

By the Committees on Governmental Rules & Regulations,
Health Care Licensing & Regulation and Representative Fasano

1 A bill to be entitled
2 An act relating to regulation of the health
3 care professions; amending s. 455.564, F.S.;
4 revising general licensing provisions for
5 professions under the jurisdiction of the
6 Department of Health; providing for processing
7 of applications from foreign or nonresident
8 applicants not yet having a social security
9 number; providing for temporary licensure of
10 such applicants; revising provisions relating
11 to ongoing criminal investigations or
12 prosecutions; requiring proof of restoration of
13 civil rights under certain circumstances;
14 authorizing requirement for personal appearance
15 prior to grant or denial of a license;
16 providing for tolling of application decision
17 deadlines under certain circumstances; amending
18 s. 455.565, F.S.; eliminating duplicative
19 submission of fingerprints and other
20 information required for criminal history
21 checks; providing for certain access to
22 criminal history information through the
23 department's health care practitioner
24 credentialing system; creating s. 455.56505,
25 F.S.; requiring certain health care
26 practitioners seeking licensure or renewed
27 licensure to submit information and
28 fingerprints for profiling purposes according
29 to the schedule provided; requiring a report
30 from the department; amending s. 455.5651,
31 F.S.; authorizing the department to publish

1 certain information in practitioner profiles;
2 amending s. 455.5653, F.S.; deleting obsolete
3 language relating to scheduling and development
4 of practitioner profiles for additional health
5 care practitioners; providing the department
6 access to information on health care
7 practitioners maintained by the Agency for
8 Health Care Administration for corroboration
9 purposes; amending s. 455.5654, F.S.; providing
10 for adoption by rule of a form for submission
11 of profiling information; amending s. 455.567,
12 F.S.; expanding the prohibition against sexual
13 misconduct to cover violations against
14 guardians and representatives of patients or
15 clients; providing penalties; amending s.
16 455.574, F.S.; providing for determination of
17 the amount of the examination fee when the
18 board or department purchases the examination;
19 amending s. 455.624, F.S.; revising and
20 providing grounds for disciplinary action
21 relating to having a license to practice a
22 regulated health care profession acted against,
23 sexual misconduct, inability to practice
24 properly due to alcohol or substance abuse or a
25 mental or physical condition, and testing
26 positive for a drug without a lawful
27 prescription therefor; providing for
28 restriction of license as a disciplinary
29 action; providing for issuance of a citation
30 and assessment of a fine for certain first-time
31 violations; reenacting ss. 455.577, 455.631,

1 455.651(2), 455.712(1), 458.347(7)(g),
2 459.022(7)(f), 468.1755(1)(a), 468.719(1)(a)
3 and (2), 468.811, and 484.056(1)(a), F.S.,
4 relating to theft or reproduction of an
5 examination, giving false information,
6 disclosure of confidential information,
7 business establishments providing regulated
8 services without an active status license, and
9 practice violations by physician assistants,
10 nursing home administrators, athletic trainers,
11 orthotists, prosthetists, pedorthists, and
12 hearing aid specialists, to incorporate the
13 amendment to s. 455.624, F.S., in references
14 thereto; repealing s. 455.704, F.S., relating
15 to the Impaired Practitioners Committee;
16 amending s. 455.707, F.S., relating to impaired
17 practitioners, to conform; clarifying
18 provisions relating to complaints against
19 impaired practitioners; amending s. 310.102,
20 F.S.; revising and removing references, to
21 conform; amending s. 455.711, F.S.; revising
22 provisions relating to active and inactive
23 status licensure; eliminating reference to
24 delinquency as a licensure status; providing
25 rulemaking authority; amending ss. 455.587 and
26 455.714, F.S.; revising references, to conform;
27 creating s. 455.719, F.S.; providing that the
28 appropriate medical regulatory board, or the
29 department when there is no board, has
30 exclusive authority to grant exemptions from
31 disqualification from employment or contracting

1 with respect to persons under the licensing
2 jurisdiction of that board or the department,
3 as applicable; amending s. 943.0585, F.S.;
4 providing expunged criminal history records to
5 the department under certain circumstances;
6 providing an appropriation to the Agency for
7 Health Care Administration for continued review
8 of clinical laboratory services for kidney
9 dialysis patients and requiring a report
10 thereon; amending s. 455.637, F.S.; revising
11 provisions relating to sanctions against the
12 unlicensed practice of a health care
13 profession; providing legislative intent;
14 revising and expanding provisions relating to
15 civil and administrative remedies; providing
16 criminal penalties; incorporating and modifying
17 the substance of current provisions that impose
18 a fee to combat unlicensed activity and provide
19 for disposition of the proceeds thereof;
20 providing applicability; repealing s. 455.641,
21 F.S., relating to unlicensed activity fees, to
22 conform; reenacting ss. 455.574(1)(d),
23 468.1295(1), 484.014(1), and 484.056(1), F.S.,
24 relating to violation of security provisions
25 for examinations and violations involving
26 speech-language pathology, audiology,
27 opticianry, and the dispensing of hearing aids,
28 to incorporate the amendment to s. 455.637,
29 F.S., in references thereto; creating s.
30 455.665, F.S.; requiring a specified statement
31 in any advertisement by a health care

1 practitioner for a surgical procedure; amending
2 s. 921.0022, F.S.; modifying the criminal
3 offense severity ranking chart to add or
4 increase the level of various offenses relating
5 to the practice of a health care profession,
6 the practice of medicine, osteopathic medicine,
7 chiropractic medicine, podiatric medicine,
8 naturopathy, optometry, nursing, pharmacy,
9 dentistry, dental hygiene, midwifery,
10 respiratory therapy, and medical physics,
11 practicing as clinical laboratory personnel,
12 and the dispensing of hearing aids; amending s.
13 457.102, F.S.; revising the definition of
14 "acupuncture"; amending s. 457.105, F.S.;
15 revising licensure qualifications to practice
16 acupuncture; amending s. 457.107, F.S.;
17 modifying the fee for renewal of a license to
18 practice acupuncture; providing an effective
19 date.

20
21 WHEREAS, streamlining regulation of the health care
22 professions will enable more qualified health care
23 practitioners to be available to provide health care services
24 to the people of Florida to address the current shortage of
25 certain types of health care practitioners, and

26 WHEREAS, health care consumers desire access to
27 information about health care practitioners in order for them
28 to make informed health care decisions, and

29 WHEREAS, Floridians have no tolerance for practitioner
30 misconduct, because such misconduct erodes public trust and
31 confidence in health care delivery systems, and

1 WHEREAS, the protection of Florida residents and
2 visitors from death or serious bodily injury that may be
3 caused by unlicensed health care practitioners is a state
4 priority, and

5 WHEREAS, the existing criminal prohibitions have not
6 been vigorously enforced in the past, and

7 WHEREAS, the existing penalties are not severe enough
8 to deter the unlicensed practice of the health care
9 professions, and

10 WHEREAS, persons convicted of practicing without a
11 license should be imprisoned so they cannot continue to hurt
12 Floridians, and

13 WHEREAS, persons convicted of practicing without a
14 license who are not citizens of this country should be
15 deported following incarceration to guarantee that they cannot
16 continue to endanger Floridians, NOW, THEREFORE,

17
18 Be It Enacted by the Legislature of the State of Florida:

19
20 Section 1. Subsections (1) and (3) of section 455.564,
21 Florida Statutes, are amended to read:

22 455.564 Department; general licensing provisions.--

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

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

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

26 (3)(a) The board, or the department when there is no
27 board, may refuse to issue an initial license to any applicant
28 who is under investigation or prosecution in any jurisdiction
29 for an action that would constitute a violation of this part
30 or the professional practice acts administered by the
31 department and the boards, until such time as the

1 investigation or prosecution is complete, and the time period
2 in which the licensure application must be granted or denied
3 shall be tolled until 15 days after the receipt of the final
4 results of the investigation or prosecution.

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

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

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

22 455.565 Designated health care professionals;
23 information required for licensure.--

24 (4)

25 (d) Any applicant for initial licensure or renewal of
26 licensure as a health care practitioner who submits to the
27 Department of Health a set of fingerprints or information
28 required for the criminal history check required under this
29 section shall not be required to provide a subsequent set of
30 fingerprints or other duplicate information required for a
31 criminal history check to the Agency for Health Care

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

15 Section 3. Section 455.56505, Florida Statutes, is
16 created to read:

17 455.56505 Health care practitioners; information
18 required for licensure.--

19 (1) It is the intent of the Legislature to provide
20 consumers of health care services access to information about
21 health care practitioners which will enable consumers to make
22 informed decisions in choosing their health care
23 practitioners. It is also the intent of the Legislature to
24 provide a mechanism to the Department of Health and the
25 regulatory boards under the department to update and verify
26 existing information regarding the credentials and background
27 of health care practitioners which was provided to the
28 department at the time of initial application for licensure.
29 It is further the intent of the Legislature that any
30 practitioner who is found to have provided false, misleading,
31 or incorrect information or failed to provide the information

1 requested at the time of application be held responsible for
2 such action in accordance with the disciplinary provisions of
3 this chapter and the chapter regulating that profession.
4 Accordingly, the Department of Health shall report to the
5 President of the Senate and the Speaker of the House of
6 Representatives by January 1, 2001, whether those intentions
7 are being met by the requirements of practitioner profiling
8 and shall include any recommendations related thereto.

9 (2) Health care practitioners shall submit to the
10 Department of Health, and the department shall collect,
11 compile, and publish, practitioner information in accordance
12 with the following schedule:

13 (a) Beginning July 1, 2001, advanced registered nurse
14 practitioners certified or applying for certification pursuant
15 to s. 464.012 and practitioners licensed or applying for
16 licensure pursuant to chapter 458, chapter 459, chapter 460,
17 or chapter 461, except a person applying for registration
18 pursuant to s. 458.345 or s. 459.021 and physicians previously
19 profiled pursuant to s. 455.565, shall comply with the
20 requirements of this section as a condition of licensure and
21 licensure renewal.

22 (b) Beginning July 1, 2002, practitioners licensed or
23 applying for licensure pursuant to chapter 463, chapter 466,
24 chapter 467, chapter 480, chapter 490, or chapter 491 shall
25 comply with the requirements of this section as a condition of
26 licensure and licensure renewal.

27 (c) Beginning July 1, 2003, practitioners licensed or
28 applying for licensure pursuant to chapter 457, chapter 462,
29 chapter 465, chapter 478, or chapter 484 shall comply with the
30 requirements of this section as a condition of licensure and
31 licensure renewal.

1 (d) Beginning July 1, 2004, practitioners licensed or
2 applying for licensure pursuant to chapter 468, chapter 483,
3 or chapter 486 shall comply with the requirements of this
4 section as a condition of licensure and licensure renewal.

5 (e) Beginning July 1, 2005, nurses licensed or
6 applying for licensure pursuant to chapter 464, except
7 advanced registered nurse practitioners, shall comply with the
8 requirements of this section as a condition of licensure and
9 licensure renewal.

10 (f) Beginning July 1, 2006, other practitioners
11 licensed by the Division of Medical Quality Assurance may be
12 required, by rule of the department, to comply with the
13 requirements of this section as a condition of licensure and
14 licensure renewal.

15 (3)(a) In accordance with the schedule set forth in
16 subsection (2), each person who applies for initial licensure
17 must, at the time of application, and each person who applies
18 for license renewal must, in conjunction with the renewal of
19 such license and under procedures adopted by the Department of
20 Health, and in addition to any other information that may be
21 required from the applicant, furnish the following information
22 to the Department of Health:

23 1. The name of each school or training program that
24 the applicant has attended, with the months and years of
25 attendance and the month and year of graduation, and, if
26 applicable, a description of all graduate professional
27 education completed by the applicant, excluding any coursework
28 taken to satisfy continuing education requirements.

29 2. The name of each location at which the applicant
30 practices.

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1 3. The address at which the applicant will primarily
2 conduct his or her practice.

3 4. Any certification or designation that the applicant
4 has received from a specialty or certification board that is
5 recognized or approved by the regulatory board or department
6 to which the applicant is applying.

7 5. The year that the applicant received initial
8 licensure and began practicing the profession in any
9 jurisdiction and the year that the applicant received initial
10 licensure in this state.

11 6. Any appointment that the applicant currently holds
12 to the faculty of a school related to the profession and an
13 indication as to whether the applicant has had the
14 responsibility for graduate education within the most recent
15 10 years.

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

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1 8. A description of any final disciplinary action
2 taken within the previous 10 years against the applicant by a
3 licensing or regulatory body in any jurisdiction, by a
4 specialty board that is recognized by the board or department,
5 or by a hospital, health maintenance organization, prepaid
6 health clinic, ambulatory surgical center, or nursing home.
7 Disciplinary action includes resignation from or nonrenewal of
8 staff membership or the restriction of privileges at a
9 hospital, health maintenance organization, prepaid health
10 clinic, ambulatory surgical center, or nursing home taken in
11 lieu of or in settlement of a pending disciplinary case
12 related to competence or character. If the applicant indicates
13 that the disciplinary action is under appeal and submits a
14 copy of the document initiating an appeal of the disciplinary
15 action, the department must state that the disciplinary action
16 is under appeal if the disciplinary action is reported in the
17 applicant's profile.

18 (b) In addition to the information required under
19 paragraph (a), each applicant for initial licensure or
20 licensure renewal must provide the information required of
21 licensees pursuant to s. 455.697.

22 (4) The Department of Health shall send a notice to
23 each licensee at the licensee's last known address of record,
24 as required by s. 455.714, regarding the requirements for
25 information to be submitted by practitioners pursuant to this
26 section as a condition of the renewal of such license. Failure
27 to submit the information required in subsection (3) or a set
28 of fingerprints as required by subsection (6) shall render the
29 license delinquent until such time as all requirements have
30 been met.

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

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

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

29 (6)(a) An applicant for initial licensure must submit
30 a set of fingerprints to the Department of Health on a form
31 and under procedures specified by the department, along with

1 payment in an amount equal to the costs incurred by the
2 Department of Health for a national criminal history check of
3 the applicant.

4 (b) An applicant for renewed licensure who has not
5 previously submitted a set of fingerprints to the Department
6 of Health for purposes of licensure must submit a set of
7 fingerprints to the department as a condition of renewal of
8 license. The applicant for renewed licensure must submit the
9 fingerprints on a form and under procedures specified by the
10 department, along with payment in an amount equal to the costs
11 incurred by the Department of Health for a national criminal
12 history check. For subsequent renewals, the applicant for
13 renewed licensure must only submit information necessary to
14 conduct a statewide criminal history check, along with payment
15 in an amount equal to the costs incurred by the Department of
16 Health for a statewide criminal history check.

17 (c)1. The Department of Health shall submit the
18 fingerprints provided by an applicant for initial licensure to
19 the Florida Department of Law Enforcement for a statewide
20 criminal history check, and the Florida Department of Law
21 Enforcement shall forward the fingerprints to the Federal
22 Bureau of Investigation for a national criminal history check
23 of the applicant.

24 2. The department shall submit the fingerprints
25 provided by an applicant for the initial renewal of license to
26 the Florida Department of Law Enforcement for a statewide
27 criminal history check, and the Florida Department of Law
28 Enforcement shall forward the fingerprints to the Federal
29 Bureau of Investigation for a national criminal history check
30 for the initial renewal of the applicant's license after the
31 effective date of this section.

1 3. For any subsequent renewal of the applicant's
2 license, the department shall submit the required information
3 for a statewide criminal history check of the applicant to the
4 Florida Department of Law Enforcement.

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

26 (7) Each person who is required to submit information
27 to the Department of Health pursuant to this section may
28 submit additional information to the department under
29 procedures specified by the department. Such information may
30 include, but is not limited to:

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1 (a) Information regarding publications in
2 peer-reviewed professional literature within the previous 10
3 years.

4 (b) Information regarding professional or community
5 service activities or awards.

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

11 (d) An indication of whether the person participates
12 in the Medicaid program.

13 (8) All information submitted pursuant to this
14 section, except fingerprints, shall be submitted
15 electronically by the practitioner, along with payment in an
16 amount equal to the costs incurred by the department to
17 collect, compile, and publish the information, through a
18 secure on-line licensing program.

19 Section 4. Section 455.5651, Florida Statutes, is
20 amended to read:

21 455.5651 Practitioner profile; creation.--

22 (1) Beginning July 1, 1999, the Department of Health
23 shall compile the information submitted pursuant to s. 455.565
24 into a practitioner profile of the applicant submitting the
25 information, except that the Department of Health may develop
26 a format to compile uniformly any information submitted under
27 s. 455.565(4)(b). Beginning July 1, 2001, the Department of
28 Health may compile the information submitted pursuant to s.
29 455.56505 into a practitioner profile of the applicant
30 submitting the information.

31

1 (2) On the profile published ~~required~~ under subsection
2 (1), the department shall indicate if the information provided
3 under s. 455.565(1)(a)7. or s. 455.56505(3)(a)7.is not
4 corroborated by a criminal history check conducted according
5 to this subsection. If the information provided under s.
6 455.565(1)(a)7. or s. 455.56505(3)(a)7.is corroborated by the
7 criminal history check, the fact that the criminal history
8 check was performed need not be indicated on the profile. The
9 department, or the board having regulatory authority over the
10 practitioner acting on behalf of the department, shall
11 investigate any information received by the department or the
12 board when it has reasonable grounds to believe that the
13 practitioner has violated any law that relates to the
14 practitioner's practice.

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

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

1 responsibility requirements of that section.The department
2 shall include, with respect to practitioners licensed under
3 chapter 458, chapter 459, ~~or~~ chapter 461, or chapter 466,
4 information relating to liability actions which has been
5 reported under s. 455.697 or s. 627.912 within the previous 10
6 years for any paid claim that exceeds \$5,000. Such claims
7 information shall be reported in the context of comparing an
8 individual practitioner's claims to the experience of other
9 practitioners ~~physicians~~ within the same specialty, or
10 profession if the practitioner is not a specialist,to the
11 extent such information is available to the Department of
12 Health. If information relating to a liability action is
13 included in a practitioner's practitioner profile, the profile
14 must also include the following statement: "Settlement of a
15 claim may occur for a variety of reasons that do not
16 necessarily reflect negatively on the professional competence
17 or conduct of the practitioner ~~physician~~. A payment in
18 settlement of a medical malpractice action or claim should not
19 be construed as creating a presumption that medical
20 malpractice has occurred."

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

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

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

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

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

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

1 The Department of Health is authorized to contract with and
2 negotiate any interagency agreement necessary to develop and
3 implement the practitioner profiles. The Department of Health
4 shall have access to any information or record maintained by
5 the Agency for Health Care Administration, including any
6 information or record that is otherwise confidential and
7 exempt from the provisions of chapter 119 and s. 24(a), Art. I
8 of the State Constitution, so that the Department of Health
9 may corroborate any information that practitioners ~~physicians~~
10 are required to report under s. 455.565 or s. 455.56505.

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

13 455.5654 Practitioner profiles; rules;
14 workshops.--Effective upon this act becoming a law, the
15 Department of Health shall adopt rules for the form of a
16 practitioner profile that the agency is required to prepare.
17 The Department of Health, pursuant to chapter 120, must hold
18 public workshops for purposes of rule development to implement
19 this section. An agency to which information is to be
20 submitted under this act may adopt by rule a form for the
21 submission of the information required under s. 455.565 or s.
22 455.56505.

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

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

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

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

6 Section 8. Paragraph (g) is added to subsection (1) of
7 section 455.574, Florida Statutes, to read:

8 455.574 Department of Health; examinations.--

9 (1)

10 (g) If the board or department purchases an
11 examination to test candidates for initial licensure, the
12 examination fee shall be set by rule of the appropriate board,
13 or the department when there is no board, in an amount not to
14 exceed the examination fee set forth in the applicable
15 practice act as of October 1, 1999, plus the actual
16 per-applicant cost to the board or department to purchase the
17 examination, notwithstanding any other provision of law to the
18 contrary.

19 Section 9. Paragraphs (f) and (u) of subsection (1),
20 paragraph (c) of subsection (2), and subsection (3) of section
21 455.624, Florida Statutes, are amended, and paragraphs (y) and
22 (z) are added to subsection (1) of said section, to read:

23 455.624 Grounds for discipline; penalties;
24 enforcement.--

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

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

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

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

14 (y) Being unable to practice with reasonable skill and
15 safety to patients by reason of illness or use of alcohol,
16 drugs, narcotics, chemicals, or any other type of material or
17 as a result of any mental or physical condition. In enforcing
18 this paragraph, the department shall have, upon a finding of
19 the secretary or the secretary's designee that probable cause
20 exists to believe that the licensee is unable to practice
21 because of the reasons stated in this paragraph, the authority
22 to issue an order to compel a licensee to submit to a mental
23 or physical examination by physicians designated by the
24 department. If the licensee refuses to comply with such order,
25 the department's order directing such examination may be
26 enforced by filing a petition for enforcement in the circuit
27 court where the licensee resides or does business. The
28 licensee against whom the petition is filed may not be named
29 or identified by initials in any public court records or
30 documents, and the proceedings shall be closed to the public.
31 The department shall be entitled to the summary procedure

1 provided in s. 51.011. A licensee or certificateholder
2 affected under this paragraph shall at reasonable intervals be
3 afforded an opportunity to demonstrate that he or she can
4 resume the competent practice of his or her profession with
5 reasonable skill and safety to patients.

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

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

19 (c) Restriction of practice or license.

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

29 (3)(a) Notwithstanding subsection (2), if the ground
30 for disciplinary action is the first-time failure of the
31 licensee to satisfy continuing education requirements

1 established by the board, or by the department if there is no
2 board, the board or department, as applicable, shall issue a
3 citation in accordance with s. 455.617 and assess a fine, as
4 determined by the board or department by rule. In addition,
5 for each hour of continuing education not completed or
6 completed late, the board or department, as applicable, may
7 require the licensee to take 1 additional hour of continuing
8 education for each hour not completed or completed late.

9 (b) Notwithstanding subsection (2), if the ground for
10 disciplinary action is the first-time violation of a practice
11 act for unprofessional conduct, as used in ss. 464.018(1)(h),
12 467.203(1)(f), 468.365(1)(f), and 478.52(1)(f), and no actual
13 harm to the patient occurred, the board or department, as
14 applicable, shall issue a citation in accordance with s.
15 455.617 and assess a penalty as determined by rule of the
16 board or department.

17 Section 10. For the purpose of incorporating the
18 amendment to section 455.624, Florida Statutes, in references
19 thereto, the sections or subdivisions of Florida Statutes set
20 forth below are reenacted to read:

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

30 455.631 Penalty for giving false information.--In
31 addition to, or in lieu of, any other discipline imposed

1 pursuant to s. 455.624, the act of knowingly giving false
2 information in the course of applying for or obtaining a
3 license from the department, or any board thereunder, with
4 intent to mislead a public servant in the performance of his
5 or her official duties, or the act of attempting to obtain or
6 obtaining a license from the department, or any board
7 thereunder, to practice a profession by knowingly misleading
8 statements or knowing misrepresentations constitutes a felony
9 of the third degree, punishable as provided in s. 775.082, s.
10 775.083, or s. 775.084.

11 455.651 Disclosure of confidential information.--

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

18 455.712 Business establishments; requirements for
19 active status licenses.--

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

28 458.347 Physician assistants.--

29 (7) PHYSICIAN ASSISTANT LICENSURE.--

30 (g) The Board of Medicine may impose any of the
31 penalties specified in ss. 455.624 and 458.331(2) upon a

1 physician assistant if the physician assistant or the
2 supervising physician has been found guilty of or is being
3 investigated for any act that constitutes a violation of this
4 chapter or part II of chapter 455.

5 459.022 Physician assistants.--

6 (7) PHYSICIAN ASSISTANT LICENSURE.--

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

13 468.1755 Disciplinary proceedings.--

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

16 (a) Violation of any provision of s. 455.624(1) or s.
17 468.1745(1).

18 468.719 Disciplinary actions.--

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

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

25 (2) When the board finds any person guilty of any of
26 the acts set forth in subsection (1), the board may enter an
27 order imposing one or more of the penalties provided in s.
28 455.624.

29 468.811 Disciplinary proceedings.--

30 (1) The following acts are grounds for disciplinary
31 action against a licensee and the issuance of cease and desist

1 orders or other related action by the department, pursuant to
2 s. 455.624, against any person who engages in or aids in a
3 violation.

4 (a) Attempting to procure a license by fraudulent
5 misrepresentation.

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

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

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

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

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

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

31

1 (h) Practicing with a revoked, suspended, or inactive
2 license.

3 (i) Gross or repeated malpractice or the failure to
4 deliver orthotic, prosthetic, or pedorthic services with that
5 level of care and skill which is recognized by a reasonably
6 prudent licensed practitioner with similar professional
7 training as being acceptable under similar conditions and
8 circumstances.

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

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

15 484.056 Disciplinary proceedings.--

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

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

25 Section 11. Section 455.704, Florida Statutes, is
26 repealed.

27 Section 12. Subsections (1), (2), and (3) of section
28 455.707, Florida Statutes, are amended to read:

29 455.707 Treatment programs for impaired
30 practitioners.--

31

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

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

28 (3)(a) Whenever the department receives a written or
29 oral legally sufficient complaint alleging that a licensee
30 under the jurisdiction of the Division of Medical Quality
31 Assurance within the department is impaired as a result of the

1 misuse or abuse of alcohol or drugs, or both, or due to a
2 mental or physical condition which could affect the licensee's
3 ability to practice with skill and safety, and no complaint
4 against the licensee other than impairment exists, the
5 reporting of such information shall not constitute grounds for
6 discipline pursuant to s. 455.624 or the corresponding grounds
7 for discipline within the applicable practice act ~~a complaint~~
8 ~~within the meaning of s. 455.621~~ if the probable cause panel
9 of the appropriate board, or the department when there is no
10 board, finds:

11 1. The licensee has acknowledged the impairment
12 problem.

13 2. The licensee has voluntarily enrolled in an
14 appropriate, approved treatment program.

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

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

30 (b) If, however, the department has not received a
31 legally sufficient complaint and the licensee agrees to

1 withdraw from practice until such time as the consultant
2 determines the licensee has satisfactorily completed an
3 approved treatment program or evaluation, the probable cause
4 panel, or the department when there is no board, shall not
5 become involved in the licensee's case.

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

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

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

27 (f) A finding of probable cause shall not be made as
28 long as the panel, or the department when there is no board,
29 is satisfied, based upon information it receives from the
30 consultant and the department, that the licensee is
31 progressing satisfactorily in an approved impaired

1 practitioner treatment program and no other complaint against
2 the licensee exists.

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

5 310.102 Treatment programs for impaired pilots and
6 deputy pilots.--

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

13 Section 14. Section 455.711, Florida Statutes, is
14 amended to read:

15 455.711 Licenses; active and inactive and delinquent
16 status; delinquency.--

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

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

29 (3) Each board, or the department if there is no
30 board, shall by rule impose a fee for renewal of an active or
31 inactive status license. The renewal fee for an inactive

1 status license may not exceed ~~which is no greater than~~ the fee
2 for an active status license.

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

5 (a) Active status licensees choosing inactive status
6 at the time of license renewal must pay the inactive status
7 renewal fee, and, if applicable, the delinquency fee and the
8 fee to change licensure status. Active status licensees
9 choosing inactive status at any other time than at the time of
10 license renewal must pay the fee to change licensure status.

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

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

1 before the license expires. If a licensee fails to renew
2 before the license expires, the license becomes delinquent in
3 the license cycle following expiration.

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

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

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

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

1 health, safety, and welfare of the public. Reactivation
2 requirements may differ depending on the length of time
3 licensees are inactive. The costs to meet reactivation
4 requirements shall be borne by licensees requesting
5 reactivation.

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

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

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

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

24 Section 15. Subsection (3) of section 455.587, Florida
25 Statutes, is amended to read:

26 455.587 Fees; receipts; disposition.--

27 (3) Each board, or the department if there is no
28 board, may, by rule, assess and collect a one-time fee from
29 each active status licensee and each ~~voluntary~~ inactive status
30 licensee in an amount necessary to eliminate a cash deficit
31 or, if there is not a cash deficit, in an amount sufficient to

1 maintain the financial integrity of the professions as
2 required in this section. Not more than one such assessment
3 may be made in any 4-year period without specific legislative
4 authorization.

5 Section 16. Subsection (1) of section 455.714, Florida
6 Statutes, is amended to read:

7 455.714 Renewal and cancellation notices.--

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

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

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

16 Section 17. Section 455.719, Florida Statutes, is
17 created to read:

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

26 Section 18. Paragraph (a) of subsection (4) of section
27 943.0585, Florida Statutes, is amended to read:

28 943.0585 Court-ordered expunction of criminal history
29 records.--The courts of this state have jurisdiction over
30 their own procedures, including the maintenance, expunction,
31 and correction of judicial records containing criminal history

1 information to the extent such procedures are not inconsistent
2 with the conditions, responsibilities, and duties established
3 by this section. Any court of competent jurisdiction may
4 order a criminal justice agency to expunge the criminal
5 history record of a minor or an adult who complies with the
6 requirements of this section. The court shall not order a
7 criminal justice agency to expunge a criminal history record
8 until the person seeking to expunge a criminal history record
9 has applied for and received a certificate of eligibility for
10 expunction pursuant to subsection (2). A criminal history
11 record that relates to a violation of chapter 794, s. 800.04,
12 s. 817.034, s. 827.071, chapter 839, s. 893.135, or a
13 violation enumerated in s. 907.041 may not be expunged,
14 without regard to whether adjudication was withheld, if the
15 defendant was found guilty of or pled guilty or nolo
16 contendere to the offense, or if the defendant, as a minor,
17 was found to have committed, or pled guilty or nolo contendere
18 to committing, the offense as a delinquent act. The court may
19 only order expunction of a criminal history record pertaining
20 to one arrest or one incident of alleged criminal activity,
21 except as provided in this section. The court may, at its sole
22 discretion, order the expunction of a criminal history record
23 pertaining to more than one arrest if the additional arrests
24 directly relate to the original arrest. If the court intends
25 to order the expunction of records pertaining to such
26 additional arrests, such intent must be specified in the
27 order. A criminal justice agency may not expunge any record
28 pertaining to such additional arrests if the order to expunge
29 does not articulate the intention of the court to expunge a
30 record pertaining to more than one arrest. This section does
31 not prevent the court from ordering the expunction of only a

1 portion of a criminal history record pertaining to one arrest
2 or one incident of alleged criminal activity. Notwithstanding
3 any law to the contrary, a criminal justice agency may comply
4 with laws, court orders, and official requests of other
5 jurisdictions relating to expunction, correction, or
6 confidential handling of criminal history records or
7 information derived therefrom. This section does not confer
8 any right to the expunction of any criminal history record,
9 and any request for expunction of a criminal history record
10 may be denied at the sole discretion of the court.

11 (4) EFFECT OF CRIMINAL HISTORY RECORD EXPUNCTION.--Any
12 criminal history record of a minor or an adult which is
13 ordered expunged by a court of competent jurisdiction pursuant
14 to this section must be physically destroyed or obliterated by
15 any criminal justice agency having custody of such record;
16 except that any criminal history record in the custody of the
17 department must be retained in all cases. A criminal history
18 record ordered expunged that is retained by the department is
19 confidential and exempt from the provisions of s. 119.07(1)
20 and s. 24(a), Art. I of the State Constitution and not
21 available to any person or entity except upon order of a court
22 of competent jurisdiction. A criminal justice agency may
23 retain a notation indicating compliance with an order to
24 expunge.

25 (a) The person who is the subject of a criminal
26 history record that is expunged under this section or under
27 other provisions of law, including former s. 893.14, former s.
28 901.33, and former s. 943.058, may lawfully deny or fail to
29 acknowledge the arrests covered by the expunged record, except
30 when the subject of the record:

31

- 1 1. Is a candidate for employment with a criminal
2 justice agency;
- 3 2. Is a defendant in a criminal prosecution;
- 4 3. Concurrently or subsequently petitions for relief
5 under this section or s. 943.059;
- 6 4. Is a candidate for admission to The Florida Bar;
- 7 5. Is seeking to be employed or licensed by or to
8 contract with the Department of Children and Family Services
9 or the Department of Juvenile Justice or to be employed or
10 used by such contractor or licensee in a sensitive position
11 having direct contact with children, the developmentally
12 disabled, the aged, or the elderly as provided in s.
13 110.1127(3), s. 393.063(15), s. 394.4572(1), s. 397.451, s.
14 402.302(3), s. 402.313(3), s. 409.175(2)(i), s. 415.102(4), s.
15 415.1075(4), s. 985.407, or chapter 400; ~~or~~
- 16 6. Is seeking to be employed or licensed by the Office
17 of Teacher Education, Certification, Staff Development, and
18 Professional Practices of the Department of Education, any
19 district school board, or any local governmental entity that
20 licenses child care facilities; or-
- 21 7. Is seeking to be employed or licensed by or to
22 contract with the Department of Health or to be employed or
23 used by such contractor or licensee in a sensitive position
24 having direct contact with children, the developmentally
25 disabled, the aged, or the elderly as provided in s.
26 110.1127(3), s. 393.063(15), s. 394.4572(1), s. 397.451, s.
27 402.302(3), s. 402.313(3), s. 409.175(2)(i), s. 415.102(4), s.
28 415.1075(4), s. 985.407, or chapter 400.
- 29 Section 19. Pursuant to section 187 of chapter 99-397,
30 Laws of Florida, the Agency for Health Care Administration was
31 directed to conduct a detailed study and analysis of clinical

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

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

22 455.637 Unlicensed practice of a health care
23 profession; ~~intent~~; cease and desist notice; penalties ~~civil~~
24 ~~penalty~~; enforcement; citations; fees; allocation and
25 disposition of moneys collected.--

26 (1) It is the intent of the Legislature that vigorous
27 enforcement of licensure regulation for all health care
28 professions is a state priority in order to protect Florida
29 residents and visitors from the potentially serious and
30 dangerous consequences of receiving medical and health care
31 services from unlicensed persons whose professional education

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

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

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

29 (b) In addition to the ~~foregoing~~ remedies under
30 paragraph (a), the department may impose by citation an
31 administrative penalty not to exceed \$5,000 per incident

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

25 ~~(c)(2)~~ In addition to or in lieu of any other
26 administrative remedy ~~provided in subsection (1)~~, the
27 department may seek the imposition of a civil penalty through
28 the circuit court for any violation for which the department
29 may issue a notice to cease and desist ~~under subsection (1)~~.
30 The civil penalty shall be no less than \$500 and no more than
31 \$5,000 for each offense. The court may also award to the

1 prevailing party court costs and reasonable attorney fees and,
2 in the event the department prevails, may also award
3 reasonable costs of investigation and prosecution.

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

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

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

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

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

23 (3) Because all enforcement costs should be covered by
24 professions regulated by the department, the department shall
25 impose, upon initial licensure and each licensure renewal, a
26 special fee of \$5 per licensee to fund efforts to combat
27 unlicensed activity. Such fee shall be in addition to all
28 other fees collected from each licensee. The board with
29 concurrence of the department, or the department when there is
30 no board, may earmark \$5 of the current licensure fee for this
31 purpose, if such board, or profession regulated by the

1 department, is not in a deficit and has a reasonable cash
2 balance. The department shall make direct charges to the
3 Medical Quality Assurance Trust Fund by profession. The
4 department shall seek board advice regarding enforcement
5 methods and strategies. The department shall directly credit
6 the Medical Quality Assurance Trust Fund, by profession, with
7 the revenues received from the department's efforts to enforce
8 licensure provisions. The department shall include all
9 financial and statistical data resulting from unlicensed
10 activity enforcement as a separate category in the quarterly
11 management report provided for in s. 455.587. For an
12 unlicensed activity account, a balance which remains at the
13 end of a renewal cycle may, with concurrence of the applicable
14 board and the department, be transferred to the operating fund
15 account of that profession. The department shall also use
16 these funds to inform and educate consumers generally on the
17 importance of using licensed health care practitioners.

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

1 ~~become a final order of the department. The penalty shall be a~~
2 ~~fine of not less than \$500 or more than \$5,000 or other~~
3 ~~conditions as established by rule.~~

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

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

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

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

18 ~~(4)(5)~~ The provisions of this section apply only to
19 health care ~~the~~ professional practice acts administered by the
20 department.

21 Section 21. The amendment of s. 455.637, Florida
22 Statutes, by this act applies to offenses committed on or
23 after the effective date of such section.

24 Section 22. Section 455.641, Florida Statutes, is
25 repealed.

26 Section 23. For the purpose of incorporating the
27 amendment to section 455.637, Florida Statutes, in references
28 thereto, the sections or subdivisions of Florida Statutes set
29 forth below are reenacted to read:

30 455.574 Department of Health; examinations.--

31 (1)

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

15 468.1295 Disciplinary proceedings.--

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

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

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

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

30 (d) Making or filing a report or record which the
31 licensee knows to be false, intentionally or negligently

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

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

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

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

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

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

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

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

31

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

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

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

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

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

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

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

30 (s) Representing or implying that a hearing aid is or
31 will be "custom-made," "made to order," or

1 "prescription-made," or in any other sense specially
2 fabricated for an individual, when such is not the case.
3 (t) Canvassing from house to house or by telephone,
4 either in person or by an agent, for the purpose of selling a
5 hearing aid, except that contacting persons who have evidenced
6 an interest in hearing aids, or have been referred as in need
7 of hearing aids, shall not be considered canvassing.
8 (u) Failing to notify the department in writing of a
9 change in current mailing and place-of-practice address within
10 30 days after such change.
11 (v) Failing to provide all information as described in
12 ss. 468.1225(5)(b), 468.1245(1), and 468.1246.
13 (w) Exercising influence on a client in such a manner
14 as to exploit the client for financial gain of the licensee or
15 of a third party.
16 (x) Practicing or offering to practice beyond the
17 scope permitted by law or accepting and performing
18 professional responsibilities the licensee or
19 certificateholder knows, or has reason to know, the licensee
20 or certificateholder is not competent to perform.
21 (y) Aiding, assisting, procuring, or employing any
22 unlicensed person to practice speech-language pathology or
23 audiology.
24 (z) Delegating or contracting for the performance of
25 professional responsibilities by a person when the licensee
26 delegating or contracting for performance of such
27 responsibilities knows, or has reason to know, such person is
28 not qualified by training, experience, and authorization to
29 perform them.
30
31

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

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

29 484.014 Disciplinary actions.--

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

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

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

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

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

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

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

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

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

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

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

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

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

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

12 (m) Failing to keep written prescription files.

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

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

19 (p) Gross or repeated malpractice.

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

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

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

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

9 484.056 Disciplinary proceedings.--

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

29 (s) Representing or implying that a hearing aid is or
30 will be "custom-made," "made to order," or "prescription-made"

31

1 or in any other sense specially fabricated for an individual
2 person when such is not the case.

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

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

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

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

17 Section 24. Section 455.665, Florida Statutes, is
18 created to read:

19 455.665 Advertisement by a health care practitioner
20 for a surgical procedure; required statement.--

21 (1) In the text of any written advertisement for a
22 surgical procedure, the following statement must appear in
23 capital letters clearly distinguishable from the rest of the
24 text: "MANY SURGICAL PROCEDURES CARRY RISKS OF UNINTENDED
25 SERIOUS BODILY INJURY OR DEATH. CONSULT A LICENSED
26 PRACTITIONER CONCERNING THESE RISKS BEFORE SUBMITTING TO ANY
27 SURGERY."

28 (2) Any advertisement that has an audible component
29 must orally contain the statement required in subsection (1)
30 verbatim.

31

1 Section 25. Paragraphs (a) and (g) of subsection (3)
2 of section 921.0022, Florida Statutes, are amended to read:
3 921.0022 Criminal Punishment Code; offense severity
4 ranking chart.--

5 (3) OFFENSE SEVERITY RANKING CHART

| 6 | 7 Florida | 8 Felony | |
|----|------------------|-----------|------------------------------------------------------------------------------------------------------------------------------------------------|
| 9 | 10 Statute | 11 Degree | 12 Description |
| 13 | | | 14 (a) LEVEL 1 |
| 15 | 16 24.118(3)(a) | 17 3rd | 18 Counterfeit or altered state 19 lottery ticket. |
| 20 | 21 212.054(2)(b) | 22 3rd | 23 Discretionary sales surtax; 24 limitations, administration, and 25 collection. |
| 26 | 27 212.15(2)(b) | 28 3rd | 29 Failure to remit sales taxes, 30 amount greater than \$300 but less 31 than \$20,000. |
| | 32 319.30(5) | 33 3rd | 34 Sell, exchange, give away 35 certificate of title or 36 identification number plate. |
| | 37 319.35(1)(a) | 38 3rd | 39 Tamper, adjust, change, etc., an 40 odometer. |
| | 41 320.26(1)(a) | 42 3rd | 43 Counterfeit, manufacture, or sell 44 registration license plates or 45 validation stickers. |
| | 46 322.212(1) | 47 3rd | 48 Possession of forged, stolen, 49 counterfeit, or unlawfully issued 50 driver's license; possession of 51 simulated identification. |

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|----|--------------------------|-----|---------------------------------------------|
| 1 | 322.212(4) | 3rd | Supply or aid in supplying |
| 2 | | | unauthorized driver's license or |
| 3 | | | identification card. |
| 4 | 322.212(5)(a) | 3rd | False application for driver's |
| 5 | | | license or identification card. |
| 6 | 370.13(3)(a) | 3rd | Molest any stone crab trap, line, |
| 7 | | | or buoy which is property of |
| 8 | | | licenseholder. |
| 9 | 370.135(1) | 3rd | Molest any blue crab trap, line, |
| 10 | | | or buoy which is property of |
| 11 | | | licenseholder. |
| 12 | 372.663(1) | 3rd | Poach any alligator or |
| 13 | | | crocodilia. |
| 14 | 414.39(2) | 3rd | Unauthorized use, possession, |
| 15 | | | forgery, or alteration of food |
| 16 | | | stamps, Medicaid ID, value |
| 17 | | | greater than \$200. |
| 18 | 414.39(3)(a) | 3rd | Fraudulent misappropriation of |
| 19 | | | public assistance funds by |
| 20 | | | employee/official, value more |
| 21 | | | than \$200. |
| 22 | 443.071(1) | 3rd | False statement or representation |
| 23 | | | to obtain or increase |
| 24 | | | unemployment compensation |
| 25 | | | benefits. |
| 26 | 458.327(1)(a) | 3rd | Unlicensed practice of medicine. |
| 27 | 466.026(1)(a) | 3rd | Unlicensed practice of dentistry |
| 28 | | | or dental hygiene. |
| 29 | 509.151(1) | 3rd | Defraud an innkeeper, food or |
| 30 | | | lodging value greater than \$300. |
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|----|---------------|-----|-----------------------------------|
| 1 | 517.302(1) | 3rd | Violation of the Florida |
| 2 | | | Securities and Investor |
| 3 | | | Protection Act. |
| 4 | 562.27(1) | 3rd | Possess still or still apparatus. |
| 5 | 713.69 | 3rd | Tenant removes property upon |
| 6 | | | which lien has accrued, value |
| 7 | | | more than \$50. |
| 8 | 812.014(3)(c) | 3rd | Petit theft (3rd conviction); |
| 9 | | | theft of any property not |
| 10 | | | specified in subsection (2). |
| 11 | 812.081(2) | 3rd | Unlawfully makes or causes to be |
| 12 | | | made a reproduction of a trade |
| 13 | | | secret. |
| 14 | 815.04(4)(a) | 3rd | Offense against intellectual |
| 15 | | | property (i.e., computer |
| 16 | | | programs, data). |
| 17 | 817.52(2) | 3rd | Hiring with intent to defraud, |
| 18 | | | motor vehicle services. |
| 19 | 826.01 | 3rd | Bigamy. |
| 20 | 828.122(3) | 3rd | Fighting or baiting animals. |
| 21 | 831.04(1) | 3rd | Any erasure, alteration, etc., of |
| 22 | | | any replacement deed, map, plat, |
| 23 | | | or other document listed in s. |
| 24 | | | 92.28. |
| 25 | 831.31(1)(a) | 3rd | Sell, deliver, or possess |
| 26 | | | counterfeit controlled |
| 27 | | | substances, all but s. 893.03(5) |
| 28 | | | drugs. |
| 29 | 832.041(1) | 3rd | Stopping payment with intent to |
| 30 | | | defraud \$150 or more. |
| 31 | | | |

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|----|------------------|-----|-----------------------------------|
| 1 | 832.05 | | |
| 2 | (2)(b)&(4)(c) | 3rd | Knowing, making, issuing |
| 3 | | | worthless checks \$150 or more or |
| 4 | | | obtaining property in return for |
| 5 | | | worthless check \$150 or more. |
| 6 | 838.015(3) | 3rd | Bribery. |
| 7 | 838.016(1) | 3rd | Public servant receiving unlawful |
| 8 | | | compensation. |
| 9 | 838.15(2) | 3rd | Commercial bribe receiving. |
| 10 | 838.16 | 3rd | Commercial bribery. |
| 11 | 843.18 | 3rd | Fleeing by boat to elude a law |
| 12 | | | enforcement officer. |
| 13 | 847.011(1)(a) | 3rd | Sell, distribute, etc., obscene, |
| 14 | | | lewd, etc., material (2nd |
| 15 | | | conviction). |
| 16 | 849.01 | 3rd | Keeping gambling house. |
| 17 | 849.09(1)(a)-(d) | 3rd | Lottery; set up, promote, etc., |
| 18 | | | or assist therein, conduct or |
| 19 | | | advertise drawing for prizes, or |
| 20 | | | dispose of property or money by |
| 21 | | | means of lottery. |
| 22 | 849.23 | 3rd | Gambling-related machines; |
| 23 | | | "common offender" as to property |
| 24 | | | rights. |
| 25 | 849.25(2) | 3rd | Engaging in bookmaking. |
| 26 | 860.08 | 3rd | Interfere with a railroad signal. |
| 27 | 860.13(1)(a) | 3rd | Operate aircraft while under the |
| 28 | | | influence. |
| 29 | 893.13(2)(a)2. | 3rd | Purchase of cannabis. |
| 30 | 893.13(6)(a) | 3rd | Possession of cannabis (more than |
| 31 | | | 20 grams). |

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| 1 | 893.13(7)(a)10. | 3rd | Affix false or forged label to |
| 2 | | | package of controlled substance. |
| 3 | 934.03(1)(a) | 3rd | Intercepts, or procures any other |
| 4 | | | person to intercept, any wire or |
| 5 | | | oral communication. |
| 6 | | | (g) LEVEL 7 |
| 7 | 316.193(3)(c)2. | 3rd | DUI resulting in serious bodily |
| 8 | | | injury. |
| 9 | 327.35(3)(c)2. | 3rd | Vessel BUI resulting in serious |
| 10 | | | bodily injury. |
| 11 | 402.319(2) | 2nd | Misrepresentation and negligence |
| 12 | | | or intentional act resulting in |
| 13 | | | great bodily harm, permanent |
| 14 | | | disfiguration, permanent |
| 15 | | | disability, or death. |
| 16 | 409.920(2) | 3rd | Medicaid provider fraud. |
| 17 | <u>455.637(2)</u> | <u>3rd</u> | <u>Practicing a health care</u> |
| 18 | | | <u>profession without a license.</u> |
| 19 | <u>455.637(2)</u> | <u>2nd</u> | <u>Practicing a health care</u> |
| 20 | | | <u>profession without a license</u> |
| 21 | | | <u>which results in serious bodily</u> |
| 22 | | | <u>injury.</u> |
| 23 | <u>458.327(1)</u> | <u>3rd</u> | <u>Practicing medicine without a</u> |
| 24 | | | <u>license.</u> |
| 25 | <u>459.013(1)</u> | <u>3rd</u> | <u>Practicing osteopathic medicine</u> |
| 26 | | | <u>without a license.</u> |
| 27 | <u>460.411(1)</u> | <u>3rd</u> | <u>Practicing chiropractic medicine</u> |
| 28 | | | <u>without a license.</u> |
| 29 | <u>461.012(1)</u> | <u>3rd</u> | <u>Practicing podiatric medicine</u> |
| 30 | | | <u>without a license.</u> |
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| 1 | <u>462.17</u> | <u>3rd</u> | <u>Practicing naturopathy without a</u> |
| 2 | | | <u>license.</u> |
| 3 | <u>463.015(1)</u> | <u>3rd</u> | <u>Practicing optometry without a</u> |
| 4 | | | <u>license.</u> |
| 5 | <u>464.016(1)</u> | <u>3rd</u> | <u>Practicing nursing without a</u> |
| 6 | | | <u>license.</u> |
| 7 | <u>465.015(2)</u> | <u>3rd</u> | <u>Practicing pharmacy without a</u> |
| 8 | | | <u>license.</u> |
| 9 | <u>466.026(1)</u> | <u>3rd</u> | <u>Practicing dentistry or dental</u> |
| 10 | | | <u>hygiene without a license.</u> |
| 11 | <u>467.201</u> | <u>3rd</u> | <u>Practicing midwifery without a</u> |
| 12 | | | <u>license.</u> |
| 13 | <u>468.366</u> | <u>3rd</u> | <u>Delivering respiratory care</u> |
| 14 | | | <u>services without a license.</u> |
| 15 | <u>483.828(1)</u> | <u>3rd</u> | <u>Practicing as clinical laboratory</u> |
| 16 | | | <u>personnel without a license.</u> |
| 17 | <u>483.901(9)</u> | <u>3rd</u> | <u>Practicing medical physics</u> |
| 18 | | | <u>without a license.</u> |
| 19 | <u>484.053</u> | <u>3rd</u> | <u>Dispensing hearing aids without a</u> |
| 20 | | | <u>license.</u> |
| 21 | <u>494.0018(2)</u> | <u>1st</u> | Conviction of any violation of |
| 22 | | | ss. 494.001-494.0077 in which the |
| 23 | | | total money and property |
| 24 | | | unlawfully obtained exceeded |
| 25 | | | \$50,000 and there were five or |
| 26 | | | more victims. |
| 27 | <u>782.051(3)</u> | <u>2nd</u> | Attempted felony murder of a |
| 28 | | | person by a person other than the |
| 29 | | | perpetrator or the perpetrator of |
| 30 | | | an attempted felony. |
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|----|-----------------|-----|-----------------------------------|
| 1 | 782.07(1) | 2nd | Killing of a human being by the |
| 2 | | | act, procurement, or culpable |
| 3 | | | negligence of another |
| 4 | | | (manslaughter). |
| 5 | 782.071 | 2nd | Killing of human being or viable |
| 6 | | | fetus by the operation of a motor |
| 7 | | | vehicle in a reckless manner |
| 8 | | | (vehicular homicide). |
| 9 | 782.072 | 2nd | Killing of a human being by the |
| 10 | | | operation of a vessel in a |
| 11 | | | reckless manner (vessel |
| 12 | | | homicide). |
| 13 | 784.045(1)(a)1. | 2nd | Aggravated battery; intentionally |
| 14 | | | causing great bodily harm or |
| 15 | | | disfigurement. |
| 16 | 784.045(1)(a)2. | 2nd | Aggravated battery; using deadly |
| 17 | | | weapon. |
| 18 | 784.045(1)(b) | 2nd | Aggravated battery; perpetrator |
| 19 | | | aware victim pregnant. |
| 20 | 784.048(4) | 3rd | Aggravated stalking; violation of |
| 21 | | | injunction or court order. |
| 22 | 784.07(2)(d) | 1st | Aggravated battery on law |
| 23 | | | enforcement officer. |
| 24 | 784.08(2)(a) | 1st | Aggravated battery on a person 65 |
| 25 | | | years of age or older. |
| 26 | 784.081(1) | 1st | Aggravated battery on specified |
| 27 | | | official or employee. |
| 28 | 784.082(1) | 1st | Aggravated battery by detained |
| 29 | | | person on visitor or other |
| 30 | | | detainee. |
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|----|----------------|-----|------------------------------------|
| 1 | 784.083(1) | 1st | Aggravated battery on code |
| 2 | | | inspector. |
| 3 | 790.07(4) | 1st | Specified weapons violation |
| 4 | | | subsequent to previous conviction |
| 5 | | | of s. 790.07(1) or (2). |
| 6 | 790.16(1) | 1st | Discharge of a machine gun under |
| 7 | | | specified circumstances. |
| 8 | 796.03 | 2nd | Procuring any person under 16 |
| 9 | | | years for prostitution. |
| 10 | 800.04(5)(c)1. | 2nd | Lewd or lascivious molestation; |
| 11 | | | victim less than 12 years of age; |
| 12 | | | offender less than 18 years. |
| 13 | 800.04(5)(c)2. | 2nd | Lewd or lascivious molestation; |
| 14 | | | victim 12 years of age or older |
| 15 | | | but less than 16 years; offender |
| 16 | | | 18 years or older. |
| 17 | 806.01(2) | 2nd | Maliciously damage structure by |
| 18 | | | fire or explosive. |
| 19 | 810.02(3)(a) | 2nd | Burglary of occupied dwelling; |
| 20 | | | unarmed; no assault or battery. |
| 21 | 810.02(3)(b) | 2nd | Burglary of unoccupied dwelling; |
| 22 | | | unarmed; no assault or battery. |
| 23 | 810.02(3)(d) | 2nd | Burglary of occupied conveyance; |
| 24 | | | unarmed; no assault or battery. |
| 25 | 812.014(2)(a) | 1st | Property stolen, valued at |
| 26 | | | \$100,000 or more; property stolen |
| 27 | | | while causing other property |
| 28 | | | damage; 1st degree grand theft. |
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| 1 | 812.019(2) | 1st | Stolen property; initiates, |
| 2 | | | organizes, plans, etc., the theft |
| 3 | | | of property and traffics in |
| 4 | | | stolen property. |
| 5 | 812.131(2)(a) | 2nd | Robbery by sudden snatching. |
| 6 | 812.133(2)(b) | 1st | Carjacking; no firearm, deadly |
| 7 | | | weapon, or other weapon. |
| 8 | 825.102(3)(b) | 2nd | Neglecting an elderly person or |
| 9 | | | disabled adult causing great |
| 10 | | | bodily harm, disability, or |
| 11 | | | disfigurement. |
| 12 | 825.1025(2) | 2nd | Lewd or lascivious battery upon |
| 13 | | | an elderly person or disabled |
| 14 | | | adult. |
| 15 | 825.103(2)(b) | 2nd | Exploiting an elderly person or |
| 16 | | | disabled adult and property is |
| 17 | | | valued at \$20,000 or more, but |
| 18 | | | less than \$100,000. |
| 19 | 827.03(3)(b) | 2nd | Neglect of a child causing great |
| 20 | | | bodily harm, disability, or |
| 21 | | | disfigurement. |
| 22 | 827.04(3) | 3rd | Impregnation of a child under 16 |
| 23 | | | years of age by person 21 years |
| 24 | | | of age or older. |
| 25 | 837.05(2) | 3rd | Giving false information about |
| 26 | | | alleged capital felony to a law |
| 27 | | | enforcement officer. |
| 28 | 872.06 | 2nd | Abuse of a dead human body. |
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| 1 | 893.13(1)(c)1. | 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 a child care |
| 6 | | | facility or school. |
| 7 | 893.13(1)(e) | 1st | Sell, manufacture, or deliver |
| 8 | | | cocaine or other drug prohibited |
| 9 | | | under s. 893.03(1)(a), (1)(b), |
| 10 | | | (1)(d), (2)(a), or (2)(b), within |
| 11 | | | 1,000 feet of property used for |
| 12 | | | religious services or a specified |
| 13 | | | business site. |
| 14 | 893.13(4)(a) | 1st | Deliver to minor cocaine (or |
| 15 | | | other s. 893.03(1)(a), (1)(b), |
| 16 | | | (1)(d), (2)(a), or (2)(b) drugs). |
| 17 | 893.135(1)(a)1. | 1st | Trafficking in cannabis, more |
| 18 | | | than 50 lbs., less than 2,000 |
| 19 | | | lbs. |
| 20 | 893.135 | | |
| 21 | (1)(b)1.a. | 1st | Trafficking in cocaine, more than |
| 22 | | | 28 grams, less than 200 grams. |
| 23 | 893.135 | | |
| 24 | (1)(c)1.a. | 1st | Trafficking in illegal drugs, |
| 25 | | | more than 4 grams, less than 14 |
| 26 | | | grams. |
| 27 | 893.135 | | |
| 28 | (1)(d)1. | 1st | Trafficking in phencyclidine, |
| 29 | | | more than 28 grams, less than 200 |
| 30 | | | grams. |
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1 893.135(1)(e)1. 1st Trafficking in methaqualone, more
2 than 200 grams, less than 5
3 kilograms.
4 893.135(1)(f)1. 1st Trafficking in amphetamine, more
5 than 14 grams, less than 28
6 grams.
7 893.135
8 (1)(g)1.a. 1st Trafficking in flunitrazepam, 4
9 grams or more, less than 14
10 grams.
11 Section 26. Subsection (1) of section 458.327, Florida
12 Statutes, reads:
13 458.327 Penalty for violations.--
14 (1) Each of the following acts constitutes a felony of
15 the third degree, punishable as provided in s. 775.082, s.
16 775.083, or s. 775.084:
17 (a) The practice of medicine or an attempt to practice
18 medicine without a license to practice in Florida.
19 (b) The use or attempted use of a license which is
20 suspended or revoked to practice medicine.
21 (c) Attempting to obtain or obtaining a license to
22 practice medicine by knowing misrepresentation.
23 (d) Attempting to obtain or obtaining a position as a
24 medical practitioner or medical resident in a clinic or
25 hospital through knowing misrepresentation of education,
26 training, or experience.
27 Section 27. Subsection (1) of section 459.013, Florida
28 Statutes, reads:
29 459.013 Penalty for violations.--
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1 (1) Each of the following acts constitutes a felony of
2 the third degree, punishable as provided in s. 775.082, s.
3 775.083, or s. 775.084:

4 (a) The practice of osteopathic medicine, or an
5 attempt to practice osteopathic medicine, without an active
6 license or certificate issued pursuant to this chapter.

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

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

13 (d) Attempting to obtain or obtaining a position as an
14 osteopathic medical practitioner or osteopathic medical
15 resident in a clinic or hospital through knowing
16 misrepresentation of education, training, or experience.

17 Section 28. Subsection (1) of section 460.411, Florida
18 Statutes, reads:

19 460.411 Violations and penalties.--

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

24 (a) Practicing or attempting to practice chiropractic
25 medicine without an active license or with a license
26 fraudulently obtained.

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

29 Section 29. Subsection (1) of section 461.012, Florida
30 Statutes, reads:

31 461.012 Violations and penalties.--

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

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

8 (b) Advertising podiatric services without an active
9 license obtained pursuant to this chapter or with a license
10 fraudulently obtained.

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

13 Section 30. Section 462.17, Florida Statutes, reads:
14 462.17 Penalty for offenses relating to
15 naturopathy.--Any person who shall:

16 (1) Sell, fraudulently obtain, or furnish any
17 naturopathic diploma, license, record, or registration or aid
18 or abet in the same;

19 (2) Practice naturopathy under the cover of any
20 diploma, license, record, or registration illegally or
21 fraudulently obtained or secured or issued unlawfully or upon
22 fraudulent representations;

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

25 (4) Falsely impersonate another practitioner of a like
26 or different name;

27 (5) Practice or advertise to practice naturopathy or
28 use in connection with her or his name any designation tending
29 to imply or to designate the person as a practitioner of
30 naturopathy without then being lawfully licensed and
31 authorized to practice naturopathy in this state; or

1 (6) Practice naturopathy during the time her or his
2 license is suspended or revoked
3
4 shall be guilty of a felony of the third degree, punishable as
5 provided in s. 775.082, s. 775.083, or s. 775.084.

6 Section 31. Subsection (1) of section 463.015, Florida
7 Statutes, reads:

8 463.015 Violations and penalties.--

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

12 (a) Practicing or attempting to practice optometry
13 without a valid active license issued pursuant to this
14 chapter.

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

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

19 Section 32. Subsection (1) of section 464.016, Florida
20 Statutes, reads:

21 464.016 Violations and penalties.--

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

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

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

30 (c) Knowingly employing unlicensed persons in the
31 practice of nursing.

1 (d) Obtaining or attempting to obtain a license or
2 certificate under this chapter by misleading statements or
3 knowing misrepresentation.

4 Section 33. Subsection (2) of section 465.015, Florida
5 Statutes, reads:

6 465.015 Violations and penalties.--

7 (2) It is unlawful for any person:

8 (a) To make a false or fraudulent statement, either
9 for herself or himself or for another person, in any
10 application, affidavit, or statement presented to the board or
11 in any proceeding before the board.

12 (b) To fill, compound, or dispense prescriptions or to
13 dispense medicinal drugs if such person does not hold an
14 active license as a pharmacist in this state, is not
15 registered as an intern in this state, or is an intern not
16 acting under the direct and immediate personal supervision of
17 a licensed pharmacist.

18 (c) To sell or dispense drugs as defined in s.
19 465.003(8) without first being furnished with a prescription.

20 (d) To sell samples or complimentary packages of drug
21 products.

22 Section 34. Subsection (1) of section 466.026, Florida
23 Statutes, reads:

24 466.026 Prohibitions; penalties.--

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

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

31

- 1 (b) Using or attempting to use a license issued
2 pursuant to this chapter which license has been suspended or
3 revoked.
- 4 (c) Knowingly employing any person to perform duties
5 outside the scope allowed such person under this chapter or
6 the rules of the board.
- 7 (d) Giving false or forged evidence to the department
8 or board for the purpose of obtaining a license.
- 9 (e) Selling or offering to sell a diploma conferring a
10 degree from a dental college or dental hygiene school or
11 college, or a license issued pursuant to this chapter, or
12 procuring such diploma or license with intent that it shall be
13 used as evidence of that which the document stands for, by a
14 person other than the one upon whom it was conferred or to
15 whom it was granted.
- 16 Section 35. Section 467.201, Florida Statutes, reads:
17 467.201 Violations and penalties.--Each of the
18 following acts constitutes a felony of the third degree,
19 punishable as provided in s. 775.082, s. 775.083, or s.
20 775.084:
- 21 (1) Practicing midwifery, unless holding an active
22 license to do so.
- 23 (2) Using or attempting to use a license which has
24 been suspended or revoked.
- 25 (3) The willful practice of midwifery by a student
26 midwife without a preceptor present, except in an emergency.
- 27 (4) Knowingly allowing a student midwife to practice
28 midwifery without a preceptor present, except in an emergency.
- 29 (5) Obtaining or attempting to obtain a license under
30 this chapter through bribery or fraudulent misrepresentation.
31

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

5 (7) Knowingly concealing information relating to the
6 enforcement of this chapter or rules adopted pursuant thereto.
7 Section 36. Section 468.366, Florida Statutes, reads:
8 468.366 Penalties for violations.--

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

11 (a) Sell or fraudulently obtain, attempt to obtain, or
12 furnish to any person a diploma, license, or record, or aid or
13 abet in the sale, procurement, or attempted procurement
14 thereof.

15 (b) Deliver respiratory care services, as defined by
16 this part or by rule of the board, under cover of any diploma,
17 license, or record that was illegally or fraudulently obtained
18 or signed or issued unlawfully or under fraudulent
19 representation.

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

24 (d) Use, in connection with his or her name, any
25 designation tending to imply that he or she is a respiratory
26 care practitioner or a respiratory therapist, duly licensed
27 under the provisions of this part, unless he or she is so
28 licensed.

29 (e) Advertise an educational program as meeting the
30 requirements of this part, or conduct an educational program
31 for the preparation of respiratory care practitioners or

1 respiratory therapists, unless such program has been approved
2 by the board.

3 (f) Knowingly employ unlicensed persons in the
4 delivery of respiratory care services, unless exempted by this
5 part.

6 (g) Knowingly conceal information relative to any
7 violation of this part.

8 (2) Any violation of this section is a felony of the
9 third degree, punishable as provided in s. 775.082, s.
10 775.083, or s. 775.084.

11 Section 37. Subsection (1) of section 483.828, Florida
12 Statutes, reads:

13 483.828 Penalties for violations.--

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

17 (a) Practicing as clinical laboratory personnel
18 without an active license.

19 (b) Using or attempting to use a license to practice
20 as clinical laboratory personnel which is suspended or
21 revoked.

22 (c) Attempting to obtain or obtaining a license to
23 practice as clinical laboratory personnel by knowing
24 misrepresentation.

25 Section 38. Subsection (9) of section 483.901, Florida
26 Statutes, reads:

27 483.901 Medical physicists; definitions; licensure.--

28 (9) PENALTY FOR VIOLATIONS.--It is a felony of the
29 third degree, punishable as provided in s. 775.082, s.
30 775.083, or s. 775.084, to:

31

1 (a) Practice or attempt to practice medical physics or
2 hold oneself out to be a licensed medical physicist without
3 holding an active license.

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

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

8 Section 39. Section 484.053, Florida Statutes, reads:
9 484.053 Prohibitions; penalties.--

10 (1) A person may not:

11 (a) Practice dispensing hearing aids unless the person
12 is a licensed hearing aid specialist;

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

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

16 (d) Give false, incomplete, or forged evidence to the
17 board or a member thereof for the purposes of obtaining a
18 license;

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

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

24 (g) Knowingly conceal information relative to
25 violations of this part.

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

29 (3) If a person licensed under this part allows the
30 sale of a hearing aid by an unlicensed person not registered
31 as a trainee or fails to comply with the requirements of s.

1 484.0445(2) relating to supervision of trainees, the board
2 shall, upon determination of that violation, order the full
3 refund of moneys paid by the purchaser upon return of the
4 hearing aid to the seller's place of business.

5 Section 40. Subsection (1) of section 457.102, Florida
6 Statutes, is amended to read:

7 457.102 Definitions.--As used in this chapter:

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

20 Section 41. Section 457.105, Florida Statutes, is
21 amended to read:

22 457.105 Licensure qualifications and fees.--

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

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

29 (a) Is 21 ~~18~~ years of age or older, has good moral
30 character, and has the ability to communicate in English,
31 which is demonstrated by having passed the national written

1 examination in English or, if such examination was passed in a
2 foreign language, by also having passed a nationally
3 recognized English proficiency examination;

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

22 (c) Has successfully completed a board-approved
23 national certification process, is actively licensed in a
24 state that has examination requirements that are substantially
25 equivalent to or more stringent than those of this state, or
26 passes an examination administered by the department, which
27 examination tests the applicant's competency and knowledge of
28 the practice of acupuncture and oriental medicine. At the
29 request of any applicant, oriental nomenclature for the points
30 shall be used in the examination. The examination shall
31 include a practical examination of the knowledge and skills

1 required to practice modern and traditional acupuncture and
2 oriental medicine, covering diagnostic and treatment
3 techniques and procedures; and
4 (d) Pays the required fees set by the board by rule
5 not to exceed the following amounts:
6 1. Examination fee: \$500 plus the actual per applicant
7 cost to the department for purchase of the written and
8 practical portions of the examination from a national
9 organization approved by the board.
10 2. Application fee: \$300.
11 3. Reexamination fee: \$500 plus the actual per
12 applicant cost to the department for purchase of the written
13 and practical portions of the examination from a national
14 organization approved by the board.
15 4. Initial biennial licensure fee: \$400, if licensed
16 in the first half of the biennium, and \$200, if licensed in
17 the second half of the biennium.
18 Section 42. Subsection (1) of section 457.107, Florida
19 Statutes, is amended to read:
20 457.107 Renewal of licenses; continuing education.--
21 (1) The department shall renew a license upon receipt
22 of the renewal application and the fee set by the board by
23 rule, not to exceed \$500~~\$700~~.
24 Section 43. This act shall take effect July 1, 2000.
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