this section and s. 455.624, and the board, or
3 the department if there is no board, may impose discipline on
4 the business establishment.

5 458.347 Physician assistants.--

6 (7) PHYSICIAN ASSISTANT LICENSURE.--

7 (g) The Board of Medicine may impose any of the
8 penalties specified in ss. 455.624 and 458.331(2) upon a
9 physician assistant if the physician assistant or the
10 supervising physician has been found guilty of or is being
11 investigated for any act that constitutes a violation of this
12 chapter or part II of chapter 455.

13 459.022 Physician assistants.--

14 (7) PHYSICIAN ASSISTANT LICENSURE.--

15 (f) The Board of Osteopathic Medicine may impose any
16 of the penalties specified in ss. 455.624 and 459.015(2) upon
17 a physician assistant if the physician assistant or the
18 supervising physician has been found guilty of or is being
19 investigated for any act that constitutes a violation of this
20 chapter or part II of chapter 455.

21 468.1755 Disciplinary proceedings.--

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

24 (a) Violation of any provision of s. 455.624(1) or s.
25 468.1745(1).

26 468.719 Disciplinary actions.--

27 (1) The following acts shall be grounds for
28 disciplinary actions provided for in subsection (2):

29 (a) A violation of any law relating to the practice of
30 athletic training, including, but not limited to, any
31 violation of this part, s. 455.624, or any rule adopted

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1 pursuant thereto.

2 (2) When the board finds any person guilty of any of
3 the acts set forth in subsection (1), the board may enter an
4 order imposing one or more of the penalties provided in s.
5 455.624.

6 468.811 Disciplinary proceedings.--

7 (1) The following acts are grounds for disciplinary
8 action against a licensee and the issuance of cease and desist
9 orders or other related action by the department, pursuant to
10 s. 455.624, against any person who engages in or aids in a
11 violation.

12 (a) Attempting to procure a license by fraudulent
13 misrepresentation.

14 (b) Having a license to practice orthotics,
15 prosthetics, or pedorthics revoked, suspended, or otherwise
16 acted against, including the denial of licensure in another
17 jurisdiction.

18 (c) Being convicted or found guilty of or pleading
19 nolo contendere to, regardless of adjudication, in any
20 jurisdiction, a crime that directly relates to the practice of
21 orthotics, prosthetics, or pedorthics, including violations of
22 federal laws or regulations regarding orthotics, prosthetics,
23 or pedorthics.

24 (d) Filing a report or record that the licensee knows
25 is false, intentionally or negligently failing to file a
26 report or record required by state or federal law, willfully
27 impeding or obstructing such filing, or inducing another
28 person to impede or obstruct such filing. Such reports or
29 records include only reports or records that are signed in a
30 person's capacity as a licensee under this act.

31 (e) Advertising goods or services in a fraudulent,

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1 false, deceptive, or misleading manner.

2 (f) Violation of this act or part II of chapter 455,
3 or any rules adopted thereunder.

4 (g) Violation of an order of the board, agency, or
5 department previously entered in a disciplinary hearing or
6 failure to comply with a subpoena issued by the board, agency,
7 or department.

8 (h) Practicing with a revoked, suspended, or inactive
9 license.

10 (i) Gross or repeated malpractice or the failure to
11 deliver orthotic, prosthetic, or pedorthic services with that
12 level of care and skill which is recognized by a reasonably
13 prudent licensed practitioner with similar professional
14 training as being acceptable under similar conditions and
15 circumstances.

16 (j) Failing to provide written notice of any
17 applicable warranty for an orthosis, prosthesis, or pedorthic
18 device that is provided to a patient.

19 (2) The board may enter an order imposing one or more
20 of the penalties in s. 455.624(2) against any person who
21 violates any provision of subsection (1).

22 Section 9. Section 455.704, Florida Statutes, is
23 repealed.

24 Section 10. Subsections (1), (2), and (3) of section
25 455.707, Florida Statutes, are amended to read:

26 455.707 Treatment programs for impaired
27 practitioners.--

28 (1) For professions that do not have impaired
29 practitioner programs provided for in their practice acts, the
30 department shall, by rule, designate approved impaired
31 practitioner treatment programs under this section. The

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1 department may adopt rules setting forth appropriate criteria
2 for approval of treatment providers ~~based on the policies and~~
3 ~~guidelines established by the Impaired Practitioners~~
4 ~~Committee~~. The rules may ~~must~~ specify the manner in which the
5 consultant, retained as set forth in subsection (2), works
6 with the department in intervention, requirements for
7 evaluating and treating a professional, and requirements for
8 the continued care and monitoring of a professional by the
9 consultant by an approved ~~at a department-approved~~ treatment
10 provider. ~~The department shall not compel any impaired~~
11 ~~practitioner program in existence on October 1, 1992, to serve~~
12 ~~additional professions.~~

13 (2) The department shall retain one or more impaired
14 practitioner consultants ~~as recommended by the committee~~. A
15 consultant shall be a licensee ~~or recovered licensee~~ under the
16 jurisdiction of the Division of Medical Quality Assurance
17 within the department, and at least one consultant must be a
18 practitioner or recovered practitioner licensed under chapter
19 458, chapter 459, or chapter 464. The consultant shall assist
20 the probable cause panel and department in carrying out the
21 responsibilities of this section. This shall include working
22 with department investigators to determine whether a
23 practitioner is, in fact, impaired.

24 (3)(a) Whenever the department receives a written or
25 oral legally sufficient complaint alleging that a licensee
26 under the jurisdiction of the Division of Medical Quality
27 Assurance within the department is impaired as a result of the
28 misuse or abuse of alcohol or drugs, or both, or due to a
29 mental or physical condition which could affect the licensee's
30 ability to practice with skill and safety, and no complaint
31 against the licensee other than impairment exists, the

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1 reporting of such information shall not constitute grounds for
2 discipline pursuant to s. 455.624 or the corresponding grounds
3 for discipline within the applicable practice act ~~a complaint~~
4 ~~within the meaning of s. 455.621~~ if the probable cause panel
5 of the appropriate board, or the department when there is no
6 board, finds:

7 1. The licensee has acknowledged the impairment
8 problem.

9 2. The licensee has voluntarily enrolled in an
10 appropriate, approved treatment program.

11 3. The licensee has voluntarily withdrawn from
12 practice or limited the scope of practice as required by the
13 consultant ~~determined by the panel, or the department when~~
14 ~~there is no board~~, in each case, until such time as the panel,
15 or the department when there is no board, is satisfied the
16 licensee has successfully completed an approved treatment
17 program.

18 4. The licensee has executed releases for medical
19 records, authorizing the release of all records of
20 evaluations, diagnoses, and treatment of the licensee,
21 including records of treatment for emotional or mental
22 conditions, to the consultant. The consultant shall make no
23 copies or reports of records that do not regard the issue of
24 the licensee's impairment and his or her participation in a
25 treatment program.

26 (b) If, however, the department has not received a
27 legally sufficient complaint and the licensee agrees to
28 withdraw from practice until such time as the consultant
29 determines the licensee has satisfactorily completed an
30 approved treatment program or evaluation, the probable cause
31 panel, or the department when there is no board, shall not

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1 become involved in the licensee's case.

2 (c) Inquiries related to impairment treatment programs
3 designed to provide information to the licensee and others and
4 which do not indicate that the licensee presents a danger to
5 the public shall not constitute a complaint within the meaning
6 of s. 455.621 and shall be exempt from the provisions of this
7 subsection.

8 (d) Whenever the department receives a legally
9 sufficient complaint alleging that a licensee is impaired as
10 described in paragraph (a) and no complaint against the
11 licensee other than impairment exists, the department shall
12 forward all information in its possession regarding the
13 impaired licensee to the consultant. For the purposes of this
14 section, a suspension from hospital staff privileges due to
15 the impairment does not constitute a complaint.

16 (e) The probable cause panel, or the department when
17 there is no board, shall work directly with the consultant,
18 and all information concerning a practitioner obtained from
19 the consultant by the panel, or the department when there is
20 no board, shall remain confidential and exempt from the
21 provisions of s. 119.07(1), subject to the provisions of
22 subsections (5) and (6).

23 (f) A finding of probable cause shall not be made as
24 long as the panel, or the department when there is no board,
25 is satisfied, based upon information it receives from the
26 consultant and the department, that the licensee is
27 progressing satisfactorily in an approved impaired
28 practitioner treatment program and no other complaint against
29 the licensee exists.

30 Section 11. Subsection (1) of section 310.102, Florida
31 Statutes, is amended to read:

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1 310.102 Treatment programs for impaired pilots and
2 deputy pilots.--

3 (1) The department shall, by rule, designate approved
4 treatment programs for impaired pilots and deputy pilots under
5 this section. The department may adopt rules setting forth
6 appropriate criteria for approval of treatment providers ~~based~~
7 ~~on the policies and guidelines established by the Impaired~~
8 ~~Practitioners Committee under s. 455.704.~~

9 Section 12. Section 455.711, Florida Statutes, is
10 amended to read:

11 455.711 Licenses; active and inactive ~~and delinquent~~
12 ~~status; delinquency.~~--

13 (1) A licensee may practice a profession only if the
14 licensee has an active status license. A licensee who
15 practices a profession without an active status license is in
16 violation of this section and s. 455.624, and the board, or
17 the department if there is no board, may impose discipline on
18 the licensee.

19 (2) Each board, or the department if there is no
20 board, shall permit a licensee to choose, at the time of
21 licensure renewal, an active or inactive status. ~~However, a~~
22 ~~licensee who changes from inactive to active status is not~~
23 ~~eligible to return to inactive status until the licensee~~
24 ~~thereafter completes a licensure cycle on active status.~~

25 (3) Each board, or the department if there is no
26 board, shall by rule impose a fee for renewal of an active or
27 inactive status license. The renewal fee for an inactive
28 status license may not exceed ~~which is no greater than~~ the fee
29 for an active status license.

30 (4) Notwithstanding any other provision of law to the
31 contrary, a licensee may change licensure status at any time.

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1 apply with a complete application, as defined by rule of the
 2 board, or the department if there is no board, for active or
 3 inactive status during the licensure cycle in which a licensee
 4 becomes delinquent. Failure by a delinquent ~~status~~ licensee to
 5 become active or inactive before the expiration of the current
 6 licensure cycle renders the license null without any further
 7 action by the board or the department. Any subsequent
 8 licensure shall be as a result of applying for and meeting all
 9 requirements imposed on an applicant for new licensure.

10 (7) Each board, or the department if there is no
 11 board, shall by rule impose an additional delinquency fee, not
 12 to exceed the biennial renewal fee for an active status
 13 license, on a delinquent ~~status~~ licensee when such licensee
 14 applies for active or inactive status.

15 (8) Each board, or the department if there is no
 16 board, shall by rule impose an additional fee, not to exceed
 17 the biennial renewal fee for an active status license, for
 18 processing a licensee's request to change licensure status at
 19 any time other than at the beginning of a licensure cycle.

20 (9) Each board, or the department if there is no
 21 board, may by rule impose reasonable conditions, excluding
 22 full reexamination but including part of a national
 23 examination or a special purpose examination to assess current
 24 competency, necessary to ensure that a licensee who has been
 25 on inactive status for more than two consecutive biennial
 26 licensure cycles and who applies for active status can
 27 practice with the care and skill sufficient to protect the
 28 health, safety, and welfare of the public. Reactivation
 29 requirements may differ depending on the length of time
 30 licensees are inactive. The costs to meet reactivation
 31 requirements shall be borne by licensees requesting

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1 reactivation.

2 (10) Before reactivation, an inactive status licensee
3 or a delinquent licensee who was inactive prior to becoming
4 delinquent must meet the same continuing education
5 requirements, if any, imposed on an active status licensee for
6 all biennial licensure periods in which the licensee was
7 inactive or delinquent.

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

14 (12) This section does not apply to a business
15 establishment registered, permitted, or licensed by the
16 department to do business.

17 (13) The board, or the department when there is no
18 board, may adopt rules pursuant to ss. 120.536(1) and 120.54
19 as necessary to implement this section.

20 Section 13. Subsection (3) of section 455.587, Florida
21 Statutes, is amended to read:

22 455.587 Fees; receipts; disposition.--

23 (3) Each board, or the department if there is no
24 board, may, by rule, assess and collect a one-time fee from
25 each active status licensee and each ~~voluntary~~ inactive status
26 licensee in an amount necessary to eliminate a cash deficit
27 or, if there is not a cash deficit, in an amount sufficient to
28 maintain the financial integrity of the professions as
29 required in this section. Not more than one such assessment
30 may be made in any 4-year period without specific legislative
31 authorization.

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1 Section 14. Subsection (1) of section 455.714, Florida
2 Statutes, is amended to read:

3 455.714 Renewal and cancellation notices.--

4 (1) At least 90 days before the end of a licensure
5 cycle, the department shall:

6 (a) Forward a licensure renewal notification to an
7 active or inactive status licensee at the licensee's last
8 known address of record with the department.

9 (b) Forward a notice of pending cancellation of
10 licensure to a delinquent ~~status~~ licensee at the licensee's
11 last known address of record with the department.

12 Section 15. Section 455.719, Florida Statutes, is
13 created to read:

14 455.719 Health care professionals; exemption from
15 disqualification from employment or contracting.--Any other
16 provision of law to the contrary notwithstanding, only the
17 appropriate regulatory board, or the department when there is
18 no board, may grant an exemption from disqualification from
19 employment or contracting as provided in s. 435.07 to a person
20 under the licensing jurisdiction of that board or the
21 department, as applicable.

22 Section 16. Section 455.637, Florida Statutes, is
23 amended to read:

24 455.637 Unlicensed practice of a health care
25 profession; intent; cease and desist notice; penalties civil
26 penalty; enforcement; citations; fees; allocation and
27 disposition of moneys collected.--

28 (1) It is the intent of the Legislature that vigorous
29 enforcement of licensure regulation for all health care
30 professions is a state priority in order to protect Florida
31 residents and visitors from the potentially serious and

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1 dangerous consequences of receiving medical and health care
2 services from unlicensed persons whose professional education
3 and training and other relevant qualifications have not been
4 approved through the issuance of a license by the appropriate
5 regulatory board or the department when there is no board. The
6 unlicensed practice of a health care profession or the
7 performance or delivery of medical or health care services to
8 patients in this state without a valid, active license to
9 practice that profession, regardless of the means of the
10 performance or delivery of such services, is strictly
11 prohibited.

12 (2) The penalties for unlicensed practice of a health
13 care profession shall include the following:

14 (a)~~(1)~~ When the department has probable cause to
15 believe that any person not licensed by the department, or the
16 appropriate regulatory board within the department, has
17 violated any provision of this part or any statute that
18 relates to the practice of a profession regulated by the
19 department, or any rule adopted pursuant thereto, the
20 department may issue and deliver to such person a notice to
21 cease and desist from such violation. In addition, the
22 department may issue and deliver a notice to cease and desist
23 to any person who aids and abets the unlicensed practice of a
24 profession by employing such unlicensed person. The issuance
25 of a notice to cease and desist shall not constitute agency
26 action for which a hearing under ss. 120.569 and 120.57 may be
27 sought. For the purpose of enforcing a cease and desist order,
28 the department may file a proceeding in the name of the state
29 seeking issuance of an injunction or a writ of mandamus
30 against any person who violates any provisions of such order.

31 (b) In addition to the ~~foregoing~~ remedies under

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1 paragraph (a), the department may impose by citation an
2 administrative penalty not to exceed \$5,000 per incident
3 pursuant to the provisions of chapter 120 or may issue a
4 citation pursuant to the provisions of subsection (3). The
5 citation shall be issued to the subject and shall contain the
6 subject's name and any other information the department
7 determines to be necessary to identify the subject, a brief
8 factual statement, the sections of the law allegedly violated,
9 and the penalty imposed. If the subject does not dispute the
10 matter in the citation with the department within 30 days
11 after the citation is served, the citation shall become a
12 final order of the department. The department may adopt rules
13 to implement this section. The penalty shall be a fine of not
14 less than \$500 nor more than \$5,000 as established by rule of
15 the department. Each day that the unlicensed practice
16 continues after issuance of a notice to cease and desist
17 constitutes a separate violation. The department shall be
18 entitled to recover the costs of investigation and prosecution
19 in addition to the fine levied pursuant to the citation.
20 Service of a citation may be made by personal service or by
21 mail to the subject at the subject's last known address or
22 place of practice. If the department is required to seek
23 enforcement of the cease and desist or agency order for a
24 penalty pursuant to s. 120.569, it shall be entitled to
25 collect its attorney's fees and costs, together with any cost
26 of collection.

27 (c)(2) In addition to or in lieu of any other
28 administrative remedy provided in subsection (1), the
29 department may seek the imposition of a civil penalty through
30 the circuit court for any violation for which the department
31 may issue a notice to cease and desist under subsection (1).

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1 The civil penalty shall be no less than \$500 and no more than
2 \$5,000 for each offense. The court may also award to the
3 prevailing party court costs and reasonable attorney fees and,
4 in the event the department prevails, may also award
5 reasonable costs of investigation and prosecution.

6 (d) In addition to the administrative and civil
7 remedies under paragraphs (b) and (c) and in addition to the
8 criminal violations and penalties listed in the individual
9 health care practice acts:

10 1. It is a felony of the third degree, punishable as
11 provided in s. 775.082, s. 775.083, or s. 775.084, to
12 practice, attempt to practice, or offer to practice a health
13 care profession without an active, valid Florida license to
14 practice that profession. Practicing without an active, valid
15 license also includes practicing on a suspended, revoked, or
16 void license, but does not include practicing, attempting to
17 practice, or offering to practice with an inactive or
18 delinquent license for a period of up to 12 months which is
19 addressed in subparagraph 3. Applying for employment for a
20 position that requires a license without notifying the
21 employer that the person does not currently possess a valid,
22 active license to practice that profession shall be deemed to
23 be an attempt or offer to practice that health care profession
24 without a license. Holding oneself out, regardless of the
25 means of communication, as able to practice a health care
26 profession or as able to provide services that require a
27 health care license shall be deemed to be an attempt or offer
28 to practice such profession without a license. The minimum
29 penalty for violating this subparagraph shall be a fine of
30 \$1,000 and a minimum mandatory period of incarceration of 1
31 year.

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1 2. It is a felony of the second degree, punishable as
2 provided in s. 775.082, s. 775.083, or s. 775.084, to practice
3 a health care profession without an active, valid Florida
4 license to practice that profession when such practice results
5 in serious bodily injury. For purposes of this section,
6 "serious bodily injury" means death; brain or spinal damage;
7 disfigurement; fracture or dislocation of bones or joints;
8 limitation of neurological, physical, or sensory function; or
9 any condition that required subsequent surgical repair. The
10 minimum penalty for violating this subparagraph shall be a
11 fine of \$1,000 and a minimum mandatory period of incarceration
12 of 1 year.

13 3. It is a misdemeanor of the first degree, punishable
14 as provided in s. 775.082 or s. 775.083, to practice, attempt
15 to practice, or offer to practice a health care profession
16 with an inactive or delinquent license for any period of time
17 up to 12 months. However, practicing, attempting to practice,
18 or offering to practice a health care profession when that
19 person's license has been inactive or delinquent for a period
20 of time of 12 months or more shall be a felony of the third
21 degree, punishable as provided in s. 775.082, s. 775.083, or
22 s. 775.084. The minimum penalty for violating this
23 subparagraph shall be a term of imprisonment of 30 days and a
24 fine of \$500.

25 (3) Because all enforcement costs should be covered by
26 professions regulated by the department, the department shall
27 impose, upon initial licensure and each licensure renewal, a
28 special fee of \$5 per licensee to fund efforts to combat
29 unlicensed activity. Such fee shall be in addition to all
30 other fees collected from each licensee. The board with
31 concurrence of the department, or the department when there is

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1 no board, may earmark \$5 of the current licensure fee for this
2 purpose, if such board, or profession regulated by the
3 department, is not in a deficit and has a reasonable cash
4 balance. The department shall make direct charges to the
5 Medical Quality Assurance Trust Fund by profession. The
6 department shall seek board advice regarding enforcement
7 methods and strategies. The department shall directly credit
8 the Medical Quality Assurance Trust Fund, by profession, with
9 the revenues received from the department's efforts to enforce
10 licensure provisions. The department shall include all
11 financial and statistical data resulting from unlicensed
12 activity enforcement as a separate category in the quarterly
13 management report provided for in s. 455.587. For an
14 unlicensed activity account, a balance which remains at the
15 end of a renewal cycle may, with concurrence of the applicable
16 board and the department, be transferred to the operating fund
17 account of that profession. The department shall also use
18 these funds to inform and educate consumers generally on the
19 importance of using licensed health care practitioners.

20 ~~(3)(a) Notwithstanding the provisions of s. 455.621,~~
21 ~~the department shall adopt rules to permit the issuance of~~
22 ~~citations for unlicensed practice of a profession. The~~
23 ~~citation shall be issued to the subject and shall contain the~~
24 ~~subject's name and any other information the department~~
25 ~~determines to be necessary to identify the subject, a brief~~
26 ~~factual statement, the sections of the law allegedly violated,~~
27 ~~and the penalty imposed. The citation must clearly state that~~
28 ~~the subject may choose, in lieu of accepting the citation, to~~
29 ~~follow the procedure under s. 455.621. If the subject disputes~~
30 ~~the matter in the citation, the procedures set forth in s.~~
31 ~~455.621 must be followed. However, if the subject does not~~

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1 ~~dispute the matter in the citation with the department within~~
2 ~~30 days after the citation is served, the citation shall~~
3 ~~become a final order of the department. The penalty shall be a~~
4 ~~fine of not less than \$500 or more than \$5,000 or other~~
5 ~~conditions as established by rule.~~

6 ~~(b) Each day that the unlicensed practice continues~~
7 ~~after issuance of a citation constitutes a separate violation.~~

8 ~~(c) The department shall be entitled to recover the~~
9 ~~costs of investigation, in addition to any penalty provided~~
10 ~~according to department rule as part of the penalty levied~~
11 ~~pursuant to the citation.~~

12 ~~(d) Service of a citation may be made by personal~~
13 ~~service or certified mail, restricted delivery, to the subject~~
14 ~~at the subject's last known address.~~

15 ~~(4) All fines, fees, and costs collected through the~~
16 ~~procedures set forth in this section shall be allocated to the~~
17 ~~professions in the manner provided for in s. 455.641 for the~~
18 ~~allocation of the fees assessed and collected to combat~~
19 ~~unlicensed practice of a profession.~~

20 ~~(4)(5) The provisions of this section apply only to~~
21 ~~health care the professional practice acts administered by the~~
22 ~~department.~~

23 ~~(5) Nothing herein shall be construed to limit or~~
24 ~~restrict the sale, use, or recommendation of the use of a~~
25 ~~dietary supplement, as defined by the Food, Drug, and Cosmetic~~
26 ~~Act, Title 21, s. 321, so long as the person selling, using,~~
27 ~~or recommending the dietary supplement does so in compliance~~
28 ~~with federal and state law and does not hold himself or~~
29 ~~herself out to be a health care practitioner as defined in s.~~
30 ~~455.501(4).~~

31 Section 17. The amendment of s. 455.637, Florida

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1 Statutes, by this act applies to offenses committed on or
2 after the effective date of such section.

3 Section 18. Section 455.641, Florida Statutes, is
4 repealed.

5 Section 19. Paragraph (d) of subsection (1) of section
6 455.574, subsection (1) of section 468.1295, subsection (1) of
7 section 484.014, and subsection (1) of section 484.056,
8 Florida Statutes, are reenacted to read:

9 455.574 Department of Health; examinations.--

10 (1)

11 (d) Each board, or the department when there is no
12 board, shall adopt rules regarding the security and monitoring
13 of examinations. The department shall implement those rules
14 adopted by the respective boards. In order to maintain the
15 security of examinations, the department may employ the
16 procedures set forth in s. 455.637 to seek fines and
17 injunctive relief against an examinee who violates the
18 provisions of s. 455.577 or the rules adopted pursuant to this
19 paragraph. The department, or any agent thereof, may, for the
20 purposes of investigation, confiscate any written,
21 photographic, or recording material or device in the
22 possession of the examinee at the examination site which the
23 department deems necessary to enforce such provisions or
24 rules.

25 468.1295 Disciplinary proceedings.--

26 (1) The following acts constitute grounds for both
27 disciplinary actions as set forth in subsection (2) and cease
28 and desist or other related actions by the department as set
29 forth in s. 455.637:

30 (a) Procuring or attempting to procure a license by
31 bribery, by fraudulent misrepresentation, or through an error

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1 of the department or the board.

2 (b) Having a license revoked, suspended, or otherwise
3 acted against, including denial of licensure, by the licensing
4 authority of another state, territory, or country.

5 (c) Being convicted or found guilty of, or entering a
6 plea of nolo contendere to, regardless of adjudication, a
7 crime in any jurisdiction which directly relates to the
8 practice of speech-language pathology or audiology.

9 (d) Making or filing a report or record which the
10 licensee knows to be false, intentionally or negligently
11 failing to file a report or records required by state or
12 federal law, willfully impeding or obstructing such filing, or
13 inducing another person to impede or obstruct such filing.
14 Such report or record shall include only those reports or
15 records which are signed in one's capacity as a licensed
16 speech-language pathologist or audiologist.

17 (e) Advertising goods or services in a manner which is
18 fraudulent, false, deceptive, or misleading in form or
19 content.

20 (f) Being proven guilty of fraud or deceit or of
21 negligence, incompetency, or misconduct in the practice of
22 speech-language pathology or audiology.

23 (g) Violating a lawful order of the board or
24 department previously entered in a disciplinary hearing, or
25 failing to comply with a lawfully issued subpoena of the board
26 or department.

27 (h) Practicing with a revoked, suspended, inactive, or
28 delinquent license.

29 (i) Using, or causing or promoting the use of, any
30 advertising matter, promotional literature, testimonial,
31 guarantee, warranty, label, brand, insignia, or other

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1 representation, however disseminated or published, which is
2 misleading, deceiving, or untruthful.

3 (j) Showing or demonstrating or, in the event of sale,
4 delivery of a product unusable or impractical for the purpose
5 represented or implied by such action.

6 (k) Failing to submit to the board on an annual basis,
7 or such other basis as may be provided by rule, certification
8 of testing and calibration of such equipment as designated by
9 the board and on the form approved by the board.

10 (l) Aiding, assisting, procuring, employing, or
11 advising any licensee or business entity to practice
12 speech-language pathology or audiology contrary to this part,
13 part II of chapter 455, or any rule adopted pursuant thereto.

14 (m) Violating any provision of this part or part II of
15 chapter 455 or any rule adopted pursuant thereto.

16 (n) Misrepresenting the professional services
17 available in the fitting, sale, adjustment, service, or repair
18 of a hearing aid, or using any other term or title which might
19 connote the availability of professional services when such
20 use is not accurate.

21 (o) Representing, advertising, or implying that a
22 hearing aid or its repair is guaranteed without providing full
23 disclosure of the identity of the guarantor; the nature,
24 extent, and duration of the guarantee; and the existence of
25 conditions or limitations imposed upon the guarantee.

26 (p) Representing, directly or by implication, that a
27 hearing aid utilizing bone conduction has certain specified
28 features, such as the absence of anything in the ear or
29 leading to the ear, or the like, without disclosing clearly
30 and conspicuously that the instrument operates on the bone
31 conduction principle and that in many cases of hearing loss

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1 this type of instrument may not be suitable.

2 (q) Stating or implying that the use of any hearing
3 aid will improve or preserve hearing or prevent or retard the
4 progression of a hearing impairment or that it will have any
5 similar or opposite effect.

6 (r) Making any statement regarding the cure of the
7 cause of a hearing impairment by the use of a hearing aid.

8 (s) Representing or implying that a hearing aid is or
9 will be "custom-made," "made to order," or
10 "prescription-made," or in any other sense specially
11 fabricated for an individual, when such is not the case.

12 (t) Canvassing from house to house or by telephone,
13 either in person or by an agent, for the purpose of selling a
14 hearing aid, except that contacting persons who have evidenced
15 an interest in hearing aids, or have been referred as in need
16 of hearing aids, shall not be considered canvassing.

17 (u) Failing to notify the department in writing of a
18 change in current mailing and place-of-practice address within
19 30 days after such change.

20 (v) Failing to provide all information as described in
21 ss. 468.1225(5)(b), 468.1245(1), and 468.1246.

22 (w) Exercising influence on a client in such a manner
23 as to exploit the client for financial gain of the licensee or
24 of a third party.

25 (x) Practicing or offering to practice beyond the
26 scope permitted by law or accepting and performing
27 professional responsibilities the licensee or
28 certificateholder knows, or has reason to know, the licensee
29 or certificateholder is not competent to perform.

30 (y) Aiding, assisting, procuring, or employing any
31 unlicensed person to practice speech-language pathology or

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1 audiology.

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

8 (aa) Committing any act upon a patient or client which
9 would constitute sexual battery or which would constitute
10 sexual misconduct as defined pursuant to s. 468.1296.

11 (bb) Being unable to practice the profession for which
12 he or she is licensed or certified under this chapter with
13 reasonable skill or competence as a result of any mental or
14 physical condition or by reason of illness, drunkenness, or
15 use of drugs, narcotics, chemicals, or any other substance. In
16 enforcing this paragraph, upon a finding by the secretary, his
17 or her designee, or the board that probable cause exists to
18 believe that the licensee or certificateholder is unable to
19 practice the profession because of the reasons stated in this
20 paragraph, the department shall have the authority to compel a
21 licensee or certificateholder to submit to a mental or
22 physical examination by a physician, psychologist, clinical
23 social worker, marriage and family therapist, or mental health
24 counselor designated by the department or board. If the
25 licensee or certificateholder refuses to comply with the
26 department's order directing the examination, such order may
27 be enforced by filing a petition for enforcement in the
28 circuit court in the circuit in which the licensee or
29 certificateholder resides or does business. The department
30 shall be entitled to the summary procedure provided in s.
31 51.011. A licensee or certificateholder affected under this

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1 paragraph shall at reasonable intervals be afforded an
2 opportunity to demonstrate that he or she can resume the
3 competent practice for which he or she is licensed or
4 certified with reasonable skill and safety to patients.

5 484.014 Disciplinary actions.--

6 (1) The following acts relating to the practice of
7 opticianry shall be grounds for both disciplinary action
8 against an optician as set forth in this section and cease and
9 desist or other related action by the department as set forth
10 in s. 455.637 against any person operating an optical
11 establishment who engages in, aids, or abets any such
12 violation:

13 (a) Procuring or attempting to procure a license by
14 misrepresentation, bribery, or fraud or through an error of
15 the department or the board.

16 (b) Procuring or attempting to procure a license for
17 any other person by making or causing to be made any false
18 representation.

19 (c) Making or filing a report or record which the
20 licensee knows to be false, intentionally or negligently
21 failing to file a report or record required by federal or
22 state law, willfully impeding or obstructing such filing, or
23 inducing another person to do so. Such reports or records
24 shall include only those which the person is required to make
25 or file as an optician.

26 (d) Failing to make fee or price information readily
27 available by providing such information upon request or upon
28 the presentation of a prescription.

29 (e) Advertising goods or services in a manner which is
30 fraudulent, false, deceptive, or misleading in form or
31 content.

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- 1 (f) Fraud or deceit, or negligence, incompetency, or
2 misconduct, in the authorized practice of opticianry.
- 3 (g) Violation or repeated violation of this part or of
4 part II of chapter 455 or any rules promulgated pursuant
5 thereto.
- 6 (h) Practicing with a revoked, suspended, inactive, or
7 delinquent license.
- 8 (i) Violation of a lawful order of the board or
9 department previously entered in a disciplinary hearing or
10 failing to comply with a lawfully issued subpoena of the
11 department.
- 12 (j) Violation of any provision of s. 484.012.
- 13 (k) Conspiring with another licensee or with any
14 person to commit an act, or committing an act, which would
15 coerce, intimidate, or preclude another licensee from lawfully
16 advertising her or his services.
- 17 (l) Willfully submitting to any third-party payor a
18 claim for services which were not provided to a patient.
- 19 (m) Failing to keep written prescription files.
- 20 (n) Willfully failing to report any person who the
21 licensee knows is in violation of this part or of rules of the
22 department or the board.
- 23 (o) Exercising influence on a client in such a manner
24 as to exploit the client for financial gain of the licensee or
25 of a third party.
- 26 (p) Gross or repeated malpractice.
- 27 (q) Permitting any person not licensed as an optician
28 in this state to fit or dispense any lenses, spectacles,
29 eyeglasses, or other optical devices which are part of the
30 practice of opticianry.
- 31 (r) Being convicted or found guilty of, or entering a

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1 plea of nolo contendere to, regardless of adjudication, in a
2 court of this state or other jurisdiction, a crime which
3 relates to the ability to practice opticianry or to the
4 practice of opticianry.

5 (s) Having been disciplined by a regulatory agency in
6 another state for any offense that would constitute a
7 violation of Florida law or rules regulating opticianry.

8 (t) Being unable to practice opticianry with
9 reasonable skill and safety by reason of illness or use of
10 drugs, narcotics, chemicals, or any other type of material or
11 as a result of any mental or physical condition. An optician
12 affected under this paragraph shall at reasonable intervals be
13 afforded an opportunity to demonstrate that she or he can
14 resume the competent practice of opticianry with reasonable
15 skill and safety to her or his customers.

16 484.056 Disciplinary proceedings.--

17 (1) The following acts relating to the practice of
18 dispensing hearing aids shall be grounds for both disciplinary
19 action against a hearing aid specialist as set forth in this
20 section and cease and desist or other related action by the
21 department as set forth in s. 455.637 against any person
22 owning or operating a hearing aid establishment who engages
23 in, aids, or abets any such violation:

24 (a) Violation of any provision of s. 455.624(1), s.
25 484.0512, or s. 484.053.

26 (b) Attempting to procure a license to dispense
27 hearing aids by bribery, by fraudulent misrepresentations, or
28 through an error of the department or the board.

29 (c) Having a license to dispense hearing aids revoked,
30 suspended, or otherwise acted against, including the denial of
31 licensure, by the licensing authority of another state,

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1 territory, or country.

2 (d) Being convicted or found guilty of, or entering a
3 plea of nolo contendere to, regardless of adjudication, a
4 crime in any jurisdiction which directly relates to the
5 practice of dispensing hearing aids or the ability to practice
6 dispensing hearing aids, including violations of any federal
7 laws or regulations regarding hearing aids.

8 (e) Making or filing a report or record which the
9 licensee knows to be false, intentionally or negligently
10 failing to file a report or record required by state or
11 federal law, willfully impeding or obstructing such filing, or
12 inducing another person to impede or obstruct such filing.
13 Such reports or records shall include only those reports or
14 records which are signed in one's capacity as a licensed
15 hearing aid specialist.

16 (f) Advertising goods or services in a manner which is
17 fraudulent, false, deceptive, or misleading in form or
18 content.

19 (g) Proof that the licensee is guilty of fraud or
20 deceit or of negligence, incompetency, or misconduct in the
21 practice of dispensing hearing aids.

22 (h) Violation or repeated violation of this part or of
23 part II of chapter 455, or any rules promulgated pursuant
24 thereto.

25 (i) Violation of a lawful order of the board or
26 department previously entered in a disciplinary hearing or
27 failure to comply with a lawfully issued subpoena of the board
28 or department.

29 (j) Practicing with a revoked, suspended, inactive, or
30 delinquent license.

31 (k) Using, or causing or promoting the use of, any

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1 advertising matter, promotional literature, testimonial,
2 guarantee, warranty, label, brand, insignia, or other
3 representation, however disseminated or published, which is
4 misleading, deceiving, or untruthful.

5 (l) Showing or demonstrating, or, in the event of
6 sale, delivery of, a product unusable or impractical for the
7 purpose represented or implied by such action.

8 (m) Misrepresentation of professional services
9 available in the fitting, sale, adjustment, service, or repair
10 of a hearing aid, or use of the terms "doctor," "clinic,"
11 "clinical," "medical audiologist," "clinical audiologist,"
12 "research audiologist," or "audiologic" or any other term or
13 title which might connote the availability of professional
14 services when such use is not accurate.

15 (n) Representation, advertisement, or implication that
16 a hearing aid or its repair is guaranteed without providing
17 full disclosure of the identity of the guarantor; the nature,
18 extent, and duration of the guarantee; and the existence of
19 conditions or limitations imposed upon the guarantee.

20 (o) Representing, directly or by implication, that a
21 hearing aid utilizing bone conduction has certain specified
22 features, such as the absence of anything in the ear or
23 leading to the ear, or the like, without disclosing clearly
24 and conspicuously that the instrument operates on the bone
25 conduction principle and that in many cases of hearing loss
26 this type of instrument may not be suitable.

27 (p) Making any predictions or prognostications as to
28 the future course of a hearing impairment, either in general
29 terms or with reference to an individual person.

30 (q) Stating or implying that the use of any hearing
31 aid will improve or preserve hearing or prevent or retard the

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1 progression of a hearing impairment or that it will have any
2 similar or opposite effect.

3 (r) Making any statement regarding the cure of the
4 cause of a hearing impairment by the use of a hearing aid.

5 (s) Representing or implying that a hearing aid is or
6 will be "custom-made," "made to order," or "prescription-made"
7 or in any other sense specially fabricated for an individual
8 person when such is not the case.

9 (t) Canvassing from house to house or by telephone
10 either in person or by an agent for the purpose of selling a
11 hearing aid, except that contacting persons who have evidenced
12 an interest in hearing aids, or have been referred as in need
13 of hearing aids, shall not be considered canvassing.

14 (u) Failure to submit to the board on an annual basis,
15 or such other basis as may be provided by rule, certification
16 of testing and calibration of audiometric testing equipment on
17 the form approved by the board.

18 (v) Failing to provide all information as described in
19 s. 484.051(1).

20 (w) Exercising influence on a client in such a manner
21 as to exploit the client for financial gain of the licensee or
22 of a third party.

23 Section 20. Paragraphs (a) and (g) of subsection (3)
24 of section 921.0022, Florida Statutes, are amended to read:

25 921.0022 Criminal Punishment Code; offense severity
26 ranking chart.--

27 (3) OFFENSE SEVERITY RANKING CHART

28

| | | |
|------------|--------|-------------|
| 29 Florida | Felony | |
| 30 Statute | Degree | Description |

31

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| | | | |
|----|---------------|-----|------------------------------------|
| 1 | | | (a) LEVEL 1 |
| 2 | 24.118(3)(a) | 3rd | Counterfeit or altered state |
| 3 | | | lottery ticket. |
| 4 | 212.054(2)(b) | 3rd | Discretionary sales surtax; |
| 5 | | | limitations, administration, and |
| 6 | | | collection. |
| 7 | 212.15(2)(b) | 3rd | Failure to remit sales taxes, |
| 8 | | | amount greater than \$300 but less |
| 9 | | | than \$20,000. |
| 10 | 319.30(5) | 3rd | Sell, exchange, give away |
| 11 | | | certificate of title or |
| 12 | | | identification number plate. |
| 13 | 319.35(1)(a) | 3rd | Tamper, adjust, change, etc., an |
| 14 | | | odometer. |
| 15 | 320.26(1)(a) | 3rd | Counterfeit, manufacture, or sell |
| 16 | | | registration license plates or |
| 17 | | | validation stickers. |
| 18 | 322.212(1) | 3rd | Possession of forged, stolen, |
| 19 | | | counterfeit, or unlawfully issued |
| 20 | | | driver's license; possession of |
| 21 | | | simulated identification. |
| 22 | 322.212(4) | 3rd | Supply or aid in supplying |
| 23 | | | unauthorized driver's license or |
| 24 | | | identification card. |
| 25 | 322.212(5)(a) | 3rd | False application for driver's |
| 26 | | | license or identification card. |
| 27 | 370.13(3)(a) | 3rd | Molest any stone crab trap, line, |
| 28 | | | or buoy which is property of |
| 29 | | | licenseholder. |
| 30 | 370.135(1) | 3rd | Molest any blue crab trap, line, |
| 31 | | | or buoy which is property of |

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| | | | |
|----|--------------------------|----------------|---|
| 1 | | | licenseholder. |
| 2 | 372.663(1) | 3rd | Poach any alligator or |
| 3 | | | crocodilia. |
| 4 | 414.39(2) | 3rd | Unauthorized use, possession, |
| 5 | | | forgery, or alteration of food |
| 6 | | | stamps, Medicaid ID, value |
| 7 | | | greater than \$200. |
| 8 | 414.39(3)(a) | 3rd | Fraudulent misappropriation of |
| 9 | | | public assistance funds by |
| 10 | | | employee/official, value more |
| 11 | | | than \$200. |
| 12 | 443.071(1) | 3rd | False statement or representation |
| 13 | | | to obtain or increase |
| 14 | | | unemployment compensation |
| 15 | | | benefits. |
| 16 | 458.327(1)(a) | 3rd | Unlicensed practice of medicine. |
| 17 | 466.026(1)(a) | 3rd | Unlicensed practice of dentistry |
| 18 | | | or dental hygiene. |
| 19 | 509.151(1) | 3rd | Defraud an innkeeper, food or |
| 20 | | | lodging value greater than \$300. |
| 21 | 517.302(1) | 3rd | Violation of the Florida |
| 22 | | | Securities and Investor |
| 23 | | | Protection Act. |
| 24 | 562.27(1) | 3rd | Possess still or still apparatus. |
| 25 | 713.69 | 3rd | Tenant removes property upon |
| 26 | | | which lien has accrued, value |
| 27 | | | more than \$50. |
| 28 | 812.014(3)(c) | 3rd | Petit theft (3rd conviction); |
| 29 | | | theft of any property not |
| 30 | | | specified in subsection (2). |
| 31 | | | |

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| | | | |
|----|---------------|-----|-----------------------------------|
| 1 | 812.081(2) | 3rd | Unlawfully makes or causes to be |
| 2 | | | made a reproduction of a trade |
| 3 | | | secret. |
| 4 | 815.04(4)(a) | 3rd | Offense against intellectual |
| 5 | | | property (i.e., computer |
| 6 | | | programs, data). |
| 7 | 817.52(2) | 3rd | Hiring with intent to defraud, |
| 8 | | | motor vehicle services. |
| 9 | 826.01 | 3rd | Bigamy. |
| 10 | 828.122(3) | 3rd | Fighting or baiting animals. |
| 11 | 831.04(1) | 3rd | Any erasure, alteration, etc., of |
| 12 | | | any replacement deed, map, plat, |
| 13 | | | or other document listed in s. |
| 14 | | | 92.28. |
| 15 | 831.31(1)(a) | 3rd | Sell, deliver, or possess |
| 16 | | | counterfeit controlled |
| 17 | | | substances, all but s. 893.03(5) |
| 18 | | | drugs. |
| 19 | 832.041(1) | 3rd | Stopping payment with intent to |
| 20 | | | defraud \$150 or more. |
| 21 | 832.05 | | |
| 22 | (2)(b)&(4)(c) | 3rd | Knowing, making, issuing |
| 23 | | | worthless checks \$150 or more or |
| 24 | | | obtaining property in return for |
| 25 | | | worthless check \$150 or more. |
| 26 | 838.015(3) | 3rd | Bribery. |
| 27 | 838.016(1) | 3rd | Public servant receiving unlawful |
| 28 | | | compensation. |
| 29 | 838.15(2) | 3rd | Commercial bribe receiving. |
| 30 | 838.16 | 3rd | Commercial bribery. |
| 31 | | | |

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| | | | |
|----|------------------|-----|--|
| 1 | 843.18 | 3rd | Fleeing by boat to elude a law enforcement officer. |
| 2 | | | |
| 3 | 847.011(1)(a) | 3rd | Sell, distribute, etc., obscene, lewd, etc., material (2nd conviction). |
| 4 | | | |
| 5 | | | |
| 6 | 849.01 | 3rd | Keeping gambling house. |
| 7 | 849.09(1)(a)-(d) | 3rd | Lottery; set up, promote, etc., or assist therein, conduct or advertise drawing for prizes, or dispose of property or money by means of lottery. |
| 8 | | | |
| 9 | | | |
| 10 | | | |
| 11 | | | |
| 12 | 849.23 | 3rd | Gambling-related machines; "common offender" as to property rights. |
| 13 | | | |
| 14 | | | |
| 15 | 849.25(2) | 3rd | Engaging in bookmaking. |
| 16 | 860.08 | 3rd | Interfere with a railroad signal. |
| 17 | 860.13(1)(a) | 3rd | Operate aircraft while under the influence. |
| 18 | | | |
| 19 | 893.13(2)(a)2. | 3rd | Purchase of cannabis. |
| 20 | 893.13(6)(a) | 3rd | Possession of cannabis (more than 20 grams). |
| 21 | | | |
| 22 | 893.13(7)(a)10. | 3rd | Affix false or forged label to package of controlled substance. |
| 23 | | | |
| 24 | 934.03(1)(a) | 3rd | Intercepts, or procures any other person to intercept, any wire or oral communication. |
| 25 | | | |
| 26 | | | |
| 27 | | | (g) LEVEL 7 |
| 28 | 316.193(3)(c)2. | 3rd | DUI resulting in serious bodily injury. |
| 29 | | | |
| 30 | 327.35(3)(c)2. | 3rd | Vessel BUI resulting in serious bodily injury. |
| 31 | | | |

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| | | | |
|----|-------------------|------------|---|
| 1 | 402.319(2) | 2nd | Misrepresentation and negligence |
| 2 | | | or intentional act resulting in |
| 3 | | | great bodily harm, permanent |
| 4 | | | disfiguration, permanent |
| 5 | | | disability, or death. |
| 6 | 409.920(2) | 3rd | Medicaid provider fraud. |
| 7 | <u>455.637(2)</u> | <u>3rd</u> | <u>Practicing a health care</u> |
| 8 | | | <u>profession without a license.</u> |
| 9 | <u>455.637(2)</u> | <u>2nd</u> | <u>Practicing a health care</u> |
| 10 | | | <u>profession without a license</u> |
| 11 | | | <u>which results in serious bodily</u> |
| 12 | | | <u>injury.</u> |
| 13 | <u>458.327(1)</u> | <u>3rd</u> | <u>Practicing medicine without a</u> |
| 14 | | | <u>license.</u> |
| 15 | <u>459.013(1)</u> | <u>3rd</u> | <u>Practicing osteopathic medicine</u> |
| 16 | | | <u>without a license.</u> |
| 17 | <u>460.411(1)</u> | <u>3rd</u> | <u>Practicing chiropractic medicine</u> |
| 18 | | | <u>without a license.</u> |
| 19 | <u>461.012(1)</u> | <u>3rd</u> | <u>Practicing podiatric medicine</u> |
| 20 | | | <u>without a license.</u> |
| 21 | <u>462.17</u> | <u>3rd</u> | <u>Practicing naturopathy without a</u> |
| 22 | | | <u>license.</u> |
| 23 | <u>463.015(1)</u> | <u>3rd</u> | <u>Practicing optometry without a</u> |
| 24 | | | <u>license.</u> |
| 25 | <u>464.016(1)</u> | <u>3rd</u> | <u>Practicing nursing without a</u> |
| 26 | | | <u>license.</u> |
| 27 | <u>465.015(2)</u> | <u>3rd</u> | <u>Practicing pharmacy without a</u> |
| 28 | | | <u>license.</u> |
| 29 | <u>466.026(1)</u> | <u>3rd</u> | <u>Practicing dentistry or dental</u> |
| 30 | | | <u>hygiene without a license.</u> |
| 31 | | | |

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| | | | |
|----|-------------------|------------|--|
| 1 | <u>467.201</u> | <u>3rd</u> | <u>Practicing midwifery without a</u> |
| 2 | | | <u>license.</u> |
| 3 | <u>468.366</u> | <u>3rd</u> | <u>Delivering respiratory care</u> |
| 4 | | | <u>services without a license.</u> |
| 5 | <u>483.828(1)</u> | <u>3rd</u> | <u>Practicing as clinical laboratory</u> |
| 6 | | | <u>personnel without a license.</u> |
| 7 | <u>483.901(9)</u> | <u>3rd</u> | <u>Practicing medical physics</u> |
| 8 | | | <u>without a license.</u> |
| 9 | <u>484.053</u> | <u>3rd</u> | <u>Dispensing hearing aids without a</u> |
| 10 | | | <u>license.</u> |
| 11 | 494.0018(2) | 1st | Conviction of any violation of |
| 12 | | | ss. 494.001-494.0077 in which the |
| 13 | | | total money and property |
| 14 | | | unlawfully obtained exceeded |
| 15 | | | \$50,000 and there were five or |
| 16 | | | more victims. |
| 17 | 782.051(3) | 2nd | Attempted felony murder of a |
| 18 | | | person by a person other than the |
| 19 | | | perpetrator or the perpetrator of |
| 20 | | | an attempted felony. |
| 21 | 782.07(1) | 2nd | Killing of a human being by the |
| 22 | | | act, procurement, or culpable |
| 23 | | | negligence of another |
| 24 | | | (manslaughter). |
| 25 | 782.071 | 2nd | Killing of human being or viable |
| 26 | | | fetus by the operation of a motor |
| 27 | | | vehicle in a reckless manner |
| 28 | | | (vehicular homicide). |
| 29 | 782.072 | 2nd | Killing of a human being by the |
| 30 | | | operation of a vessel in a |
| 31 | | | reckless manner (vessel |

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| | | | |
|----|-----------------|-----|-----------------------------------|
| 1 | | | homicide). |
| 2 | 784.045(1)(a)1. | 2nd | Aggravated battery; intentionally |
| 3 | | | causing great bodily harm or |
| 4 | | | disfigurement. |
| 5 | 784.045(1)(a)2. | 2nd | Aggravated battery; using deadly |
| 6 | | | weapon. |
| 7 | 784.045(1)(b) | 2nd | Aggravated battery; perpetrator |
| 8 | | | aware victim pregnant. |
| 9 | 784.048(4) | 3rd | Aggravated stalking; violation of |
| 10 | | | injunction or court order. |
| 11 | 784.07(2)(d) | 1st | Aggravated battery on law |
| 12 | | | enforcement officer. |
| 13 | 784.08(2)(a) | 1st | Aggravated battery on a person 65 |
| 14 | | | years of age or older. |
| 15 | 784.081(1) | 1st | Aggravated battery on specified |
| 16 | | | official or employee. |
| 17 | 784.082(1) | 1st | Aggravated battery by detained |
| 18 | | | person on visitor or other |
| 19 | | | detainee. |
| 20 | 784.083(1) | 1st | Aggravated battery on code |
| 21 | | | inspector. |
| 22 | 790.07(4) | 1st | Specified weapons violation |
| 23 | | | subsequent to previous conviction |
| 24 | | | of s. 790.07(1) or (2). |
| 25 | 790.16(1) | 1st | Discharge of a machine gun under |
| 26 | | | specified circumstances. |
| 27 | 796.03 | 2nd | Procuring any person under 16 |
| 28 | | | years for prostitution. |
| 29 | 800.04(5)(c)1. | 2nd | Lewd or lascivious molestation; |
| 30 | | | victim less than 12 years of age; |
| 31 | | | offender less than 18 years. |

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|----|----------------|-----|------------------------------------|
| 1 | 800.04(5)(c)2. | 2nd | Lewd or lascivious molestation; |
| 2 | | | victim 12 years of age or older |
| 3 | | | but less than 16 years; offender |
| 4 | | | 18 years or older. |
| 5 | 806.01(2) | 2nd | Maliciously damage structure by |
| 6 | | | fire or explosive. |
| 7 | 810.02(3)(a) | 2nd | Burglary of occupied dwelling; |
| 8 | | | unarmed; no assault or battery. |
| 9 | 810.02(3)(b) | 2nd | Burglary of unoccupied dwelling; |
| 10 | | | unarmed; no assault or battery. |
| 11 | 810.02(3)(d) | 2nd | Burglary of occupied conveyance; |
| 12 | | | unarmed; no assault or battery. |
| 13 | 812.014(2)(a) | 1st | Property stolen, valued at |
| 14 | | | \$100,000 or more; property stolen |
| 15 | | | while causing other property |
| 16 | | | damage; 1st degree grand theft. |
| 17 | 812.019(2) | 1st | Stolen property; initiates, |
| 18 | | | organizes, plans, etc., the theft |
| 19 | | | of property and traffics in |
| 20 | | | stolen property. |
| 21 | 812.131(2)(a) | 2nd | Robbery by sudden snatching. |
| 22 | 812.133(2)(b) | 1st | Carjacking; no firearm, deadly |
| 23 | | | weapon, or other weapon. |
| 24 | 825.102(3)(b) | 2nd | Neglecting an elderly person or |
| 25 | | | disabled adult causing great |
| 26 | | | bodily harm, disability, or |
| 27 | | | disfigurement. |
| 28 | 825.1025(2) | 2nd | Lewd or lascivious battery upon |
| 29 | | | an elderly person or disabled |
| 30 | | | adult. |
| 31 | | | |

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| | | | |
|----|----------------|-----|-----------------------------------|
| 1 | 825.103(2)(b) | 2nd | Exploiting an elderly person or |
| 2 | | | disabled adult and property is |
| 3 | | | valued at \$20,000 or more, but |
| 4 | | | less than \$100,000. |
| 5 | 827.03(3)(b) | 2nd | Neglect of a child causing great |
| 6 | | | bodily harm, disability, or |
| 7 | | | disfigurement. |
| 8 | 827.04(3) | 3rd | Impregnation of a child under 16 |
| 9 | | | years of age by person 21 years |
| 10 | | | of age or older. |
| 11 | 837.05(2) | 3rd | Giving false information about |
| 12 | | | alleged capital felony to a law |
| 13 | | | enforcement officer. |
| 14 | 872.06 | 2nd | Abuse of a dead human body. |
| 15 | 893.13(1)(c)1. | 1st | Sell, manufacture, or deliver |
| 16 | | | cocaine (or other drug prohibited |
| 17 | | | under s. 893.03(1)(a), (1)(b), |
| 18 | | | (1)(d), (2)(a), or (2)(b)) within |
| 19 | | | 1,000 feet of a child care |
| 20 | | | facility or school. |
| 21 | 893.13(1)(e) | 1st | Sell, manufacture, or deliver |
| 22 | | | cocaine or other drug prohibited |
| 23 | | | under s. 893.03(1)(a), (1)(b), |
| 24 | | | (1)(d), (2)(a), or (2)(b), within |
| 25 | | | 1,000 feet of property used for |
| 26 | | | religious services or a specified |
| 27 | | | business site. |
| 28 | 893.13(4)(a) | 1st | Deliver to minor cocaine (or |
| 29 | | | other s. 893.03(1)(a), (1)(b), |
| 30 | | | (1)(d), (2)(a), or (2)(b) drugs). |
| 31 | | | |

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- 1 893.135(1)(a)1. 1st Trafficking in cannabis, more
- 2 than 50 lbs., less than 2,000
- 3 lbs.
- 4 893.135
- 5 (1)(b)1.a. 1st Trafficking in cocaine, more than
- 6 28 grams, less than 200 grams.
- 7 893.135
- 8 (1)(c)1.a. 1st Trafficking in illegal drugs,
- 9 more than 4 grams, less than 14
- 10 grams.
- 11 893.135
- 12 (1)(d)1. 1st Trafficking in phencyclidine,
- 13 more than 28 grams, less than 200
- 14 grams.
- 15 893.135(1)(e)1. 1st Trafficking in methaqualone, more
- 16 than 200 grams, less than 5
- 17 kilograms.
- 18 893.135(1)(f)1. 1st Trafficking in amphetamine, more
- 19 than 14 grams, less than 28
- 20 grams.
- 21 893.135
- 22 (1)(g)1.a. 1st Trafficking in flunitrazepam, 4
- 23 grams or more, less than 14
- 24 grams.

25 Section 21. Subsection (1) of section 458.327, Florida
 26 Statutes, reads:

27 458.327 Penalty for violations.--

28 (1) Each of the following acts constitutes a felony of
 29 the third degree, punishable as provided in s. 775.082, s.
 30 775.083, or s. 775.084:

31 (a) The practice of medicine or an attempt to practice

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1 medicine without a license to practice in Florida.

2 (b) The use or attempted use of a license which is
3 suspended or revoked to practice medicine.

4 (c) Attempting to obtain or obtaining a license to
5 practice medicine by knowing misrepresentation.

6 (d) Attempting to obtain or obtaining a position as a
7 medical practitioner or medical resident in a clinic or
8 hospital through knowing misrepresentation of education,
9 training, or experience.

10 Section 22. Subsection (1) of section 459.013, Florida
11 Statutes, reads:

12 459.013 Penalty for violations.--

13 (1) Each of the following acts constitutes a felony of
14 the third degree, punishable as provided in s. 775.082, s.
15 775.083, or s. 775.084:

16 (a) The practice of osteopathic medicine, or an
17 attempt to practice osteopathic medicine, without an active
18 license or certificate issued pursuant to this chapter.

19 (b) The practice of osteopathic medicine by a person
20 holding a limited license, osteopathic faculty certificate, or
21 other certificate issued under this chapter beyond the scope
22 of practice authorized for such licensee or certificateholder.

23 (c) Attempting to obtain or obtaining a license to
24 practice osteopathic medicine by knowing misrepresentation.

25 (d) Attempting to obtain or obtaining a position as an
26 osteopathic medical practitioner or osteopathic medical
27 resident in a clinic or hospital through knowing
28 misrepresentation of education, training, or experience.

29 Section 23. Subsection (1) of section 460.411, Florida
30 Statutes, reads:

31 460.411 Violations and penalties.--

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1 (1) Each of the following acts constitutes a violation
2 of this chapter and is a felony of the third degree,
3 punishable as provided in s. 775.082, s. 775.083, or s.
4 775.084:

5 (a) Practicing or attempting to practice chiropractic
6 medicine without an active license or with a license
7 fraudulently obtained.

8 (b) Using or attempting to use a license to practice
9 chiropractic medicine which has been suspended or revoked.

10 Section 24. Subsection (1) of section 461.012, Florida
11 Statutes, reads:

12 461.012 Violations and penalties.--

13 (1) Each of the following acts constitutes a violation
14 of this chapter and is a felony of the third degree,
15 punishable as provided in s. 775.082, s. 775.083, or s.
16 775.084:

17 (a) Practicing or attempting to practice podiatric
18 medicine without an active license or with a license
19 fraudulently obtained.

20 (b) Advertising podiatric services without an active
21 license obtained pursuant to this chapter or with a license
22 fraudulently obtained.

23 (c) Using or attempting to use a license to practice
24 podiatric medicine which has been suspended or revoked.

25 Section 25. Section 462.17, Florida Statutes, reads:

26 462.17 Penalty for offenses relating to

27 naturopathy.--Any person who shall:

28 (1) Sell, fraudulently obtain, or furnish any
29 naturopathic diploma, license, record, or registration or aid
30 or abet in the same;

31 (2) Practice naturopathy under the cover of any

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1 diploma, license, record, or registration illegally or
2 fraudulently obtained or secured or issued unlawfully or upon
3 fraudulent representations;

4 (3) Advertise to practice naturopathy under a name
5 other than her or his own or under an assumed name;

6 (4) Falsely impersonate another practitioner of a like
7 or different name;

8 (5) Practice or advertise to practice naturopathy or
9 use in connection with her or his name any designation tending
10 to imply or to designate the person as a practitioner of
11 naturopathy without then being lawfully licensed and
12 authorized to practice naturopathy in this state; or

13 (6) Practice naturopathy during the time her or his
14 license is suspended or revoked

15

16 shall be guilty of a felony of the third degree, punishable as
17 provided in s. 775.082, s. 775.083, or s. 775.084.

18 Section 26. Subsection (1) of section 463.015, Florida
19 Statutes, reads:

20 463.015 Violations and penalties.--

21 (1) Each of the following acts constitutes a felony of
22 the third degree, punishable as provided in s. 775.082, s.
23 775.083, or s. 775.084:

24 (a) Practicing or attempting to practice optometry
25 without a valid active license issued pursuant to this
26 chapter.

27 (b) Attempting to obtain or obtaining a license to
28 practice optometry by fraudulent misrepresentation.

29 (c) Using or attempting to use a license to practice
30 optometry which has been suspended or revoked.

31 Section 27. Subsection (1) of section 464.016, Florida

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1 Statutes, reads:

2 464.016 Violations and penalties.--

3 (1) Each of the following acts constitutes a felony of
4 the third degree, punishable as provided in s. 775.082, s.
5 775.083, or s. 775.084:

6 (a) Practicing advanced or specialized, professional
7 or practical nursing, as defined in this chapter, unless
8 holding an active license or certificate to do so.

9 (b) Using or attempting to use a license or
10 certificate which has been suspended or revoked.

11 (c) Knowingly employing unlicensed persons in the
12 practice of nursing.

13 (d) Obtaining or attempting to obtain a license or
14 certificate under this chapter by misleading statements or
15 knowing misrepresentation.

16 Section 28. Subsection (2) of section 465.015, Florida
17 Statutes, reads:

18 465.015 Violations and penalties.--

19 (2) It is unlawful for any person:

20 (a) To make a false or fraudulent statement, either
21 for herself or himself or for another person, in any
22 application, affidavit, or statement presented to the board or
23 in any proceeding before the board.

24 (b) To fill, compound, or dispense prescriptions or to
25 dispense medicinal drugs if such person does not hold an
26 active license as a pharmacist in this state, is not
27 registered as an intern in this state, or is an intern not
28 acting under the direct and immediate personal supervision of
29 a licensed pharmacist.

30 (c) To sell or dispense drugs as defined in s.
31 465.003(8) without first being furnished with a prescription.

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1 (d) To sell samples or complimentary packages of drug
2 products.

3 Section 29. Subsection (1) of section 466.026, Florida
4 Statutes, reads:

5 466.026 Prohibitions; penalties.--

6 (1) Each of the following acts constitutes a felony of
7 the third degree, punishable as provided in s. 775.082, s.
8 775.083, or s. 775.084:

9 (a) Practicing dentistry or dental hygiene unless the
10 person has an appropriate, active license issued by the
11 department pursuant to this chapter.

12 (b) Using or attempting to use a license issued
13 pursuant to this chapter which license has been suspended or
14 revoked.

15 (c) Knowingly employing any person to perform duties
16 outside the scope allowed such person under this chapter or
17 the rules of the board.

18 (d) Giving false or forged evidence to the department
19 or board for the purpose of obtaining a license.

20 (e) Selling or offering to sell a diploma conferring a
21 degree from a dental college or dental hygiene school or
22 college, or a license issued pursuant to this chapter, or
23 procuring such diploma or license with intent that it shall be
24 used as evidence of that which the document stands for, by a
25 person other than the one upon whom it was conferred or to
26 whom it was granted.

27 Section 30. Section 467.201, Florida Statutes, reads:

28 467.201 Violations and penalties.--Each of the
29 following acts constitutes a felony of the third degree,
30 punishable as provided in s. 775.082, s. 775.083, or s.
31 775.084:

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1 (1) Practicing midwifery, unless holding an active
2 license to do so.

3 (2) Using or attempting to use a license which has
4 been suspended or revoked.

5 (3) The willful practice of midwifery by a student
6 midwife without a preceptor present, except in an emergency.

7 (4) Knowingly allowing a student midwife to practice
8 midwifery without a preceptor present, except in an emergency.

9 (5) Obtaining or attempting to obtain a license under
10 this chapter through bribery or fraudulent misrepresentation.

11 (6) Using the name or title "midwife" or "licensed
12 midwife" or any other name or title which implies that a
13 person is licensed to practice midwifery, unless such person
14 is duly licensed as provided in this chapter.

15 (7) Knowingly concealing information relating to the
16 enforcement of this chapter or rules adopted pursuant thereto.

17 Section 31. Section 468.366, Florida Statutes, reads:
18 468.366 Penalties for violations.--

19 (1) It is a violation of law for any person, including
20 any firm, association, or corporation, to:

21 (a) Sell or fraudulently obtain, attempt to obtain, or
22 furnish to any person a diploma, license, or record, or aid or
23 abet in the sale, procurement, or attempted procurement
24 thereof.

25 (b) Deliver respiratory care services, as defined by
26 this part or by rule of the board, under cover of any diploma,
27 license, or record that was illegally or fraudulently obtained
28 or signed or issued unlawfully or under fraudulent
29 representation.

30 (c) Deliver respiratory care services, as defined by
31 this part or by rule of the board, unless such person is duly

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1 licensed to do so under the provisions of this part or unless
2 such person is exempted pursuant to s. 468.368.

3 (d) Use, in connection with his or her name, any
4 designation tending to imply that he or she is a respiratory
5 care practitioner or a respiratory therapist, duly licensed
6 under the provisions of this part, unless he or she is so
7 licensed.

8 (e) Advertise an educational program as meeting the
9 requirements of this part, or conduct an educational program
10 for the preparation of respiratory care practitioners or
11 respiratory therapists, unless such program has been approved
12 by the board.

13 (f) Knowingly employ unlicensed persons in the
14 delivery of respiratory care services, unless exempted by this
15 part.

16 (g) Knowingly conceal information relative to any
17 violation of this part.

18 (2) Any violation of this section is a felony of the
19 third degree, punishable as provided in s. 775.082, s.
20 775.083, or s. 775.084.

21 Section 32. Subsection (1) of section 483.828, Florida
22 Statutes, reads:

23 483.828 Penalties for violations.--

24 (1) Each of the following acts constitutes a felony of
25 the third degree, punishable as provided in s. 775.082, s.
26 775.083, or s. 775.084:

27 (a) Practicing as clinical laboratory personnel
28 without an active license.

29 (b) Using or attempting to use a license to practice
30 as clinical laboratory personnel which is suspended or
31 revoked.

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1 (c) Attempting to obtain or obtaining a license to
2 practice as clinical laboratory personnel by knowing
3 misrepresentation.

4 Section 33. Subsection (9) of section 483.901, Florida
5 Statutes, reads:

6 483.901 Medical physicists; definitions; licensure.--

7 (9) PENALTY FOR VIOLATIONS.--It is a felony of the
8 third degree, punishable as provided in s. 775.082, s.
9 775.083, or s. 775.084, to:

10 (a) Practice or attempt to practice medical physics or
11 hold oneself out to be a licensed medical physicist without
12 holding an active license.

13 (b) Practice or attempt to practice medical physics
14 under a name other than one's own.

15 (c) Use or attempt to use a revoked or suspended
16 license or the license of another.

17 Section 34. Section 484.053, Florida Statutes, reads:
18 484.053 Prohibitions; penalties.--

19 (1) A person may not:

20 (a) Practice dispensing hearing aids unless the person
21 is a licensed hearing aid specialist;

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

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

25 (d) Give false, incomplete, or forged evidence to the
26 board or a member thereof for the purposes of obtaining a
27 license;

28 (e) Use or attempt to use a hearing aid specialist
29 license that is delinquent or has been suspended, revoked, or
30 placed on inactive status;

31 (f) Knowingly employ unlicensed persons in the

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1 practice of dispensing hearing aids; or

2 (g) Knowingly conceal information relative to
3 violations of this part.

4 (2) Any person who violates any of the provisions of
5 this section is guilty of a felony of the third degree,
6 punishable as provided in s. 775.082 or s. 775.083.

7 (3) If a person licensed under this part allows the
8 sale of a hearing aid by an unlicensed person not registered
9 as a trainee or fails to comply with the requirements of s.
10 484.0445(2) relating to supervision of trainees, the board
11 shall, upon determination of that violation, order the full
12 refund of moneys paid by the purchaser upon return of the
13 hearing aid to the seller's place of business.

14 Section 35. Subsection (1) of section 457.102, Florida
15 Statutes, is amended to read:

16 457.102 Definitions.--As used in this chapter:

17 (1) "Acupuncture" means a form of primary health care,
18 based on traditional Chinese medical concepts and modern
19 oriental medical techniques, that employs acupuncture
20 diagnosis and treatment, as well as adjunctive therapies and
21 diagnostic techniques, for the promotion, maintenance, and
22 restoration of health and the prevention of disease.
23 Acupuncture shall include, but not be limited to, the
24 insertion of acupuncture needles and the application of
25 moxibustion to specific areas of the human body and the use of
26 electroacupuncture, Qi Gong, oriental massage, herbal therapy,
27 dietary guidelines, and other adjunctive therapies, as defined
28 by board rule.

29 Section 36. Section 457.105, Florida Statutes, is
30 amended to read:

31 457.105 Licensure qualifications and fees.--

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1 (1) It is unlawful for any person to practice
2 acupuncture in this state unless such person has been licensed
3 by the board, is in a board-approved course of study, or is
4 otherwise exempted by this chapter.

5 (2) A person may become licensed to practice
6 acupuncture if the person applies to the department and:

7 (a) Is 21 ~~18~~ years of age or older, has good moral
8 character, and has the ability to communicate in English,
9 which is demonstrated by having passed the national written
10 examination in English or, if such examination was passed in a
11 foreign language, by also having passed a nationally
12 recognized English proficiency examination;

13 (b) Has completed 60 college credits from an
14 accredited postsecondary institution as a prerequisite to
15 enrollment in an authorized 3-year course of study in
16 acupuncture and oriental medicine, and has completed a 3-year
17 course of study in acupuncture and oriental medicine, and
18 effective July 31, 2001, a 4-year course of study in
19 acupuncture and oriental medicine, which meets standards
20 established by the board by rule, which standards include, but
21 are not limited to, successful completion of academic courses
22 in western anatomy, western physiology, western pathology,
23 western biomedical terminology, first aid, and cardiopulmonary
24 resuscitation (CPR). However, any person who enrolled in an
25 authorized course of study in acupuncture before August 1,
26 1997, must have completed only a 2-year course of study which
27 meets standards established by the board by rule, which
28 standards must include, but are not limited to, successful
29 completion of academic courses in western anatomy, western
30 physiology, and western pathology;

31 (c) Has successfully completed a board-approved

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1 national certification process, is actively licensed in a
 2 state that has examination requirements that are substantially
 3 equivalent to or more stringent than those of this state, or
 4 passes an examination administered by the department, which
 5 examination tests the applicant's competency and knowledge of
 6 the practice of acupuncture and oriental medicine. At the
 7 request of any applicant, oriental nomenclature for the points
 8 shall be used in the examination. The examination shall
 9 include a practical examination of the knowledge and skills
 10 required to practice modern and traditional acupuncture and
 11 oriental medicine, covering diagnostic and treatment
 12 techniques and procedures; and

13 (d) Pays the required fees set by the board by rule
 14 not to exceed the following amounts:

15 1. Examination fee: \$500 plus the actual per applicant
 16 cost to the department for purchase of the written and
 17 practical portions of the examination from a national
 18 organization approved by the board.

19 2. Application fee: \$300.

20 3. Reexamination fee: \$500 plus the actual per
 21 applicant cost to the department for purchase of the written
 22 and practical portions of the examination from a national
 23 organization approved by the board.

24 4. Initial biennial licensure fee: \$400, if licensed
 25 in the first half of the biennium, and \$200, if licensed in
 26 the second half of the biennium.

27 Section 37. Subsection (1) of section 457.107, Florida
 28 Statutes, is amended to read:

29 457.107 Renewal of licenses; continuing education.--

30 (1) The department shall renew a license upon receipt
 31 of the renewal application and the fee set by the board by

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1 rule, not to exceed ~~\$500~~\$700.

2 Section 38. Section 483.824, Florida Statutes, is
3 amended to read:

4 483.824 Qualifications of clinical laboratory
5 director.--A clinical laboratory director must have 4 years of
6 clinical laboratory experience with 2 years of experience in
7 the specialty to be directed or be nationally board certified
8 in the specialty to be directed, and must meet one of the
9 following requirements:

10 (1) Be a physician licensed under chapter 458 or
11 chapter 459;

12 (2) Hold an earned doctoral degree in a chemical,
13 physical, or biological science from a regionally accredited
14 institution and maintain national certification requirements
15 equal to those required by the federal Health Care Financing
16 Administration ~~be nationally certified~~; or

17 (3) For the subspecialty of oral pathology, be a
18 physician licensed under chapter 458 or chapter 459 or a
19 dentist licensed under chapter 466.

20 Section 39. February 6th of each year is designated
21 Florida Alzheimer's Disease Day.

22 Section 40. Pursuant to section 187 of chapter 99-397,
23 Laws of Florida, the Agency for Health Care Administration was
24 directed to conduct a detailed study and analysis of clinical
25 laboratory services for kidney dialysis patients in the State
26 of Florida and to report back to the Legislature no later than
27 February 1, 2000. The agency reported that additional time and
28 investigative resources were necessary to adequately respond
29 to the legislative directives. Therefore, the sum of \$230,000
30 from the Agency for Health Care Administration Tobacco
31 Settlement Trust Fund is appropriated to the Agency for Health

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1 Care Administration to contract with the University of South
2 Florida to conduct a review of laboratory test utilization,
3 any self-referral to clinical laboratories, financial
4 arrangements among kidney dialysis centers, their medical
5 directors, referring physicians, and any business
6 relationships and affiliations with clinical laboratories, and
7 the quality and effectiveness of kidney dialysis treatment in
8 this state. A report on the findings from such review shall be
9 presented to the President of the Senate, the Speaker of the
10 House of Representatives, and the chairs of the appropriate
11 substantive committees of the Legislature no later than
12 February 1, 2001.

13 Section 41. This act shall take effect July 1, 2000.

14
15

16 ===== T I T L E A M E N D M E N T =====

17 And the title is amended as follows:

18 Delete everything before the enacting clause

19

20 and insert:

21

A bill to be entitled

22

An act relating to health care; amending s.

23

455.564, F.S.; revising general licensing

24

provisions for professions under the

25

jurisdiction of the Department of Health;

26

providing for processing of applications from

27

foreign or nonresident applicants not yet

28

having a social security number; providing for

29

temporary licensure of such applicants;

30

revising provisions relating to ongoing

31

criminal investigations or prosecutions;

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1 requiring proof of restoration of civil rights
2 under certain circumstances; authorizing
3 requirement for personal appearance prior to
4 grant or denial of a license; providing for
5 tolling of application decision deadlines under
6 certain circumstances; amending s. 455.565,
7 F.S.; eliminating duplicative submission of
8 fingerprints and other information required for
9 criminal history checks; providing for certain
10 access to criminal history information through
11 the department's health care practitioner
12 credentialing system; amending s. 455.5651,
13 F.S.; authorizing the department to publish
14 certain information in practitioner profiles;
15 amending s. 455.5653, F.S.; deleting obsolete
16 language relating to scheduling and development
17 of practitioner profiles for additional health
18 care practitioners; providing the department
19 access to information on health care
20 practitioners maintained by the Agency for
21 Health Care Administration for corroboration
22 purposes; amending s. 455.5654, F.S.; providing
23 for adoption by rule of a form for submission
24 of profiling information; amending s. 455.567,
25 F.S.; expanding the prohibition against sexual
26 misconduct to cover violations against
27 guardians and representatives of patients or
28 clients; providing penalties; amending s.
29 455.624, F.S.; revising and providing grounds
30 for disciplinary action relating to having a
31 license to practice a regulated health care

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1 profession acted against, sexual misconduct,
2 inability to practice properly due to alcohol
3 or substance abuse or a mental or physical
4 condition, and testing positive for a drug
5 without a lawful prescription therefor;
6 providing for restriction of license as a
7 disciplinary action; providing for issuance of
8 a citation and assessment of a fine for certain
9 first-time violations; reenacting ss. 455.577,
10 455.631, 455.651(2), 455.712(1), 458.347(7)(g),
11 459.022(7)(f), 468.1755(1)(a), 468.719(1)(a)
12 and (2), and 468.811, F.S., relating to theft
13 or reproduction of an examination, giving false
14 information, disclosure of confidential
15 information, business establishments providing
16 regulated services without an active status
17 license, and practice violations by physician
18 assistants, nursing home administrators,
19 athletic trainers, orthotists, prosthetists,
20 pedorthists, and hearing aid specialists, to
21 incorporate amendments to sections in
22 references thereto; repealing s. 455.704, F.S.,
23 relating to the Impaired Practitioners
24 Committee; amending s. 455.707, F.S., relating
25 to impaired practitioners, to conform;
26 clarifying provisions relating to complaints
27 against impaired practitioners; amending s.
28 310.102, F.S.; revising and removing
29 references, to conform; amending s. 455.711,
30 F.S.; revising provisions relating to active
31 and inactive status licensure; eliminating

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1 reference to delinquency as a licensure status;
2 providing rulemaking authority; amending ss.
3 455.587 and 455.714, F.S.; revising references,
4 to conform; creating s. 455.719, F.S.;
5 providing that the appropriate medical
6 regulatory board, or the department when there
7 is no board, has exclusive authority to grant
8 exemptions from disqualification from
9 employment or contracting with respect to
10 persons under the licensing jurisdiction of
11 that board or the department, as applicable;
12 amending s. 455.637, F.S.; revising provisions
13 relating to sanctions against the unlicensed
14 practice of a health care profession; providing
15 legislative intent; revising and expanding
16 provisions relating to civil and administrative
17 remedies; providing criminal penalties;
18 incorporating and modifying the substance of
19 current provisions that impose a fee to combat
20 unlicensed activity and provide for disposition
21 of the proceeds thereof; providing statutory
22 construction relating to dietary supplements;
23 providing applicability; repealing s. 455.641,
24 F.S., relating to unlicensed activity fees, to
25 conform; reenacting ss. 455.574(1)(d),
26 468.1295(1), 484.014(1), and 484.056(1), F.S.,
27 relating to violation of security provisions
28 for examinations and violations involving
29 speech-language pathology, audiology,
30 opticianry, and the dispensing of hearing aids,
31 to incorporate amendments to sections in

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1 references thereto; amending s. 921.0022, F.S.;

2 modifying the criminal offense severity ranking

3 chart to add or increase the level of various

4 offenses relating to the practice of a health

5 care profession, the practice of medicine,

6 osteopathic medicine, chiropractic medicine,

7 podiatric medicine, naturopathy, optometry,

8 nursing, pharmacy, dentistry, dental hygiene,

9 midwifery, respiratory therapy, and medical

10 physics, practicing as clinical laboratory

11 personnel, and the dispensing of hearing aids;

12 reenacting ss. 458.327, 459.013, 460.411,

13 461.012, 462.17, 463.015, 464.016, 465.015,

14 466.026, 467.201, 468.366, 483.828, 483.901,

15 484.053, F.S.; providing penalties; amending s.

16 457.102, F.S.; revising the definition of

17 "acupuncture"; amending s. 457.105, F.S.;

18 revising licensure qualifications to practice

19 acupuncture; amending s. 457.107, F.S.;

20 modifying the fee for renewal of a license to

21 practice acupuncture; amending s. 483.824,

22 F.S.; revising qualifications of clinical

23 laboratory directors; designating Florida

24 Alzheimer's Disease Day; providing an

25 appropriation for continued review of clinical

26 laborabory services for kidney dialysis

27 patients and requiring a report thereon;

28 providing an effective date.

29
30
31