

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           creating the Florida Commission on Excellence  
7           in Health Care; providing legislative findings  
8           and intent; providing definitions; providing  
9           duties and responsibilities; providing for  
10          membership, organization, meetings, procedures,  
11          and staff; providing for reimbursement of  
12          travel and related expenses of certain members;  
13          providing certain evidentiary prohibitions;  
14          requiring a report to the Governor, the  
15          President of the Senate, and the Speaker of the  
16          House of Representatives; providing for  
17          termination of the commission; providing  
18          appropriations; amending s. 455.564, F.S.;  
19          revising general licensing provisions for  
20          professions under the jurisdiction of the  
21          Department of Health; providing for processing  
22          of applications from foreign or nonresident  
23          applicants not yet having a social security  
24          number; providing for temporary licensure of  
25          such applicants; revising provisions relating  
26          to ongoing criminal investigations or  
27          prosecutions; requiring proof of restoration of  
28          civil rights under certain circumstances;  
29          authorizing requirement for personal appearance  
30          prior to grant or denial of a license;  
31          providing for tolling of application decision

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

1 without a lawful prescription therefor;  
 2 providing for restriction of license as a  
 3 disciplinary action; providing for issuance of  
 4 a citation and assessment of a fine for certain  
 5 first-time violations; reenacting ss. 455.577,  
 6 455.631, 455.651(2), 455.712(1), 458.347(7)(g),  
 7 459.022(7)(f), 468.1755(1)(a), 468.719(1)(a)  
 8 and (2), 468.811, and 484.056(1)(a), F.S.,  
 9 relating to theft or reproduction of an  
 10 examination, giving false information,  
 11 disclosure of confidential information,  
 12 business establishments providing regulated  
 13 services without an active status license, and  
 14 practice violations by physician assistants,  
 15 nursing home administrators, athletic trainers,  
 16 orthotists, prosthetists, pedorthists, and  
 17 hearing aid specialists, to incorporate the  
 18 amendment to s. 455.624, F.S., in references  
 19 thereto; repealing s. 455.704, F.S., relating  
 20 to the Impaired Practitioners Committee;  
 21 amending s. 455.707, F.S., relating to impaired  
 22 practitioners, to conform; clarifying  
 23 provisions relating to complaints against  
 24 impaired practitioners; amending s. 310.102,  
 25 F.S.; revising and removing references, to  
 26 conform; amending s. 455.711, F.S.; revising  
 27 provisions relating to active and inactive  
 28 status licensure; eliminating reference to  
 29 delinquency as a licensure status; providing  
 30 rulemaking authority; amending ss. 455.587 and  
 31 455.714, F.S.; revising references, to conform;

1 creating s. 455.719, F.S.; providing that the  
 2 appropriate medical regulatory board, or the  
 3 department when there is no board, has  
 4 exclusive authority to grant exemptions from  
 5 disqualification from employment or contracting  
 6 with respect to persons under the licensing  
 7 jurisdiction of that board or the department,  
 8 as applicable; amending s. 455.637, F.S.;

9 revising provisions relating to sanctions  
 10 against the unlicensed practice of a health  
 11 care profession; providing legislative intent;  
 12 revising and expanding provisions relating to  
 13 civil and administrative remedies; providing  
 14 criminal penalties; incorporating and modifying  
 15 the substance of current provisions that impose  
 16 a fee to combat unlicensed activity and provide  
 17 for disposition of the proceeds thereof;

18 providing statutory construction relating to  
 19 dietary supplements; creating s. 458.3135,  
 20 F.S.; providing for temporary certification for  
 21 visiting physicians to practice in approved  
 22 cancer centers; providing certification  
 23 requirements; providing fees; providing for  
 24 approval of cancer centers and annual review of  
 25 such approval; providing practice limitations  
 26 and conditions; limiting the number of  
 27 certificates that may be issued; providing  
 28 rulemaking authority; amending s. 458.3145,  
 29 F.S.; adding medical schools to list of  
 30 programs at which medical faculty  
 31 certificateholders may practice; amending s.

1 458.315, F.S.; waiving application and  
 2 licensure fees for physicians obtaining a  
 3 temporary certificate to practice in areas of  
 4 critical need when such practice is limited to  
 5 volunteer, uncompensated care for low-income  
 6 persons; amending ss. 458.345 and 459.021,  
 7 F.S.; providing for registration of persons  
 8 desiring to practice as a resident physician,  
 9 assistant resident physician, house physician,  
 10 intern, or fellow in fellowship training in a  
 11 statutory teaching hospital; providing  
 12 requirements; providing fees; providing  
 13 penalties; providing rulemaking authority;  
 14 amending s. 458.348, F.S.; requiring protocols  
 15 to contain specified requirements; amending s.  
 16 458.347, F.S.; providing authority to the  
 17 Council on Physician Assistants to refuse to  
 18 certify an applicant for licensure or place  
 19 restrictions or conditions on license; amending  
 20 s. 459.022, F.S.; providing authority to the  
 21 Council on Physician Assistants to refuse to  
 22 certify an applicant for licensure or place  
 23 restrictions or conditions on license;  
 24 providing applicability; repealing s. 455.641,  
 25 F.S., relating to unlicensed activity fees, to  
 26 conform; reenacting ss. 455.574(1)(d),  
 27 468.1295(1), 484.014(1), and 484.056(1), F.S.,  
 28 relating to violation of security provisions  
 29 for examinations and violations involving  
 30 speech-language pathology, audiology,  
 31 opticianry, and the dispensing of hearing aids,

1 to incorporate the amendment to s. 455.637,  
2 F.S., in references thereto; amending s.  
3 921.0022, F.S.; modifying the criminal offense  
4 severity ranking chart to add or increase the  
5 level of various offenses relating to the  
6 practice of a health care profession, the  
7 practice of medicine, osteopathic medicine,  
8 chiropractic medicine, podiatric medicine,  
9 naturopathy, optometry, nursing, pharmacy,  
10 dentistry, dental hygiene, midwifery,  
11 respiratory therapy, and medical physics,  
12 practicing as clinical laboratory personnel,  
13 and the dispensing of hearing aids; reading ss.  
14 458.327, 459.013, 460.411, 461.012, 462.17,  
15 463.015, 464.016, 465.015, 466.026, 467.201,  
16 468.366, 483.828, 483.901, 484.053, F.S.;  
17 providing penalties; amending s. 457.102, F.S.;  
18 revising the definition of "acupuncture";  
19 amending s. 457.105, F.S.; revising licensure  
20 qualifications to practice acupuncture;  
21 amending s. 457.107, F.S.; modifying the fee  
22 for renewal of a license to practice  
23 acupuncture; amending s. 483.824, F.S.;  
24 revising qualifications of clinical laboratory  
25 directors; amending s. 641.51, F.S.; providing  
26 for referral to ophthalmologist under certain  
27 circumstances; designating Florida Alzheimer's  
28 Disease Day; amending s. 766.106, F.S.;  
29 providing that following the initiation of a  
30 suit alleging medical malpractice the claimant  
31 must provide notice to the Department of Health

1 along with a copy of the service of process;  
2 amending s. 641.51, F.S., relating to quality  
3 assurance program requirements for certain  
4 managed care organizations; allowing the  
5 rendering of adverse determinations by  
6 physicians licensed in Florida or states with  
7 similar requirements; requiring the submission  
8 of facts and documentation pertaining to  
9 rendered adverse determinations; providing  
10 timeframe for organizations to submit facts and  
11 documentation to providers and subscribers in  
12 writing; requiring an authorized representative  
13 to sign the notification; providing an  
14 effective date.

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

20 WHEREAS, the existing criminal prohibitions have not  
21 been vigorously enforced in the past, and

22 WHEREAS, the existing penalties are not severe enough  
23 to deter the unlicensed practice of the health care  
24 professions, and

25 WHEREAS, persons convicted of practicing without a  
26 license should be imprisoned so they cannot continue to hurt  
27 Floridians, and

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

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

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

25           Section 2. Florida Commission on Excellence in Health  
26 Care.--

27           (1) LEGISLATIVE FINDINGS AND INTENT.--The Legislature  
28 finds that the health care delivery industry is one of the  
29 largest and most complex industries in Florida. The  
30 Legislature finds that the current system of regulating health  
31 care practitioners and health care providers is one of blame



1 and punishment and does not encourage voluntary admission of  
2 errors and immediate corrective action on a large scale. The  
3 Legislature finds that previous attempts to identify and  
4 address areas which impact the quality of care provided by the  
5 health care industry have suffered from a lack of coordination  
6 among the industry's stakeholders and regulators. The  
7 Legislature finds that additional focus on strengthening  
8 health care delivery systems by eliminating avoidable mistakes  
9 in the diagnosis and treatment of Floridians holds tremendous  
10 promise to increase the quality of health care services  
11 available to Floridians, thereby reducing the costs associated  
12 with medical mistakes and malpractice and in turn increasing  
13 access to health care in the state. To achieve this enhanced  
14 focus, it is the intent of the Legislature to create the  
15 Florida Commission on Excellence in Health Care to facilitate  
16 the development of a comprehensive statewide strategy for  
17 improving health care delivery systems through meaningful  
18 reporting standards, data collection and review, and quality  
19 measurement.

20 (2) DEFINITIONS.--As used in this act, the term:

21 (a) "Agency" means the Agency for Health Care  
22 Administration.

23 (b) "Commission" means the Florida Commission on  
24 Excellence in Health Care.

25 (c) "Department" means the Department of Health.

26 (d) "Error," with respect to health care, means an  
27 unintended act, by omission or commission.

28 (e) "Health care practitioner" means any person  
29 licensed under chapter 457; chapter 458; chapter 459; chapter  
30 460; chapter 461; chapter 462; chapter 463; chapter 464;  
31 chapter 465; chapter 466; chapter 467; part I, part II, part

1 III, part V, part X, part XIII, or part XIV of chapter 468;  
2 chapter 478; chapter 480; part III or part IV of chapter 483;  
3 chapter 484; chapter 486; chapter 490; or chapter 491, Florida  
4 Statutes.

5 (f) "Health care provider" means any health care  
6 facility or other health care organization licensed or  
7 certified to provide approved medical and allied health  
8 services in this state.

9 (3) COMMISSION; DUTIES AND RESPONSIBILITIES.--There is  
10 hereby created the Florida Commission on Excellence in Health  
11 Care. The commission shall:

12 (a) Identify existing data sources that evaluate  
13 quality of care in Florida and collect, analyze, and evaluate  
14 this data.

15 (b) Establish guidelines for data sharing and  
16 coordination.

17 (c) Identify core sets of quality measures for  
18 standardized reporting by appropriate components of the health  
19 care continuum.

20 (d) Recommend a framework for quality measurement and  
21 outcome reporting.

22 (e) Develop quality measures that enhance and improve  
23 the ability to evaluate and improve care.

24 (f) Make recommendations regarding research and  
25 development needed to advance quality measurement and  
26 reporting.

27 (g) Evaluate regulatory issues relating to the  
28 pharmacy profession and recommend changes necessary to  
29 optimize patient safety.

30 (h) Facilitate open discussion of a process to ensure  
31 that comparative information on health care quality is valid,

1 reliable, comprehensive, understandable, and widely available  
2 in the public domain.

3 (i) Sponsor public hearings to share information and  
4 expertise, identify "best practices," and recommend methods to  
5 promote their acceptance.

6 (j) Evaluate current regulatory programs to determine  
7 what changes, if any, need to be made to facilitate patient  
8 safety.

9 (k) Review public and private health care purchasing  
10 systems to determine if there are sufficient mandates and  
11 incentives to facilitate continuous improvement in patient  
12 safety.

13 (l) Analyze how effective existing regulatory systems  
14 are in ensuring continuous competence and knowledge of  
15 effective safety practices.

16 (m) Develop a framework for organizations that  
17 license, accredit, or credential health care practitioners and  
18 health care providers to more quickly and effectively identify  
19 unsafe providers and practitioners and to take action  
20 necessary to remove the unsafe provider or practitioner from  
21 practice or operation until such time as the practitioner or  
22 provider has proven safe to practice or operate.

23 (n) Recommend procedures for development of a  
24 curriculum on patient safety and methods of incorporating such  
25 curriculum into training, licensure, and certification  
26 requirements.

27 (o) Develop a framework for regulatory bodies to  
28 disseminate information on patient safety to health care  
29 practitioners, health care providers, and consumers through  
30 conferences, journal articles and editorials, newsletters,  
31 publications, and Internet websites.

1           (p) Recommend procedures to incorporate recognized  
2 patient safety considerations into practice guidelines and  
3 into standards related to the introduction and diffusion of  
4 new technologies, therapies, and drugs.

5           (q) Recommend a framework for development of  
6 community-based collaborative initiatives for error reporting  
7 and analysis and implementation of patient safety  
8 improvements.

9           (r) Evaluate the role of advertising in promoting or  
10 adversely affecting patient safety.

11           (s) Evaluate and make recommendations regarding the  
12 need for licensure of additional persons who participate in  
13 the delivery of health care to Floridians, including, but not  
14 limited to, surgical technologists and pharmacy technicians.

15           (t) Evaluate the benefits and problems of the current  
16 disciplinary systems and make recommendations regarding  
17 alternatives and improvements.

18           (4) MEMBERSHIP, ORGANIZATION, MEETINGS, PROCEDURES,  
19 STAFF.--

20           (a) The commission shall consist of:

21           1. The Secretary of Health and the Executive Director  
22 of the Agency for Health Care Administration.

23           2. One representative each from the following agencies  
24 or organizations: the Board of Medicine, the Board of  
25 Osteopathic Medicine, the Board of Pharmacy, the Board of  
26 Nursing, the Board of Dentistry, the Florida Dental  
27 Association, the Florida Medical Association, the Florida  
28 Osteopathic Medical Association, the Florida Academy of  
29 Physician Assistants, the Florida Chiropractic Society, the  
30 Florida Chiropractic Association, the Florida Podiatric  
31 Medical Association, the Florida Society of Ambulatory

1 Surgical Centers, the Florida Statutory Teaching Hospital  
2 Council, Inc., the Florida Statutory Rural Hospital Council,  
3 the Florida Nurses Association, the Florida Organization of  
4 Nursing Executives, the Florida Pharmacy Association, the  
5 Florida Society of Health System Pharmacists, Inc., the  
6 Florida Retail Federation, the Florida Hospital Association,  
7 the Association of Community Hospitals and Health Systems of  
8 Florida, Inc., the Florida League of Health Care Systems, the  
9 Florida Health Care Risk Management Advisory Council, the  
10 Florida Health Care Association, and the Florida Association  
11 of Homes for the Aging;

12 3. One licensed clinical laboratory director,  
13 appointed by the Secretary of Health;

14 4. Two health lawyers, appointed by the Secretary of  
15 Health, one of whom shall be a member of The Florida Bar  
16 Health Law Section who defends physicians and one of whom  
17 shall be a member of the Florida Academy of Trial Lawyers;

18 5. One representative of the medical malpractice  
19 professional liability insurance industry, appointed by the  
20 Secretary of Health;

21 6. One representative of a Florida medical school  
22 appointed by the Secretary of Health;

23 7. Two representatives of the health insurance  
24 industry, appointed by the Executive Director of the Agency  
25 for Health Care Administration, one of whom shall represent  
26 indemnity plans and one of whom shall represent managed care;

27 8. Four consumer advocates, consisting of one from the  
28 Association for Responsible Medicine, one appointed by the  
29 Governor, one appointed by the President of the Senate, and  
30 one appointed by the Speaker of the House of Representatives;  
31 and

1           9. Two legislators, one appointed by the President of  
2 the Senate and one appointed by the Speaker of the House of  
3 Representatives.

4  
5 Commission membership shall reflect the geographic and  
6 demographic diversity of the state.

7           (b) The Secretary of Health and the Executive Director  
8 of the Agency for Health Care Administration shall jointly  
9 chair the commission. Subcommittees shall be formed by the  
10 joint chairs, as needed, to make recommendations to the full  
11 commission on the subjects assigned. However, all votes on  
12 work products of the commission shall be at the full  
13 commission level, and all recommendations to the Governor, the  
14 President of the Senate, and the Speaker of the House of  
15 Representatives must pass by a two-thirds vote of the full  
16 commission. Sponsoring agencies and organizations may  
17 designate an alternative member who may attend and vote on  
18 behalf of the sponsoring agency or organization in the event  
19 the appointed member is unable to attend a meeting of the  
20 commission or any subcommittee. The commission shall be  
21 staffed by employees of the Department of Health and the  
22 Agency for Health Care Administration. Sponsoring agencies or  
23 organizations must fund the travel and related expenses of  
24 their appointed members on the commission. Travel and related  
25 expenses for the consumer members of the commission shall be  
26 reimbursed by the state pursuant to s. 112.061, Florida  
27 Statutes. The commission shall hold its first meeting no later  
28 than July 15, 2000.

29           (5) EVIDENTIARY PROHIBITIONS.--

30           (a) The findings, recommendations, evaluations,  
31 opinions, investigations, proceedings, records, reports,

1 minutes, testimony, correspondence, work product, and actions  
2 of the commission shall be available to the public, but may  
3 not be introduced into evidence at any civil, criminal,  
4 special, or administrative proceeding against a health care  
5 practitioner or health care provider arising out of the  
6 matters which are the subject of the findings of the  
7 commission. Moreover, no member of the commission shall be  
8 examined in any civil, criminal, special, or administrative  
9 proceeding against a health care practitioner or health care  
10 provider as to any evidence or other matters produced or  
11 presented during the proceedings of this commission or as to  
12 any findings, recommendations, evaluations, opinions,  
13 investigations, proceedings, records, reports, minutes,  
14 testimony, correspondence, work product, or other actions of  
15 the commission or any members thereof. However, nothing in  
16 this section shall be construed to mean that information,  
17 documents, or records otherwise available and obtained from  
18 original sources are immune from discovery or use in any  
19 civil, criminal, special, or administrative proceeding merely  
20 because they were presented during proceedings of the  
21 commission. Nor shall any person who testifies before the  
22 commission or who is a member of the commission be prevented  
23 from testifying as to matters within his or her knowledge in a  
24 subsequent civil, criminal, special, or administrative  
25 proceeding merely because such person testified in front of  
26 the commission.

27 (b) The findings, recommendations, evaluations,  
28 opinions, investigations, proceedings, records, reports,  
29 minutes, testimony, correspondence, work product, and actions  
30 of the commission shall be used as a guide and resource and  
31 shall not be construed as establishing or advocating the

1 standard of care for health care practitioners or health care  
 2 providers unless subsequently enacted into law or adopted in  
 3 rule. Nor shall any findings, recommendations, evaluations,  
 4 opinions, investigations, proceedings, records, reports,  
 5 minutes, testimony, correspondence, work product, or actions  
 6 of the commission be admissible as evidence in any way,  
 7 directly or indirectly, by introduction of documents or as a  
 8 basis of an expert opinion as to the standard of care  
 9 applicable to health care practitioners or health care  
 10 providers in any civil, criminal, special, or administrative  
 11 proceeding unless subsequently enacted into law or adopted in  
 12 rule.

13 (c) No person who testifies before the commission or  
 14 who is a member of the commission may specifically identify  
 15 any patient, health care practitioner, or health care provider  
 16 by name. Moreover, the findings, recommendations, evaluations,  
 17 opinions, investigations, proceedings, records, reports,  
 18 minutes, testimony, correspondence, work product, and actions  
 19 of the commission may not specifically identify any patient,  
 20 health care practitioner, or health care provider by name.

21 (6) REPORT; TERMINATION.--The commission shall provide  
 22 a report of its findings and recommendations to the Governor,  
 23 the President of the Senate, and the Speaker of the House of  
 24 Representatives no later than February 1, 2001. After  
 25 submission of the report, the commission shall continue to  
 26 exist for the purpose of assisting the Department of Health,  
 27 the Agency for Health Care Administration, and the regulatory  
 28 boards in their drafting of proposed legislation and rules to  
 29 implement its recommendations and for the purpose of providing  
 30 information to the health care industry on its  
 31



1 recommendations. The commission shall be terminated June 1,  
2 2001.

3       Section 3. The sum of \$91,000 in nonrecurring general  
4 revenue is hereby appropriated from the General Revenue Fund  
5 to the Department of Health to cover costs of the Florida  
6 Commission on Excellence in Health Care relating to the travel  
7 and related expenses of staff, consumer members, and members  
8 appointed by the department or agency; the hiring of  
9 consultants, if necessary; and the reproduction and  
10 dissemination of documents; however, no portion of this  
11 appropriation shall be effective that duplicates a similar  
12 appropriation for the same purpose contained in other  
13 legislation from the 2000 legislative session that becomes  
14 law.

15       Section 4. The sum of \$200,000 is appropriated from  
16 the Insurance Commissioner's Regulatory Trust Fund to the  
17 Office of Legislative Services for the purpose of implementing  
18 the legislative intent expressed in s. 624.215(1), Florida  
19 Statutes, for a systematic review of current mandated health  
20 coverages. The review must be conducted by certified actuaries  
21 and other appropriate professionals and shall consist of an  
22 assessment of the impact, including, but not limited to, the  
23 costs and benefits, of current mandated health coverages using  
24 the guidelines provided in s. 624.215(2), Florida Statutes.  
25 This assessment shall establish the aggregate cost of mandated  
26 health coverages.

27       Section 5. Subsections (1) and (3) of section 455.564,  
28 Florida Statutes, are amended to read:

29       455.564 Department; general licensing provisions.--

30       (1)(a) Any person desiring to be licensed in a  
31 profession within the jurisdiction of the department shall

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

27 (b) If an applicant has not been issued a social  
28 security number by the Federal Government at the time of  
29 application because the applicant is not a citizen or resident  
30 of this country, the department may process the application  
31 using a unique personal identification number. If such an

1 applicant is otherwise eligible for licensure, the board, or  
2 the department when there is no board, may issue a temporary  
3 license to the applicant, which shall expire 30 days after  
4 issuance unless a social security number is obtained and  
5 submitted in writing to the department. Upon receipt of the  
6 applicant's social security number, the department shall issue  
7 a new license, which shall expire at the end of the current  
8 biennium.

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

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

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

1 the department within 30 days if there is no board, the  
2 application for licensure shall be denied.

3 Section 6. Paragraph (d) is added to subsection (4) of  
4 section 455.565, Florida Statutes, to read:

5 455.565 Designated health care professionals;  
6 information required for licensure.--

7 (4)

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

29 Section 7. Section 455.5651, Florida Statutes, is  
30 amended to read:

31 455.5651 Practitioner profile; creation.--

1           (1) Beginning July 1, 1999, the Department of Health  
2 shall compile the information submitted pursuant to s. 455.565  
3 into a practitioner profile of the applicant submitting the  
4 information, except that the Department of Health may develop  
5 a format to compile uniformly any information submitted under  
6 s. 455.565(4)(b).

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

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

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

1 458.320 or s. 459.0085. The department shall include, with  
 2 respect to practitioners subject to s. 455.694, a statement of  
 3 how the practitioner has elected to comply with the financial  
 4 responsibility requirements of that section.The department  
 5 shall include, with respect to practitioners licensed under  
 6 chapter 458, chapter 459, or chapter 461, information relating  
 7 to liability actions which has been reported under s. 455.697  
 8 or s. 627.912 within the previous 10 years for any paid claim  
 9 that exceeds \$5,000. Such claims information shall be reported  
 10 in the context of comparing an individual practitioner's  
 11 claims to the experience of other practitioners ~~physicians~~  
 12 within the same specialty, or profession if the practitioner  
 13 is not a specialist, to the extent such information is  
 14 available to the Department of Health. If information relating  
 15 to a liability action is included in a practitioner's  
 16 practitioner profile, the profile must also include the  
 17 following statement: "Settlement of a claim may occur for a  
 18 variety of reasons that do not necessarily reflect negatively  
 19 on the professional competence or conduct of the practitioner  
 20 ~~physician~~. A payment in settlement of a medical malpractice  
 21 action or claim should not be construed as creating a  
 22 presumption that medical malpractice has occurred."

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

26 (6) The Department of Health may include in the  
 27 practitioner's practitioner profile any other information that  
 28 is a public record of any governmental entity and that relates  
 29 to a practitioner's ability to competently practice his or her  
 30 profession. However, the department must consult with the  
 31

1 board having regulatory authority over the practitioner before  
2 such information is included in his or her profile.

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

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

15 Section 8. Section 455.5653, Florida Statutes, is  
16 amended to read:

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

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

13 Section 9. Section 455.5654, Florida Statutes, is  
14 amended to read:

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

24 Section 10. Subsection (1) of section 455.567, Florida  
25 Statutes, is amended to read:

26 455.567 Sexual misconduct; disqualification for  
27 license, certificate, or registration.--

28 (1) Sexual misconduct in the practice of a health care  
29 profession means violation of the professional relationship  
30 through which the health care practitioner uses such  
31 relationship to engage or attempt to engage the patient or



1 client, or an immediate family member, guardian, or  
2 representative of the patient or client in, or to induce or  
3 attempt to induce such person to engage in, verbal or physical  
4 sexual activity outside the scope of the professional practice  
5 of such health care profession. Sexual misconduct in the  
6 practice of a health care profession is prohibited.

7 Section 11. Paragraphs (f) and (u) of subsection (1),  
8 paragraph (c) of subsection (2), and subsection (3) of section  
9 455.624, Florida Statutes, are amended, and paragraphs (y) and  
10 (z) are added to subsection (1) of said section, to read:

11 455.624 Grounds for discipline; penalties;  
12 enforcement.--

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

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

27 (u) Engaging or attempting to engage in sexual  
28 misconduct as defined and prohibited in s. 455.567(1)~~a~~  
29 ~~patient or client in verbal or physical sexual activity. For~~  
30 ~~the purposes of this section, a patient or client shall be~~  
31

1 ~~presumed to be incapable of giving free, full, and informed~~  
2 ~~consent to verbal or physical sexual activity.~~

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

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

28 (2) When the board, or the department when there is no  
29 board, finds any person guilty of the grounds set forth in  
30 subsection (1) or of any grounds set forth in the applicable  
31 practice act, including conduct constituting a substantial

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

5 (c) Restriction of practice or license.

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

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

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

1 455.617 and assess a penalty as determined by rule of the  
2 board or department.

3 Section 12. For the purpose of incorporating the  
4 amendment to section 455.624, Florida Statutes, in references  
5 thereto, the sections or subdivisions of Florida Statutes set  
6 forth below are reenacted to read:

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

16 455.631 Penalty for giving false information.--In  
17 addition to, or in lieu of, any other discipline imposed  
18 pursuant to s. 455.624, the act of knowingly giving false  
19 information in the course of applying for or obtaining a  
20 license from the department, or any board thereunder, with  
21 intent to mislead a public servant in the performance of his  
22 or her official duties, or the act of attempting to obtain or  
23 obtaining a license from the department, or any board  
24 thereunder, to practice a profession by knowingly misleading  
25 statements or knowing misrepresentations constitutes a felony  
26 of the third degree, punishable as provided in s. 775.082, s.  
27 775.083, or s. 775.084.

28 455.651 Disclosure of confidential information.--

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

1 subject to discipline pursuant to s. 455.624, and, if  
2 applicable, shall be removed from office, employment, or the  
3 contractual relationship.

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

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

14 458.347 Physician assistants.--

15 (7) PHYSICIAN ASSISTANT LICENSURE.--

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

22 459.022 Physician assistants.--

23 (7) PHYSICIAN ASSISTANT LICENSURE.--

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

30 468.1755 Disciplinary proceedings.--

31

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

3 (a) Violation of any provision of s. 455.624(1) or s.  
4 468.1745(1).

5 468.719 Disciplinary actions.--

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

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

12 (2) When the board finds any person guilty of any of  
13 the acts set forth in subsection (1), the board may enter an  
14 order imposing one or more of the penalties provided in s.  
15 455.624.

16 468.811 Disciplinary proceedings.--

17 (1) The following acts are grounds for disciplinary  
18 action against a licensee and the issuance of cease and desist  
19 orders or other related action by the department, pursuant to  
20 s. 455.624, against any person who engages in or aids in a  
21 violation.

22 (a) Attempting to procure a license by fraudulent  
23 misrepresentation.

24 (b) Having a license to practice orthotics,  
25 prosthetics, or pedorthics revoked, suspended, or otherwise  
26 acted against, including the denial of licensure in another  
27 jurisdiction.

28 (c) Being convicted or found guilty of or pleading  
29 nolo contendere to, regardless of adjudication, in any  
30 jurisdiction, a crime that directly relates to the practice of  
31 orthotics, prosthetics, or pedorthics, including violations of

1 federal laws or regulations regarding orthotics, prosthetics,  
2 or pedorthics.

3 (d) Filing a report or record that the licensee knows  
4 is false, intentionally or negligently failing to file a  
5 report or record required by state or federal law, willfully  
6 impeding or obstructing such filing, or inducing another  
7 person to impede or obstruct such filing. Such reports or  
8 records include only reports or records that are signed in a  
9 person's capacity as a licensee under this act.

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

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

14 (g) Violation of an order of the board, agency, or  
15 department previously entered in a disciplinary hearing or  
16 failure to comply with a subpoena issued by the board, agency,  
17 or department.

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

20 (i) Gross or repeated malpractice or the failure to  
21 deliver orthotic, prosthetic, or pedorthic services with that  
22 level of care and skill which is recognized by a reasonably  
23 prudent licensed practitioner with similar professional  
24 training as being acceptable under similar conditions and  
25 circumstances.

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

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

1 484.056 Disciplinary proceedings.--

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

9 (a) Violation of any provision of s. 455.624(1), s.  
10 484.0512, or s. 484.053.

11 Section 13. Section 455.704, Florida Statutes, is  
12 repealed.

13 Section 14. Subsections (1), (2), and (3) of section  
14 455.707, Florida Statutes, are amended to read:

15 455.707 Treatment programs for impaired  
16 practitioners.--

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

31



1 ~~practitioner program in existence on October 1, 1992, to serve~~  
2 ~~additional professions.~~

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

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

28 1. The licensee has acknowledged the impairment  
29 problem.

30 2. The licensee has voluntarily enrolled in an  
31 appropriate, approved treatment program.

1           3. The licensee has voluntarily withdrawn from  
2 practice or limited the scope of practice as required by the  
3 consultant determined by the panel, or the department when  
4 ~~there is no board~~, in each case, until such time as the panel,  
5 or the department when there is no board, is satisfied the  
6 licensee has successfully completed an approved treatment  
7 program.

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

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

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

29           (d) Whenever the department receives a legally  
30 sufficient complaint alleging that a licensee is impaired as  
31 described in paragraph (a) and no complaint against the

1 licensee other than impairment exists, the department shall  
2 forward all information in its possession regarding the  
3 impaired licensee to the consultant. For the purposes of this  
4 section, a suspension from hospital staff privileges due to  
5 the impairment does not constitute a complaint.

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

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

20 Section 15. Subsection (1) of section 310.102, Florida  
21 Statutes, is amended to read:

22 310.102 Treatment programs for impaired pilots and  
23 deputy pilots.--

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

30 Section 16. Section 455.711, Florida Statutes, is  
31 amended to read:

1           455.711 Licenses; active and inactive ~~and delinquent~~  
2 status; delinquency.--

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

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

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

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

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

28           (b) An inactive status licensee may change to active  
29 status at any time, if the licensee meets all requirements for  
30 active status, ~~pays any additional licensure fees necessary to~~  
31 equal those imposed on an active status licensee, ~~pays any~~

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

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

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

31

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

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

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

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

30           (11) The status or a change in status of a licensee  
31 does not alter in any way the right of the board, or of the

1 department if there is no board, to impose discipline or to  
2 enforce discipline previously imposed on a licensee for acts  
3 or omissions committed by the licensee while holding a  
4 license, whether active, inactive, or delinquent.

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

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

11 Section 17. Subsection (3) of section 455.587, Florida  
12 Statutes, is amended to read:

13 455.587 Fees; receipts; disposition.--

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

23 Section 18. Subsection (1) of section 455.714, Florida  
24 Statutes, is amended to read:

25 455.714 Renewal and cancellation notices.--

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

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

31

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

4 Section 19. Section 455.719, Florida Statutes, is  
5 created to read:

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

14 Section 20. Section 455.637, Florida Statutes, is  
15 amended to read:

16 455.637 Unlicensed practice of a health care  
17 profession; intent; cease and desist notice; penalties ~~civil~~  
18 ~~penalty~~; enforcement; citations; fees; allocation and  
19 disposition of moneys collected.--

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



1 practice that profession, regardless of the means of the  
 2 performance or delivery of such services, is strictly  
 3 prohibited.

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

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

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

1 and the penalty imposed. If the subject does not dispute the  
2 matter in the citation with the department within 30 days  
3 after the citation is served, the citation shall become a  
4 final order of the department. The department may adopt rules  
5 to implement this section. The penalty shall be a fine of not  
6 less than \$500 nor more than \$5,000 as established by rule of  
7 the department. Each day that the unlicensed practice  
8 continues after issuance of a notice to cease and desist  
9 constitutes a separate violation. The department shall be  
10 entitled to recover the costs of investigation and prosecution  
11 in addition to the fine levied pursuant to the citation.  
12 Service of a citation may be made by personal service or by  
13 mail to the subject at the subject's last known address or  
14 place of practice. If the department is required to seek  
15 enforcement of the cease and desist or agency order ~~for a~~  
16 ~~penalty pursuant to s. 120.569~~, it shall be entitled to  
17 collect its attorney's fees and costs, ~~together with any cost~~  
18 ~~of collection.~~

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

29 (d) In addition to the administrative and civil  
30 remedies under paragraphs (b) and (c) and in addition to the  
31

1 criminal violations and penalties listed in the individual  
2 health care practice acts:

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

25 2. It is a felony of the second degree, punishable as  
26 provided in s. 775.082, s. 775.083, or s. 775.084, to practice  
27 a health care profession without an active, valid Florida  
28 license to practice that profession when such practice results  
29 in serious bodily injury. For purposes of this section,  
30 "serious bodily injury" means death; brain or spinal damage;  
31 disfigurement; fracture or dislocation of bones or joints;

1 limitation of neurological, physical, or sensory function; or  
 2 any condition that required subsequent surgical repair. The  
 3 minimum penalty for violating this subparagraph shall be a  
 4 fine of \$1,000 and a minimum mandatory period of incarceration  
 5 of 1 year.

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

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

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

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

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

1           ~~(c) The department shall be entitled to recover the~~  
2 ~~costs of investigation, in addition to any penalty provided~~  
3 ~~according to department rule as part of the penalty levied~~  
4 ~~pursuant to the citation.~~

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

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

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

16           (5) Nothing herein shall be construed to limit or  
17 restrict the sale, use, or recommendation of the use of a  
18 dietary supplement, as defined by the Food, Drug, and Cosmetic  
19 Act, Title 21, s. 321, so long as the person selling, using,  
20 or recommending the dietary supplement does so in compliance  
21 with federal and state law.

22           Section 21. Section 458.3135, Florida Statutes, is  
23 created to read:

24           458.3135 Temporary certificate for visiting physicians  
25 to practice in approved cancer centers.--

26           (1) Any physician who has been accepted for a course  
27 of training by a cancer center approved by the board and who  
28 meets all of the qualifications set forth in this section may  
29 be issued a temporary certificate to practice in a  
30 board-approved cancer center under the International Cancer  
31 Center Visiting Physician Program. A certificate may be issued

1 to a physician who will be training under the direct  
2 supervision of a physician employed by or under contract with  
3 an approved cancer center for a period of no more than 1 year.  
4 The purpose of the International Cancer Center Visiting  
5 Physician Program is to provide to internationally respected  
6 and highly qualified physicians advanced education and  
7 training on cancer treatment techniques developed at an  
8 approved cancer center. The board may issue this temporary  
9 certificate in accordance with the restrictions set forth in  
10 this section.

11 (2) A temporary certificate for practice in an  
12 approved cancer center may be issued without examination to an  
13 individual who:

14 (a) Is a graduate of an accredited medical school or  
15 its equivalent, or is a graduate of a foreign medical school  
16 listed with the World Health Organization;

17 (b) Holds a valid and unencumbered license to practice  
18 medicine in another country;

19 (c) Has completed the application form adopted by the  
20 board and remitted a nonrefundable application fee not to  
21 exceed \$300;

22 (d) Has not committed any act in this or any other  
23 jurisdiction which would constitute the basis for disciplining  
24 a physician under s. 455.624 or s. 458.331;

25 (e) Meets the financial responsibility requirements of  
26 s. 458.320; and

27 (f) Has been accepted for a course of training by a  
28 cancer center approved by the board.

29 (3) The board shall by rule establish qualifications  
30 for approval of cancer centers under this section, which at a  
31 minimum shall require the cancer center to be licensed under

1 chapter 395 and have met the standards required to be a  
 2 National Cancer Institute-designated cancer center. The board  
 3 shall review the cancer centers approved under this section  
 4 not less than annually to ascertain that the minimum  
 5 requirements of this chapter and the rules adopted thereunder  
 6 are being complied with. If it is determined that such minimum  
 7 requirements are not being met by an approved cancer center,  
 8 the board shall rescind its approval of that cancer center and  
 9 no temporary certificate for that cancer center shall be valid  
 10 until such time as the board reinstates its approval of that  
 11 cancer center.

12 (4) A recipient of a temporary certificate for  
 13 practice in an approved cancer center may use the certificate  
 14 to practice for the duration of the course of training at the  
 15 approved cancer center so long as the duration of the course  
 16 does not exceed 1 year. If at any time the cancer center is no  
 17 longer approved by the board, the temporary certificate shall  
 18 expire and the recipient shall no longer be authorized to  
 19 practice in this state.

20 (5) A recipient of a temporary certificate for  
 21 practice in an approved cancer center is limited to practicing  
 22 in facilities owned or operated by that approved cancer center  
 23 and is limited to only practicing under the direct supervision  
 24 of a physician who holds a valid, active, and unencumbered  
 25 license to practice medicine in this state issued under this  
 26 chapter or chapter 459.

27 (6) The board shall not issue a temporary certificate  
 28 for practice in an approved cancer center to any physician who  
 29 is under investigation in another jurisdiction for an act that  
 30 would constitute a violation of this chapter or chapter 455  
 31



1 until such time as the investigation is complete and the  
2 physician is found innocent of all charges.

3 (7) A physician applying under this section is exempt  
4 from the requirements of ss. 455.565-455.5656. All other  
5 provisions of chapters 455 and 458 apply.

6 (8) In any year, the maximum number of temporary  
7 certificates that may be issued by the board under this  
8 section may not exceed 10 at each approved cancer center.

9 (9) The board may adopt rules pursuant to ss.  
10 120.536(1) and 120.54 as necessary to implement this section.

11 (10) Nothing in this section may be construed to  
12 authorize a physician who is not licensed to practice medicine  
13 in this state to qualify for or otherwise engage in the  
14 practice of medicine in this state, except as provided in this  
15 section.

16 Section 22. Paragraph (i) of subsection (1), and  
17 subsection (4) of section 458.3145, Florida Statutes, are  
18 amended to read:

19 458.3145 Medical faculty certificate.--

20 (1) A medical faculty certificate may be issued  
21 without examination to an individual who:

22 (a) Is a graduate of an accredited medical school or  
23 its equivalent, or is a graduate of a foreign medical school  
24 listed with the World Health Organization;

25 (b) Holds a valid, current license to practice  
26 medicine in another jurisdiction;

27 (c) Has completed the application form and remitted a  
28 nonrefundable application fee not to exceed \$500;

29 (d) Has completed an approved residency or fellowship  
30 of at least 1 year or has received training which has been  
31

1 determined by the board to be equivalent to the 1-year  
2 residency requirement;

3 (e) Is at least 21 years of age;

4 (f) Is of good moral character;

5 (g) Has not committed any act in this or any other  
6 jurisdiction which would constitute the basis for disciplining  
7 a physician under s. 458.331;

8 (h) For any applicant who has graduated from medical  
9 school after October 1, 1992, has completed, before entering  
10 medical school, the equivalent of 2 academic years of  
11 preprofessional, postsecondary education, as determined by  
12 rule of the board, which must include, at a minimum, courses  
13 in such fields as anatomy, biology, and chemistry; and

14 (i) Has been offered and has accepted a full-time  
15 faculty appointment to teach in a program of medicine at:

16 1. The University of Florida,

17 2. The University of Miami,

18 3. The University of South Florida, ~~or~~

19 4. The Florida State University, or

20 54. The Mayo Medical School at the Mayo Clinic in  
21 Jacksonville, Florida.

22 (2) The certificate authorizes the holder to practice  
23 only in conjunction with his or her faculty position at an  
24 accredited medical school and its affiliated clinical  
25 facilities or teaching hospitals that are registered with the  
26 Board of Medicine as sites at which holders of medical faculty  
27 certificates will be practicing. Such certificate  
28 automatically expires when the holder's relationship with the  
29 medical school is terminated or after a period of 24 months,  
30 whichever occurs sooner, and is renewable every 2 years by a  
31 holder who applies to the board on a form prescribed by the

1 board and provides certification by the dean of the medical  
2 school that the holder is a distinguished medical scholar and  
3 an outstanding practicing physician.

4 (3) The holder of a medical faculty certificate issued  
5 under this section has all rights and responsibilities  
6 prescribed by law for the holder of a license issued under s.  
7 458.311, except as specifically provided otherwise by law.  
8 Such responsibilities include compliance with continuing  
9 medical education requirements as set forth by rule of the  
10 board. A hospital or ambulatory surgical center licensed under  
11 chapter 395, health maintenance organization certified under  
12 chapter 641, insurer as defined in s. 624.03,  
13 multiple-employer welfare arrangement as defined in s.  
14 624.437, or any other entity in this state, in considering and  
15 acting upon an application for staff membership, clinical  
16 privileges, or other credentials as a health care provider,  
17 may not deny the application of an otherwise qualified  
18 physician for such staff membership, clinical privileges, or  
19 other credentials solely because the applicant is a holder of  
20 a medical faculty certificate under this section.

21 (4) In any year, the maximum number of extended  
22 medical faculty certificateholders as provided in subsection  
23 (2) may not exceed 15 persons at each institution named in  
24 subparagraphs (1)(i)~~1.-4~~3. and at the facility named in s.  
25 240.512 and may not exceed 5 persons at the institution named  
26 in subparagraph (1)(i)54.

27 5. Annual review of all such certificate recipients  
28 will be made by the deans of the accredited 4-year medical  
29 schools within this state and reported to the Board of  
30 Medicine.

31

1           (5) Notwithstanding subsection (1), any physician,  
 2 when providing medical care or treatment in connection with  
 3 the education of students, residents, or faculty at the  
 4 request of the dean of an accredited medical school within  
 5 this state or at the request of the medical director of a  
 6 statutory teaching hospital as defined in s. 408.07, may do so  
 7 upon registration with the board and demonstration of  
 8 financial responsibility pursuant to s. 458.320(1) or (2)  
 9 unless such physician is exempt under s. 458.320(5)(a). The  
 10 performance of such medical care or treatment must be limited  
 11 to a single period of time, which may not exceed 180  
 12 consecutive days, and must be rendered within a facility  
 13 registered under subsection (2) or within a statutory teaching  
 14 hospital as defined in s. 408.07. A registration fee not to  
 15 exceed \$300, as set by the board, is required of each  
 16 physician registered under this subsection. However, no more  
 17 than three physicians per year per institution may be  
 18 registered under this subsection, and an exemption under this  
 19 subsection may not be granted to a physician more than once in  
 20 any given 5-year period.

21           Section 23. Subsection (5) is added to section  
 22 458.315, Florida Statutes, to read:

23           458.315 Temporary certificate for practice in areas of  
 24 critical need.--Any physician who is licensed to practice in  
 25 any other state, whose license is currently valid, and who  
 26 pays an application fee of \$300 may be issued a temporary  
 27 certificate to practice in communities of Florida where there  
 28 is a critical need for physicians. A certificate may be  
 29 issued to a physician who will be employed by a county health  
 30 department, correctional facility, community health center  
 31 funded by s. 329, s. 330, or s. 340 of the United States

1 Public Health Services Act, or other entity that provides  
2 health care to indigents and that is approved by the State  
3 Health Officer. The Board of Medicine may issue this  
4 temporary certificate with the following restrictions:

5 (5) The application fee and all licensure fees,  
6 including neurological injury compensation assessments, shall  
7 be waived for those persons obtaining a temporary certificate  
8 to practice in areas of critical need for the purpose of  
9 providing volunteer, uncompensated care for low-income  
10 Floridians. The applicant must submit an affidavit from the  
11 employing agency or institution stating that the physician  
12 will not receive any compensation for any service involving  
13 the practice of medicine.

14 Section 24. Section 458.345, Florida Statutes, is  
15 amended to read:

16 458.345 Registration of resident physicians, interns,  
17 and fellows; list of hospital employees; prescribing of  
18 medicinal drugs; penalty.--

19 (1) Any person desiring to practice as a resident  
20 physician, assistant resident physician, house physician,  
21 intern, or fellow in fellowship training which leads to  
22 subspecialty board certification in this state, or any person  
23 desiring to practice as a resident physician, assistant  
24 resident physician, house physician, intern, or fellow in  
25 fellowship training in a teaching hospital in this state as  
26 defined in s. 408.07(44) or s. 395.805(2), who does not hold a  
27 valid, active license issued under this chapter shall apply to  
28 the department to be registered and shall remit a fee not to  
29 exceed \$300 as set by the board. The department shall  
30 register any applicant the board certifies has met the  
31 following requirements:

1 (a) Is at least 21 years of age.

2 (b) Has not committed any act or offense within or  
3 without the state which would constitute the basis for refusal  
4 to certify an application for licensure pursuant to s.  
5 458.331.

6 (c) Is a graduate of a medical school or college as  
7 specified in s. 458.311(1)(f).

8 (2) The board shall not certify to the department for  
9 registration any applicant who is under investigation in any  
10 state or jurisdiction for an act which would constitute the  
11 basis for imposing a disciplinary penalty specified in s.  
12 458.331(2)(b) until such time as the investigation is  
13 completed, at which time the provisions of s. 458.331 shall  
14 apply.

15 (3) Every hospital or teaching hospital employing or  
16 utilizing the services of a resident physician, assistant  
17 resident physician, house physician, intern, or fellow in  
18 fellowship training registered under this section ~~which leads~~  
19 ~~to subspecialty board certification~~ shall designate a person  
20 who shall, on dates designated by the board, in consultation  
21 with the department, furnish the department with a list of  
22 such ~~the~~ hospital's employees and such other information as  
23 the board may direct. The chief executive officer of each  
24 such hospital shall provide the executive director of the  
25 board with the name, title, and address of the person  
26 responsible for furnishing such reports.

27 (4) Registration under this section shall  
28 automatically expire after 2 years without further action by  
29 the board or the department unless an application for renewal  
30 is approved by the board. No person registered under this  
31 section may be employed or utilized as a house physician or

1 act as a resident physician, an assistant resident physician,  
2 an intern, or a fellow in fellowship training ~~which leads to a~~  
3 ~~subspecialty board certification~~ in a hospital or teaching  
4 hospital of this state for more than 2 years without a valid,  
5 active license or renewal of registration under this section.  
6 Requirements for renewal of registration shall be established  
7 by rule of the board. An application fee not to exceed \$300  
8 as set by the board shall accompany the application for  
9 renewal, except that resident physicians, assistant resident  
10 physicians, interns, and fellows in fellowship training  
11 registered under this section ~~which leads to subspecialty~~  
12 ~~board certification~~ shall be exempt from payment of any  
13 renewal fees.

14 (5) Notwithstanding any provision of this section or  
15 s. 120.52 to the contrary, any person who is registered under  
16 this section is subject to the provisions of s. 458.331.

17 (6) A person registered as a resident physician under  
18 this section may in the normal course of his or her employment  
19 prescribe medicinal drugs described in schedules set out in  
20 chapter 893 when:

21 (a) The person prescribes such medicinal drugs through  
22 use of a Drug Enforcement Administration number issued to the  
23 hospital or teaching hospital by which the person is employed  
24 or at which the person's services are used;

25 (b) The person is identified by a discrete suffix to  
26 the identification number issued to such ~~the~~ hospital; and

27 (c) The use of the institutional identification number  
28 and individual suffixes conforms to the requirements of the  
29 federal Drug Enforcement Administration.  
30  
31

1           (7) Any person willfully violating this section  
2 commits a misdemeanor of the first degree, punishable as  
3 provided in s. 775.082 or s. 775.083.

4           (8) The board shall promulgate rules pursuant to ss.  
5 120.536(1) and 120.54 as necessary to implement this section.

6           Section 25. Subsection (3) of section 458.348, Florida  
7 Statutes, is created to read:

8           458.348 Formal supervisory relationships, standing  
9 orders, and established protocols; notice; standards.--

10           (3) PROTOCOLS REQUIRING DIRECT SUPERVISION.--All  
11 protocols relating to electrolysis or electrology using laser  
12 or light-based hair removal or reduction by persons other than  
13 physicians licensed under this chapter or chapter 459 shall  
14 require the person performing such service to be appropriately  
15 trained and work only under the direct supervision and  
16 responsibility of a physician licensed under this chapter or  
17 chapter 459. All protocols relating to electrolysis or  
18 electrology using needle-type epilation devices by persons  
19 other than physicians licensed under this chapter or chapter  
20 459 shall require the person performing such service to be  
21 appropriately trained and work only under the general  
22 supervision of a physician licensed under this chapter or  
23 chapter 459.

24           Section 26. Section 459.021, Florida Statutes, is  
25 amended to read:

26           459.021 Registration of resident physicians, interns,  
27 and fellows; list of hospital employees; penalty.--

28           (1) Any person who holds a degree of Doctor of  
29 Osteopathic Medicine from a college of osteopathic medicine  
30 recognized and approved by the American Osteopathic  
31 Association who desires to practice as a resident physician,



1 assistant resident physician, house physician, intern, or  
 2 fellow in fellowship training which leads to subspecialty  
 3 board certification in this state, or any person desiring to  
 4 practice as a resident physician, assistant resident  
 5 physician, house physician, intern, or fellow in fellowship  
 6 training in a teaching hospital in this state as defined in s.  
 7 408.07(44) or s. 395.805(2),who does not hold an active  
 8 license issued under this chapter shall apply to the  
 9 department to be registered, on an application provided by the  
 10 department, within 30 days of commencing such a training  
 11 program and shall remit a fee not to exceed \$300 as set by the  
 12 board.

13 (2) Any person required to be registered under this  
 14 section shall renew such registration annually. Such  
 15 registration shall be terminated upon the registrant's receipt  
 16 of an active license issued under this chapter. No person  
 17 shall be registered under this section for an aggregate of  
 18 more than 5 years, unless additional years are approved by the  
 19 board.

20 (3) Every hospital or teaching hospital having  
 21 employed or contracted with or utilized the services of a  
 22 person who holds a degree of Doctor of Osteopathic Medicine  
 23 from a college of osteopathic medicine recognized and approved  
 24 by the American Osteopathic Association as a resident  
 25 physician, assistant resident physician, house physician,  
 26 intern, or fellow in fellowship training registered under this  
 27 section ~~which leads to subspecialty board certification~~ shall  
 28 designate a person who shall furnish, on dates designated by  
 29 the board, in consultation with the department, to the  
 30 department a list of all such persons who have served in such  
 31 ~~the~~ hospital during the preceding 6-month period. The chief

1 executive officer of each such hospital shall provide the  
2 executive director of the board with the name, title, and  
3 address of the person responsible for filing such reports.

4 (4) The registration may be revoked or the department  
5 may refuse to issue any registration for any cause which would  
6 be a ground for its revocation or refusal to issue a license  
7 to practice osteopathic medicine, as well as on the following  
8 grounds:

9 (a) Omission of the name of an intern, resident  
10 physician, assistant resident physician, house physician, or  
11 fellow in fellowship training from the list of employees  
12 required by subsection (3) to be furnished to the department  
13 by the hospital or teaching hospital served by the employee.

14 (b) Practicing osteopathic medicine outside of a bona  
15 fide hospital training program.

16 (5) It is a misdemeanor of the second degree,  
17 punishable as provided in s. 775.082 or s. 775.083 for any  
18 hospital or teaching hospital, and also for the  
19 superintendent, administrator, and other person or persons  
20 having administrative authority in such ~~a~~ hospital:

21 (a) To employ the services in such ~~the~~ hospital of any  
22 person listed in subsection (3), unless such person is  
23 registered with the department under the law or the holder of  
24 a license to practice osteopathic medicine under this chapter.

25 (b) To fail to furnish to the department the list and  
26 information required by subsection (3).

27 (6) Any person desiring registration pursuant to this  
28 section shall meet all the requirements of s. 459.0055.

29 (7) The board shall promulgate rules pursuant to ss.  
30 120.536(1) and 120.54 as necessary to implement this section.

31

1           (8) Notwithstanding any provision of this section or  
2 s. 120.52 to the contrary, any person who is registered under  
3 this section is subject to the provisions of s. 459.015.

4           (9) A person registered as a resident physician under  
5 this section may in the normal course of his or her employment  
6 prescribe medicinal drugs described in schedules set out in  
7 chapter 893 when:

8           (a) The person prescribes such medicinal drugs through  
9 use of a Drug Enforcement Administration number issued to the  
10 hospital or teaching hospital by which the person is employed  
11 or at which the person's services are used;

12           (b) The person is identified by a discrete suffix to  
13 the identification number issued to such ~~the~~ hospital; and

14           (c) The use of the institutional identification number  
15 and individual suffixes conforms to the requirements of the  
16 federal Drug Enforcement Administration.

17           Section 27. Paragraph (d) is added to subsection (9)  
18 of section 458.347, Florida Statutes, to read:

19           458.347 Physician assistants.--

20           (9) COUNCIL ON PHYSICIAN ASSISTANTS.--The Council on  
21 Physician Assistants is created within the department.

22           (a) The council shall consist of five members  
23 appointed as follows:

24           1. The chairperson of the Board of Medicine shall  
25 appoint three members who are physicians and members of the  
26 Board of Medicine. One of the physicians must supervise a  
27 physician assistant in the physician's practice.

28           2. The chairperson of the Board of Osteopathic  
29 Medicine shall appoint one member who is a physician and a  
30 member of the Board of Osteopathic Medicine.

31

1           3. The secretary of the department or his or her  
2 designee shall appoint a fully licensed physician assistant  
3 licensed under this chapter or chapter 459.

4           (b) Two of the members appointed to the council must  
5 be physicians who supervise physician assistants in their  
6 practice. Members shall be appointed to terms of 4 years,  
7 except that of the initial appointments, two members shall be  
8 appointed to terms of 2 years, two members shall be appointed  
9 to terms of 3 years, and one member shall be appointed to a  
10 term of 4 years, as established by rule of the boards.  
11 Council members may not serve more than two consecutive terms.  
12 The council shall annually elect a chairperson from among its  
13 members.

14           (c) The council shall:

15           1. Recommend to the department the licensure of  
16 physician assistants.

17           2. Develop all rules regulating the use of physician  
18 assistants by physicians under this chapter and chapter 459,  
19 except for rules relating to the formulary developed under  
20 paragraph (4)(f). The council shall also develop rules to  
21 ensure that the continuity of supervision is maintained in  
22 each practice setting. The boards shall consider adopting a  
23 proposed rule developed by the council at the regularly  
24 scheduled meeting immediately following the submission of the  
25 proposed rule by the council. A proposed rule submitted by  
26 the council may not be adopted by either board unless both  
27 boards have accepted and approved the identical language  
28 contained in the proposed rule. The language of all proposed  
29 rules submitted by the council must be approved by both boards  
30 pursuant to each respective board's guidelines and standards  
31 regarding the adoption of proposed rules. If either board

1 rejects the council's proposed rule, that board must specify  
2 its objection to the council with particularity and include  
3 any recommendations it may have for the modification of the  
4 proposed rule.

5         3. Make recommendations to the boards regarding all  
6 matters relating to physician assistants.

7         4. Address concerns and problems of practicing  
8 physician assistants in order to improve safety in the  
9 clinical practices of licensed physician assistants.

10         (d) When the Council finds that an applicant for  
11 licensure has failed to meet, to the Council's satisfaction,  
12 each of the requirements for licensure set forth in this  
13 section, the Council may enter an order to:

14             1. Refuse to certify the applicant for licensure;

15             2. Approve the applicant for licensure with  
16 restrictions on the scope of practice or license; or

17             3. Approve the applicant for conditional licensure.

18 Such conditions may include placement of the licensee on  
19 probation for a period of time and subject to such conditions  
20 as the Council may specify, including but not limited to,  
21 requiring the licensee to undergo treatment, to attend  
22 continuing education courses, to work under the direct  
23 supervision of a physician licensed in this state, or to take  
24 corrective action.

25         Section 28. Paragraph (d) is added to subsection (9)  
26 of section 459.022, Florida Statutes, to read:

27             459.022 Physician assistants.--

28             (9) COUNCIL ON PHYSICIAN ASSISTANTS.--The Council on  
29 Physician Assistants is created within the department.

30             (a) The council shall consist of five members  
31 appointed as follows:

1           1. The chairperson of the Board of Medicine shall  
2 appoint three members who are physicians and members of the  
3 Board of Medicine. One of the physicians must supervise a  
4 physician assistant in the physician's practice.

5           2. The chairperson of the Board of Osteopathic  
6 Medicine shall appoint one member who is a physician and a  
7 member of the Board of Osteopathic Medicine.

8           3. The secretary of the department or her or his  
9 designee shall appoint a fully licensed physician assistant  
10 licensed under chapter 458 or this chapter.

11           (b) Two of the members appointed to the council must  
12 be physicians who supervise physician assistants in their  
13 practice. Members shall be appointed to terms of 4 years,  
14 except that of the initial appointments, two members shall be  
15 appointed to terms of 2 years, two members shall be appointed  
16 to terms of 3 years, and one member shall be appointed to a  
17 term of 4 years, as established by rule of the boards.  
18 Council members may not serve more than two consecutive terms.  
19 The council shall annually elect a chairperson from among its  
20 members.

21           (c) The council shall:

22           1. Recommend to the department the licensure of  
23 physician assistants.

24           2. Develop all rules regulating the use of physician  
25 assistants by physicians under chapter 458 and this chapter,  
26 except for rules relating to the formulary developed under s.  
27 458.347(4)(f). The council shall also develop rules to ensure  
28 that the continuity of supervision is maintained in each  
29 practice setting. The boards shall consider adopting a  
30 proposed rule developed by the council at the regularly  
31 scheduled meeting immediately following the submission of the

1 proposed rule by the council. A proposed rule submitted by  
2 the council may not be adopted by either board unless both  
3 boards have accepted and approved the identical language  
4 contained in the proposed rule. The language of all proposed  
5 rules submitted by the council must be approved by both boards  
6 pursuant to each respective board's guidelines and standards  
7 regarding the adoption of proposed rules. If either board  
8 rejects the council's proposed rule, that board must specify  
9 its objection to the council with particularity and include  
10 any recommendations it may have for the modification of the  
11 proposed rule.

12 3. Make recommendations to the boards regarding all  
13 matters relating to physician assistants.

14 4. Address concerns and problems of practicing  
15 physician assistants in order to improve safety in the  
16 clinical practices of licensed physician assistants.

17 (d) When the Council finds that an applicant for  
18 licensure has failed to meet, to the Council's satisfaction,  
19 each of the requirements for licensure set forth in this  
20 section, the Council may enter an order to:

21 1. Refuse to certify the applicant for licensure;

22 2. Approve the applicant for licensure with  
23 restrictions on the scope of practice or license; or

24 3. Approve the applicant for conditional licensure.

25 Such conditions may include placement of the licensee on  
26 probation for a period of time and subject to such conditions  
27 as the Council may specify, including but not limited to,  
28 requiring the licensee to undergo treatment, to attend  
29 continuing education courses, to work under the direct  
30 supervision of a physician licensed in this state, or to take  
31 corrective action.

1           Section 29. The amendment of s. 455.637, Florida  
2 Statutes, by this act applies to offenses committed on or  
3 after the effective date of such section.

4           Section 30. Section 455.641, Florida Statutes, is  
5 repealed.

6           Section 31. For the purpose of incorporating the  
7 amendment to section 455.637, Florida Statutes, in references  
8 thereto, the sections or subdivisions of Florida Statutes set  
9 forth below are reenacted to read:

10           455.574 Department of Health; examinations.--

11           (1)

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

26           468.1295 Disciplinary proceedings.--

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

31



1 (a) Procuring or attempting to procure a license by  
2 bribery, by fraudulent misrepresentation, or through an error  
3 of the department or the board.

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

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

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

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

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

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

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

31

1 (i) Using, or causing or promoting the use of, any  
2 advertising matter, promotional literature, testimonial,  
3 guarantee, warranty, label, brand, insignia, or other  
4 representation, however disseminated or published, which is  
5 misleading, deceiving, or untruthful.

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

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

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

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

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

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

29 (p) Representing, directly or by implication, that a  
30 hearing aid utilizing bone conduction has certain specified  
31 features, such as the absence of anything in the ear or

1 leading to the ear, or the like, without disclosing clearly  
2 and conspicuously that the instrument operates on the bone  
3 conduction principle and that in many cases of hearing loss  
4 this type of instrument may not be suitable.

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

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

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

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

20 (u) Failing to notify the department in writing of a  
21 change in current mailing and place-of-practice address within  
22 30 days after such change.

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

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

28 (x) Practicing or offering to practice beyond the  
29 scope permitted by law or accepting and performing  
30 professional responsibilities the licensee or  
31

1 certificateholder knows, or has reason to know, the licensee  
2 or certificateholder is not competent to perform.

3 (y) Aiding, assisting, procuring, or employing any  
4 unlicensed person to practice speech-language pathology or  
5 audiology.

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

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

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

1 circuit court in the circuit in which the licensee or  
2 certificateholder resides or does business. The department  
3 shall be entitled to the summary procedure provided in s.  
4 51.011. A licensee or certificateholder affected under this  
5 paragraph shall at reasonable intervals be afforded an  
6 opportunity to demonstrate that he or she can resume the  
7 competent practice for which he or she is licensed or  
8 certified with reasonable skill and safety to patients.

9 484.014 Disciplinary actions.--

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

17 (a) Procuring or attempting to procure a license by  
18 misrepresentation, bribery, or fraud or through an error of  
19 the department or the board.

20 (b) Procuring or attempting to procure a license for  
21 any other person by making or causing to be made any false  
22 representation.

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

30  
31

1 (d) Failing to make fee or price information readily  
2 available by providing such information upon request or upon  
3 the presentation of a prescription.

4 (e) Advertising goods or services in a manner which is  
5 fraudulent, false, deceptive, or misleading in form or  
6 content.

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

9 (g) Violation or repeated violation of this part or of  
10 part II of chapter 455 or any rules promulgated pursuant  
11 thereto.

12 (h) Practicing with a revoked, suspended, inactive, or  
13 delinquent license.

14 (i) Violation of a lawful order of the board or  
15 department previously entered in a disciplinary hearing or  
16 failing to comply with a lawfully issued subpoena of the  
17 department.

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

19 (k) Conspiring with another licensee or with any  
20 person to commit an act, or committing an act, which would  
21 coerce, intimidate, or preclude another licensee from lawfully  
22 advertising her or his services.

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

25 (m) Failing to keep written prescription files.

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

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

1 (p) Gross or repeated malpractice.

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

6 (r) Being convicted or found guilty of, or entering a  
7 plea of nolo contendere to, regardless of adjudication, in a  
8 court of this state or other jurisdiction, a crime which  
9 relates to the ability to practice opticianry or to the  
10 practice of opticianry.

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

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

22 484.056 Disciplinary proceedings.--

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

30 (a) Violation of any provision of s. 455.624(1), s.  
31 484.0512, or s. 484.053.

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

4           (c) Having a license to dispense hearing aids revoked,  
5 suspended, or otherwise acted against, including the denial of  
6 licensure, by the licensing authority of another state,  
7 territory, or country.

8           (d) Being convicted or found guilty of, or entering a  
9 plea of nolo contendere to, regardless of adjudication, a  
10 crime in any jurisdiction which directly relates to the  
11 practice of dispensing hearing aids or the ability to practice  
12 dispensing hearing aids, including violations of any federal  
13 laws or regulations regarding hearing aids.

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

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

25           (g) Proof that the licensee is guilty of fraud or  
26 deceit or of negligence, incompetency, or misconduct in the  
27 practice of dispensing hearing aids.

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

31



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

5 (j) Practicing with a revoked, suspended, inactive, or  
6 delinquent license.

7 (k) Using, or causing or promoting the use of, any  
8 advertising matter, promotional literature, testimonial,  
9 guarantee, warranty, label, brand, insignia, or other  
10 representation, however disseminated or published, which is  
11 misleading, deceiving, or untruthful.

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

15 (m) Misrepresentation of professional services  
16 available in the fitting, sale, adjustment, service, or repair  
17 of a hearing aid, or use of the terms "doctor," "clinic,"  
18 "clinical," "medical audiologist," "clinical audiologist,"  
19 "research audiologist," or "audiologic" or any other term or  
20 title which might connote the availability of professional  
21 services when such use is not accurate.

22 (n) Representation, advertisement, or implication that  
23 a hearing aid or its repair is guaranteed without providing  
24 full disclosure of the identity of the guarantor; the nature,  
25 extent, and duration of the guarantee; and the existence of  
26 conditions or limitations imposed upon the guarantee.

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

1 conduction principle and that in many cases of hearing loss  
2 this type of instrument may not be suitable.

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

6 (q) Stating or implying that the use of any hearing  
7 aid will improve or preserve hearing or prevent or retard the  
8 progression of a hearing impairment or that it will have any  
9 similar or opposite effect.

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

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

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

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

25 (v) Failing to provide all information as described in  
26 s. 484.051(1).

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

30 Section 32. Paragraphs (a) and (g) of subsection (3)  
31 of section 921.0022, Florida Statutes, are amended to read:



1	322.212(5)(a)	3rd	False application for driver's
2			license or identification card.
3	370.13(3)(a)	3rd	Molest any stone crab trap, line,
4			or buoy which is property of
5			licenseholder.
6	370.135(1)	3rd	Molest any blue crab trap, line,
7			or buoy which is property of
8			licenseholder.
9	372.663(1)	3rd	Poach any alligator or
10			crocodilia.
11	414.39(2)	3rd	Unauthorized use, possession,
12			forgery, or alteration of food
13			stamps, Medicaid ID, value
14			greater than \$200.
15	414.39(3)(a)	3rd	Fraudulent misappropriation of
16			public assistance funds by
17			employee/official, value more
18			than \$200.
19	443.071(1)	3rd	False statement or representation
20			to obtain or increase
21			unemployment compensation
22			benefits.
23	<del>458.327(1)(a)</del>	<del>3rd</del>	<del>Unlicensed practice of medicine.</del>
24	<del>466.026(1)(a)</del>	<del>3rd</del>	<del>Unlicensed practice of dentistry</del>
25			<del>or dental hygiene.</del>
26	509.151(1)	3rd	Defraud an innkeeper, food or
27			lodging value greater than \$300.
28	517.302(1)	3rd	Violation of the Florida
29			Securities and Investor
30			Protection Act.
31	562.27(1)	3rd	Possess still or still apparatus.

1	713.69	3rd	Tenant removes property upon
2			which lien has accrued, value
3			more than \$50.
4	812.014(3)(c)	3rd	Petit theft (3rd conviction);
5			theft of any property not
6			specified in subsection (2).
7	812.081(2)	3rd	Unlawfully makes or causes to be
8			made a reproduction of a trade
9			secret.
10	815.04(4)(a)	3rd	Offense against intellectual
11			property (i.e., computer
12			programs, data).
13	817.52(2)	3rd	Hiring with intent to defraud,
14			motor vehicle services.
15	826.01	3rd	Bigamy.
16	828.122(3)	3rd	Fighting or baiting animals.
17	831.04(1)	3rd	Any erasure, alteration, etc., of
18			any replacement deed, map, plat,
19			or other document listed in s.
20			92.28.
21	831.31(1)(a)	3rd	Sell, deliver, or possess
22			counterfeit controlled
23			substances, all but s. 893.03(5)
24			drugs.
25	832.041(1)	3rd	Stopping payment with intent to
26			defraud \$150 or more.
27	832.05		
28	(2)(b)&(4)(c)	3rd	Knowing, making, issuing
29			worthless checks \$150 or more or
30			obtaining property in return for
31			worthless check \$150 or more.

1	838.015(3)	3rd	Bribery.
2	838.016(1)	3rd	Public servant receiving unlawful
3			compensation.
4	838.15(2)	3rd	Commercial bribe receiving.
5	838.16	3rd	Commercial bribery.
6	843.18	3rd	Fleeing by boat to elude a law
7			enforcement officer.
8	847.011(1)(a)	3rd	Sell, distribute, etc., obscene,
9			lewd, etc., material (2nd
10			conviction).
11	849.01	3rd	Keeping gambling house.
12	849.09(1)(a)-(d)	3rd	Lottery; set up, promote, etc.,
13			or assist therein, conduct or
14			advertise drawing for prizes, or
15			dispose of property or money by
16			means of lottery.
17	849.23	3rd	Gambling-related machines;
18			"common offender" as to property
19			rights.
20	849.25(2)	3rd	Engaging in bookmaking.
21	860.08	3rd	Interfere with a railroad signal.
22	860.13(1)(a)	3rd	Operate aircraft while under the
23			influence.
24	893.13(2)(a)2.	3rd	Purchase of cannabis.
25	893.13(6)(a)	3rd	Possession of cannabis (more than
26			20 grams).
27	893.13(7)(a)10.	3rd	Affix false or forged label to
28			package of controlled substance.
29	934.03(1)(a)	3rd	Intercepts, or procures any other
30			person to intercept, any wire or
31			oral communication.

1			(g) LEVEL 7
2	316.193(3)(c)2.	3rd	DUI resulting in serious bodily
3			injury.
4	327.35(3)(c)2.	3rd	Vessel BUI resulting in serious
5			bodily injury.
6	402.319(2)	2nd	Misrepresentation and negligence
7			or intentional act resulting in
8			great bodily harm, permanent
9			disfiguration, permanent
10			disability, or death.
11	409.920(2)	3rd	Medicaid provider fraud.
12	<u>455.637(2)</u>	<u>3rd</u>	<u>Practicing a health care</u>
13			<u>profession without a license.</u>
14	<u>455.637(2)</u>	<u>2nd</u>	<u>Practicing a health care</u>
15			<u>profession without a license</u>
16			<u>which results in serious bodily</u>
17			<u>injury.</u>
18	<u>458.327(1)</u>	<u>3rd</u>	<u>Practicing medicine without a</u>
19			<u>license.</u>
20	<u>459.013(1)</u>	<u>3rd</u>	<u>Practicing osteopathic medicine</u>
21			<u>without a license.</u>
22	<u>460.411(1)</u>	<u>3rd</u>	<u>Practicing chiropractic medicine</u>
23			<u>without a license.</u>
24	<u>461.012(1)</u>	<u>3rd</u>	<u>Practicing podiatric medicine</u>
25			<u>without a license.</u>
26	<u>462.17</u>	<u>3rd</u>	<u>Practicing naturopathy without a</u>
27			<u>license.</u>
28	<u>463.015(1)</u>	<u>3rd</u>	<u>Practicing optometry without a</u>
29			<u>license.</u>
30	<u>464.016(1)</u>	<u>3rd</u>	<u>Practicing nursing without a</u>
31			<u>license.</u>

1	<u>465.015(2)</u>	<u>3rd</u>	<u>Practicing pharmacy without a</u>
2			<u>license.</u>
3	<u>466.026(1)</u>	<u>3rd</u>	<u>Practicing dentistry or dental</u>
4			<u>hygiene without a license.</u>
5	<u>467.201</u>	<u>3rd</u>	<u>Practicing midwifery without a</u>
6			<u>license.</u>
7	<u>468.366</u>	<u>3rd</u>	<u>Delivering respiratory care</u>
8			<u>services without a license.</u>
9	<u>483.828(1)</u>	<u>3rd</u>	<u>Practicing as clinical laboratory</u>
10			<u>personnel without a license.</u>
11	<u>483.901(9)</u>	<u>3rd</u>	<u>Practicing medical physics</u>
12			<u>without a license.</u>
13	<u>484.053</u>	<u>3rd</u>	<u>Dispensing hearing aids without a</u>
14			<u>license.</u>
15	494.0018(2)	1st	Conviction of any violation of
16			ss. 494.001-494.0077 in which the
17			total money and property
18			unlawfully obtained exceeded
19			\$50,000 and there were five or
20			more victims.
21	782.051(3)	2nd	Attempted felony murder of a
22			person by a person other than the
23			perpetrator or the perpetrator of
24			an attempted felony.
25	782.07(1)	2nd	Killing of a human being by the
26			act, procurement, or culpable
27			negligence of another
28			(manslaughter).
29			
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31			



1	782.071	2nd	Killing of human being or viable
2			fetus by the operation of a motor
3			vehicle in a reckless manner
4			(vehicular homicide).
5	782.072	2nd	Killing of a human being by the
6			operation of a vessel in a
7			reckless manner (vessel
8			homicide).
9	784.045(1)(a)1.	2nd	Aggravated battery; intentionally
10			causing great bodily harm or
11			disfigurement.
12	784.045(1)(a)2.	2nd	Aggravated battery; using deadly
13			weapon.
14	784.045(1)(b)	2nd	Aggravated battery; perpetrator
15			aware victim pregnant.
16	784.048(4)	3rd	Aggravated stalking; violation of
17			injunction or court order.
18	784.07(2)(d)	1st	Aggravated battery on law
19			enforcement officer.
20	784.08(2)(a)	1st	Aggravated battery on a person 65
21			years of age or older.
22	784.081(1)	1st	Aggravated battery on specified
23			official or employee.
24	784.082(1)	1st	Aggravated battery by detained
25			person on visitor or other
26			detainee.
27	784.083(1)	1st	Aggravated battery on code
28			inspector.
29	790.07(4)	1st	Specified weapons violation
30			subsequent to previous conviction
31			of s. 790.07(1) or (2).

1	790.16(1)	1st	Discharge of a machine gun under
2			specified circumstances.
3	796.03	2nd	Procuring any person under 16
4			years for prostitution.
5	800.04(5)(c)1.	2nd	Lewd or lascivious molestation;
6			victim less than 12 years of age;
7			offender less than 18 years.
8	800.04(5)(c)2.	2nd	Lewd or lascivious molestation;
9			victim 12 years of age or older
10			but less than 16 years; offender
11			18 years or older.
12	806.01(2)	2nd	Maliciously damage structure by
13			fire or explosive.
14	810.02(3)(a)	2nd	Burglary of occupied dwelling;
15			unarmed; no assault or battery.
16	810.02(3)(b)	2nd	Burglary of unoccupied dwelling;
17			unarmed; no assault or battery.
18	810.02(3)(d)	2nd	Burglary of occupied conveyance;
19			unarmed; no assault or battery.
20	812.014(2)(a)	1st	Property stolen, valued at
21			\$100,000 or more; property stolen
22			while causing other property
23			damage; 1st degree grand theft.
24	812.019(2)	1st	Stolen property; initiates,
25			organizes, plans, etc., the theft
26			of property and traffics in
27			stolen property.
28	812.131(2)(a)	2nd	Robbery by sudden snatching.
29	812.133(2)(b)	1st	Carjacking; no firearm, deadly
30			weapon, or other weapon.
31			

1	825.102(3)(b)	2nd	Neglecting an elderly person or
2			disabled adult causing great
3			bodily harm, disability, or
4			disfigurement.
5	825.1025(2)	2nd	Lewd or lascivious battery upon
6			an elderly person or disabled
7			adult.
8	825.103(2)(b)	2nd	Exploiting an elderly person or
9			disabled adult and property is
10			valued at \$20,000 or more, but
11			less than \$100,000.
12	827.03(3)(b)	2nd	Neglect of a child causing great
13			bodily harm, disability, or
14			disfigurement.
15	827.04(3)	3rd	Impregnation of a child under 16
16			years of age by person 21 years
17			of age or older.
18	837.05(2)	3rd	Giving false information about
19			alleged capital felony to a law
20			enforcement officer.
21	872.06	2nd	Abuse of a dead human body.
22	893.13(1)(c)1.	1st	Sell, manufacture, or deliver
23			cocaine (or other drug prohibited
24			under s. 893.03(1)(a), (1)(b),
25			(1)(d), (2)(a), or (2)(b)) within
26			1,000 feet of a child care
27			facility or school.
28			
29			
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31			

1	893.13(1)(e)	1st	Sell, manufacture, or deliver
2			cocaine or other drug prohibited
3			under s. 893.03(1)(a), (1)(b),
4			(1)(d), (2)(a), or (2)(b), within
5			1,000 feet of property used for
6			religious services or a specified
7			business site.
8	893.13(4)(a)	1st	Deliver to minor cocaine (or
9			other s. 893.03(1)(a), (1)(b),
10			(1)(d), (2)(a), or (2)(b) drugs).
11	893.135(1)(a)1.	1st	Trafficking in cannabis, more
12			than 50 lbs., less than 2,000
13			lbs.
14	893.135		
15	(1)(b)1.a.	1st	Trafficking in cocaine, more than
16			28 grams, less than 200 grams.
17	893.135		
18	(1)(c)1.a.	1st	Trafficking in illegal drugs,
19			more than 4 grams, less than 14
20			grams.
21	893.135		
22	(1)(d)1.	1st	Trafficking in phencyclidine,
23			more than 28 grams, less than 200
24			grams.
25	893.135(1)(e)1.	1st	Trafficking in methaqualone, more
26			than 200 grams, less than 5
27			kilograms.
28	893.135(1)(f)1.	1st	Trafficking in amphetamine, more
29			than 14 grams, less than 28
30			grams.
31			

1 893.135

2 (1)(g)1.a. 1st Trafficking in flunitrazepam, 4  
3 grams or more, less than 14  
4 grams.

5 Section 33. Subsection (1) of section 458.327, Florida  
6 Statutes, reads:

7 458.327 Penalty for violations.--

8 (1) Each of the following acts constitutes a felony of  
9 the third degree, punishable as provided in s. 775.082, s.  
10 775.083, or s. 775.084:

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

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

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

17 (d) Attempting to obtain or obtaining a position as a  
18 medical practitioner or medical resident in a clinic or  
19 hospital through knowing misrepresentation of education,  
20 training, or experience.

21 Section 34. Subsection (1) of section 459.013, Florida  
22 Statutes, reads:

23 459.013 Penalty for violations.--

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

27 (a) The practice of osteopathic medicine, or an  
28 attempt to practice osteopathic medicine, without an active  
29 license or certificate issued pursuant to this chapter.

30 (b) The practice of osteopathic medicine by a person  
31 holding a limited license, osteopathic faculty certificate, or

1 other certificate issued under this chapter beyond the scope  
2 of practice authorized for such licensee or certificateholder.

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

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

9 Section 35. Subsection (1) of section 460.411, Florida  
10 Statutes, reads:

11 460.411 Violations and penalties.--

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

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

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

21 Section 36. Subsection (1) of section 461.012, Florida  
22 Statutes, reads:

23 461.012 Violations and penalties.--

24 (1) Each of the following acts constitutes a violation  
25 of this chapter and is a felony of the third degree,  
26 punishable as provided in s. 775.082, s. 775.083, or s.  
27 775.084:

28 (a) Practicing or attempting to practice podiatric  
29 medicine without an active license or with a license  
30 fraudulently obtained.

31

1 (b) Advertising podiatric services without an active  
2 license obtained pursuant to this chapter or with a license  
3 fraudulently obtained.

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

6 Section 37. Section 462.17, Florida Statutes, reads:

7 462.17 Penalty for offenses relating to  
8 naturopathy.--Any person who shall:

9 (1) Sell, fraudulently obtain, or furnish any  
10 naturopathic diploma, license, record, or registration or aid  
11 or abet in the same;

12 (2) Practice naturopathy under the cover of any  
13 diploma, license, record, or registration illegally or  
14 fraudulently obtained or secured or issued unlawfully or upon  
15 fraudulent representations;

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

18 (4) Falsely impersonate another practitioner of a like  
19 or different name;

20 (5) Practice or advertise to practice naturopathy or  
21 use in connection with her or his name any designation tending  
22 to imply or to designate the person as a practitioner of  
23 naturopathy without then being lawfully licensed and  
24 authorized to practice naturopathy in this state; or

25 (6) Practice naturopathy during the time her or his  
26 license is suspended or revoked

27  
28 shall be guilty of a felony of the third degree, punishable as  
29 provided in s. 775.082, s. 775.083, or s. 775.084.

30 Section 38. Subsection (1) of section 463.015, Florida  
31 Statutes, reads:

1           463.015 Violations and penalties.--

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 or attempting to practice optometry  
6 without a valid active license issued pursuant to this  
7 chapter.

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

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

12           Section 39. Subsection (1) of section 464.016, Florida  
13 Statutes, reads:

14           464.016 Violations and penalties.--

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

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

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

23           (c) Knowingly employing unlicensed persons in the  
24 practice of nursing.

25           (d) Obtaining or attempting to obtain a license or  
26 certificate under this chapter by misleading statements or  
27 knowing misrepresentation.

28           Section 40. Subsection (2) of section 465.015, Florida  
29 Statutes, reads:

30           465.015 Violations and penalties.--

31           (2) It is unlawful for any person:



1 (a) To make a false or fraudulent statement, either  
2 for herself or himself or for another person, in any  
3 application, affidavit, or statement presented to the board or  
4 in any proceeding before the board.

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

11 (c) To sell or dispense drugs as defined in s.  
12 465.003(8) without first being furnished with a prescription.

13 (d) To sell samples or complimentary packages of drug  
14 products.

15 Section 41. Subsection (1) of section 466.026, Florida  
16 Statutes, reads:

17 466.026 Prohibitions; penalties.--

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

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

24 (b) Using or attempting to use a license issued  
25 pursuant to this chapter which license has been suspended or  
26 revoked.

27 (c) Knowingly employing any person to perform duties  
28 outside the scope allowed such person under this chapter or  
29 the rules of the board.

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

1           (e) Selling or offering to sell a diploma conferring a  
2 degree from a dental college or dental hygiene school or  
3 college, or a license issued pursuant to this chapter, or  
4 procuring such diploma or license with intent that it shall be  
5 used as evidence of that which the document stands for, by a  
6 person other than the one upon whom it was conferred or to  
7 whom it was granted.

8           Section 42. Section 467.201, Florida Statutes, reads:

9           467.201 Violations and penalties.--Each of the  
10 following acts constitutes a felony of the third degree,  
11 punishable as provided in s. 775.082, s. 775.083, or s.  
12 775.084:

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

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

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

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

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

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

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

29           Section 43. Section 468.366, Florida Statutes, reads:

30           468.366 Penalties for violations.--

31

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

3 (a) Sell or fraudulently obtain, attempt to obtain, or  
4 furnish to any person a diploma, license, or record, or aid or  
5 abet in the sale, procurement, or attempted procurement  
6 thereof.

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

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

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

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

26 (f) Knowingly employ unlicensed persons in the  
27 delivery of respiratory care services, unless exempted by this  
28 part.

29 (g) Knowingly conceal information relative to any  
30 violation of this part.

31

1 (2) Any violation of this section is a felony of the  
2 third degree, punishable as provided in s. 775.082, s.  
3 775.083, or s. 775.084.

4 Section 44. Subsection (1) of section 483.828, Florida  
5 Statutes, reads:

6 483.828 Penalties for violations.--

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

10 (a) Practicing as clinical laboratory personnel  
11 without an active license.

12 (b) Using or attempting to use a license to practice  
13 as clinical laboratory personnel which is suspended or  
14 revoked.

15 (c) Attempting to obtain or obtaining a license to  
16 practice as clinical laboratory personnel by knowing  
17 misrepresentation.

18 Section 45. Subsection (9) of section 483.901, Florida  
19 Statutes, reads:

20 483.901 Medical physicists; definitions; licensure.--

21 (9) PENALTY FOR VIOLATIONS.--It is a felony of the  
22 third degree, punishable as provided in s. 775.082, s.  
23 775.083, or s. 775.084, to:

24 (a) Practice or attempt to practice medical physics or  
25 hold oneself out to be a licensed medical physicist without  
26 holding an active license.

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

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

31 Section 46. Section 484.053, Florida Statutes, reads:

1 484.053 Prohibitions; penalties.--

2 (1) A person may not:

3 (a) Practice dispensing hearing aids unless the person  
4 is a licensed hearing aid specialist;

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

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

8 (d) Give false, incomplete, or forged evidence to the  
9 board or a member thereof for the purposes of obtaining a  
10 license;

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

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

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

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

21 (3) If a person licensed under this part allows the  
22 sale of a hearing aid by an unlicensed person not registered  
23 as a trainee or fails to comply with the requirements of s.  
24 484.0445(2) relating to supervision of trainees, the board  
25 shall, upon determination of that violation, order the full  
26 refund of moneys paid by the purchaser upon return of the  
27 hearing aid to the seller's place of business.

28 Section 47. Subsection (1) of section 457.102, Florida  
29 Statutes, is amended to read:

30 457.102 Definitions.--As used in this chapter:

31

1           (1) "Acupuncture" means a form of primary health care,  
2 based on traditional Chinese medical concepts and modern  
3 oriental medical techniques, that employs acupuncture  
4 diagnosis and treatment, as well as adjunctive therapies and  
5 diagnostic techniques, for the promotion, maintenance, and  
6 restoration of health and the prevention of disease.  
7 Acupuncture shall include, but not be limited to, the  
8 insertion of acupuncture needles and the application of  
9 moxibustion to specific areas of the human body and the use of  
10 electroacupuncture, Qi Gong, oriental massage, herbal therapy,  
11 dietary guidelines, and other adjunctive therapies, as defined  
12 by board rule.

13           Section 48. Section 457.105, Florida Statutes, is  
14 amended to read:

15           457.105 Licensure qualifications and fees.--

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

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

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

28           (b) Has completed 60 college credits from an  
29 accredited postsecondary institution as a prerequisite to  
30 enrollment in an authorized 3-year course of study in  
31 acupuncture and oriental medicine, and has completed a 3-year

1 course of study in acupuncture and oriental medicine, and  
 2 effective July 31, 2001, a 4-year course of study in  
 3 acupuncture and oriental medicine, which meets standards  
 4 established by the board by rule, which standards include, but  
 5 are not limited to, successful completion of academic courses  
 6 in western anatomy, western physiology, western pathology,  
 7 western biomedical terminology, first aid, and cardiopulmonary  
 8 resuscitation (CPR). However, any person who enrolled in an  
 9 authorized course of study in acupuncture before August 1,  
 10 1997, must have completed only a 2-year course of study which  
 11 meets standards established by the board by rule, which  
 12 standards must include, but are not limited to, successful  
 13 completion of academic courses in western anatomy, western  
 14 physiology, and western pathology;

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

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

- 30 1. Examination fee: \$500 plus the actual per applicant  
 31 cost to the department for purchase of the written and

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

3 2. Application fee: \$300.

4 3. Reexamination fee: \$500 plus the actual per  
5 applicant cost to the department for purchase of the written  
6 and practical portions of the examination from a national  
7 organization approved by the board.

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

11 Section 49. Subsection (1) of section 457.107, Florida  
12 Statutes, is amended to read:

13 457.107 Renewal of licenses; continuing education.--

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

17 Section 50. Section 483.824, Florida Statutes, is  
18 amended to read:

19 483.824 Qualifications of clinical laboratory  
20 director.--A clinical laboratory director must have 4 years of  
21 clinical laboratory experience with 2 years of experience in  
22 the specialty to be directed or be nationally board certified  
23 in the specialty to be directed, and must meet one of the  
24 following requirements:

25 (1) Be a physician licensed under chapter 458 or  
26 chapter 459;

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



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

4           Section 51. Subsection (11) of section 641.51, Florida  
5 Statutes, is created to read:

6           641.51 Quality assurance program; second medical  
7 opinion requirement.--

8           (11) If a contracted primary care physician, licensed  
9 under Chapter 458 or Chapter 459, and the organization  
10 determine that a subscriber requires examination by a licensed  
11 ophthalmologist for medically necessary, contractually covered  
12 services, then the organization shall authorize the contracted  
13 primary care physician to send the subscriber to a contracted  
14 licensed ophthalmologist,

15           Section 52. February 6th of each year is designated  
16 Florida Alzheimer's Disease Day.

17           Section 53. Subsections (4) through (10) of section  
18 641.51, Florida Statutes, are redesignated as subsections (5)  
19 through (11), respectively, and a new subsection (4) is added  
20 to said section to read:

21           641.51 Quality assurance program; second medical  
22 opinion requirement.--

23           (4) The organization shall ensure that only a  
24 physician licensed under chapter 458 or chapter 459 or an  
25 allopathic or osteopathic physician with an active,  
26 unencumbered license in another state with similar licensing  
27 requirements may render an adverse determination regarding a  
28 service provided by a physician licensed in this state. The  
29 organization shall submit to the treating provider and the  
30 subscriber written notification regarding the organization's  
31 adverse determination within 2 working days after the

1 subscriber or provider is notified of the adverse  
2 determination. The written notification must include the  
3 utilization review criteria or benefits provisions used in the  
4 adverse determination, identify the physician who rendered the  
5 adverse determination, and be signed by an authorized  
6 representative of the organization or the physician who  
7 rendered the adverse determination. The organization must  
8 include with the notification of an adverse determination  
9 information concerning the appeal process for adverse  
10 determinations.

11 Section 54. Subsection (2) of section 766.106, Florida  
12 Statutes, is amended to read:

13 766.106 Notice before filing action for medical  
14 malpractice; presuit screening period; offers for admission of  
15 liability and for arbitration; informal discovery; review.--

16 (2) After completion of presuit investigation pursuant  
17 to s. 766.203 and prior to filing a claim for medical  
18 malpractice, a claimant shall notify each prospective  
19 defendant ~~and, if any prospective defendant is a health care~~  
20 ~~provider licensed under chapter 458, chapter 459, chapter 460,~~  
21 ~~chapter 461, or chapter 466, the Department of Health by~~  
22 certified mail, return receipt requested, of intent to  
23 initiate litigation for medical malpractice. Following the  
24 initiation of a suit alleging medical malpractice with a court  
25 of competent jurisdiction, and service of the complaint upon a  
26 defendant, the claimant shall provide a copy of the complaint  
27 to the Department of Health.~~Notice to the Department of~~  
28 ~~Health must include the full name and address of the claimant;~~  
29 ~~the full names and any known addresses of any health care~~  
30 ~~providers licensed under chapter 458, chapter 459, chapter~~  
31 ~~460, chapter 461, or chapter 466 who are prospective~~

1 ~~defendants identified at the time; the date and a summary of~~  
2 ~~the occurrence giving rise to the claim; and a description of~~  
3 ~~the injury to the claimant.~~The requirement of providing the  
4 complaint for notice to the Department of Health does not  
5 impair the claimant's legal rights or ability to seek relief  
6 for his or her claim, and the fact of providing the complaint  
7 ~~notice provided~~ to the department is not discoverable or  
8 admissible in any civil or administrative action. The  
9 Department of Health shall review each incident and determine  
10 whether it involved conduct by a licensee which is potentially  
11 subject to disciplinary action, in which case the provisions  
12 of s. 455.621 apply.

13 Section 55. This act shall take effect July 1, 2000.

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