

Bill No. CS for SB 1028

Amendment No. \_\_\_\_

<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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Senator Campbell moved the following amendment:

**Senate Amendment (with title amendment)**  
Delete everything after the enacting clause

and insert:

Section 1. Pursuant to section 187 of chapter 99-397, Laws of Florida, the Agency for Health Care Administration was directed to conduct a detailed study and analysis of clinical laboratory services for kidney dialysis patients in the State of Florida and to report back to the Legislature no later than February 1, 2000. The agency reported that additional time and investigative resources were necessary to adequately respond to the legislative directives. Therefore, the sum of \$230,000 from the Agency for Health Care Administration Tobacco Settlement Trust Fund is appropriated to the Agency for Health Care Administration to contract with the University of South Florida to conduct a review of laboratory test utilization, any self-referral to clinical laboratories, financial arrangements among kidney dialysis centers, their medical directors, referring physicians, and any business

Bill No. CS for SB 1028

Amendment No. \_\_\_\_

1 relationships and affiliations with clinical laboratories, and  
2 the quality and effectiveness of kidney dialysis treatment in  
3 this state. A report on the findings from such review shall be  
4 presented to the President of the Senate, the Speaker of the  
5 House of Representatives, and the chairs of the appropriate  
6 substantive committees of the Legislature no later than  
7 February 1, 2001.

8  
9  
10 Section 2. Subsections (1) and (3) of section 455.564,  
11 Florida Statutes, are amended to read:

12 455.564 Department; general licensing provisions.--

13 (1)(a) Any person desiring to be licensed in a  
14 profession within the jurisdiction of the department shall  
15 apply to the department in writing to take the licensure  
16 examination. The application shall be made on a form prepared  
17 and furnished by the department. The application form must be  
18 available on the World Wide Web and the department may accept  
19 electronically submitted applications beginning July 1, 2001.  
20 The application ~~and~~ shall require the social security number  
21 of the applicant, except as provided in paragraph (b). The  
22 form shall be supplemented as needed to reflect any material  
23 change in any circumstance or condition stated in the  
24 application which takes place between the initial filing of  
25 the application and the final grant or denial of the license  
26 and which might affect the decision of the department. If an  
27 application is submitted electronically, the department may  
28 require supplemental materials, including an original  
29 signature of the applicant and verification of credentials, to  
30 be submitted in a non-electronic format. An incomplete  
31 application shall expire 1 year after initial filing. In order

Bill No. CS for SB 1028

Amendment No. \_\_\_\_

1 to further the economic development goals of the state, and  
2 notwithstanding any law to the contrary, the department may  
3 enter into an agreement with the county tax collector for the  
4 purpose of appointing the county tax collector as the  
5 department's agent to accept applications for licenses and  
6 applications for renewals of licenses. The agreement must  
7 specify the time within which the tax collector must forward  
8 any applications and accompanying application fees to the  
9 department.

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

23 (3)(a) The board, or the department when there is no  
24 board, may refuse to issue an initial license to any applicant  
25 who is under investigation or prosecution in any jurisdiction  
26 for an action that would constitute a violation of this part  
27 or the professional practice acts administered by the  
28 department and the boards, until such time as the  
29 investigation or prosecution is complete, and the time period  
30 in which the licensure application must be granted or denied  
31 shall be tolled until 15 days after the receipt of the final

Bill No. CS for SB 1028

Amendment No. \_\_\_\_

1 results of the investigation or prosecution.

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

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

17 Section 3. Paragraph (d) is added to subsection (4) of  
18 section 455.565, Florida Statutes, to read:

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

21 (4)

22 (d) Any applicant for initial licensure or renewal of  
23 licensure as a health care practitioner who submits to the  
24 Department of Health a set of fingerprints or information  
25 required for the criminal history check required under this  
26 section shall not be required to provide a subsequent set of  
27 fingerprints or other duplicate information required for a  
28 criminal history check to the Agency for Health Care  
29 Administration, the Department of Juvenile Justice, or the  
30 Department of Children and Family Services for employment or  
31 licensure with such agency or department if the applicant has

Bill No. CS for SB 1028

Amendment No. \_\_\_\_

1 undergone a criminal history check as a condition of initial  
 2 licensure or licensure renewal as a health care practitioner  
 3 with the Department of Health or any of its regulatory boards,  
 4 notwithstanding any other provision of law to the contrary. In  
 5 lieu of such duplicate submission, the Agency for Health Care  
 6 Administration, the Department of Juvenile Justice, and the  
 7 Department of Children and Family Services shall obtain  
 8 criminal history information for employment or licensure of  
 9 health care practitioners by such agency and departments from  
 10 the Department of Health's health care practitioner  
 11 credentialing system.

12           Section 4. Section 455.5651, Florida Statutes, is  
 13 amended to read:

14           455.5651 Practitioner profile; creation.--

15           (1) Beginning July 1, 1999, the Department of Health  
 16 shall compile the information submitted pursuant to s. 455.565  
 17 into a practitioner profile of the applicant submitting the  
 18 information, except that the Department of Health may develop  
 19 a format to compile uniformly any information submitted under  
 20 s. 455.565(4)(b).

21           (2) On the profile published ~~required~~ under subsection  
 22 (1), the department shall indicate if the information provided  
 23 under s. 455.565(1)(a)7. is not corroborated by a criminal  
 24 history check conducted according to this subsection. If the  
 25 information provided under s. 455.565(1)(a)7. is corroborated  
 26 by the criminal history check, the fact that the criminal  
 27 history check was performed need not be indicated on the  
 28 profile. The department, or the board having regulatory  
 29 authority over the practitioner acting on behalf of the  
 30 department, shall investigate any information received by the  
 31 department or the board when it has reasonable grounds to

Bill No. CS for SB 1028

Amendment No. \_\_\_\_

1 believe that the practitioner has violated any law that  
2 relates to the practitioner's practice.

3 (3) The Department of Health may include in each  
4 practitioner's practitioner profile that criminal information  
5 that directly relates to the practitioner's ability to  
6 competently practice his or her profession. The department  
7 must include in each practitioner's practitioner profile the  
8 following statement: "The criminal history information, if  
9 any exists, may be incomplete; federal criminal history  
10 information is not available to the public."

11 (4) The Department of Health shall include, with  
12 respect to a practitioner licensed under chapter 458 or  
13 chapter 459, a statement of how the practitioner has elected  
14 to comply with the financial responsibility requirements of s.  
15 458.320 or s. 459.0085. The department shall include, with  
16 respect to practitioners subject to s. 455.694, a statement of  
17 how the practitioner has elected to comply with the financial  
18 responsibility requirements of that section.The department  
19 shall include, with respect to practitioners licensed under  
20 chapter 458, chapter 459, or chapter 461, information relating  
21 to liability actions which has been reported under s. 455.697  
22 or s. 627.912 within the previous 10 years for any paid claim  
23 that exceeds \$5,000. Such claims information shall be reported  
24 in the context of comparing an individual practitioner's  
25 claims to the experience of other practitioners ~~physicians~~  
26 within the same specialty, or profession if the practitioner  
27 is not a specialist, to the extent such information is  
28 available to the Department of Health. If information relating  
29 to a liability action is included in a practitioner's  
30 practitioner profile, the profile must also include the  
31 following statement: "Settlement of a claim may occur for a

Bill No. CS for SB 1028

Amendment No. \_\_\_\_

1 variety of reasons that do not necessarily reflect negatively  
2 on the professional competence or conduct of the practitioner  
3 ~~physician~~. A payment in settlement of a medical malpractice  
4 action or claim should not be construed as creating a  
5 presumption that medical malpractice has occurred."

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

9 (6) The Department of Health may include in the  
10 practitioner's practitioner profile any other information that  
11 is a public record of any governmental entity and that relates  
12 to a practitioner's ability to competently practice his or her  
13 profession. However, the department must consult with the  
14 board having regulatory authority over the practitioner before  
15 such information is included in his or her profile.

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

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

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

30 455.5653 Practitioner profiles; data  
31 storage.--Effective upon this act becoming a law, the

Bill No. CS for SB 1028

Amendment No. \_\_\_\_

1 Department of Health must develop or contract for a computer  
2 system to accommodate the new data collection and storage  
3 requirements under this act pending the development and  
4 operation of a computer system by the Department of Health for  
5 handling the collection, input, revision, and update of data  
6 submitted by physicians as a part of their initial licensure  
7 or renewal to be compiled into individual practitioner  
8 profiles. The Department of Health must incorporate any data  
9 required by this act into the computer system used in  
10 conjunction with the regulation of health care professions  
11 under its jurisdiction. ~~The department must develop, by the~~  
12 ~~year 2000, a schedule and procedures for each practitioner~~  
13 ~~within a health care profession regulated within the Division~~  
14 ~~of Medical Quality Assurance to submit relevant information to~~  
15 ~~be compiled into a profile to be made available to the public.~~  
16 The Department of Health is authorized to contract with and  
17 negotiate any interagency agreement necessary to develop and  
18 implement the practitioner profiles. The Department of Health  
19 shall have access to any information or record maintained by  
20 the Agency for Health Care Administration, including any  
21 information or record that is otherwise confidential and  
22 exempt from the provisions of chapter 119 and s. 24(a), Art. I  
23 of the State Constitution, so that the Department of Health  
24 may corroborate any information that practitioners ~~physicians~~  
25 are required to report under s. 455.565.

26 Section 6. Section 455.5654, Florida Statutes, is  
27 amended to read:

28 455.5654 Practitioner profiles; rules;  
29 workshops.--Effective upon this act becoming a law, the  
30 Department of Health shall adopt rules for the form of a  
31 practitioner profile that the agency is required to prepare.



Bill No. CS for SB 1028

Amendment No. \_\_\_\_

1 The Department of Health, pursuant to chapter 120, must hold  
2 public workshops for purposes of rule development to implement  
3 this section. An agency to which information is to be  
4 submitted under this act may adopt by rule a form for the  
5 submission of the information required under s. 455.565.

6 Section 7. Subsection (1) of section 455.567, Florida  
7 Statutes, is amended to read:

8 455.567 Sexual misconduct; disqualification for  
9 license, certificate, or registration.--

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

20 Section 8. Paragraphs (f) and (u) of subsection (1),  
21 paragraph (c) of subsection (2), and subsection (3) of section  
22 455.624, Florida Statutes, are amended, and paragraphs (y) and  
23 (z) are added to subsection (1) of said section, to read:

24 455.624 Grounds for discipline; penalties;  
25 enforcement.--

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

29 (f) Having a license or the authority to practice any  
30 ~~the~~ regulated profession revoked, suspended, or otherwise  
31 acted against, including the denial of licensure, by the

Bill No. CS for SB 1028

Amendment No. \_\_\_\_

1 licensing authority of any jurisdiction, including its  
2 agencies or subdivisions, for a violation that would  
3 constitute a violation under Florida law. The licensing  
4 authority's acceptance of a relinquishment of licensure,  
5 stipulation, consent order, or other settlement, offered in  
6 response to or in anticipation of the filing of charges  
7 against the license, shall be construed as action against the  
8 license.

9 (u) Engaging or attempting to engage in sexual  
10 misconduct as defined and prohibited in s. 455.567(1)ᄁ  
11 ~~patient or client in verbal or physical sexual activity. For~~  
12 ~~the purposes of this section, a patient or client shall be~~  
13 ~~presumed to be incapable of giving free, full, and informed~~  
14 ~~consent to verbal or physical sexual activity.~~

15 (y) Being unable to practice with reasonable skill and  
16 safety to patients by reason of illness or use of alcohol,  
17 drugs, narcotics, chemicals, or any other type of material or  
18 as a result of any mental or physical condition. In enforcing  
19 this paragraph, the department shall have, upon a finding of  
20 the secretary or the secretary's designee that probable cause  
21 exists to believe that the licensee is unable to practice  
22 because of the reasons stated in this paragraph, the authority  
23 to issue an order to compel a licensee to submit to a mental  
24 or physical examination by physicians designated by the  
25 department. If the licensee refuses to comply with such order,  
26 the department's order directing such examination may be  
27 enforced by filing a petition for enforcement in the circuit  
28 court where the licensee resides or does business. The  
29 department shall be entitled to the summary procedure provided  
30 in s. 51.011. A licensee or certificateholder affected under  
31 this paragraph shall at reasonable intervals be afforded an

Bill No. CS for SB 1028

Amendment No. \_\_\_\_

1 opportunity to demonstrate that he or she can resume the  
2 competent practice of his or her profession with reasonable  
3 skill and safety to patients.

4 (z) Testing positive for any drug, as defined in s.  
5 112.0455, on any confirmed preemployment or employer-ordered  
6 drug screening when the practitioner does not have a lawful  
7 prescription and legitimate medical reason for using such  
8 drug.

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

17 (c) Restriction of practice or license.

18  
19 In determining what action is appropriate, the board, or  
20 department when there is no board, must first consider what  
21 sanctions are necessary to protect the public or to compensate  
22 the patient. Only after those sanctions have been imposed may  
23 the disciplining authority consider and include in the order  
24 requirements designed to rehabilitate the practitioner. All  
25 costs associated with compliance with orders issued under this  
26 subsection are the obligation of the practitioner.

27 (3)(a) Notwithstanding subsection (2), if the ground  
28 for disciplinary action is the first-time failure of the  
29 licensee to satisfy continuing education requirements  
30 established by the board, or by the department if there is no  
31 board, the board or department, as applicable, shall issue a

Bill No. CS for SB 1028

Amendment No. \_\_\_\_

1 citation in accordance with s. 455.617 and assess a fine, as  
2 determined by the board or department by rule. In addition,  
3 for each hour of continuing education not completed or  
4 completed late, the board or department, as applicable, may  
5 require the licensee to take 1 additional hour of continuing  
6 education for each hour not completed or completed late.

7 (b) Notwithstanding subsection (2), if the ground for  
8 disciplinary action is the first-time violation of a practice  
9 act for unprofessional conduct, as used in ss. 464.018(1)(h),  
10 467.203(1)(f), 468.365(1)(f), and 478.52(1)(f), and no actual  
11 harm to the patient occurred, the board or department, as  
12 applicable, shall issue a citation in accordance with s.  
13 455.617 and assess a penalty as determined by rule of the  
14 board or department.

15 Section 9. For the purpose of incorporating the  
16 amendment to section 455.624, Florida Statutes, in references  
17 thereto, the sections or subdivisions of Florida Statutes set  
18 forth below are reenacted to read:

19 455.577 Penalty for theft or reproduction of an  
20 examination.--In addition to, or in lieu of, any other  
21 discipline imposed pursuant to s. 455.624, the theft of an  
22 examination in whole or in part or the act of reproducing or  
23 copying any examination administered by the department,  
24 whether such examination is reproduced or copied in part or in  
25 whole and by any means, constitutes a felony of the third  
26 degree, punishable as provided in s. 775.082, s. 775.083, or  
27 s. 775.084.

28 455.631 Penalty for giving false information.--In  
29 addition to, or in lieu of, any other discipline imposed  
30 pursuant to s. 455.624, the act of knowingly giving false  
31 information in the course of applying for or obtaining a

Bill No. CS for SB 1028

Amendment No. \_\_\_\_

1 license from the department, or any board thereunder, with  
2 intent to mislead a public servant in the performance of his  
3 or her official duties, or the act of attempting to obtain or  
4 obtaining a license from the department, or any board  
5 thereunder, to practice a profession by knowingly misleading  
6 statements or knowing misrepresentations constitutes a felony  
7 of the third degree, punishable as provided in s. 775.082, s.  
8 775.083, or s. 775.084.

9 455.651 Disclosure of confidential information.--

10 (2) Any person who willfully violates any provision of  
11 this section is guilty of a misdemeanor of the first degree,  
12 punishable as provided in s. 775.082 or s. 775.083, and may be  
13 subject to discipline pursuant to s. 455.624, and, if  
14 applicable, shall be removed from office, employment, or the  
15 contractual relationship.

16 455.712 Business establishments; requirements for  
17 active status licenses.--

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

26 458.347 Physician assistants.--

27 (7) PHYSICIAN ASSISTANT LICENSURE.--

28 (g) The Board of Medicine may impose any of the  
29 penalties specified in ss. 455.624 and 458.331(2) upon a  
30 physician assistant if the physician assistant or the  
31 supervising physician has been found guilty of or is being

Bill No. CS for SB 1028

Amendment No. \_\_\_\_

1 investigated for any act that constitutes a violation of this  
2 chapter or part II of chapter 455.

3 459.022 Physician assistants.--

4 (7) PHYSICIAN ASSISTANT LICENSURE.--

5 (f) The Board of Osteopathic Medicine may impose any  
6 of the penalties specified in ss. 455.624 and 459.015(2) upon  
7 a physician assistant if the physician assistant or the  
8 supervising physician has been found guilty of or is being  
9 investigated for any act that constitutes a violation of this  
10 chapter or part II of chapter 455.

11 468.1755 Disciplinary proceedings.--

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

14 (a) Violation of any provision of s. 455.624(1) or s.  
15 468.1745(1).

16 468.719 Disciplinary actions.--

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

19 (a) A violation of any law relating to the practice of  
20 athletic training, including, but not limited to, any  
21 violation of this part, s. 455.624, or any rule adopted  
22 pursuant thereto.

23 (2) When the board finds any person guilty of any of  
24 the acts set forth in subsection (1), the board may enter an  
25 order imposing one or more of the penalties provided in s.  
26 455.624.

27 468.811 Disciplinary proceedings.--

28 (1) The following acts are grounds for disciplinary  
29 action against a licensee and the issuance of cease and desist  
30 orders or other related action by the department, pursuant to  
31 s. 455.624, against any person who engages in or aids in a

Bill No. CS for SB 1028

Amendment No. \_\_\_\_

1 violation.

2 (a) Attempting to procure a license by fraudulent  
3 misrepresentation.

4 (b) Having a license to practice orthotics,  
5 prosthetics, or pedorthics revoked, suspended, or otherwise  
6 acted against, including the denial of licensure in another  
7 jurisdiction.

8 (c) Being convicted or found guilty of or pleading  
9 nolo contendere to, regardless of adjudication, in any  
10 jurisdiction, a crime that directly relates to the practice of  
11 orthotics, prosthetics, or pedorthics, including violations of  
12 federal laws or regulations regarding orthotics, prosthetics,  
13 or pedorthics.

14 (d) Filing a report or record that the licensee knows  
15 is false, intentionally or negligently failing to file a  
16 report or record required by state or federal law, willfully  
17 impeding or obstructing such filing, or inducing another  
18 person to impede or obstruct such filing. Such reports or  
19 records include only reports or records that are signed in a  
20 person's capacity as a licensee under this act.

21 (e) Advertising goods or services in a fraudulent,  
22 false, deceptive, or misleading manner.

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

25 (g) Violation of an order of the board, agency, or  
26 department previously entered in a disciplinary hearing or  
27 failure to comply with a subpoena issued by the board, agency,  
28 or department.

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

31 (i) Gross or repeated malpractice or the failure to

Bill No. CS for SB 1028

Amendment No. \_\_\_\_

1 deliver orthotic, prosthetic, or pedorthic services with that  
2 level of care and skill which is recognized by a reasonably  
3 prudent licensed practitioner with similar professional  
4 training as being acceptable under similar conditions and  
5 circumstances.

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

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

12 484.056 Disciplinary proceedings.--

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

20 (a) Violation of any provision of s. 455.624(1), s.  
21 484.0512, or s. 484.053.

22 Section 10. Section 455.704, Florida Statutes, is  
23 repealed.

24 Section 11. 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



Bill No. CS for SB 1028

Amendment No. \_\_\_\_

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

Bill No. CS for SB 1028

Amendment No. \_\_\_\_

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

Bill No. CS for SB 1028

Amendment No. \_\_\_\_

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

Bill No. CS for SB 1028

Amendment No. \_\_\_\_

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 13. 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.

Bill No. CS for SB 1028

Amendment No. \_\_\_\_

1           (a) Active status licensees choosing inactive status  
2 at the time of license renewal must pay the inactive status  
3 renewal fee, and, if applicable, the delinquency fee and the  
4 fee to change licensure status. Active status licensees  
5 choosing inactive status at any other time than at the time of  
6 license renewal must pay the fee to change licensure status.

7           (b) An inactive status licensee may change to active  
8 status at any time, if the licensee meets all requirements for  
9 active status, ~~pays any additional licensure fees necessary to~~  
10 ~~equal those imposed on an active status licensee, pays any~~  
11 ~~applicable reactivation fees as set by the board, or the~~  
12 ~~department if there is no board, and meets all continuing~~  
13 ~~education requirements as specified in this section. Inactive~~  
14 ~~status licensees choosing active status at the time of license~~  
15 ~~renewal must pay the active status renewal fee, any applicable~~  
16 ~~reactivation fees as set by the board, or the department if~~  
17 ~~there is no board, and, if applicable, the delinquency fee and~~  
18 ~~the fee to change licensure status. Inactive status licensees~~  
19 ~~choosing active status at any other time than at the time of~~  
20 ~~license renewal must pay the difference between the inactive~~  
21 ~~status renewal fee and the active status renewal fee, if any~~  
22 ~~exists, any applicable reactivation fees as set by the board,~~  
23 ~~or the department if there is no board, and the fee to change~~  
24 ~~licensure status.~~

25           (5) A licensee must apply with a complete application,  
26 as defined by rule of the board, or the department if there is  
27 no board, to renew an active ~~status~~ or inactive status license  
28 before the license expires. If a licensee fails to renew  
29 before the license expires, the license becomes delinquent in  
30 the license cycle following expiration.

31           (6) A delinquent ~~status~~ licensee must affirmatively

Bill No. CS for SB 1028

Amendment No. \_\_\_\_

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

Bill No. CS for SB 1028

Amendment No. \_\_\_\_

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 14. 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.

Bill No. CS for SB 1028

Amendment No. \_\_\_\_

1           Section 15. 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 16. 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 17. 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



Bill No. CS for SB 1028

Amendment No. \_\_\_\_

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

Bill No. CS for SB 1028

Amendment No. \_\_\_\_

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).

Bill No. CS for SB 1028

Amendment No. \_\_\_\_

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.

Bill No. CS for SB 1028

Amendment No. \_\_\_\_

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

Bill No. CS for SB 1028

Amendment No. \_\_\_\_

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~~

Bill No. CS for SB 1028

Amendment No. \_\_\_\_

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 18. The amendment of s. 455.637, Florida

Bill No. CS for SB 1028

Amendment No. \_\_\_\_

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

3 Section 19. Section 455.641, Florida Statutes, is  
4 repealed.

5 Section 20. For the purpose of incorporating the  
6 amendment to section 455.637, Florida Statutes, in references  
7 thereto, the sections or subdivisions of Florida Statutes set  
8 forth below 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

Bill No. CS for SB 1028

Amendment No. \_\_\_\_

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



Bill No. CS for SB 1028

Amendment No. \_\_\_\_

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

Bill No. CS for SB 1028

Amendment No. \_\_\_\_

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

Bill No. CS for SB 1028

Amendment No. \_\_\_\_

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

Bill No. CS for SB 1028

Amendment No. \_\_\_\_

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.

Bill No. CS for SB 1028

Amendment No. \_\_\_\_

- 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

Bill No. CS for SB 1028

Amendment No. \_\_\_\_

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,

Bill No. CS for SB 1028

Amendment No. \_\_\_\_

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

Bill No. CS for SB 1028

Amendment No. \_\_\_\_

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



Bill No. CS for SB 1028

Amendment No. \_\_\_\_

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 21. 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

Bill No. CS for SB 1028

Amendment No. \_\_\_\_

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

Bill No. CS for SB 1028

Amendment No. \_\_\_\_

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	<del>458.327(1)(a)</del>	<del>3rd</del>	<del>Unlicensed practice of medicine.</del>
17	<del>466.026(1)(a)</del>	<del>3rd</del>	<del>Unlicensed practice of dentistry</del>
18			<del>or dental hygiene.</del>
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			

Bill No. CS for SB 1028

Amendment No. \_\_\_\_

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			

Bill No. CS for SB 1028

Amendment No. \_\_\_\_

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			

Bill No. CS for SB 1028

Amendment No.     

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			

Bill No. CS for SB 1028

Amendment No. \_\_\_\_

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

Bill No. CS for SB 1028

Amendment No. \_\_\_\_

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.



Bill No. CS for SB 1028

Amendment No. \_\_\_\_

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			

Bill No. CS for SB 1028

Amendment No. \_\_\_\_

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			

Bill No. CS for SB 1028

Amendment No. \_\_\_\_

- 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 22. 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

Bill No. CS for SB 1028

Amendment No. \_\_\_\_

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

31 460.411 Violations and penalties.--

Bill No. CS for SB 1028

Amendment No. \_\_\_\_

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 25. 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 26. 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

Bill No. CS for SB 1028

Amendment No. \_\_\_\_

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 27. 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 28. Subsection (1) of section 464.016, Florida

Bill No. CS for SB 1028

Amendment No. \_\_\_\_

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 29. 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.

Bill No. CS for SB 1028

Amendment No. \_\_\_\_

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

3 Section 30. 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 31. 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:



Bill No. CS for SB 1028

Amendment No. \_\_\_\_

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 32. 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

Bill No. CS for SB 1028

Amendment No. \_\_\_\_

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 33. 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.

Bill No. CS for SB 1028

Amendment No. \_\_\_\_

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

4           Section 34. 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 35. 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

Bill No. CS for SB 1028

Amendment No. \_\_\_\_

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

31 457.105 Licensure qualifications and fees.--

Bill No. CS for SB 1028

Amendment No. \_\_\_\_

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

Bill No. CS for SB 1028

Amendment No. \_\_\_\_

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 38. 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

Bill No. CS for SB 1028

Amendment No. \_\_\_\_

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

2 Section 39. 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 40. February 6th of each year is designated  
21 Florida Alzheimer's Disease Day.

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

23  
24

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

26 And the title is amended as follows:

27 Delete everything before the enacting clause

28  
29

and insert:

30 A bill to be entitled

31 An act relating to health care; providing an

Bill No. CS for SB 1028

Amendment No. \_\_\_\_

1           appropriation for continued review of clinical  
2           laboratory services for kidney dialysis  
3           patients and requiring a report thereon;  
4           amending s. 455.564, F.S.; revising general  
5           licensing provisions for professions under the  
6           jurisdiction of the Department of Health;  
7           providing for processing of applications from  
8           foreign or nonresident applicants not yet  
9           having a social security number; providing for  
10          temporary licensure of such applicants;  
11          revising provisions relating to ongoing  
12          criminal investigations or prosecutions;  
13          requiring proof of restoration of civil rights  
14          under certain circumstances; authorizing  
15          requirement for personal appearance prior to  
16          grant or denial of a license; providing for  
17          tolling of application decision deadlines under  
18          certain circumstances; amending s. 455.565,  
19          F.S.; eliminating duplicative submission of  
20          fingerprints and other information required for  
21          criminal history checks; providing for certain  
22          access to criminal history information through  
23          the department's health care practitioner  
24          credentialing system; amending s. 455.5651,  
25          F.S.; authorizing the department to publish  
26          certain information in practitioner profiles;  
27          amending s. 455.5653, F.S.; deleting obsolete  
28          language relating to scheduling and development  
29          of practitioner profiles for additional health  
30          care practitioners; providing the department  
31          access to information on health care



Bill No. CS for SB 1028

Amendment No. \_\_\_\_

1 practitioners maintained by the Agency for  
2 Health Care Administration for corroboration  
3 purposes; amending s. 455.5654, F.S.; providing  
4 for adoption by rule of a form for submission  
5 of profiling information; amending s. 455.567,  
6 F.S.; expanding the prohibition against sexual  
7 misconduct to cover violations against  
8 guardians and representatives of patients or  
9 clients; providing penalties; amending s.  
10 455.624, F.S.; revising and providing grounds  
11 for disciplinary action relating to having a  
12 license to practice a regulated health care  
13 profession acted against, sexual misconduct,  
14 inability to practice properly due to alcohol  
15 or substance abuse or a mental or physical  
16 condition, and testing positive for a drug  
17 without a lawful prescription therefor;  
18 providing for restriction of license as a  
19 disciplinary action; providing for issuance of  
20 a citation and assessment of a fine for certain  
21 first-time violations; reenacting ss. 455.577,  
22 455.631, 455.651(2), 455.712(1), 458.347(7)(g),  
23 459.022(7)(f), 468.1755(1)(a), 468.719(1)(a)  
24 and (2), 468.811, and 484.056(1)(a), F.S.,  
25 relating to theft or reproduction of an  
26 examination, giving false information,  
27 disclosure of confidential information,  
28 business establishments providing regulated  
29 services without an active status license, and  
30 practice violations by physician assistants,  
31 nursing home administrators, athletic trainers,

Bill No. CS for SB 1028

Amendment No. \_\_\_\_

1 orthotists, prosthetists, pedorthists, and  
2 hearing aid specialists, to incorporate the  
3 amendment to s. 455.624, F.S., in references  
4 thereto; repealing s. 455.704, F.S., relating  
5 to the Impaired Practitioners Committee;  
6 amending s. 455.707, F.S., relating to impaired  
7 practitioners, to conform; clarifying  
8 provisions relating to complaints against  
9 impaired practitioners; amending s. 310.102,  
10 F.S.; revising and removing references, to  
11 conform; amending s. 455.711, F.S.; revising  
12 provisions relating to active and inactive  
13 status licensure; eliminating reference to  
14 delinquency as a licensure status; providing  
15 rulemaking authority; amending ss. 455.587 and  
16 455.714, F.S.; revising references, to conform;  
17 creating s. 455.719, F.S.; providing that the  
18 appropriate medical regulatory board, or the  
19 department when there is no board, has  
20 exclusive authority to grant exemptions from  
21 disqualification from employment or contracting  
22 with respect to persons under the licensing  
23 jurisdiction of that board or the department,  
24 as applicable; amending s. 943.0585, F.S.;  
25 providing expunged criminal history records to  
26 the department under certain circumstances;  
27 amending s. 943.059, F.S.; providing sealed  
28 criminal history records to the department  
29 under certain circumstances; amending s.  
30 455.637, F.S.; revising provisions relating to  
31 sanctions against the unlicensed practice of a

Bill No. CS for SB 1028

Amendment No. \_\_\_\_

1 health care profession; providing legislative  
2 intent; revising and expanding provisions  
3 relating to civil and administrative remedies;  
4 providing criminal penalties; incorporating and  
5 modifying the substance of current provisions  
6 that impose a fee to combat unlicensed activity  
7 and provide for disposition of the proceeds  
8 thereof; providing statutory construction  
9 relating to dietary supplements; providing  
10 applicability; repealing s. 455.641, F.S.,  
11 relating to unlicensed activity fees, to  
12 conform; reenacting ss. 455.574(1)(d),  
13 468.1295(1), 484.014(1), and 484.056(1), F.S.,  
14 relating to violation of security provisions  
15 for examinations and violations involving  
16 speech-language pathology, audiology,  
17 opticianry, and the dispensing of hearing aids,  
18 to incorporate the amendment to s. 455.637,  
19 F.S., in references thereto; amending s.  
20 921.0022, F.S.; modifying the criminal offense  
21 severity ranking chart to add or increase the  
22 level of various offenses relating to the  
23 practice of a health care profession, the  
24 practice of medicine, osteopathic medicine,  
25 chiropractic medicine, podiatric medicine,  
26 naturopathy, optometry, nursing, pharmacy,  
27 dentistry, dental hygiene, midwifery,  
28 respiratory therapy, and medical physics,  
29 practicing as clinical laboratory personnel,  
30 and the dispensing of hearing aids; amending s.  
31 457.102, F.S.; revising the definition of

Bill No. CS for SB 1028

Amendment No. \_\_\_\_

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

2           revising licensure qualifications to practice

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

4           modifying the fee for renewal of a license to

5           practice acupuncture; amending s. 483.824,

6           F.S.; revising qualifications of clinical

7           laboratory directors; designating Florida

8           Alzheimer's Disease Day; providing an effective

9           date.

10

11           WHEREAS, the protection of Florida residents and

12           visitors from death or serious bodily injury that may be

13           caused by unlicensed health care practitioners is a state

14           priority, and

15           WHEREAS, the existing criminal prohibitions have not

16           been vigorously enforced in the past, and

17           WHEREAS, the existing penalties are not severe enough

18           to deter the unlicensed practice of the health care

19           professions, and

20           WHEREAS, persons convicted of practicing without a

21           license should be imprisoned so they cannot continue to hurt

22           Floridians, and

23           WHEREAS, persons convicted of practicing without a

24           license who are not citizens of this country should be

25           deported following incarceration to guarantee that they cannot

26           continue to endanger Floridians, NOW, THEREFORE,

27

28

29

30

31