

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

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

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

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

1 and the dispensing of hearing aids; amending s.
2 457.102, F.S.; revising the definition of
3 "acupuncture"; amending s. 457.105, F.S.;
4 revising licensure qualifications to practice
5 acupuncture; amending s. 457.107, F.S.;
6 modifying the fee for renewal of a license to
7 practice acupuncture; amending s. 483.824,
8 F.S.; revising qualifications of clinical
9 laboratory directors; designating Florida
10 Alzheimer's Disease Day; providing an effective
11 date.
12

13 WHEREAS, the protection of Florida residents and
14 visitors from death or serious bodily injury that may be
15 caused by unlicensed health care practitioners is a state
16 priority, and

17 WHEREAS, the existing criminal prohibitions have not
18 been vigorously enforced in the past, and

19 WHEREAS, the existing penalties are not severe enough
20 to deter the unlicensed practice of the health care
21 professions, and

22 WHEREAS, persons convicted of practicing without a
23 license should be imprisoned so they cannot continue to hurt
24 Floridians, and

25 WHEREAS, persons convicted of practicing without a
26 license who are not citizens of this country should be
27 deported following incarceration to guarantee that they cannot
28 continue to endanger Floridians, NOW, THEREFORE,
29

30 Be It Enacted by the Legislature of the State of Florida:
31

1 Section 1. Pursuant to section 187 of chapter 99-397,
2 Laws of Florida, the Agency for Health Care Administration was
3 directed to conduct a detailed study and analysis of clinical
4 laboratory services for kidney dialysis patients in the State
5 of Florida and to report back to the Legislature no later than
6 February 1, 2000. The agency reported that additional time and
7 investigative resources were necessary to adequately respond
8 to the legislative directives. Therefore, the sum of \$230,000
9 from the Agency for Health Care Administration Tobacco
10 Settlement Trust Fund is appropriated to the Agency for Health
11 Care Administration to contract with the University of South
12 Florida to conduct a review of laboratory test utilization,
13 any self-referral to clinical laboratories, financial
14 arrangements among kidney dialysis centers, their medical
15 directors, referring physicians, and any business
16 relationships and affiliations with clinical laboratories, and
17 the quality and effectiveness of kidney dialysis treatment in
18 this state. A report on the findings from such review shall be
19 presented to the President of the Senate, the Speaker of the
20 House of Representatives, and the chairs of the appropriate
21 substantive committees of the Legislature no later than
22 February 1, 2001.

23
24
25 Section 2. Subsections (1) and (3) of section 455.564,
26 Florida Statutes, are amended to read:

27 455.564 Department; general licensing provisions.--

28 (1)(a) Any person desiring to be licensed in a
29 profession within the jurisdiction of the department shall
30 apply to the department in writing to take the licensure
31 examination. The application shall be made on a form prepared

1 and furnished by the department. The application form must be
2 available on the World Wide Web and the department may accept
3 electronically submitted applications beginning July 1, 2001.
4 The application ~~and~~ shall require the social security number
5 of the applicant, except as provided in paragraph (b). The
6 form shall be supplemented as needed to reflect any material
7 change in any circumstance or condition stated in the
8 application which takes place between the initial filing of
9 the application and the final grant or denial of the license
10 and which might affect the decision of the department. If an
11 application is submitted electronically, the department may
12 require supplemental materials, including an original
13 signature of the applicant and verification of credentials, to
14 be submitted in a non-electronic format. An incomplete
15 application shall expire 1 year after initial filing. In order
16 to further the economic development goals of the state, and
17 notwithstanding any law to the contrary, the department may
18 enter into an agreement with the county tax collector for the
19 purpose of appointing the county tax collector as the
20 department's agent to accept applications for licenses and
21 applications for renewals of licenses. The agreement must
22 specify the time within which the tax collector must forward
23 any applications and accompanying application fees to the
24 department.

25 (b) If an applicant has not been issued a social
26 security number by the Federal Government at the time of
27 application because the applicant is not a citizen or resident
28 of this country, the department may process the application
29 using a unique personal identification number. If such an
30 applicant is otherwise eligible for licensure, the board, or
31 the department when there is no board, may issue a temporary

1 license to the applicant, which shall expire 30 days after
2 issuance unless a social security number is obtained and
3 submitted in writing to the department. Upon receipt of the
4 applicant's social security number, the department shall issue
5 a new license, which shall expire at the end of the current
6 biennium.

7 (3)(a) The board, or the department when there is no
8 board, may refuse to issue an initial license to any applicant
9 who is under investigation or prosecution in any jurisdiction
10 for an action that would constitute a violation of this part
11 or the professional practice acts administered by the
12 department and the boards, until such time as the
13 investigation or prosecution is complete, and the time period
14 in which the licensure application must be granted or denied
15 shall be tolled until 15 days after the receipt of the final
16 results of the investigation or prosecution.

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

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

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

3 455.565 Designated health care professionals;
4 information required for licensure.--

5 (4)

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

27 Section 4. Section 455.5651, Florida Statutes, is
28 amended to read:

29 455.5651 Practitioner profile; creation.--

30 (1) Beginning July 1, 1999, the Department of Health
31 shall compile the information submitted pursuant to s. 455.565

1 into a practitioner profile of the applicant submitting the
2 information, except that the Department of Health may develop
3 a format to compile uniformly any information submitted under
4 s. 455.565(4)(b).

5 (2) On the profile published ~~required~~ under subsection
6 (1), the department shall indicate if the information provided
7 under s. 455.565(1)(a)7. is not corroborated by a criminal
8 history check conducted according to this subsection. If the
9 information provided under s. 455.565(1)(a)7. is corroborated
10 by the criminal history check, the fact that the criminal
11 history check was performed need not be indicated on the
12 profile. The department, or the board having regulatory
13 authority over the practitioner acting on behalf of the
14 department, shall investigate any information received by the
15 department or the board when it has reasonable grounds to
16 believe that the practitioner has violated any law that
17 relates to the practitioner's practice.

18 (3) The Department of Health may include in each
19 practitioner's practitioner profile that criminal information
20 that directly relates to the practitioner's ability to
21 competently practice his or her profession. The department
22 must include in each practitioner's practitioner profile the
23 following statement: "The criminal history information, if
24 any exists, may be incomplete; federal criminal history
25 information is not available to the public."

26 (4) The Department of Health shall include, with
27 respect to a practitioner licensed under chapter 458 or
28 chapter 459, a statement of how the practitioner has elected
29 to comply with the financial responsibility requirements of s.
30 458.320 or s. 459.0085. The department shall include, with
31 respect to practitioners subject to s. 455.694, a statement of

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

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

24 (6) The Department of Health may include in the
 25 practitioner's practitioner profile any other information that
 26 is a public record of any governmental entity and that relates
 27 to a practitioner's ability to competently practice his or her
 28 profession. However, the department must consult with the
 29 board having regulatory authority over the practitioner before
 30 such information is included in his or her profile.

31

1 (7) Upon the completion of a practitioner profile
2 under this section, the Department of Health shall furnish the
3 practitioner who is the subject of the profile a copy of it.
4 The practitioner has a period of 30 days in which to review
5 the profile and to correct any factual inaccuracies in it. The
6 Department of Health shall make the profile available to the
7 public at the end of the 30-day period. The department shall
8 make the profiles available to the public through the World
9 Wide Web and other commonly used means of distribution.

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

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

15 455.5653 Practitioner profiles; data
16 storage.--Effective upon this act becoming a law, the
17 Department of Health must develop or contract for a computer
18 system to accommodate the new data collection and storage
19 requirements under this act pending the development and
20 operation of a computer system by the Department of Health for
21 handling the collection, input, revision, and update of data
22 submitted by physicians as a part of their initial licensure
23 or renewal to be compiled into individual practitioner
24 profiles. The Department of Health must incorporate any data
25 required by this act into the computer system used in
26 conjunction with the regulation of health care professions
27 under its jurisdiction. ~~The department must develop, by the~~
28 ~~year 2000, a schedule and procedures for each practitioner~~
29 ~~within a health care profession regulated within the Division~~
30 ~~of Medical Quality Assurance to submit relevant information to~~
31 ~~be compiled into a profile to be made available to the public.~~

1 The Department of Health is authorized to contract with and
2 negotiate any interagency agreement necessary to develop and
3 implement the practitioner profiles. The Department of Health
4 shall have access to any information or record maintained by
5 the Agency for Health Care Administration, including any
6 information or record that is otherwise confidential and
7 exempt from the provisions of chapter 119 and s. 24(a), Art. I
8 of the State Constitution, so that the Department of Health
9 may corroborate any information that practitioners ~~physicians~~
10 are required to report under s. 455.565.

11 Section 6. Section 455.5654, Florida Statutes, is
12 amended to read:

13 455.5654 Practitioner profiles; rules;
14 workshops.--Effective upon this act becoming a law, the
15 Department of Health shall adopt rules for the form of a
16 practitioner profile that the agency is required to prepare.
17 The Department of Health, pursuant to chapter 120, must hold
18 public workshops for purposes of rule development to implement
19 this section. An agency to which information is to be
20 submitted under this act may adopt by rule a form for the
21 submission of the information required under s. 455.565.

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

24 455.567 Sexual misconduct; disqualification for
25 license, certificate, or registration.--

26 (1) Sexual misconduct in the practice of a health care
27 profession means violation of the professional relationship
28 through which the health care practitioner uses such
29 relationship to engage or attempt to engage the patient or
30 client, or an immediate family member, guardian, or
31 representative of the patient or client in, or to induce or

1 attempt to induce such person to engage in, verbal or physical
2 sexual activity outside the scope of the professional practice
3 of such health care profession. Sexual misconduct in the
4 practice of a health care profession is prohibited.

5 Section 8. Paragraphs (f) and (u) of subsection (1),
6 paragraph (c) of subsection (2), and subsection (3) of section
7 455.624, Florida Statutes, are amended, and paragraphs (y) and
8 (z) are added to subsection (1) of said section, to read:

9 455.624 Grounds for discipline; penalties;
10 enforcement.--

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

14 (f) Having a license or the authority to practice any
15 ~~the~~ regulated profession revoked, suspended, or otherwise
16 acted against, including the denial of licensure, by the
17 licensing authority of any jurisdiction, including its
18 agencies or subdivisions, for a violation that would
19 constitute a violation under Florida law. The licensing
20 authority's acceptance of a relinquishment of licensure,
21 stipulation, consent order, or other settlement, offered in
22 response to or in anticipation of the filing of charges
23 against the license, shall be construed as action against the
24 license.

25 (u) Engaging or attempting to engage in sexual
26 misconduct as defined and prohibited in s. 455.567(1)~~a~~
27 ~~patient or client in verbal or physical sexual activity. For~~
28 ~~the purposes of this section, a patient or client shall be~~
29 ~~presumed to be incapable of giving free, full, and informed~~
30 ~~consent to verbal or physical sexual activity.~~

31

1 (y) Being unable to practice with reasonable skill and
 2 safety to patients by reason of illness or use of alcohol,
 3 drugs, narcotics, chemicals, or any other type of material or
 4 as a result of any mental or physical condition. In enforcing
 5 this paragraph, the department shall have, upon a finding of
 6 the secretary or the secretary's designee that probable cause
 7 exists to believe that the licensee is unable to practice
 8 because of the reasons stated in this paragraph, the authority
 9 to issue an order to compel a licensee to submit to a mental
 10 or physical examination by physicians designated by the
 11 department. If the licensee refuses to comply with such order,
 12 the department's order directing such examination may be
 13 enforced by filing a petition for enforcement in the circuit
 14 court where the licensee resides or does business. The
 15 department shall be entitled to the summary procedure provided
 16 in s. 51.011. A licensee or certificateholder affected under
 17 this paragraph shall at reasonable intervals be afforded an
 18 opportunity to demonstrate that he or she can resume the
 19 competent practice of his or her profession with reasonable
 20 skill and safety to patients.

21 (z) Testing positive for any drug, as defined in s.
 22 112.0455, on any confirmed preemployment or employer-ordered
 23 drug screening when the practitioner does not have a lawful
 24 prescription and legitimate medical reason for using such
 25 drug.

26 (2) When the board, or the department when there is no
 27 board, finds any person guilty of the grounds set forth in
 28 subsection (1) or of any grounds set forth in the applicable
 29 practice act, including conduct constituting a substantial
 30 violation of subsection (1) or a violation of the applicable
 31 practice act which occurred prior to obtaining a license, it

1 may enter an order imposing one or more of the following
2 penalties:

3 (c) Restriction of practice or license.

4
5 In determining what action is appropriate, the board, or
6 department when there is no board, must first consider what
7 sanctions are necessary to protect the public or to compensate
8 the patient. Only after those sanctions have been imposed may
9 the disciplining authority consider and include in the order
10 requirements designed to rehabilitate the practitioner. All
11 costs associated with compliance with orders issued under this
12 subsection are the obligation of the practitioner.

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

24 (b) Notwithstanding subsection (2), if the ground for
25 disciplinary action is the first-time violation of a practice
26 act for unprofessional conduct, as used in ss. 464.018(1)(h),
27 467.203(1)(f), 468.365(1)(f), and 478.52(1)(f), and no actual
28 harm to the patient occurred, the board or department, as
29 applicable, shall issue a citation in accordance with s.
30 455.617 and assess a penalty as determined by rule of the
31 board or department.

1 Section 9. For the purpose of incorporating the
2 amendment to section 455.624, Florida Statutes, in references
3 thereto, the sections or subdivisions of Florida Statutes set
4 forth below are reenacted to read:

5 455.577 Penalty for theft or reproduction of an
6 examination.--In addition to, or in lieu of, any other
7 discipline imposed pursuant to s. 455.624, the theft of an
8 examination in whole or in part or the act of reproducing or
9 copying any examination administered by the department,
10 whether such examination is reproduced or copied in part or in
11 whole and by any means, constitutes a felony of the third
12 degree, punishable as provided in s. 775.082, s. 775.083, or
13 s. 775.084.

14 455.631 Penalty for giving false information.--In
15 addition to, or in lieu of, any other discipline imposed
16 pursuant to s. 455.624, the act of knowingly giving false
17 information in the course of applying for or obtaining a
18 license from the department, or any board thereunder, with
19 intent to mislead a public servant in the performance of his
20 or her official duties, or the act of attempting to obtain or
21 obtaining a license from the department, or any board
22 thereunder, to practice a profession by knowingly misleading
23 statements or knowing misrepresentations constitutes a felony
24 of the third degree, punishable as provided in s. 775.082, s.
25 775.083, or s. 775.084.

26 455.651 Disclosure of confidential information.--

27 (2) Any person who willfully violates any provision of
28 this section is guilty of a misdemeanor of the first degree,
29 punishable as provided in s. 775.082 or s. 775.083, and may be
30 subject to discipline pursuant to s. 455.624, and, if
31

1 applicable, shall be removed from office, employment, or the
2 contractual relationship.

3 455.712 Business establishments; requirements for
4 active status licenses.--

5 (1) A business establishment regulated by the Division
6 of Medical Quality Assurance pursuant to this part may provide
7 regulated services only if the business establishment has an
8 active status license. A business establishment that provides
9 regulated services without an active status license is in
10 violation of this section and s. 455.624, and the board, or
11 the department if there is no board, may impose discipline on
12 the business establishment.

13 458.347 Physician assistants.--

14 (7) PHYSICIAN ASSISTANT LICENSURE.--

15 (g) The Board of Medicine may impose any of the
16 penalties specified in ss. 455.624 and 458.331(2) upon a
17 physician assistant if the physician assistant or the
18 supervising physician has been found guilty of or is being
19 investigated for any act that constitutes a violation of this
20 chapter or part II of chapter 455.

21 459.022 Physician assistants.--

22 (7) PHYSICIAN ASSISTANT LICENSURE.--

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

29 468.1755 Disciplinary proceedings.--

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

1 (a) Violation of any provision of s. 455.624(1) or s.
2 468.1745(1).

3 468.719 Disciplinary actions.--

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

6 (a) A violation of any law relating to the practice of
7 athletic training, including, but not limited to, any
8 violation of this part, s. 455.624, or any rule adopted
9 pursuant thereto.

10 (2) When the board finds any person guilty of any of
11 the acts set forth in subsection (1), the board may enter an
12 order imposing one or more of the penalties provided in s.
13 455.624.

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. 455.624, against any person who engages in or aids in a
19 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 455,
11 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. 455.624(2) against any person who
29 violates any provision of subsection (1).

30 484.056 Disciplinary proceedings.--

31

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

8 (a) Violation of any provision of s. 455.624(1), s.
9 484.0512, or s. 484.053.

10 Section 10. Section 455.704, Florida Statutes, is
11 repealed.

12 Section 11. Subsections (1), (2), and (3) of section
13 455.707, Florida Statutes, are amended to read:

14 455.707 Treatment programs for impaired
15 practitioners.--

16 (1) For professions that do not have impaired
17 practitioner programs provided for in their practice acts, the
18 department shall, by rule, designate approved impaired
19 practitioner treatment programs under this section. The
20 department may adopt rules setting forth appropriate criteria
21 for approval of treatment providers ~~based on the policies and~~
22 ~~guidelines established by the Impaired Practitioners~~
23 ~~Committee.~~ The rules may ~~must~~ specify the manner in which the
24 consultant, retained as set forth in subsection (2), works
25 with the department in intervention, requirements for
26 evaluating and treating a professional, and requirements for
27 the continued care and monitoring of a professional by the
28 consultant by an approved ~~at a department-approved~~ treatment
29 provider. ~~The department shall not compel any impaired~~
30 ~~practitioner program in existence on October 1, 1992, to serve~~
31 ~~additional professions.~~

1 (2) The department shall retain one or more impaired
2 practitioner consultants ~~as recommended by the committee~~. A
3 consultant shall be a licensee ~~or recovered licensee~~ under the
4 jurisdiction of the Division of Medical Quality Assurance
5 within the department, and at least one consultant must be a
6 practitioner or recovered practitioner licensed under chapter
7 458, chapter 459, or chapter 464. The consultant shall assist
8 the probable cause panel and department in carrying out the
9 responsibilities of this section. This shall include working
10 with department investigators to determine whether a
11 practitioner is, in fact, impaired.

12 (3)(a) Whenever the department receives a written or
13 oral legally sufficient complaint alleging that a licensee
14 under the jurisdiction of the Division of Medical Quality
15 Assurance within the department is impaired as a result of the
16 misuse or abuse of alcohol or drugs, or both, or due to a
17 mental or physical condition which could affect the licensee's
18 ability to practice with skill and safety, and no complaint
19 against the licensee other than impairment exists, the
20 reporting of such information shall not constitute grounds for
21 discipline pursuant to s. 455.624 or the corresponding grounds
22 for discipline within the applicable practice act ~~a complaint~~
23 ~~within the meaning of s. 455.621~~ if the probable cause panel
24 of the appropriate board, or the department when there is no
25 board, finds:

26 1. The licensee has acknowledged the impairment
27 problem.

28 2. The licensee has voluntarily enrolled in an
29 appropriate, approved treatment program.

30 3. The licensee has voluntarily withdrawn from
31 practice or limited the scope of practice as required by the

1 ~~consultant determined by the panel, or the department when~~
2 ~~there is no board,~~ in each case, until such time as the panel,
3 or the department when there is no board, is satisfied the
4 licensee has successfully completed an approved treatment
5 program.

6 4. The licensee has executed releases for medical
7 records, authorizing the release of all records of
8 evaluations, diagnoses, and treatment of the licensee,
9 including records of treatment for emotional or mental
10 conditions, to the consultant. The consultant shall make no
11 copies or reports of records that do not regard the issue of
12 the licensee's impairment and his or her participation in a
13 treatment program.

14 (b) If, however, the department has not received a
15 legally sufficient complaint and the licensee agrees to
16 withdraw from practice until such time as the consultant
17 determines the licensee has satisfactorily completed an
18 approved treatment program or evaluation, the probable cause
19 panel, or the department when there is no board, shall not
20 become involved in the licensee's case.

21 (c) Inquiries related to impairment treatment programs
22 designed to provide information to the licensee and others and
23 which do not indicate that the licensee presents a danger to
24 the public shall not constitute a complaint within the meaning
25 of s. 455.621 and shall be exempt from the provisions of this
26 subsection.

27 (d) Whenever the department receives a legally
28 sufficient complaint alleging that a licensee is impaired as
29 described in paragraph (a) and no complaint against the
30 licensee other than impairment exists, the department shall
31 forward all information in its possession regarding the

1 impaired licensee to the consultant. For the purposes of this
2 section, a suspension from hospital staff privileges due to
3 the impairment does not constitute a complaint.

4 (e) The probable cause panel, or the department when
5 there is no board, shall work directly with the consultant,
6 and all information concerning a practitioner obtained from
7 the consultant by the panel, or the department when there is
8 no board, shall remain confidential and exempt from the
9 provisions of s. 119.07(1), subject to the provisions of
10 subsections (5) and (6).

11 (f) A finding of probable cause shall not be made as
12 long as the panel, or the department when there is no board,
13 is satisfied, based upon information it receives from the
14 consultant and the department, that the licensee is
15 progressing satisfactorily in an approved impaired
16 practitioner treatment program and no other complaint against
17 the licensee exists.

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

20 310.102 Treatment programs for impaired pilots and
21 deputy pilots.--

22 (1) The department shall, by rule, designate approved
23 treatment programs for impaired pilots and deputy pilots under
24 this section. The department may adopt rules setting forth
25 appropriate criteria for approval of treatment providers ~~based~~
26 ~~on the policies and guidelines established by the Impaired~~
27 ~~Practitioners Committee under s. 455.704.~~

28 Section 13. Section 455.711, Florida Statutes, is
29 amended to read:

30 455.711 Licenses; active and inactive ~~and delinquent~~
31 status; delinquency.--

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

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

13 (3) Each board, or the department if there is no
14 board, shall by rule impose a fee for renewal of an active or
15 inactive status license. The renewal fee for an inactive
16 status license may not exceed ~~which is no greater than~~ the fee
17 for an active status license.

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

20 (a) Active status licensees choosing inactive status
21 at the time of license renewal must pay the inactive status
22 renewal fee, and, if applicable, the delinquency fee and the
23 fee to change licensure status. Active status licensees
24 choosing inactive status at any other time than at the time of
25 license renewal must pay the fee to change licensure status.

26 (b) An inactive status licensee may change to active
27 status at any time, if the licensee meets all requirements for
28 active status, ~~pays any additional licensure fees necessary to~~
29 ~~equal those imposed on an active status licensee, pays any~~
30 ~~applicable reactivation fees as set by the board, or the~~
31 ~~department if there is no board, and meets all continuing~~

1 ~~education requirements as specified in this section.~~ Inactive
 2 status licensees choosing active status at the time of license
 3 renewal must pay the active status renewal fee, any applicable
 4 reactivation fees as set by the board, or the department if
 5 there is no board, and, if applicable, the delinquency fee and
 6 the fee to change licensure status. Inactive status licensees
 7 choosing active status at any other time than at the time of
 8 license renewal must pay the difference between the inactive
 9 status renewal fee and the active status renewal fee, if any
 10 exists, any applicable reactivation fees as set by the board,
 11 or the department if there is no board, and the fee to change
 12 licensure status.

13 (5) A licensee must apply with a complete application,
 14 as defined by rule of the board, or the department if there is
 15 no board, to renew an active ~~status~~ or inactive status license
 16 before the license expires. If a licensee fails to renew
 17 before the license expires, the license becomes delinquent in
 18 the license cycle following expiration.

19 (6) A delinquent ~~status~~ licensee must affirmatively
 20 apply with a complete application, as defined by rule of the
 21 board, or the department if there is no board, for active or
 22 inactive status during the licensure cycle in which a licensee
 23 becomes delinquent. Failure by a delinquent ~~status~~ licensee to
 24 become active or inactive before the expiration of the current
 25 licensure cycle renders the license null without any further
 26 action by the board or the department. Any subsequent
 27 licensure shall be as a result of applying for and meeting all
 28 requirements imposed on an applicant for new licensure.

29 (7) Each board, or the department if there is no
 30 board, shall by rule impose an additional delinquency fee, not
 31 to exceed the biennial renewal fee for an active status

1 license, on a delinquent ~~status~~ licensee when such licensee
2 applies for active or inactive status.

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

8 (9) Each board, or the department if there is no
9 board, may by rule impose reasonable conditions, excluding
10 full reexamination but including part of a national
11 examination or a special purpose examination to assess current
12 competency, necessary to ensure that a licensee who has been
13 on inactive status for more than two consecutive biennial
14 licensure cycles and who applies for active status can
15 practice with the care and skill sufficient to protect the
16 health, safety, and welfare of the public. Reactivation
17 requirements may differ depending on the length of time
18 licensees are inactive. The costs to meet reactivation
19 requirements shall be borne by licensees requesting
20 reactivation.

21 (10) Before reactivation, an inactive status licensee
22 or a delinquent licensee who was inactive prior to becoming
23 delinquent must meet the same continuing education
24 requirements, if any, imposed on an active status licensee for
25 all biennial licensure periods in which the licensee was
26 inactive or delinquent.

27 (11) The status or a change in status of a licensee
28 does not alter in any way the right of the board, or of the
29 department if there is no board, to impose discipline or to
30 enforce discipline previously imposed on a licensee for acts
31

1 or omissions committed by the licensee while holding a
2 license, whether active, inactive, or delinquent.

3 (12) This section does not apply to a business
4 establishment registered, permitted, or licensed by the
5 department to do business.

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

9 Section 14. Subsection (3) of section 455.587, Florida
10 Statutes, is amended to read:

11 455.587 Fees; receipts; disposition.--

12 (3) Each board, or the department if there is no
13 board, may, by rule, assess and collect a one-time fee from
14 each active status licensee and each ~~voluntary~~ inactive status
15 licensee in an amount necessary to eliminate a cash deficit
16 or, if there is not a cash deficit, in an amount sufficient to
17 maintain the financial integrity of the professions as
18 required in this section. Not more than one such assessment
19 may be made in any 4-year period without specific legislative
20 authorization.

21 Section 15. Subsection (1) of section 455.714, Florida
22 Statutes, is amended to read:

23 455.714 Renewal and cancellation notices.--

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

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

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

1 Section 16. Section 455.719, Florida Statutes, is
2 created to read:

3 455.719 Health care professionals; exemption from
4 disqualification from employment or contracting.--Any other
5 provision of law to the contrary notwithstanding, only the
6 appropriate regulatory board, or the department when there is
7 no board, may grant an exemption from disqualification from
8 employment or contracting as provided in s. 435.07 to a person
9 under the licensing jurisdiction of that board or the
10 department, as applicable.

11 Section 17. Section 455.637, Florida Statutes, is
12 amended to read:

13 455.637 Unlicensed practice of a health care
14 profession; intent; cease and desist notice; penalties civil
15 penalty; enforcement; citations; fees; allocation and
16 disposition of moneys collected.--

17 (1) It is the intent of the Legislature that vigorous
18 enforcement of licensure regulation for all health care
19 professions is a state priority in order to protect Florida
20 residents and visitors from the potentially serious and
21 dangerous consequences of receiving medical and health care
22 services from unlicensed persons whose professional education
23 and training and other relevant qualifications have not been
24 approved through the issuance of a license by the appropriate
25 regulatory board or the department when there is no board. The
26 unlicensed practice of a health care profession or the
27 performance or delivery of medical or health care services to
28 patients in this state without a valid, active license to
29 practice that profession, regardless of the means of the
30 performance or delivery of such services, is strictly
31 prohibited.

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

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

20 (b) In addition to the ~~foregoing~~ remedies under
 21 paragraph (a), the department may impose by citation an
 22 administrative penalty not to exceed \$5,000 per incident
 23 ~~pursuant to the provisions of chapter 120 or may issue a~~
 24 ~~citation pursuant to the provisions of subsection (3).~~ The
 25 citation shall be issued to the subject and shall contain the
 26 subject's name and any other information the department
 27 determines to be necessary to identify the subject, a brief
 28 factual statement, the sections of the law allegedly violated,
 29 and the penalty imposed. If the subject does not dispute the
 30 matter in the citation with the department within 30 days
 31 after the citation is served, the citation shall become a

1 final order of the department. The department may adopt rules
 2 to implement this section. The penalty shall be a fine of not
 3 less than \$500 nor more than \$5,000 as established by rule of
 4 the department. Each day that the unlicensed practice
 5 continues after issuance of a notice to cease and desist
 6 constitutes a separate violation. The department shall be
 7 entitled to recover the costs of investigation and prosecution
 8 in addition to the fine levied pursuant to the citation.
 9 Service of a citation may be made by personal service or by
 10 mail to the subject at the subject's last known address or
 11 place of practice. If the department is required to seek
 12 enforcement of the cease and desist or agency order ~~for a~~
 13 ~~penalty pursuant to s. 120.569~~, it shall be entitled to
 14 collect its attorney's fees and costs, ~~together with any cost~~
 15 ~~of collection.~~

16 (c)(2) In addition to or in lieu of any other
 17 administrative remedy ~~provided in subsection (1)~~, the
 18 department may seek the imposition of a civil penalty through
 19 the circuit court for any violation for which the department
 20 may issue a notice to cease and desist ~~under subsection (1)~~.
 21 The civil penalty shall be no less than \$500 and no more than
 22 \$5,000 for each offense. The court may also award to the
 23 prevailing party court costs and reasonable attorney fees and,
 24 in the event the department prevails, may also award
 25 reasonable costs of investigation and prosecution.

26 (d) In addition to the administrative and civil
 27 remedies under paragraphs (b) and (c) and in addition to the
 28 criminal violations and penalties listed in the individual
 29 health care practice acts:

30 1. It is a felony of the third degree, punishable as
 31 provided in s. 775.082, s. 775.083, or s. 775.084, to

1 practice, attempt to practice, or offer to practice a health
 2 care profession without an active, valid Florida license to
 3 practice that profession. Practicing without an active, valid
 4 license also includes practicing on a suspended, revoked, or
 5 void license, but does not include practicing, attempting to
 6 practice, or offering to practice with an inactive or
 7 delinquent license for a period of up to 12 months which is
 8 addressed in subparagraph 3. Applying for employment for a
 9 position that requires a license without notifying the
 10 employer that the person does not currently possess a valid,
 11 active license to practice that profession shall be deemed to
 12 be an attempt or offer to practice that health care profession
 13 without a license. Holding oneself out, regardless of the
 14 means of communication, as able to practice a health care
 15 profession or as able to provide services that require a
 16 health care license shall be deemed to be an attempt or offer
 17 to practice such profession without a license. The minimum
 18 penalty for violating this subparagraph shall be a fine of
 19 \$1,000 and a minimum mandatory period of incarceration of 1
 20 year.

21 2. It is a felony of the second degree, punishable as
 22 provided in s. 775.082, s. 775.083, or s. 775.084, to practice
 23 a health care profession without an active, valid Florida
 24 license to practice that profession when such practice results
 25 in serious bodily injury. For purposes of this section,
 26 "serious bodily injury" means death; brain or spinal damage;
 27 disfigurement; fracture or dislocation of bones or joints;
 28 limitation of neurological, physical, or sensory function; or
 29 any condition that required subsequent surgical repair. The
 30 minimum penalty for violating this subparagraph shall be a
 31

1 fine of \$1,000 and a minimum mandatory period of incarceration
 2 of 1 year.

3 3. It is a misdemeanor of the first degree, punishable
 4 as provided in s. 775.082 or s. 775.083, to practice, attempt
 5 to practice, or offer to practice a health care profession
 6 with an inactive or delinquent license for any period of time
 7 up to 12 months. However, practicing, attempting to practice,
 8 or offering to practice a health care profession when that
 9 person's license has been inactive or delinquent for a period
 10 of time of 12 months or more shall be a felony of the third
 11 degree, punishable as provided in s. 775.082, s. 775.083, or
 12 s. 775.084. The minimum penalty for violating this
 13 subparagraph shall be a term of imprisonment of 30 days and a
 14 fine of \$500.

15 (3) Because all enforcement costs should be covered by
 16 professions regulated by the department, the department shall
 17 impose, upon initial licensure and each licensure renewal, a
 18 special fee of \$5 per licensee to fund efforts to combat
 19 unlicensed activity. Such fee shall be in addition to all
 20 other fees collected from each licensee. The board with
 21 concurrence of the department, or the department when there is
 22 no board, may earmark \$5 of the current licensure fee for this
 23 purpose, if such board, or profession regulated by the
 24 department, is not in a deficit and has a reasonable cash
 25 balance. The department shall make direct charges to the
 26 Medical Quality Assurance Trust Fund by profession. The
 27 department shall seek board advice regarding enforcement
 28 methods and strategies. The department shall directly credit
 29 the Medical Quality Assurance Trust Fund, by profession, with
 30 the revenues received from the department's efforts to enforce
 31 licensure provisions. The department shall include all

1 financial and statistical data resulting from unlicensed
 2 activity enforcement as a separate category in the quarterly
 3 management report provided for in s. 455.587. For an
 4 unlicensed activity account, a balance which remains at the
 5 end of a renewal cycle may, with concurrence of the applicable
 6 board and the department, be transferred to the operating fund
 7 account of that profession. The department shall also use
 8 these funds to inform and educate consumers generally on the
 9 importance of using licensed health care practitioners.

10 ~~(3)(a) Notwithstanding the provisions of s. 455.621,~~
 11 ~~the department shall adopt rules to permit the issuance of~~
 12 ~~citations for unlicensed practice of a profession. The~~
 13 ~~citation shall be issued to the subject and shall contain the~~
 14 ~~subject's name and any other information the department~~
 15 ~~determines to be necessary to identify the subject, a brief~~
 16 ~~factual statement, the sections of the law allegedly violated,~~
 17 ~~and the penalty imposed. The citation must clearly state that~~
 18 ~~the subject may choose, in lieu of accepting the citation, to~~
 19 ~~follow the procedure under s. 455.621. If the subject disputes~~
 20 ~~the matter in the citation, the procedures set forth in s.~~
 21 ~~455.621 must be followed. However, if the subject does not~~
 22 ~~dispute the matter in the citation with the department within~~
 23 ~~30 days after the citation is served, the citation shall~~
 24 ~~become a final order of the department. The penalty shall be a~~
 25 ~~fine of not less than \$500 or more than \$5,000 or other~~
 26 ~~conditions as established by rule.~~

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

29 ~~(c) The department shall be entitled to recover the~~
 30 ~~costs of investigation, in addition to any penalty provided~~

31

1 ~~according to department rule as part of the penalty levied~~
2 ~~pursuant to the citation.~~

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

6 ~~(4) All fines, fees, and costs collected through the~~
7 ~~procedures set forth in this section shall be allocated to the~~
8 ~~professions in the manner provided for in s. 455.641 for the~~
9 ~~allocation of the fees assessed and collected to combat~~
10 ~~unlicensed practice of a profession.~~

11 ~~(4)(5)~~ The provisions of this section apply only to
12 health care the professional practice acts administered by the
13 department.

14 (5) Nothing herein shall be construed to limit or
15 restrict the sale, use, or recommendation of the use of a
16 dietary supplement, as defined by the Food, Drug, and Cosmetic
17 Act, Title 21, s. 321, so long as the person selling, using,
18 or recommending the dietary supplement does so in compliance
19 with federal and state law and does not hold himself or
20 herself out to be a health care practitioner as defined in s.
21 455.501(4).

22 Section 18. The amendment of s. 455.637, Florida
23 Statutes, by this act applies to offenses committed on or
24 after the effective date of such section.

25 Section 19. Section 455.641, Florida Statutes, is
26 repealed.

27 Section 20. For the purpose of incorporating the
28 amendment to section 455.637, Florida Statutes, in references
29 thereto, the sections or subdivisions of Florida Statutes set
30 forth below are reenacted to read:

31 455.574 Department of Health; examinations.--

1 (1)

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

16 468.1295 Disciplinary proceedings.--

17 (1) The following acts constitute grounds for both
18 disciplinary actions as set forth in subsection (2) and cease
19 and desist or other related actions by the department as set
20 forth in s. 455.637:

21 (a) Procuring or attempting to procure a license by
22 bribery, by fraudulent misrepresentation, or through an error
23 of the department or the board.

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

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

31

1 (d) Making or filing a report or record which the
2 licensee knows to be false, intentionally or negligently
3 failing to file a report or records required by state or
4 federal law, willfully impeding or obstructing such filing, or
5 inducing another person to impede or obstruct such filing.
6 Such report or record shall include only those reports or
7 records which are signed in one's capacity as a licensed
8 speech-language pathologist or audiologist.

9 (e) Advertising goods or services in a manner which is
10 fraudulent, false, deceptive, or misleading in form or
11 content.

12 (f) Being proven guilty of fraud or deceit or of
13 negligence, incompetency, or misconduct in the practice of
14 speech-language pathology or audiology.

15 (g) Violating a lawful order of the board or
16 department previously entered in a disciplinary hearing, or
17 failing to comply with a lawfully issued subpoena of the board
18 or department.

19 (h) Practicing with a revoked, suspended, inactive, or
20 delinquent license.

21 (i) Using, or causing or promoting the use of, any
22 advertising matter, promotional literature, testimonial,
23 guarantee, warranty, label, brand, insignia, or other
24 representation, however disseminated or published, which is
25 misleading, deceiving, or untruthful.

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

29 (k) Failing to submit to the board on an annual basis,
30 or such other basis as may be provided by rule, certification
31

1 of testing and calibration of such equipment as designated by
2 the board and on the form approved by the board.

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

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

9 (n) Misrepresenting the professional services
10 available in the fitting, sale, adjustment, service, or repair
11 of a hearing aid, or using any other term or title which might
12 connote the availability of professional services when such
13 use is not accurate.

14 (o) Representing, advertising, or implying that a
15 hearing aid or its repair is guaranteed without providing full
16 disclosure of the identity of the guarantor; the nature,
17 extent, and duration of the guarantee; and the existence of
18 conditions or limitations imposed upon the guarantee.

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

26 (q) Stating or implying that the use of any hearing
27 aid will improve or preserve hearing or prevent or retard the
28 progression of a hearing impairment or that it will have any
29 similar or opposite effect.

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

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

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

10 (u) Failing to notify the department in writing of a
11 change in current mailing and place-of-practice address within
12 30 days after such change.

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

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

18 (x) Practicing or offering to practice beyond the
19 scope permitted by law or accepting and performing
20 professional responsibilities the licensee or
21 certificateholder knows, or has reason to know, the licensee
22 or certificateholder is not competent to perform.

23 (y) Aiding, assisting, procuring, or employing any
24 unlicensed person to practice speech-language pathology or
25 audiology.

26 (z) Delegating or contracting for the performance of
27 professional responsibilities by a person when the licensee
28 delegating or contracting for performance of such
29 responsibilities knows, or has reason to know, such person is
30 not qualified by training, experience, and authorization to
31 perform them.

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.

29 484.014 Disciplinary actions.--

30 (1) The following acts relating to the practice of
31 opticianry shall be grounds for both disciplinary action

1 against an optician as set forth in this section and cease and
2 desist or other related action by the department as set forth
3 in s. 455.637 against any person operating an optical
4 establishment who engages in, aids, or abets any such
5 violation:

6 (a) Procuring or attempting to procure a license by
7 misrepresentation, bribery, or fraud or through an error of
8 the department or the board.

9 (b) Procuring or attempting to procure a license for
10 any other person by making or causing to be made any false
11 representation.

12 (c) Making or filing a report or record which the
13 licensee knows to be false, intentionally or negligently
14 failing to file a report or record required by federal or
15 state law, willfully impeding or obstructing such filing, or
16 inducing another person to do so. Such reports or records
17 shall include only those which the person is required to make
18 or file as an optician.

19 (d) Failing to make fee or price information readily
20 available by providing such information upon request or upon
21 the presentation of a prescription.

22 (e) Advertising goods or services in a manner which is
23 fraudulent, false, deceptive, or misleading in form or
24 content.

25 (f) Fraud or deceit, or negligence, incompetency, or
26 misconduct, in the authorized practice of opticianry.

27 (g) Violation or repeated violation of this part or of
28 part II of chapter 455 or any rules promulgated pursuant
29 thereto.

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

1 (i) Violation of a lawful order of the board or
2 department previously entered in a disciplinary hearing or
3 failing to comply with a lawfully issued subpoena of the
4 department.

5 (j) Violation of any provision of s. 484.012.

6 (k) Conspiring with another licensee or with any
7 person to commit an act, or committing an act, which would
8 coerce, intimidate, or preclude another licensee from lawfully
9 advertising her or his services.

10 (l) Willfully submitting to any third-party payor a
11 claim for services which were not provided to a patient.

12 (m) Failing to keep written prescription files.

13 (n) Willfully failing to report any person who the
14 licensee knows is in violation of this part or of rules of the
15 department or the board.

16 (o) Exercising influence on a client in such a manner
17 as to exploit the client for financial gain of the licensee or
18 of a third party.

19 (p) Gross or repeated malpractice.

20 (q) Permitting any person not licensed as an optician
21 in this state to fit or dispense any lenses, spectacles,
22 eyeglasses, or other optical devices which are part of the
23 practice of opticianry.

24 (r) Being convicted or found guilty of, or entering a
25 plea of nolo contendere to, regardless of adjudication, in a
26 court of this state or other jurisdiction, a crime which
27 relates to the ability to practice opticianry or to the
28 practice of opticianry.

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

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

9 484.056 Disciplinary proceedings.--

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

17 (a) Violation of any provision of s. 455.624(1), s.
18 484.0512, or s. 484.053.

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

22 (c) Having a license to dispense hearing aids revoked,
23 suspended, or otherwise acted against, including the denial of
24 licensure, by the licensing authority of another state,
25 territory, or country.

26 (d) Being convicted or found guilty of, or entering a
27 plea of nolo contendere to, regardless of adjudication, a
28 crime in any jurisdiction which directly relates to the
29 practice of dispensing hearing aids or the ability to practice
30 dispensing hearing aids, including violations of any federal
31 laws or regulations regarding hearing aids.

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

9 (f) Advertising goods or services in a manner which is
10 fraudulent, false, deceptive, or misleading in form or
11 content.

12 (g) Proof that the licensee is guilty of fraud or
13 deceit or of negligence, incompetency, or misconduct in the
14 practice of dispensing hearing aids.

15 (h) Violation or repeated violation of this part or of
16 part II of chapter 455, or any rules promulgated pursuant
17 thereto.

18 (i) Violation of a lawful order of the board or
19 department previously entered in a disciplinary hearing or
20 failure to comply with a lawfully issued subpoena of the board
21 or department.

22 (j) Practicing with a revoked, suspended, inactive, or
23 delinquent license.

24 (k) Using, or causing or promoting the use of, any
25 advertising matter, promotional literature, testimonial,
26 guarantee, warranty, label, brand, insignia, or other
27 representation, however disseminated or published, which is
28 misleading, deceiving, or untruthful.

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

1 (m) Misrepresentation of professional services
2 available in the fitting, sale, adjustment, service, or repair
3 of a hearing aid, or use of the terms "doctor," "clinic,"
4 "clinical," "medical audiologist," "clinical audiologist,"
5 "research audiologist," or "audiologic" or any other term or
6 title which might connote the availability of professional
7 services when such use is not accurate.

8 (n) Representation, advertisement, or implication that
9 a hearing aid or its repair is guaranteed without providing
10 full disclosure of the identity of the guarantor; the nature,
11 extent, and duration of the guarantee; and the existence of
12 conditions or limitations imposed upon the guarantee.

13 (o) Representing, directly or by implication, that a
14 hearing aid utilizing bone conduction has certain specified
15 features, such as the absence of anything in the ear or
16 leading to the ear, or the like, without disclosing clearly
17 and conspicuously that the instrument operates on the bone
18 conduction principle and that in many cases of hearing loss
19 this type of instrument may not be suitable.

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

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 "prescription-made"

31

1 or in any other sense specially fabricated for an individual
2 person 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) Failure to submit to the board on an annual basis,
9 or such other basis as may be provided by rule, certification
10 of testing and calibration of audiometric testing equipment on
11 the form approved by the board.

12 (v) Failing to provide all information as described in
13 s. 484.051(1).

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

17 Section 21. Paragraphs (a) and (g) of subsection (3)
18 of section 921.0022, Florida Statutes, are amended to read:

19 921.0022 Criminal Punishment Code; offense severity
20 ranking chart.--

21 (3) OFFENSE SEVERITY RANKING CHART

Florida	Felony	Description
Statute	Degree	
		(a) LEVEL 1
24.118(3)(a)	3rd	Counterfeit or altered state lottery ticket.
212.054(2)(b)	3rd	Discretionary sales surtax; limitations, administration, and collection.

1	212.15(2)(b)	3rd	Failure to remit sales taxes,
2			amount greater than \$300 but less
3			than \$20,000.
4	319.30(5)	3rd	Sell, exchange, give away
5			certificate of title or
6			identification number plate.
7	319.35(1)(a)	3rd	Tamper, adjust, change, etc., an
8			odometer.
9	320.26(1)(a)	3rd	Counterfeit, manufacture, or sell
10			registration license plates or
11			validation stickers.
12	322.212(1)	3rd	Possession of forged, stolen,
13			counterfeit, or unlawfully issued
14			driver's license; possession of
15			simulated identification.
16	322.212(4)	3rd	Supply or aid in supplying
17			unauthorized driver's license or
18			identification card.
19	322.212(5)(a)	3rd	False application for driver's
20			license or identification card.
21	370.13(3)(a)	3rd	Molest any stone crab trap, line,
22			or buoy which is property of
23			licenseholder.
24	370.135(1)	3rd	Molest any blue crab trap, line,
25			or buoy which is property of
26			licenseholder.
27	372.663(1)	3rd	Poach any alligator or
28			crocodilia.
29			
30			
31			

1	414.39(2)	3rd	Unauthorized use, possession,
2			forgery, or alteration of food
3			stamps, Medicaid ID, value
4			greater than \$200.
5	414.39(3)(a)	3rd	Fraudulent misappropriation of
6			public assistance funds by
7			employee/official, value more
8			than \$200.
9	443.071(1)	3rd	False statement or representation
10			to obtain or increase
11			unemployment compensation
12			benefits.
13	458.327(1)(a)	3rd	Unlicensed practice of medicine.
14	466.026(1)(a)	3rd	Unlicensed practice of dentistry
15			or dental hygiene.
16	509.151(1)	3rd	Defraud an innkeeper, food or
17			lodging value greater than \$300.
18	517.302(1)	3rd	Violation of the Florida
19			Securities and Investor
20			Protection Act.
21	562.27(1)	3rd	Possess still or still apparatus.
22	713.69	3rd	Tenant removes property upon
23			which lien has accrued, value
24			more than \$50.
25	812.014(3)(c)	3rd	Petit theft (3rd conviction);
26			theft of any property not
27			specified in subsection (2).
28	812.081(2)	3rd	Unlawfully makes or causes to be
29			made a reproduction of a trade
30			secret.
31			

1	815.04(4)(a)	3rd	Offense against intellectual
2			property (i.e., computer
3			programs, data).
4	817.52(2)	3rd	Hiring with intent to defraud,
5			motor vehicle services.
6	826.01	3rd	Bigamy.
7	828.122(3)	3rd	Fighting or baiting animals.
8	831.04(1)	3rd	Any erasure, alteration, etc., of
9			any replacement deed, map, plat,
10			or other document listed in s.
11			92.28.
12	831.31(1)(a)	3rd	Sell, deliver, or possess
13			counterfeit controlled
14			substances, all but s. 893.03(5)
15			drugs.
16	832.041(1)	3rd	Stopping payment with intent to
17			defraud \$150 or more.
18	832.05		
19	(2)(b)&(4)(c)	3rd	Knowing, making, issuing
20			worthless checks \$150 or more or
21			obtaining property in return for
22			worthless check \$150 or more.
23	838.015(3)	3rd	Bribery.
24	838.016(1)	3rd	Public servant receiving unlawful
25			compensation.
26	838.15(2)	3rd	Commercial bribe receiving.
27	838.16	3rd	Commercial bribery.
28	843.18	3rd	Fleeing by boat to elude a law
29			enforcement officer.
30			
31			

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

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

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

1	782.072	2nd	Killing of a human being by the
2			operation of a vessel in a
3			reckless manner (vessel
4			homicide).
5	784.045(1)(a)1.	2nd	Aggravated battery; intentionally
6			causing great bodily harm or
7			disfigurement.
8	784.045(1)(a)2.	2nd	Aggravated battery; using deadly
9			weapon.
10	784.045(1)(b)	2nd	Aggravated battery; perpetrator
11			aware victim pregnant.
12	784.048(4)	3rd	Aggravated stalking; violation of
13			injunction or court order.
14	784.07(2)(d)	1st	Aggravated battery on law
15			enforcement officer.
16	784.08(2)(a)	1st	Aggravated battery on a person 65
17			years of age or older.
18	784.081(1)	1st	Aggravated battery on specified
19			official or employee.
20	784.082(1)	1st	Aggravated battery by detained
21			person on visitor or other
22			detainee.
23	784.083(1)	1st	Aggravated battery on code
24			inspector.
25	790.07(4)	1st	Specified weapons violation
26			subsequent to previous conviction
27			of s. 790.07(1) or (2).
28	790.16(1)	1st	Discharge of a machine gun under
29			specified circumstances.
30	796.03	2nd	Procuring any person under 16
31			years for prostitution.

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

1	825.1025(2)	2nd	Lewd or lascivious battery upon
2			an elderly person or disabled
3			adult.
4	825.103(2)(b)	2nd	Exploiting an elderly person or
5			disabled adult and property is
6			valued at \$20,000 or more, but
7			less than \$100,000.
8	827.03(3)(b)	2nd	Neglect of a child causing great
9			bodily harm, disability, or
10			disfigurement.
11	827.04(3)	3rd	Impregnation of a child under 16
12			years of age by person 21 years
13			of age or older.
14	837.05(2)	3rd	Giving false information about
15			alleged capital felony to a law
16			enforcement officer.
17	872.06	2nd	Abuse of a dead human body.
18	893.13(1)(c)1.	1st	Sell, manufacture, or deliver
19			cocaine (or other drug prohibited
20			under s. 893.03(1)(a), (1)(b),
21			(1)(d), (2)(a), or (2)(b)) within
22			1,000 feet of a child care
23			facility or school.
24	893.13(1)(e)	1st	Sell, manufacture, or deliver
25			cocaine or other drug prohibited
26			under s. 893.03(1)(a), (1)(b),
27			(1)(d), (2)(a), or (2)(b), within
28			1,000 feet of property used for
29			religious services or a specified
30			business site.
31			

1	893.13(4)(a)	1st	Deliver to minor cocaine (or
2			other s. 893.03(1)(a), (1)(b),
3			(1)(d), (2)(a), or (2)(b) drugs).
4	893.135(1)(a)1.	1st	Trafficking in cannabis, more
5			than 50 lbs., less than 2,000
6			lbs.
7	893.135		
8	(1)(b)1.a.	1st	Trafficking in cocaine, more than
9			28 grams, less than 200 grams.
10	893.135		
11	(1)(c)1.a.	1st	Trafficking in illegal drugs,
12			more than 4 grams, less than 14
13			grams.
14	893.135		
15	(1)(d)1.	1st	Trafficking in phencyclidine,
16			more than 28 grams, less than 200
17			grams.
18	893.135(1)(e)1.	1st	Trafficking in methaqualone, more
19			than 200 grams, less than 5
20			kilograms.
21	893.135(1)(f)1.	1st	Trafficking in amphetamine, more
22			than 14 grams, less than 28
23			grams.
24	893.135		
25	(1)(g)1.a.	1st	Trafficking in flunitrazepam, 4
26			grams or more, less than 14
27			grams.
28	Section 22. Subsection (1) of section 458.327, Florida		
29	Statutes, reads:		
30	458.327 Penalty for violations.--		
31			

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

4 (a) The practice of medicine or an attempt to practice
5 medicine without a license to practice in Florida.

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

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

10 (d) Attempting to obtain or obtaining a position as a
11 medical practitioner or medical resident in a clinic or
12 hospital through knowing misrepresentation of education,
13 training, or experience.

14 Section 23. Subsection (1) of section 459.013, Florida
15 Statutes, reads:

16 459.013 Penalty for violations.--

17 (1) Each of the following acts constitutes a felony of
18 the third degree, punishable as provided in s. 775.082, s.
19 775.083, or s. 775.084:

20 (a) The practice of osteopathic medicine, or an
21 attempt to practice osteopathic medicine, without an active
22 license or certificate issued pursuant to this chapter.

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

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

29 (d) Attempting to obtain or obtaining a position as an
30 osteopathic medical practitioner or osteopathic medical
31

1 resident in a clinic or hospital through knowing
2 misrepresentation of education, training, or experience.

3 Section 24. Subsection (1) of section 460.411, Florida
4 Statutes, reads:

5 460.411 Violations and penalties.--

6 (1) Each of the following acts constitutes a violation
7 of this chapter and is a felony of the third degree,
8 punishable as provided in s. 775.082, s. 775.083, or s.
9 775.084:

10 (a) Practicing or attempting to practice chiropractic
11 medicine without an active license or with a license
12 fraudulently obtained.

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

15 Section 25. Subsection (1) of section 461.012, Florida
16 Statutes, reads:

17 461.012 Violations and penalties.--

18 (1) Each of the following acts constitutes a violation
19 of this chapter and is a felony of the third degree,
20 punishable as provided in s. 775.082, s. 775.083, or s.
21 775.084:

22 (a) Practicing or attempting to practice podiatric
23 medicine without an active license or with a license
24 fraudulently obtained.

25 (b) Advertising podiatric services without an active
26 license obtained pursuant to this chapter or with a license
27 fraudulently obtained.

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

30 Section 26. Section 462.17, Florida Statutes, reads:

31

1 462.17 Penalty for offenses relating to
2 naturopathy.--Any person who shall:

3 (1) Sell, fraudulently obtain, or furnish any
4 naturopathic diploma, license, record, or registration or aid
5 or abet in the same;

6 (2) Practice naturopathy under the cover of any
7 diploma, license, record, or registration illegally or
8 fraudulently obtained or secured or issued unlawfully or upon
9 fraudulent representations;

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

12 (4) Falsely impersonate another practitioner of a like
13 or different name;

14 (5) Practice or advertise to practice naturopathy or
15 use in connection with her or his name any designation tending
16 to imply or to designate the person as a practitioner of
17 naturopathy without then being lawfully licensed and
18 authorized to practice naturopathy in this state; or

19 (6) Practice naturopathy during the time her or his
20 license is suspended or revoked

21
22 shall be guilty of a felony of the third degree, punishable as
23 provided in s. 775.082, s. 775.083, or s. 775.084.

24 Section 27. Subsection (1) of section 463.015, Florida
25 Statutes, reads:

26 463.015 Violations and penalties.--

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

1 (a) Practicing or attempting to practice optometry
2 without a valid active license issued pursuant to this
3 chapter.

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

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

8 Section 28. Subsection (1) of section 464.016, Florida
9 Statutes, reads:

10 464.016 Violations and penalties.--

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

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

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

19 (c) Knowingly employing unlicensed persons in the
20 practice of nursing.

21 (d) Obtaining or attempting to obtain a license or
22 certificate under this chapter by misleading statements or
23 knowing misrepresentation.

24 Section 29. Subsection (2) of section 465.015, Florida
25 Statutes, reads:

26 465.015 Violations and penalties.--

27 (2) It is unlawful for any person:

28 (a) To make a false or fraudulent statement, either
29 for herself or himself or for another person, in any
30 application, affidavit, or statement presented to the board or
31 in any proceeding before the board.

1 (b) To fill, compound, or dispense prescriptions or to
2 dispense medicinal drugs if such person does not hold an
3 active license as a pharmacist in this state, is not
4 registered as an intern in this state, or is an intern not
5 acting under the direct and immediate personal supervision of
6 a licensed pharmacist.

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

9 (d) To sell samples or complimentary packages of drug
10 products.

11 Section 30. Subsection (1) of section 466.026, Florida
12 Statutes, reads:

13 466.026 Prohibitions; penalties.--

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

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

20 (b) Using or attempting to use a license issued
21 pursuant to this chapter which license has been suspended or
22 revoked.

23 (c) Knowingly employing any person to perform duties
24 outside the scope allowed such person under this chapter or
25 the rules of the board.

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

28 (e) Selling or offering to sell a diploma conferring a
29 degree from a dental college or dental hygiene school or
30 college, or a license issued pursuant to this chapter, or
31 procuring such diploma or license with intent that it shall be

1 used as evidence of that which the document stands for, by a
2 person other than the one upon whom it was conferred or to
3 whom it was granted.

4 Section 31. Section 467.201, Florida Statutes, reads:

5 467.201 Violations and penalties.--Each of the
6 following acts constitutes a felony of the third degree,
7 punishable as provided in s. 775.082, s. 775.083, or s.
8 775.084:

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

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

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

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

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

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

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

25 Section 32. Section 468.366, Florida Statutes, reads:

26 468.366 Penalties for violations.--

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

29 (a) Sell or fraudulently obtain, attempt to obtain, or
30 furnish to any person a diploma, license, or record, or aid or
31

1 abet in the sale, procurement, or attempted procurement
2 thereof.

3 (b) Deliver respiratory care services, as defined by
4 this part or by rule of the board, under cover of any diploma,
5 license, or record that was illegally or fraudulently obtained
6 or signed or issued unlawfully or under fraudulent
7 representation.

8 (c) Deliver respiratory care services, as defined by
9 this part or by rule of the board, unless such person is duly
10 licensed to do so under the provisions of this part or unless
11 such person is exempted pursuant to s. 468.368.

12 (d) Use, in connection with his or her name, any
13 designation tending to imply that he or she is a respiratory
14 care practitioner or a respiratory therapist, duly licensed
15 under the provisions of this part, unless he or she is so
16 licensed.

17 (e) Advertise an educational program as meeting the
18 requirements of this part, or conduct an educational program
19 for the preparation of respiratory care practitioners or
20 respiratory therapists, unless such program has been approved
21 by the board.

22 (f) Knowingly employ unlicensed persons in the
23 delivery of respiratory care services, unless exempted by this
24 part.

25 (g) Knowingly conceal information relative to any
26 violation of this part.

27 (2) Any violation of this section is a felony of the
28 third degree, punishable as provided in s. 775.082, s.
29 775.083, or s. 775.084.

30 Section 33. Subsection (1) of section 483.828, Florida
31 Statutes, reads:

1 483.828 Penalties for violations.--

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

5 (a) Practicing as clinical laboratory personnel
6 without an active license.

7 (b) Using or attempting to use a license to practice
8 as clinical laboratory personnel which is suspended or
9 revoked.

10 (c) Attempting to obtain or obtaining a license to
11 practice as clinical laboratory personnel by knowing
12 misrepresentation.

13 Section 34. Subsection (9) of section 483.901, Florida
14 Statutes, reads:

15 483.901 Medical physicists; definitions; licensure.--

16 (9) PENALTY FOR VIOLATIONS.--It is a felony of the
17 third degree, punishable as provided in s. 775.082, s.
18 775.083, or s. 775.084, to:

19 (a) Practice or attempt to practice medical physics or
20 hold oneself out to be a licensed medical physicist without
21 holding an active license.

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

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

26 Section 35. Section 484.053, Florida Statutes, reads:

27 484.053 Prohibitions; penalties.--

28 (1) A person may not:

29 (a) Practice dispensing hearing aids unless the person
30 is a licensed hearing aid specialist;

31

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

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

4 (d) Give false, incomplete, or forged evidence to the
5 board or a member thereof for the purposes of obtaining a
6 license;

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

10 (f) Knowingly employ unlicensed persons in the
11 practice of dispensing hearing aids; or

12 (g) Knowingly conceal information relative to
13 violations of this part.

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

17 (3) If a person licensed under this part allows the
18 sale of a hearing aid by an unlicensed person not registered
19 as a trainee or fails to comply with the requirements of s.
20 484.0445(2) relating to supervision of trainees, the board
21 shall, upon determination of that violation, order the full
22 refund of moneys paid by the purchaser upon return of the
23 hearing aid to the seller's place of business.

24 Section 36. Subsection (1) of section 457.102, Florida
25 Statutes, is amended to read:

26 457.102 Definitions.--As used in this chapter:

27 (1) "Acupuncture" means a form of primary health care,
28 based on traditional Chinese medical concepts and modern
29 oriental medical techniques, that employs acupuncture
30 diagnosis and treatment, as well as adjunctive therapies and
31 diagnostic techniques, for the promotion, maintenance, and

1 restoration of health and the prevention of disease.
2 Acupuncture shall include, but not be limited to, the
3 insertion of acupuncture needles and the application of
4 moxibustion to specific areas of the human body and the use of
5 electroacupuncture, Qi Gong, oriental massage, herbal therapy,
6 dietary guidelines, and other adjunctive therapies, as defined
7 by board rule.

8 Section 37. Section 457.105, Florida Statutes, is
9 amended to read:

10 457.105 Licensure qualifications and fees.--

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

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

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

23 (b) Has completed 60 college credits from an
24 accredited postsecondary institution as a prerequisite to
25 enrollment in an authorized 3-year course of study in
26 acupuncture and oriental medicine, and has completed a 3-year
27 course of study in acupuncture and oriental medicine, and
28 effective July 31, 2001, a 4-year course of study in
29 acupuncture and oriental medicine, which meets standards
30 established by the board by rule, which standards include, but
31 are not limited to, successful completion of academic courses

1 in western anatomy, western physiology, western pathology,
2 western biomedical terminology, first aid, and cardiopulmonary
3 resuscitation (CPR). However, any person who enrolled in an
4 authorized course of study in acupuncture before August 1,
5 1997, must have completed only a 2-year course of study which
6 meets standards established by the board by rule, which
7 standards must include, but are not limited to, successful
8 completion of academic courses in western anatomy, western
9 physiology, and western pathology;

10 (c) Has successfully completed a board-approved
11 national certification process, is actively licensed in a
12 state that has examination requirements that are substantially
13 equivalent to or more stringent than those of this state, or
14 passes an examination administered by the department, which
15 examination tests the applicant's competency and knowledge of
16 the practice of acupuncture and oriental medicine. At the
17 request of any applicant, oriental nomenclature for the points
18 shall be used in the examination. The examination shall
19 include a practical examination of the knowledge and skills
20 required to practice modern and traditional acupuncture and
21 oriental medicine, covering diagnostic and treatment
22 techniques and procedures; and

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

25 1. Examination fee: \$500 plus the actual per applicant
26 cost to the department for purchase of the written and
27 practical portions of the examination from a national
28 organization approved by the board.

29 2. Application fee: \$300.

30 3. Reexamination fee: \$500 plus the actual per
31 applicant cost to the department for purchase of the written

1 and practical portions of the examination from a national
2 organization approved by the board.

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

6 Section 38. Subsection (1) of section 457.107, Florida
7 Statutes, is amended to read:

8 457.107 Renewal of licenses; continuing education.--

9 (1) The department shall renew a license upon receipt
10 of the renewal application and the fee set by the board by
11 rule, not to exceed \$500~~\$700~~.

12 Section 39. Section 483.824, Florida Statutes, is
13 amended to read:

14 483.824 Qualifications of clinical laboratory
15 director.--A clinical laboratory director must have 4 years of
16 clinical laboratory experience with 2 years of experience in
17 the specialty to be directed or be nationally board certified
18 in the specialty to be directed, and must meet one of the
19 following requirements:

20 (1) Be a physician licensed under chapter 458 or
21 chapter 459;

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

27 (3) For the subspecialty of oral pathology, be a
28 physician licensed under chapter 458 or chapter 459 or a
29 dentist licensed under chapter 466.

30 Section 40. February 6th of each year is designated
31 Florida Alzheimer's Disease Day.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31

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