

By the Committee on Rules & Calendar and Representative
 Arnall

1 A reviser's bill to be entitled
 2 An act relating to the Florida Statutes;
 3 amending ss. 61.13015, 120.80, 215.37, 240.215,
 4 310.102, 316.1932, 316.1933, 337.162, 381.0039,
 5 383.32, 383.402, 383.410, 395.0193, 395.0197,
 6 395.3025, 400.491, 400.518, 400.94, 408.061,
 7 408.704, 409.2598, 440.13, 455.01, 455.203,
 8 455.207, 455.213, 455.214, 455.217, 455.218,
 9 455.2185, 455.225, 455.227, 455.2273, 455.228,
 10 455.243, 457.103, 458.307, 458.3115, 458.3124,
 11 458.319, 458.331, 458.343, 458.347, 458.351,
 12 459.004, 459.008, 459.015, 459.019, 459.022,
 13 459.026, 460.404, 460.4061, 460.407, 461.004,
 14 461.007, 461.013, 463.003, 463.016, 464.004,
 15 465.004, 465.006, 465.016, 465.017, 466.004,
 16 466.007, 466.018, 466.022, 466.028, 468.1135,
 17 468.1145, 468.1185, 468.1295, 468.1665,
 18 468.1755, 468.1756, 468.205, 468.219, 468.354,
 19 468.364, 468.365, 468.402, 468.4315, 468.453,
 20 468.456, 468.4571, 468.506, 468.507, 468.513,
 21 468.523, 468.526, 468.532, 468.535, 468.703,
 22 468.705, 468.707, 468.711, 468.719, 468.801,
 23 468.811, 468.823, 468.824, 468.825, 469.009,
 24 470.003, 470.036, 471.008, 471.015, 471.033,
 25 471.038, 472.015, 473.3035, 473.308, 473.311,
 26 473.323, 474.204, 474.214, 475.021, 475.181,
 27 475.25, 475.624, 476.204, 477.029, 480.044,
 28 481.2055, 481.213, 481.225, 481.2251, 481.306,
 29 481.311, 481.325, 483.805, 483.807, 483.901,
 30 484.014, 484.042, 484.056, 486.023, 486.115,
 31 486.172, 489.129, 489.533, 490.004, 490.00515,

1 490.009, 490.0141, 490.015, 491.004, 491.0047,
2 491.009, 491.0141, 491.015, 492.103, 492.113,
3 627.668, 627.912, 636.039, 641.27, 641.316,
4 641.55, 766.106, 766.305, 766.314, 817.505, and
5 937.031, F.S.; renumbering and amending ss.
6 455.501, 455.504, 455.521, 455.534, 455.541,
7 455.544, 455.557, 455.561, 455.564, 455.565,
8 455.5651, 455.5653, 455.5654, 455.574, 455.577,
9 455.581, 455.584, 455.587, 455.594, 455.597,
10 455.604, 455.614, 455.617, 455.621, 455.624,
11 455.627, 455.631, 455.637, 455.641, 455.644,
12 455.651, 455.654, 455.667, 455.671, 455.681,
13 455.687, 455.694, 455.698, 455.707, 455.711,
14 455.712, and 455.717, F.S.; renumbering ss.
15 455.507, 455.511, 455.514, 455.517, 455.524,
16 455.527, 455.531, 455.537, 455.547, 455.551,
17 455.554, 455.5652, 455.5655, 455.5656, 455.567,
18 455.571, 455.601, 455.607, 455.611, 455.634,
19 455.647, 455.657, 455.664, 455.674, 455.677,
20 455.684, 455.691, 455.697, 455.699, 455.701,
21 455.704, 455.714, 456.30, 456.31, 456.32,
22 456.33, and 456.34, F.S., pursuant to s.
23 11.242, F.S.; transferring sections that
24 comprise part II of chapter 455, pertaining to
25 regulation of health-related professions, to
26 chapter 456; transferring sections that
27 comprise present chapter 456, pertaining to
28 hypnosis, to new chapter 485; and amending
29 various provisions to correct cross-references
30 to conform the Florida Statutes to such
31 transfers.

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

2

3 Section 1. Subsection (1) of section 61.13015, Florida
4 Statutes, is amended to read:

5 61.13015 Petition for suspension or denial of
6 professional licenses and certificates.--

7 (1) An obligee may petition the court which entered
8 the support order or the court which is enforcing the support
9 order for an order to suspend or deny the license or
10 certificate issued pursuant to chapters 231, 409, 455, 456,
11 and 559 of any obligor with a delinquent child support
12 obligation. However, no petition may be filed until the
13 obligee has exhausted all other available remedies. The
14 purpose of this section is to promote the public policy of s.
15 409.2551.

16 Section 2. Paragraph (b) of subsection (4) and
17 subsection (15) of section 120.80, Florida Statutes, are
18 amended to read:

19 120.80 Exceptions and special requirements;
20 agencies.--

21 (4) DEPARTMENT OF BUSINESS AND PROFESSIONAL
22 REGULATION.--

23 (b) Professional regulation.--Notwithstanding s.
24 120.57(1)(a), formal hearings may not be conducted by the
25 Secretary of Business and Professional Regulation or a board
26 or member of a board within the Department of Business and
27 Professional Regulation for matters relating to the regulation
28 of professions, as defined by ~~part I~~ of chapter 455.

29 (15) DEPARTMENT OF HEALTH.--Notwithstanding s.
30 120.57(1)(a), formal hearings may not be conducted by the
31 Secretary of Health, the director of the Agency for Health

1 Care Administration, or a board or member of a board within
2 the Department of Health or the Agency for Health Care
3 Administration for matters relating to the regulation of
4 professions, as defined by ~~part II of~~ chapter 456 ~~455~~.
5 Notwithstanding s. 120.57(1)(a), hearings conducted within the
6 Department of Health in execution of the Special Supplemental
7 Nutrition Program for Women, Infants, and Children; Child Care
8 Food Program; Children's Medical Services Program; and the
9 exemption from disqualification reviews for certified nurse
10 assistants program need not be conducted by an administrative
11 law judge assigned by the division. The Department of Health
12 may contract with the Department of Children and Family
13 Services for a hearing officer in these matters.

14 Section 3. Subsections (1), (2), and (4) of section
15 215.37, Florida Statutes, are amended to read:

16 215.37 Department of Business and Professional
17 Regulation and the boards to be financed from fees collected;
18 moneys deposited in trust fund; service charge imposed and
19 deposited into the General Revenue Fund; appropriation.--

20 (1) All fees, licenses, and other charges assessed to
21 practitioners of professions, as defined in ~~part I of~~ chapter
22 455, by the Department of Business and Professional Regulation
23 or a board within the department shall be collected by the
24 department and shall be deposited in the State Treasury into
25 the Professional Regulation Trust Fund to the credit of the
26 department.

27 (2) The regulation by the department of professions,
28 as defined in ~~part I of~~ chapter 455, shall be financed solely
29 from revenue collected by it from fees and other charges and
30 deposited in the Professional Regulation Trust Fund, and all
31 such revenue is hereby appropriated to the department.

1 However, it is legislative intent that each profession shall
2 operate within its anticipated fees.

3 (4) The department shall submit a balanced legislative
4 budget for its regulation of professions, as defined in ~~part I~~
5 ~~of~~ chapter 455, by division and operating budgets as required
6 of all governmental subdivisions in chapters 215 and 216, to
7 be based upon anticipated revenues. Prior to development of
8 the department's budget request to the Legislature, the
9 department shall request that each board submit its proposed
10 budget for the operation of the board, the board's office, and
11 other activities or expanded programs of the board for
12 possible inclusion in the department's budget request. Prior
13 to submission of the department's budget request to the
14 Legislature, each board, at a regularly scheduled board
15 meeting, shall review the proposed request related to its
16 regulation of a profession, as defined in ~~part I~~ of chapter
17 455, and either approve the proposed request or submit to the
18 secretary written exceptions to the department's proposed
19 budget. Any board making such exceptions must specify its
20 objections, the reasons for such exceptions, and proposed
21 alternatives to the department's request. The secretary shall
22 consider all exceptions. When a majority of boards agree on an
23 exception, the secretary shall make adjustments to the
24 department's budget request related to its regulation of
25 professions, as defined in ~~part I~~ of chapter 455, to reflect
26 the majority position. If appropriate, the secretary shall
27 file an exception on behalf of the department. The secretary
28 shall submit to the Legislature the department's amended
29 budget request along with any unresolved exceptions.

30 Section 4. Subsection (3) of section 240.215, Florida
31 Statutes, is amended to read:

1 240.215 Payment of costs of civil action against
2 employees or members of the Board of Regents.--

3 (3) All faculty physicians employed by the Board of
4 Regents who are subject to the requirements of s. 456.013
5 ~~455.564~~ shall complete their risk management continuing
6 education on issues specific to academic medicine. Such
7 continuing education shall include instruction for the
8 supervision of resident physicians as required by the
9 Accreditation Council for Graduate Medical Education. The
10 boards described in s. 456.013 ~~455.564~~ shall adopt rules to
11 implement the provisions of this subsection.

12 Section 5. Subsection (1) of section 310.102, Florida
13 Statutes, is amended to read:

14 310.102 Treatment programs for impaired pilots and
15 deputy pilots.--

16 (1) The department shall, by rule, designate approved
17 treatment programs for pilots and deputy pilots under this
18 section. The department may adopt rules setting forth
19 appropriate criteria for approval of treatment providers based
20 on the policies and guidelines established by the Impaired
21 Practitioners Committee under s. 456.075 ~~455.704~~.

22 Section 6. Paragraph (f) of subsection (1) of section
23 316.1932, Florida Statutes, is amended to read:

24 316.1932 Breath, blood, and urine tests for alcohol,
25 chemical substances, or controlled substances; implied
26 consent; right to refuse.--

27 (1)

28 (f)1. The tests determining the weight of alcohol in
29 the defendant's blood or breath shall be administered at the
30 request of a law enforcement officer substantially in
31 accordance with rules of the Department of Law Enforcement.

1 Such rules must specify precisely the test or tests that are
2 approved by the Department of Law Enforcement for reliability
3 of result and ease of administration, and must provide an
4 approved method of administration which must be followed in
5 all such tests given under this section. However, the failure
6 of a law enforcement officer to request the withdrawal of
7 blood does not affect the admissibility of a test of blood
8 withdrawn for medical purposes.

9 2.a. Only a physician, certified paramedic, registered
10 nurse, licensed practical nurse, other personnel authorized by
11 a hospital to draw blood, or duly licensed clinical laboratory
12 director, supervisor, technologist, or technician, acting at
13 the request of a law enforcement officer, may withdraw blood
14 for the purpose of determining its alcoholic content or the
15 presence of chemical substances or controlled substances
16 therein. However, the failure of a law enforcement officer to
17 request the withdrawal of blood does not affect the
18 admissibility of a test of blood withdrawn for medical
19 purposes.

20 b. Notwithstanding any provision of law pertaining to
21 the confidentiality of hospital records or other medical
22 records, if a health care provider, who is providing medical
23 care in a health care facility to a person injured in a motor
24 vehicle crash, becomes aware, as a result of any blood test
25 performed in the course of that medical treatment, that the
26 person's blood-alcohol level meets or exceeds the
27 blood-alcohol level specified in s. 316.193(1)(b), the health
28 care provider may notify any law enforcement officer or law
29 enforcement agency. Any such notice must be given within a
30 reasonable time after the health care provider receives the
31 test result. Any such notice shall be used only for the

1 purpose of providing the law enforcement officer with
2 reasonable cause to request the withdrawal of a blood sample
3 pursuant to this section.

4 c. The notice shall consist only of the name of the
5 person being treated, the name of the person who drew the
6 blood, the blood-alcohol level indicated by the test, and the
7 date and time of the administration of the test.

8 d. Nothing contained in s. 395.3025(4), s. 456.057
9 ~~455.667~~, or any applicable practice act affects the authority
10 to provide notice under this section, and the health care
11 provider is not considered to have breached any duty owed to
12 the person under s. 395.3025(4), s. 456.057 ~~455.667~~, or any
13 applicable practice act by providing notice or failing to
14 provide notice. It shall not be a breach of any ethical,
15 moral, or legal duty for a health care provider to provide
16 notice or fail to provide notice.

17 e. A civil, criminal, or administrative action may not
18 be brought against any person or health care provider
19 participating in good faith in the provision of notice or
20 failure to provide notice as provided in this section. Any
21 person or health care provider participating in the provision
22 of notice or failure to provide notice as provided in this
23 section shall be immune from any civil or criminal liability
24 and from any professional disciplinary action with respect to
25 the provision of notice or failure to provide notice under
26 this section. Any such participant has the same immunity with
27 respect to participating in any judicial proceedings resulting
28 from the notice or failure to provide notice.

29 3. The person tested may, at his or her own expense,
30 have a physician, registered nurse, other personnel authorized
31 by a hospital to draw blood, or duly licensed clinical

1 laboratory director, supervisor, technologist, or technician,
2 or other person of his or her own choosing administer an
3 independent test in addition to the test administered at the
4 direction of the law enforcement officer for the purpose of
5 determining the amount of alcohol in the person's blood or
6 breath or the presence of chemical substances or controlled
7 substances at the time alleged, as shown by chemical analysis
8 of his or her blood or urine, or by chemical or physical test
9 of his or her breath. The failure or inability to obtain an
10 independent test by a person does not preclude the
11 admissibility in evidence of the test taken at the direction
12 of the law enforcement officer. The law enforcement officer
13 shall not interfere with the person's opportunity to obtain
14 the independent test and shall provide the person with timely
15 telephone access to secure the test, but the burden is on the
16 person to arrange and secure the test at the person's own
17 expense.

18 4. Upon the request of the person tested, full
19 information concerning the test taken at the direction of the
20 law enforcement officer shall be made available to the person
21 or his or her attorney.

22 5. A hospital, clinical laboratory, medical clinic, or
23 similar medical institution or physician, certified paramedic,
24 registered nurse, licensed practical nurse, other personnel
25 authorized by a hospital to draw blood, or duly licensed
26 clinical laboratory director, supervisor, technologist, or
27 technician, or other person assisting a law enforcement
28 officer does not incur any civil or criminal liability as a
29 result of the withdrawal or analysis of a blood or urine
30 specimen, or the chemical or physical test of a person's
31 breath pursuant to accepted medical standards when requested

1 by a law enforcement officer, regardless of whether or not the
2 subject resisted administration of the test.

3 Section 7. Paragraph (a) of subsection (2) of section
4 316.1933, Florida Statutes, is amended to read:

5 316.1933 Blood test for impairment or intoxication in
6 cases of death or serious bodily injury; right to use
7 reasonable force.--

8 (2)(a) Only a physician, certified paramedic,
9 registered nurse, licensed practical nurse, other personnel
10 authorized by a hospital to draw blood, or duly licensed
11 clinical laboratory director, supervisor, technologist, or
12 technician, acting at the request of a law enforcement
13 officer, may withdraw blood for the purpose of determining the
14 alcoholic content thereof or the presence of chemical
15 substances or controlled substances therein. However, the
16 failure of a law enforcement officer to request the withdrawal
17 of blood shall not affect the admissibility of a test of blood
18 withdrawn for medical purposes.

19 1. Notwithstanding any provision of law pertaining to
20 the confidentiality of hospital records or other medical
21 records, if a health care provider, who is providing medical
22 care in a health care facility to a person injured in a motor
23 vehicle crash, becomes aware, as a result of any blood test
24 performed in the course of that medical treatment, that the
25 person's blood-alcohol level meets or exceeds the
26 blood-alcohol level specified in s. 316.193(1)(b), the health
27 care provider may notify any law enforcement officer or law
28 enforcement agency. Any such notice must be given within a
29 reasonable time after the health care provider receives the
30 test result. Any such notice shall be used only for the
31 purpose of providing the law enforcement officer with

1 reasonable cause to request the withdrawal of a blood sample
2 pursuant to this section.

3 2. The notice shall consist only of the name of the
4 person being treated, the name of the person who drew the
5 blood, the blood-alcohol level indicated by the test, and the
6 date and time of the administration of the test.

7 3. Nothing contained in s. 395.3025(4), s. 456.057
8 ~~455.667~~, or any applicable practice act affects the authority
9 to provide notice under this section, and the health care
10 provider is not considered to have breached any duty owed to
11 the person under s. 395.3025(4), s. 456.057 ~~455.667~~, or any
12 applicable practice act by providing notice or failing to
13 provide notice. It shall not be a breach of any ethical,
14 moral, or legal duty for a health care provider to provide
15 notice or fail to provide notice.

16 4. A civil, criminal, or administrative action may not
17 be brought against any person or health care provider
18 participating in good faith in the provision of notice or
19 failure to provide notice as provided in this section. Any
20 person or health care provider participating in the provision
21 of notice or failure to provide notice as provided in this
22 section shall be immune from any civil or criminal liability
23 and from any professional disciplinary action with respect to
24 the provision of notice or failure to provide notice under
25 this section. Any such participant has the same immunity with
26 respect to participating in any judicial proceedings resulting
27 from the notice or failure to provide notice.

28 Section 8. Subsections (2) and (3) of section 337.162,
29 Florida Statutes, are amended to read:

30 337.162 Professional services.--Professional services
31 provided to the department that fall below acceptable

1 professional standards may result in transportation project
2 delays, overruns, and reduced facility life. To minimize these
3 effects and ensure that quality services are received, the
4 Legislature hereby declares that licensed professionals shall
5 be held accountable for the quality of the services they
6 provide to the department.

7 (2) Any person who is employed by the department and
8 who is licensed by the Department of Business and Professional
9 Regulation and who, through the course of his or her
10 employment, has knowledge or reason to believe that any person
11 has violated the provisions of state professional licensing
12 laws or rules shall submit a complaint about the violations to
13 the Department of Business and Professional Regulation.
14 Failure to submit a complaint about the violations may be
15 grounds for disciplinary action pursuant to ~~part I~~ of chapter
16 455 and the state licensing law applicable to that licensee.
17 However, licensees under part II of chapter 475 are exempt
18 from the provisions of s. 455.227(1)(i). The complaint
19 submitted to the Department of Business and Professional
20 Regulation and maintained by the department is confidential
21 and exempt from s. 119.07(1).

22 (3) Any complaints submitted to the Department of
23 Business and Professional Regulation pursuant to subsections
24 (1) and (2) are confidential and exempt from s. 119.07(1)
25 pursuant to ~~part I~~ of chapter 455 and applicable state law.

26 Section 9. Section 381.0039, Florida Statutes, is
27 amended to read:

28 381.0039 Oversight of acquired immune deficiency
29 syndrome education programs.--The Department of Education, the
30 Department of Health, and the Department of Business and
31 Professional Regulation are directed to establish an

1 interagency agreement to oversee the quality and cost
2 efficiency of acquired immune deficiency syndrome education
3 programs being administered in the state pursuant to chapters
4 381, 456,943, and 945 ~~and part II of chapter 455~~. The
5 interagency agreement shall also include development, where
6 appropriate, of methods for coordinating educational programs
7 for various professional groups.

8 Section 10. Subsection (3) of section 383.32, Florida
9 Statutes, is amended to read:

10 383.32 Clinical records.--

11 (3) Clinical records shall be kept confidential in
12 accordance with s. 456.057 ~~455.667~~ and exempt from the
13 provisions of s. 119.07(1). A client's clinical records shall
14 be open to inspection only under the following conditions:

15 (a) A consent to release information has been signed
16 by the client; or

17 (b) The review is made by the agency for a licensure
18 survey or complaint investigation.

19 Section 11. Paragraph (a) of subsection (8) of section
20 383.402, Florida Statutes, is amended to read:

21 383.402 Child abuse death review; State Child Abuse
22 Death Review Committee; local child abuse death review
23 committees.--

24 (8) Notwithstanding any other law, the chairperson of
25 the State Child Abuse Death Review Committee, or the
26 chairperson of a local committee, shall be provided with
27 access to any information or records that pertain to a child
28 whose death is being reviewed by the committee and that are
29 necessary for the committee to carry out its duties, including
30 information or records that pertain to the child's family, as
31 follows:

1 (a) Patient records in the possession of a public or
2 private provider of medical, dental, or mental health care,
3 including, but not limited to, a facility licensed under
4 chapter 393, chapter 394, or chapter 395, or a health care
5 practitioner as defined in s. 456.001 ~~455.501~~. Providers may
6 charge a fee for copies not to exceed 50 cents per page for
7 paper records and \$1 per fiche for microfiche records.

8 Section 12. Subsection (2) of section 383.410, Florida
9 Statutes, is amended to read:

10 383.410 Confidentiality.--

11 (2) All information that is confidential or exempt
12 from public records requirements by operation of law and that
13 is obtained by a hospital or a health care practitioner as
14 defined by s. 456.001 ~~455.501~~ from the State Child Abuse Death
15 Review Committee or a local committee, or a panel or committee
16 assembled by the state committee or a local committee pursuant
17 to s. 383.402, shall retain that status and is exempt from s.
18 119.07(1) and s. 24(a), Art. I of the State Constitution.

19 Section 13. Subsections (1) and (4) of section
20 395.0193, Florida Statutes, are amended to read:

21 395.0193 Licensed facilities; peer review;
22 disciplinary powers; agency or partnership with physicians.--

23 (1) It is the intent of the Legislature that good
24 faith participants in the process of investigating and
25 disciplining physicians pursuant to the state-mandated peer
26 review process shall, in addition to receiving immunity from
27 retaliatory tort suits pursuant to s. 456.073(12)~~455.621(12)~~,
28 be protected from federal antitrust suits filed under the
29 Sherman Anti-Trust Act, 15 U.S.C.A. ss. 1 et seq. Such intent
30 is within the public policy of the state to secure the
31 provision of quality medical services to the public.

1 (4) Pursuant to ss. 458.337 and 459.016, any
2 disciplinary actions taken under subsection (3) shall be
3 reported in writing to the Division of Health Quality
4 Assurance of the agency within 30 working days after its
5 initial occurrence, regardless of the pendency of appeals to
6 the governing board of the hospital. The notification shall
7 identify the disciplined practitioner, the action taken, and
8 the reason for such action. All final disciplinary actions
9 taken under subsection (3), if different from those which were
10 reported to the agency within 30 days after the initial
11 occurrence, shall be reported within 10 working days to the
12 Division of Health Quality Assurance of the agency in writing
13 and shall specify the disciplinary action taken and the
14 specific grounds therefor. The division shall review each
15 report and determine whether it potentially involved conduct
16 by the licensee that is subject to disciplinary action, in
17 which case s. 456.073 ~~455.621~~ shall apply. The reports are not
18 subject to inspection under s. 119.07(1) even if the
19 division's investigation results in a finding of probable
20 cause.

21 Section 14. Paragraph (b) of subsection (6) and
22 subsections (8) and (13) of section 395.0197, Florida
23 Statutes, are amended to read:

24 395.0197 Internal risk management program.--

25 (6)

26 (b) The information reported to the agency pursuant to
27 paragraph (a) which relates to persons licensed under chapter
28 458, chapter 459, chapter 461, or chapter 466 shall be
29 reviewed by the agency. The agency shall determine whether
30 any of the incidents potentially involved conduct by a health
31

1 care professional who is subject to disciplinary action, in
2 which case the provisions of s. 456.073 ~~455.621~~ shall apply.

3 (8) Any of the following adverse incidents, whether
4 occurring in the licensed facility or arising from health care
5 prior to admission in the licensed facility, shall be reported
6 by the facility to the agency within 15 calendar days after
7 its occurrence:

8 (a) The death of a patient;

9 (b) Brain or spinal damage to a patient;

10 (c) The performance of a surgical procedure on the
11 wrong patient;

12 (d) The performance of a wrong-site surgical
13 procedure;

14 (e) The performance of a wrong surgical procedure;

15 (f) The performance of a surgical procedure that is
16 medically unnecessary or otherwise unrelated to the patient's
17 diagnosis or medical condition;

18 (g) The surgical repair of damage resulting to a
19 patient from a planned surgical procedure, where the damage is
20 not a recognized specific risk, as disclosed to the patient
21 and documented through the informed-consent process; or

22 (h) The performance of procedures to remove unplanned
23 foreign objects remaining from a surgical procedure.

24

25 The agency may grant extensions to this reporting requirement
26 for more than 15 days upon justification submitted in writing
27 by the facility administrator to the agency. The agency may
28 require an additional, final report. These reports shall not
29 be available to the public pursuant to s. 119.07(1) or any
30 other law providing access to public records, nor be
31 discoverable or admissible in any civil or administrative

1 action, except in disciplinary proceedings by the agency or
2 the appropriate regulatory board, nor shall they be available
3 to the public as part of the record of investigation for and
4 prosecution in disciplinary proceedings made available to the
5 public by the agency or the appropriate regulatory board.
6 However, the agency or the appropriate regulatory board shall
7 make available, upon written request by a health care
8 professional against whom probable cause has been found, any
9 such records which form the basis of the determination of
10 probable cause. The agency may investigate, as it deems
11 appropriate, any such incident and prescribe measures that
12 must or may be taken in response to the incident. The agency
13 shall review each incident and determine whether it
14 potentially involved conduct by the health care professional
15 who is subject to disciplinary action, in which case the
16 provisions of s. 456.073 ~~455.621~~ shall apply.

17 (13) The agency shall have access to all licensed
18 facility records necessary to carry out the provisions of this
19 section. The records obtained by the agency under subsection
20 (6), subsection (8), or subsection (9) are not available to
21 the public under s. 119.07(1), nor shall they be discoverable
22 or admissible in any civil or administrative action, except in
23 disciplinary proceedings by the agency or the appropriate
24 regulatory board, nor shall records obtained pursuant to s.
25 456.071 ~~455.611~~ be available to the public as part of the
26 record of investigation for and prosecution in disciplinary
27 proceedings made available to the public by the agency or the
28 appropriate regulatory board. However, the agency or the
29 appropriate regulatory board shall make available, upon
30 written request by a health care professional against whom
31 probable cause has been found, any such records which form the

1 basis of the determination of probable cause, except that,
2 with respect to medical review committee records, s. 766.101
3 controls.

4 Section 15. Paragraph (e) of subsection (4) of section
5 395.3025, Florida Statutes, is amended to read:

6 395.3025 Patient and personnel records; copies;
7 examination.--

8 (4) Patient records are confidential and must not be
9 disclosed without the consent of the person to whom they
10 pertain, but appropriate disclosure may be made without such
11 consent to:

12 (e) The agency upon subpoena issued pursuant to s.
13 456.071 ~~455.611~~, but the records obtained thereby must be used
14 solely for the purpose of the agency and the appropriate
15 professional board in its investigation, prosecution, and
16 appeal of disciplinary proceedings. If the agency requests
17 copies of the records, the facility shall charge no more than
18 its actual copying costs, including reasonable staff time. The
19 records must be sealed and must not be available to the public
20 pursuant to s. 119.07(1) or any other statute providing access
21 to records, nor may they be available to the public as part of
22 the record of investigation for and prosecution in
23 disciplinary proceedings made available to the public by the
24 agency or the appropriate regulatory board. However, the
25 agency must make available, upon written request by a
26 practitioner against whom probable cause has been found, any
27 such records that form the basis of the determination of
28 probable cause.

29 Section 16. Subsection (1) of section 400.491, Florida
30 Statutes, is amended to read:

31 400.491 Clinical records.--

1 (1) The home health agency must maintain for each
2 patient who receives skilled care a clinical record that
3 includes pertinent past and current medical, nursing, social
4 and other therapeutic information, the treatment orders, and
5 other such information as is necessary for the safe and
6 adequate care of the patient. When home health services are
7 terminated, the record must show the date and reason for
8 termination. Such records are considered patient records
9 under s. 456.057 ~~455.241~~, and must be maintained by the home
10 health agency for 5 years following termination of services.
11 If a patient transfers to another home health agency, a copy
12 of his or her record must be provided to the other home health
13 agency upon request.

14 Section 17. Subsection (1) of section 400.518, Florida
15 Statutes, is amended to read:

16 400.518 Prohibited referrals to home health
17 agencies.--

18 (1) A physician licensed under chapter 458 or chapter
19 459 must comply with s. 456.053 ~~455.654~~.

20 Section 18. Subsection (2) of section 400.94, Florida
21 Statutes, is amended to read:

22 400.94 Patient records.--

23 (2) Such records are considered patient records under
24 s. 456.057 ~~455.667~~ and must be maintained by the home medical
25 equipment provider for 5 years following termination of
26 services. If a patient transfers to another home medical
27 equipment provider, a copy of his or her record must be
28 provided to the other home medical equipment provider, upon
29 request.

30 Section 19. Subsection (9) of section 408.061, Florida
31 Statutes, is amended to read:

1 408.061 Data collection; uniform systems of financial
2 reporting; information relating to physician charges;
3 confidentiality of patient records; immunity.--
4 (9) The identity of any health care provider, health
5 care facility, or health insurer who submits any data which is
6 proprietary business information to the agency pursuant to the
7 provisions of this section shall remain confidential and
8 exempt from the provisions of s. 119.07(1) and s. 24(a), Art.
9 I of the State Constitution. As used in this section,
10 "proprietary business information" shall include, but not be
11 limited to, information relating to specific provider contract
12 reimbursement information; information relating to security
13 measures, systems, or procedures; and information concerning
14 bids or other contractual data, the disclosure of which would
15 impair efforts to contract for goods or services on favorable
16 terms or would injure the affected entity's ability to compete
17 in the marketplace. Notwithstanding the provisions of this
18 subsection, any information obtained or generated pursuant to
19 the provisions of s. 407.61, either by the Health Care Cost
20 Containment Board or by the Agency for Health Care
21 Administration upon transfer to that agency of the duties and
22 functions of the Health Care Cost Containment Board, is not
23 confidential and exempt from the provisions of s. 119.07(1)
24 and s. 24(a), Art. I of the State Constitution. Such
25 proprietary business information may be used in published
26 analyses and reports or otherwise made available for public
27 disclosure in such manner as to preserve the confidentiality
28 of the identity of the provider. This exemption shall not
29 limit the use of any information used in conjunction with
30 investigation or enforcement purposes under the provisions of
31 s. 456.073 ~~455.621~~.

1 Section 20. Paragraph (b) of subsection (5) of section
2 408.704, Florida Statutes, is amended to read:

3 408.704 Agency duties and responsibilities related to
4 community health purchasing alliances.--The agency shall
5 assist in developing a statewide system of community health
6 purchasing alliances. To this end, the agency is responsible
7 for:

8 (5) Establishing a data system for accountable health
9 partnerships.

10 (b) The advisory data committee shall issue a report
11 and recommendations on each of the following subjects as each
12 is completed. A final report covering all subjects must be
13 included in the final Florida Health Plan to be submitted to
14 the Legislature on December 31, 1993. The report shall
15 include recommendations regarding:

16 1. Types of data to be collected. Careful
17 consideration shall be given to other data collection projects
18 and standards for electronic data interchanges already in
19 process in this state and nationally, to evaluating and
20 recommending the feasibility and cost-effectiveness of various
21 data collection activities, and to ensuring that data
22 reporting is necessary to support the evaluation of providers
23 with respect to cost containment, access, quality, control of
24 expensive technologies, and customer satisfaction analysis.
25 Data elements to be collected from providers include prices,
26 utilization, patient outcomes, quality, and patient
27 satisfaction. The completion of this task is the first
28 priority of the advisory data committee. The agency shall
29 begin implementing these data collection activities
30 immediately upon receipt of the recommendations, but no later
31 than January 1, 1994. The data shall be submitted by

1 hospitals, other licensed health care facilities, pharmacists,
2 and group practices as defined in s. 456.053(3)(h)
3 ~~455.654(3)(f)~~.

4 2. A standard data set, a standard cost-effective
5 format for collecting the data, and a standard methodology for
6 reporting the data to the agency, or its designee, and to the
7 alliances. The reporting mechanisms must be designed to
8 minimize the administrative burden and cost to health care
9 providers and carriers. A methodology shall be developed for
10 aggregating data in a standardized format for making
11 comparisons between accountable health partnerships which
12 takes advantage of national models and activities.

13 3. Methods by which the agency should collect,
14 process, analyze, and distribute the data.

15 4. Standards for data interpretation. The advisory
16 data committee shall actively solicit broad input from the
17 provider community, carriers, the business community, and the
18 general public.

19 5. Structuring the data collection process to:

20 a. Incorporate safeguards to ensure that the health
21 care services utilization data collected is reviewed by
22 experienced, practicing physicians licensed to practice
23 medicine in this state;

24 b. Require that carrier customer satisfaction data
25 conclusions are validated by the agency;

26 c. Protect the confidentiality of medical information
27 to protect the patient's identity and to protect the privacy
28 of individual physicians and patients. Proprietary data
29 submitted by insurers, providers, and purchasers are
30 confidential pursuant to s. 408.061; and
31

1 d. Afford all interested professional medical and
2 hospital associations and carriers a minimum of 60 days to
3 review and comment before data is released to the public.

4 6. Developing a data collection implementation
5 schedule, based on the data collection capabilities of
6 carriers and providers.

7 Section 21. Subsections (1) and (2) of section
8 409.2598, Florida Statutes, are amended to read:

9 409.2598 Suspension or denial of new or renewal
10 licenses; registrations; certifications.--

11 (1) The Title IV-D agency may petition the court that
12 entered the support order or the court that is enforcing the
13 support order to deny or suspend the license, registration, or
14 certificate issued under chapter 231, chapter 370, chapter
15 372, chapter 409, ~~part II of chapter 456~~ 455, or chapter 559
16 or s. 328.42 of any obligor with a delinquent child support
17 obligation or who fails, after receiving appropriate notice,
18 to comply with subpoenas, orders to appear, orders to show
19 cause, or similar orders relating to paternity or child
20 support proceedings. However, a petition may not be filed
21 until the Title IV-D agency has exhausted all other available
22 remedies. The purpose of this section is to promote the public
23 policy of the state as established in s. 409.2551.

24 (2) The Title IV-D agency is authorized to screen all
25 applicants for new or renewal licenses, registrations, or
26 certificates and current licenses, registrations, or
27 certificates and current licensees, registration holders, and
28 certificateholders of all licenses, registrations, and
29 certificates issued under chapter 231, chapter 370, chapter
30 372, chapter 409, ~~part II of chapter 456~~ 455, or chapter 559
31 or s. 328.42 to ensure compliance with any child support

1 obligation and any subpoenas, orders to appear, orders to show
2 cause, or similar orders relating to paternity or child
3 support proceedings. If the Title IV-D agency determines that
4 an applicant, licensee, registration holder, or
5 certificateholder is an obligor who is delinquent on a support
6 obligation or who is not in compliance with a subpoena, order
7 to appear, order to show cause, or similar order relating to
8 paternity or child support proceedings, the Title IV-D agency
9 shall certify the delinquency pursuant to s. 61.14.

10 Section 22. Paragraph (h) of subsection (3) and
11 paragraph (c) of subsection (4) of section 440.13, Florida
12 Statutes, are amended to read:

13 440.13 Medical services and supplies; penalty for
14 violations; limitations.--

15 (3) PROVIDER ELIGIBILITY; AUTHORIZATION.--

16 (h) The provisions of s. 456.053 ~~455.654~~ are
17 applicable to referrals among health care providers, as
18 defined in subsection (1), treating injured workers.

19 (4) NOTICE OF TREATMENT TO CARRIER; FILING WITH
20 DIVISION.--

21 (c) It is the policy for the administration of the
22 workers' compensation system that there be reasonable access
23 to medical information by all parties to facilitate the
24 self-executing features of the law. Notwithstanding the
25 limitations in s. 456.057 ~~455.667~~ and subject to the
26 limitations in s. 381.004, upon the request of the employer,
27 the carrier, or the attorney for either of them, the medical
28 records of an injured employee must be furnished to those
29 persons and the medical condition of the injured employee must
30 be discussed with those persons, if the records and the
31 discussions are restricted to conditions relating to the

1 workplace injury. Any such discussions may be held before or
2 after the filing of a claim without the knowledge, consent, or
3 presence of any other party or his or her agent or
4 representative. A health care provider who willfully refuses
5 to provide medical records or to discuss the medical condition
6 of the injured employee, after a reasonable request is made
7 for such information pursuant to this subsection, shall be
8 subject by the division to one or more of the penalties set
9 forth in paragraph (8)(b).

10 Section 23. Section 455.01, Florida Statutes, is
11 amended to read:

12 455.01 Definitions.--As used in this chapter ~~part~~, the
13 term:

14 (1) "Board" means any board or commission, or other
15 statutorily created entity to the extent such entity is
16 authorized to exercise regulatory or rulemaking functions,
17 within the department, including the Florida Real Estate
18 Commission; except that, for ss. 455.201-455.261, "board"
19 means only a board, or other statutorily created entity to the
20 extent such entity is authorized to exercise regulatory or
21 rulemaking functions, within the Division of Certified Public
22 Accounting, the Division of Professions, or the Division of
23 Real Estate.

24 (2) "Consumer member" means a person appointed to
25 serve on a specific board or who has served on a specific
26 board, who is not, and never has been, a member or
27 practitioner of the profession, or of any closely related
28 profession, regulated by such board.

29 (3) "Department" means the Department of Business and
30 Professional Regulation.

31

1 (4) "License" means any permit, registration,
2 certificate, or license issued by the department.

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

5 (6) "Profession" means any activity, occupation,
6 profession, or vocation regulated by the department in the
7 Divisions of Certified Public Accounting, Professions, Real
8 Estate, and Regulation.

9 Section 24. Subsection (5) of section 455.203, Florida
10 Statutes, is amended to read:

11 455.203 Department; powers and duties.--The
12 department, for the boards under its jurisdiction, shall:

13 (5) Adopt rules pursuant to ss. 120.536(1) and 120.54
14 to implement the provisions of this chapter ~~part~~.

15 Section 25. Subsection (3) of section 455.207, Florida
16 Statutes, is amended to read:

17 455.207 Boards; organization; meetings; compensation
18 and travel expenses.--

19 (3) The board shall meet at least once annually and
20 may meet as often as is necessary. The chairperson or a quorum
21 of the board shall have the authority to call other meetings.
22 A quorum shall be necessary for the conduct of official
23 business by the board or any committee thereof. Unless
24 otherwise provided by law, 51 percent or more of the appointed
25 members of the board or any committee, when applicable, shall
26 constitute a quorum. The membership of committees of the
27 board, except as otherwise authorized pursuant to this chapter
28 ~~part~~ or the applicable practice act, shall be composed of
29 currently appointed members of the board. The vote of a
30 majority of the members of the quorum shall be necessary for
31 any official action by the board or committee. Three

1 consecutive unexcused absences or absences constituting 50
2 percent or more of the board's meetings within any 12-month
3 period shall cause the board membership of the member in
4 question to become void, and the position shall be considered
5 vacant. The board, or the department when there is no board,
6 shall, by rule, define unexcused absences.

7 Section 26. Subsections (3) and (7) of section
8 455.213, Florida Statutes, are amended to read:

9 455.213 General licensing provisions.--

10 (3) The board, or the department when there is no
11 board, may refuse to issue an initial license to any applicant
12 who is under investigation or prosecution in any jurisdiction
13 for an action that would constitute a violation of this
14 chapter part or the professional practice acts administered by
15 the department and the boards, until such time as the
16 investigation or prosecution is complete.

17 (7) Notwithstanding anything to the contrary, any
18 elected official who is licensed pursuant to any practice act
19 within the purview of this chapter part may hold employment
20 for compensation with any public agency concurrent with such
21 public service. Such dual service shall be disclosed
22 according to any disclosure required by applicable law.

23 Section 27. Subsections (3) and (6) of section
24 455.214, Florida Statutes, are amended to read:

25 455.214 Limited licenses.--

26 (3) The board, or the department when there is no
27 board, may deny limited licensure to an applicant who has
28 committed, or is under investigation or prosecution for, any
29 act which would constitute the basis for discipline pursuant
30 to the provisions of this chapter part or the applicable
31 practice act.

1 (6) Each applicant granted a limited license is
2 subject to all the provisions of this chapter part and the
3 respective practice act under which the limited license is
4 issued which are not in conflict with this section.

5 Section 28. Paragraph (f) of subsection (1) of section
6 455.217, Florida Statutes, is amended to read:

7 455.217 Examinations.--This section shall be read in
8 conjunction with the appropriate practice act associated with
9 each regulated profession under this chapter.

10 (1) The Division of Technology, Licensure, and Testing
11 of the Department of Business and Professional Regulation
12 shall provide, contract, or approve services for the
13 development, preparation, administration, scoring, score
14 reporting, and evaluation of all examinations. The division
15 shall seek the advice of the appropriate board in providing
16 such services.

17 (f) If the professional board with jurisdiction over
18 an examination concurs, the department may, for a fee, share
19 with any other state's licensing authority an examination
20 developed by or for the department unless prohibited by a
21 contract entered into by the department for development or
22 purchase of the examination. The department, with the
23 concurrence of the appropriate board, shall establish
24 guidelines that ensure security of a shared exam and shall
25 require that any other state's licensing authority comply with
26 those guidelines. Those guidelines shall be approved by the
27 appropriate professional board. All fees paid by the user
28 shall be applied to the department's examination and
29 development program for professions regulated by this chapter
30 part. All fees paid by the user for professions not regulated
31 by this chapter part shall be applied to offset the fees for

1 the development and administration of that profession's
2 examination. If both a written and a practical examination
3 are given, an applicant shall be required to retake only the
4 portion of the examination for which he or she failed to
5 achieve a passing grade, if he or she successfully passes that
6 portion within a reasonable time of his or her passing the
7 other portion.

8 Section 29. Subsections (4) and (6) of section
9 455.218, Florida Statutes, are amended to read:

10 455.218 Foreign-trained professionals; special
11 examination and license provisions.--

12 (4) The department shall examine any applicant who
13 meets the requirements of subsections (1) and (2). Upon
14 passing the examination and the issuance of the license, a
15 licensee is subject to the administrative requirements of this
16 chapter part and the respective practice act under which the
17 license is issued. Each applicant so licensed is subject to
18 all provisions of this chapter part and the respective
19 practice act under which the license was issued.

20 (6) The department, for its boards, shall not issue an
21 initial license to, or renew a license of, any applicant or
22 licensee who is under investigation or prosecution in any
23 jurisdiction for an action which would constitute a violation
24 of this chapter part or the professional practice acts
25 administered by the department and the boards until such time
26 as the investigation or prosecution is complete, at which time
27 the provisions of the professional practice acts shall apply.

28 Section 30. Subsection (1) of section 455.2185,
29 Florida Statutes, is amended to read:

30 455.2185 Exemption for certain out-of-state or foreign
31 professionals; limited practice permitted.--

1 (1) A professional of any other state or of any
2 territory or other jurisdiction of the United States or of any
3 other nation or foreign jurisdiction is exempt from the
4 requirements of licensure under this chapter part and the
5 applicable professional practice act under the agency with
6 regulatory jurisdiction over the profession if that profession
7 is regulated in this state under the agency with regulatory
8 jurisdiction over the profession and if that person:

9 (a) Holds, if so required in the jurisdiction in which
10 that person practices, an active license to practice that
11 profession.

12 (b) Engages in the active practice of that profession
13 outside the state.

14 (c) Is employed or designated in that professional
15 capacity by a sports entity visiting the state for a specific
16 sporting event.

17 Section 31. Paragraph (a) of subsection (1) of section
18 455.225, Florida Statutes, is amended to read:

19 455.225 Disciplinary proceedings.--Disciplinary
20 proceedings for each board shall be within the jurisdiction of
21 the department.

22 (1)(a) The department, for the boards under its
23 jurisdiction, shall cause to be investigated any complaint
24 that is filed before it if the complaint is in writing, signed
25 by the complainant, and legally sufficient. A complaint is
26 legally sufficient if it contains ultimate facts that show
27 that a violation of this chapter part, of any of the practice
28 acts relating to the professions regulated by the department,
29 or of any rule adopted by the department or a regulatory board
30 in the department has occurred. In order to determine legal
31 sufficiency, the department may require supporting information

1 or documentation. The department may investigate, and the
2 department or the appropriate board may take appropriate final
3 action on, a complaint even though the original complainant
4 withdraws it or otherwise indicates a desire not to cause the
5 complaint to be investigated or prosecuted to completion. The
6 department may investigate an anonymous complaint if the
7 complaint is in writing and is legally sufficient, if the
8 alleged violation of law or rules is substantial, and if the
9 department has reason to believe, after preliminary inquiry,
10 that the violations alleged in the complaint are true. The
11 department may investigate a complaint made by a confidential
12 informant if the complaint is legally sufficient, if the
13 alleged violation of law or rule is substantial, and if the
14 department has reason to believe, after preliminary inquiry,
15 that the allegations of the complainant are true. The
16 department may initiate an investigation if it has reasonable
17 cause to believe that a licensee or a group of licensees has
18 violated a Florida statute, a rule of the department, or a
19 rule of a board.

20 Section 32. Paragraphs (i), (j), and (q) of subsection
21 (1) and subsection (4) of section 455.227, Florida Statutes,
22 are amended to read:

23 455.227 Grounds for discipline; penalties;
24 enforcement.--

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

28 (i) Failing to report to the department any person who
29 the licensee knows is in violation of this chapter part, the
30 chapter regulating the alleged violator, or the rules of the
31 department or the board.

1 (j) Aiding, assisting, procuring, employing, or
2 advising any unlicensed person or entity to practice a
3 profession contrary to this chapter ~~part~~, the chapter
4 regulating the profession, or the rules of the department or
5 the board.

6 (q) Violating any provision of this chapter ~~part~~, the
7 applicable professional practice act, a rule of the department
8 or the board, or a lawful order of the department or the
9 board, or failing to comply with a lawfully issued subpoena of
10 the department.

11 (4) In addition to, or in lieu of, any other remedy or
12 criminal prosecution, the department may file a proceeding in
13 the name of the state seeking issuance of an injunction or a
14 writ of mandamus against any person who violates any of the
15 provisions of this chapter ~~part~~, or any provision of law with
16 respect to professions regulated by the department, or any
17 board therein, or the rules adopted pursuant thereto.

18 Section 33. Subsection (1) of section 455.2273,
19 Florida Statutes, is amended to read:

20 455.2273 Disciplinary guidelines.--

21 (1) Each board, or the department when there is no
22 board, shall adopt, by rule, and periodically review the
23 disciplinary guidelines applicable to each ground for
24 disciplinary action which may be imposed by the board, or the
25 department when there is no board, pursuant to this chapter
26 ~~part~~, the respective practice acts, and any rule of the board
27 or department.

28 Section 34. Subsection (1) of section 455.228, Florida
29 Statutes, is amended to read:

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1 455.228 Unlicensed practice of a profession; cease and
2 desist notice; civil penalty; enforcement; citations;
3 allocation of moneys collected.--

4 (1) When the department has probable cause to believe
5 that any person not licensed by the department, or the
6 appropriate regulatory board within the department, has
7 violated any provision of this chapter ~~part~~ or any statute
8 that relates to the practice of a profession regulated by the
9 department, or any rule adopted pursuant thereto, the
10 department may issue and deliver to such person a notice to
11 cease and desist from such violation. In addition, the
12 department may issue and deliver a notice to cease and desist
13 to any person who aids and abets the unlicensed practice of a
14 profession by employing such unlicensed person. The issuance
15 of a notice to cease and desist shall not constitute agency
16 action for which a hearing under ss. 120.569 and 120.57 may be
17 sought. For the purpose of enforcing a cease and desist order,
18 the department may file a proceeding in the name of the state
19 seeking issuance of an injunction or a writ of mandamus
20 against any person who violates any provisions of such order.
21 In addition to the foregoing remedies, the department may
22 impose an administrative penalty not to exceed \$5,000 per
23 incident pursuant to the provisions of chapter 120 or may
24 issue a citation pursuant to the provisions of subsection (3).
25 If the department is required to seek enforcement of the order
26 for a penalty pursuant to s. 120.569, it shall be entitled to
27 collect its attorney's fees and costs, together with any cost
28 of collection.

29 Section 35. Section 455.243, Florida Statutes, is
30 amended to read:

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1 455.243 Authority to inspect.--Duly authorized agents
2 and employees of the department shall have the power to
3 inspect in a lawful manner at all reasonable hours any
4 establishment at which the services of a licensee authorized
5 to prescribe controlled substances specified in chapter 893
6 are offered, for the purpose of determining if any of the
7 provisions of this chapter ~~part~~ or any practice act of a
8 profession or any rule adopted thereunder is being violated;
9 or for the purpose of securing such other evidence as may be
10 needed for prosecution.

11 Section 36. Section 455.501, Florida Statutes, is
12 transferred, renumbered as section 456.001, Florida Statutes,
13 and amended to read:

14 456.001 ~~455.501~~ Definitions.--As used in this chapter
15 ~~part~~, the term:

16 (1) "Board" means any board or commission, or other
17 statutorily created entity to the extent such entity is
18 authorized to exercise regulatory or rulemaking functions,
19 within the department, except that, for ss. 456.003-456.018,
20 456.022, 456.023, 456.025-456.034, and 456.039-456.082
21 ~~455.517-455.707~~, "board" means only a board, or other
22 statutorily created entity to the extent such entity is
23 authorized to exercise regulatory or rulemaking functions,
24 within the Division of Medical Quality Assurance.

25 (2) "Consumer member" means a person appointed to
26 serve on a specific board or who has served on a specific
27 board, who is not, and never has been, a member or
28 practitioner of the profession, or of any closely related
29 profession, regulated by such board.

30 (3) "Department" means the Department of Health.

31

1 (4) "Health care practitioner" means any person
2 licensed under chapter 457; chapter 458; chapter 459; chapter
3 460; chapter 461; chapter 462; chapter 463; chapter 464;
4 chapter 465; chapter 466; chapter 467; part I, part II, part
5 III, part V, part X, part XIII, or part XIV of chapter 468;
6 chapter 478; chapter 480; part III or part IV of chapter 483;
7 chapter 484; chapter 486; chapter 490; or chapter 491.

8 (5) "License" means any permit, registration,
9 certificate, or license issued by the department.

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

13 (7) "Profession" means any activity, occupation,
14 profession, or vocation regulated by the department in the
15 Division of Medical Quality Assurance.

16 Section 37. Section 455.504, Florida Statutes, is
17 transferred, renumbered as section 456.002, Florida Statutes,
18 and amended to read:

19 456.002 ~~455.504~~ Applicability of part.--This chapter
20 ~~part~~ applies only to the regulation by the department of
21 professions.

22 Section 38. Section 455.517, Florida Statutes, is
23 transferred and renumbered as section 456.003, Florida
24 Statutes.

25 Section 39. Section 455.521, Florida Statutes, is
26 transferred, renumbered as section 456.004, Florida Statutes,
27 and amended to read:

28 456.004 ~~455.521~~ Department; powers and duties.--The
29 department, for the professions under its jurisdiction, shall:

30 (1) Adopt rules establishing a procedure for the
31 biennial renewal of licenses; however, the department may

1 issue up to a 4-year license to selected licensees
2 notwithstanding any other provisions of law to the contrary.
3 Fees for such renewal shall not exceed the fee caps for
4 individual professions on an annualized basis as authorized by
5 law.

6 (2) Appoint the executive director of each board,
7 subject to the approval of the board.

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

10 (4) Develop a training program for persons newly
11 appointed to membership on any board. The program shall
12 familiarize such persons with the substantive and procedural
13 laws and rules and fiscal information relating to the
14 regulation of the appropriate profession and with the
15 structure of the department.

16 (5) Adopt rules pursuant to ss. 120.536(1) and 120.54
17 to implement the provisions of this chapter ~~part~~.

18 (6) Establish by rules procedures by which the
19 department shall use the expert or technical advice of the
20 appropriate board for the purposes of investigation,
21 inspection, evaluation of applications, other duties of the
22 department, or any other areas the department may deem
23 appropriate.

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

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1 (8) Select only those investigators, or consultants
2 who undertake investigations, who meet criteria established
3 with the advice of the respective boards.

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

18 Section 40. Sections 455.524, 455.527, and 455.531,
19 Florida Statutes, are transferred and renumbered as sections
20 456.005, 456.006, and 456.007, Florida Statutes, respectively.

21 Section 41. Section 455.541, Florida Statutes, is
22 transferred, renumbered as section 456.008, Florida Statutes,
23 and amended to read:

24 456.008 ~~455.541~~ Accountability and liability of board
25 members.--

26 (1) Each board member shall be accountable to the
27 Governor for the proper performance of duties as a member of
28 the board. The Governor shall investigate any legally
29 sufficient complaint or unfavorable written report received by
30 the Governor or by the department or a board concerning the
31 actions of the board or its individual members. The Governor

1 may suspend from office any board member for malfeasance,
2 misfeasance, neglect of duty, drunkenness, incompetence,
3 permanent inability to perform his or her official duties, or
4 commission of a felony.

5 (2) Each board member and each former board member
6 serving on a probable cause panel shall be exempt from civil
7 liability for any act or omission when acting in the member's
8 official capacity, and the department shall defend any such
9 member in any action against any board or member of a board
10 arising from any such act or omission. In addition, the
11 department may defend the member's company or business in any
12 action against the company or business if the department
13 determines that the actions from which the suit arises are
14 actions taken by the member in the member's official capacity
15 and were not beyond the member's statutory authority. In
16 providing such defense, the department may employ or utilize
17 the legal services of the Department of Legal Affairs or
18 outside counsel retained pursuant to s. 287.059. Fees and
19 costs of providing legal services provided under this
20 subsection shall be paid from a trust fund used by the
21 department to implement this chapter part, subject to the
22 provisions of s. 456.025 ~~455.587~~.

23 Section 42. Section 455.594, Florida Statutes, is
24 transferred, renumbered as section 456.009, Florida Statutes,
25 and amended to read:

26 456.009 ~~455.594~~ Legal and investigative services.--

27 (1) The department shall provide board counsel for
28 boards within the department by contracting with the
29 Department of Legal Affairs, by retaining private counsel
30 pursuant to s. 287.059, or by providing department staff
31 counsel. The primary responsibility of board counsel shall be

1 to represent the interests of the citizens of the state. A
2 board shall provide for the periodic review and evaluation of
3 the services provided by its board counsel. Fees and costs of
4 such counsel shall be paid from a trust fund used by the
5 department to implement this chapter part, subject to the
6 provisions of s. 456.025 ~~455.587~~. All contracts for
7 independent counsel shall provide for periodic review and
8 evaluation by the board and the department of services
9 provided.

10 (2) The department may employ or use the legal
11 services of outside counsel and the investigative services of
12 outside personnel. However, no attorney employed or utilized
13 by the department shall prosecute a matter and provide legal
14 services to the board with respect to the same matter.

15 (3) Any person retained by the department under
16 contract to review materials, make site visits, or provide
17 expert testimony regarding any complaint or application filed
18 with the department relating to a profession under the
19 jurisdiction of the department shall be considered an agent of
20 the department in determining the state insurance coverage and
21 sovereign immunity protection applicability of ss. 284.31 and
22 768.28.

23 Section 43. Section 455.534, Florida Statutes, is
24 transferred, renumbered as section 456.011, Florida Statutes,
25 and amended to read:

26 456.011 ~~455.534~~ Boards; organization; meetings;
27 compensation and travel expenses.--

28 (1) Each board within the department shall comply with
29 the provisions of this section.

30 (2) The board shall annually elect from among its
31 number a chairperson and vice chairperson.

1 (3) The board shall meet at least once annually and
2 may meet as often as is necessary. The chairperson or a quorum
3 of the board shall have the authority to call other meetings.
4 A quorum shall be necessary for the conduct of official
5 business by the board or any committee thereof. Unless
6 otherwise provided by law, 51 percent or more of the appointed
7 members of the board or any committee, when applicable, shall
8 constitute a quorum. The membership of committees of the
9 board, except as otherwise authorized pursuant to this chapter
10 ~~part~~ or the applicable practice act, shall be composed of
11 currently appointed members of the board. The vote of a
12 majority of the members of the quorum shall be necessary for
13 any official action by the board or committee. Three
14 consecutive unexcused absences or absences constituting 50
15 percent or more of the board's meetings within any 12-month
16 period shall cause the board membership of the member in
17 question to become void, and the position shall be considered
18 vacant. The board, or the department when there is no board,
19 shall, by rule, define unexcused absences.

20 (4) Unless otherwise provided by law, a board member
21 or former board member serving on a probable cause panel shall
22 be compensated \$50 for each day in attendance at an official
23 meeting of the board and for each day of participation in any
24 other business involving the board. Each board shall adopt
25 rules defining the phrase "other business involving the
26 board," but the phrase may not routinely be defined to include
27 telephone conference calls. A board member also shall be
28 entitled to reimbursement for expenses pursuant to s. 112.061.
29 Travel out of state shall require the prior approval of the
30 secretary.

31

1 (5) When two or more boards have differences between
2 them, the boards may elect to, or the secretary may request
3 that the boards, establish a special committee to settle those
4 differences. The special committee shall consist of three
5 members designated by each board, who may be members of the
6 designating board or other experts designated by the board,
7 and of one additional person designated and agreed to by the
8 members of the special committee. In the event the special
9 committee cannot agree on the additional designee, upon
10 request of the special committee, the secretary may select the
11 designee. The committee shall recommend rules necessary to
12 resolve the differences. If a rule adopted pursuant to this
13 provision is challenged, the participating boards shall share
14 the costs associated with defending the rule or rules. The
15 department shall provide legal representation for any special
16 committee established pursuant to this section.

17 Section 44. Section 455.544, Florida Statutes, is
18 transferred, renumbered as section 456.012, Florida Statutes,
19 and amended to read:

20 456.012 ~~455.544~~ Board rules; final agency action;
21 challenges.--

22 (1) The secretary of the department shall have
23 standing to challenge any rule or proposed rule of a board
24 under its jurisdiction pursuant to s. 120.56. In addition to
25 challenges for any invalid exercise of delegated legislative
26 authority, the administrative law judge, upon such a challenge
27 by the secretary, may declare all or part of a rule or
28 proposed rule invalid if it:

29 (a) Does not protect the public from any significant
30 and discernible harm or damages;

31

1 (b) Unreasonably restricts competition or the
2 availability of professional services in the state or in a
3 significant part of the state; or

4 (c) Unnecessarily increases the cost of professional
5 services without a corresponding or equivalent public benefit.

6
7 However, there shall not be created a presumption of the
8 existence of any of the conditions cited in this subsection in
9 the event that the rule or proposed rule is challenged.

10 (2) In addition, either the secretary or the board
11 shall be a substantially interested party for purposes of s.
12 120.54(7). The board may, as an adversely affected party,
13 initiate and maintain an action pursuant to s. 120.68
14 challenging the final agency action.

15 (3) No board created within the department shall have
16 standing to challenge a rule or proposed rule of another
17 board. However, if there is a dispute between boards
18 concerning a rule or proposed rule, the boards may avail
19 themselves of the provisions of s. 456.011(5)~~455.534(5)~~.

20 Section 45. Section 455.564, Florida Statutes, is
21 transferred, renumbered as section 456.013, Florida Statutes,
22 and amended to read:

23 456.013 ~~455.564~~ Department; general licensing
24 provisions.--

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

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

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

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

1 who is under investigation or prosecution in any jurisdiction
2 for an action that would constitute a violation of this
3 chapter part or the professional practice acts administered by
4 the department and the boards, until such time as the
5 investigation or prosecution is complete.

6 (4) When any administrative law judge conducts a
7 hearing pursuant to the provisions of chapter 120 with respect
8 to the issuance of a license by the department, the
9 administrative law judge shall submit his or her recommended
10 order to the appropriate board, which shall thereupon issue a
11 final order. The applicant for licensure may appeal the final
12 order of the board in accordance with the provisions of
13 chapter 120.

14 (5) A privilege against civil liability is hereby
15 granted to any witness for any information furnished by the
16 witness in any proceeding pursuant to this section, unless the
17 witness acted in bad faith or with malice in providing such
18 information.

19 (6) As a condition of renewal of a license, the Board
20 of Medicine, the Board of Osteopathic Medicine, the Board of
21 Chiropractic Medicine, and the Board of Podiatric Medicine
22 shall each require licensees which they respectively regulate
23 to periodically demonstrate their professional competency by
24 completing at least 40 hours of continuing education every 2
25 years. The boards may require by rule that up to 1 hour of
26 the required 40 or more hours be in the area of risk
27 management or cost containment. This provision shall not be
28 construed to limit the number of hours that a licensee may
29 obtain in risk management or cost containment to be credited
30 toward satisfying the 40 or more required hours. This
31 provision shall not be construed to require the boards to

1 impose any requirement on licensees except for the completion
2 of at least 40 hours of continuing education every 2 years.
3 Each of such boards shall determine whether any specific
4 continuing education requirements not otherwise mandated by
5 law shall be mandated and shall approve criteria for, and the
6 content of, any continuing education mandated by such board.
7 Notwithstanding any other provision of law, the board, or the
8 department when there is no board, may approve by rule
9 alternative methods of obtaining continuing education credits
10 in risk management. The alternative methods may include
11 attending a board meeting at which another licensee is
12 disciplined, serving as a volunteer expert witness for the
13 department in a disciplinary case, or serving as a member of a
14 probable cause panel following the expiration of a board
15 member's term. Other boards within the Division of Medical
16 Quality Assurance, or the department if there is no board, may
17 adopt rules granting continuing education hours in risk
18 management for attending a board meeting at which another
19 licensee is disciplined, for serving as a volunteer expert
20 witness for the department in a disciplinary case, or for
21 serving as a member of a probable cause panel following the
22 expiration of a board member's term.

23 (7) The respective boards within the jurisdiction of
24 the department, or the department when there is no board, may
25 adopt rules to provide for the use of approved videocassette
26 courses, not to exceed 5 hours per subject, to fulfill the
27 continuing education requirements of the professions they
28 regulate. Such rules shall provide for prior approval of the
29 board, or the department when there is no board, of the
30 criteria for and content of such courses and shall provide for
31 a videocassette course validation form to be signed by the

1 vendor and the licensee and submitted to the department, along
2 with the license renewal application, for continuing education
3 credit.

4 (8) Any board that currently requires continuing
5 education for renewal of a license, or the department if there
6 is no board, shall adopt rules to establish the criteria for
7 continuing education courses. The rules may provide that up
8 to a maximum of 25 percent of the required continuing
9 education hours can be fulfilled by the performance of pro
10 bono services to the indigent or to underserved populations or
11 in areas of critical need within the state where the licensee
12 practices. The board, or the department if there is no board,
13 must require that any pro bono services be approved in advance
14 in order to receive credit for continuing education under this
15 subsection. The standard for determining indigency shall be
16 that recognized by the Federal Poverty Income Guidelines
17 produced by the United States Department of Health and Human
18 Services. The rules may provide for approval by the board, or
19 the department if there is no board, that a part of the
20 continuing education hours can be fulfilled by performing
21 research in critical need areas or for training leading to
22 advanced professional certification. The board, or the
23 department if there is no board, may make rules to define
24 underserved and critical need areas. The department shall
25 adopt rules for administering continuing education
26 requirements adopted by the boards or the department if there
27 is no board.

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

1 concurrent with such public service. Such dual service must
2 be disclosed according to any disclosure required by
3 applicable law.

4 (10) In any instance in which a licensee or applicant
5 to the department is required to be in compliance with a
6 particular provision by, on, or before a certain date, and if
7 that date occurs on a Saturday, Sunday, or a legal holiday,
8 then the licensee or applicant is deemed to be in compliance
9 with the specific date requirement if the required action
10 occurs on the first succeeding day which is not a Saturday,
11 Sunday, or legal holiday.

12 (11) Pursuant to the federal Personal Responsibility
13 and Work Opportunity Reconciliation Act of 1996, each party is
14 required to provide his or her social security number in
15 accordance with this section. Disclosure of social security
16 numbers obtained through this requirement shall be limited to
17 the purpose of administration of the Title IV-D program for
18 child support enforcement.

19 Section 46. Section 455.647, Florida Statutes, is
20 transferred and renumbered as section 456.014, Florida
21 Statutes.

22 Section 47. Section 455.561, Florida Statutes, is
23 transferred, renumbered as section 456.015, Florida Statutes,
24 and amended to read:

25 456.015 ~~455.561~~ Limited licenses.--

26 (1) It is the intent of the Legislature that, absent a
27 threat to the health, safety, and welfare of the public, the
28 use of retired professionals in good standing to serve the
29 indigent, underserved, or critical need populations of this
30 state should be encouraged. To that end, the board, or the
31 department when there is no board, may adopt rules to permit

1 practice by retired professionals as limited licensees under
2 this section.

3 (2) Any person desiring to obtain a limited license,
4 when permitted by rule, shall submit to the board, or the
5 department when there is no board, an application and fee, not
6 to exceed \$300, and an affidavit stating that the applicant
7 has been licensed to practice in any jurisdiction in the
8 United States for at least 10 years in the profession for
9 which the applicant seeks a limited license. The affidavit
10 shall also state that the applicant has retired or intends to
11 retire from the practice of that profession and intends to
12 practice only pursuant to the restrictions of the limited
13 license granted pursuant to this section. If the applicant
14 for a limited license submits a notarized statement from the
15 employer stating that the applicant will not receive monetary
16 compensation for any service involving the practice of her or
17 his profession, the application and all licensure fees shall
18 be waived.

19 (3) The board, or the department when there is no
20 board, may deny limited licensure to an applicant who has
21 committed, or is under investigation or prosecution for, any
22 act which would constitute the basis for discipline pursuant
23 to the provisions of this chapter ~~part~~ or the applicable
24 practice act.

25 (4) The recipient of a limited license may practice
26 only in the employ of public agencies or institutions or
27 nonprofit agencies or institutions which meet the requirements
28 of s. 501(c)(3) of the Internal Revenue Code, and which
29 provide professional liability coverage for acts or omissions
30 of the limited licensee. A limited licensee may provide
31 services only to the indigent, underserved, or critical need

1 populations within the state. The standard for determining
2 indigency shall be that recognized by the Federal Poverty
3 Income Guidelines produced by the United States Department of
4 Health and Human Services. The board, or the department when
5 there is no board, may adopt rules to define underserved and
6 critical need areas and to ensure implementation of this
7 section.

8 (5) A board, or the department when there is no board,
9 may provide by rule for supervision of limited licensees to
10 protect the health, safety, and welfare of the public.

11 (6) Each applicant granted a limited license is
12 subject to all the provisions of this chapter part and the
13 respective practice act under which the limited license is
14 issued which are not in conflict with this section.

15 (7) This section does not apply to chapter 458 or
16 chapter 459.

17 Section 48. Section 455.571, Florida Statutes, is
18 transferred and renumbered as section 456.016, Florida
19 Statutes.

20 Section 49. Section 455.574, Florida Statutes, is
21 transferred, renumbered as section 456.017, Florida Statutes,
22 and amended to read:

23 456.017 ~~455.574~~ Department of Health; examinations.--

24 (1)(a) The department shall provide, contract, or
25 approve services for the development, preparation,
26 administration, scoring, score reporting, and evaluation of
27 all examinations, in consultation with the appropriate board.
28 The department shall certify that examinations developed and
29 approved by the department adequately and reliably measure an
30 applicant's ability to practice the profession regulated by
31 the department. After an examination developed or approved by

1 the department has been administered, the board, or the
2 department when there is no board, may reject any question
3 which does not reliably measure the general areas of
4 competency specified in the rules of the board. The department
5 may contract for the preparation, administration, scoring,
6 score reporting, and evaluation of examinations, when such
7 services are available and approved by the board.

8 (b) For each examination developed by the department
9 or contracted vendor, to the extent not otherwise specified by
10 statute, the board, or the department when there is no board,
11 shall by rule specify the general areas of competency to be
12 covered by each examination, the relative weight to be
13 assigned in grading each area tested, and the score necessary
14 to achieve a passing grade, and fees, where applicable, to
15 cover the actual cost for any purchase, development, and
16 administration of required examinations. This subsection does
17 not apply to national examinations approved and administered
18 pursuant to paragraph (c). If a practical examination is
19 deemed to be necessary, the rules shall specify the criteria
20 by which examiners are to be selected, the grading criteria to
21 be used by the examiner, the relative weight to be assigned in
22 grading each criterion, and the score necessary to achieve a
23 passing grade. When a mandatory standardization exercise for a
24 practical examination is required by law, the board, or the
25 department when there is no board, may conduct such exercise.
26 Therefore, board members, or employees of the department when
27 there is no board, may serve as examiners at a practical
28 examination with the consent of the board or department, as
29 appropriate.

30 (c) The board, or the department when there is no
31 board, may approve by rule the use of any national examination

1 | which the department has certified as meeting requirements of
2 | national examinations and generally accepted testing standards
3 | pursuant to department rules. Providers of examinations
4 | seeking certification by the department shall pay the actual
5 | costs incurred by the department in making a determination
6 | regarding the certification. The name and number of a
7 | candidate may be provided to a national contractor for the
8 | limited purpose of preparing the grade tape and information to
9 | be returned to the board or department; or, to the extent
10 | otherwise specified by rule, the candidate may apply directly
11 | to the vendor of the national examination and supply test
12 | score information to the department. The department may
13 | delegate to the board the duty to provide and administer the
14 | examination. Any national examination approved by a board, or
15 | the department when there is no board, prior to October 1,
16 | 1997, is deemed certified under this paragraph.

17 | (d) Each board, or the department when there is no
18 | board, shall adopt rules regarding the security and monitoring
19 | of examinations. The department shall implement those rules
20 | adopted by the respective boards. In order to maintain the
21 | security of examinations, the department may employ the
22 | procedures set forth in s. 456.065 ~~455.637~~ to seek fines and
23 | injunctive relief against an examinee who violates the
24 | provisions of s. 456.018 ~~455.577~~ or the rules adopted pursuant
25 | to this paragraph. The department, or any agent thereof, may,
26 | for the purposes of investigation, confiscate any written,
27 | photographic, or recording material or device in the
28 | possession of the examinee at the examination site which the
29 | department deems necessary to enforce such provisions or
30 | rules.

31 |

1 (e) If the professional board with jurisdiction over
2 an examination concurs, the department may, for a fee, share
3 with any other state's licensing authority an examination
4 developed by or for the department unless prohibited by a
5 contract entered into by the department for development or
6 purchase of the examination. The department, with the
7 concurrence of the appropriate board, shall establish
8 guidelines that ensure security of a shared exam and shall
9 require that any other state's licensing authority comply with
10 those guidelines. Those guidelines shall be approved by the
11 appropriate professional board. All fees paid by the user
12 shall be applied to the department's examination and
13 development program for professions regulated by this chapter
14 ~~part~~.

15 (f) The department may adopt rules necessary to
16 administer this subsection.

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

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

8 (3) For each examination developed or administered by
9 the department or a contracted vendor, an accurate record of
10 each applicant's examination questions, answers, papers,
11 grades, and grading key shall be kept for a period of not less
12 than 2 years immediately following the examination, and such
13 record shall thereafter be maintained or destroyed as provided
14 in chapters 119 and 257. This subsection does not apply to
15 national examinations approved and administered pursuant to
16 this section.

17 (4) Meetings of any member of the department or of any
18 board within the department held for the exclusive purpose of
19 creating or reviewing licensure examination questions or
20 proposed examination questions are exempt from the provisions
21 of s. 286.011 and s. 24(b), Art. I of the State Constitution.
22 Any public records, such as tape recordings, minutes, or
23 notes, generated during or as a result of such meetings are
24 confidential and exempt from the provisions of s. 119.07(1)
25 and s. 24(a), Art. I of the State Constitution. However, these
26 exemptions shall not affect the right of any person to review
27 an examination as provided in subsection (2).

28 (5) For examinations developed by the department or a
29 contracted vendor, each board, or the department when there is
30 no board, may provide licensure examinations in an applicant's
31 native language. Applicants for examination or reexamination

1 pursuant to this subsection shall bear the full cost for the
2 department's development, preparation, administration,
3 grading, and evaluation of any examination in a language other
4 than English. Requests for translated examinations must be on
5 file in the board office at least 6 months prior to the
6 scheduled examination. When determining whether it is in the
7 public interest to allow the examination to be translated into
8 a language other than English, the board shall consider the
9 percentage of the population who speak the applicant's native
10 language. Applicants must apply for translation to the
11 applicable board at least 6 months prior to the scheduled
12 examination.

13 (6) In addition to meeting any other requirements for
14 licensure by examination or by endorsement, an applicant may
15 be required by a board, or the department when there is no
16 board, to certify competency in state laws and rules relating
17 to the applicable practice act.

18 Section 50. Section 455.577, Florida Statutes, is
19 transferred, renumbered as section 456.018, Florida Statutes,
20 and amended to read:

21 456.018 ~~455.577~~ Penalty for theft or reproduction of
22 an examination.--In addition to, or in lieu of, any other
23 discipline imposed pursuant to s. 456.072 ~~455.624~~, the theft
24 of an examination in whole or in part or the act of
25 reproducing or copying any examination administered by the
26 department, whether such examination is reproduced or copied
27 in part or in whole and by any means, constitutes a felony of
28 the third degree, punishable as provided in s. 775.082, s.
29 775.083, or s. 775.084.

30
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1 Section 51. Sections 455.511 and 455.514, Florida
2 Statutes, are transferred and renumbered as sections 456.019
3 and 456.021, Florida Statutes, respectively.

4 Section 52. Section 455.581, Florida Statutes, is
5 transferred, renumbered as section 456.022, Florida Statutes,
6 and amended to read:

7 456.022 ~~455.581~~ Foreign-trained professionals; special
8 examination and license provisions.--

9 (1) When not otherwise provided by law, within its
10 jurisdiction, the department shall by rule provide procedures
11 under which exiled professionals may be examined within each
12 practice act. A person shall be eligible for such examination
13 if the person:

14 (a) Immigrated to the United States after leaving the
15 person's home country because of political reasons, provided
16 such country is located in the Western Hemisphere and lacks
17 diplomatic relations with the United States;

18 (b) Applies to the department and submits a fee;

19 (c) Was a Florida resident immediately preceding the
20 person's application;

21 (d) Demonstrates to the department, through submission
22 of documentation verified by the applicant's respective
23 professional association in exile, that the applicant was
24 graduated with an appropriate professional or occupational
25 degree from a college or university; however, the department
26 may not require receipt of any documentation from the Republic
27 of Cuba as a condition of eligibility under this section;

28 (e) Lawfully practiced the profession for at least 3
29 years;

30
31

1 (f) Prior to 1980, successfully completed an approved
2 course of study pursuant to chapters 74-105 and 75-177, Laws
3 of Florida; and

4 (g) Presents a certificate demonstrating the
5 successful completion of a continuing education program which
6 offers a course of study that will prepare the applicant for
7 the examination offered under subsection (2). The department
8 shall develop rules for the approval of such programs for its
9 boards.

10 (2) Upon request of a person who meets the
11 requirements of subsection (1) and submits an examination fee,
12 the department, for its boards, shall provide a written
13 practical examination which tests the person's current ability
14 to practice the profession competently in accordance with the
15 actual practice of the profession. Evidence of meeting the
16 requirements of subsection (1) shall be treated by the
17 department as evidence of the applicant's preparation in the
18 academic and preprofessional fundamentals necessary for
19 successful professional practice, and the applicant shall not
20 be examined by the department on such fundamentals.

21 (3) The fees charged for the examinations offered
22 under subsection (2) shall be established by the department,
23 for its boards, by rule and shall be sufficient to develop or
24 to contract for the development of the examination and its
25 administration, grading, and grade reviews.

26 (4) The department shall examine any applicant who
27 meets the requirements of subsections (1) and (2). Upon
28 passing the examination and the issuance of the license, a
29 licensee is subject to the administrative requirements of this
30 chapter ~~part~~ and the respective practice act under which the
31 license is issued. Each applicant so licensed is subject to

1 all provisions of this chapter part and the respective
2 practice act under which the license was issued.

3 (5) Upon a request by an applicant otherwise qualified
4 under this section, the examinations offered under subsection
5 (2) may be given in the applicant's native language, provided
6 that any translation costs are borne by the applicant.

7 (6) The department, for its boards, shall not issue an
8 initial license to, or renew a license of, any applicant or
9 licensee who is under investigation or prosecution in any
10 jurisdiction for an action which would constitute a violation
11 of this chapter part or the professional practice acts
12 administered by the department and the boards until such time
13 as the investigation or prosecution is complete, at which time
14 the provisions of the professional practice acts shall apply.

15 Section 53. Section 455.584, Florida Statutes, is
16 transferred, renumbered as section 456.023, Florida Statutes,
17 and amended to read:

18 456.023 ~~455.584~~ Exemption for certain out-of-state or
19 foreign professionals; limited practice permitted.--

20 (1) A professional of any other state or of any
21 territory or other jurisdiction of the United States or of any
22 other nation or foreign jurisdiction is exempt from the
23 requirements of licensure under this chapter part and the
24 applicable professional practice act under the agency with
25 regulatory jurisdiction over the profession if that profession
26 is regulated in this state under the agency with regulatory
27 jurisdiction over the profession and if that person:

28 (a) Holds, if so required in the jurisdiction in which
29 that person practices, an active license to practice that
30 profession.

31

1 (b) Engages in the active practice of that profession
2 outside the state.

3 (c) Is employed or designated in that professional
4 capacity by a sports entity visiting the state for a specific
5 sporting event.

6 (2) A professional's practice under this section is
7 limited to the members, coaches, and staff of the team for
8 which that professional is employed or designated and to any
9 animals used if the sporting event for which that professional
10 is employed or designated involves animals. A professional
11 practicing under authority of this section shall not have
12 practice privileges in any licensed health care facility or
13 veterinary facility without the approval of that facility.

14 Section 54. Section 455.507, Florida Statutes, is
15 transferred and renumbered as section 456.024, Florida
16 Statutes.

17 Section 55. Section 455.587, Florida Statutes, is
18 transferred, renumbered as section 456.025, Florida Statutes,
19 and amended to read:

20 456.025 ~~455.587~~ Fees; receipts; disposition.--

21 (1) Each board within the jurisdiction of the
22 department, or the department when there is no board, shall
23 determine by rule the amount of license fees for the
24 profession it regulates, based upon long-range estimates
25 prepared by the department of the revenue required to
26 implement laws relating to the regulation of professions by
27 the department and the board. Each board, or the department
28 if there is no board, shall ensure that license fees are
29 adequate to cover all anticipated costs and to maintain a
30 reasonable cash balance, as determined by rule of the agency,
31 with advice of the applicable board. If sufficient action is

1 not taken by a board within 1 year after notification by the
2 department that license fees are projected to be inadequate,
3 the department shall set license fees on behalf of the
4 applicable board to cover anticipated costs and to maintain
5 the required cash balance. The department shall include
6 recommended fee cap increases in its annual report to the
7 Legislature. Further, it is the legislative intent that no
8 regulated profession operate with a negative cash balance. The
9 department may provide by rule for advancing sufficient funds
10 to any profession operating with a negative cash balance. The
11 advancement may be for a period not to exceed 2 consecutive
12 years, and the regulated profession must pay interest.
13 Interest shall be calculated at the current rate earned on
14 investments of a trust fund used by the department to
15 implement this chapter ~~part~~. Interest earned shall be
16 allocated to the various funds in accordance with the
17 allocation of investment earnings during the period of the
18 advance.

19 (2) Each board, or the department if there is no
20 board, may charge a fee not to exceed \$25, as determined by
21 rule, for the issuance of a wall certificate pursuant to s.
22 456.013(2)~~455.564(2)~~ requested by a licensee who was licensed
23 prior to July 1, 1998, or for the issuance of a duplicate wall
24 certificate requested by any licensee.

25 (3) Each board, or the department if there is no
26 board, may, by rule, assess and collect a one-time fee from
27 each active and each voluntary inactive licensee in an amount
28 necessary to eliminate a cash deficit or, if there is not a
29 cash deficit, in an amount sufficient to maintain the
30 financial integrity of the professions as required in this
31

1 section. Not more than one such assessment may be made in any
2 4-year period without specific legislative authorization.

3 (4) Each board authorized to approve continuing
4 education providers, or the department if there is no board,
5 may establish, by rule, a fee not to exceed \$250 for anyone
6 seeking approval to provide continuing education courses and
7 may establish by rule a biennial renewal fee not to exceed
8 \$250 for the renewal of providership of such courses. This
9 subsection does not apply to continuing education courses or
10 providers approved by the board under chapter 465.

11 (5) All moneys collected by the department from fees
12 or fines or from costs awarded to the agency by a court shall
13 be paid into a trust fund used by the department to implement
14 this chapter part. The Legislature shall appropriate funds
15 from this trust fund sufficient to carry out this chapter part
16 and the provisions of law with respect to professions
17 regulated by the Division of Medical Quality Assurance within
18 the department and the boards. The department may contract
19 with public and private entities to receive and deposit
20 revenue pursuant to this section. The department shall
21 maintain separate accounts in the trust fund used by the
22 department to implement this chapter part for every profession
23 within the department. To the maximum extent possible, the
24 department shall directly charge all expenses to the account
25 of each regulated profession. For the purpose of this
26 subsection, direct charge expenses include, but are not
27 limited to, costs for investigations, examinations, and legal
28 services. For expenses that cannot be charged directly, the
29 department shall provide for the proportionate allocation
30 among the accounts of expenses incurred by the department in
31 the performance of its duties with respect to each regulated

1 profession. The department may not expend funds from the
2 account of a profession to pay for the expenses incurred on
3 behalf of another profession. The department shall maintain
4 adequate records to support its allocation of agency expenses.
5 The department shall provide any board with reasonable access
6 to these records upon request. The department shall provide
7 each board an annual report of revenue and direct and
8 allocated expenses related to the operation of that
9 profession. The board shall use these reports and the
10 department's adopted long-range plan to determine the amount
11 of license fees. A condensed version of this information,
12 with the department's recommendations, shall be included in
13 the annual report to the Legislature prepared under s. 456.026
14 ~~455.644~~.

15 (6) The department shall provide a condensed
16 management report of budgets, finances, performance
17 statistics, and recommendations to each board at least once a
18 quarter. The department shall identify and include in such
19 presentations any changes, or projected changes, made to the
20 board's budget since the last presentation.

21 (7) If a duplicate license is required or requested by
22 the licensee, the board or, if there is no board, the
23 department may charge a fee as determined by rule not to
24 exceed \$25 before issuance of the duplicate license.

25 (8) The department or the appropriate board shall
26 charge a fee not to exceed \$25 for the certification of a
27 public record. The fee shall be determined by rule of the
28 department. The department or the appropriate board shall
29 assess a fee for duplicating a public record as provided in s.
30 119.07(1)(a) and (b).

31

1 Section 56. Section 455.644, Florida Statutes, is
2 transferred, renumbered as section 456.026, Florida Statutes,
3 and amended to read:

4 456.026 ~~455.644~~ Annual report concerning finances,
5 administrative complaints, disciplinary actions, and
6 recommendations.--The department is directed to prepare and
7 submit a report to the President of the Senate and the Speaker
8 of the House of Representatives by November 1 of each year. In
9 addition to finances and any other information the Legislature
10 may require, the report shall include statistics and relevant
11 information, profession by profession, detailing:

12 (1) The revenues, expenditures, and cash balances for
13 the prior year, and a review of the adequacy of existing fees.

14 (2) The number of complaints received and
15 investigated.

16 (3) The number of findings of probable cause made.

17 (4) The number of findings of no probable cause made.

18 (5) The number of administrative complaints filed.

19 (6) The disposition of all administrative complaints.

20 (7) A description of disciplinary actions taken.

21 (8) A description of any effort by the department to
22 reduce or otherwise close any investigation or disciplinary
23 proceeding not before the Division of Administrative Hearings
24 under chapter 120 or otherwise not completed within 1 year
25 after the initial filing of a complaint under this chapter
26 part.

27 (9) The status of the development and implementation
28 of rules providing for disciplinary guidelines pursuant to s.
29 456.079 ~~455.627~~.

30 (10) Such recommendations for administrative and
31 statutory changes necessary to facilitate efficient and

1 cost-effective operation of the department and the various
2 boards.

3 Section 57. Sections 455.551, 455.554, and 455.547,
4 Florida Statutes, are transferred and renumbered as sections
5 456.027, 456.028, and 456.029, Florida Statutes, respectively.

6 Section 58. Section 455.597, Florida Statutes, is
7 transferred, renumbered as section 456.031, Florida Statutes,
8 and amended to read:

9 456.031 ~~455.597~~ Requirement for instruction on
10 domestic violence.--

11 (1)(a) The appropriate board shall require each person
12 licensed or certified under chapter 458, chapter 459, chapter
13 464, chapter 466, chapter 467, chapter 490, or chapter 491 to
14 complete a 1-hour continuing education course, approved by the
15 board, on domestic violence, as defined in s. 741.28, as part
16 of biennial relicensure or recertification. The course shall
17 consist of information on the number of patients in that
18 professional's practice who are likely to be victims of
19 domestic violence and the number who are likely to be
20 perpetrators of domestic violence, screening procedures for
21 determining whether a patient has any history of being either
22 a victim or a perpetrator of domestic violence, and
23 instruction on how to provide such patients with information
24 on, or how to refer such patients to, resources in the local
25 community, such as domestic violence centers and other
26 advocacy groups, that provide legal aid, shelter, victim
27 counseling, batterer counseling, or child protection services.

28 (b) Each such licensee or certificateholder shall
29 submit confirmation of having completed such course, on a form
30 provided by the board, when submitting fees for each biennial
31 renewal.

1 (c) The board may approve additional equivalent
2 courses that may be used to satisfy the requirements of
3 paragraph (a). Each licensing board that requires a licensee
4 to complete an educational course pursuant to this subsection
5 may include the hour required for completion of the course in
6 the total hours of continuing education required by law for
7 such profession unless the continuing education requirements
8 for such profession consist of fewer than 30 hours biennially.

9 (d) Any person holding two or more licenses subject to
10 the provisions of this subsection shall be permitted to show
11 proof of having taken one board-approved course on domestic
12 violence, for purposes of relicensure or recertification for
13 additional licenses.

14 (e) Failure to comply with the requirements of this
15 subsection shall constitute grounds for disciplinary action
16 under each respective practice act and under s. 456.072(1)(k)
17 ~~455.624(1)(k)~~. In addition to discipline by the board, the
18 licensee shall be required to complete such course.

19 (2) The board shall also require, as a condition of
20 granting a license under any chapter specified in paragraph
21 (1)(a), that each applicant for initial licensure under the
22 appropriate chapter complete an educational course acceptable
23 to the board on domestic violence which is substantially
24 equivalent to the course required in subsection (1). An
25 applicant who has not taken such course at the time of
26 licensure shall, upon submission of an affidavit showing good
27 cause, be allowed 6 months to complete such requirement.

28 (3) Each board may adopt rules to carry out the
29 provisions of this section.

30 (4) Each board shall report to the President of the
31 Senate, the Speaker of the House of Representatives, and the

1 chairs of the appropriate substantive committees of the
2 Legislature by March 1 of each year as to the implementation
3 of and compliance with the requirements of this section.

4 Section 59. Section 455.601, Florida Statutes, is
5 transferred and renumbered as section 456.032, Florida
6 Statutes.

7 Section 60. Section 455.604, Florida Statutes, is
8 transferred, renumbered as section 456.033, Florida Statutes,
9 and amended to read:

10 456.033 ~~455.604~~ Requirement for instruction for
11 certain licensees on human immunodeficiency virus and acquired
12 immune deficiency syndrome.--

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

1 (2) Each such licensee or certificateholder shall
2 submit confirmation of having completed said course, on a form
3 as provided by the board, when submitting fees for each
4 biennial renewal.

5 (3) The board shall have the authority to approve
6 additional equivalent courses that may be used to satisfy the
7 requirements in subsection (1). Each licensing board that
8 requires a licensee to complete an educational course pursuant
9 to this section may count the hours required for completion of
10 the course included in the total continuing educational
11 requirements as required by law.

12 (4) Any person holding two or more licenses subject to
13 the provisions of this section shall be permitted to show
14 proof of having taken one board-approved course on human
15 immunodeficiency virus and acquired immune deficiency
16 syndrome, for purposes of relicensure or recertification for
17 additional licenses.

18 (5) Failure to comply with the above requirements
19 shall constitute grounds for disciplinary action under each
20 respective licensing chapter and s. 456.072(1)(e)
21 ~~455.624(1)(e)~~. In addition to discipline by the board, the
22 licensee shall be required to complete the course.

23 (6) The board shall require as a condition of granting
24 a license under the chapters and parts specified in subsection
25 (1) that an applicant making initial application for licensure
26 complete an educational course acceptable to the board on
27 human immunodeficiency virus and acquired immune deficiency
28 syndrome. An applicant who has not taken a course at the time
29 of licensure shall, upon an affidavit showing good cause, be
30 allowed 6 months to complete this requirement.

31

1 (7) The board shall have the authority to adopt rules
2 to carry out the provisions of this section.

3 (8) The board shall report to the Legislature by March
4 1 of each year as to the implementation and compliance with
5 the requirements of this section.

6 (9) In lieu of completing a course as required in
7 subsection (1), the licensee may complete a course in
8 end-of-life care and palliative health care, so long as the
9 licensee completed an approved AIDS/HIV course in the
10 immediately preceding biennium.

11 Section 61. Section 455.607, Florida Statutes, is
12 transferred and renumbered as section 456.034, Florida
13 Statutes.

14 Section 62. Section 455.717, Florida Statutes, is
15 transferred, renumbered as section 456.035, Florida Statutes,
16 and amended to read:

17 456.035 ~~455.717~~ Address of record.--

18 (1) Each licensee of the department is solely
19 responsible for notifying the department in writing of the
20 licensee's current mailing address and place of practice, as
21 defined by rule of the board or the department if there is no
22 board. A licensee's failure to notify the department of a
23 change of address constitutes a violation of this section, and
24 the licensee may be disciplined by the board or the department
25 if there is no board.

26 (2) Notwithstanding any other law, service by regular
27 mail to a licensee's last known address of record with the
28 department constitutes adequate and sufficient notice to the
29 licensee for any official communication to the licensee by the
30 board or the department except when other service is required
31 under s. 456.076 ~~455.707~~.

1 Section 63. Section 455.711, Florida Statutes, is
2 transferred, renumbered as section 456.036, Florida Statutes,
3 and amended to read:

4 456.036 ~~455.711~~ Inactive and delinquent status.--

5 (1) A licensee may practice a profession only if the
6 licensee has an active status license. A licensee who
7 practices a profession without an active status license is in
8 violation of this section and s. 456.072 ~~455.624~~, and the
9 board, or the department if there is no board, may impose
10 discipline on the licensee.

11 (2) Each board, or the department if there is no
12 board, shall permit a licensee to choose, at the time of
13 licensure renewal, an active or inactive status. However, a
14 licensee who changes from inactive to active status is not
15 eligible to return to inactive status until the licensee
16 thereafter completes a licensure cycle on active status.

17 (3) Each board, or the department if there is no
18 board, shall by rule impose a fee for an inactive status
19 license which is no greater than the fee for an active status
20 license.

21 (4) An inactive status licensee may change to active
22 status at any time, if the licensee meets all requirements for
23 active status, pays any additional licensure fees necessary to
24 equal those imposed on an active status licensee, pays any
25 applicable reactivation fees as set by the board, or the
26 department if there is no board, and meets all continuing
27 education requirements as specified in this section.

28 (5) A licensee must apply with a complete application,
29 as defined by rule of the board, or the department if there is
30 no board, to renew an active status or inactive status license
31 before the license expires. If a licensee fails to renew

1 before the license expires, the license becomes delinquent in
2 the license cycle following expiration.

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

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

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

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

1 requirements may differ depending on the length of time
2 licensees are inactive. The costs to meet reactivation
3 requirements shall be borne by licensees requesting
4 reactivation.

5 (10) Before reactivation, an inactive or delinquent
6 licensee must meet the same continuing education requirements,
7 if any, imposed on an active status licensee for all biennial
8 licensure periods in which the licensee was inactive or
9 delinquent.

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

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

19 Section 64. Section 455.712, Florida Statutes, is
20 transferred, renumbered as section 456.037, Florida Statutes,
21 and amended to read:

22 456.037 ~~455.712~~ Business establishments; requirements
23 for active status licenses.--

24 (1) A business establishment regulated by the Division
25 of Medical Quality Assurance pursuant to this chapter ~~part~~ may
26 provide regulated services only if the business establishment
27 has an active status license. A business establishment that
28 provides regulated services without an active status license
29 is in violation of this section and s. 456.072 ~~455.624~~, and
30 the board, or the department if there is no board, may impose
31 discipline on the business establishment.

1 (2) A business establishment must apply with a
2 complete application, as defined by rule of the board, or the
3 department if there is no board, to renew an active status
4 license before the license expires. If a business
5 establishment fails to renew before the license expires, the
6 license becomes delinquent, except as otherwise provided in
7 statute, in the license cycle following expiration.

8 (3) A delinquent business establishment must apply
9 with a complete application, as defined by rule of the board,
10 or the department if there is no board, for active status
11 within 6 months after becoming delinquent. Failure of a
12 delinquent business establishment to renew the license within
13 the 6 months after the expiration date of the license renders
14 the license null without any further action by the board or
15 the department. Any subsequent licensure shall be as a result
16 of applying for and meeting all requirements imposed on a
17 business establishment for new licensure.

18 (4) The status or a change in status of a business
19 establishment license does not alter in any way the right of
20 the board, or of the department if there is no board, to
21 impose discipline or to enforce discipline previously imposed
22 on a business establishment for acts or omissions committed by
23 the business establishment while holding a license, whether
24 active or null.

25 (5) This section applies to any business establishment
26 registered, permitted, or licensed by the department to do
27 business. Business establishments include, but are not limited
28 to, dental laboratories, electrology facilities, massage
29 establishments, pharmacies, and health care services pools.

30
31

1 Section 65. Section 455.714, Florida Statutes, is
2 transferred and renumbered as section 456.038, Florida
3 Statutes.

4 Section 66. Section 455.565, Florida Statutes, is
5 transferred, renumbered as section 456.039, Florida Statutes,
6 and amended to read:

7 456.039 ~~455.565~~ Designated health care professionals;
8 information required for licensure.--

9 (1) Each person who applies for initial licensure as a
10 physician under chapter 458, chapter 459, chapter 460, or
11 chapter 461, except a person applying for registration
12 pursuant to ss. 458.345 and 459.021, must, at the time of
13 application, and each physician who applies for license
14 renewal under chapter 458, chapter 459, chapter 460, or
15 chapter 461, except a person registered pursuant to ss.
16 458.345 and 459.021, must, in conjunction with the renewal of
17 such license and under procedures adopted by the Department of
18 Health, and in addition to any other information that may be
19 required from the applicant, furnish the following information
20 to the Department of Health:

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

27 2. The name of each hospital at which the applicant
28 has privileges.

29 3. The address at which the applicant will primarily
30 conduct his or her practice.

31

1 4. Any certification that the applicant has received
2 from a specialty board that is recognized by the board to
3 which the applicant is applying.

4 5. The year that the applicant began practicing
5 medicine.

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

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

25 8. A description of any final disciplinary action
26 taken within the previous 10 years against the applicant by
27 the agency regulating the profession that the applicant is or
28 has been licensed to practice, whether in this state or in any
29 other jurisdiction, by a specialty board that is recognized by
30 the American Board of Medical Specialities, the American
31 Osteopathic Association, or a similar national organization,

1 or by a licensed hospital, health maintenance organization,
2 prepaid health clinic, ambulatory surgical center, or nursing
3 home. Disciplinary action includes resignation from or
4 nonrenewal of medical staff membership or the restriction of
5 privileges at a licensed hospital, health maintenance
6 organization, prepaid health clinic, ambulatory surgical
7 center, or nursing home taken in lieu of or in settlement of a
8 pending disciplinary case related to competence or character.
9 If the applicant indicates that the disciplinary action is
10 under appeal and submits a copy of the document initiating an
11 appeal of the disciplinary action, the department must state
12 that the disciplinary action is under appeal if the
13 disciplinary action is reported in the applicant's profile.

14 (b) In addition to the information required under
15 paragraph (a), each applicant who seeks licensure under
16 chapter 458, chapter 459, or chapter 461, and who has
17 practiced previously in this state or in another jurisdiction
18 or a foreign country must provide the information required of
19 licensees under those chapters pursuant to s. 456.049 ~~455.697~~.
20 An applicant for licensure under chapter 460 who has practiced
21 previously in this state or in another jurisdiction or a
22 foreign country must provide the same information as is
23 required of licensees under chapter 458, pursuant to s.
24 456.049 ~~455.697~~.

25 (2) Before the issuance of the licensure renewal
26 notice required by s. 456.038 ~~455.714~~, the Department of
27 Health shall send a notice to each person licensed under
28 chapter 458, chapter 459, chapter 460, or chapter 461, at the
29 licensee's last known address of record with the department,
30 regarding the requirements for information to be submitted by
31 those practitioners pursuant to this section in conjunction

1 with the renewal of such license and under procedures adopted
2 by the department.

3 (3) Each person who has submitted information pursuant
4 to subsection (1) must update that information in writing by
5 notifying the Department of Health within 45 days after the
6 occurrence of an event or the attainment of a status that is
7 required to be reported by subsection (1). Failure to comply
8 with the requirements of this subsection to update and submit
9 information constitutes a ground for disciplinary action under
10 each respective licensing chapter and s. 456.072(1)(k)
11 ~~455.624(1)(k)~~. For failure to comply with the requirements of
12 this subsection to update and submit information, the
13 department or board, as appropriate, may:

14 (a) Refuse to issue a license to any person applying
15 for initial licensure who fails to submit and update the
16 required information.

17 (b) Issue a citation to any licensee who fails to
18 submit and update the required information and may fine the
19 licensee up to \$50 for each day that the licensee is not in
20 compliance with this subsection. The citation must clearly
21 state that the licensee may choose, in lieu of accepting the
22 citation, to follow the procedure under s. 456.073 ~~455.621~~. If
23 the licensee disputes the matter in the citation, the
24 procedures set forth in s. 456.073 ~~455.621~~ must be followed.
25 However, if the licensee does not dispute the matter in the
26 citation with the department within 30 days after the citation
27 is served, the citation becomes a final order and constitutes
28 discipline. Service of a citation may be made by personal
29 service or certified mail, restricted delivery, to the subject
30 at the licensee's last known address.
31

1 (4)(a) An applicant for initial licensure must submit
2 a set of fingerprints to the Department of Health in
3 accordance with s. 458.311, s. 458.3115, s. 458.3124, s.
4 458.313, s. 459.0055, s. 460.406, or s. 461.006.

5 (b) An applicant for renewed licensure must submit a
6 set of fingerprints for the initial renewal of his or her
7 license after January 1, 2000, to the agency regulating that
8 profession in accordance with procedures established under s.
9 458.319, s. 459.008, s. 460.407, or s. 461.007.

10 (c) The Department of Health shall submit the
11 fingerprints provided by an applicant for initial licensure to
12 the Florida Department of Law Enforcement for a statewide
13 criminal history check, and the Florida Department of Law
14 Enforcement shall forward the fingerprints to the Federal
15 Bureau of Investigation for a national criminal history check
16 of the applicant. The department shall submit the fingerprints
17 provided by an applicant for a renewed license to the Florida
18 Department of Law Enforcement for a statewide criminal history
19 check, and the Florida Department of Law Enforcement shall
20 forward the fingerprints to the Federal Bureau of
21 Investigation for a national criminal history check for the
22 initial renewal of the applicant's license after January 1,
23 2000; for any subsequent renewal of the applicant's license,
24 the department shall submit the required information for a
25 statewide criminal history check of the applicant.

26 (5) Each person who is required to submit information
27 pursuant to this section may submit additional information.
28 Such information may include, but is not limited to:

29 (a) Information regarding publications in
30 peer-reviewed medical literature within the previous 10 years.

31

1 (b) Information regarding professional or community
2 service activities or awards.

3 (c) Languages, other than English, used by the
4 applicant to communicate with patients and identification of
5 any translating service that may be available at the place
6 where the applicant primarily conducts his or her practice.

7 (d) An indication of whether the person participates
8 in the Medicaid program.

9 Section 67. Section 455.5651, Florida Statutes, is
10 transferred, renumbered as section 456.041, Florida Statutes,
11 and amended to read:

12 456.041 ~~455.5651~~ Practitioner profile; creation.--

13 (1) Beginning July 1, 1999, the Department of Health
14 shall compile the information submitted pursuant to s. 456.039
15 ~~455.565~~ into a practitioner profile of the applicant
16 submitting the information, except that the Department of
17 Health may develop a format to compile uniformly any
18 information submitted under s. 456.039(4)(b) ~~455.565(4)(b)~~.

19 (2) On the profile required under subsection (1), the
20 department shall indicate if the information provided under s.
21 456.039(1)(a)7. ~~455.565(1)(a)7.~~ is not corroborated by a
22 criminal history check conducted according to this subsection.
23 If the information provided under s. 456.039(1)(a)7.
24 ~~455.565(1)(a)7.~~ is corroborated by the criminal history check,
25 the fact that the criminal history check was performed need
26 not be indicated on the profile. The department, or the board
27 having regulatory authority over the practitioner acting on
28 behalf of the department, shall investigate any information
29 received by the department or the board when it has reasonable
30 grounds to believe that the practitioner has violated any law
31 that relates to the practitioner's practice.

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

9 (4) The Department of Health shall include, with
10 respect to a practitioner licensed under chapter 458 or
11 chapter 459, a statement of how the practitioner has elected
12 to comply with the financial responsibility requirements of s.
13 458.320 or s. 459.0085. The department shall include, with
14 respect to practitioners licensed under chapter 458, chapter
15 459, or chapter 461, information relating to liability actions
16 which has been reported under s. 456.049 ~~455.697~~ or s. 627.912
17 within the previous 10 years for any paid claim that exceeds
18 \$5,000. Such claims information shall be reported in the
19 context of comparing an individual practitioner's claims to
20 the experience of other physicians within the same specialty
21 to the extent such information is available to the Department
22 of Health. If information relating to a liability action is
23 included in a practitioner's practitioner profile, the profile
24 must also include the following statement: "Settlement of a
25 claim may occur for a variety of reasons that do not
26 necessarily reflect negatively on the professional competence
27 or conduct of the physician. A payment in settlement of a
28 medical malpractice action or claim should not be construed as
29 creating a presumption that medical malpractice has occurred."

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

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

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

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

23 Section 68. Section 455.5652, Florida Statutes, is
24 transferred and renumbered as section 456.042, Florida
25 Statutes.

26 Section 69. Section 455.5653, Florida Statutes, is
27 transferred, renumbered as section 456.043, Florida Statutes,
28 and amended to read:

29 456.043 ~~455.5653~~ Practitioner profiles; data
30 storage.--Effective upon this act becoming a law, the
31 Department of Health must develop or contract for a computer

1 system to accommodate the new data collection and storage
2 requirements under this act pending the development and
3 operation of a computer system by the Department of Health for
4 handling the collection, input, revision, and update of data
5 submitted by physicians as a part of their initial licensure
6 or renewal to be compiled into individual practitioner
7 profiles. The Department of Health must incorporate any data
8 required by this act into the computer system used in
9 conjunction with the regulation of health care professions
10 under its jurisdiction. The department must develop, by the
11 year 2000, a schedule and procedures for each practitioner
12 within a health care profession regulated within the Division
13 of Medical Quality Assurance to submit relevant information to
14 be compiled into a profile to be made available to the public.
15 The Department of Health is authorized to contract with and
16 negotiate any interagency agreement necessary to develop and
17 implement the practitioner profiles. The Department of Health
18 shall have access to any information or record maintained by
19 the Agency for Health Care Administration, including any
20 information or record that is otherwise confidential and
21 exempt from the provisions of chapter 119 and s. 24(a), Art. I
22 of the State Constitution, so that the Department of Health
23 may corroborate any information that physicians are required
24 to report under s. 456.039 ~~455.565~~.

25 Section 70. Section 455.5654, Florida Statutes, is
26 transferred, renumbered as section 456.044, Florida Statutes,
27 and amended to read:

28 456.044 ~~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.

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. 456.039
6 ~~455.565~~.

7 Section 71. Sections 455.5655 and 455.5656, Florida
8 Statutes, are transferred and renumbered as sections 456.045
9 and 456.046, Florida Statutes, respectively.

10 Section 72. Section 455.557, Florida Statutes, is
11 transferred, renumbered as section 456.047, Florida Statutes,
12 and amended to read:

13 456.047 ~~455.557~~ Standardized credentialing for health
14 care practitioners.--

15 (1) INTENT.--The Legislature recognizes that an
16 efficient and effective health care practitioner credentialing
17 program helps to ensure access to quality health care and also
18 recognizes that health care practitioner credentialing
19 activities have increased significantly as a result of health
20 care reform and recent changes in health care delivery and
21 reimbursement systems. Moreover, the resulting duplication of
22 health care practitioner credentialing activities is
23 unnecessarily costly and cumbersome for both the practitioner
24 and the entity granting practice privileges. Therefore, it is
25 the intent of this section that a credentials collection
26 program be established which provides that, once a health care
27 practitioner's core credentials data are collected, they need
28 not be collected again, except for corrections, updates, and
29 modifications thereto. Participation under this section shall
30 initially include those individuals licensed under chapter
31 458, chapter 459, chapter 460, or chapter 461. However, the

1 department shall, with the approval of the applicable board,
2 include other professions under the jurisdiction of the
3 Division of Medical Quality Assurance in this program,
4 provided they meet the requirements of s. 456.039 ~~455.565~~.

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

6 (a) "Advisory council" or "council" means the
7 Credentials Advisory Council.

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

17 (c) "Core credentials data" means the following data:
18 current name, any former name, and any alias, any professional
19 education, professional training, licensure, current Drug
20 Enforcement Administration certification, social security
21 number, specialty board certification, Educational Commission
22 for Foreign Medical Graduates certification, hospital or other
23 institutional affiliations, evidence of professional liability
24 coverage or evidence of financial responsibility as required
25 by s. 458.320 or s. 459.0085, history of claims, suits,
26 judgments, or settlements, final disciplinary action reported
27 pursuant to s. 456.039(1)(a)8. ~~455.565(1)(a)8.~~, and Medicare
28 or Medicaid sanctions.

29 (d) "Credential" or "credentialing" means the process
30 of assessing and verifying the qualifications of a licensed
31

1 health care practitioner or applicant for licensure as a
2 health care practitioner.

3 (e) "Credentials verification organization" means any
4 organization certified or accredited as a credentials
5 verification organization.

6 (f) "Department" means the Department of Health,
7 Division of Medical Quality Assurance.

8 (g) "Designated credentials verification organization"
9 means the credentials verification organization which is
10 selected by the health care practitioner, if the health care
11 practitioner chooses to make such a designation.

12 (h) "Drug Enforcement Administration certification"
13 means certification issued by the Drug Enforcement
14 Administration for purposes of administration or prescription
15 of controlled substances. Submission of such certification
16 under this section must include evidence that the
17 certification is current and must also include all current
18 addresses to which the certificate is issued.

19 (i) "Health care entity" means:

20 1. Any health care facility or other health care
21 organization licensed or certified to provide approved medical
22 and allied health services in this state;

23 2. Any entity licensed by the Department of Insurance
24 as a prepaid health care plan or health maintenance
25 organization or as an insurer to provide coverage for health
26 care services through a network of providers; or

27 3. Any accredited medical school in this state.

28 (j) "Health care practitioner" means any person
29 licensed, or, for credentialing purposes only, any person
30 applying for licensure, under chapter 458, chapter 459,
31 chapter 460, or chapter 461 or any person licensed or applying

1 for licensure under a chapter subsequently made subject to
2 this section by the department with the approval of the
3 applicable board, except a person registered or applying for
4 registration pursuant to s. 458.345 or s. 459.021.

5 (k) "Hospital or other institutional affiliations"
6 means each hospital or other institution for which the health
7 care practitioner or applicant has provided medical services.
8 Submission of such information under this section must
9 include, for each hospital or other institution, the name and
10 address of the hospital or institution, the staff status of
11 the health care practitioner or applicant at that hospital or
12 institution, and the dates of affiliation with that hospital
13 or institution.

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

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

25 (n) "Specialty board certification" means
26 certification in a specialty issued by a specialty board
27 recognized by the board in this state that regulates the
28 profession for which the health care practitioner is licensed
29 or seeking licensure.

30 (3) STANDARDIZED CREDENTIALS VERIFICATION PROGRAM.--

31 (a) Every health care practitioner shall:

- 1 1. Report all core credentials data to the department
2 which is not already on file with the department, either by
3 designating a credentials verification organization to submit
4 the data or by submitting the data directly.
- 5 2. Notify the department within 45 days of any
6 corrections, updates, or modifications to the core credentials
7 data either through his or her designated credentials
8 verification organization or by submitting the data directly.
9 Corrections, updates, and modifications to the core
10 credentials data provided the department under this section
11 shall comply with the updating requirements of s. 456.039(3)
12 ~~455.565(3)~~ related to profiling.
- 13 (b) The department shall:
- 14 1. Maintain a complete, current file of core
15 credentials data on each health care practitioner, which shall
16 include all updates provided in accordance with subparagraph
17 (a)2.
- 18 2. Release the core credentials data that is otherwise
19 confidential or exempt from the provisions of chapter 119 and
20 s. 24(a), Art. I of the State Constitution and any
21 corrections, updates, and modifications thereto, if authorized
22 by the health care practitioner.
- 23 3. Charge a fee to access the core credentials data,
24 which may not exceed the actual cost, including prorated setup
25 and operating costs, pursuant to the requirements of chapter
26 119. The actual cost shall be set in consultation with the
27 advisory council.
- 28 4. Develop, in consultation with the advisory council,
29 standardized forms to be used by the health care practitioner
30 or designated credentials verification organization for the
31 initial reporting of core credentials data, for the health

1 care practitioner to authorize the release of core credentials
2 data, and for the subsequent reporting of corrections,
3 updates, and modifications thereto.

4 5. Establish a Credentials Advisory Council,
5 consisting of 13 members, to assist the department as provided
6 in this section. The secretary, or his or her designee, shall
7 serve as one member and chair of the council and shall appoint
8 the remaining 12 members. Except for any initial lesser term
9 required to achieve staggering, such appointments shall be for
10 4-year staggered terms, with one 4-year reappointment, as
11 applicable. Three members shall represent hospitals, and two
12 members shall represent health maintenance organizations. One
13 member shall represent health insurance entities. One member
14 shall represent the credentials verification industry. Two
15 members shall represent physicians licensed under chapter 458.
16 One member shall represent osteopathic physicians licensed
17 under chapter 459. One member shall represent chiropractic
18 physicians licensed under chapter 460. One member shall
19 represent podiatric physicians licensed under chapter 461.

20 (c) A registered credentials verification organization
21 may be designated by a health care practitioner to assist the
22 health care practitioner to comply with the requirements of
23 subparagraph (a)2. A designated credentials verification
24 organization shall:

25 1. Timely comply with the requirements of subparagraph
26 (a)2., pursuant to rules adopted by the department.

27 2. Not provide the health care practitioner's core
28 data, including all corrections, updates, and modifications,
29 without the authorization of the practitioner.

30 (d) This section shall not be construed to restrict in
31 any way the authority of the health care entity to credential

1 and to approve or deny an application for hospital staff
2 membership, clinical privileges, or managed care network
3 participation.

4 (4) DUPLICATION OF DATA PROHIBITED.--

5 (a) A health care entity or credentials verification
6 organization is prohibited from collecting or attempting to
7 collect duplicate core credentials data from any health care
8 practitioner if the information is available from the
9 department. This section shall not be construed to restrict
10 the right of any health care entity or credentials
11 verification organization to collect additional information
12 from the health care practitioner which is not included in the
13 core credentials data file. This section shall not be
14 construed to prohibit a health care entity or credentials
15 verification organization from obtaining all necessary
16 attestation and release form signatures and dates.

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

26 (5) STANDARDS AND REGISTRATION.--Any credentials
27 verification organization that does business in this state
28 must be fully accredited or certified as a credentials
29 verification organization by a national accrediting
30 organization as specified in paragraph (2)(b) and must
31 register with the department. The department may charge a

1 reasonable registration fee, set in consultation with the
2 advisory council, not to exceed an amount sufficient to cover
3 its actual expenses in providing and enforcing such
4 registration. The department shall establish by rule for
5 biennial renewal of such registration. Failure by a registered
6 credentials verification organization to maintain full
7 accreditation or certification, to provide data as authorized
8 by the health care practitioner, to report to the department
9 changes, updates, and modifications to a health care
10 practitioner's records within the time period specified in
11 subparagraph (3)(a)2., or to comply with the prohibition
12 against collection of duplicate core credentials data from a
13 practitioner may result in denial of an application for
14 renewal of registration or in revocation or suspension of a
15 registration.

16 (6) LIABILITY.--No civil, criminal, or administrative
17 action may be instituted, and there shall be no liability,
18 against any registered credentials verification organization
19 or health care entity on account of its reliance on any data
20 obtained directly from the department.

21 (7) LIABILITY INSURANCE REQUIREMENTS.--Each
22 credentials verification organization doing business in this
23 state shall maintain liability insurance appropriate to meet
24 the certification or accreditation requirements established in
25 this section.

26 (8) RULES.--The department, in consultation with the
27 advisory council, shall adopt rules necessary to develop and
28 implement the standardized core credentials data collection
29 program established by this section.

30 (9) COUNCIL ABOLISHED; DEPARTMENT AUTHORITY.--The
31 council shall be abolished October 1, 1999. After the council

1 is abolished, all duties of the department required under this
2 section to be in consultation with the council may be carried
3 out by the department on its own.

4 Section 73. Section 455.694, Florida Statutes, is
5 transferred, renumbered as section 456.048, Florida Statutes,
6 and amended to read:

7 456.048 ~~455.694~~ Financial responsibility requirements
8 for certain health care practitioners.--

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

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

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

1 insurance program authorized by the provisions of s.
2 768.28(15) or who is a volunteer under s. 110.501(1).

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

16 (c) Any person holding a limited license pursuant to
17 s. 456.015 ~~455.561~~, and practicing under the scope of such
18 limited license.

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

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

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

6 (3) Notwithstanding the provisions of this section,
7 the financial responsibility requirements of ss. 458.320 and
8 459.0085 shall continue to apply to practitioners licensed
9 under those chapters.

10 Section 74. Section 455.697, Florida Statutes, is
11 transferred and renumbered as section 456.049, Florida
12 Statutes.

13 Section 75. Section 455.698, Florida Statutes, is
14 transferred, renumbered as section 456.051, Florida Statutes,
15 and amended to read:

16 456.051 ~~455.698~~ Reports of professional liability
17 actions; bankruptcies; Department of Health's responsibility
18 to provide.--

19 (1) The report of a claim or action for damages for
20 personal injury which is required to be provided to the
21 Department of Health under s. 456.049 ~~455.697~~ or s. 627.912 is
22 public information except for the name of the claimant or
23 injured person, which remains confidential as provided in ss.
24 456.049(2)(d) ~~455.697(2)(d)~~ and 627.912(2)(e). The Department
25 of Health shall, upon request, make such report available to
26 any person.

27 (2) Any information in the possession of the
28 Department of Health which relates to a bankruptcy proceeding
29 by a practitioner of medicine licensed under chapter 458, a
30 practitioner of osteopathic medicine licensed under chapter
31 459, a podiatric physician licensed under chapter 461, or a

1 dentist licensed under chapter 466 is public information. The
2 Department of Health shall, upon request, make such
3 information available to any person.

4 Section 76. Section 455.701, Florida Statutes, is
5 transferred and renumbered as section 456.052, Florida
6 Statutes.

7 Section 77. Section 455.654, Florida Statutes, is
8 transferred, renumbered as section 456.053, Florida Statutes,
9 and amended to read:

10 456.053 ~~455.654~~ Financial arrangements between
11 referring health care providers and providers of health care
12 services.--

13 (1) SHORT TITLE.--This section may be cited as the
14 "Patient Self-Referral Act of 1992."

15 (2) LEGISLATIVE INTENT.--It is recognized by the
16 Legislature that the referral of a patient by a health care
17 provider to a provider of health care services in which the
18 referring health care provider has an investment interest
19 represents a potential conflict of interest. The Legislature
20 finds these referral practices may limit or eliminate
21 competitive alternatives in the health care services market,
22 may result in overutilization of health care services, may
23 increase costs to the health care system, and may adversely
24 affect the quality of health care. The Legislature also
25 recognizes, however, that it may be appropriate for providers
26 to own entities providing health care services, and to refer
27 patients to such entities, as long as certain safeguards are
28 present in the arrangement. It is the intent of the
29 Legislature to provide guidance to health care providers
30 regarding prohibited patient referrals between health care
31 providers and entities providing health care services and to

1 protect the people of Florida from unnecessary and costly
2 health care expenditures.

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

5 (a) "Board" means any of the following boards relating
6 to the respective professions: the Board of Medicine as
7 created in s. 458.307; the Board of Osteopathic Medicine as
8 created in s. 459.004; the Board of Chiropractic Medicine as
9 created in s. 460.404; the Board of Podiatric Medicine as
10 created in s. 461.004; the Board of Optometry as created in s.
11 463.003; the Board of Pharmacy as created in s. 465.004; and
12 the Board of Dentistry as created in s. 466.004.

13 (b) "Comprehensive rehabilitation services" means
14 services that are provided by health care professionals
15 licensed under part I or part III of chapter 468 or chapter
16 486 to provide speech, occupational, or physical therapy
17 services on an outpatient or ambulatory basis.

18 (c) "Designated health services" means, for purposes
19 of this section, clinical laboratory services, physical
20 therapy services, comprehensive rehabilitative services,
21 diagnostic-imaging services, and radiation therapy services.

22 (d) "Diagnostic imaging services" means magnetic
23 resonance imaging, nuclear medicine, angiography,
24 arteriography, computed tomography, positron emission
25 tomography, digital vascular imaging, bronchography,
26 lymphangiography, splenography, ultrasound, EEG, EKG, nerve
27 conduction studies, and evoked potentials.

28 (e) "Direct supervision" means supervision by a
29 physician who is present in the office suite and immediately
30 available to provide assistance and direction throughout the
31 time services are being performed.

1 (f) "Entity" means any individual, partnership, firm,
2 corporation, or other business entity.

3 (g) "Fair market value" means value in arms length
4 transactions, consistent with the general market value, and,
5 with respect to rentals or leases, the value of rental
6 property for general commercial purposes, not taking into
7 account its intended use, and, in the case of a lease of
8 space, not adjusted to reflect the additional value the
9 prospective lessee or lessor would attribute to the proximity
10 or convenience to the lessor where the lessor is a potential
11 source of patient referrals to the lessee.

12 (h) "Group practice" means a group of two or more
13 health care providers legally organized as a partnership,
14 professional corporation, or similar association:

15 1. In which each health care provider who is a member
16 of the group provides substantially the full range of services
17 which the health care provider routinely provides, including
18 medical care, consultation, diagnosis, or treatment, through
19 the joint use of shared office space, facilities, equipment,
20 and personnel;

21 2. For which substantially all of the services of the
22 health care providers who are members of the group are
23 provided through the group and are billed in the name of the
24 group and amounts so received are treated as receipts of the
25 group; and

26 3. In which the overhead expenses of and the income
27 from the practice are distributed in accordance with methods
28 previously determined by members of the group.

29 (i) "Health care provider" means any physician
30 licensed under chapter 458, chapter 459, chapter 460, or
31

1 chapter 461, or any health care provider licensed under
2 chapter 463 or chapter 466.

3 (j) "Immediate family member" means a health care
4 provider's spouse, child, child's spouse, grandchild,
5 grandchild's spouse, parent, parent-in-law, or sibling.

6 (k) "Investment interest" means an equity or debt
7 security issued by an entity, including, without limitation,
8 shares of stock in a corporation, units or other interests in
9 a partnership, bonds, debentures, notes, or other equity
10 interests or debt instruments. The following investment
11 interests shall be excepted from this definition:

12 1. An investment interest in an entity that is the
13 sole provider of designated health services in a rural area;

14 2. An investment interest in notes, bonds, debentures,
15 or other debt instruments issued by an entity which provides
16 designated health services, as an integral part of a plan by
17 such entity to acquire such investor's equity investment
18 interest in the entity, provided that the interest rate is
19 consistent with fair market value, and that the maturity date
20 of the notes, bonds, debentures, or other debt instruments
21 issued by the entity to the investor is not later than October
22 1, 1996.

23 3. An investment interest in real property resulting
24 in a landlord-tenant relationship between the health care
25 provider and the entity in which the equity interest is held,
26 unless the rent is determined, in whole or in part, by the
27 business volume or profitability of the tenant or exceeds fair
28 market value; or

29 4. An investment interest in an entity which owns or
30 leases and operates a hospital licensed under chapter 395 or a
31 nursing home facility licensed under chapter 400.

1 (1) "Investor" means a person or entity owning a legal
2 or beneficial ownership or investment interest, directly or
3 indirectly, including, without limitation, through an
4 immediate family member, trust, or another entity related to
5 the investor within the meaning of 42 C.F.R. s. 413.17, in an
6 entity.

7 (m) "Outside referral for diagnostic imaging services"
8 means a referral of a patient to a group practice or sole
9 provider for diagnostic imaging services by a physician who is
10 not a member of the group practice or of the sole provider's
11 practice and who does not have an investment interest in the
12 group practice or sole provider's practice, for which the
13 group practice or sole provider billed for both the technical
14 and the professional fee for the patient, and the patient did
15 not become a patient of the group practice or sole provider's
16 practice.

17 (n) "Patient of a group practice" or "patient of a
18 sole provider" means a patient who receives a physical
19 examination, evaluation, diagnosis, and development of a
20 treatment plan if medically necessary by a physician who is a
21 member of the group practice or the sole provider's practice.

22 (o) "Referral" means any referral of a patient by a
23 health care provider for health care services, including,
24 without limitation:

25 1. The forwarding of a patient by a health care
26 provider to another health care provider or to an entity which
27 provides or supplies designated health services or any other
28 health care item or service; or

29 2. The request or establishment of a plan of care by a
30 health care provider, which includes the provision of

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1 designated health services or other health care item or
2 service.

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

6 a. By a radiologist for diagnostic-imaging services.
7 b. By a physician specializing in the provision of
8 radiation therapy services for such services.
9 c. By a medical oncologist for drugs and solutions to
10 be prepared and administered intravenously to such
11 oncologist's patient, as well as for the supplies and
12 equipment used in connection therewith to treat such patient
13 for cancer and the complications thereof.
14 d. By a cardiologist for cardiac catheterization
15 services.
16 e. By a pathologist for diagnostic clinical laboratory
17 tests and pathological examination services, if furnished by
18 or under the supervision of such pathologist pursuant to a
19 consultation requested by another physician.
20 f. By a health care provider who is the sole provider
21 or member of a group practice for designated health services
22 or other health care items or services that are prescribed or
23 provided solely for such referring health care provider's or
24 group practice's own patients, and that are provided or
25 performed by or under the direct supervision of such referring
26 health care provider or group practice; provided, however,
27 that effective July 1, 1999, a physician licensed pursuant to
28 chapter 458, chapter 459, chapter 460, or chapter 461 may
29 refer a patient to a sole provider or group practice for
30 diagnostic imaging services, excluding radiation therapy
31 services, for which the sole provider or group practice billed

1 both the technical and the professional fee for or on behalf
2 of the patient, if the referring physician has no investment
3 interest in the practice. The diagnostic imaging service
4 referred to a group practice or sole provider must be a
5 diagnostic imaging service normally provided within the scope
6 of practice to the patients of the group practice or sole
7 provider. The group practice or sole provider may accept no
8 more than 15 percent of their patients receiving diagnostic
9 imaging services from outside referrals, excluding radiation
10 therapy services.

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

13 h. By a health care provider for diagnostic clinical
14 laboratory services where such services are directly related
15 to renal dialysis.

16 i. By a urologist for lithotripsy services.

17 j. By a dentist for dental services performed by an
18 employee of or health care provider who is an independent
19 contractor with the dentist or group practice of which the
20 dentist is a member.

21 k. By a physician for infusion therapy services to a
22 patient of that physician or a member of that physician's
23 group practice.

24 l. By a nephrologist for renal dialysis services and
25 supplies.

26 (p) "Present in the office suite" means that the
27 physician is actually physically present; provided, however,
28 that the health care provider is considered physically present
29 during brief unexpected absences as well as during routine
30 absences of a short duration if the absences occur during time
31 periods in which the health care provider is otherwise

1 scheduled and ordinarily expected to be present and the
2 absences do not conflict with any other requirement in the
3 Medicare program for a particular level of health care
4 provider supervision.

5 (q) "Rural area" means a county with a population
6 density of no greater than 100 persons per square mile, as
7 defined by the United States Census.

8 (r) "Sole provider" means one health care provider
9 licensed under chapter 458, chapter 459, chapter 460, or
10 chapter 461, who maintains a separate medical office and a
11 medical practice separate from any other health care provider
12 and who bills for his or her services separately from the
13 services provided by any other health care provider. A sole
14 provider shall not share overhead expenses or professional
15 income with any other person or group practice.

16 (4) REQUIREMENTS FOR ACCEPTING OUTSIDE REFERRALS FOR
17 DIAGNOSTIC IMAGING.--

18 (a) A group practice or sole provider accepting
19 outside referrals for diagnostic imaging services is required
20 to comply with the following conditions:

21 1. Diagnostic imaging services must be provided
22 exclusively by a group practice physician or by a full-time or
23 part-time employee of the group practice or of the sole
24 provider's practice.

25 2. All equity in the group practice or sole provider's
26 practice accepting outside referrals for diagnostic imaging
27 must be held by the physicians comprising the group practice
28 or the sole provider's practice, each of whom must provide at
29 least 75 percent of his professional services to the group.
30 Alternatively, the group must be incorporated under chapter
31 617 and must be exempt under the provisions of s. 501(c)(3) of

1 the Internal Revenue Code and be part of a foundation in
2 existence prior to January 1, 1999, that is created for the
3 purpose of patient care, medical education, and research.

4 3. A group practice or sole provider may not enter
5 into, extend or renew any contract with a practice management
6 company that provides any financial incentives, directly or
7 indirectly, based on an increase in outside referrals for
8 diagnostic imaging services from any group or sole provider
9 managed by the same practice management company.

10 4. The group practice or sole provider accepting
11 outside referrals for diagnostic imaging services must bill
12 for both the professional and technical component of the
13 service on behalf of the patient, and no portion of the
14 payment, or any type of consideration, either directly or
15 indirectly, may be shared with the referring physician.

16 5. Group practices or sole providers that have a
17 Medicaid provider agreement with the Agency for Health Care
18 Administration must furnish diagnostic imaging services to
19 their Medicaid patients and may not refer a Medicaid recipient
20 to a hospital for outpatient diagnostic imaging services
21 unless the physician furnishes the hospital with documentation
22 demonstrating the medical necessity for such a referral. If
23 necessary, the Agency for Health Care Administration may apply
24 for a federal waiver to implement this subparagraph.

25 6. All group practices and sole providers accepting
26 outside referrals for diagnostic imaging shall report annually
27 to the Agency for Health Care Administration providing the
28 number of outside referrals accepted for diagnostic imaging
29 services and the total number of all patients receiving
30 diagnostic imaging services.

31

1 (b) If a group practice or sole provider accepts an
2 outside referral for diagnostic imaging services in violation
3 of this subsection or if a group practice or sole provider
4 accepts outside referrals for diagnostic imaging services in
5 excess of the percentage limitation established in
6 subparagraph (a)2., the group practice or the sole provider
7 shall be subject to the penalties in subsection (5).

8 (c) Each managing physician member of a group practice
9 and each sole provider who accepts outside referrals for
10 diagnostic imaging services shall submit an annual attestation
11 signed under oath to the Agency for Health Care Administration
12 which shall include the annual report required under
13 subparagraph (a)6. and which shall further confirm that each
14 group practice or sole provider is in compliance with the
15 percentage limitations for accepting outside referrals and the
16 requirements for accepting outside referrals listed in
17 paragraph (a). The agency may verify the report submitted by
18 group practices and sole providers.

19 (5) PROHIBITED REFERRALS AND CLAIMS FOR
20 PAYMENT.--Except as provided in this section:

21 (a) A health care provider may not refer a patient for
22 the provision of designated health services to an entity in
23 which the health care provider is an investor or has an
24 investment interest.

25 (b) A health care provider may not refer a patient for
26 the provision of any other health care item or service to an
27 entity in which the health care provider is an investor
28 unless:

29 1. The provider's investment interest is in registered
30 securities purchased on a national exchange or
31

1 over-the-counter market and issued by a publicly held
2 corporation:
3 a. Whose shares are traded on a national exchange or
4 on the over-the-counter market; and
5 b. Whose total assets at the end of the corporation's
6 most recent fiscal quarter exceeded \$50 million; or
7 2. With respect to an entity other than a publicly
8 held corporation described in subparagraph 1., and a referring
9 provider's investment interest in such entity, each of the
10 following requirements are met:
11 a. No more than 50 percent of the value of the
12 investment interests are held by investors who are in a
13 position to make referrals to the entity.
14 b. The terms under which an investment interest is
15 offered to an investor who is in a position to make referrals
16 to the entity are no different from the terms offered to
17 investors who are not in a position to make such referrals.
18 c. The terms under which an investment interest is
19 offered to an investor who is in a position to make referrals
20 to the entity are not related to the previous or expected
21 volume of referrals from that investor to the entity.
22 d. There is no requirement that an investor make
23 referrals or be in a position to make referrals to the entity
24 as a condition for becoming or remaining an investor.
25 3. With respect to either such entity or publicly held
26 corporation:
27 a. The entity or corporation does not loan funds to or
28 guarantee a loan for an investor who is in a position to make
29 referrals to the entity or corporation if the investor uses
30 any part of such loan to obtain the investment interest.
31

1 b. The amount distributed to an investor representing
2 a return on the investment interest is directly proportional
3 to the amount of the capital investment, including the fair
4 market value of any preoperational services rendered, invested
5 in the entity or corporation by that investor.

6 4. Each board and, in the case of hospitals, the
7 Agency for Health Care Administration, shall encourage the use
8 by licensees of the declaratory statement procedure to
9 determine the applicability of this section or any rule
10 adopted pursuant to this section as it applies solely to the
11 licensee. Boards shall submit to the Agency for Health Care
12 Administration the name of any entity in which a provider
13 investment interest has been approved pursuant to this
14 section, and the Agency for Health Care Administration shall
15 adopt rules providing for periodic quality assurance and
16 utilization review of such entities.

17 (c) No claim for payment may be presented by an entity
18 to any individual, third-party payor, or other entity for a
19 service furnished pursuant to a referral prohibited under this
20 section.

21 (d) If an entity collects any amount that was billed
22 in violation of this section, the entity shall refund such
23 amount on a timely basis to the payor or individual, whichever
24 is applicable.

25 (e) Any person that presents or causes to be presented
26 a bill or a claim for service that such person knows or should
27 know is for a service for which payment may not be made under
28 paragraph (c), or for which a refund has not been made under
29 paragraph (d), shall be subject to a civil penalty of not more
30 than \$15,000 for each such service to be imposed and collected
31 by the appropriate board.

1 (f) Any health care provider or other entity that
2 enters into an arrangement or scheme, such as a cross-referral
3 arrangement, which the physician or entity knows or should
4 know has a principal purpose of assuring referrals by the
5 physician to a particular entity which, if the physician
6 directly made referrals to such entity, would be in violation
7 of this section, shall be subject to a civil penalty of not
8 more than \$100,000 for each such circumvention arrangement or
9 scheme to be imposed and collected by the appropriate board.

10 (g) A violation of this section by a health care
11 provider shall constitute grounds for disciplinary action to
12 be taken by the applicable board pursuant to s. 458.331(2), s.
13 459.015(2), s. 460.413(2), s. 461.013(2), s. 463.016(2), or s.
14 466.028(2). Any hospital licensed under chapter 395 found in
15 violation of this section shall be subject to the rules
16 adopted by the Agency for Health Care Administration pursuant
17 to s. 395.0185(2).

18 (h) Any hospital licensed under chapter 395 that
19 discriminates against or otherwise penalizes a health care
20 provider for compliance with this act.

21 (i) The provision of paragraph (a) shall not apply to
22 referrals to the offices of radiation therapy centers managed
23 by an entity or subsidiary or general partner thereof, which
24 performed radiation therapy services at those same offices
25 prior to April 1, 1991, and shall not apply also to referrals
26 for radiation therapy to be performed at no more than one
27 additional office of any entity qualifying for the foregoing
28 exception which, prior to February 1, 1992, had a binding
29 purchase contract on and a nonrefundable deposit paid for a
30 linear accelerator to be used at the additional office. The
31 physical site of the radiation treatment centers affected by

1 this provision may be relocated as a result of the following
2 factors: acts of God; fire; strike; accident; war; eminent
3 domain actions by any governmental body; or refusal by the
4 lessor to renew a lease. A relocation for the foregoing
5 reasons is limited to relocation of an existing facility to a
6 replacement location within the county of the existing
7 facility upon written notification to the Office of Licensure
8 and Certification.

9 (j) A health care provider who meets the requirements
10 of paragraphs (b) and (i) must disclose his or her investment
11 interest to his or her patients as provided in s. 456.052
12 ~~455.701~~.

13 Section 78. Sections 455.657, 455.684, and 455.691,
14 Florida Statutes, are transferred and renumbered as sections
15 456.054, 456.055, and 456.056, Florida Statutes, respectively.

16 Section 79. Section 455.667, Florida Statutes, is
17 transferred, renumbered as section 456.057, Florida Statutes,
18 and amended to read:

19 456.057 ~~455.667~~ Ownership and control of patient
20 records; report or copies of records to be furnished.--

21 (1) As used in this section, the term "records owner"
22 means any health care practitioner who generates a medical
23 record after making a physical or mental examination of, or
24 administering treatment or dispensing legend drugs to, any
25 person; any health care practitioner to whom records are
26 transferred by a previous records owner; or any health care
27 practitioner's employer, including, but not limited to, group
28 practices and staff-model health maintenance organizations,
29 provided the employment contract or agreement between the
30 employer and the health care practitioner designates the
31 employer as the records owner.

- 1 (2) As used in this section, the terms "records
2 owner," "health care practitioner," and "health care
3 practitioner's employer" do not include any of the following
4 persons or entities; furthermore, the following persons or
5 entities are not authorized to acquire or own medical records,
6 but are authorized under the confidentiality and disclosure
7 requirements of this section to maintain those documents
8 required by the part or chapter under which they are licensed
9 or regulated:
- 10 (a) Certified nursing assistants regulated under s.
11 400.211.
- 12 (b) Pharmacists and pharmacies licensed under chapter
13 465.
- 14 (c) Dental hygienists licensed under s. 466.023.
- 15 (d) Nursing home administrators licensed under part II
16 of chapter 468.
- 17 (e) Respiratory therapists regulated under part V of
18 chapter 468.
- 19 (f) Athletic trainers licensed under part XIII of
20 chapter 468.
- 21 (g) Electrologists licensed under chapter 478.
- 22 (h) Clinical laboratory personnel licensed under part
23 III of chapter 483.
- 24 (i) Medical physicists licensed under part IV of
25 chapter 483.
- 26 (j) Opticians and optical establishments licensed or
27 permitted under part I of chapter 484.
- 28 (k) Persons or entities practicing under s.
29 627.736(7).
- 30 (3) This section does not apply to facilities licensed
31 under chapter 395.

1 (4) Any health care practitioner licensed by the
2 department or a board within the department who makes a
3 physical or mental examination of, or administers treatment or
4 dispenses legend drugs to, any person shall, upon request of
5 such person or the person's legal representative, furnish, in
6 a timely manner, without delays for legal review, copies of
7 all reports and records relating to such examination or
8 treatment, including X rays and insurance information.
9 However, when a patient's psychiatric, chapter 490
10 psychological, or chapter 491 psychotherapeutic records are
11 requested by the patient or the patient's legal
12 representative, the health care practitioner may provide a
13 report of examination and treatment in lieu of copies of
14 records. Upon a patient's written request, complete copies of
15 the patient's psychiatric records shall be provided directly
16 to a subsequent treating psychiatrist. The furnishing of such
17 report or copies shall not be conditioned upon payment of a
18 fee for services rendered.

19 (5) Except as otherwise provided in this section and
20 in s. 440.13(4)(c), such records may not be furnished to, and
21 the medical condition of a patient may not be discussed with,
22 any person other than the patient or the patient's legal
23 representative or other health care practitioners and
24 providers involved in the care or treatment of the patient,
25 except upon written authorization of the patient. However,
26 such records may be furnished without written authorization
27 under the following circumstances:

28 (a) To any person, firm, or corporation that has
29 procured or furnished such examination or treatment with the
30 patient's consent.

31

1 (b) When compulsory physical examination is made
2 pursuant to Rule 1.360, Florida Rules of Civil Procedure, in
3 which case copies of the medical records shall be furnished to
4 both the defendant and the plaintiff.

5 (c) In any civil or criminal action, unless otherwise
6 prohibited by law, upon the issuance of a subpoena from a
7 court of competent jurisdiction and proper notice to the
8 patient or the patient's legal representative by the party
9 seeking such records.

10 (d) For statistical and scientific research, provided
11 the information is abstracted in such a way as to protect the
12 identity of the patient or provided written permission is
13 received from the patient or the patient's legal
14 representative.

15 (6) Except in a medical negligence action or
16 administrative proceeding when a health care practitioner or
17 provider is or reasonably expects to be named as a defendant,
18 information disclosed to a health care practitioner by a
19 patient in the course of the care and treatment of such
20 patient is confidential and may be disclosed only to other
21 health care practitioners and providers involved in the care
22 or treatment of the patient, or if permitted by written
23 authorization from the patient or compelled by subpoena at a
24 deposition, evidentiary hearing, or trial for which proper
25 notice has been given.

26 (7)(a)1. The department may obtain patient records
27 pursuant to a subpoena without written authorization from the
28 patient if the department and the probable cause panel of the
29 appropriate board, if any, find reasonable cause to believe
30 that a health care practitioner has excessively or
31 inappropriately prescribed any controlled substance specified

1 in chapter 893 in violation of this chapter ~~part~~ or any
2 professional practice act or that a health care practitioner
3 has practiced his or her profession below that level of care,
4 skill, and treatment required as defined by this chapter ~~part~~
5 or any professional practice act and also find that
6 appropriate, reasonable attempts were made to obtain a patient
7 release.

8 2. The department may obtain patient records and
9 insurance information pursuant to a subpoena without written
10 authorization from the patient if the department and the
11 probable cause panel of the appropriate board, if any, find
12 reasonable cause to believe that a health care practitioner
13 has provided inadequate medical care based on termination of
14 insurance and also find that appropriate, reasonable attempts
15 were made to obtain a patient release.

16 3. The department may obtain patient records, billing
17 records, insurance information, provider contracts, and all
18 attachments thereto pursuant to a subpoena without written
19 authorization from the patient if the department and probable
20 cause panel of the appropriate board, if any, find reasonable
21 cause to believe that a health care practitioner has submitted
22 a claim, statement, or bill using a billing code that would
23 result in payment greater in amount than would be paid using a
24 billing code that accurately describes the services performed,
25 requested payment for services that were not performed by that
26 health care practitioner, used information derived from a
27 written report of an automobile accident generated pursuant to
28 chapter 316 to solicit or obtain patients personally or
29 through an agent regardless of whether the information is
30 derived directly from the report or a summary of that report
31 or from another person, solicited patients fraudulently,

1 received a kickback as defined in s. 456.054 ~~455.657~~, violated
2 the patient brokering provisions of s. 817.505, or presented
3 or caused to be presented a false or fraudulent insurance
4 claim within the meaning of s. 817.234(1)(a), and also find
5 that, within the meaning of s. 817.234(1)(a), patient
6 authorization cannot be obtained because the patient cannot be
7 located or is deceased, incapacitated, or suspected of being a
8 participant in the fraud or scheme, and if the subpoena is
9 issued for specific and relevant records.

10 (b) Patient records, billing records, insurance
11 information, provider contracts, and all attachments thereto
12 obtained by the department pursuant to this subsection shall
13 be used solely for the purpose of the department and the
14 appropriate regulatory board in disciplinary proceedings. This
15 section does not limit the assertion of the
16 psychotherapist-patient privilege under s. 90.503 in regard to
17 records of treatment for mental or nervous disorders by a
18 medical practitioner licensed pursuant to chapter 458 or
19 chapter 459 who has primarily diagnosed and treated mental and
20 nervous disorders for a period of not less than 3 years,
21 inclusive of psychiatric residency. However, the health care
22 practitioner shall release records of treatment for medical
23 conditions even if the health care practitioner has also
24 treated the patient for mental or nervous disorders. If the
25 department has found reasonable cause under this section and
26 the psychotherapist-patient privilege is asserted, the
27 department may petition the circuit court for an in camera
28 review of the records by expert medical practitioners
29 appointed by the court to determine if the records or any part
30 thereof are protected under the psychotherapist-patient
31 privilege.

1 (8) All patient records obtained by the department and
2 any other documents maintained by the department which
3 identify the patient by name are confidential and exempt from
4 s. 119.07(1) and shall be used solely for the purpose of the
5 department and the appropriate regulatory board in its
6 investigation, prosecution, and appeal of disciplinary
7 proceedings. The records shall not be available to the public
8 as part of the record of investigation for and prosecution in
9 disciplinary proceedings made available to the public by the
10 department or the appropriate board.

11 (9) All records owners shall develop and implement
12 policies, standards, and procedures to protect the
13 confidentiality and security of the medical record. Employees
14 of records owners shall be trained in these policies,
15 standards, and procedures.

16 (10) Records owners are responsible for maintaining a
17 record of all disclosures of information contained in the
18 medical record to a third party, including the purpose of the
19 disclosure request. The record of disclosure may be
20 maintained in the medical record. The third party to whom
21 information is disclosed is prohibited from further disclosing
22 any information in the medical record without the expressed
23 written consent of the patient or the patient's legal
24 representative.

25 (11) Notwithstanding the provisions of s. 456.058
26 ~~455.677~~, records owners shall place an advertisement in the
27 local newspaper or notify patients, in writing, when they are
28 terminating practice, retiring, or relocating, and no longer
29 available to patients, and offer patients the opportunity to
30 obtain a copy of their medical record.

31

1 (12) Notwithstanding the provisions of s. 456.058
2 ~~455.677~~, records owners shall notify the appropriate board
3 office when they are terminating practice, retiring, or
4 relocating, and no longer available to patients, specifying
5 who the new records owner is and where medical records can be
6 found.

7 (13) Whenever a records owner has turned records over
8 to a new records owner, the new records owner shall be
9 responsible for providing a copy of the complete medical
10 record, upon written request, of the patient or the patient's
11 legal representative.

12 (14) Licensees in violation of the provisions of this
13 section shall be disciplined by the appropriate licensing
14 authority.

15 (15) The Attorney General is authorized to enforce the
16 provisions of this section for records owners not otherwise
17 licensed by the state, through injunctive relief and fines not
18 to exceed \$5,000 per violation.

19 (16) A health care practitioner or records owner
20 furnishing copies of reports or records or making the reports
21 or records available for digital scanning pursuant to this
22 section shall charge no more than the actual cost of copying,
23 including reasonable staff time, or the amount specified in
24 administrative rule by the appropriate board, or the
25 department when there is no board.

26 (17) Nothing in this section shall be construed to
27 limit health care practitioner consultations, as necessary.

28 (18) A records owner shall release to a health care
29 practitioner who, as an employee of the records owner,
30 previously provided treatment to a patient, those records that
31 the health care practitioner actually created or generated

1 when the health care practitioner treated the patient.
2 Records released pursuant to this subsection shall be released
3 only upon written request of the health care practitioner and
4 shall be limited to the notes, plans of care, and orders and
5 summaries that were actually generated by the health care
6 practitioner requesting the record.

7 Section 80. Section 455.677, Florida Statutes, is
8 transferred and renumbered as section 456.058, Florida
9 Statutes.

10 Section 81. Section 455.671, Florida Statutes, is
11 transferred, renumbered as section 456.059, Florida Statutes,
12 and amended to read:

13 456.059 ~~455.671~~ Communications confidential;
14 exceptions.--Communications between a patient and a
15 psychiatrist, as defined in s. 394.455, shall be held
16 confidential and shall not be disclosed except upon the
17 request of the patient or the patient's legal representative.
18 Provision of psychiatric records and reports shall be governed
19 by s. 456.057 ~~455.667~~. Notwithstanding any other provision of
20 this section or s. 90.503, where:

21 (1) A patient is engaged in a treatment relationship
22 with a psychiatrist;

23 (2) Such patient has made an actual threat to
24 physically harm an identifiable victim or victims; and

25 (3) The treating psychiatrist makes a clinical
26 judgment that the patient has the apparent capability to
27 commit such an act and that it is more likely than not that in
28 the near future the patient will carry out that threat,

29
30 the psychiatrist may disclose patient communications to the
31 extent necessary to warn any potential victim or to

1 communicate the threat to a law enforcement agency. No civil
2 or criminal action shall be instituted, and there shall be no
3 liability on account of disclosure of otherwise confidential
4 communications by a psychiatrist in disclosing a threat
5 pursuant to this section.

6 Section 82. Sections 455.674, 455.664, and 455.567,
7 Florida Statutes, are transferred and renumbered as sections
8 456.061, 456.062, and 456.063, Florida Statutes, respectively.

9 Section 83. Section 455.641, Florida Statutes, is
10 transferred, renumbered as section 456.064, Florida Statutes,
11 and amended to read:

12 456.064 ~~455.641~~ Unlicensed activities; fees;
13 disposition.--In order to protect the public and to ensure a
14 consumer-oriented department, it is the intent of the
15 Legislature that vigorous enforcement of regulation for all
16 professional activities is a state priority. All enforcement
17 costs should be covered by professions regulated by the
18 department. Therefore, the department shall impose, upon
19 initial licensure and each renewal thereof, a special fee of
20 \$5 per licensee. Such fee shall be in addition to all other
21 fees collected from each licensee and shall fund efforts to
22 combat unlicensed activity. The board with concurrence of the
23 department, or the department when there is no board, may
24 earmark \$5 of the current licensure fee for this purpose, if
25 such board, or profession regulated by the department, is not
26 in a deficit and has a reasonable cash balance. The department
27 shall make direct charges to this fund by profession and shall
28 not allocate indirect overhead. The department shall seek
29 board advice regarding enforcement methods and strategies
30 prior to expenditure of funds. The department shall directly
31 credit, by profession, revenues received from the department's

1 efforts to enforce licensure provisions. The department shall
2 include all financial and statistical data resulting from
3 unlicensed activity enforcement as a separate category in the
4 quarterly management report provided for in s. 456.025
5 ~~455.587~~. The department shall not charge the account of any
6 profession for the costs incurred on behalf of any other
7 profession. For an unlicensed activity account, a balance
8 which remains at the end of a renewal cycle may, with
9 concurrence of the applicable board and the department, be
10 transferred to the operating fund account of that profession.

11 Section 84. Section 455.637, Florida Statutes, is
12 transferred, renumbered as section 456.065, Florida Statutes,
13 and amended to read:

14 456.065 ~~455.637~~ Unlicensed practice of a profession;
15 cease and desist notice; civil penalty; enforcement;
16 citations; allocation of moneys collected.--

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

1 seeking issuance of an injunction or a writ of mandamus
2 against any person who violates any provisions of such order.
3 In addition to the foregoing remedies, the department may
4 impose an administrative penalty not to exceed \$5,000 per
5 incident pursuant to the provisions of chapter 120 or may
6 issue a citation pursuant to the provisions of subsection (3).
7 If the department is required to seek enforcement of the
8 agency order for a penalty pursuant to s. 120.569, it shall be
9 entitled to collect its attorney's fees and costs, together
10 with any cost of collection.

11 (2) In addition to or in lieu of any remedy provided
12 in subsection (1), the department may seek the imposition of a
13 civil penalty through the circuit court for any violation for
14 which the department may issue a notice to cease and desist
15 under subsection (1). The civil penalty shall be no less than
16 \$500 and no more than \$5,000 for each offense. The court may
17 also award to the prevailing party court costs and reasonable
18 attorney fees and, in the event the department prevails, may
19 also award reasonable costs of investigation.

20 (3)(a) Notwithstanding the provisions of s. 456.073
21 ~~455.621~~, the department shall adopt rules to permit the
22 issuance of citations for unlicensed practice of a profession.
23 The citation shall be issued to the subject and shall contain
24 the 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. 456.073 ~~455.621~~. If the subject
30 disputes the matter in the citation, the procedures set forth
31 in s. 456.073 ~~455.621~~ must be followed. However, if the

1 subject does not dispute the matter in the citation with the
2 department within 30 days after the citation is served, the
3 citation shall become a final order of the department. The
4 penalty shall be a fine of not less than \$500 or more than
5 \$5,000 or other 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. 456.064 ~~455.641~~
18 for the allocation of the fees assessed and collected to
19 combat unlicensed practice of a profession.

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

22 Section 85. Section 455.634, Florida Statutes, is
23 transferred and renumbered as section 456.066, Florida
24 Statutes.

25 Section 86. Section 455.631, Florida Statutes, is
26 transferred, renumbered as section 456.067, Florida Statutes,
27 and amended to read:

28 456.067 ~~455.631~~ Penalty for giving false
29 information.--In addition to, or in lieu of, any other
30 discipline imposed pursuant to s. 456.072 ~~455.624~~, the act of
31 knowingly giving false information in the course of applying

1 for or obtaining a license from the department, or any board
2 thereunder, with intent to mislead a public servant in the
3 performance of his or her official duties, or the act of
4 attempting to obtain or obtaining a license from the
5 department, or any board thereunder, to practice a profession
6 by knowingly misleading statements or knowing
7 misrepresentations constitutes a felony of the third degree,
8 punishable as provided in s. 775.082, s. 775.083, or s.
9 775.084.

10 Section 87. Section 455.699, Florida Statutes, is
11 transferred and renumbered as section 456.068, Florida
12 Statutes.

13 Section 88. Section 455.681, Florida Statutes, is
14 transferred, renumbered as section 456.069, Florida Statutes,
15 and amended to read:

16 456.069 ~~455.681~~ Authority to inspect.--In addition to
17 the authority specified in s. 465.017, duly authorized agents
18 and employees of the department shall have the power to
19 inspect in a lawful manner at all reasonable hours:

20 (1) Any pharmacy; or

21 (2) Any establishment at which the services of a
22 licensee authorized to prescribe controlled substances
23 specified in chapter 893 are offered,

24

25 for the purpose of determining if any of the provisions of
26 this chapter ~~part~~ or any practice act of a profession or any
27 rule adopted thereunder is being violated; or for the purpose
28 of securing such other evidence as may be needed for
29 prosecution.

30

31

1 Section 89. Section 455.611, Florida Statutes, is
2 transferred and renumbered as section 456.071, Florida
3 Statutes.

4 Section 90. Section 455.624, Florida Statutes, is
5 transferred, renumbered as section 456.072, Florida Statutes,
6 and amended to read:

7 456.072 ~~455.624~~ Grounds for discipline; penalties;
8 enforcement.--

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

12 (a) Making misleading, deceptive, or fraudulent
13 representations in or related to the practice of the
14 licensee's profession.

15 (b) Intentionally violating any rule adopted by the
16 board or the department, as appropriate.

17 (c) Being convicted or found guilty of, or entering a
18 plea of nolo contendere to, regardless of adjudication, a
19 crime in any jurisdiction which relates to the practice of, or
20 the ability to practice, a licensee's profession.

21 (d) Using a Class III or a Class IV laser device or
22 product, as defined by federal regulations, without having
23 complied with the rules adopted pursuant to s. 501.122(2)
24 governing the registration of such devices.

25 (e) Failing to comply with the educational course
26 requirements for human immunodeficiency virus and acquired
27 immune deficiency syndrome.

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

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

7 (g) Having been found liable in a civil proceeding for
8 knowingly filing a false report or complaint with the
9 department against another licensee.

10 (h) Attempting to obtain, obtaining, or renewing a
11 license to practice a profession by bribery, by fraudulent
12 misrepresentation, or through an error of the department or
13 the board.

14 (i) Except as provided in s. 465.016, failing to
15 report to the department any person who the licensee knows is
16 in violation of this chapter part, the chapter regulating the
17 alleged violator, or the rules of the department or the board.

18 (j) Aiding, assisting, procuring, employing, or
19 advising any unlicensed person or entity to practice a
20 profession contrary to this chapter part, the chapter
21 regulating the profession, or the rules of the department or
22 the board.

23 (k) Failing to perform any statutory or legal
24 obligation placed upon a licensee.

25 (l) Making or filing a report which the licensee knows
26 to be false, intentionally or negligently failing to file a
27 report or record required by state or federal law, or
28 willfully impeding or obstructing another person to do so.
29 Such reports or records shall include only those that are
30 signed in the capacity of a licensee.

31

- 1 (m) Making deceptive, untrue, or fraudulent
2 representations in or related to the practice of a profession
3 or employing a trick or scheme in or related to the practice
4 of a profession.
- 5 (n) Exercising influence on the patient or client for
6 the purpose of financial gain of the licensee or a third
7 party.
- 8 (o) Practicing or offering to practice beyond the
9 scope permitted by law or accepting and performing
10 professional responsibilities the licensee knows, or has
11 reason to know, the licensee is not competent to perform.
- 12 (p) Delegating or contracting for the performance of
13 professional responsibilities by a person when the licensee
14 delegating or contracting for performance of such
15 responsibilities knows, or has reason to know, such person is
16 not qualified by training, experience, and authorization when
17 required to perform them.
- 18 (q) Violating any provision of this chapter part, the
19 applicable professional practice act, a rule of the department
20 or the board, or a lawful order of the department or the
21 board, or failing to comply with a lawfully issued subpoena of
22 the department.
- 23 (r) Improperly interfering with an investigation or
24 inspection authorized by statute, or with any disciplinary
25 proceeding.
- 26 (s) Failing to comply with the educational course
27 requirements for domestic violence.
- 28 (t) Failing to comply with the requirements of ss.
29 381.026 and 381.0261 to provide patients with information
30 about their patient rights and how to file a patient
31 complaint.

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

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

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

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

29 (2) When the board, or the department when there is no
30 board, finds any person guilty of the grounds set forth in
31 subsection (1) or of any grounds set forth in the applicable

1 practice act, including conduct constituting a substantial
2 violation of subsection (1) or a violation of the applicable
3 practice act which occurred prior to obtaining a license, it
4 may enter an order imposing one or more of the following
5 penalties:

- 6 (a) Refusal to certify, or to certify with
7 restrictions, an application for a license.
- 8 (b) Suspension or permanent revocation of a license.
- 9 (c) Restriction of practice.
- 10 (d) Imposition of an administrative fine not to exceed
11 \$10,000 for each count or separate offense.
- 12 (e) Issuance of a reprimand.
- 13 (f) Placement of the licensee on probation for a
14 period of time and subject to such conditions as the board, or
15 the department when there is no board, may specify. Those
16 conditions may include, but are not limited to, requiring the
17 licensee to undergo treatment, attend continuing education
18 courses, submit to be reexamined, work under the supervision
19 of another licensee, or satisfy any terms which are reasonably
20 tailored to the violations found.
- 21 (g) Corrective action.
- 22 (h) Imposition of an administrative fine in accordance
23 with s. 381.0261 for violations regarding patient rights.

24

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

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

3 (3) Notwithstanding subsection (2), if the ground for
4 disciplinary action is the first-time failure of the licensee
5 to satisfy continuing education requirements established by
6 the board, or by the department if there is no board, the
7 board or department, as applicable, shall issue a citation in
8 accordance with s. 456.077 ~~455.617~~ and assess a fine, as
9 determined by the board or department by rule. In addition,
10 for each hour of continuing education not completed or
11 completed late, the board or department, as applicable, may
12 require the licensee to take 1 additional hour of continuing
13 education for each hour not completed or completed late.

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

27 (5) In addition to, or in lieu of, any other remedy or
28 criminal prosecution, the department may file a proceeding in
29 the name of the state seeking issuance of an injunction or a
30 writ of mandamus against any person who violates any of the
31 provisions of this chapter ~~part~~, or any provision of law with

1 respect to professions regulated by the department, or any
2 board therein, or the rules adopted pursuant thereto.

3 (6) In the event the board, or the department when
4 there is no board, determines that revocation of a license is
5 the appropriate penalty, the revocation shall be permanent.
6 However, the board may establish by rule requirements for
7 reapplication by applicants whose licenses have been
8 permanently revoked. Such requirements may include, but shall
9 not be limited to, satisfying current requirements for an
10 initial license.

11 Section 91. Section 455.621, Florida Statutes, is
12 transferred, renumbered as section 456.073, Florida Statutes,
13 and amended to read:

14 456.073 ~~455.621~~ Disciplinary
15 proceedings.--Disciplinary proceedings for each board shall be
16 within the jurisdiction of the department.

17 (1) The department, for the boards under its
18 jurisdiction, shall cause to be investigated any complaint
19 that is filed before it if the complaint is in writing, signed
20 by the complainant, and legally sufficient. A complaint is
21 legally sufficient if it contains ultimate facts that show
22 that a violation of this chapter part, of any of the practice
23 acts relating to the professions regulated by the department,
24 or of any rule adopted by the department or a regulatory board
25 in the department has occurred. In order to determine legal
26 sufficiency, the department may require supporting information
27 or documentation. The department may investigate, and the
28 department or the appropriate board may take appropriate final
29 action on, a complaint even though the original complainant
30 withdraws it or otherwise indicates a desire not to cause the
31 complaint to be investigated or prosecuted to completion. The

1 department may investigate an anonymous complaint if the
2 complaint is in writing and is legally sufficient, if the
3 alleged violation of law or rules is substantial, and if the
4 department has reason to believe, after preliminary inquiry,
5 that the violations alleged in the complaint are true. The
6 department may investigate a complaint made by a confidential
7 informant if the complaint is legally sufficient, if the
8 alleged violation of law or rule is substantial, and if the
9 department has reason to believe, after preliminary inquiry,
10 that the allegations of the complainant are true. The
11 department may initiate an investigation if it has reasonable
12 cause to believe that a licensee or a group of licensees has
13 violated a Florida statute, a rule of the department, or a
14 rule of a board. Except as provided in ss. 458.331(9),
15 459.015(9), 460.413(5), and 461.013(6), when an investigation
16 of any subject is undertaken, the department shall promptly
17 furnish to the subject or the subject's attorney a copy of the
18 complaint or document that resulted in the initiation of the
19 investigation. The subject may submit a written response to
20 the information contained in such complaint or document within
21 20 days after service to the subject of the complaint or
22 document. The subject's written response shall be considered
23 by the probable cause panel. The right to respond does not
24 prohibit the issuance of a summary emergency order if
25 necessary to protect the public. However, if the secretary, or
26 the secretary's designee, and the chair of the respective
27 board or the chair of its probable cause panel agree in
28 writing that such notification would be detrimental to the
29 investigation, the department may withhold notification. The
30 department may conduct an investigation without notification
31

1 to any subject if the act under investigation is a criminal
2 offense.

3 (2) The department shall allocate sufficient and
4 adequately trained staff to expeditiously and thoroughly
5 determine legal sufficiency and investigate all legally
6 sufficient complaints. For purposes of this section, it is the
7 intent of the Legislature that the term "expeditiously" means
8 that the department complete the report of its initial
9 investigative findings and recommendations concerning the
10 existence of probable cause within 6 months after its receipt
11 of the complaint. The failure of the department, for
12 disciplinary cases under its jurisdiction, to comply with the
13 time limits of this section while investigating a complaint
14 against a licensee constitutes harmless error in any
15 subsequent disciplinary action unless a court finds that
16 either the fairness of the proceeding or the correctness of
17 the action may have been impaired by a material error in
18 procedure or a failure to follow prescribed procedure. When
19 its investigation is complete and legally sufficient, the
20 department shall prepare and submit to the probable cause
21 panel of the appropriate regulatory board the investigative
22 report of the department. The report shall contain the
23 investigative findings and the recommendations of the
24 department concerning the existence of probable cause. At any
25 time after legal sufficiency is found, the department may
26 dismiss any case, or any part thereof, if the department
27 determines that there is insufficient evidence to support the
28 prosecution of allegations contained therein. The department
29 shall provide a detailed report to the appropriate probable
30 cause panel prior to dismissal of any case or part thereof,
31 and to the subject of the complaint after dismissal of any

1 case or part thereof, under this section. For cases dismissed
2 prior to a finding of probable cause, such report is
3 confidential and exempt from s. 119.07(1). The probable cause
4 panel shall have access, upon request, to the investigative
5 files pertaining to a case prior to dismissal of such case. If
6 the department dismisses a case, the probable cause panel may
7 retain independent legal counsel, employ investigators, and
8 continue the investigation and prosecution of the case as it
9 deems necessary.

10 (3) As an alternative to the provisions of subsections
11 (1) and (2), when a complaint is received, the department may
12 provide a licensee with a notice of noncompliance for an
13 initial offense of a minor violation. Each board, or the
14 department if there is no board, shall establish by rule those
15 minor violations under this provision which do not endanger
16 the public health, safety, and welfare and which do not
17 demonstrate a serious inability to practice the profession.
18 Failure of a licensee to take action in correcting the
19 violation within 15 days after notice may result in the
20 institution of regular disciplinary proceedings.

21 (4) The determination as to whether probable cause
22 exists shall be made by majority vote of a probable cause
23 panel of the board, or by the department, as appropriate. Each
24 regulatory board shall provide by rule that the determination
25 of probable cause shall be made by a panel of its members or
26 by the department. Each board may provide by rule for multiple
27 probable cause panels composed of at least two members. Each
28 board may provide by rule that one or more members of the
29 panel or panels may be a former board member. The length of
30 term or repetition of service of any such former board member
31 on a probable cause panel may vary according to the direction

1 of the board when authorized by board rule. Any probable cause
2 panel must include one of the board's former or present
3 consumer members, if one is available, is willing to serve,
4 and is authorized to do so by the board chair. Any probable
5 cause panel must include a present board member. Any probable
6 cause panel must include a former or present professional
7 board member. However, any former professional board member
8 serving on the probable cause panel must hold an active valid
9 license for that profession. All proceedings of the panel are
10 exempt from s. 286.011 until 10 days after probable cause has
11 been found to exist by the panel or until the subject of the
12 investigation waives his or her privilege of confidentiality.
13 The probable cause panel may make a reasonable request, and
14 upon such request the department shall provide such additional
15 investigative information as is necessary to the determination
16 of probable cause. A request for additional investigative
17 information shall be made within 15 days from the date of
18 receipt by the probable cause panel of the investigative
19 report of the department or the agency. The probable cause
20 panel or the department, as may be appropriate, shall make its
21 determination of probable cause within 30 days after receipt
22 by it of the final investigative report of the department. The
23 secretary may grant extensions of the 15-day and the 30-day
24 time limits. In lieu of a finding of probable cause, the
25 probable cause panel, or the department if there is no board,
26 may issue a letter of guidance to the subject. If, within the
27 30-day time limit, as may be extended, the probable cause
28 panel does not make a determination regarding the existence of
29 probable cause or does not issue a letter of guidance in lieu
30 of a finding of probable cause, the department must make a
31 determination regarding the existence of probable cause within

1 10 days after the expiration of the time limit. If the
2 probable cause panel finds that probable cause exists, it
3 shall direct the department to file a formal complaint against
4 the licensee. The department shall follow the directions of
5 the probable cause panel regarding the filing of a formal
6 complaint. If directed to do so, the department shall file a
7 formal complaint against the subject of the investigation and
8 prosecute that complaint pursuant to chapter 120. However, the
9 department may decide not to prosecute the complaint if it
10 finds that probable cause has been improvidently found by the
11 panel. In such cases, the department shall refer the matter to
12 the board. The board may then file a formal complaint and
13 prosecute the complaint pursuant to chapter 120. The
14 department shall also refer to the board any investigation or
15 disciplinary proceeding not before the Division of
16 Administrative Hearings pursuant to chapter 120 or otherwise
17 completed by the department within 1 year after the filing of
18 a complaint. The department, for disciplinary cases under its
19 jurisdiction, must establish a uniform reporting system to
20 quarterly refer to each board the status of any investigation
21 or disciplinary proceeding that is not before the Division of
22 Administrative Hearings or otherwise completed by the
23 department within 1 year after the filing of the complaint.
24 Annually, the department if there is no board, or each board
25 must establish a plan to reduce or otherwise close any
26 investigation or disciplinary proceeding that is not before
27 the Division of Administrative Hearings or otherwise completed
28 by the department within 1 year after the filing of the
29 complaint. A probable cause panel or a board may retain
30 independent legal counsel, employ investigators, and continue
31 the investigation as it deems necessary; all costs thereof

1 shall be paid from a trust fund used by the department to
2 implement this chapter ~~part~~. All proceedings of the probable
3 cause panel are exempt from s. 120.525.

4 (5) A formal hearing before an administrative law
5 judge from the Division of Administrative Hearings shall be
6 held pursuant to chapter 120 if there are any disputed issues
7 of material fact. The administrative law judge shall issue a
8 recommended order pursuant to chapter 120. If any party raises
9 an issue of disputed fact during an informal hearing, the
10 hearing shall be terminated and a formal hearing pursuant to
11 chapter 120 shall be held.

12 (6) The appropriate board, with those members of the
13 panel, if any, who reviewed the investigation pursuant to
14 subsection (5) being excused, or the department when there is
15 no board, shall determine and issue the final order in each
16 disciplinary case. Such order shall constitute final agency
17 action. Any consent order or agreed-upon settlement shall be
18 subject to the approval of the department.

19 (7) The department shall have standing to seek
20 judicial review of any final order of the board, pursuant to
21 s. 120.68.

22 (8) Any proceeding for the purpose of summary
23 suspension of a license, or for the restriction of the
24 license, of a licensee pursuant to s. 120.60(6) shall be
25 conducted by the secretary of the Department of Health or his
26 or her designee, as appropriate, who shall issue the final
27 summary order.

28 (9)(a) The department shall periodically notify the
29 person who filed the complaint of the status of the
30 investigation, indicating whether probable cause has been
31

1 found and the status of any civil action or administrative
2 proceeding or appeal.

3 (b) In any disciplinary case for which probable cause
4 has been found, the department shall provide to the person who
5 filed the complaint a copy of the administrative complaint
6 and:

7 1. A written explanation of how an administrative
8 complaint is resolved by the disciplinary process.

9 2. A written explanation of how and when the person
10 may participate in the disciplinary process.

11 3. A written notice of any hearing before the Division
12 of Administrative Hearings or the regulatory board at which
13 final agency action may be taken.

14 (c) In any disciplinary case for which probable cause
15 is not found, the department shall so inform the person who
16 filed the complaint and notify that person that he or she may,
17 within 60 days, provide any additional information to the
18 probable cause panel which may be relevant to the decision. In
19 any administrative proceeding under s. 120.57, the person who
20 filed the disciplinary complaint shall have the right to
21 present oral or written communication relating to the alleged
22 disciplinary violations or to the appropriate penalty.

23 (10) The complaint and all information obtained
24 pursuant to the investigation by the department are
25 confidential and exempt from s. 119.07(1) until 10 days after
26 probable cause has been found to exist by the probable cause
27 panel or by the department, or until the regulated
28 professional or subject of the investigation waives his or her
29 privilege of confidentiality, whichever occurs first. Upon
30 completion of the investigation and pursuant to a written
31 request by the subject, the department shall provide the

1 subject an opportunity to inspect the investigative file or,
2 at the subject's expense, forward to the subject a copy of the
3 investigative file. Notwithstanding s. 456.057 ~~455-667~~, the
4 subject may inspect or receive a copy of any expert witness
5 report or patient record connected with the investigation if
6 the subject agrees in writing to maintain the confidentiality
7 of any information received under this subsection until 10
8 days after probable cause is found and to maintain the
9 confidentiality of patient records pursuant to s. 456.057
10 ~~455-667~~. The subject may file a written response to the
11 information contained in the investigative file. Such response
12 must be filed within 20 days, unless an extension of time has
13 been granted by the department. This subsection does not
14 prohibit the department from providing such information to any
15 law enforcement agency or to any other regulatory agency.

16 (11) A privilege against civil liability is hereby
17 granted to any complainant or any witness with regard to
18 information furnished with respect to any investigation or
19 proceeding pursuant to this section, unless the complainant or
20 witness acted in bad faith or with malice in providing such
21 information.

22 (12)(a) No person who reports in any capacity, whether
23 or not required by law, information to the department with
24 regard to the incompetence, impairment, or unprofessional
25 conduct of any health care provider licensed under chapter
26 458, chapter 459, chapter 460, chapter 461, chapter 462,
27 chapter 463, chapter 464, chapter 465, or chapter 466 shall be
28 held liable in any civil action for reporting against such
29 health care provider if such person acts without intentional
30 fraud or malice.

31

1 (b) No facility licensed under chapter 395, health
2 maintenance organization certificated under part I of chapter
3 641, physician licensed under chapter 458, or osteopathic
4 physician licensed under chapter 459 shall discharge, threaten
5 to discharge, intimidate, or coerce any employee or staff
6 member by reason of such employee's or staff member's report
7 to the department about a physician licensed under chapter
8 458, chapter 459, chapter 460, chapter 461, or chapter 466 who
9 may be guilty of incompetence, impairment, or unprofessional
10 conduct so long as such report is given without intentional
11 fraud or malice.

12 (c) In any civil suit brought outside the protections
13 of paragraphs (a) and (b) in which intentional fraud or malice
14 is alleged, the person alleging intentional fraud or malice
15 shall be liable for all court costs and for the other party's
16 reasonable attorney's fees if intentional fraud or malice is
17 not proved.

18 Section 92. Section 455.687, Florida Statutes, is
19 transferred, renumbered as section 456.074, Florida Statutes,
20 and amended to read:

21 456.074 ~~455.687~~ Certain health care practitioners;
22 immediate suspension of license.--

23 (1) The department shall issue an emergency order
24 suspending the license of any person licensed under chapter
25 458, chapter 459, chapter 460, chapter 461, chapter 462,
26 chapter 463, chapter 464, chapter 465, chapter 466, or chapter
27 484 who pleads guilty to, is convicted or found guilty of, or
28 who enters a plea of nolo contendere to, regardless of
29 adjudication, a felony under chapter 409 or chapter 893 or
30 under 21 U.S.C. ss. 801-970 or under 42 U.S.C. ss. 1395-1396.

31

1 (2) If the board has previously found any physician or
2 osteopathic physician in violation of the provisions of s.
3 458.331(1)(t) or s. 459.015(1)(x), in regard to her or his
4 treatment of three or more patients, and the probable cause
5 panel of the board finds probable cause of an additional
6 violation of that section, then the Secretary of Health shall
7 review the matter to determine if an emergency suspension or
8 restriction order is warranted. Nothing in this section shall
9 be construed so as to limit the authority of the secretary of
10 the department to issue an emergency order.

11 (3) The department may issue an emergency order
12 suspending or restricting the license of any health care
13 practitioner as defined in s. 456.001(4)~~455.501(4)~~ who tests
14 positive for any drug on any government or private-sector
15 preemployment or employer-ordered confirmed drug test, as
16 defined in s. 112.0455, when the practitioner does not have a
17 lawful prescription and legitimate medical reason for using
18 such drug. The practitioner shall be given 48 hours from the
19 time of notification to the practitioner of the confirmed test
20 result to produce a lawful prescription for the drug before an
21 emergency order is issued.

22 Section 93. Section 455.704, Florida Statutes, is
23 transferred and renumbered as section 456.075, Florida
24 Statutes.

25 Section 94. Section 455.707, Florida Statutes, is
26 transferred, renumbered as section 456.076, Florida Statutes,
27 and amended to read:

28 456.076 ~~455.707~~ Treatment programs for impaired
29 practitioners.--

30 (1) For professions that do not have impaired
31 practitioner programs provided for in their practice acts, the

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

1 reporting of such information shall not constitute a complaint
2 within the meaning of s. 456.073 ~~455.621~~ if the probable cause
3 panel of the appropriate board, or the department when there
4 is no board, finds:

5 1. The licensee has acknowledged the impairment
6 problem.

7 2. The licensee has voluntarily enrolled in an
8 appropriate, approved treatment program.

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

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

23 (b) If, however, the licensee agrees to withdraw from
24 practice until such time as the consultant determines the
25 licensee has satisfactorily completed an approved treatment
26 program or evaluation, the probable cause panel, or the
27 department when there is no board, shall not become involved
28 in the licensee's case.

29 (c) Inquiries related to impairment treatment programs
30 designed to provide information to the licensee and others and
31 which do not indicate that the licensee presents a danger to

1 the public shall not constitute a complaint within the meaning
2 of s. 456.073 ~~455.621~~ and shall be exempt from the provisions
3 of this subsection.

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

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

19 (f) A finding of probable cause shall not be made as
20 long as the panel, or the department when there is no board,
21 is satisfied, based upon information it receives from the
22 consultant and the department, that the licensee is
23 progressing satisfactorily in an approved treatment program.

24 (4) In any disciplinary action for a violation other
25 than impairment in which a licensee establishes the violation
26 for which the licensee is being prosecuted was due to or
27 connected with impairment and further establishes the licensee
28 is satisfactorily progressing through or has successfully
29 completed an approved treatment program pursuant to this
30 section, such information may be considered by the board, or
31 the department when there is no board, as a mitigating factor

1 in determining the appropriate penalty. This subsection does
2 not limit mitigating factors the board may consider.

3 (5)(a) An approved treatment provider shall, upon
4 request, disclose to the consultant all information in its
5 possession regarding the issue of a licensee's impairment and
6 participation in the treatment program. All information
7 obtained by the consultant and department pursuant to this
8 section is confidential and exempt from the provisions of s.
9 119.07(1), subject to the provisions of this subsection and
10 subsection (6). Failure to provide such information to the
11 consultant is grounds for withdrawal of approval of such
12 program or provider.

13 (b) If in the opinion of the consultant, after
14 consultation with the treatment provider, an impaired licensee
15 has not progressed satisfactorily in a treatment program, all
16 information regarding the issue of a licensee's impairment and
17 participation in a treatment program in the consultant's
18 possession shall be disclosed to the department. Such
19 disclosure shall constitute a complaint pursuant to the
20 general provisions of s. 456.073 ~~455.621~~. Whenever the
21 consultant concludes that impairment affects a licensee's
22 practice and constitutes an immediate, serious danger to the
23 public health, safety, or welfare, that conclusion shall be
24 communicated to the secretary of the department.

25 (6) A consultant, licensee, or approved treatment
26 provider who makes a disclosure pursuant to this section is
27 not subject to civil liability for such disclosure or its
28 consequences. The provisions of s. 766.101 apply to any
29 officer, employee, or agent of the department or the board and
30 to any officer, employee, or agent of any entity with which
31 the department has contracted pursuant to this section.

1 Section 95. Section 455.617, Florida Statutes, is
2 transferred, renumbered as section 456.077, Florida Statutes,
3 and amended to read:

4 456.077 ~~455.617~~ Authority to issue citations.--

5 (1) Notwithstanding s. 456.073 ~~455.621~~, the board, or
6 the department if there is no board, shall adopt rules to
7 permit the issuance of citations. The citation shall be issued
8 to the subject and shall contain the subject's name and
9 address, the subject's license number if applicable, a brief
10 factual statement, the sections of the law allegedly violated,
11 and the penalty imposed. The citation must clearly state that
12 the subject may choose, in lieu of accepting the citation, to
13 follow the procedure under s. 456.073 ~~455.621~~. If the subject
14 disputes the matter in the citation, the procedures set forth
15 in s. 456.073 ~~455.621~~ must be followed. However, if the
16 subject does not dispute the matter in the citation with the
17 department within 30 days after the citation is served, the
18 citation becomes a final order and constitutes discipline. The
19 penalty shall be a fine or other conditions as established by
20 rule.

21 (2) The board, or the department if there is no board,
22 shall adopt rules designating violations for which a citation
23 may be issued. Such rules shall designate as citation
24 violations those violations for which there is no substantial
25 threat to the public health, safety, and welfare.

26 (3) The department shall be entitled to recover the
27 costs of investigation, in addition to any penalty provided
28 according to board or department rule, as part of the penalty
29 levied pursuant to the citation.

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1 (4) A citation must be issued within 6 months after
2 the filing of the complaint that is the basis for the
3 citation.

4 (5) Service of a citation may be made by personal
5 service or certified mail, restricted delivery, to the subject
6 at the subject's last known address.

7 (6) A board created on or after January 1, 1992, has 6
8 months in which to enact rules designating violations and
9 penalties appropriate for citation offenses. Failure to enact
10 such rules gives the department exclusive authority to adopt
11 rules as required for implementing this section. A board has
12 continuous authority to amend its rules adopted pursuant to
13 this section.

14 Section 96. Section 455.614, Florida Statutes, is
15 transferred, renumbered as section 456.078, Florida Statutes,
16 and amended to read:

17 456.078 ~~455.614~~ Mediation.--

18 (1) Notwithstanding the provisions of s. 456.073
19 ~~455.621~~, the board, or the department when there is no board,
20 shall adopt rules to designate which violations of the
21 applicable professional practice act are appropriate for
22 mediation. The board, or the department when there is no
23 board, may designate as mediation offenses those complaints
24 where harm caused by the licensee is economic in nature or can
25 be remedied by the licensee.

26 (2) After the department determines a complaint is
27 legally sufficient and the alleged violations are defined as
28 mediation offenses, the department or any agent of the
29 department may conduct informal mediation to resolve the
30 complaint. If the complainant and the subject of the complaint
31 agree to a resolution of a complaint within 14 days after

1 contact by the mediator, the mediator shall notify the
2 department of the terms of the resolution. The department or
3 board shall take no further action unless the complainant and
4 the subject each fail to record with the department an
5 acknowledgment of satisfaction of the terms of mediation
6 within 60 days of the mediator's notification to the
7 department. In the event the complainant and subject fail to
8 reach settlement terms or to record the required
9 acknowledgment, the department shall process the complaint
10 according to the provisions of s. 456.073 ~~455.621~~.

11 (3) Conduct or statements made during mediation are
12 inadmissible in any proceeding pursuant to s. 456.073 ~~455.621~~.
13 Further, any information relating to the mediation of a case
14 shall be subject to the confidentiality provisions of s.
15 456.073 ~~455.621~~.

16 (4) No licensee shall go through the mediation process
17 more than three times without approval of the department. The
18 department may consider the subject and dates of the earlier
19 complaints in rendering its decision. Such decision shall not
20 be considered a final agency action for purposes of chapter
21 120.

22 (5) Any board created on or after January 1, 1995,
23 shall have 6 months to adopt rules designating which
24 violations are appropriate for mediation, after which time the
25 department shall have exclusive authority to adopt rules
26 pursuant to this section. A board shall have continuing
27 authority to amend its rules adopted pursuant to this section.

28 Section 97. Section 455.627, Florida Statutes, is
29 transferred, renumbered as section 456.079, Florida Statutes,
30 and amended to read:

31 456.079 ~~455.627~~ Disciplinary guidelines.--

1 (1) Each board, or the department if there is no
2 board, shall adopt by rule and periodically review the
3 disciplinary guidelines applicable to each ground for
4 disciplinary action which may be imposed by the board, or the
5 department if there is no board, pursuant to this chapter
6 ~~part~~, the respective practice acts, and any rule of the board
7 or department.

8 (2) The disciplinary guidelines shall specify a
9 meaningful range of designated penalties based upon the
10 severity and repetition of specific offenses, it being the
11 legislative intent that minor violations be distinguished from
12 those which endanger the public health, safety, or welfare;
13 that such guidelines provide reasonable and meaningful notice
14 to the public of likely penalties which may be imposed for
15 proscribed conduct; and that such penalties be consistently
16 applied by the board.

17 (3) A specific finding of mitigating or aggravating
18 circumstances shall allow the board to impose a penalty other
19 than that provided for in such guidelines. If applicable, the
20 board, or the department if there is no board, shall adopt by
21 rule disciplinary guidelines to designate possible mitigating
22 and aggravating circumstances and the variation and range of
23 penalties permitted for such circumstances.

24 (4) The department must review such disciplinary
25 guidelines for compliance with the legislative intent as set
26 forth herein to determine whether the guidelines establish a
27 meaningful range of penalties and may also challenge such
28 rules pursuant to s. 120.56.

29 (5) The administrative law judge, in recommending
30 penalties in any recommended order, must follow the penalty
31 guidelines established by the board or department and must

1 state in writing the mitigating or aggravating circumstances
2 upon which the recommended penalty is based.

3 Section 98. Section 455.537, Florida Statutes, is
4 transferred and renumbered as section 456.081, Florida
5 Statutes.

6 Section 99. Section 455.651, Florida Statutes, is
7 transferred, renumbered as section 456.082, Florida Statutes,
8 and amended to read:

9 456.082 ~~455.651~~ Disclosure of confidential
10 information.--

11 (1) No officer, employee, or person under contract
12 with the department, or any board therein, or any subject of
13 an investigation shall convey knowledge or information to any
14 person who is not lawfully entitled to such knowledge or
15 information about any public meeting or public record, which
16 at the time such knowledge or information is conveyed is
17 exempt from the provisions of s. 119.01, s. 119.07(1), or s.
18 286.011.

19 (2) Any person who willfully violates any provision of
20 this section is guilty of a misdemeanor of the first degree,
21 punishable as provided in s. 775.082 or s. 775.083, and may be
22 subject to discipline pursuant to s. 456.072 ~~455.624~~, and, if
23 applicable, shall be removed from office, employment, or the
24 contractual relationship.

25 (3) Any person injured as a result of a willful
26 violation of this section shall have a civil cause of action
27 for treble damages, reasonable attorney fees, and costs.

28 Section 100. Subsection (2) of section 457.103,
29 Florida Statutes, is amended to read:

30 457.103 Board of Acupuncture; membership; appointment
31 and terms.--

1 (2) All provisions of ~~part II of~~ chapter 456 ~~455~~
2 relating to the board shall apply.

3 Section 101. Subsection (6) of section 458.307,
4 Florida Statutes, is amended to read:

5 458.307 Board of Medicine.--

6 (6) All provisions of ~~part II of~~ chapter 456 ~~455~~
7 relating to activities of the board shall apply.

8 Section 102. Paragraph (c) of subsection (1) and
9 paragraph (a) of subsection (3) of section 458.3115, Florida
10 Statutes, are amended to read:

11 458.3115 Restricted license; certain foreign-licensed
12 physicians; examination; restrictions on practice; full
13 licensure.--

14 (1)

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

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

31

- 1 2. Applies to the department and submits an
2 application fee that is nonrefundable and equivalent to the
3 fee required for full licensure;
- 4 3. Documents no less than 2 years of the active
5 practice of medicine in any jurisdiction;
- 6 4. Submits an examination fee that is nonrefundable
7 and equivalent to the fee required for full licensure plus the
8 actual per-applicant cost to the department to provide either
9 examination described in this section;
- 10 5. Has not committed any act or offense in this or any
11 other jurisdiction that would constitute a substantial basis
12 for disciplining a physician under chapter 456 or this chapter
13 ~~or part II of chapter 455~~; and
- 14 6. Is not under discipline, investigation, or
15 prosecution in this or any other jurisdiction for an act that
16 would constitute a violation of chapter 456 or this chapter ~~or~~
17 ~~part II of chapter 455~~ and that substantially threatened or
18 threatens the public health, safety, or welfare.
- 19 (3)(a) A restricted license issued by the department
20 under this section is valid for 2 years unless sooner revoked
21 or suspended, and a restricted licensee is subject to the
22 requirements of chapter 456, this chapter, ~~part II of chapter~~
23 ~~455~~, and any other provision of law not in conflict with this
24 section. Upon expiration of such restricted license, a
25 restricted licensee shall become a full licensee if the
26 restricted licensee:
- 27 1. Is not under discipline, investigation, or
28 prosecution for a violation which poses a substantial threat
29 to the public health, safety, or welfare; and
- 30 2. Pays all renewal fees required of a full licensee.
31

1 Section 103. Paragraph (d) of subsection (1) of
2 section 458.3124, Florida Statutes, is amended to read:

3 458.3124 Restricted license; certain experienced
4 foreign-trained physicians.--

5 (1) A person who was trained in a medical school that
6 is listed in the World Directory of Medical Schools published
7 by the World Health Organization and is located in a country
8 other than the United States, Canada, or Puerto Rico may apply
9 to take Step III of the United States Medical Licensing
10 Examination, if the person:

11 (d) Is not subject to discipline, investigation, or
12 prosecution in any jurisdiction for acts that threaten the
13 public health, safety, or welfare or violate ~~part II of~~
14 chapter 456 ~~455~~ or this chapter; and

15 Section 104. Subsections (1) and (4) of section
16 458.319, Florida Statutes, are amended to read:

17 458.319 Renewal of license.--

18 (1) The department shall renew a license upon receipt
19 of the renewal application, evidence that the applicant has
20 actively practiced medicine or has been on the active teaching
21 faculty of an accredited medical school for at least 2 years
22 of the immediately preceding 4 years, and a fee not to exceed
23 \$500; provided, however, that if the licensee is either a
24 resident physician, assistant resident physician, fellow,
25 house physician, or intern in an approved postgraduate
26 training program, as defined by the board by rule, the fee
27 shall not exceed \$100 per annum. If the licensee has not
28 actively practiced medicine for at least 2 years of the
29 immediately preceding 4 years, the board shall require that
30 the licensee successfully complete a board-approved clinical
31 competency examination prior to renewal of the license.

1 "Actively practiced medicine" means that practice of medicine
2 by physicians, including those employed by any governmental
3 entity in community or public health, as defined by this
4 chapter, including physicians practicing administrative
5 medicine. An applicant for a renewed license must also submit
6 the information required under s. 456.039 ~~455.565~~ to the
7 department on a form and under procedures specified by the
8 department, along with payment in an amount equal to the costs
9 incurred by the Department of Health for the statewide
10 criminal background check of the applicant. The applicant must
11 submit a set of fingerprints to the Department of Health on a
12 form and under procedures specified by the department, along
13 with payment in an amount equal to the costs incurred by the
14 department for a national criminal background check of the
15 applicant for the initial renewal of his or her license after
16 January 1, 2000. If the applicant fails to submit either the
17 information required under s. 456.039 ~~455.565~~ or a set of
18 fingerprints to the department as required by this section,
19 the department shall issue a notice of noncompliance, and the
20 applicant will be given 30 additional days to comply. If the
21 applicant fails to comply within 30 days after the notice of
22 noncompliance is issued, the department or board, as
23 appropriate, may issue a citation to the applicant and may
24 fine the applicant up to \$50 for each day that the applicant
25 is not in compliance with the requirements of s. 456.039
26 ~~455.565~~. The citation must clearly state that the applicant
27 may choose, in lieu of accepting the citation, to follow the
28 procedure under s. 456.073 ~~455.621~~. If the applicant disputes
29 the matter in the citation, the procedures set forth in s.
30 456.073 ~~455.621~~ must be followed. However, if the applicant
31 does not dispute the matter in the citation with the

1 department within 30 days after the citation is served, the
2 citation becomes a final order and constitutes discipline.
3 Service of a citation may be made by personal service or
4 certified mail, restricted delivery, to the subject at the
5 applicant's last known address. If an applicant has submitted
6 fingerprints to the department for a national criminal history
7 check upon initial licensure and is renewing his or her
8 license for the first time, then the applicant need only
9 submit the information and fee required for a statewide
10 criminal history check.

11 (4) Notwithstanding the provisions of s. 456.033
12 ~~455.604~~, a physician may complete continuing education on
13 end-of-life care and palliative health care in lieu of
14 continuing education in AIDS/HIV, if that physician has
15 completed the AIDS/HIV continuing education in the immediately
16 preceding biennium.

17 Section 105. Paragraph (e) of subsection (1) and
18 subsection (6) of section 458.331, Florida Statutes, are
19 amended to read:

20 458.331 Grounds for disciplinary action; action by the
21 board and department.--

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

25 (e) Failing to report to the department any person who
26 the licensee knows is in violation of this chapter or of the
27 rules of the department or the board. A treatment provider
28 approved pursuant to s. 456.076 ~~455.707~~ shall provide the
29 department or consultant with information in accordance with
30 the requirements of s. 456.076(3), (4), (5), and (6)
31 ~~455.707(3), (4), (5), and (6)~~.

1 (6) Upon the department's receipt from an insurer or
2 self-insurer of a report of a closed claim against a physician
3 pursuant to s. 627.912 or from a health care practitioner of a
4 report pursuant to s. 456.049 ~~455.697~~, or upon the receipt
5 from a claimant of a presuit notice against a physician
6 pursuant to s. 766.106, the department shall review each
7 report and determine whether it potentially involved conduct
8 by a licensee that is subject to disciplinary action, in which
9 case the provisions of s. 456.073 ~~455.621~~ shall apply.
10 However, if it is reported that a physician has had three or
11 more claims with indemnities exceeding \$25,000 each within the
12 previous 5-year period, the department shall investigate the
13 occurrences upon which the claims were based and determine if
14 action by the department against the physician is warranted.

15 Section 106. Section 458.343, Florida Statutes, is
16 amended to read:

17 458.343 Subpoena of certain records.--Notwithstanding
18 the provisions of s. 456.057 ~~455.667~~, the department may issue
19 subpoenas duces tecum requiring the names and addresses of
20 some or all of the patients of a physician against whom a
21 complaint has been filed pursuant to s. 456.073 ~~455.621~~.

22 Section 107. Paragraph (g) of subsection (7) and
23 subsections (10) and (16) of section 458.347, Florida
24 Statutes, are amended to read:

25 458.347 Physician assistants.--

26 (7) PHYSICIAN ASSISTANT LICENSURE.--

27 (g) The Board of Medicine may impose any of the
28 penalties specified in ss. 456.072 ~~455.624~~ and 458.331(2) upon
29 a physician assistant if the physician assistant or the
30 supervising physician has been found guilty of or is being

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1 investigated for any act that constitutes a violation of this
2 chapter or ~~part II of~~ chapter 456 ~~455~~.

3 (10) INACTIVE AND DELINQUENT STATUS.--A license on
4 inactive or delinquent status may be reactivated only as
5 provided in s. 456.036 ~~455.711~~.

6 (16) LEGAL SERVICES.--Legal services shall be provided
7 to the council pursuant to s. 456.009(1)~~455.594(1)~~.

8 Section 108. Subsection (5) of section 458.351,
9 Florida Statutes, is amended to read:

10 458.351 Reports of adverse incidents in office
11 practice settings.--

12 (5) The department shall review each incident and
13 determine whether it potentially involved conduct by a health
14 care professional who is subject to disciplinary action, in
15 which case s. 456.073 ~~455.621~~ applies. Disciplinary action, if
16 any, shall be taken by the board under which the health care
17 professional is licensed.

18 Section 109. Subsection (4) of section 459.004,
19 Florida Statutes, is amended to read:

20 459.004 Board of Osteopathic Medicine.--

21 (4) All provisions of ~~part II of~~ chapter 456 ~~455~~
22 relating to activities of the board shall apply.

23 Section 110. Subsections (1) and (5) of section
24 459.008, Florida Statutes, are amended to read:

25 459.008 Renewal of licenses and certificates.--

26 (1) The department shall renew a license or
27 certificate upon receipt of the renewal application and fee.
28 An applicant for a renewed license must also submit the
29 information required under s. 456.039 ~~455.565~~ to the
30 department on a form and under procedures specified by the
31 department, along with payment in an amount equal to the costs

1 incurred by the Department of Health for the statewide
2 criminal background check of the applicant. The applicant must
3 submit a set of fingerprints to the Department of Health on a
4 form and under procedures specified by the department, along
5 with payment in an amount equal to the costs incurred by the
6 department for a national criminal background check of the
7 applicant for the initial renewal of his or her license after
8 January 1, 2000. If the applicant fails to submit either the
9 information required under s. 456.039 ~~455.565~~ or a set of
10 fingerprints to the department as required by this section,
11 the department shall issue a notice of noncompliance, and the
12 applicant will be given 30 additional days to comply. If the
13 applicant fails to comply within 30 days after the notice of
14 noncompliance is issued, the department or board, as
15 appropriate, may issue a citation to the applicant and may
16 fine the applicant up to \$50 for each day that the applicant
17 is not in compliance with the requirements of s. 456.039
18 ~~455.565~~. The citation must clearly state that the applicant
19 may choose, in lieu of accepting the citation, to follow the
20 procedure under s. 456.073 ~~455.621~~. If the applicant disputes
21 the matter in the citation, the procedures set forth in s.
22 456.073 ~~455.621~~ must be followed. However, if the applicant
23 does not dispute the matter in the citation with the
24 department within 30 days after the citation is served, the
25 citation becomes a final order and constitutes discipline.
26 Service of a citation may be made by personal service or
27 certified mail, restricted delivery, to the subject at the
28 applicant's last known address. If an applicant has submitted
29 fingerprints to the department for a national criminal history
30 check upon initial licensure and is renewing his or her
31 license for the first time, then the applicant need only

1 submit the information and fee required for a statewide
2 criminal history check.

3 (5) Notwithstanding the provisions of s. 456.033
4 ~~455.604~~, an osteopathic physician may complete continuing
5 education on end-of-life and palliative health care in lieu of
6 continuing education in AIDS/HIV, if that physician has
7 completed the AIDS/HIV continuing education in the immediately
8 preceding biennium.

9 Section 111. Paragraph (e) of subsection (1) and
10 subsection (6) of section 459.015, Florida Statutes, are
11 amended to read:

12 459.015 Grounds for disciplinary action by the
13 board.--

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

17 (e) Failing to report to the department or the
18 department's impaired professional consultant any person who
19 the licensee or certificateholder knows is in violation of
20 this chapter or of the rules of the department or the board.
21 A treatment provider, approved pursuant to s. 456.076 ~~455.707~~,
22 shall provide the department or consultant with information in
23 accordance with the requirements of s. 456.076(3), (4), (5),
24 and (6) ~~455.707(3), (4), (5), and (6)~~.

25 (6) Upon the department's receipt from an insurer or
26 self-insurer of a report of a closed claim against an
27 osteopathic physician pursuant to s. 627.912 or from a health
28 care practitioner of a report pursuant to s. 456.049 ~~455.697~~,
29 or upon the receipt from a claimant of a presuit notice
30 against an osteopathic physician pursuant to s. 766.106, the
31 department shall review each report and determine whether it

1 potentially involved conduct by a licensee that is subject to
2 disciplinary action, in which case the provisions of s.
3 456.073 ~~455.621~~ shall apply. However, if it is reported that
4 an osteopathic physician has had three or more claims with
5 indemnities exceeding \$25,000 each within the previous 5-year
6 period, the department shall investigate the occurrences upon
7 which the claims were based and determine if action by the
8 department against the osteopathic physician is warranted.

9 Section 112. Section 459.019, Florida Statutes, is
10 amended to read:

11 459.019 Subpoena of certain records.--Notwithstanding
12 the provisions of s. 456.057 ~~455.667~~, the department may issue
13 subpoenas duces tecum requiring the names and addresses of
14 some or all of the patients of an osteopathic physician
15 against whom a complaint has been filed pursuant to s. 456.073
16 ~~455.621~~.

17 Section 113. Paragraph (f) of subsection (7) and
18 subsections (10) and (16) of section 459.022, Florida
19 Statutes, are amended to read:

20 459.022 Physician assistants.--

21 (7) PHYSICIAN ASSISTANT LICENSURE.--

22 (f) The Board of Osteopathic Medicine may impose any
23 of the penalties specified in ss. 456.072 ~~455.624~~ and
24 459.015(2) upon a physician assistant if the physician
25 assistant or the supervising physician has been found guilty
26 of or is being investigated for any act that constitutes a
27 violation of this chapter or ~~part II of chapter~~ 456 ~~455~~.

28 (10) INACTIVE AND DELINQUENT STATUS.--A license on
29 inactive or delinquent status may be reactivated only as
30 provided in s. 456.036 ~~455.711~~.

31

1 (16) LEGAL SERVICES.--Legal services shall be provided
2 to the council pursuant to s. 456.009(1)~~455.594(1)~~.

3 Section 114. Subsection (5) of section 459.026,
4 Florida Statutes, is amended to read:

5 459.026 Reports of adverse incidents in office
6 practice settings.--

7 (5) The department shall review each incident and
8 determine whether it potentially involved conduct by a health
9 care professional who is subject to disciplinary action, in
10 which case s. 456.073 ~~455.621~~ applies. Disciplinary action, if
11 any, shall be taken by the board under which the health care
12 professional is licensed.

13 Section 115. Subsection (4) of section 460.404,
14 Florida Statutes, is amended to read:

15 460.404 Board of Chiropractic Medicine; membership;
16 appointment; terms.--

17 (4) All provisions of ~~part II of~~ chapter 456 ~~455~~
18 relating to the board shall apply.

19 Section 116. Paragraph (c) of subsection (1) of
20 section 460.4061, Florida Statutes, is amended to read:

21 460.4061 Restricted license.--

22 (1) An applicant for licensure as a chiropractic
23 physician may apply to the department for a restricted license
24 without undergoing a state or national written or clinical
25 competency examination for licensure if the applicant
26 initially applies not later than October 31, 1994, for the
27 restricted license and:

28 (c) Has never been disciplined for an offense that
29 would be a violation under this chapter or ~~part II of~~ chapter
30 456 ~~455~~, imposed by another jurisdiction on the applicant's
31 license to practice as a chiropractic physician.

1 Section 117. Subsection (1) of section 460.407,
2 Florida Statutes, is amended to read:
3 460.407 Renewal of license.--
4 (1) The department shall renew a license upon receipt
5 of the renewal application and the fee set by the board not to
6 exceed \$500. An applicant for a renewed license must also
7 submit the information required under s. 456.039 ~~455.565~~ to
8 the department on a form and under procedures specified by the
9 department, along with payment in an amount equal to the costs
10 incurred by the Department of Health for the statewide
11 criminal background check of the applicant. The applicant must
12 submit a set of fingerprints to the Department of Health on a
13 form and under procedures specified by the department, along
14 with payment in an amount equal to the costs incurred by the
15 department for a national criminal background check of the
16 applicant for the initial renewal of his or her license after
17 January 1, 2000. If the applicant fails to submit either the
18 information required under s. 456.039 ~~455.565~~ or a set of
19 fingerprints to the department as required by this section,
20 the department shall issue a notice of noncompliance, and the
21 applicant will be given 30 additional days to comply. If the
22 applicant fails to comply within 30 days after the notice of
23 noncompliance is issued, the department or board, as
24 appropriate, may issue a citation to the applicant and may
25 fine the applicant up to \$50 for each day that the applicant
26 is not in compliance with the requirements of s. 456.039
27 ~~455.565~~. The citation must clearly state that the applicant
28 may choose, in lieu of accepting the citation, to follow the
29 procedure under s. 456.073 ~~455.621~~. If the applicant disputes
30 the matter in the citation, the procedures set forth in s.
31 456.073 ~~455.621~~ must be followed. However, if the applicant

1 does not dispute the matter in the citation with the
2 department within 30 days after the citation is served, the
3 citation becomes a final order and constitutes discipline.
4 Service of a citation may be made by personal service or
5 certified mail, restricted delivery, to the subject at the
6 applicant's last known address. If an applicant has submitted
7 fingerprints to the department for a national criminal history
8 check upon initial licensure and is renewing his or her
9 license for the first time, then the applicant need only
10 submit the information and fee required for a statewide
11 criminal history check.

12 Section 118. Subsection (4) of section 461.004,
13 Florida Statutes, is amended to read:

14 461.004 Board of Podiatric Medicine; membership;
15 appointment; terms.--

16 (4) All provisions of ~~part II of~~ chapter 456 ~~455~~
17 relating to the board shall apply. However, notwithstanding
18 the requirement of s. 456.073(4)~~455.621(4)~~ that the board
19 provide by rule for the determination of probable cause by a
20 panel composed of its members or by the department, the board
21 may provide by rule that its probable cause panel may be
22 composed of one current member of the board and one past
23 member of the board, as long as the past member is a licensed
24 podiatric physician in good standing. The past board member
25 must be appointed to the panel by the chair of the board with
26 the approval of the secretary for a maximum of 2 years.

27 Section 119. Subsection (1) of section 461.007,
28 Florida Statutes, is amended to read:

29 461.007 Renewal of license.--

30 (1) The department shall renew a license upon receipt
31 of the renewal application and a fee not to exceed \$350 set by

1 the board, and evidence that the applicant has actively
2 practiced podiatric medicine or has been on the active
3 teaching faculty of an accredited school of podiatric medicine
4 for at least 2 years of the immediately preceding 4 years. If
5 the licensee has not actively practiced podiatric medicine for
6 at least 2 years of the immediately preceding 4 years, the
7 board shall require that the licensee successfully complete a
8 board-approved course prior to renewal of the license. For
9 purposes of this subsection, "actively practiced podiatric
10 medicine" means the licensed practice of podiatric medicine as
11 defined in s. 461.003(5) by podiatric physicians, including
12 podiatric physicians employed by any governmental entity, on
13 the active teaching faculty of an accredited school of
14 podiatric medicine, or practicing administrative podiatric
15 medicine. An applicant for a renewed license must also submit
16 the information required under s. 456.039 ~~455.565~~ to the
17 department on a form and under procedures specified by the
18 department, along with payment in an amount equal to the costs
19 incurred by the Department of Health for the statewide
20 criminal background check of the applicant. The applicant must
21 submit a set of fingerprints to the Department of Health on a
22 form and under procedures specified by the department, along
23 with payment in an amount equal to the costs incurred by the
24 department for a national criminal background check of the
25 applicant for the initial renewal of his or her license after
26 January 1, 2000. If the applicant fails to submit either the
27 information required under s. 456.039 ~~455.565~~ or a set of
28 fingerprints to the department as required by this section,
29 the department shall issue a notice of noncompliance, and the
30 applicant will be given 30 additional days to comply. If the
31 applicant fails to comply within 30 days after the notice of

1 noncompliance is issued, the department or board, as
2 appropriate, may issue a citation to the applicant and may
3 fine the applicant up to \$50 for each day that the applicant
4 is not in compliance with the requirements of s. 456.039
5 ~~455.565~~. The citation must clearly state that the applicant
6 may choose, in lieu of accepting the citation, to follow the
7 procedure under s. 456.073 ~~455.621~~. If the applicant disputes
8 the matter in the citation, the procedures set forth in s.
9 456.073 ~~455.621~~ must be followed. However, if the applicant
10 does not dispute the matter in the citation with the
11 department within 30 days after the citation is served, the
12 citation becomes a final order and constitutes discipline.
13 Service of a citation may be made by personal service or
14 certified mail, restricted delivery, to the subject at the
15 applicant's last known address. If an applicant has submitted
16 fingerprints to the department for a national criminal history
17 check upon initial licensure and is renewing his or her
18 license for the first time, then the applicant need only
19 submit the information and fee required for a statewide
20 criminal history check.

21 Section 120. Paragraph (w) of subsection (1) and
22 paragraph (a) of subsection (5) of section 461.013, Florida
23 Statutes, are amended to read:

24 461.013 Grounds for disciplinary action; action by the
25 board; investigations by department.--

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

29 (w) Violating any provision of this chapter or ~~part II~~
30 ~~of chapter~~ 456 ~~455~~, any rule of the board or department, or a
31 lawful order of the board or department previously entered in

1 a disciplinary hearing or failing to comply with a lawfully
2 issued subpoena of the board or department.

3 (5)(a) Upon the department's receipt from an insurer
4 or self-insurer of a report of a closed claim against a
5 podiatric physician pursuant to s. 627.912, or upon the
6 receipt from a claimant of a presuit notice against a
7 podiatric physician pursuant to s. 766.106, the department
8 shall review each report and determine whether it potentially
9 involved conduct by a licensee that is subject to disciplinary
10 action, in which case the provisions of s. 456.073 ~~455.621~~
11 shall apply. However, if it is reported that a podiatric
12 physician has had three or more claims with indemnities
13 exceeding \$25,000 each within the previous 5-year period, the
14 department shall investigate the occurrences upon which the
15 claims were based and determine if action by the department
16 against the podiatric physician is warranted.

17 Section 121. Subsection (4) of section 463.003,
18 Florida Statutes, is amended to read:

19 463.003 Board of Optometry.--

20 (4) All applicable provisions of ~~part II of~~ chapter
21 456 ~~455~~ relating to activities of regulatory boards shall
22 apply.

23 Section 122. Paragraph (h) of subsection (1) of
24 section 463.016, Florida Statutes, is amended to read:

25 463.016 Grounds for disciplinary action; action by the
26 board.--

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

30
31

1 (h) A violation or repeated violations of provisions
2 of this chapter, or of ~~part II of~~ chapter 456 ~~455~~, and any
3 rules promulgated pursuant thereto.

4 Section 123. Subsection (4) of section 464.004,
5 Florida Statutes, is amended to read:

6 464.004 Board of Nursing; membership; appointment;
7 terms.--

8 (4) All provisions of ~~part II of~~ chapter 456 ~~455~~
9 relating to activities of the board shall apply.

10 Section 124. Subsection (4) of section 465.004,
11 Florida Statutes, is amended to read:

12 465.004 Board of Pharmacy.--

13 (4) All provisions of ~~part II of~~ chapter 456 ~~455~~
14 relating to activities of the board shall apply.

15 Section 125. Section 465.006, Florida Statutes, is
16 amended to read:

17 465.006 Disposition of fees; expenditures.--All moneys
18 received under this chapter shall be deposited and expended
19 pursuant to the provisions of s. 456.025 ~~455-587~~. All
20 expenditures for duties of the board authorized by this
21 chapter shall be paid upon presentation of vouchers approved
22 by the executive director of the board.

23 Section 126. Paragraph (q) of subsection (1) of
24 section 465.016, Florida Statutes, is amended to read:

25 465.016 Disciplinary actions.--

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

28 (q) Using or releasing a patient's records except as
29 authorized by this chapter and chapter 456 ~~455~~.

30 Section 127. Subsection (2) of section 465.017,
31 Florida Statutes, is amended to read:

1 465.017 Authority to inspect.--

2 (2) Except as permitted by this chapter, and chapters
3 406, 409, 456 ~~455~~, 499, and 893, records maintained in a
4 pharmacy relating to the filling of prescriptions and the
5 dispensing of medicinal drugs shall not be furnished to any
6 person other than to the patient for whom the drugs were
7 dispensed, or her or his legal representative, or to the
8 department pursuant to existing law, or, in the event that the
9 patient is incapacitated or unable to request said records,
10 her or his spouse except upon the written authorization of
11 such patient. Such records may be furnished in any civil or
12 criminal proceeding, upon the issuance of a subpoena from a
13 court of competent jurisdiction and proper notice to the
14 patient or her or his legal representative by the party
15 seeking such records.

16 Section 128. Subsections (4) and (6) of section
17 466.004, Florida Statutes, are amended to read:

18 466.004 Board of Dentistry.--

19 (4) The board is authorized to adopt rules pursuant to
20 ss. 120.536(1) and 120.54 to implement the provisions of this
21 chapter and ~~part II of~~ chapter 456 ~~455~~, including the
22 establishment of a fee to defray the cost of duplicating any
23 license certification or permit, not to exceed \$10 per
24 duplication.

25 (6) All provisions of ~~part II of~~ chapter 456 ~~455~~
26 relating to the board shall apply.

27 Section 129. Paragraph (b) of subsection (4) of
28 section 466.007, Florida Statutes, is amended to read:

29 466.007 Examination of dental hygienists.--

30 (4) To be licensed as a dental hygienist in this
31 state, an applicant must successfully complete the following:

1 (b) A practical or clinical examination. The
2 practical or clinical examination shall test competency in
3 areas to be established by rule of the board which shall
4 include testing the ability to adequately perform a
5 prophylaxis. On or after October 1, 1986, every applicant who
6 is otherwise qualified shall be eligible to take the
7 examination a total of three times, notwithstanding the number
8 of times the applicant has previously failed. If an applicant
9 fails the examination three times, the applicant shall no
10 longer be eligible to take the examination unless he or she
11 obtains additional educational requirements established by the
12 board. The department shall require a mandatory
13 standardization exercise pursuant to s. 456.017(1)(b)
14 ~~455.574(1)(b)~~ for all examiners prior to each practical or
15 clinical examination and shall retain for employment only
16 those dentists and dental hygienists who have substantially
17 adhered to the standard of grading established at such
18 exercise. It is the intent of the Legislature that the
19 examinations relate to those procedures which are actually
20 performed by a dental hygienist in general practice.

21 Section 130. Subsection (1) of section 466.018,
22 Florida Statutes, is amended to read:

23 466.018 Dentist of record; patient records.--

24 (1) Each patient shall have a dentist of record. The
25 dentist of record shall remain primarily responsible for all
26 dental treatment on such patient regardless of whether the
27 treatment is rendered by the dentist or by another dentist,
28 dental hygienist, or dental assistant rendering such treatment
29 in conjunction with, at the direction or request of, or under
30 the supervision of such dentist of record. The dentist of
31 record shall be identified in the record of the patient. If

1 treatment is rendered by a dentist other than the dentist of
2 record or by a dental hygienist or assistant, the name or
3 initials of such person shall be placed in the record of the
4 patient. In any disciplinary proceeding brought pursuant to
5 this chapter or ~~part II of~~ chapter 456 ~~455~~, it shall be
6 presumed as a matter of law that treatment was rendered by the
7 dentist of record unless otherwise noted on the patient record
8 pursuant to this section. The dentist of record and any other
9 treating dentist are subject to discipline pursuant to this
10 chapter or ~~part II of~~ chapter 456 ~~455~~ for treatment rendered
11 the patient and performed in violation of such chapter. One of
12 the purposes of this section is to ensure that the
13 responsibility for each patient is assigned to one dentist in
14 a multidentist practice of any nature and to assign primary
15 responsibility to the dentist for treatment rendered by a
16 dental hygienist or assistant under her or his supervision.
17 This section shall not be construed to assign any
18 responsibility to a dentist of record for treatment rendered
19 pursuant to a proper referral to another dentist not in
20 practice with the dentist of record or to prohibit a patient
21 from voluntarily selecting a new dentist without permission of
22 the dentist of record.

23 Section 131. Subsection (1) of section 466.022,
24 Florida Statutes, is amended to read:

25 466.022 Peer review; records; immunity.--

26 (1) The Legislature finds that effective peer review
27 of consumer complaints by professional associations of
28 dentists is a valuable service to the public. In performing
29 such service, any member of a peer review organization or
30 committee shall, pursuant to s. 466.028(1)(f), report to the
31 department the name of any licensee who he or she believes has

1 violated this chapter. Any such peer review committee member
2 shall be afforded the privileges and immunities of any other
3 complainant or witness which are provided by s. 456.073(11)
4 ~~455.621(11)~~. Furthermore, a professional organization or
5 association of dentists which sponsors, sanctions, or
6 otherwise operates or participates in peer review activities
7 is hereby afforded the same privileges and immunities afforded
8 to any member of a duly constituted medical review committee
9 by s. 766.101(3).

10 Section 132. Paragraph (aa) of subsection (1) and
11 subsections (6) and (7) of section 466.028, Florida Statutes,
12 are amended to read:

13 466.028 Grounds for disciplinary action; action by the
14 board.--

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

18 (aa) The violation or the repeated violation of this
19 chapter, ~~part II of~~ chapter 456 ~~455~~, or any rule promulgated
20 pursuant to ~~part II of~~ chapter 456 ~~455~~ or this chapter; the
21 violation of a lawful order of the board or department
22 previously entered in a disciplinary hearing; or failure to
23 comply with a lawfully issued subpoena of the board or
24 department.

25 (6) Upon the department's receipt from an insurer or
26 self-insurer of a report of a closed claim against a dentist
27 pursuant to s. 627.912 or upon the receipt from a claimant of
28 a presuit notice against a dentist pursuant to s. 766.106 the
29 department shall review each report and determine whether it
30 potentially involved conduct by a licensee that is subject to
31 disciplinary action, in which case the provisions of s.

1 456.073 ~~455.621~~ shall apply. However, if it is reported that
2 a dentist has had any indemnity paid in excess of \$25,000 in a
3 judgment or settlement or has had three or more claims for
4 dental malpractice within the previous 5-year period which
5 resulted in indemnity being paid, the department shall
6 investigate the occurrence upon which the claims were based
7 and determine if action by the department against the dentist
8 is warranted.

9 (7) Subject to the authority and conditions
10 established in s. 456.073 ~~455.621~~, the probable cause panel of
11 the board may recommend that the department seek a specified
12 penalty in cases in which probable cause has been found and
13 the panel has directed that an administrative complaint be
14 filed. If the department seeks a penalty other than that
15 recommended by the probable cause panel, the department shall
16 provide the board with a written statement which sets forth
17 the reasons therefor. Nothing in this subsection shall
18 preclude a probable cause panel of any other board under the
19 jurisdiction of the department from making similar
20 recommendations as penalties.

21 Section 133. Subsection (5) of section 468.1135,
22 Florida Statutes, is amended to read:

23 468.1135 Board of Speech-Language Pathology and
24 Audiology.--

25 (5) All provisions of ~~part II of~~ chapter 456 ~~455~~
26 relating to activities of regulatory boards shall apply to the
27 board.

28 Section 134. Subsection (10) of section 468.1145,
29 Florida Statutes, is amended to read:

30 468.1145 Fees; establishment; disposition.--

31

1 (10) All moneys derived from fees and fines imposed
2 pursuant to this part shall be deposited as required by s.
3 456.025 ~~455.587~~.

4 Section 135. Subsection (4) of section 468.1185,
5 Florida Statutes, is amended to read:

6 468.1185 Licensure.--

7 (4) The board may refuse to certify any applicant who
8 is under investigation in any jurisdiction for an act which
9 would constitute a violation of this part or ~~part II of~~
10 chapter 456 ~~455~~ until the investigation is complete and
11 disciplinary proceedings have been terminated.

12 Section 136. Subsection (1) of section 468.1295,
13 Florida Statutes, is amended to read:

14 468.1295 Disciplinary proceedings.--

15 (1) The following acts constitute grounds for both
16 disciplinary actions as set forth in subsection (2) and cease
17 and desist or other related actions by the department as set
18 forth in s. 456.065 ~~455.637~~:

19 (a) Procuring or attempting to procure a license by
20 bribery, by fraudulent misrepresentation, or through an error
21 of the department or the board.

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

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

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

1 federal law, willfully impeding or obstructing such filing, or
2 inducing another person to impede or obstruct such filing.
3 Such report or record shall include only those reports or
4 records which are signed in one's capacity as a licensed
5 speech-language pathologist or audiologist.

6 (e) Advertising goods or services in a manner which is
7 fraudulent, false, deceptive, or misleading in form or
8 content.

9 (f) Being proven guilty of fraud or deceit or of
10 negligence, incompetency, or misconduct in the practice of
11 speech-language pathology or audiology.

12 (g) Violating a lawful order of the board or
13 department previously entered in a disciplinary hearing, or
14 failing to comply with a lawfully issued subpoena of the board
15 or department.

16 (h) Practicing with a revoked, suspended, inactive, or
17 delinquent license.

18 (i) Using, or causing or promoting the use of, any
19 advertising matter, promotional literature, testimonial,
20 guarantee, warranty, label, brand, insignia, or other
21 representation, however disseminated or published, which is
22 misleading, deceiving, or untruthful.

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

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

30 (l) Aiding, assisting, procuring, employing, or
31 advising any licensee or business entity to practice

1 speech-language pathology or audiology contrary to this part,
2 ~~part II~~ of chapter 456 ~~455~~, or any rule adopted pursuant
3 thereto.

4 (m) Violating any provision of this part or ~~part II~~ of
5 chapter 456 ~~455~~ or any rule adopted pursuant thereto.

6 (n) Misrepresenting the professional services
7 available in the fitting, sale, adjustment, service, or repair
8 of a hearing aid, or using any other term or title which might
9 connote the availability of professional services when such
10 use is not accurate.

11 (o) Representing, advertising, or implying that a
12 hearing aid or its repair is guaranteed without providing full
13 disclosure of the identity of the guarantor; the nature,
14 extent, and duration of the guarantee; and the existence of
15 conditions or limitations imposed upon the guarantee.

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

23 (q) Stating or implying that the use of any hearing
24 aid will improve or preserve hearing or prevent or retard the
25 progression of a hearing impairment or that it will have any
26 similar or opposite effect.

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

29 (s) Representing or implying that a hearing aid is or
30 will be "custom-made," "made to order," or
31

1 "prescription-made," or in any other sense specially
2 fabricated for an individual, when such is not the case.
3 (t) Canvassing from house to house or by telephone,
4 either in person or by an agent, for the purpose of selling a
5 hearing aid, except that contacting persons who have evidenced
6 an interest in hearing aids, or have been referred as in need
7 of hearing aids, shall not be considered canvassing.
8 (u) Failing to notify the department in writing of a
9 change in current mailing and place-of-practice address within
10 30 days after such change.
11 (v) Failing to provide all information as described in
12 ss. 468.1225(5)(b), 468.1245(1), and 468.1246.
13 (w) Exercising influence on a client in such a manner
14 as to exploit the client for financial gain of the licensee or
15 of a third party.
16 (x) Practicing or offering to practice beyond the
17 scope permitted by law or accepting and performing
18 professional responsibilities the licensee or
19 certificateholder knows, or has reason to know, the licensee
20 or certificateholder is not competent to perform.
21 (y) Aiding, assisting, procuring, or employing any
22 unlicensed person to practice speech-language pathology or
23 audiology.
24 (z) Delegating or contracting for the performance of
25 professional responsibilities by a person when the licensee
26 delegating or contracting for performance of such
27 responsibilities knows, or has reason to know, such person is
28 not qualified by training, experience, and authorization to
29 perform them.
30
31

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

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

29 Section 137. Subsection (4) of section 468.1665,
30 Florida Statutes, is amended to read:

31

1 468.1665 Board of Nursing Home Administrators;
2 membership; appointment; terms.--
3 (4) All provisions of ~~part II of~~ chapter 456 ~~455~~
4 relating to activities of regulatory boards shall apply.
5 Section 138. Paragraphs (a) and (i) of subsection (1)
6 of section 468.1755, Florida Statutes, are amended to read:
7 468.1755 Disciplinary proceedings.--
8 (1) The following acts shall constitute grounds for
9 which the disciplinary actions in subsection (2) may be taken:
10 (a) Violation of any provision of s. 456.072(1)
11 ~~455.624(1)~~ or s. 468.1745(1).
12 (i) A violation or repeated violations of this part,
13 ~~part II of~~ chapter 456 ~~455~~, or any rules promulgated pursuant
14 thereto.
15 Section 139. Section 468.1756, Florida Statutes, is
16 amended to read:
17 468.1756 Statute of limitations.--An administrative
18 complaint may only be filed pursuant to s. 456.073 ~~455.621~~ for
19 an act listed in s. 468.1755(1)(c)-(q) within 4 years from the
20 time of the incident giving rise to the complaint, or within 4
21 years from the time the incident is discovered or should have
22 been discovered.
23 Section 140. Subsection (5) of section 468.205,
24 Florida Statutes, is amended to read:
25 468.205 Board of Occupational Therapy Practice.--
26 (5) All provisions of ~~part II of~~ chapter 456 ~~455~~
27 relating to activities of the board shall apply.
28 Section 141. Subsection (1) of section 468.219,
29 Florida Statutes, is amended to read:
30 468.219 Renewal of license; continuing education.--
31

1 (1) Licenses issued under this part are subject to
2 biennial renewal as provided in s. 456.004 ~~455.521~~.

3 Section 142. Paragraph (c) of subsection (3) of
4 section 468.354, Florida Statutes, is amended to read:

5 468.354 Board of Respiratory Care; organization;
6 function.--

7 (3)

8 (c) All provisions of ~~part II of~~ chapter 456 ~~455~~,
9 relating to boards apply to this part.

10 Section 143. Subsection (3) of section 468.364,
11 Florida Statutes, is amended to read:

12 468.364 Fees; establishment; disposition.--

13 (3) All moneys collected by the department under this
14 part shall be deposited as required by s. 456.025 ~~455.587~~.

15 Section 144. Paragraph (j) of subsection (1) of
16 section 468.365, Florida Statutes, is amended to read:

17 468.365 Disciplinary grounds and actions.--

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

20 (j) Violation of any rule adopted pursuant to this
21 part or ~~part II of~~ chapter 456 ~~455~~.

22 Section 145. Paragraph (b) of subsection (1) of
23 section 468.402, Florida Statutes, is amended to read:

24 468.402 Duties of the department; authority to issue
25 and revoke license; adoption of rules.--

26 (1) The department may take any one or more of the
27 actions specified in subsection (5) against any person who
28 has:

29 (b) Violated any provision of this part, ~~part I of~~
30 chapter 455, any lawful disciplinary order of the department,
31 or any rule of the department.

1 Section 146. Subsection (3) of section 468.4315,
2 Florida Statutes, is amended to read:
3 468.4315 Regulatory Council of Community Association
4 Managers.--
5 (3) To the extent the council is authorized to
6 exercise functions otherwise exercised by a board pursuant to
7 ~~part I of~~ chapter 455, the provisions of ~~part I of~~ chapter 455
8 and s. 20.165 relating to regulatory boards shall apply,
9 including, but not limited to, provisions relating to board
10 rules and the accountability and liability of board members.
11 All proceedings and actions of the council are subject to the
12 provisions of chapter 120. In addition, the provisions of
13 ~~part I of~~ chapter 455 and s. 20.165 shall apply to the
14 department in carrying out the duties and authorities
15 conferred upon the department by this part.
16 Section 147. Paragraphs (c) and (d) of subsection (2)
17 of section 468.453, Florida Statutes, are amended to read:
18 468.453 Licensure required; qualifications;
19 examination; bond.--
20 (2) A person shall be licensed as an athlete agent if
21 the applicant:
22 (c) Passes an examination provided by the department
23 which tests the applicant's proficiency to practice as an
24 athlete agent, including, but not limited to, knowledge of the
25 laws and rules of this state relating to athlete agents, this
26 part, and ~~part I of~~ chapter 455.
27 (d) Has completed the application form and remitted an
28 application fee not to exceed \$500, an examination fee not to
29 exceed the actual cost for the examination plus \$500, an
30 active licensure fee not to exceed \$2,000, and all other
31

1 applicable fees provided for in this part or in ~~part I~~ of
2 chapter 455.

3 Section 148. Paragraph (a) of subsection (1) of
4 section 468.456, Florida Statutes, is amended to read:

5 468.456 Prohibited acts.--

6 (1) The following acts shall be grounds for the
7 disciplinary actions provided for in subsection (3):

8 (a) A violation of any law relating to the practice as
9 an athlete agent including, but not limited to, violations of
10 this part and ~~part I~~ of chapter 455 and any rules promulgated
11 thereunder.

12 Section 149. Subsection (1) of section 468.4571,
13 Florida Statutes, is amended to read:

14 468.4571 Saving clauses.--

15 (1) An athlete agent registration valid on October 1,
16 1995, shall remain in full force and effect until the
17 expiration of the registration. Upon expiration of such valid
18 registration, the registrant shall be entitled to licensure
19 pursuant to this part, provided that any discipline in effect
20 pursuant to that registration shall be continued as discipline
21 under the new license. All regulation of athlete agents and
22 all licenses or permits for athlete agents shall be applied
23 for and renewed in accordance with this part and ~~part I~~ of
24 chapter 455.

25 Section 150. Section 468.506, Florida Statutes, is
26 amended to read:

27 468.506 Dietetics and Nutrition Practice
28 Council.--There is created the Dietetics and Nutrition
29 Practice Council under the supervision of the board. The
30 council shall consist of four persons licensed under this part
31 and one consumer who is 60 years of age or older. Council

1 members shall be appointed by the board. Licensed members
2 shall be appointed based on the proportion of licensees within
3 each of the respective disciplines. Members shall be
4 appointed for 4-year staggered terms. In order to be eligible
5 for appointment, each licensed member must have been a
6 licensee under this part for at least 3 years prior to his or
7 her appointment. No council member shall serve more than two
8 successive terms. The board may delegate such powers and
9 duties to the council as it may deem proper to carry out the
10 operations and procedures necessary to effectuate the
11 provisions of this part. However, the powers and duties
12 delegated to the council by the board must encompass both
13 dietetics and nutrition practice and nutrition counseling. Any
14 time there is a vacancy on the council, any professional
15 association composed of persons licensed under this part may
16 recommend licensees to fill the vacancy to the board in a
17 number at least twice the number of vacancies to be filled,
18 and the board may appoint from the submitted list, in its
19 discretion, any of those persons so recommended. Any
20 professional association composed of persons licensed under
21 this part may file an appeal regarding a council appointment
22 with the secretary of the department, whose decision shall be
23 final. The board shall fix council members' compensation and
24 pay their expenses in the same manner as provided in s.
25 456.011 ~~455.534~~.

26 Section 151. Section 468.507, Florida Statutes, is
27 amended to read:

28 468.507 Authority to adopt rules.--The board has
29 authority to adopt rules pursuant to ss. 120.536(1) and 120.54
30 to implement the provisions of this part and ~~part II of~~
31 chapter 456 ~~455~~ conferring duties upon it. The powers and

1 duties of the board as set forth in this part shall in no way
2 limit or interfere with the powers and duties of the board as
3 set forth in chapter 458. All powers and duties of the board
4 set forth in this part shall be supplemental and additional
5 powers and duties to those conferred upon the board by chapter
6 458.

7 Section 152. Subsection (3) of section 468.513,
8 Florida Statutes, is amended to read:

9 468.513 Dietitian/nutritionist; licensure by
10 endorsement.--

11 (3) The agency shall not issue a license by
12 endorsement under this section to any applicant who is under
13 investigation in any jurisdiction for any act which would
14 constitute a violation of this part or ~~part II~~ of chapter 456
15 ~~455~~ until such time as the investigation is complete and
16 disciplinary proceedings have been terminated.

17 Section 153. Section 468.523, Florida Statutes, is
18 amended to read:

19 468.523 Applicability of s. 20.165 and ~~pt. I~~ of ch.
20 455.--All provisions of s. 20.165 and ~~part I~~ of chapter 455
21 relating to activities of regulatory boards shall apply.

22 Section 154. Subsection (3) of section 468.526,
23 Florida Statutes, is amended to read:

24 468.526 License required; fees.--

25 (3) Each employee leasing company and employee leasing
26 company group licensee shall pay to the department upon the
27 initial issuance of a license and upon each renewal thereafter
28 a license fee not to exceed \$2,500 to be established by the
29 board. In addition to the license fee, the board shall
30 establish an annual assessment for each employee leasing
31 company and each employee leasing company group sufficient to

1 cover all costs for regulation of the profession pursuant to
2 this chapter, ~~part I~~ of chapter 455, and any other applicable
3 provisions of law. The annual assessment shall:
4 (a) Be due and payable upon initial licensure and
5 subsequent renewals thereof and 1 year before the expiration
6 of any licensure period; and
7 (b) Be based on a fixed percentage, variable classes,
8 or a combination of both, as determined by the board, of gross
9 Florida payroll for employees leased to clients by the
10 applicant or licensee during the period beginning five
11 quarters before and ending one quarter before each assessment.
12 It is the intent of the Legislature that the greater weight of
13 total fees for licensure and assessments should be on larger
14 companies and groups.
15 Section 155. Paragraph (i) of subsection (1) of
16 section 468.532, Florida Statutes, is amended to read:
17 468.532 Discipline.--
18 (1) The following constitute grounds for which
19 disciplinary action against a licensee may be taken by the
20 board:
21 (i) Violating any provision of this part or any lawful
22 order or rule issued under the provisions of this part or ~~part~~
23 ~~I~~ of chapter 455.
24 Section 156. Subsection (1) of section 468.535,
25 Florida Statutes, is amended to read:
26 468.535 Investigations; audits; review.--
27 (1) The department may make investigations, audits, or
28 reviews within or outside this state as it deems necessary:
29 (a) To determine whether a person or company has
30 violated or is in danger of violating any provision of this
31

1 part, ~~part I~~ of chapter 455, or any rule or order thereunder;
2 or

3 (b) To aid in the enforcement of this part or ~~part I~~
4 ~~of~~ chapter 455.

5 Section 157. Subsections (2) and (5) of section
6 468.703, Florida Statutes, are amended to read:

7 468.703 Board of Athletic Training.--

8 (2) Five members of the board must be licensed
9 athletic trainers. One member of the board must be a physician
10 licensed under chapter 458 or chapter 459. One member of the
11 board must be a physician licensed under chapter 460. Two
12 members of the board shall be consumer members, each of whom
13 must be a resident of this state who has never worked as an
14 athletic trainer, who has no financial interest in the
15 practice of athletic training, and who has never been a
16 licensed health care practitioner as defined in s. 456.001(4)
17 ~~455.501(4)~~.

18 (5) All provisions of ~~part II~~ of chapter 456 ~~455~~
19 relating to activities of the board shall apply.

20 Section 158. Section 468.705, Florida Statutes, is
21 amended to read:

22 468.705 Rulemaking authority.--The board is authorized
23 to adopt rules pursuant to ss. 120.536(1) and 120.54 to
24 implement provisions of this part conferring duties upon it.
25 The provisions of s. 456.011(5)~~455.534(5)~~ shall apply to the
26 board's activity. Such rules shall include, but not be limited
27 to, the allowable scope of practice regarding the use of
28 equipment, procedures, and medication, requirements for a
29 written protocol between the athletic trainer and a
30 supervising physician, licensure requirements, licensure
31 examination, continuing education requirements, fees, records,

1 and reports to be filed by licensees, protocols, and any other
2 requirements necessary to regulate the practice of athletic
3 training.

4 Section 159. Subsection (2) of section 468.707,
5 Florida Statutes, is amended to read:

6 468.707 Licensure by examination; requirements.--

7 (2) Pursuant to the requirements of s. 456.034
8 ~~455.607~~, each applicant shall complete a continuing education
9 course on human immunodeficiency virus and acquired immune
10 deficiency syndrome as part of initial licensure.

11 Section 160. Subsections (1) and (3) of section
12 468.711, Florida Statutes, are amended to read:

13 468.711 Renewal of license; continuing education.--

14 (1) The department shall renew a license upon receipt
15 of the renewal application and fee, provided the applicant is
16 in compliance with the provisions of this part, ~~part II of~~
17 chapter 456 ~~455~~, and rules promulgated pursuant thereto.

18 (3) Pursuant to the requirements of s. 456.034
19 ~~455.607~~, each licensee shall complete a continuing education
20 course on human immunodeficiency virus and acquired immune
21 deficiency syndrome as part of biennial relicensure.

22 Section 161. Paragraph (a) of subsection (1) and
23 subsection (2) of section 468.719, Florida Statutes, are
24 amended to read:

25 468.719 Disciplinary actions.--

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

28 (a) A violation of any law relating to the practice of
29 athletic training, including, but not limited to, any
30 violation of this part, s. 456.072 ~~455.624~~, or any rule
31 adopted pursuant thereto.

1 (2) When the board finds any person guilty of any of
2 the acts set forth in subsection (1), the board may enter an
3 order imposing one or more of the penalties provided in s.
4 456.072 ~~455.624~~.

5 Section 162. Subsection (4) of section 468.801,
6 Florida Statutes, is amended to read:

7 468.801 Board of Orthotists and Prosthetists;
8 appointment; membership; terms; headquarters.--

9 (4) The provisions of ~~part II of~~ chapter 456 ~~455~~
10 relating to activities of regulatory boards apply to the
11 board.

12 Section 163. Section 468.811, Florida Statutes, is
13 amended to read:

14 468.811 Disciplinary proceedings.--

15 (1) The following acts are grounds for disciplinary
16 action against a licensee and the issuance of cease and desist
17 orders or other related action by the department, pursuant to
18 s. 456.072 ~~455.624~~, against any person who engages in or aids
19 in a violation.

20 (a) Attempting to procure a license by fraudulent
21 misrepresentation.

22 (b) Having a license to practice orthotics,
23 prosthetics, or pedorthics revoked, suspended, or otherwise
24 acted against, including the denial of licensure in another
25 jurisdiction.

26 (c) Being convicted or found guilty of or pleading
27 nolo contendere to, regardless of adjudication, in any
28 jurisdiction, a crime that directly relates to the practice of
29 orthotics, prosthetics, or pedorthics, including violations of
30 federal laws or regulations regarding orthotics, prosthetics,
31 or pedorthics.

1 (d) Filing a report or record that the licensee knows
2 is false, intentionally or negligently failing to file a
3 report or record required by state or federal law, willfully
4 impeding or obstructing such filing, or inducing another
5 person to impede or obstruct such filing. Such reports or
6 records include only reports or records that are signed in a
7 person's capacity as a licensee under this act.

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

10 (f) Violation of this act or ~~part II of~~ chapter 456
11 ~~455~~, or any rules adopted thereunder.

12 (g) Violation of an order of the board, agency, or
13 department previously entered in a disciplinary hearing or
14 failure to comply with a subpoena issued by the board, agency,
15 or department.

16 (h) Practicing with a revoked, suspended, or inactive
17 license.

18 (i) Gross or repeated malpractice or the failure to
19 deliver orthotic, prosthetic, or pedorthic services with that
20 level of care and skill which is recognized by a reasonably
21 prudent licensed practitioner with similar professional
22 training as being acceptable under similar conditions and
23 circumstances.

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

27 (2) The board may enter an order imposing one or more
28 of the penalties in s. 456.072(2)~~455.624(2)~~ against any
29 person who violates any provision of subsection (1).

30 Section 164. Subsection (5) of section 468.823,
31 Florida Statutes, is amended to read:

1 468.823 Certified nursing assistants; certification
2 requirement.--

3 (5) A certified nursing assistant shall maintain a
4 current address with the department in accordance with s.
5 456.035 ~~455.717~~.

6 Section 165. Paragraph (b) of subsection (1) of
7 section 468.824, Florida Statutes, is amended to read:

8 468.824 Denial, suspension, or revocation of
9 certification; disciplinary actions.--

10 (1) The following acts constitute grounds for which
11 the department may impose disciplinary sanctions as specified
12 in subsection (2):

13 (b) Intentionally violating any provision of this
14 chapter, chapter 456 ~~455~~, or the rules adopted by the
15 department.

16
17 After January 1, 2000, the department must notify an applicant
18 seeking an exemption from disqualification from certification
19 or employment of its decision to approve or deny the request
20 within 30 days after the date the department receives all
21 required documentation.

22 Section 166. Section 468.825, Florida Statutes, is
23 amended to read:

24 468.825 Availability of disciplinary records and
25 proceedings.--Pursuant to s. 456.073 ~~455.621~~, any complaint or
26 record maintained by the Department of Health pursuant to the
27 discipline of a certified nursing assistant and any proceeding
28 held by the department to discipline a certified nursing
29 assistant shall remain open and available to the public.

30 Section 167. Paragraph (b) of subsection (1) of
31 section 469.009, Florida Statutes, is amended to read:

1 469.009 License revocation, suspension, and denial of
2 issuance or renewal.--
3 (1) The department may revoke, suspend, or deny the
4 issuance or renewal of a license; reprimand, censure, or place
5 on probation any contractor, consultant, financially
6 responsible officer, or business organization; require
7 financial restitution to a consumer; impose an administrative
8 fine not to exceed \$5,000 per violation; require continuing
9 education; or assess costs associated with any investigation
10 and prosecution if the contractor or consultant, or business
11 organization or officer or agent thereof, is found guilty of
12 any of the following acts:
13 (b) Violating any provision of ~~part I~~ of chapter 455.
14
15 For the purposes of this subsection, construction is
16 considered to be commenced when the contract is executed and
17 the contractor has accepted funds from the customer or lender.
18 Section 168. Subsection (4) of section 470.003,
19 Florida Statutes, is amended to read:
20 470.003 Board of Funeral Directors and Embalmers;
21 membership; appointment; terms.--
22 (4) All provisions of ~~part I~~ of chapter 455 and s.
23 20.165 relating to activities of regulatory boards shall
24 apply.
25 Section 169. Paragraph (h) of subsection (1) of
26 section 470.036, Florida Statutes, is amended to read:
27 470.036 Disciplinary proceedings.--
28 (1) The following acts constitute grounds for which
29 the disciplinary actions in subsection (2) may be taken:
30
31

1 (h) A violation or repeated violation of this chapter
2 or of ~~part I~~ of chapter 455 and any rules promulgated pursuant
3 thereto.

4 Section 170. Section 471.008, Florida Statutes, is
5 amended to read:

6 471.008 Rules of the board.--The board has authority
7 to adopt rules pursuant to ss. 120.536(1) and 120.54 to
8 implement provisions of this chapter or ~~part I~~ of chapter 455
9 conferring duties upon it.

10 Section 171. Subsection (4) of section 471.015,
11 Florida Statutes, is amended to read:

12 471.015 Licensure.--

13 (4) The department shall not issue a license by
14 endorsement to any applicant who is under investigation in
15 another state for any act that would constitute a violation of
16 ss. 471.001-471.037 or of ~~part I~~ of chapter 455 until such
17 time as the investigation is complete and disciplinary
18 proceedings have been terminated.

19 Section 172. Paragraphs (c) and (h) of subsection (1)
20 of section 471.033, Florida Statutes, are amended to read:

21 471.033 Disciplinary proceedings.--

22 (1) The following acts constitute grounds for which
23 the disciplinary actions in subsection (3) may be taken:

24 (c) Having a license to practice engineering revoked,
25 suspended, or otherwise acted against, including the denial of
26 licensure, by the licensing authority of another state,
27 territory, or country, for any act that would constitute a
28 violation of this chapter or ~~part I~~ of chapter 455.

29 (h) Violating ~~part I~~ of chapter 455.

30 Section 173. Subsections (4) and (5) of section
31 471.038, Florida Statutes, are amended to read:

1 471.038 Florida Engineers Management Corporation.--
2 (4) The Florida Engineers Management Corporation is
3 created to provide administrative, investigative, and
4 prosecutorial services to the board in accordance with the
5 provisions of ~~part I~~ of chapter 455 and this chapter. The
6 corporation may hire staff as necessary to carry out its
7 functions. Such staff are not public employees for the
8 purposes of chapter 110 or chapter 112. The provisions of s.
9 768.28 apply to the corporation, which is deemed to be a
10 corporation primarily acting as an instrumentality of the
11 state, but which is not an agency within the meaning of s.
12 20.03(11). The corporation shall:
13 (a) Be a Florida corporation not for profit,
14 incorporated under the provisions of chapter 617.
15 (b) Provide administrative, investigative, and
16 prosecutorial services to the board in accordance with the
17 provisions of ~~part I~~ of chapter 455 and this chapter.
18 (c) Receive, hold, and administer property and make
19 expenditures for the benefit of the board.
20 (d) Be approved by the board and the department to
21 operate for the benefit of the board and in the best interest
22 of the state.
23 (e) Operate under a fiscal year that begins on July 1
24 of each year and ends on June 30 of the following year.
25 (f) Have a seven-member board of directors, five of
26 whom are to be appointed by the board and must be registrants
27 regulated by the board and two of whom are to be appointed by
28 the secretary and must be laypersons not regulated by the
29 board. The corporation shall select its officers in accordance
30 with its bylaws. The members of the board of directors may be
31

1 removed by the board, with the concurrence of the department,
2 for the same reasons that a board member may be removed.

3 (g) Operate under a written contract with the
4 department which is approved by the board and renewed
5 annually. The initial contract must be entered into no later
6 than March 1, 1998. The contract must provide for:

7 1. Approval of the articles of incorporation and
8 bylaws of the corporation by the department and the board.

9 2. Submission by the corporation of an annual budget
10 that complies with board rules for approval by the board and
11 the department.

12 3. Annual certification by the board and the
13 department that the corporation is complying with the terms of
14 the contract in a manner consistent with the goals and
15 purposes of the board and in the best interest of the state.
16 This certification must be reported in the board's minutes.

17 4. Employment by the department of a contract
18 administrator to actively supervise the administrative,
19 investigative, and prosecutorial activities of the corporation
20 to ensure compliance with the contract and the provisions of
21 ~~part I~~ of chapter 455 and this chapter and to act as a liaison
22 for the department, the board, and the corporation to ensure
23 the effective operation of the corporation.

24 5. Funding of the corporation through appropriations
25 allocated to the regulation of professional engineers from the
26 Professional Regulation Trust Fund.

27 6. The reversion to the board, or the state if the
28 board ceases to exist, of moneys and property held in trust by
29 the corporation for the benefit of the board, if the
30 corporation is no longer approved to operate for the board or
31 the board ceases to exist.

1 7. The securing and maintaining by the corporation,
2 during the term of the contract and for all acts performed
3 during the term of the contract, of all liability insurance
4 coverages in an amount to be approved by the department to
5 defend, indemnify, and hold harmless the corporation and its
6 officers and employees, the department and its employees, and
7 the state against all claims arising from state and federal
8 laws. Such insurance coverage must be with insurers qualified
9 and doing business in the state. The corporation must provide
10 proof of insurance to the department. The department and its
11 employees and the state are exempt from and are not liable for
12 any sum of money which represents a deductible, which sums
13 shall be the sole responsibility of the corporation. Violation
14 of this subparagraph shall be grounds for terminating the
15 contract.

16 (h) Provide for an annual financial and compliance
17 audit of its financial accounts and records by an independent
18 certified public accountant in conjunction with the Auditor
19 General. The annual audit report must be submitted to the
20 board and the department for review and approval. Copies of
21 the audit must be submitted to the secretary and the
22 Legislature together with any other information requested by
23 the secretary, the board, or the Legislature.

24 (i) Submit to the secretary, the board, and the
25 Legislature, on or before January 1 of each year, a report on
26 the status of the corporation which includes, but is not
27 limited to, information concerning the programs and funds that
28 have been transferred to the corporation. The report must
29 include: the number of license applications received; the
30 number approved and denied and the number of licenses issued;
31 the number of examinations administered and the number of

1 applicants who passed or failed the examination; the number of
2 complaints received; the number determined to be legally
3 sufficient; the number dismissed; the number determined to
4 have probable cause; the number of administrative complaints
5 issued and the status of the complaints; and the number and
6 nature of disciplinary actions taken by the board.

7 (5) The corporation may not exercise any authority
8 specifically assigned to the board under ~~part I~~ of chapter 455
9 or this chapter, including determining probable cause to
10 pursue disciplinary action against a licensee, taking final
11 action on license applications or in disciplinary cases, or
12 adopting administrative rules under chapter 120.

13 Section 174. Subsection (4) of section 472.015,
14 Florida Statutes, is amended to read:

15 472.015 Licensure.--

16 (4) The department shall not issue a license by
17 endorsement to any applicant who is under investigation in
18 another state for any act that would constitute a violation of
19 ss. 472.001-472.041 or ~~part I~~ of chapter 455 until such time
20 as the investigation is complete and disciplinary proceedings
21 have been terminated.

22 Section 175. Subsection (1) of section 473.3035,
23 Florida Statutes, is amended to read:

24 473.3035 Division of Certified Public Accounting.--

25 (1) All services concerning this chapter, including,
26 but not limited to, recordkeeping services, examination
27 services, legal services, and investigative services, and
28 those services in ~~part I~~ of chapter 455 necessary to perform
29 the duties of this chapter shall be provided by the Division
30 of Certified Public Accounting. The board may, by majority
31 vote, delegate a duty or duties to the appropriate division

1 within the department. The board may, by majority vote,
2 rescind any such delegation of duties at any time.

3 Section 176. Subsection (5) of section 473.308,
4 Florida Statutes, is amended to read:

5 473.308 Licensure.--

6 (5) The board may refuse to certify for licensure any
7 applicant who is under investigation in another state for any
8 act which would constitute a violation of this act or ~~part I~~
9 ~~of~~ chapter 455, until such time as the investigation is
10 complete and disciplinary proceedings have been terminated.

11 Section 177. Subsection (1) of section 473.311,
12 Florida Statutes, is amended to read:

13 473.311 Renewal of license.--

14 (1) The department shall renew a license upon receipt
15 of the renewal application and fee and upon certification by
16 the board that the licensee has satisfactorily completed the
17 continuing education requirements of s. 473.312 and has passed
18 an examination approved by the board on ~~part I~~ of chapter 455
19 and this chapter and the related administrative rules.

20 Section 178. Paragraph (h) of subsection (1) of
21 section 473.323, Florida Statutes, is amended to read:

22 473.323 Disciplinary proceedings.--

23 (1) The following acts constitute grounds for which
24 the disciplinary actions in subsection (3) may be taken:

25 (h) Violation of any rule adopted pursuant to this
26 chapter or ~~part I~~ of chapter 455.

27 Section 179. Subsection (3) of section 474.204,
28 Florida Statutes, is amended to read:

29 474.204 Board of Veterinary Medicine.--

30 (3) All provisions of ~~part I~~ of chapter 455 relating
31 to activities of regulatory boards shall apply.

1 Section 180. Paragraph (f) of subsection (1) of
2 section 474.214, Florida Statutes, is amended to read:

3 474.214 Disciplinary proceedings.--

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

6 (f) Violating any provision of this chapter or ~~part I~~
7 ~~of~~ chapter 455, a rule of the board or department, or a lawful
8 order of the board or department previously entered in a
9 disciplinary hearing, or failing to comply with a lawfully
10 issued subpoena of the department.

11 Section 181. Subsection (1) of section 475.021,
12 Florida Statutes, is amended to read:

13 475.021 Division of Real Estate.--

14 (1) All services concerning this chapter, including,
15 but not limited to, recordkeeping services, examination
16 services, legal services, and investigative services, and
17 those services in ~~part I~~ of chapter 455 necessary to perform
18 the duties of this chapter shall be provided by the Division
19 of Real Estate. The commission may, by majority vote,
20 delegate a duty or duties to the appropriate division within
21 the department. The commission may, by majority vote, rescind
22 any such delegation of duties at any time.

23 Section 182. Subsection (3) of section 475.181,
24 Florida Statutes, is amended to read:

25 475.181 Licensure.--

26 (3) The department may not issue a license to any
27 applicant who is under investigation in any other state,
28 territory, or jurisdiction of the United States or any foreign
29 national jurisdiction for any act that would constitute a
30 violation of this part or ~~part I~~ of chapter 455 until such
31

1 time as the investigation is complete and disciplinary
2 proceedings have been terminated.

3 Section 183. Paragraph (e) of subsection (1) of
4 section 475.25, Florida Statutes, is amended to read:

5 475.25 Discipline.--

6 (1) The commission may deny an application for
7 licensure, registration, or permit, or renewal thereof; may
8 place a licensee, registrant, or permittee on probation; may
9 suspend a license, registration, or permit for a period not
10 exceeding 10 years; may revoke a license, registration, or
11 permit; may impose an administrative fine not to exceed \$1,000
12 for each count or separate offense; and may issue a reprimand,
13 and any or all of the foregoing, if it finds that the
14 licensee, registrant, permittee, or applicant:

15 (e) Has violated any of the provisions of this chapter
16 or any lawful order or rule made or issued under the
17 provisions of this chapter or ~~part I~~ of chapter 455.

18 Section 184. Subsection (4) of section 475.624,
19 Florida Statutes, is amended to read:

20 475.624 Discipline.--The board may deny an application
21 for registration, licensure, or certification; may investigate
22 the actions of any appraiser registered, licensed, or
23 certified under this part; may reprimand or impose an
24 administrative fine not to exceed \$5,000 for each count or
25 separate offense against any such appraiser; and may revoke or
26 suspend, for a period not to exceed 10 years, the
27 registration, license, or certification of any such appraiser,
28 or place any such appraiser on probation, if it finds that the
29 registered assistant, licensee, or certificateholder:

30
31

1 (4) Has violated any of the provisions of this section
2 or any lawful order or rule issued under the provisions of
3 this section or ~~part I of~~ chapter 455.

4 Section 185. Paragraph (i) of subsection (1) of
5 section 476.204, Florida Statutes, is amended to read:

6 476.204 Penalties.--

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

8 (i) Violate or refuse to comply with any provision of
9 this chapter or ~~part I of~~ chapter 455 or a rule or final order
10 of the board.

11 Section 186. Paragraph (i) of subsection (1) of
12 section 477.029, Florida Statutes, is amended to read:

13 477.029 Penalty.--

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

15 (i) Violate or refuse to comply with any provision of
16 this chapter or ~~part I of~~ chapter 455 or a rule or final order
17 of the board or the department.

18 Section 187. Subsection (5) of section 480.044,
19 Florida Statutes, is amended to read:

20 480.044 Fees; disposition.--

21 (5) All moneys collected by the department from fees
22 authorized by this act shall be paid into the Medical Quality
23 Assurance Trust Fund in the department and shall be applied in
24 accordance with the provisions of s. 456.025 ~~455.587~~. The
25 Legislature may appropriate any excess moneys from this fund
26 to the General Revenue Fund.

27 Section 188. Section 481.2055, Florida Statutes, is
28 amended to read:

29 481.2055 Authority to make rules.--The board has
30 authority to adopt rules pursuant to ss. 120.536(1) and 120.54
31

1 to implement provisions of this part and ~~part I~~ of chapter 455
2 conferring duties upon it.

3 Section 189. Subsection (5) of section 481.213,
4 Florida Statutes, is amended to read:

5 481.213 Licensure.--

6 (5) The board may refuse to certify any applicant who
7 is under investigation in any jurisdiction for any act which
8 would constitute a violation of this part or of ~~part I~~ of
9 chapter 455 until such time as the investigation is complete
10 and disciplinary proceedings have been terminated.

11 Section 190. Paragraphs (a) and (c) of subsection (1)
12 of section 481.225, Florida Statutes, are amended to read:

13 481.225 Disciplinary proceedings against registered
14 architects.--

15 (1) The following acts constitute grounds for which
16 the disciplinary actions in subsection (3) may be taken:

17 (a) Violating any provision of s. 455.227(1), s.
18 481.221, or s. 481.223, or any rule of the board or department
19 lawfully adopted pursuant to this part or ~~part I~~ of chapter
20 455.

21 (c) Having a license to practice architecture revoked,
22 suspended, or otherwise acted against, including the denial of
23 licensure, by the licensing authority of another state,
24 territory, or country, for any act that would constitute a
25 violation of this part or of ~~part I~~ of chapter 455.

26 Section 191. Paragraph (b) of subsection (1) of
27 section 481.2251, Florida Statutes, is amended to read:

28 481.2251 Disciplinary proceedings against registered
29 interior designers.--

30
31

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

4 (b) Having a license to practice interior design
5 revoked, suspended, or otherwise acted against, including the
6 denial of licensure, by the licensing authority of another
7 jurisdiction for any act which would constitute a violation of
8 this part or of ~~part I~~ of chapter 455;

9 Section 192. Section 481.306, Florida Statutes, is
10 amended to read:

11 481.306 Authority to make rules.--The board has
12 authority to adopt rules pursuant to ss. 120.536(1) and 120.54
13 to implement the provisions of this chapter and ~~part I~~ of
14 chapter 455 conferring duties upon it.

15 Section 193. Subsection (5) of section 481.311,
16 Florida Statutes, is amended to read:

17 481.311 Licensure.--

18 (5) The board may refuse to certify any applicant who
19 is under investigation in any jurisdiction for any act which
20 would constitute a violation of this act or of ~~part I~~ of
21 chapter 455, until the investigation is complete and
22 disciplinary proceedings have been terminated.

23 Section 194. Paragraph (h) of subsection (1) of
24 section 481.325, Florida Statutes, is amended to read:

25 481.325 Disciplinary proceedings.--

26 (1) The following acts constitute grounds for which
27 the disciplinary actions in subsection (3) may be taken:

28 (h) Violation of any rule adopted pursuant to this
29 part or ~~part I~~ of chapter 455.

30 Section 195. Subsection (5) of section 483.805,
31 Florida Statutes, is amended to read:

1 483.805 Board of Clinical Laboratory Personnel.--
2 (5) All provisions of ~~part II of~~ chapter 456 ~~455~~
3 relating to activities of regulatory boards shall apply to the
4 board.

5 Section 196. Subsection (10) of section 483.807,
6 Florida Statutes, is amended to read:

7 483.807 Fees; establishment; disposition.--

8 (10) All fees shall be established, collected, and
9 deposited in accordance with s. 456.025 ~~455.587~~.

10 Section 197. Paragraph (j) of subsection (4) and
11 paragraph (b) of subsection (5) of section 483.901, Florida
12 Statutes, are amended to read:

13 483.901 Medical physicists; definitions; licensure.--

14 (4) COUNCIL.--The Advisory Council of Medical
15 Physicists is created in the Department of Health to advise
16 the department in regulating the practice of medical physics
17 in this state.

18 (j) A council member may be removed from the council
19 if the member:

20 1. Did not have the required qualifications at the
21 time of appointment;

22 2. Does not maintain the required qualifications while
23 serving on the council; or

24 3. Fails to attend the regularly scheduled council
25 meetings in a calendar year as required by s. 456.011 ~~455.534~~.

26 (5) POWERS OF COUNCIL.--The council shall:

27 (b) Recommend practice standards for the practice of
28 medical physics which are consistent with the Guidelines for
29 Ethical Practice for Medical Physicists prepared by the
30 American Association of Physicists in Medicine and
31 disciplinary guidelines adopted under s. 456.079 ~~455.627~~.

1 Section 198. Subsection (1) of section 484.014,
2 Florida Statutes, is amended to read:

3 484.014 Disciplinary actions.--

4 (1) The following acts relating to the practice of
5 opticianry shall be grounds for both disciplinary action
6 against an optician as set forth in this section and cease and
7 desist or other related action by the department as set forth
8 in s. 456.065 ~~455.637~~ against any person operating an optical
9 establishment who engages in, aids, or abets any such
10 violation:

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

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

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

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

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

30 (f) Fraud or deceit, or negligence, incompetency, or
31 misconduct, in the authorized practice of opticianry.

- 1 (g) Violation or repeated violation of this part or of
2 ~~part II of~~ chapter 456 455 or any rules promulgated pursuant
3 thereto.
- 4 (h) Practicing with a revoked, suspended, inactive, or
5 delinquent license.
- 6 (i) Violation of a lawful order of the board or
7 department previously entered in a disciplinary hearing or
8 failing to comply with a lawfully issued subpoena of the
9 department.
- 10 (j) Violation of any provision of s. 484.012.
- 11 (k) Conspiring with another licensee or with any
12 person to commit an act, or committing an act, which would
13 coerce, intimidate, or preclude another licensee from lawfully
14 advertising her or his services.
- 15 (l) Willfully submitting to any third-party payor a
16 claim for services which were not provided to a patient.
- 17 (m) Failing to keep written prescription files.
- 18 (n) Willfully failing to report any person who the
19 licensee knows is in violation of this part or of rules of the
20 department or the board.
- 21 (o) Exercising influence on a client in such a manner
22 as to exploit the client for financial gain of the licensee or
23 of a third party.
- 24 (p) Gross or repeated malpractice.
- 25 (q) Permitting any person not licensed as an optician
26 in this state to fit or dispense any lenses, spectacles,
27 eyeglasses, or other optical devices which are part of the
28 practice of opticianry.
- 29 (r) Being convicted or found guilty of, or entering a
30 plea of nolo contendere to, regardless of adjudication, in a
31 court of this state or other jurisdiction, a crime which

1 relates to the ability to practice opticianry or to the
2 practice of opticianry.

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

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

14 Section 199. Subsection (4) of section 484.042,
15 Florida Statutes, is amended to read:

16 484.042 Board of Hearing Aid Specialists; membership,
17 appointment, terms.--

18 (4) All provisions of ~~part II of~~ chapter 456 ~~455~~
19 relating to activities of regulatory boards apply to the
20 board. However, notwithstanding the requirement of s.
21 456.073(4) ~~455.621(4)~~ that the board provide by rule for the
22 determination of probable cause by a panel composed of its
23 members or by the department, the board may provide by rule
24 that its probable cause panel may be composed of one current
25 member of the board and one past member of the board, as long
26 as the past member is a licensed hearing aid specialist in
27 good standing. The past board member shall be appointed to
28 the panel for a maximum of 2 years by the chair of the board
29 with the approval of the secretary.

30 Section 200. Subsection (1) of section 484.056,
31 Florida Statutes, is amended to read:

1 484.056 Disciplinary proceedings.--

2 (1) The following acts relating to the practice of
3 dispensing hearing aids shall be grounds for both disciplinary
4 action against a hearing aid specialist as set forth in this
5 section and cease and desist or other related action by the
6 department as set forth in s. 456.065 ~~455.637~~ against any
7 person owning or operating a hearing aid establishment who
8 engages in, aids, or abets any such violation:

9 (a) Violation of any provision of s. 456.072(1)
10 ~~455.624(1)~~, s. 484.0512, or s. 484.053.

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

14 (c) Having a license to dispense hearing aids revoked,
15 suspended, or otherwise acted against, including the denial of
16 licensure, by the licensing authority of another state,
17 territory, or country.

18 (d) Being convicted or found guilty of, or entering a
19 plea of nolo contendere to, regardless of adjudication, a
20 crime in any jurisdiction which directly relates to the
21 practice of dispensing hearing aids or the ability to practice
22 dispensing hearing aids, including violations of any federal
23 laws or regulations regarding hearing aids.

24 (e) Making or filing a report or record which the
25 licensee knows to be false, intentionally or negligently
26 failing to file a report or record required by state or
27 federal law, willfully impeding or obstructing such filing, or
28 inducing another person to impede or obstruct such filing.
29 Such reports or records shall include only those reports or
30 records which are signed in one's capacity as a licensed
31 hearing aid specialist.

- 1 (f) Advertising goods or services in a manner which is
2 fraudulent, false, deceptive, or misleading in form or
3 content.
- 4 (g) Proof that the licensee is guilty of fraud or
5 deceit or of negligence, incompetency, or misconduct in the
6 practice of dispensing hearing aids.
- 7 (h) Violation or repeated violation of this part or of
8 ~~part II~~ of chapter 456 ~~455~~, or any rules promulgated pursuant
9 thereto.
- 10 (i) Violation of a lawful order of the board or
11 department previously entered in a disciplinary hearing or
12 failure to comply with a lawfully issued subpoena of the board
13 or department.
- 14 (j) Practicing with a revoked, suspended, inactive, or
15 delinquent license.
- 16 (k) Using, or causing or promoting the use of, any
17 advertising matter, promotional literature, testimonial,
18 guarantee, warranty, label, brand, insignia, or other
19 representation, however disseminated or published, which is
20 misleading, deceiving, or untruthful.
- 21 (l) Showing or demonstrating, or, in the event of
22 sale, delivery of, a product unusable or impractical for the
23 purpose represented or implied by such action.
- 24 (m) Misrepresentation of professional services
25 available in the fitting, sale, adjustment, service, or repair
26 of a hearing aid, or use of the terms "doctor," "clinic,"
27 "clinical," "medical audiologist," "clinical audiologist,"
28 "research audiologist," or "audiologic" or any other term or
29 title which might connote the availability of professional
30 services when such use is not accurate.
- 31

1 (n) Representation, advertisement, or implication that
2 a hearing aid or its repair is guaranteed without providing
3 full disclosure of the identity of the guarantor; the nature,
4 extent, and duration of the guarantee; and the existence of
5 conditions or limitations imposed upon the guarantee.

6 (o) Representing, directly or by implication, that a
7 hearing aid utilizing bone conduction has certain specified
8 features, such as the absence of anything in the ear or
9 leading to the ear, or the like, without disclosing clearly
10 and conspicuously that the instrument operates on the bone
11 conduction principle and that in many cases of hearing loss
12 this type of instrument may not be suitable.

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

16 (q) Stating or implying that the use of any hearing
17 aid will improve or preserve hearing or prevent or retard the
18 progression of a hearing impairment or that it will have any
19 similar or opposite effect.

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

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

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

31

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

5 (v) Failing to provide all information as described in
6 s. 484.051(1).

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

10 Section 201. Sections 456.30, 456.31, 456.32, 456.33,
11 and 456.34, Florida Statutes, are transferred and renumbered
12 as sections 485.001, 485.002, 485.003, 485.004, and 485.005,
13 Florida Statutes, respectively.

14 Section 202. Subsection (4) of section 486.023,
15 Florida Statutes, is amended to read:

16 486.023 Board of Physical Therapy Practice.--

17 (4) All provisions of ~~part II of~~ chapter 456 ~~455~~
18 relating to activities of the board shall apply.

19 Section 203. Section 486.115, Florida Statutes, is
20 amended to read:

21 486.115 Disposition of fees.--All moneys collected by
22 the department under this chapter shall be deposited and
23 expended pursuant to the provisions of s. 456.025 ~~455-587~~.

24 Section 204. Section 486.172, Florida Statutes, is
25 amended to read:

26 486.172 Application of s. 456.021 ~~455-514~~--The
27 provisions of s. 456.021 ~~455-514~~ shall also be applicable to
28 the provisions of this chapter.

29 Section 205. Paragraph (c) of subsection (1) and
30 paragraph (a) of subsection (11) of section 489.129, Florida
31 Statutes, are amended to read:

1 489.129 Disciplinary proceedings.--
2 (1) The board may take any of the following actions
3 against any certificateholder or registrant: place on
4 probation or reprimand the licensee, revoke, suspend, or deny
5 the issuance or renewal of the certificate, registration, or
6 certificate of authority, require financial restitution to a
7 consumer for financial harm directly related to a violation of
8 a provision of this part, impose an administrative fine not to
9 exceed \$5,000 per violation, require continuing education, or
10 assess costs associated with investigation and prosecution, if
11 the contractor, financially responsible officer, or business
12 organization for which the contractor is a primary qualifying
13 agent, a financially responsible officer, or a secondary
14 qualifying agent responsible under s. 489.1195 is found guilty
15 of any of the following acts:

16 (c) Violating any provision of ~~part I~~ of chapter 455.

17
18 For the purposes of this subsection, construction is
19 considered to be commenced when the contract is executed and
20 the contractor has accepted funds from the customer or lender.
21 A contractor does not commit a violation of this subsection
22 when the contractor relies on a building code interpretation
23 rendered by a building official or person authorized by s.
24 553.80 to enforce the building code, absent a finding of fraud
25 or deceit in the practice of contracting, or gross negligence,
26 repeated negligence, or negligence resulting in a significant
27 danger to life or property on the part of the building
28 official, in a proceeding under chapter 120.

29 (11)(a) Notwithstanding the provisions of chapters
30 ~~chapter~~ 120 and ~~part I~~ of ~~chapter~~ 455, upon receipt of a
31 legally sufficient consumer complaint alleging a violation of

1 this part, the department may provide by rule for binding
2 arbitration between the complainant and the certificateholder
3 or registrant, provided the following conditions exist:

4 1. There is evidence that the complainant has suffered
5 or is likely to suffer monetary damages resulting from the
6 violation of this part;

7 2. The certificateholder or registrant does not have a
8 history of repeated or similar violations;

9 3. Reasonable grounds exist to believe that the public
10 interest will be better served by arbitration than by
11 disciplinary action; and

12 4. The complainant and certificateholder or registrant
13 have not previously entered into private arbitration, and no
14 civil court action based on the same transaction has been
15 filed.

16 Section 206. Paragraph (a) of subsection (1) and
17 paragraphs (a) and (e) of subsection (7) of section 489.533,
18 Florida Statutes, are amended to read:

19 489.533 Disciplinary proceedings.--

20 (1) The following acts shall constitute grounds for
21 disciplinary actions as provided in subsection (2):

22 (a) Failure to comply with any provision of ~~part I of~~
23 chapter 455.

24
25 For the purposes of this subsection, construction is
26 considered to be commenced when the contract is executed and
27 the contractor has accepted funds from the customer or lender.

28 (7)(a) The department may, by rule, provide for a
29 mediation process for the complainant and the licensee.

30 Notwithstanding the provisions of chapters ~~chapter~~ 120 and
31 ~~part I of chapter~~ 455, upon receipt of a legally sufficient

1 consumer complaint alleging a violation of this part, both the
2 licensee and the complainant may consent in writing to
3 mediation within 15 days following notification of this
4 process by the department. The department may suspend all
5 action in the matter for 45 days when notice of consent to
6 mediation is received by the department. If the mediation
7 process is successfully concluded within the 60-day period,
8 the department may close the case file with a notation of the
9 disposition and the licensee's record shall reflect only that
10 a complaint was filed and resolved through mediation. If
11 mediation is rejected by either the complainant or licensee,
12 or should said parties fail to reach a mediated solution
13 within the 60-day period, the department shall process the
14 complaint in the manner required by chapters ~~chapter~~ 120 and
15 ~~part I of chapter~~ 455. The mediator shall provide a written
16 report to the department of the mediation results within 10
17 days of the conclusion of the mediation process as provided by
18 rule.

19 (e) The department, in conjunction with the board,
20 shall determine by rule the types of cases which may be
21 included in the mediation process. The department may initiate
22 or continue disciplinary action, pursuant to ~~part I of~~ chapter
23 455 and this chapter against the licensee as determined by
24 rule.

25 Section 207. Subsection (5) of section 490.004,
26 Florida Statutes, is amended to read:

27 490.004 Board of Psychology.--

28 (5) All applicable provisions of ~~part II of~~ chapter
29 456 ~~455~~ relating to activities of regulatory boards shall
30 apply to the board.

31

1 Section 208. Section 490.00515, Florida Statutes, is
2 amended to read:

3 490.00515 Exemptions from public records and meetings
4 requirements.--The exemptions from s. 119.07(1) provided by
5 ss. 456.073(2) and (10)455.621(2) and (10)and 456.076(3)(e)
6 and (5)(a)455.707(3)(e) and (5)(a)also apply to information
7 concerning a provisional psychologist regulated by the Agency
8 for Health Care Administration and the Department of Health
9 under this chapter, a registered clinical social worker
10 intern, a registered marriage and family therapist intern, a
11 registered mental health counselor intern, a provisional
12 clinical social worker, a provisional marriage and family
13 therapist, or a provisional mental health counselor regulated
14 by the Agency for Health Care Administration and the
15 Department of Health under chapter 491. The exemption from s.
16 286.011 provided by s. 456.073(4)455.621(4)also applies to
17 the proceedings of a probable cause panel with respect to an
18 investigation concerning a provisional psychologist, a
19 registered clinical social worker intern, a registered
20 marriage and family therapist intern, a registered mental
21 health counselor intern, a provisional clinical social worker,
22 a provisional marriage and family therapist, or a provisional
23 mental health counselor regulated by the agency and department
24 under this chapter or chapter 491. This section is subject to
25 the Open Government Sunset Review Act of 1995 in accordance
26 with s. 119.15 and shall stand repealed on October 2, 2002,
27 unless reviewed and saved from repeal through reenactment by
28 the Legislature.

29 Section 209. Paragraph (q) of subsection (2) of
30 section 490.009, Florida Statutes, is amended to read:

31 490.009 Discipline.--

1 (2) The following acts of a licensee, provisional
2 licensee, or applicant are grounds for which the disciplinary
3 actions listed in subsection (1) may be taken:

4 (q) Violating provisions of this chapter, or of ~~part~~
5 ~~II~~ of chapter 456 ~~455~~, or any rules adopted pursuant thereto.

6 Section 210. Section 490.0141, Florida Statutes, is
7 amended to read:

8 490.0141 Practice of hypnosis.--A licensed
9 psychologist who is qualified as determined by the board may
10 practice hypnosis as defined in s. 485.003(1)~~456.32(1)~~. The
11 provisions of this chapter may not be interpreted to limit or
12 affect the right of any person qualified pursuant to chapter
13 485 ~~456~~ to practice hypnosis pursuant to that chapter or to
14 practice hypnosis for nontherapeutic purposes, so long as such
15 person does not hold herself or himself out to the public as
16 possessing a license issued pursuant to this chapter or use a
17 title protected by this chapter.

18 Section 211. Subsection (1) of section 490.015,
19 Florida Statutes, is amended to read:

20 490.015 Duties of the department.--

21 (1) All functions reserved to boards under ~~part II~~ of
22 chapter 456 ~~455~~ shall be exercised by the department with
23 respect to the regulation of school psychologists and in a
24 manner consistent with the exercise of its regulatory
25 functions.

26 Section 212. Subsection (6) of section 491.004,
27 Florida Statutes, is amended to read:

28 491.004 Board of Clinical Social Work, Marriage and
29 Family Therapy, and Mental Health Counseling.--

30
31

1 (6) All applicable provisions of ~~part II of~~ chapter
2 456 ~~455~~ relating to activities of regulatory boards shall
3 apply to the board.

4 Section 213. Section 491.0047, Florida Statutes, is
5 amended to read:

6 491.0047 Exemptions from public records and meetings
7 requirements.--The exemptions from s. 119.07(1) provided by
8 ss. 456.073(2) and ~~(10)455.621(2) and (10)~~and 456.076(3)(e)
9 and (5)(a)455.707(3)(e) and (5)(a)also apply to information
10 concerning a provisional psychologist regulated by the Agency
11 for Health Care Administration and the Department of Health
12 under chapter 490, a registered clinical social worker intern,
13 a registered marriage and family therapist intern, a
14 registered mental health counselor intern, a provisional
15 clinical social worker, a provisional marriage and family
16 therapist, or a provisional mental health counselor regulated
17 by the Agency for Health Care Administration and the
18 Department of Health under this chapter. The exemption from
19 s. 286.011 provided by s. 456.073(4)~~455.621(4)~~also applies
20 to the proceedings of a probable cause panel with respect to
21 an investigation concerning a provisional psychologist, a
22 registered clinical social worker intern, a registered
23 marriage and family therapist intern, a registered mental
24 health counselor intern, a provisional clinical social worker,
25 a provisional marriage and family therapist, or a provisional
26 mental health counselor regulated by the agency and department
27 under chapter 490 or this chapter. This section is subject to
28 the Open Government Sunset Review Act of 1995 in accordance
29 with s. 119.15 and shall stand repealed on October 2, 2002,
30 unless reviewed and saved from repeal through reenactment by
31 the Legislature.

1 Section 214. Paragraph (q) of subsection (2) of
2 section 491.009, Florida Statutes, is amended to read:

3 491.009 Discipline.--

4 (2) The following acts of a licensee, provisional
5 licensee, registered intern, certificateholder, or applicant
6 are grounds for which the disciplinary actions listed in
7 subsection (1) may be taken:

8 (q) Violating provisions of this chapter, or of ~~part~~
9 ~~II~~ of chapter 456 ~~455~~, or any rules adopted pursuant thereto.

10 Section 215. Section 491.0141, Florida Statutes, is
11 amended to read:

12 491.0141 Practice of hypnosis.--A person licensed
13 under this chapter who is qualified as determined by the board
14 may practice hypnosis as defined in s. 485.003(1)~~456.32(1)~~.
15 The provisions of this chapter may not be interpreted to limit
16 or affect the right of any person qualified pursuant to
17 chapter 485 ~~456~~ to practice hypnosis pursuant to that chapter
18 or to practice hypnosis for nontherapeutic purposes, so long
19 as such person does not hold herself or himself out to the
20 public as possessing a license issued pursuant to this chapter
21 or use a title protected by this chapter.

22 Section 216. Subsection (1) of section 491.015,
23 Florida Statutes, is amended to read:

24 491.015 Duties of the department as to certified
25 master social workers.--

26 (1) All functions reserved to boards under ~~part II~~ of
27 chapter 456 ~~455~~ shall be exercised by the department with
28 respect to the regulation of certified master social workers
29 and in a manner consistent with the exercise of its regulatory
30 functions.

31

1 Section 217. Subsection (2) of section 492.103,
2 Florida Statutes, is amended to read:

3 492.103 Board of Professional Geologists.--

4 (2) All provisions of ~~part I~~ of chapter 455 relating
5 to activities of the board shall apply.

6 Section 218. Paragraph (h) of subsection (1) of
7 section 492.113, Florida Statutes, is amended to read:

8 492.113 Disciplinary proceedings.--

9 (1) The following acts constitute grounds for which
10 the disciplinary actions in subsection (3) may be taken:

11 (h) Violation of ~~part I~~ of chapter 455.

12 Section 219. Subsection (3) of section 627.668,
13 Florida Statutes, is amended to read:

14 627.668 Optional coverage for mental and nervous
15 disorders required; exception.--

16 (3) Insurers must maintain strict confidentiality
17 regarding psychiatric and psychotherapeutic records submitted
18 to an insurer for the purpose of reviewing a claim for
19 benefits payable under this section. These records submitted
20 to an insurer are subject to the limitations of s. 456.057
21 ~~455.667~~, relating to the furnishing of patient records.

22 Section 220. Subsection (1) of section 627.912,
23 Florida Statutes, is amended to read:

24 627.912 Professional liability claims and actions;
25 reports by insurers.--

26 (1) Each self-insurer authorized under s. 627.357 and
27 each insurer or joint underwriting association providing
28 professional liability insurance to a practitioner of medicine
29 licensed under chapter 458, to a practitioner of osteopathic
30 medicine licensed under chapter 459, to a podiatric physician
31 licensed under chapter 461, to a dentist licensed under

1 chapter 466, to a hospital licensed under chapter 395, to a
2 crisis stabilization unit licensed under part IV of chapter
3 394, to a health maintenance organization certificated under
4 part I of chapter 641, to clinics included in chapter 390, to
5 an ambulatory surgical center as defined in s. 395.002, or to
6 a member of The Florida Bar shall report in duplicate to the
7 Department of Insurance any claim or action for damages for
8 personal injuries claimed to have been caused by error,
9 omission, or negligence in the performance of such insured's
10 professional services or based on a claimed performance of
11 professional services without consent, if the claim resulted
12 in:

- 13 (a) A final judgment in any amount.
14 (b) A settlement in any amount.

15
16 Reports shall be filed with the department and, if the insured
17 party is licensed under chapter 458, chapter 459, chapter 461,
18 or chapter 466, with the Department of Health, no later than
19 30 days following the occurrence of any event listed in
20 paragraph (a) or paragraph (b). The Department of Health shall
21 review each report and determine whether any of the incidents
22 that resulted in the claim potentially involved conduct by the
23 licensee that is subject to disciplinary action, in which case
24 the provisions of s. 456.073 ~~455.621~~ shall apply. The
25 Department of Health, as part of the annual report required by
26 s. 456.026 ~~455.644~~, shall publish annual statistics, without
27 identifying licensees, on the reports it receives, including
28 final action taken on such reports by the Department of Health
29 or the appropriate regulatory board.

30 Section 221. Section 636.039, Florida Statutes, is
31 amended to read:

1 636.039 Examination by the department.--The department
2 shall examine the affairs, transactions, accounts, business
3 records, and assets of any prepaid limited health service
4 organization, in the same manner and subject to the same terms
5 and conditions that apply to insurers under part II of chapter
6 624, as often as it deems it expedient for the protection of
7 the people of this state, but not less frequently than once
8 every 3 years. In lieu of making its own financial
9 examination, the department may accept an independent
10 certified public accountant's audit report prepared on a
11 statutory accounting basis consistent with this act. However,
12 except when the medical records are requested and copies
13 furnished pursuant to s. 456.057 ~~455.667~~, medical records of
14 individuals and records of physicians providing service under
15 contract to the prepaid limited health service organization
16 are not subject to audit, but may be subject to subpoena by
17 court order upon a showing of good cause. For the purpose of
18 examinations, the department may administer oaths to and
19 examine the officers and agents of a prepaid limited health
20 service organization concerning its business and affairs. The
21 expenses of examination of each prepaid limited health service
22 organization by the department are subject to the same terms
23 and conditions as apply to insurers under part II of chapter
24 624. Expenses of all examinations of a prepaid limited health
25 service organization may never exceed a maximum of \$20,000 for
26 any 1-year period.

27 Section 222. Subsection (1) of section 641.27, Florida
28 Statutes, is amended to read:

29 641.27 Examination by the department.--

30 (1) The department shall examine the affairs,
31 transactions, accounts, business records, and assets of any

1 health maintenance organization as often as it deems it
2 expedient for the protection of the people of this state, but
3 not less frequently than once every 3 years. In lieu of
4 making its own financial examination, the department may
5 accept an independent certified public accountant's audit
6 report prepared on a statutory accounting basis consistent
7 with this part. However, except when the medical records are
8 requested and copies furnished pursuant to s. 456.057 ~~455.667~~,
9 medical records of individuals and records of physicians
10 providing service under contract to the health maintenance
11 organization shall not be subject to audit, although they may
12 be subject to subpoena by court order upon a showing of good
13 cause. For the purpose of examinations, the department may
14 administer oaths to and examine the officers and agents of a
15 health maintenance organization concerning its business and
16 affairs. The examination of each health maintenance
17 organization by the department shall be subject to the same
18 terms and conditions as apply to insurers under chapter 624.
19 In no event shall expenses of all examinations exceed a
20 maximum of \$20,000 for any 1-year period. Any rehabilitation,
21 liquidation, conservation, or dissolution of a health
22 maintenance organization shall be conducted under the
23 supervision of the department, which shall have all power with
24 respect thereto granted to it under the laws governing the
25 rehabilitation, liquidation, reorganization, conservation, or
26 dissolution of life insurance companies.

27 Section 223. Paragraph (b) of subsection (2) and
28 subsection (6) of section 641.316, Florida Statutes, are
29 amended to read:

30 641.316 Fiscal intermediary services.--
31 (2)

1 (b) The term "fiscal intermediary services
2 organization" means a person or entity which performs
3 fiduciary or fiscal intermediary services to health care
4 professionals who contract with health maintenance
5 organizations other than a fiscal intermediary services
6 organization owned, operated, or controlled by a hospital
7 licensed under chapter 395, an insurer licensed under chapter
8 624, a third-party administrator licensed under chapter 626, a
9 prepaid limited health service organization licensed under
10 chapter 636, a health maintenance organization licensed under
11 this chapter, or physician group practices as defined in s.
12 456.053(3)(h)~~455.654(3)(f)~~.

13 (6) Any fiscal intermediary services organization,
14 other than a fiscal intermediary services organization owned,
15 operated, or controlled by a hospital licensed under chapter
16 395, an insurer licensed under chapter 624, a third-party
17 administrator licensed under chapter 626, a prepaid limited
18 health service organization licensed under chapter 636, a
19 health maintenance organization licensed under this chapter,
20 or physician group practices as defined in s. 456.053(3)(h)
21 ~~455.654(3)(f)~~, must register with the department and meet the
22 requirements of this section. In order to register as a fiscal
23 intermediary services organization, the organization must
24 comply with ss. 641.21(1)(c) and (d) and 641.22(6). Should the
25 department determine that the fiscal intermediary services
26 organization does not meet the requirements of this section,
27 the registration shall be denied. In the event that the
28 registrant fails to maintain compliance with the provisions of
29 this section, the department may revoke or suspend the
30 registration. In lieu of revocation or suspension of the
31

1 registration, the department may levy an administrative
2 penalty in accordance with s. 641.25.

3 Section 224. Paragraphs (b) and (c) of subsection (5)
4 and subsections (6) and (8) of section 641.55, Florida
5 Statutes, are amended to read:

6 641.55 Internal risk management program.--

7 (5)

8 (b) The information reported to the agency under
9 paragraph (a) which relates to providers licensed under
10 chapter 458, chapter 459, chapter 461, or chapter 466 must
11 also be reported to the agency quarterly. The agency shall
12 review the information and determine whether any of the
13 incidents potentially involved conduct by a licensee that is
14 subject to disciplinary action, in which case s. 456.073
15 ~~455.621~~ applies.

16 (c) Except as otherwise provided in this subsection,
17 any identifying information contained in the annual report and
18 the quarterly reports under paragraphs (a) and (b) is
19 confidential and exempt from s. 119.07(1). This information
20 must not be available to the public as part of the record of
21 investigation for and prosecution in disciplinary proceedings
22 made available to the public by the agency or the appropriate
23 regulatory board. However, the agency shall make available,
24 upon written request by a practitioner against whom probable
25 cause has been found, any such information contained in the
26 records that form the basis of the determination of probable
27 cause under s. 456.073 ~~455.621~~.

28 (6) If an adverse or untoward incident, whether
29 occurring in the facilities of the organization or arising
30 from health care prior to enrollment by the organization or
31

1 admission to the facilities of the organization or in a
2 facility of one of its providers, results in:
3 (a) The death of a patient;
4 (b) Severe brain or spinal damage to a patient;
5 (c) A surgical procedure being performed on the wrong
6 patient; or
7 (d) A surgical procedure unrelated to the patient's
8 diagnosis or medical needs being performed on any patient,
9
10 the organization must report this incident to the agency
11 within 3 working days after its occurrence. A more detailed
12 followup report must be submitted to the agency within 10 days
13 after the first report. The agency may require an additional,
14 final report. Reports under this subsection must be sent
15 immediately by the agency to the appropriate regulatory board
16 whenever they contain references to a provider licensed under
17 chapter 458, chapter 459, chapter 461, or chapter 466. These
18 reports are confidential and are exempt from s. 119.07(1).
19 This information is not available to the public as part of the
20 record of investigation for and prosecution in disciplinary
21 proceedings made available to the public by the agency or the
22 appropriate regulatory board. However, the agency shall make
23 available, upon written request by a practitioner against whom
24 probable cause has been found, any such information contained
25 in the records that form the basis of the determination of
26 probable cause under s. 456.073 ~~455.621~~. The agency may
27 investigate, as it deems appropriate, any such incident and
28 prescribe measures that must or may be taken by the
29 organization in response to the incident. The agency shall
30 review each incident and determine whether it potentially
31

1 involved conduct by the licensee which is subject to
2 disciplinary action, in which case s. 456.073 ~~455.621~~ applies.
3 (8) The agency and, upon subpoena issued under s.
4 456.071 ~~455.611~~, the appropriate regulatory board must be
5 given access to all organization records necessary to carry
6 out the provisions of this section. Any identifying
7 information contained in the records obtained under this
8 section is confidential and exempt from s. 119.07(1). The
9 identifying information contained in records obtained under s.
10 456.071 ~~455.611~~ is exempt from s. 119.07(1) to the extent that
11 it is part of the record of investigation for and prosecution
12 in disciplinary proceedings made available to the public by
13 the agency or the appropriate regulatory board. However, the
14 agency must make available, upon written request by a
15 practitioner against whom probable cause has been found, any
16 such information contained in the records that form the basis
17 of the determination of probable cause under s. 456.073
18 ~~455.621~~, except that, with respect to medical review committee
19 records, s. 766.101 controls.

20
21 The gross data compiled under this section or s. 395.0197
22 shall be furnished by the agency upon request to organizations
23 to be utilized for risk management purposes. The agency shall
24 adopt rules necessary to carry out the provisions of this
25 section.

26 Section 225. Subsection (2) of section 766.106,
27 Florida Statutes, is amended to read:

28 766.106 Notice before filing action for medical
29 malpractice; presuit screening period; offers for admission of
30 liability and for arbitration; informal discovery; review.--
31

1 (2) After completion of presuit investigation pursuant
2 to s. 766.203 and prior to filing a claim for medical
3 malpractice, a claimant shall notify each prospective
4 defendant and, if any prospective defendant is a health care
5 provider licensed under chapter 458, chapter 459, chapter 460,
6 chapter 461, or chapter 466, the Department of Health by
7 certified mail, return receipt requested, of intent to
8 initiate litigation for medical malpractice. Notice to the
9 Department of Health must include the full name and address of
10 the claimant; the full names and any known addresses of any
11 health care providers licensed under chapter 458, chapter 459,
12 chapter 460, chapter 461, or chapter 466 who are prospective
13 defendants identified at the time; the date and a summary of
14 the occurrence giving rise to the claim; and a description of
15 the injury to the claimant. The requirement for notice to the
16 Department of Health does not impair the claimant's legal
17 rights or ability to seek relief for his or her claim, and the
18 notice provided to the department is not discoverable or
19 admissible in any civil or administrative action. The
20 Department of Health shall review each incident and determine
21 whether it involved conduct by a licensee which is potentially
22 subject to disciplinary action, in which case the provisions
23 of s. 456.073 ~~455.621~~ apply.

24 Section 226. Subsection (4) of section 766.305,
25 Florida Statutes, is amended to read:

26 766.305 Filing of claims and responses; medical
27 disciplinary review.--

28 (4) Upon receipt of such petition, the Division of
29 Medical Quality Assurance shall review the information therein
30 and determine whether it involved conduct by a physician
31 licensed under chapter 458 or an osteopathic physician

1 licensed under chapter 459 that is subject to disciplinary
2 action, in which case the provisions of s. 456.073 ~~455.621~~
3 shall apply.

4 Section 227. Paragraph (b) of subsection (4) of
5 section 766.314, Florida Statutes, is amended to read:

6 766.314 Assessments; plan of operation.--

7 (4) The following persons and entities shall pay into
8 the association an initial assessment in accordance with the
9 plan of operation:

10 (b)1. On or before October 15, 1988, all physicians
11 licensed pursuant to chapter 458 or chapter 459 as of October
12 1, 1988, other than participating physicians, shall be
13 assessed an initial assessment of \$250, which must be paid no
14 later than December 1, 1988.

15 2. Any such physician who becomes licensed after
16 September 30, 1988, and before January 1, 1989, shall pay into
17 the association an initial assessment of \$250 upon licensure.

18 3. Any such physician who becomes licensed on or after
19 January 1, 1989, shall pay an initial assessment equal to the
20 most recent assessment made pursuant to this paragraph,
21 paragraph (5)(a), or paragraph (7)(b).

22 4. However, if the physician is a physician specified
23 in this subparagraph, the assessment is not applicable:

24 a. A resident physician, assistant resident physician,
25 or intern in an approved postgraduate training program, as
26 defined by the Board of Medicine or the Board of Osteopathic
27 Medicine by rule;

28 b. A retired physician who has withdrawn from the
29 practice of medicine but who maintains an active license as
30 evidenced by an affidavit filed with the Department of Health.
31 Prior to reentering the practice of medicine in this state, a

1 retired physician as herein defined must notify the Board of
2 Medicine or the Board of Osteopathic Medicine and pay the
3 appropriate assessments pursuant to this section;

4 c. A physician who holds a limited license pursuant to
5 s. 458.317 and who is not being compensated for medical
6 services;

7 d. A physician who is employed full time by the United
8 States Department of Veterans Affairs and whose practice is
9 confined to United States Department of Veterans Affairs
10 hospitals; or

11 e. A physician who is a member of the Armed Forces of
12 the United States and who meets the requirements of s. 456.024
13 ~~455.507~~.

14 f. A physician who is employed full time by the State
15 of Florida and whose practice is confined to state-owned
16 correctional institutions, a county health department, or
17 state-owned mental health or developmental services
18 facilities, or who is employed full time by the Department of
19 Health.

20 Section 228. Paragraph (b) of subsection (3) of
21 section 817.505, Florida Statutes, is amended to read:

22 817.505 Patient brokering prohibited; exceptions;
23 penalties.--

24 (3) This section shall not apply to:

25 (b) Any payment, compensation, or financial
26 arrangement within a group practice as defined in s. 456.053
27 ~~455.654~~, provided such payment, compensation, or arrangement
28 is not to or from persons who are not members of the group
29 practice.

30 Section 229. Section 937.031, Florida Statutes, is
31 amended to read:

1 937.031 Dental records of missing persons; access and
2 use.--When a person has been reported missing and has not been
3 located within 30 days after such report, the law enforcement
4 agency conducting the investigation of the missing person
5 shall request the family or next of kin to provide written
6 consent to contact the dentist of the missing person and
7 request that person's dental records. Notwithstanding the
8 provisions of s. 456.057 ~~455.667~~, a dentist, upon receipt of
9 proof of written consent, shall release a copy of the dental
10 records of the missing person to the law enforcement agency
11 requesting such records, providing or encoding the dental
12 records in a form requested by the Department of Law
13 Enforcement. The law enforcement agency shall then enter the
14 dental records into the criminal justice information system
15 for the purpose of comparing such records to those of
16 unidentified deceased persons.

17
18 Reviser's note.--Transfers sections that
19 comprise part II of chapter 455, pertaining to
20 regulation of health-related professions, to
21 chapter 456; transfers sections in present
22 chapter 456, pertaining to hypnosis, to new
23 chapter 485; and amends applicable references
24 in the Florida Statutes to conform to such
25 transfers.

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