

By the Committee on Health, Aging and Long-Term Care; and
 Senator Silver

317-1826-00

1 A bill to be entitled
 2 An act relating to nursing; amending part XV of
 3 chapter 468, F.S., relating to certified
 4 nursing assistants, and transferring that part
 5 to chapter 464, F.S., relating to nursing, to
 6 transfer from the Department of Health to the
 7 Board of Nursing responsibility and rulemaking
 8 authority for regulation of certified nursing
 9 assistants; transferring from the Department of
 10 Education to the board responsibility for
 11 approval of training programs; revising grounds
 12 for which the board may impose certain
 13 penalties; creating s. 464.2085, F.S.;
 14 providing requirements for a Council on
 15 Certified Nursing Assistants; amending ss.
 16 20.43, 39.01, 39.304, 110.131, 232.46,
 17 240.4075, 246.081, 310.102, 381.0302, 384.30,
 18 384.31, 394.455, 395.0191, 400.021, 400.211,
 19 400.402, 400.407, 400.4255, 400.426, 400.462,
 20 400.464, 400.506, 400.6105, 401.23, 401.252,
 21 408.706, 409.908, 415.1085, 455.597, 455.604,
 22 455.667, 455.677, 455.694, 455.707, 458.348,
 23 464.001, 464.002, 464.003, 464.006, 464.009,
 24 464.016, 464.018, 464.019, 464.022, 464.023,
 25 464.027, 466.003, 467.003, 467.0125, 467.203,
 26 468.505, 483.041, 483.801, 491.0112, 550.24055,
 27 627.351, 627.357, 627.9404, 641.31, 766.101,
 28 766.110, 766.1115, 877.111, 945.602, 960.28,
 29 984.03, 985.03, F.S.; conforming references;
 30 revising application procedures for certified
 31 nursing assistants; revising registration

1 requirements for certified nursing assistants;
2 amending ss. 400.215, 400.512, F.S.; revising
3 provisions relating to the granting of
4 exemptions from disqualification for employment
5 in nursing homes or home health agencies;
6 amending s. 455.557, F.S.; including advanced
7 registered nurse practitioners under the
8 credentialing program; creating s. 455.56503,
9 F.S.; requiring advanced registered nurse
10 practitioners to submit information and
11 fingerprints for profiling purposes; amending
12 s. 455.5651, F.S.; authorizing the department
13 to publish certain information in practitioner
14 profiles; amending s. 455.5653, F.S.; deleting
15 obsolete provisions relating to scheduling and
16 development of practitioner profiles for
17 additional health care practitioners; providing
18 access to information on advanced registered
19 nurse practitioners maintained by the Agency
20 for Health Care Administration for
21 corroboration purposes; amending s. 455.5654,
22 F.S.; providing for adoption by rule of a form
23 for submission of profiling information;
24 providing an appropriation; providing an
25 effective date.

26
27 Be It Enacted by the Legislature of the State of Florida:

28
29 Section 1. Sections 468.821 through 468.829, Florida
30 Statutes, are renumbered as sections 464.201 through 464.209,
31

1 respectively, designated as part II of chapter 464, Florida
2 Statutes, and amended to read:

3 464.201 ~~468.821~~ Definitions.--As used in this part,
4 the term:

5 (1) "Approved training program" means:

6 (a) A course of training conducted by a public sector
7 or private sector educational center licensed by the
8 Department of Education to implement the basic curriculum for
9 nursing assistants which is approved by the Department of
10 Education. Beginning October 1, 2000, the board shall assume
11 responsibility for approval of training programs under this
12 paragraph.

13 (b) A training program operated under s. 400.141.

14 (2) "Board" means the Board of Nursing.

15 (3)~~(2)~~ "Certified nursing assistant" means a person
16 who meets the qualifications specified in this part and who is
17 certified by the board ~~department~~ as a certified nursing
18 assistant.

19 (4)~~(3)~~ "Department" means the Department of Health.

20 (5)~~(4)~~ "Registry" means the listing of certified
21 nursing assistants maintained by the board ~~department~~.

22 464.202 ~~468.822~~ Duties and powers of the board
23 ~~department~~.--The board ~~department~~ shall maintain, or contract
24 with or approve another entity to maintain, a state registry
25 of certified nursing assistants. The registry must consist of
26 the name of each certified nursing assistant in this state;
27 other identifying information defined by board ~~department~~
28 rule; certification status; the effective date of
29 certification; other information required by state or federal
30 law; information regarding any crime or any abuse, neglect, or
31 exploitation as provided under chapter 435; and any

1 disciplinary action taken against the certified nursing
2 assistant. The registry shall be accessible to the public, the
3 certificateholder, employers, and other state agencies. The
4 ~~board department~~ shall adopt by rule testing procedures for
5 use in certifying nursing assistants and shall adopt rules
6 regulating the practice of certified nursing assistants to
7 enforce this part. The ~~board department~~ may contract with or
8 approve another entity or organization to provide the
9 examination services, including the development and
10 administration of examinations. The board shall require that
11 the contract provider provide and accept certified nursing
12 assistant applications via the Internet, and process
13 applications and complete testing within 5 calendar days after
14 the receipt of the application, with test scores provided
15 within 2 calendar days after the test date.The provider shall
16 pay all reasonable costs and expenses incurred by the ~~board~~
17 ~~department~~ in evaluating the provider's application and
18 performance during the delivery of services, including
19 examination services and procedures for maintaining the
20 certified nursing assistant registry.

21 464.203 ~~468.823~~ Certified nursing assistants;
22 certification requirement.--

23 (1) The ~~board department~~ shall issue a certificate to
24 practice as a certified nursing assistant to any person who
25 demonstrates a minimum competency to read and write and
26 successfully passes the required Level I or Level II screening
27 pursuant to s. 400.215 and meets one of the following
28 requirements:

29 (a) Has successfully completed an approved training
30 program and achieved a minimum score, established by rule of
31 the ~~board department~~, on the nursing assistant competency

1 examination, which consists of a written portion and
2 skills-demonstration portion approved by the board ~~department~~
3 and administered at a site and by personnel approved by the
4 department.

5 (b) Has achieved a minimum score, established by rule
6 of the board ~~department~~, on the nursing assistant competency
7 examination, which consists of a written portion and
8 skills-demonstration portion, approved by the board ~~department~~
9 and administered at a site and by personnel approved by the
10 department and:

- 11 1. Has a high school diploma, or its equivalent; or
- 12 2. Is at least 18 years of age.

13 (c) Is currently certified in another state; is listed
14 on that state's certified nursing assistant registry; and has
15 not been found to have committed abuse, neglect, or
16 exploitation in that state; ~~and has successfully completed a~~
17 ~~national nursing assistant evaluation in order to receive~~
18 ~~certification in that state.~~

19 (2) If an applicant fails to pass the nursing
20 assistant competency examination in three attempts, the
21 applicant is not eligible for reexamination unless the
22 applicant completes an approved training program.

23 (3) An oral examination shall be administered as a
24 substitute for the written portion of the examination upon
25 request. The oral examination shall be administered at a site
26 and by personnel approved by the department.

27 (4) The board ~~department~~ shall adopt rules to provide
28 for the initial certification of certified nursing assistants.

29 (5) A certified nursing assistant shall maintain a
30 current address with the board ~~department~~ in accordance with
31 s. 455.717.

1 464.204 ~~468.824~~ Denial, suspension, or revocation of
2 certification; disciplinary actions.--

3 (1) The following acts constitute grounds for which
4 the board ~~department~~ may impose disciplinary sanctions as
5 specified in subsection (2):

6 (a) Obtaining or attempting to obtain certification or
7 an exemption, or possessing or attempting to possess
8 certification or a letter of exemption, by bribery,
9 misrepresentation, deceit, or through an error of the board
10 ~~department~~.

11 (b) Intentionally violating any provision of this
12 chapter, chapter 455, or the rules adopted by the board
13 ~~department~~.

14 (2) When the board ~~department~~ finds any person guilty
15 of any of the grounds set forth in subsection (1), it may
16 enter an order imposing one or more of the following
17 penalties:

18 (a) Denial, suspension, or revocation of
19 certification.

20 (b) Imposition of an administrative fine not to exceed
21 \$150 for each count or separate offense.

22 (c) Imposition of probation or restriction of
23 certification, including conditions such as corrective actions
24 as retraining or compliance with an approved treatment program
25 for impaired practitioners.

26 (3) The board ~~department~~ may, upon the request of a
27 certificateholder, exempt the certificateholder from
28 ~~disqualification of certification or disqualification of~~
29 employment in accordance with chapter 435 and issue a letter
30 of exemption. ~~After January 1, 2000,~~The board ~~department~~ must
31 notify an applicant seeking an exemption from disqualification

1 from certification or employment of its decision to approve or
2 deny the request within 30 days after the date the board
3 ~~department~~ receives all required documentation.

4 464.205 ~~468.825~~ Availability of disciplinary records
5 and proceedings.--Pursuant to s. 455.621, any complaint or
6 record maintained by the department ~~of Health~~ pursuant to the
7 discipline of a certified nursing assistant and any proceeding
8 held by the board ~~department~~ to discipline a certified nursing
9 assistant shall remain open and available to the public.

10 464.206 ~~468.826~~ Exemption from liability.--If an
11 employer terminates or denies employment to a certified
12 nursing assistant whose certification is inactive as shown on
13 the certified nursing assistant registry or whose name appears
14 on the central abuse registry and tracking system of the
15 Department of Children and Family Services or on a criminal
16 screening report of the Department of Law Enforcement, the
17 employer is not civilly liable for such termination and a
18 cause of action may not be brought against the employer for
19 damages, regardless of whether the employee has filed for an
20 exemption from the board ~~department~~ under s. 464.204(3)
21 ~~468.824(1)~~. There may not be any monetary liability on the
22 part of, and a cause of action for damages may not arise
23 against, any licensed facility, its governing board or members
24 thereof, medical staff, disciplinary board, agents,
25 investigators, witnesses, employees, or any other person for
26 any action taken in good faith without intentional fraud in
27 carrying out this section.

28 464.207 ~~468.827~~ Penalties.--It is a misdemeanor of the
29 first degree, punishable as provided under s. 775.082 or s.
30 775.083, for any person, knowingly or intentionally, to fail
31 to disclose, by false statement, misrepresentation,

1 impersonation, or other fraudulent means, in any application
2 for voluntary or paid employment or certification licensure
3 regulated under this part, a material fact used in making a
4 determination as to such person's qualifications to be an
5 employee or certificateholder licensee.

6 464.208 ~~468.828~~ Background screening information;
7 rulemaking authority.--

8 (1) The Agency for Health Care Administration shall
9 allow the board ~~department~~ to electronically access its
10 background screening database and records, and the Department
11 of Children and Family Services shall allow the board
12 ~~department~~ to electronically access its central abuse registry
13 and tracking system under chapter 415.

14 (2) An employer, or an agent thereof, may not use
15 criminal records, juvenile records, or information obtained
16 from the central abuse hotline under chapter 415 relating to
17 vulnerable adults for any purpose other than determining if
18 the person meets the requirements of this part. Such records
19 and information obtained by the board ~~department~~ shall remain
20 confidential and exempt from s. 119.07(1).

21 (3) If the requirements of the Omnibus Budget
22 Reconciliation Act of 1987, as amended, for the certification
23 of nursing assistants are in conflict with this part, the
24 federal requirements shall prevail for those facilities
25 certified to provide care under Title XVIII (Medicare) or
26 Title XIX (Medicaid) of the Social Security Act.

27 (4) The board ~~department~~ shall adopt rules to
28 administer this part.

29 464.209 ~~468.829~~ Certified nursing assistant
30 registry.--

31

1 (1) By October 1, 1999, and by October 1 of every year
2 thereafter, each employer of certified nursing assistants
3 shall submit to the board ~~Department of Health~~ a list of the
4 names and social security numbers of each person employed by
5 the employer as a certified nursing assistant in a
6 nursing-related occupation for a minimum of 8 hours for
7 monetary compensation during the preceding 24 months.
8 Employers may submit such information electronically through
9 the department's Internet site.

10 (2) The board ~~department~~ shall update the certified
11 nursing assistant registry upon receipt of the lists of
12 certified nursing assistants, ~~and shall complete the first of~~
13 ~~such updates by December 31, 1999.~~

14 (3) Each certified nursing assistant whose name is not
15 reported to the board ~~department~~ under subsection (1) on
16 October 1, 1999, shall be assigned an inactive certification
17 on January 1, 2000. A certified nursing assistant may remove
18 such an inactive certification by submitting documentation to
19 the board ~~department~~ that he or she was employed for a minimum
20 of 8 hours for monetary compensation as a certified nursing
21 assistant in a nursing-related occupation during the preceding
22 24 months.

23 (4) This section is repealed October 2, 2001.

24 Section 2. Section 464.2085, Florida Statutes, is
25 created to read:

26 464.2085 Council on Certified Nursing Assistants.--The
27 Council on Certified Nursing Assistants is created within the
28 department, under the Board of Nursing.

29 (1) The council shall consist of five members
30 appointed as follows:

1 (a) The chairperson of the Board of Nursing shall
2 appoint two members who are registered nurses. One of the
3 members must currently supervise a certified nursing assistant
4 in a licensed nursing home.

5 (b) The chairperson of the Board of Nursing shall
6 appoint one member who is a licensed practical nurse who is
7 currently working in a licensed nursing home.

8 (c) The secretary of the department or his or her
9 designee shall appoint two certified nursing assistants
10 currently certified under this chapter, at least one of whom
11 is currently working in a licensed nursing home.

12 (2) The council shall:

13 (a) Recommend to the department policies and
14 procedures for the certification of nursing assistants.

15 (b) Develop all rules regulating the education,
16 training, and certification process for nursing assistants
17 certified under this chapter. The Board of Nursing shall
18 consider adopting a proposed rule developed by the council at
19 the regularly scheduled meeting immediately following the
20 submission of the proposed rule by the council.

21 (c) Make recommendations to the board regarding all
22 matters relating to the certification of nursing assistants.

23 (d) Address concerns and problems of certified nursing
24 assistants in order to improve safety in the practice of
25 certified nursing assistants.

26 Section 3. Paragraph (g) of subsection (3) of section
27 20.43, Florida Statutes, is amended to read:

28 20.43 Department of Health.--There is created a
29 Department of Health.

30 (3) The following divisions of the Department of
31 Health are established:

1 (g) Division of Medical Quality Assurance, which is
2 responsible for the following boards and professions
3 established within the division:

4 ~~1. Nursing assistants, as provided under s. 400.211.~~

5 1.2. Health care services pools, as provided under s.
6 402.48.

7 ~~2.3.~~ The Board of Acupuncture, created under chapter
8 457.

9 ~~3.4.~~ The Board of Medicine, created under chapter 458.

10 ~~4.5.~~ The Board of Osteopathic Medicine, created under
11 chapter 459.

12 ~~5.6.~~ The Board of Chiropractic Medicine, created under
13 chapter 460.

14 ~~6.7.~~ The Board of Podiatric Medicine, created under
15 chapter 461.

16 ~~7.8.~~ Naturopathy, as provided under chapter 462.

17 ~~8.9.~~ The Board of Optometry, created under chapter
18 463.

19 ~~9.10.~~ The Board of Nursing, created under part I of
20 chapter 464.

21 10. Nursing assistants, as provided under part II of
22 chapter 464.

23 11. The Board of Pharmacy, created under chapter 465.

24 12. The Board of Dentistry, created under chapter 466.

25 13. Midwifery, as provided under chapter 467.

26 14. The Board of Speech-Language Pathology and
27 Audiology, created under part I of chapter 468.

28 15. The Board of Nursing Home Administrators, created
29 under part II of chapter 468.

30 16. The Board of Occupational Therapy, created under
31 part III of chapter 468.

- 1 17. Respiratory therapy, as provided under part V of
2 chapter 468.
- 3 18. Dietetics and nutrition practice, as provided
4 under part X of chapter 468.
- 5 19. The Board of Athletic Training, created under part
6 XIII of chapter 468.
- 7 20. The Board of Orthotists and Prosthetists, created
8 under part XIV of chapter 468.
- 9 21. Electrolysis, as provided under chapter 478.
- 10 22. The Board of Massage Therapy, created under
11 chapter 480.
- 12 23. The Board of Clinical Laboratory Personnel,
13 created under part III of chapter 483.
- 14 24. Medical physicists, as provided under part IV of
15 chapter 483.
- 16 25. The Board of Opticianry, created under part I of
17 chapter 484.
- 18 26. The Board of Hearing Aid Specialists, created
19 under part II of chapter 484.
- 20 27. The Board of Physical Therapy Practice, created
21 under chapter 486.
- 22 28. The Board of Psychology, created under chapter
23 490.
- 24 29. School psychologists, as provided under chapter
25 490.
- 26 30. The Board of Clinical Social Work, Marriage and
27 Family Therapy, and Mental Health Counseling, created under
28 chapter 491.
- 29
- 30 The department may contract with the Agency for Health Care
31 Administration who shall provide consumer complaint,

1 | investigative, and prosecutorial services required by the
2 | Division of Medical Quality Assurance, councils, or boards, as
3 | appropriate.

4 | Section 4. Subsection (38) of section 39.01, Florida
5 | Statutes, is amended to read:

6 | 39.01 Definitions.--When used in this chapter, unless
7 | the context otherwise requires:

8 | (38) "Licensed health care professional" means a
9 | physician licensed under chapter 458, an osteopathic physician
10 | licensed under chapter 459, a nurse licensed under part I of
11 | chapter 464, a physician assistant licensed under chapter 458
12 | or chapter 459, or a dentist licensed under chapter 466.

13 | Section 5. Paragraph (b) of subsection (1) of section
14 | 39.304, Florida Statutes, is amended to read:

15 | 39.304 Photographs, medical examinations, X rays, and
16 | medical treatment of abused, abandoned, or neglected child.--

17 | (1)

18 | (b) If the areas of trauma visible on a child indicate
19 | a need for a medical examination, or if the child verbally
20 | complains or otherwise exhibits distress as a result of injury
21 | through suspected child abuse, abandonment, or neglect, or is
22 | alleged to have been sexually abused, the person required to
23 | investigate may cause the child to be referred for diagnosis
24 | to a licensed physician or an emergency department in a
25 | hospital without the consent of the child's parents or legal
26 | custodian. Such examination may be performed by any licensed
27 | physician or an advanced registered nurse practitioner
28 | licensed pursuant to part I of chapter 464. Any licensed
29 | physician, or advanced registered nurse practitioner licensed
30 | pursuant to part I of chapter 464, who has reasonable cause to
31 | suspect that an injury was the result of child abuse,

1 abandonment, or neglect may authorize a radiological
2 examination to be performed on the child without the consent
3 of the child's parent or legal custodian.

4 Section 6. Paragraph (c) of subsection (6) of section
5 110.131, Florida Statutes, is amended to read:

6 110.131 Other-personal-services temporary
7 employment.--

8 (6)

9 (c) Notwithstanding the provisions of this section,
10 the agency head or his or her designee may extend the
11 other-personal-services employment of a health care
12 practitioner licensed pursuant to chapter 458, chapter 459,
13 chapter 460, chapter 461, chapter 463, part I of chapter 464,
14 chapter 466, chapter 468, chapter 483, chapter 486, or chapter
15 490 beyond 2,080 hours and may employ such practitioner on an
16 hourly or other basis.

17 Section 7. Subsection (1) of section 232.46, Florida
18 Statutes, is amended to read:

19 232.46 Administration of medication by school district
20 personnel.--

21 (1) Notwithstanding the provisions of the Nurse
22 Practice Act, part I of chapter 464, school district personnel
23 shall be authorized to assist students in the administration
24 of prescription medication when the following conditions have
25 been met:

26 (a) Each district school board shall include in its
27 approved school health services plan a procedure to provide
28 training, by a registered nurse, a licensed practical nurse, a
29 physician licensed pursuant to chapter 458 or chapter 459, or
30 a physician assistant licensed pursuant to chapter 458 or
31 chapter 459, to the school personnel designated by the

1 principal to assist students in the administration of
2 prescribed medication. Such training may be provided in
3 collaboration with other school districts, through contract
4 with an education consortium, or by any other arrangement
5 consistent with the intent of this section.

6 (b) Each district school board shall adopt policies
7 and procedures governing the administration of prescription
8 medication by school district personnel. The policies and
9 procedures shall include, but not be limited to, the following
10 provisions:

11 1. For each prescribed medication, the student's
12 parent or guardian shall provide to the school principal a
13 written statement which shall grant to the principal or the
14 principal's designee permission to assist in the
15 administration of such medication and which shall explain the
16 necessity for such medication to be provided during the school
17 day, including any occasion when the student is away from
18 school property on official school business. The school
19 principal or the principal's trained designee shall assist the
20 student in the administration of such medication.

21 2. Each prescribed medication to be administered by
22 school district personnel shall be received, counted, and
23 stored in its original container. When the medication is not
24 in use, it shall be stored in its original container in a
25 secure fashion under lock and key in a location designated by
26 the principal.

27 Section 8. Subsection (6) of section 240.4075, Florida
28 Statutes, is amended to read:

29 240.4075 Nursing Student Loan Forgiveness Program.--

30 (6) In addition to licensing fees imposed under part I
31 of chapter 464, there is hereby levied and imposed an

1 additional fee of \$5, which fee shall be paid upon licensure
2 or renewal of nursing licensure. Revenues collected from the
3 fee imposed in this subsection shall be deposited in the
4 Nursing Student Loan Forgiveness Trust Fund of the Department
5 of Education and will be used solely for the purpose of
6 carrying out the provisions of this section and s. 240.4076.
7 Up to 50 percent of the revenues appropriated to implement
8 this subsection may be used for the nursing scholarship
9 program established pursuant to s. 240.4076.

10 Section 9. Paragraph (b) of subsection (1) of section
11 246.081, Florida Statutes, is amended to read:

12 246.081 License, certificate of exemption, or
13 authorization required; exceptions.--

14 (1) The following colleges are not under the
15 jurisdiction of the board and are not required to obtain a
16 license, a certificate of exemption, permission to operate, or
17 an authorization from the board:

18 (b) Any college, school, or course licensed or
19 approved for establishment and operation under part I of
20 chapter 464, chapter 466, or chapter 475, or any other chapter
21 of the Florida Statutes, requiring licensing or approval as
22 defined in ss. 246.011-246.151.

23 Section 10. Subsection (2) of section 310.102, Florida
24 Statutes, is amended to read:

25 310.102 Treatment programs for impaired pilots and
26 deputy pilots.--

27 (2) The department shall retain one or more impaired
28 practitioner consultants as recommended by the committee. A
29 consultant shall be a licensee under the jurisdiction of the
30 Division of Medical Quality Assurance within the Department of
31 Health, and at least one consultant must be a practitioner

1 licensed under chapter 458, chapter 459, or part I of chapter
2 464. The consultant shall assist the probable cause panel and
3 department in carrying out the responsibilities of this
4 section. This shall include working with department
5 investigators to determine whether a pilot or deputy pilot is,
6 in fact, impaired.

7 Section 11. Subsection (7) of section 381.0302,
8 Florida Statutes, is amended to read:

9 381.0302 Florida Health Services Corps.--

10 (7) The financial penalty for noncompliance with
11 participation requirements for persons who have received
12 financial payments under subsection (5) or subsection (6)
13 shall be determined in the same manner as in the National
14 Health Services Corps scholarship program. In addition,
15 noncompliance with participation requirements shall also
16 result in ineligibility for professional licensure or renewal
17 of licensure under chapter 458, chapter 459, chapter 460, part
18 I of chapter 464, chapter 465, or chapter 466. For a
19 participant who is unable to participate for reasons of
20 disability, the penalty is the actual amount of financial
21 assistance provided to the participant. Financial penalties
22 shall be deposited in the Florida Health Services Corps Trust
23 Fund and shall be used to provide additional scholarship and
24 financial assistance.

25 Section 12. Subsection (1) of section 384.30, Florida
26 Statutes, is amended to read:

27 384.30 Minors' consent to treatment.--

28 (1) The department and its authorized representatives,
29 each physician licensed to practice medicine under the
30 provisions of chapter 458 or chapter 459, each health care
31 professional licensed under the provisions of part I of

1 chapter 464 who is acting pursuant to the scope of his or her
2 license, and each public or private hospital, clinic, or other
3 health facility may examine and provide treatment for sexually
4 transmissible diseases to any minor, if the physician, health
5 care professional, or facility is qualified to provide such
6 treatment. The consent of the parents or guardians of a minor
7 is not a prerequisite for an examination or treatment.

8 Section 13. Section 384.31, Florida Statutes, is
9 amended to read:

10 384.31 Serological testing of pregnant women; duty of
11 the attendant.--

12 (1) Every person, including every physician licensed
13 under chapter 458 or chapter 459 or midwife licensed under
14 part I of chapter 464 or chapter 467, attending a pregnant
15 woman for conditions relating to pregnancy during the period
16 of gestation and delivery shall take or cause to be taken a
17 sample of venous blood at a time or times specified by the
18 department. Each sample of blood shall be tested by a
19 laboratory approved for such purposes under part I of chapter
20 483 for sexually transmissible diseases as required by rule of
21 the department.

22 (2) At the time the venous blood sample is taken,
23 testing for human immunodeficiency virus (HIV) infection shall
24 be offered to each pregnant woman. The prevailing professional
25 standard of care in this state requires each health care
26 provider and midwife who attends a pregnant woman to counsel
27 the woman to be tested for human immunodeficiency virus (HIV).
28 Counseling shall include a discussion of the availability of
29 treatment if the pregnant woman tests HIV positive. If a
30 pregnant woman objects to HIV testing, reasonable steps shall
31 be taken to obtain a written statement of such objection,

1 signed by the patient, which shall be placed in the patient's
2 medical record. Every person, including every physician
3 licensed under chapter 458 or chapter 459 or midwife licensed
4 under part I of chapter 464 or chapter 467, who attends a
5 pregnant woman who has been offered and objects to HIV testing
6 shall be immune from liability arising out of or related to
7 the contracting of HIV infection or acquired immune deficiency
8 syndrome (AIDS) by the child from the mother.

9 Section 14. Subsection (23) of section 394.455,
10 Florida Statutes, is amended to read:

11 394.455 Definitions.--As used in this part, unless the
12 context clearly requires otherwise, the term:

13 (23) "Psychiatric nurse" means a registered nurse
14 licensed under part I of chapter 464 who has a master's degree
15 or a doctorate in psychiatric nursing and 2 years of
16 post-master's clinical experience under the supervision of a
17 physician.

18 Section 15. Paragraphs (a) and (b) of subsection (2)
19 and subsection (4) of section 395.0191, Florida Statutes, are
20 amended to read:

21 395.0191 Staff membership and clinical privileges.--

22 (2)(a) Each licensed facility shall establish rules
23 and procedures for consideration of an application for
24 clinical privileges submitted by an advanced registered nurse
25 practitioner licensed and certified under part I of chapter
26 464, in accordance with the provisions of this section. No
27 licensed facility shall deny such application solely because
28 the applicant is licensed under part I of chapter 464 or
29 because the applicant is not a participant in the Florida
30 Birth-Related Neurological Injury Compensation Plan.

31

1 (b) An advanced registered nurse practitioner who is
2 certified as a registered nurse anesthetist licensed under
3 part I of chapter 464 shall administer anesthesia under the
4 onsite medical direction of a professional licensed under
5 chapter 458, chapter 459, or chapter 466, and in accordance
6 with an established protocol approved by the medical staff.
7 The medical direction shall specifically address the needs of
8 the individual patient.

9 (4) Nothing herein shall restrict in any way the
10 authority of the medical staff of a licensed facility to
11 review for approval or disapproval all applications for
12 appointment and reappointment to all categories of staff and
13 to make recommendations on each applicant to the governing
14 board, including the delineation of privileges to be granted
15 in each case. In making such recommendations and in the
16 delineation of privileges, each applicant shall be considered
17 individually pursuant to criteria for a doctor licensed under
18 chapter 458, chapter 459, chapter 461, or chapter 466, or for
19 an advanced registered nurse practitioner licensed and
20 certified under part I of chapter 464, or for a psychologist
21 licensed under chapter 490, as applicable. The applicant's
22 eligibility for staff membership or clinical privileges shall
23 be determined by the applicant's background, experience,
24 health, training, and demonstrated competency; the applicant's
25 adherence to applicable professional ethics; the applicant's
26 reputation; and the applicant's ability to work with others
27 and by such other elements as determined by the governing
28 board, consistent with this part.

29 Section 16. Subsection (11) of section 400.021,
30 Florida Statutes, is amended to read:

31

1 400.021 Definitions.--When used in this part, unless
2 the context otherwise requires, the term:

3 (11) "Nursing home facility" means any facility which
4 provides nursing services as defined in part I of chapter 464
5 and which is licensed according to this part.

6 Section 17. Section 400.211, Florida Statutes, is
7 amended to read:

8 400.211 Persons employed as nursing assistants;
9 certification requirement.--

10 (1) To serve as a nursing assistant in any nursing
11 home, a person must be certified as a nursing assistant under
12 part II ~~XV~~ of chapter 464 ~~468~~, unless the person is ~~except~~ a
13 registered nurse or practical nurse licensed in accordance
14 with part I of chapter 464 or an applicant for such licensure
15 who is permitted to practice nursing in accordance with rules
16 adopted by the Board of Nursing pursuant to part I of chapter
17 464, ~~to serve as a nursing assistant in any nursing home.~~

18 (2) The following categories of persons who are not
19 certified as nursing assistants under ~~this~~ part II of chapter
20 464 may be employed by a nursing facility for a period of 4
21 months:

22 (a) Persons who are enrolled in a state-approved
23 nursing assistant program; or

24 (b) Persons who have been positively verified by the
25 department ~~a state-approved test site~~ as certified and on the
26 registry in another state with no findings of abuse, ~~but who~~
27 ~~have not completed the written examination required under this~~
28 ~~section.~~

1 The certification requirement must be met within 4 months
2 after ~~of~~ initial employment as a nursing assistant in a
3 licensed nursing facility.

4 (3) Nursing homes shall require persons seeking
5 employment as a certified nursing assistant to submit an
6 employment history to the facility. The facility shall verify
7 the employment history unless, through diligent efforts, such
8 verification is not possible. There shall be no monetary
9 liability on the part of, and no cause of action for damages
10 shall arise against, a former employer who reasonably and in
11 good faith communicates his or her honest opinion about a
12 former employee's job performance.

13 Section 18. Paragraph (b) of subsection (4) of section
14 400.215, Florida Statutes, is amended to read:

15 400.215 Personnel screening requirement.--

16 (4)

17 (b) As provided in s. 435.07, the appropriate
18 regulatory board within the Department of Health, or that
19 department itself when there is no board, may grant an
20 exemption from disqualification to an employee or prospective
21 employee who is subject to this section and who has received a
22 professional license or certification from the Department of
23 Health or a regulatory board within that department.

24 Section 19. Subsections (12) and (14) of section
25 400.402, Florida Statutes, are amended to read:

26 400.402 Definitions.--When used in this part, the
27 term:

28 (12) "Extended congregate care" means acts beyond
29 those authorized in subsection (17) that may be performed
30 pursuant to part I of chapter 464 by persons licensed
31 thereunder while carrying out their professional duties, and

1 other supportive services which may be specified by rule. The
2 purpose of such services is to enable residents to age in
3 place in a residential environment despite mental or physical
4 limitations that might otherwise disqualify them from
5 residency in a facility licensed under this part.

6 (14) "Limited nursing services" means acts that may be
7 performed pursuant to part I of chapter 464 by persons
8 licensed thereunder while carrying out their professional
9 duties but limited to those acts which the department
10 specifies by rule. Acts which may be specified by rule as
11 allowable limited nursing services shall be for persons who
12 meet the admission criteria established by the department for
13 assisted living facilities and shall not be complex enough to
14 require 24-hour nursing supervision and may include such
15 services as the application and care of routine dressings, and
16 care of casts, braces, and splints.

17 Section 20. Paragraphs (a) and (b) of subsection (3)
18 of section 400.407, Florida Statutes, are amended to read:

19 400.407 License required; fee, display.--

20 (3) Any license granted by the agency must state the
21 maximum resident capacity of the facility, the type of care
22 for which the license is granted, the date the license is
23 issued, the expiration date of the license, and any other
24 information deemed necessary by the agency. Licenses shall be
25 issued for one or more of the following categories of care:
26 standard, extended congregate care, limited nursing services,
27 or limited mental health.

28 (a) A standard license shall be issued to facilities
29 providing one or more of the services identified in s.
30 400.402. Such facilities may also employ or contract with a
31 person licensed under part I of chapter 464 to administer

1 medications and perform other tasks as specified in s.
2 400.4255.

3 (b) An extended congregate care license shall be
4 issued to facilities providing, directly or through contract,
5 services beyond those authorized in paragraph (a), including
6 acts performed pursuant to part I of chapter 464 by persons
7 licensed thereunder, and supportive services defined by rule
8 to persons who otherwise would be disqualified from continued
9 residence in a facility licensed under this part.

10 1. In order for extended congregate care services to
11 be provided in a facility licensed under this part, the agency
12 must first determine that all requirements established in law
13 and rule are met and must specifically designate, on the
14 facility's license, that such services may be provided and
15 whether the designation applies to all or part of a facility.
16 Such designation may be made at the time of initial licensure
17 or biennial relicensure, or upon request in writing by a
18 licensee under this part. Notification of approval or denial
19 of such request shall be made within 90 days after receipt of
20 such request and all necessary documentation. Existing
21 facilities qualifying to provide extended congregate care
22 services must have maintained a standard license and may not
23 have been subject to administrative sanctions during the
24 previous 2 years, or since initial licensure if the facility
25 has been licensed for less than 2 years, for any of the
26 following reasons:

- 27 a. A class I or class II violation;
28 b. Three or more repeat or recurring class III
29 violations of identical or similar resident care standards as
30 specified in rule from which a pattern of noncompliance is
31 found by the agency;

1 c. Three or more class III violations that were not
2 corrected in accordance with the corrective action plan
3 approved by the agency;

4 d. Violation of resident care standards resulting in a
5 requirement to employ the services of a consultant pharmacist
6 or consultant dietitian;

7 e. Denial, suspension, or revocation of a license for
8 another facility under this part in which the applicant for an
9 extended congregate care license has at least 25 percent
10 ownership interest; or

11 f. Imposition of a moratorium on admissions or
12 initiation of injunctive proceedings.

13 2. Facilities that are licensed to provide extended
14 congregate care services shall maintain a written progress
15 report on each person who receives such services, which report
16 describes the type, amount, duration, scope, and outcome of
17 services that are rendered and the general status of the
18 resident's health. A registered nurse, or appropriate
19 designee, representing the agency shall visit such facilities
20 at least two times a year to monitor residents who are
21 receiving extended congregate care services and to determine
22 if the facility is in compliance with this part and with rules
23 that relate to extended congregate care. One of these visits
24 may be in conjunction with the regular biennial survey. The
25 monitoring visits may be provided through contractual
26 arrangements with appropriate community agencies. A
27 registered nurse shall serve as part of the team that
28 biennially inspects such facility. The agency may waive one of
29 the required yearly monitoring visits for a facility that has
30 been licensed for at least 24 months to provide extended
31 congregate care services, if, during the biennial inspection,

1 the registered nurse determines that extended congregate care
2 services are being provided appropriately, and if the facility
3 has no class I or class II violations and no uncorrected class
4 III violations. Before such decision is made, the agency shall
5 consult with the long-term care ombudsman council for the area
6 in which the facility is located to determine if any
7 complaints have been made and substantiated about the quality
8 of services or care. The agency may not waive one of the
9 required yearly monitoring visits if complaints have been made
10 and substantiated.

11 3. Facilities that are licensed to provide extended
12 congregate care services shall:

13 a. Demonstrate the capability to meet unanticipated
14 resident service needs.

15 b. Offer a physical environment that promotes a
16 homelike setting, provides for resident privacy, promotes
17 resident independence, and allows sufficient congregate space
18 as defined by rule.

19 c. Have sufficient staff available, taking into
20 account the physical plant and firesafety features of the
21 building, to assist with the evacuation of residents in an
22 emergency, as necessary.

23 d. Adopt and follow policies and procedures that
24 maximize resident independence, dignity, choice, and
25 decisionmaking to permit residents to age in place to the
26 extent possible, so that moves due to changes in functional
27 status are minimized or avoided.

28 e. Allow residents or, if applicable, a resident's
29 representative, designee, surrogate, guardian, or attorney in
30 fact to make a variety of personal choices, participate in
31

1 developing service plans, and share responsibility in
2 decisionmaking.

3 f. Implement the concept of managed risk.

4 g. Provide, either directly or through contract, the
5 services of a person licensed pursuant to part I of chapter
6 464.

7 h. In addition to the training mandated in s. 400.452,
8 provide specialized training as defined by rule for facility
9 staff.

10 4. Facilities licensed to provide extended congregate
11 care services are exempt from the criteria for continued
12 residency as set forth in rules adopted under s. 400.441.
13 Facilities so licensed shall adopt their own requirements
14 within guidelines for continued residency set forth by the
15 department in rule. However, such facilities may not serve
16 residents who require 24-hour nursing supervision. Facilities
17 licensed to provide extended congregate care services shall
18 provide each resident with a written copy of facility policies
19 governing admission and retention.

20 5. The primary purpose of extended congregate care
21 services is to allow residents, as they become more impaired,
22 the option of remaining in a familiar setting from which they
23 would otherwise be disqualified for continued residency. A
24 facility licensed to provide extended congregate care services
25 may also admit an individual who exceeds the admission
26 criteria for a facility with a standard license, if the
27 individual is determined appropriate for admission to the
28 extended congregate care facility.

29 6. Before admission of an individual to a facility
30 licensed to provide extended congregate care services, the
31 individual must undergo a medical examination as provided in

1 s. 400.426(4) and the facility must develop a preliminary
2 service plan for the individual.

3 7. When a facility can no longer provide or arrange
4 for services in accordance with the resident's service plan
5 and needs and the facility's policy, the facility shall make
6 arrangements for relocating the person in accordance with s.
7 400.428(1)(k).

8 8. Failure to provide extended congregate care
9 services may result in denial of extended congregate care
10 license renewal.

11 9. No later than January 1 of each year, the
12 department, in consultation with the agency, shall prepare and
13 submit to the Governor, the President of the Senate, the
14 Speaker of the House of Representatives, and the chairs of
15 appropriate legislative committees, a report on the status of,
16 and recommendations related to, extended congregate care
17 services. The status report must include, but need not be
18 limited to, the following information:

19 a. A description of the facilities licensed to provide
20 such services, including total number of beds licensed under
21 this part.

22 b. The number and characteristics of residents
23 receiving such services.

24 c. The types of services rendered that could not be
25 provided through a standard license.

26 d. An analysis of deficiencies cited during biennial
27 inspections.

28 e. The number of residents who required extended
29 congregate care services at admission and the source of
30 admission.

31

1 f. Recommendations for statutory or regulatory
2 changes.

3 g. The availability of extended congregate care to
4 state clients residing in facilities licensed under this part
5 and in need of additional services, and recommendations for
6 appropriations to subsidize extended congregate care services
7 for such persons.

8 h. Such other information as the department considers
9 appropriate.

10 Section 21. Paragraphs (a) and (c) of subsection (1)
11 and subsection (2) of section 400.4255, Florida Statutes, are
12 amended to read:

13 400.4255 Use of personnel; emergency care.--

14 (1)(a) Persons under contract to the facility,
15 facility staff, or volunteers, who are licensed according to
16 part I of chapter 464, or those persons exempt under s.
17 464.022(1), and others as defined by rule, may administer
18 medications to residents, take residents' vital signs, manage
19 individual weekly pill organizers for residents who
20 self-administer medication, give prepackaged enemas ordered by
21 a physician, observe residents, document observations on the
22 appropriate resident's record, report observations to the
23 resident's physician, and contract or allow residents or a
24 resident's representative, designee, surrogate, guardian, or
25 attorney in fact to contract with a third party, provided
26 residents meet the criteria for appropriate placement as
27 defined in s. 400.426. Nursing assistants certified pursuant
28 to part II of chapter 464 ~~s. 400.211~~ may take residents' vital
29 signs as directed by a licensed nurse or physician.

30 (c) In an emergency situation, licensed personnel may
31 carry out their professional duties pursuant to part I of

1 chapter 464 until emergency medical personnel assume
2 responsibility for care.

3 (2) In facilities licensed to provide extended
4 congregate care, persons under contract to the facility,
5 facility staff, or volunteers, who are licensed according to
6 part I of chapter 464, or those persons exempt under s.
7 464.022(1), or those persons certified as nursing assistants
8 pursuant to part II of chapter 464 ~~s. 400.211~~, may also
9 perform all duties within the scope of their license or
10 certification, as approved by the facility administrator and
11 pursuant to this part.

12 Section 22. Subsection (3) of section 400.426, Florida
13 Statutes, is amended to read:

14 400.426 Appropriateness of placements; examinations of
15 residents.--

16 (3) Persons licensed under part I of chapter 464 who
17 are employed by or under contract with a facility shall, on a
18 routine basis or at least monthly, perform a nursing
19 assessment of the residents for whom they are providing
20 nursing services ordered by a physician, except administration
21 of medication, and shall document such assessment, including
22 any substantial changes in a resident's status which may
23 necessitate relocation to a nursing home, hospital, or
24 specialized health care facility. Such records shall be
25 maintained in the facility for inspection by the agency and
26 shall be forwarded to the resident's case manager, if
27 applicable.

28 Section 23. Subsections (3) and (21) of section
29 400.462, Florida Statutes, are amended to read:

30 400.462 Definitions.--As used in this part, the term:
31

1 (3) "Certified nursing assistant" means any person who
2 has been issued a certificate under part II of chapter 464 ~~s.~~
3 ~~400.211~~. The licensed home health agency or licensed nurse
4 registry shall ensure that the certified nursing assistant
5 employed by or under contract with the home health agency or
6 licensed nurse registry is adequately trained to perform the
7 tasks of a home health aide in the home setting.

8 (21) "Skilled care" means nursing services or
9 therapeutic services delivered by a health care professional
10 who is licensed under part I of chapter 464; part I, part III,
11 or part V of chapter 468; or chapter 486 and who is employed
12 by or under contract with a licensed home health agency or is
13 referred by a licensed nurse registry.

14 Section 24. Paragraph (c) of subsection (6) of section
15 400.464, Florida Statutes, is amended to read:

16 400.464 Home health agencies to be licensed;
17 expiration of license; exemptions; unlawful acts; penalties.--

18 (6) The following are exempt from the licensure
19 requirements of this part:

20 (c) A health care professional, whether or not
21 incorporated, who is licensed under chapter 457; chapter 458;
22 chapter 459; part I of chapter 464; chapter 467; part I, part
23 III, part V, or part X of chapter 468; chapter 480; chapter
24 486; chapter 490; or chapter 491; and who is acting alone
25 within the scope of his or her professional license to provide
26 care to patients in their homes.

27 Section 25. Paragraph (a) of subsection (10),
28 subsection (11), and paragraph (a) of subsection (15) of
29 section 400.506, Florida Statutes, are amended to read:

30 400.506 Licensure of nurse registries; requirements;
31 penalties.--

1 (10)(a) A nurse registry may refer for contract in
2 private residences registered nurses and licensed practical
3 nurses registered and licensed under part I of chapter 464,
4 certified nursing assistants certified under part II of
5 chapter 464 ~~s. 400.211~~, home health aides who present
6 documented proof of successful completion of the training
7 required by rule of the agency, and companions or homemakers
8 for the purposes of providing those services authorized under
9 s. 400.509(1). Each person referred by a nurse registry must
10 provide current documentation that he or she is free from
11 communicable diseases.

12 (11) A person who is referred by a nurse registry for
13 contract in private residences and who is not a nurse licensed
14 under part I of chapter 464 may perform only those services or
15 care to clients that the person has been certified to perform
16 or trained to perform as required by law or rules of the
17 Agency for Health Care Administration or the Department of
18 Business and Professional Regulation. Providing services
19 beyond the scope authorized under this subsection constitutes
20 the unauthorized practice of medicine or a violation of the
21 Nurse Practice Act and is punishable as provided under chapter
22 458, chapter 459, or part I of chapter 464.

23 (15) All persons referred for contract in private
24 residences by a nurse registry must comply with the following
25 requirements for a plan of treatment:

26 (a) When, in accordance with the privileges and
27 restrictions imposed upon a nurse under part I of chapter 464,
28 the delivery of care to a patient is under the direction or
29 supervision of a physician or when a physician is responsible
30 for the medical care of the patient, a medical plan of
31 treatment must be established for each patient receiving care

1 or treatment provided by a licensed nurse in the home. The
2 original medical plan of treatment must be timely signed by
3 the physician and reviewed by him or her in consultation with
4 the licensed nurse at least every 2 months. Any additional
5 order or change in orders must be obtained from the physician
6 and reduced to writing and timely signed by the physician.
7 The delivery of care under a medical plan of treatment must be
8 substantiated by the appropriate nursing notes or
9 documentation made by the nurse in compliance with nursing
10 practices established under part I of chapter 464.

11 Section 26. Subsection (1) of section 400.512, Florida
12 Statutes, is amended to read:

13 400.512 Screening of home health agency personnel;
14 nurse registry personnel; and companions and homemakers.--The
15 agency shall require employment or contractor screening as
16 provided in chapter 435, using the level 1 standards for
17 screening set forth in that chapter, for home health agency
18 personnel; persons referred for employment by nurse
19 registries; and persons employed by companion or homemaker
20 services registered under s. 400.509.

21 (1)(a) The Agency for Health Care Administration may,
22 upon request, grant exemptions from disqualification from
23 employment or contracting under this section as provided in s.
24 435.07, except for health care practitioners licensed by the
25 Department of Health or a regulatory board within that
26 department.

27 (b) The appropriate regulatory board within the
28 Department of Health, or that department itself when there is
29 no board, may, upon request of the licensed health care
30 practitioner, grant exemptions from disqualification from
31

1 employment or contracting under this section as provided in s.
2 435.07.

3 Section 27. Subsections (2) and (3) of section
4 400.6105, Florida Statutes, are amended to read:

5 400.6105 Staffing and personnel.--

6 (2) Each hospice shall employ a full-time registered
7 nurse licensed pursuant to part I of chapter 464 who shall
8 coordinate the implementation of the plan of care for each
9 patient.

10 (3) A hospice shall employ a hospice care team or
11 teams who shall participate in the establishment and ongoing
12 review of the patient's plan of care, and be responsible for
13 and supervise the delivery of hospice care and services to the
14 patient. The team shall, at a minimum, consist of a physician
15 licensed pursuant to chapter 458 or chapter 459, a nurse
16 licensed pursuant to part I of chapter 464, a social worker,
17 and a pastoral or other counselor. The composition of the team
18 may vary for each patient and, over time, for the same patient
19 to ensure that all the patient's needs and preferences are
20 met.

21 Section 28. Subsection (20) of section 401.23, Florida
22 Statutes, is amended to read:

23 401.23 Definitions.--As used in this part, the term:

24 (20) "Registered nurse" means a practitioner who is
25 licensed to practice professional nursing pursuant to part I
26 of chapter 464.

27 Section 29. Paragraph (c) of subsection (1) of section
28 401.252, Florida Statutes, is amended to read:

29 401.252 Interfacility transfer.--

30 (1) A licensed basic or advanced life support
31 ambulance service may conduct interfacility transfers in a

1 permitted ambulance, using a registered nurse in place of an
2 emergency medical technician or paramedic, if:

3 (c) The registered nurse operates within the scope of
4 part I of chapter 464.

5 Section 30. Subsection (11) of section 408.706,
6 Florida Statutes, is amended to read:

7 408.706 Community health purchasing alliances;
8 accountable health partnerships.--

9 (11) The ability to recruit and retain alliance
10 district health care providers in its provider network. For
11 provider networks initially formed in an alliance district
12 after July 1, 1993, an accountable health partnership shall
13 make offers as to provider participation in its provider
14 network to relevant alliance district health care providers
15 for at least 60 percent of the available provider positions. A
16 provider who is made an offer may participate in an
17 accountable health partnership as long as the provider abides
18 by the terms and conditions of the provider network contract,
19 provides services at a rate or price equal to the rate or
20 price negotiated by the accountable health partnership, and
21 meets all of the accountable health partnership's
22 qualifications for participation in its provider networks
23 including, but not limited to, network adequacy criteria. For
24 purposes of this subsection, "alliance district health care
25 provider" means a health care provider who is licensed under
26 chapter 458, chapter 459, chapter 460, chapter 461, part I of
27 chapter 464, or chapter 465 who has practiced in Florida for
28 more than 1 year within the alliance district served by the
29 accountable health partnership.

30 Section 31. Paragraph (d) of subsection (12) of
31 section 409.908, Florida Statutes, is amended to read:

1 409.908 Reimbursement of Medicaid providers.--Subject
2 to specific appropriations, the agency shall reimburse
3 Medicaid providers, in accordance with state and federal law,
4 according to methodologies set forth in the rules of the
5 agency and in policy manuals and handbooks incorporated by
6 reference therein. These methodologies may include fee
7 schedules, reimbursement methods based on cost reporting,
8 negotiated fees, competitive bidding pursuant to s. 287.057,
9 and other mechanisms the agency considers efficient and
10 effective for purchasing services or goods on behalf of
11 recipients. Payment for Medicaid compensable services made on
12 behalf of Medicaid eligible persons is subject to the
13 availability of moneys and any limitations or directions
14 provided for in the General Appropriations Act or chapter 216.
15 Further, nothing in this section shall be construed to prevent
16 or limit the agency from adjusting fees, reimbursement rates,
17 lengths of stay, number of visits, or number of services, or
18 making any other adjustments necessary to comply with the
19 availability of moneys and any limitations or directions
20 provided for in the General Appropriations Act, provided the
21 adjustment is consistent with legislative intent.

22 (12)

23 (d) Notwithstanding paragraph (b), reimbursement fees
24 to physicians for providing total obstetrical services to
25 Medicaid recipients, which include prenatal, delivery, and
26 postpartum care, shall be at least \$1,500 per delivery for a
27 pregnant woman with low medical risk and at least \$2,000 per
28 delivery for a pregnant woman with high medical risk. However,
29 reimbursement to physicians working in Regional Perinatal
30 Intensive Care Centers designated pursuant to chapter 383, for
31 services to certain pregnant Medicaid recipients with a high

1 | medical risk, may be made according to obstetrical care and
2 | neonatal care groupings and rates established by the agency.
3 | Nurse midwives licensed under part I of chapter 464 or
4 | midwives licensed under chapter 467 shall be reimbursed at no
5 | less than 80 percent of the low medical risk fee. The agency
6 | shall by rule determine, for the purpose of this paragraph,
7 | what constitutes a high or low medical risk pregnant woman and
8 | shall not pay more based solely on the fact that a caesarean
9 | section was performed, rather than a vaginal delivery. The
10 | agency shall by rule determine a prorated payment for
11 | obstetrical services in cases where only part of the total
12 | prenatal, delivery, or postpartum care was performed. The
13 | Department of Health shall adopt rules for appropriate
14 | insurance coverage for midwives licensed under chapter 467.
15 | Prior to the issuance and renewal of an active license, or
16 | reactivation of an inactive license for midwives licensed
17 | under chapter 467, such licensees shall submit proof of
18 | coverage with each application.

19 | Section 32. Subsection (1) of section 415.1085,
20 | Florida Statutes, is amended to read:

21 | 415.1085 Photographs, medical examinations, and X rays
22 | of abused or neglected aged persons or disabled adults.--

23 | (1) Any person authorized by law to investigate cases
24 | of alleged abuse or neglect of an aged person or disabled
25 | adult may take or cause to be taken photographs of the areas
26 | of trauma visible on the aged person or disabled adult who is
27 | the subject of a report, and photographs of the surrounding
28 | environment, with the consent of the subject or guardian or
29 | guardians. If the areas of trauma visible on the aged person
30 | or disabled adult indicate a need for medical examination, or
31 | if the aged person or disabled adult verbally complains or

1 otherwise exhibits distress as a result of injury through
2 suspected adult abuse, neglect, or exploitation, or is alleged
3 to have been sexually abused, the department may, with the
4 consent of the subject or guardian or guardians, cause the
5 aged person or disabled adult to be referred to a licensed
6 physician or any emergency department in a hospital or health
7 care facility for medical examinations and X rays, if deemed
8 necessary by the examining physician. Such examinations may
9 be performed by an advanced registered nurse practitioner
10 licensed pursuant to part I of chapter 464. Medical
11 examinations performed and X rays taken pursuant to this
12 section shall be paid for by third-party reimbursement, if
13 available, or by the subject or his or her guardian, if they
14 are determined to be financially able to pay; or, if neither
15 is available, the department shall pay the costs within
16 available emergency services funds.

17 Section 33. Paragraph (a) of subsection (1) of section
18 455.597 Florida Statutes, is amended to read:

19 455.597 Requirement for instruction on domestic
20 violence.--

21 (1)(a) The appropriate board shall require each person
22 licensed or certified under chapter 458, chapter 459, part I
23 of chapter 464, chapter 466, chapter 467, chapter 490, or
24 chapter 491 to complete a 1-hour continuing education course,
25 approved by the board, on domestic violence, as defined in s.
26 741.28, as part of biennial relicensure or recertification.
27 The course shall consist of information on the number of
28 patients in that professional's practice who are likely to be
29 victims of domestic violence and the number who are likely to
30 be perpetrators of domestic violence, screening procedures for
31 determining whether a patient has any history of being either

1 a victim or a perpetrator of domestic violence, and
2 instruction on how to provide such patients with information
3 on, or how to refer such patients to, resources in the local
4 community, such as domestic violence centers and other
5 advocacy groups, that provide legal aid, shelter, victim
6 counseling, batterer counseling, or child protection services.

7 Section 34. Subsection (1) of section 455.604, Florida
8 Statutes, is amended to read:

9 455.604 Requirement for instruction for certain
10 licensees on human immunodeficiency virus and acquired immune
11 deficiency syndrome.--

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

31

1 Section 35. Paragraph (a) of subsection (2) of section
2 455.667, Florida Statutes, is amended to read:

3 455.667 Ownership and control of patient records;
4 report or copies of records to be furnished.--

5 (2) As used in this section, the terms "records
6 owner," "health care practitioner," and "health care
7 practitioner's employer" do not include any of the following
8 persons or entities; furthermore, the following persons or
9 entities are not authorized to acquire or own medical records,
10 but are authorized under the confidentiality and disclosure
11 requirements of this section to maintain those documents
12 required by the part or chapter under which they are licensed
13 or regulated:

14 (a) Certified nursing assistants regulated under part
15 II of chapter 464 s. 400.211.

16 Section 36. Section 455.677, Florida Statutes, is
17 amended to read:

18 455.677 Disposition of records of deceased
19 practitioners or practitioners relocating or terminating
20 practice.--Each board created under the provisions of chapter
21 457, chapter 458, chapter 459, chapter 460, chapter 461,
22 chapter 463, part I of chapter 464, chapter 465, chapter 466,
23 part I of chapter 484, chapter 486, chapter 490, or chapter
24 491, and the department under the provisions of chapter 462,
25 shall provide by rule for the disposition, under that chapter,
26 of the medical records or records of a psychological nature of
27 practitioners which are in existence at the time the
28 practitioner dies, terminates practice, or relocates and is no
29 longer available to patients and which records pertain to the
30 practitioner's patients. The rules shall provide that the
31 records be retained for at least 2 years after the

1 practitioner's death, termination of practice, or relocation.
2 In the case of the death of the practitioner, the rules shall
3 provide for the disposition of such records by the estate of
4 the practitioner.

5 Section 37. Paragraph (b) of subsection (2) of section
6 455.694, Florida Statutes, is amended to read:

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

9 (2) The board or department may grant exemptions upon
10 application by practitioners meeting any of the following
11 criteria:

12 (b) Any person whose license or certification has
13 become inactive under chapter 457, chapter 460, chapter 461,
14 part I of chapter 464, chapter 466, or chapter 467 and who is
15 not practicing in this state. Any person applying for
16 reactivation of a license must show either that such licensee
17 maintained tail insurance coverage which provided liability
18 coverage for incidents that occurred on or after October 1,
19 1993, or the initial date of licensure in this state,
20 whichever is later, and incidents that occurred before the
21 date on which the license became inactive; or such licensee
22 must submit an affidavit stating that such licensee has no
23 unsatisfied medical malpractice judgments or settlements at
24 the time of application for reactivation.

25 Section 38. Subsection (2) of section 455.707, Florida
26 Statutes, is amended to read:

27 455.707 Treatment programs for impaired
28 practitioners.--

29 (2) The department shall retain one or more impaired
30 practitioner consultants as recommended by the committee. A
31 consultant shall be a licensee or recovered licensee under the

1 jurisdiction of the Division of Medical Quality Assurance
2 within the department, and at least one consultant must be a
3 practitioner or recovered practitioner licensed under chapter
4 458, chapter 459, or part I of chapter 464. The consultant
5 shall assist the probable cause panel and department in
6 carrying out the responsibilities of this section. This shall
7 include working with department investigators to determine
8 whether a practitioner is, in fact, impaired.

9 Section 39. Subsection (2) of section 458.348, Florida
10 Statutes, is amended to read:

11 458.348 Formal supervisory relationships, standing
12 orders, and established protocols; notice; standards.--

13 (2) ESTABLISHMENT OF STANDARDS BY JOINT
14 COMMITTEE.--The joint committee created by s. 464.003(3)(c)
15 shall determine minimum standards for the content of
16 established protocols pursuant to which an advanced registered
17 nurse practitioner may perform medical acts identified and
18 approved by the joint committee pursuant to s. 464.003(3)(c)
19 or acts set forth in s. 464.012(3) and (4) and shall determine
20 minimum standards for supervision of such acts by the
21 physician, unless the joint committee determines that any act
22 set forth in s. 464.012(3) or (4) is not a medical act. Such
23 standards shall be based on risk to the patient and acceptable
24 standards of medical care and shall take into account the
25 special problems of medically underserved areas. The standards
26 developed by the joint committee shall be adopted as rules by
27 the Board of Nursing and the Board of Medicine for purposes of
28 carrying out their responsibilities pursuant to part I of
29 chapter 464 and this chapter, respectively, but neither board
30 shall have disciplinary powers over the licensees of the other
31 board.

1 Section 40. Section 464.001, Florida Statutes, is
2 amended to read:

3 464.001 Short title.--This part may be cited ~~chapter~~
4 ~~shall be known~~ as the "Nurse Practice Act."

5 Section 41. Section 464.002, Florida Statutes, is
6 amended to read:

7 464.002 Purpose.--The sole legislative purpose in
8 enacting this part ~~chapter~~ is to ensure that every nurse
9 practicing in this state meets minimum requirements for safe
10 practice. It is the legislative intent that nurses who fall
11 below minimum competency or who otherwise present a danger to
12 the public shall be prohibited from practicing in this state.

13 Section 42. Section 464.003, Florida Statutes, is
14 amended to read:

15 464.003 Definitions.--As used in this part ~~chapter~~:

16 (1) "Department" means the Department of Health.

17 (2) "Board" means the Board of Nursing ~~as created in~~
18 ~~this chapter~~.

19 (3)(a) "Practice of professional nursing" means the
20 performance of those acts requiring substantial specialized
21 knowledge, judgment, and nursing skill based upon applied
22 principles of psychological, biological, physical, and social
23 sciences which shall include, but not be limited to:

24 1. The observation, assessment, nursing diagnosis,
25 planning, intervention, and evaluation of care; health
26 teaching and counseling of the ill, injured, or infirm; and
27 the promotion of wellness, maintenance of health, and
28 prevention of illness of others.

29 2. The administration of medications and treatments as
30 prescribed or authorized by a duly licensed practitioner

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1 authorized by the laws of this state to prescribe such
2 medications and treatments.

3 3. The supervision and teaching of other personnel in
4 the theory and performance of any of the above acts.

5 (b) "Practice of practical nursing" means the
6 performance of selected acts, including the administration of
7 treatments and medications, in the care of the ill, injured,
8 or infirm and the promotion of wellness, maintenance of
9 health, and prevention of illness of others under the
10 direction of a registered nurse, a licensed physician, a
11 licensed osteopathic physician, a licensed podiatric
12 physician, or a licensed dentist.

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14 The professional nurse and the practical nurse shall be
15 responsible and accountable for making decisions that are
16 based upon the individual's educational preparation and
17 experience in nursing.

18 (c) "Advanced or specialized nursing practice" means,
19 in addition to the practice of professional nursing, the
20 performance of advanced-level nursing acts approved by the
21 board which, by virtue of postbasic specialized education,
22 training, and experience, are proper to be performed by an
23 advanced registered nurse practitioner. Within the context of
24 advanced or specialized nursing practice, the advanced
25 registered nurse practitioner may perform acts of nursing
26 diagnosis and nursing treatment of alterations of the health
27 status. The advanced registered nurse practitioner may also
28 perform acts of medical diagnosis and treatment, prescription,
29 and operation which are identified and approved by a joint
30 committee composed of three members appointed by the Board of
31 Nursing, two of whom shall be advanced registered nurse

1 practitioners; three members appointed by the Board of
2 Medicine, two of whom shall have had work experience with
3 advanced registered nurse practitioners; and the secretary of
4 the department or the secretary's designee. Each committee
5 member appointed by a board shall be appointed to a term of 4
6 years unless a shorter term is required to establish or
7 maintain staggered terms. The Board of Nursing shall adopt
8 rules authorizing the performance of any such acts approved by
9 the joint committee. Unless otherwise specified by the joint
10 committee, such acts shall be performed under the general
11 supervision of a practitioner licensed under chapter 458,
12 chapter 459, or chapter 466 within the framework of standing
13 protocols which identify the medical acts to be performed and
14 the conditions for their performance. The department may, by
15 rule, require that a copy of the protocol be filed with the
16 department along with the notice required by s. 458.348.

17 (d) "Nursing diagnosis" means the observation and
18 evaluation of physical or mental conditions, behaviors, signs
19 and symptoms of illness, and reactions to treatment and the
20 determination as to whether such conditions, signs, symptoms,
21 and reactions represent a deviation from normal.

22 (e) "Nursing treatment" means the establishment and
23 implementation of a nursing regimen for the care and comfort
24 of individuals, the prevention of illness, and the education,
25 restoration, and maintenance of health.

26 (4) "Registered nurse" means any person licensed in
27 this state to practice professional nursing.

28 (5) "Licensed practical nurse" means any person
29 licensed in this state to practice practical nursing.

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1 (6) "Advanced registered nurse practitioner" means any
2 person licensed in this state to practice professional nursing
3 and certified in advanced or specialized nursing practice.

4 (7) "Approved program" means a nursing program
5 conducted in a school, college, or university which is
6 approved by the board pursuant to s. 464.019 for the education
7 of nurses.

8 Section 43. Section 464.006, Florida Statutes, is
9 amended to read:

10 464.006 Authority to make rules.--The board of ~~Nursing~~
11 has authority to adopt rules pursuant to ss. 120.536(1) and
12 120.54 to implement the provisions of this part ~~chapter~~
13 conferring duties upon it.

14 Section 44. Subsection (3) of section 464.009, Florida
15 Statutes, is amended to read:

16 464.009 Licensure by endorsement.--

17 (3) The department shall not issue a license by
18 endorsement to any applicant who is under investigation in
19 another state for an act which would constitute a violation of
20 this part ~~chapter~~ until such time as the investigation is
21 complete, at which time the provisions of s. 464.018 shall
22 apply.

23 Section 45. Paragraphs (a) and (d) of subsection (1)
24 and paragraph (b) of subsection (2) of section 464.016,
25 Florida Statutes, are amended to read:

26 464.016 Violations and penalties.--

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

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1 (a) Practicing advanced or specialized, professional
2 or practical nursing, as defined in this part ~~chapter~~, unless
3 holding an active license or certificate to do so.

4 (d) Obtaining or attempting to obtain a license or
5 certificate under this part ~~chapter~~ by misleading statements
6 or knowing misrepresentation.

7 (2) Each of the following acts constitutes a
8 misdemeanor of the first degree, punishable as provided in s.
9 775.082 or s. 775.083:

10 (b) Knowingly concealing information relating to
11 violations of this part ~~chapter~~.

12 Section 46. Paragraphs (i), (k), and (l) of subsection
13 (1) and subsection (4) of section 464.018, Florida Statutes,
14 are amended to read:

15 464.018 Disciplinary actions.--

16 (1) The following acts shall be grounds for
17 disciplinary action set forth in this section:

18 (i) Engaging or attempting to engage in the
19 possession, sale, or distribution of controlled substances as
20 set forth in chapter 893, for any other than legitimate
21 purposes authorized by this part ~~chapter~~.

22 (k) Failing to report to the department any person who
23 the licensee knows is in violation of this part ~~chapter~~ or of
24 the rules of the department or the board; however, if the
25 licensee verifies that such person is actively participating
26 in a board-approved program for the treatment of a physical or
27 mental condition, the licensee is required to report such
28 person only to an impaired professionals consultant.

29 (l) Knowingly violating any provision of this part
30 ~~chapter~~, a rule of the board or the department, or a lawful
31 order of the board or department previously entered in a

1 disciplinary proceeding or failing to comply with a lawfully
2 issued subpoena of the department.

3 (4) The board shall not reinstate the license of a
4 nurse who has been found guilty by the board on three separate
5 occasions of violations of this part ~~chapter~~ relating to the
6 use of drugs or narcotics, which offenses involved the
7 diversion of drugs or narcotics from patients to personal use
8 or sale.

9 Section 47. Subsections (1), (2), and (3) of section
10 464.019, Florida Statutes, are amended to read:

11 464.019 Approval of nursing programs.--

12 (1) An institution desiring to conduct an approved
13 program for the education of professional or practical nurses
14 shall apply to the department and submit such evidence as may
15 be required to show that it complies with the provisions of
16 this part ~~chapter~~ and with the rules of the board. The
17 application shall include a program review fee, as set by the
18 board, not to exceed \$1,000.

19 (2) The board shall adopt rules regarding educational
20 objectives, faculty qualifications, curriculum guidelines,
21 administrative procedures, and clinical training as are
22 necessary to ensure that approved programs graduate nurses
23 capable of competent practice under this part ~~act~~.

24 (3) The department shall survey each institution
25 applying for approval and submit its findings to the board.
26 If the board is satisfied that the program meets the
27 requirements of this part ~~chapter~~ and rules pursuant thereto,
28 it shall certify the program for approval and the department
29 shall approve the program.

30 Section 48. Section 464.022, Florida Statutes, is
31 amended to read:

1 464.022 Exceptions.--No provision of this part ~~chapter~~
2 shall be construed to prohibit:

3 (1) The care of the sick by friends or members of the
4 family without compensation, the incidental care of the sick
5 by domestic servants, or the incidental care of
6 noninstitutionalized persons by a surrogate family.

7 (2) Assistance by anyone in the case of an emergency.

8 (3) The practice of nursing by students enrolled in
9 approved schools of nursing.

10 (4) The practice of nursing by graduates of approved
11 programs or the equivalent, pending the result of the first
12 licensing examination for which they are eligible following
13 graduation, provided they practice under direct supervision of
14 a registered professional nurse. The board shall by rule
15 define what constitutes direct supervision.

16 (5) The rendering of services by nursing assistants
17 acting under the direct supervision of a registered
18 professional nurse.

19 (6) Any nurse practicing in accordance with the
20 practices and principles of the body known as the Church of
21 Christ Scientist; nor shall any rule of the board apply to any
22 sanitarium, nursing home, or rest home operated in accordance
23 with the practices and principles of the body known as the
24 Church of Christ Scientist.

25 (7) The practice of any legally qualified nurse or
26 licensed attendant of another state who is employed by the
27 United States Government, or any bureau, division, or agency
28 thereof, while in the discharge of official duties.

29 (8) Any nurse currently licensed in another state from
30 performing nursing services in this state for a period of 60
31 days after furnishing to the employer satisfactory evidence of

1 current licensure in another state and having submitted proper
2 application and fees to the board for licensure prior to
3 employment. The board may extend this time for administrative
4 purposes when necessary.

5 (9) The rendering of nursing services on a
6 fee-for-service basis, or the reimbursement for nursing
7 services directly to a nurse rendering such services by any
8 government program, commercial insurance company, hospital or
9 medical services plan, or any other third-party payor.

10 (10) The establishment of an independent practice by
11 one or more nurses for the purpose of rendering to patients
12 nursing services within the scope of the nursing license.

13 (11) The furnishing of hemodialysis treatments in a
14 patient's home, using an assistant chosen by the patient,
15 provided that the assistant is properly trained, as defined by
16 the board by rule, and has immediate telephonic access to a
17 registered nurse who is licensed pursuant to this part ~~chapter~~
18 and who has dialysis training and experience.

19 (12) The practice of nursing by any legally qualified
20 nurse of another state whose employment requires the nurse to
21 accompany and care for a patient temporarily residing in this
22 state for not more than 30 consecutive days, provided the
23 patient is not in an inpatient setting, the board is notified
24 prior to arrival of the patient and nurse, the nurse has the
25 standing physician orders and current medical status of the
26 patient available, and prearrangements with the appropriate
27 licensed health care providers in this state have been made in
28 case the patient needs placement in an inpatient setting.

29 (13) The practice of nursing by individuals enrolled
30 in board-approved remedial courses.

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1 Section 49. Section 464.023, Florida Statutes, is
2 amended to read:

3 464.023 Saving clauses.--

4 (1) No judicial or administrative proceeding pending
5 on July 1, 1979, shall be abated as a result of the repeal and
6 reenactment of this part ~~chapter~~.

7 (2) Each licensee or holder of a certificate who was
8 duly licensed or certified on June 30, 1979, shall be entitled
9 to hold such license or certificate. Henceforth, such license
10 or certificate shall be renewed in accordance with the
11 provisions of this part ~~act~~.

12 Section 50. Subsection (3) of section 464.027, Florida
13 Statutes, is amended to read:

14 464.027 Registered nurse first assistant.--

15 (3) QUALIFICATIONS.--A registered nurse first
16 assistant is any person who:

17 (a) Is licensed as a registered nurse under this part
18 ~~chapter~~;

19 (b) Is certified in perioperative nursing; and

20 (c) Holds a certificate from, and has successfully
21 completed, a recognized program.

22 Section 51. Subsection (6) of section 466.003, Florida
23 Statutes, is amended to read:

24 466.003 Definitions.--As used in this chapter:

25 (6) "Dental assistant" means a person, other than a
26 dental hygienist, who, under the supervision and authorization
27 of a dentist, provides dental care services directly to a
28 patient. This term shall not include a certified registered
29 nurse anesthetist licensed under part I of chapter 464.

30 Section 52. Subsection (2) of section 467.003, Florida
31 Statutes, is amended to read:

1 467.003 Definitions.--As used in this chapter, unless
2 the context otherwise requires:

3 (2) "Certified nurse midwife" means a person who is
4 licensed as an advanced registered nurse practitioner under
5 part I of chapter 464 and who is certified to practice
6 midwifery by the American College of Nurse Midwives.

7 Section 53. Paragraph (a) of subsection (2) of section
8 467.0125, Florida Statutes, is amended to read:

9 467.0125 Licensure by endorsement.--

10 (2) The department may issue a temporary certificate
11 to practice in areas of critical need to any midwife who is
12 qualifying for licensure by endorsement under subsection (1),
13 with the following restrictions:

14 (a) The Department of Health shall determine the areas
15 of critical need, and the midwife so certified shall practice
16 only in those specific areas, under the auspices of a
17 physician licensed pursuant to chapter 458 or chapter 459, a
18 certified nurse midwife licensed pursuant to part I of chapter
19 464, or a midwife licensed under this chapter, who has a
20 minimum of 3 years' professional experience. Such areas shall
21 include, but not be limited to, health professional shortage
22 areas designated by the United States Department of Health and
23 Human Services.

24 Section 54. Paragraph (e) of subsection (2) of section
25 467.203, Florida Statutes, is amended to read:

26 467.203 Disciplinary actions; penalties.--

27 (2) When the department finds any person guilty of any
28 of the grounds set forth in subsection (1), it may enter an
29 order imposing one or more of the following penalties:

30 (e) Placement of the midwife on probation for such
31 period of time and subject to such conditions as the

1 department may specify, including requiring the midwife to
2 submit to treatment; undertake further relevant education or
3 training; take an examination; or work under the supervision
4 of another licensed midwife, a physician, or a nurse midwife
5 licensed under part I of chapter 464.

6 Section 55. Paragraph (a) of subsection (1) of section
7 468.505, Florida Statutes, is amended to read:

8 468.505 Exemptions; exceptions.--

9 (1) Nothing in this part may be construed as
10 prohibiting or restricting the practice, services, or
11 activities of:

12 (a) A person licensed in this state under chapter 457,
13 chapter 458, chapter 459, chapter 460, chapter 461, chapter
14 462, chapter 463, part I of chapter 464, chapter 465, chapter
15 466, chapter 480, chapter 490, or chapter 491, when engaging
16 in the profession or occupation for which he or she is
17 licensed, or of any person employed by and under the
18 supervision of the licensee when rendering services within the
19 scope of the profession or occupation of the licensee.

20 Section 56. Subsection (7) of section 483.041, Florida
21 Statutes, is amended to read:

22 483.041 Definitions.--As used in this part, the term:

23 (7) "Licensed practitioner" means a physician licensed
24 under chapter 458, chapter 459, chapter 460, or chapter 461; a
25 dentist licensed under chapter 466; a person licensed under
26 chapter 462; or an advanced registered nurse practitioner
27 licensed under part I of chapter 464; or a duly licensed
28 practitioner from another state licensed under similar
29 statutes who orders examinations on materials or specimens for
30 nonresidents of the State of Florida, but who reside in the
31 same state as the requesting licensed practitioner.

1 Section 57. Subsection (5) of section 483.801, Florida
2 Statutes, is amended to read:

3 483.801 Exemptions.--This part applies to all clinical
4 laboratories and clinical laboratory personnel within this
5 state, except:

6 (5) Advanced registered nurse practitioners licensed
7 under part I of chapter 464 who perform provider-performed
8 microscopy procedures (PPMP) in an exclusive-use laboratory
9 setting.

10 Section 58. Paragraph (a) of subsection (4) of section
11 491.0112, Florida Statutes, is amended to read:

12 491.0112 Sexual misconduct by a psychotherapist;
13 penalties.--

14 (4) For the purposes of this section:

15 (a) The term "psychotherapist" means any person
16 licensed pursuant to chapter 458, chapter 459, part I of
17 chapter 464, chapter 490, or chapter 491, or any other person
18 who provides or purports to provide treatment, diagnosis,
19 assessment, evaluation, or counseling of mental or emotional
20 illness, symptom, or condition.

21 Section 59. Subsection (5) of section 550.24055,
22 Florida Statutes, is amended to read:

23 550.24055 Use of controlled substances or alcohol
24 prohibited; testing of certain occupational licensees;
25 penalty; evidence of test or action taken and admissibility
26 for criminal prosecution limited.--

27 (5) This section does not apply to the possession and
28 use of controlled or chemical substances that are prescribed
29 as part of the care and treatment of a disease or injury by a
30 practitioner licensed under chapter 458, chapter 459, part I
31 of chapter 464, or chapter 466.

1 Section 60. Paragraph (h) of subsection (4) of section
2 627.351, Florida Statutes, is amended to read:

3 627.351 Insurance risk apportionment plans.--

4 (4) MEDICAL MALPRACTICE RISK APPORTIONMENT.--

5 (h) As used in this subsection:

6 1. "Health care provider" means hospitals licensed
7 under chapter 395; physicians licensed under chapter 458;
8 osteopathic physicians licensed under chapter 459; podiatric
9 physicians licensed under chapter 461; dentists licensed under
10 chapter 466; chiropractic physicians licensed under chapter
11 460; naturopaths licensed under chapter 462; nurses licensed
12 under part I of chapter 464; midwives licensed under chapter
13 467; clinical laboratories registered under chapter 483;
14 physician assistants licensed under chapter 458 or chapter
15 459; physical therapists and physical therapist assistants
16 licensed under chapter 486; health maintenance organizations
17 certificated under part I of chapter 641; ambulatory surgical
18 centers licensed under chapter 395; other medical facilities
19 as defined in subparagraph 2.; blood banks, plasma centers,
20 industrial clinics, and renal dialysis facilities; or
21 professional associations, partnerships, corporations, joint
22 ventures, or other associations for professional activity by
23 health care providers.

24 2. "Other medical facility" means a facility the
25 primary purpose of which is to provide human medical
26 diagnostic services or a facility providing nonsurgical human
27 medical treatment, to which facility the patient is admitted
28 and from which facility the patient is discharged within the
29 same working day, and which facility is not part of a
30 hospital. However, a facility existing for the primary
31 purpose of performing terminations of pregnancy or an office

1 maintained by a physician or dentist for the practice of
2 medicine shall not be construed to be an "other medical
3 facility."

4 3. "Health care facility" means any hospital licensed
5 under chapter 395, health maintenance organization
6 certificated under part I of chapter 641, ambulatory surgical
7 center licensed under chapter 395, or other medical facility
8 as defined in subparagraph 2.

9 Section 61. Paragraph (b) of subsection (1) of section
10 627.357, Florida Statutes, is amended to read:

11 627.357 Medical malpractice self-insurance.--

12 (1) DEFINITIONS.--As used in this section, the term:

13 (b) "Health care provider" means any:

14 1. Hospital licensed under chapter 395.

15 2. Physician licensed, or physician assistant
16 licensed, under chapter 458.

17 3. Osteopathic physician or physician assistant
18 licensed under chapter 459.

19 4. Podiatric physician licensed under chapter 461.

20 5. Health maintenance organization certificated under
21 part I of chapter 641.

22 6. Ambulatory surgical center licensed under chapter
23 395.

24 7. Chiropractic physician licensed under chapter 460.

25 8. Psychologist licensed under chapter 490.

26 9. Optometrist licensed under chapter 463.

27 10. Dentist licensed under chapter 466.

28 11. Pharmacist licensed under chapter 465.

29 12. Registered nurse, licensed practical nurse, or
30 advanced registered nurse practitioner licensed or registered
31 under part I of chapter 464.

1 13. Other medical facility.

2 14. Professional association, partnership,
3 corporation, joint venture, or other association established
4 by the individuals set forth in subparagraphs 2., 3., 4., 7.,
5 8., 9., 10., 11., and 12. for professional activity.

6 Section 62. Subsection (6) of section 627.9404,
7 Florida Statutes, is amended to read:

8 627.9404 Definitions.--For the purposes of this part:

9 (6) "Licensed health care practitioner" means any
10 physician, nurse licensed under part I of chapter 464, or
11 psychotherapist licensed under chapter 490 or chapter 491, or
12 any individual who meets any requirements prescribed by rule
13 by the department.

14 Section 63. Subsection (21) of section 641.31, Florida
15 Statutes, is amended to read:

16 641.31 Health maintenance contracts.--

17 (21) Notwithstanding any other provision of law,
18 health maintenance policies or contracts which provide
19 anesthesia coverage, benefits, or services shall offer to the
20 subscriber, if requested and available, the services of a
21 certified registered nurse anesthetist licensed pursuant to
22 part I of chapter 464.

23 Section 64. Subsection (8) of section 766.101, Florida
24 Statutes, is amended to read:

25 766.101 Medical review committee, immunity from
26 liability.--

27 (8) No cause of action of any nature by a person
28 licensed pursuant to chapter 458, chapter 459, chapter 461,
29 chapter 463, part I of chapter 464, chapter 465, or chapter
30 466 shall arise against another person licensed pursuant to
31 chapter 458, chapter 459, chapter 461, chapter 463, part I of

1 chapter 464, chapter 465, or chapter 466 for furnishing
2 information to a duly appointed medical review committee, to
3 an internal risk management program established under s.
4 395.0197, to the Department of Business and Professional
5 Regulation, or to the appropriate regulatory board if the
6 information furnished concerns patient care at a facility
7 licensed pursuant to part I of chapter 395 where both persons
8 provide health care services, if the information is not
9 intentionally fraudulent, and if the information is within the
10 scope of the functions of the committee, department, or board.
11 However, if such information is otherwise available from
12 original sources, it is not immune from discovery or use in a
13 civil action merely because it was presented during a
14 proceeding of the committee, department, or board.

15 Section 65. Subsection (2) of section 766.110, Florida
16 Statutes, is amended to read:

17 766.110 Liability of health care facilities.--

18 (2) Every hospital licensed under chapter 395 may
19 carry liability insurance or adequately insure itself in an
20 amount of not less than \$1.5 million per claim, \$5 million
21 annual aggregate to cover all medical injuries to patients
22 resulting from negligent acts or omissions on the part of
23 those members of its medical staff who are covered thereby in
24 furtherance of the requirements of ss. 458.320 and 459.0085.
25 Self-insurance coverage extended hereunder to a member of a
26 hospital's medical staff meets the financial responsibility
27 requirements of ss. 458.320 and 459.0085 if the physician's
28 coverage limits are not less than the minimum limits
29 established in ss. 458.320 and 459.0085 and the hospital is a
30 verified trauma center as of July 1, 1990, that has extended
31 self-insurance coverage continuously to members of its medical

1 staff for activities both inside and outside of the hospital
2 since January 1, 1987. Any insurer authorized to write
3 casualty insurance may make available, but shall not be
4 required to write, such coverage. The hospital may assess on
5 an equitable and pro rata basis the following professional
6 health care providers for a portion of the total hospital
7 insurance cost for this coverage: physicians licensed under
8 chapter 458, osteopathic physicians licensed under chapter
9 459, podiatric physicians licensed under chapter 461, dentists
10 licensed under chapter 466, and nurses licensed under part I
11 of chapter 464. The hospital may provide for a deductible
12 amount to be applied against any individual health care
13 provider found liable in a law suit in tort or for breach of
14 contract. The legislative intent in providing for the
15 deductible to be applied to individual health care providers
16 found negligent or in breach of contract is to instill in each
17 individual health care provider the incentive to avoid the
18 risk of injury to the fullest extent and ensure that the
19 citizens of this state receive the highest quality health care
20 obtainable.

21 Section 66. Paragraph (d) of subsection (3) of section
22 766.1115, Florida Statutes, is amended to read:

23 766.1115 Health care providers; creation of agency
24 relationship with governmental contractors.--

25 (3) DEFINITIONS.--As used in this section, the term:

26 (d) "Health care provider" or "provider" means:

- 27 1. A birth center licensed under chapter 383.
- 28 2. An ambulatory surgical center licensed under
29 chapter 395.
- 30 3. A hospital licensed under chapter 395.

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- 1 4. A physician or physician assistant licensed under
2 chapter 458.
- 3 5. An osteopathic physician or osteopathic physician
4 assistant licensed under chapter 459.
- 5 6. A chiropractic physician licensed under chapter
6 460.
- 7 7. A podiatric physician licensed under chapter 461.
- 8 8. A registered nurse, nurse midwife, licensed
9 practical nurse, or advanced registered nurse practitioner
10 licensed or registered under part I of chapter 464 or any
11 facility which employs nurses licensed or registered under
12 part I of chapter 464 to supply all or part of the care
13 delivered under this section.
- 14 9. A midwife licensed under chapter 467.
- 15 10. A health maintenance organization certificated
16 under part I of chapter 641.
- 17 11. A health care professional association and its
18 employees or a corporate medical group and its employees.
- 19 12. Any other medical facility the primary purpose of
20 which is to deliver human medical diagnostic services or which
21 delivers nonsurgical human medical treatment, and which
22 includes an office maintained by a provider.
- 23 13. A dentist or dental hygienist licensed under
24 chapter 466.
- 25 14. Any other health care professional, practitioner,
26 provider, or facility under contract with a governmental
27 contractor.
- 28
- 29 The term includes any nonprofit corporation qualified as
30 exempt from federal income taxation under s. 501(c) of the
31 Internal Revenue Code which delivers health care services

1 provided by licensed professionals listed in this paragraph,
2 any federally funded community health center, and any
3 volunteer corporation or volunteer health care provider that
4 delivers health care services.

5 Section 67. Subsection (1) of section 877.111, Florida
6 Statutes, is amended to read:

7 877.111 Inhalation, ingestion, possession, sale,
8 purchase, or transfer of harmful chemical substances;
9 penalties.--

10 (1) It is unlawful for any person to inhale or ingest,
11 or to possess with intent to breathe, inhale, or drink, any
12 compound, liquid, or chemical containing toluol, hexane,
13 trichloroethylene, acetone, toluene, ethyl acetate, methyl
14 ethyl ketone, trichloroethane, isopropanol, methyl isobutyl
15 ketone, ethylene glycol monomethyl ether acetate,
16 cyclohexanone, nitrous oxide, diethyl ether, alkyl nitrites
17 (butyl nitrite), or any similar substance for the purpose of
18 inducing a condition of intoxication or which distorts or
19 disturbs the auditory, visual, or mental processes. This
20 section does not apply to the possession and use of these
21 substances as part of the care or treatment of a disease or
22 injury by a practitioner licensed under chapter 458, chapter
23 459, part I of chapter 464, or chapter 466 or to beverages
24 controlled by the provisions of chapter 561, chapter 562,
25 chapter 563, chapter 564, or chapter 565.

26 Section 68. Subsection (6) of section 945.602, Florida
27 Statutes, is amended to read:

28 945.602 State of Florida Correctional Medical
29 Authority; creation; members.--
30
31

1 (6) At least one member of the authority must be a
2 nurse licensed under part I of chapter 464 and have at least 5
3 years' experience in the practice of nursing.

4 Section 69. Subsection (2) of section 960.28, Florida
5 Statutes, is amended to read:

6 960.28 Payment for victims' initial forensic physical
7 examinations.--

8 (2) The Crime Victims' Services Office of the
9 department shall pay for medical expenses connected with an
10 initial forensic physical examination of a victim who reports
11 a violation of chapter 794 or chapter 800 to a law enforcement
12 officer. Such payment shall be made regardless of whether or
13 not the victim is covered by health or disability insurance.
14 The payment shall be made only out of moneys allocated to the
15 Crime Victims' Services Office for the purposes of this
16 section, and the payment may not exceed \$250 with respect to
17 any violation. Payment may not be made for an initial forensic
18 physical examination unless the law enforcement officer
19 certifies in writing that the initial forensic physical
20 examination is needed to aid in the investigation of an
21 alleged sexual offense and that the claimant is the alleged
22 victim of the offense. The department shall develop and
23 maintain separate protocols for the initial forensic physical
24 examination of adults and children. Payment under this section
25 is limited to medical expenses connected with the initial
26 forensic physical examination, and payment may be made to a
27 medical provider using an examiner qualified under part I of
28 chapter 464, excluding s. 464.003(5); chapter 458; or chapter
29 459. Payment made to the medical provider by the department
30 shall be considered by the provider as payment in full for the
31 initial forensic physical examination associated with the

1 collection of evidence. The victim may not be required to pay,
2 directly or indirectly, the cost of an initial forensic
3 physical examination performed in accordance with this
4 section.

5 Section 70. Subsection (36) of section 984.03, Florida
6 Statutes, is amended to read:

7 984.03 Definitions.--When used in this chapter, the
8 term:

9 (36) "Licensed health care professional" means a
10 physician licensed under chapter 458, an osteopathic physician
11 licensed under chapter 459, a nurse licensed under part I of
12 chapter 464, a physician assistant licensed under chapter 458
13 or chapter 459, or a dentist licensed under chapter 466.

14 Section 71. Subsection (37) of section 985.03, Florida
15 Statutes, is amended to read:

16 985.03 Definitions.--When used in this chapter, the
17 term:

18 (37) "Licensed health care professional" means a
19 physician licensed under chapter 458, an osteopathic physician
20 licensed under chapter 459, a nurse licensed under part I of
21 chapter 464, a physician assistant licensed under chapter 458
22 or chapter 459, or a dentist licensed under chapter 466.

23 Section 72. Section 455.557, Florida Statutes, is
24 amended to read:

25 455.557 Standardized credentialing for health care
26 practitioners.--

27 (1) INTENT.--The Legislature recognizes that an
28 efficient and effective health care practitioner credentialing
29 program helps to ensure access to quality health care and also
30 recognizes that health care practitioner credentialing
31 activities have increased significantly as a result of health

1 care reform and recent changes in health care delivery and
2 reimbursement systems. Moreover, the resulting duplication of
3 health care practitioner credentialing activities is
4 unnecessarily costly and cumbersome for both the practitioner
5 and the entity granting practice privileges. Therefore, it is
6 the intent of this section that a credentials collection
7 program be established which provides that, once a health care
8 practitioner's core credentials data are collected, they need
9 not be collected again, except for corrections, updates, and
10 modifications thereto. Participation under this section shall
11 ~~initially~~ include those individuals licensed under chapter
12 458, chapter 459, chapter 460, ~~or~~ chapter 461, or s. 464.012.
13 However, the department shall, with the approval of the
14 applicable board, include other professions under the
15 jurisdiction of the Division of Medical Quality Assurance in
16 this program, provided they meet the requirements of s.
17 455.565 or s. 455.56503.

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

19 ~~(a) "Advisory council" or "council" means the~~
20 ~~Credentials Advisory Council.~~

21 (a)(b) "Certified" or "accredited," as applicable,
22 means approved by a quality assessment program, from the
23 National Committee for Quality Assurance, the Joint Commission
24 on Accreditation of Healthcare Organizations, the American
25 Accreditation HealthCare Commission/URAC, or any such other
26 nationally recognized and accepted organization authorized by
27 the department, used to assess and certify any credentials
28 verification program, entity, or organization that verifies
29 the credentials of any health care practitioner.

30 (b)(c) "Core credentials data" means the following
31 data: current name, any former name, and any alias, any

1 professional education, professional training, licensure,
2 current Drug Enforcement Administration certification, social
3 security number, specialty board certification, Educational
4 Commission for Foreign Medical Graduates certification,
5 hospital or other institutional affiliations, evidence of
6 professional liability coverage or evidence of financial
7 responsibility as required by s. 458.320, or s. 459.0085, or
8 s. 455.694, history of claims, suits, judgments, or
9 settlements, final disciplinary action reported pursuant to s.
10 455.565(1)(a)8. or s. 455.56503(1)(a)8., and Medicare or
11 Medicaid sanctions.

12 (c)~~(d)~~ "Credential" or "credentialing" means the
13 process of assessing and verifying the qualifications of a
14 licensed health care practitioner or applicant for licensure
15 as a health care practitioner.

16 (d)~~(e)~~ "Credentials verification organization" means
17 any organization certified or accredited as a credentials
18 verification organization.

19 (e)~~(f)~~ "Department" means the Department of Health,
20 Division of Medical Quality Assurance.

21 (f)~~(g)~~ "Designated credentials verification
22 organization" means the credentials verification organization
23 which is selected by the health care practitioner, if the
24 health care practitioner chooses to make such a designation.

25 (g)~~(h)~~ "Drug Enforcement Administration certification"
26 means certification issued by the Drug Enforcement
27 Administration for purposes of administration or prescription
28 of controlled substances. Submission of such certification
29 under this section must include evidence that the
30 certification is current and must also include all current
31 addresses to which the certificate is issued.

1 (h)~~(i)~~ "Health care entity" means:
2 1. Any health care facility or other health care
3 organization licensed or certified to provide approved medical
4 and allied health services in this state;
5 2. Any entity licensed by the Department of Insurance
6 as a prepaid health care plan or health maintenance
7 organization or as an insurer to provide coverage for health
8 care services through a network of providers; or
9 3. Any accredited medical school in this state.
10 (i)~~(j)~~ "Health care practitioner" means any person
11 licensed, or, for credentialing purposes only, any person
12 applying for licensure, under chapter 458, chapter 459,
13 chapter 460, ~~or~~ chapter 461, or s. 464.012 or any person
14 licensed or applying for licensure under a chapter
15 subsequently made subject to this section by the department
16 with the approval of the applicable board, except a person
17 registered or applying for registration pursuant to s. 458.345
18 or s. 459.021.
19 (j)~~(k)~~ "Hospital or other institutional affiliations"
20 means each hospital or other institution for which the health
21 care practitioner or applicant has provided medical services.
22 Submission of such information under this section must
23 include, for each hospital or other institution, the name and
24 address of the hospital or institution, the staff status of
25 the health care practitioner or applicant at that hospital or
26 institution, and the dates of affiliation with that hospital
27 or institution.
28 (k)~~(l)~~ "National accrediting organization" means an
29 organization that awards accreditation or certification to
30 hospitals, managed care organizations, credentials
31 verification organizations, or other health care

1 organizations, including, but not limited to, the Joint
2 Commission on Accreditation of Healthcare Organizations, the
3 American Accreditation HealthCare Commission/URAC, and the
4 National Committee for Quality Assurance.

5 (1)~~(m)~~ "Professional training" means any internship,
6 residency, or fellowship relating to the profession for which
7 the health care practitioner is licensed or seeking licensure.

8 (m)~~(n)~~ "Specialty board certification" means
9 certification in a specialty issued by a specialty board
10 recognized by the board in this state that regulates the
11 profession for which the health care practitioner is licensed
12 or seeking licensure.

13 (3) STANDARDIZED CREDENTIALS VERIFICATION PROGRAM.--

14 (a) Every health care practitioner shall:

15 1. Report all core credentials data to the department
16 which is not already on file with the department, either by
17 designating a credentials verification organization to submit
18 the data or by submitting the data directly.

19 2. Notify the department within 45 days of any
20 corrections, updates, or modifications to the core credentials
21 data either through his or her designated credentials
22 verification organization or by submitting the data directly.
23 Corrections, updates, and modifications to the core
24 credentials data provided the department under this section
25 shall comply with the updating requirements of s. 455.565(3)
26 or s. 455.56503(3) related to profiling.

27 (b) The department shall:

28 1. Maintain a complete, current file of core
29 credentials data on each health care practitioner, which shall
30 include all updates provided in accordance with subparagraph
31 (a)2.

1 2. Release the core credentials data that is otherwise
2 confidential or exempt from the provisions of chapter 119 and
3 s. 24(a), Art. I of the State Constitution and any
4 corrections, updates, and modifications thereto, if authorized
5 by the health care practitioner.

6 3. Charge a fee to access the core credentials data,
7 which may not exceed the actual cost, including prorated setup
8 and operating costs, pursuant to the requirements of chapter
9 119. ~~The actual cost shall be set in consultation with the~~
10 ~~advisory council.~~

11 4. ~~Develop, in consultation with the advisory council,~~
12 standardized forms to be used by the health care practitioner
13 or designated credentials verification organization for the
14 initial reporting of core credentials data, for the health
15 care practitioner to authorize the release of core credentials
16 data, and for the subsequent reporting of corrections,
17 updates, and modifications thereto.

18 ~~5. Establish a Credentials Advisory Council,~~
19 ~~consisting of 13 members, to assist the department as provided~~
20 ~~in this section. The secretary, or his or her designee, shall~~
21 ~~serve as one member and chair of the council and shall appoint~~
22 ~~the remaining 12 members. Except for any initial lesser term~~
23 ~~required to achieve staggering, such appointments shall be for~~
24 ~~4-year staggered terms, with one 4-year reappointment, as~~
25 ~~applicable. Three members shall represent hospitals, and two~~
26 ~~members shall represent health maintenance organizations. One~~
27 ~~member shall represent health insurance entities. One member~~
28 ~~shall represent the credentials verification industry. Two~~
29 ~~members shall represent physicians licensed under chapter 458.~~
30 ~~One member shall represent osteopathic physicians licensed~~
31 ~~under chapter 459. One member shall represent chiropractic~~

1 ~~physicians licensed under chapter 460. One member shall~~
2 ~~represent podiatric physicians licensed under chapter 461.~~

3 (c) A registered credentials verification organization
4 may be designated by a health care practitioner to assist the
5 health care practitioner to comply with the requirements of
6 subparagraph (a)2. A designated credentials verification
7 organization shall:

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

10 2. Not provide the health care practitioner's core
11 data, including all corrections, updates, and modifications,
12 without the authorization of the practitioner.

13 (d) This section shall not be construed to restrict in
14 any way the authority of the health care entity to credential
15 and to approve or deny an application for hospital staff
16 membership, clinical privileges, or managed care network
17 participation.

18 (4) DUPLICATION OF DATA PROHIBITED.--

19 (a) A health care entity or credentials verification
20 organization is prohibited from collecting or attempting to
21 collect duplicate core credentials data from any health care
22 practitioner if the information is available from the
23 department. This section shall not be construed to restrict
24 the right of any health care entity or credentials
25 verification organization to collect additional information
26 from the health care practitioner which is not included in the
27 core credentials data file. This section shall not be
28 construed to prohibit a health care entity or credentials
29 verification organization from obtaining all necessary
30 attestation and release form signatures and dates.

31

1 (b) Effective July 1, 2002, a state agency in this
2 state which credentials health care practitioners may not
3 collect or attempt to collect duplicate core credentials data
4 from any individual health care practitioner if the
5 information is already available from the department. This
6 section shall not be construed to restrict the right of any
7 such state agency to request additional information not
8 included in the core credential data file, but which is deemed
9 necessary for the agency's specific credentialing purposes.

10 (5) STANDARDS AND REGISTRATION.--Any credentials
11 verification organization that does business in this state
12 must be fully accredited or certified as a credentials
13 verification organization by a national accrediting
14 organization as specified in paragraph (2)(a)~~(b)~~and must
15 register with the department. The department may charge a
16 reasonable registration fee,~~set in consultation with the~~
17 ~~advisory council~~,not to exceed an amount sufficient to cover
18 its actual expenses in providing and enforcing such
19 registration. The department shall establish by rule for
20 biennial renewal of such registration. Failure by a registered
21 credentials verification organization to maintain full
22 accreditation or certification, to provide data as authorized
23 by the health care practitioner, to report to the department
24 changes, updates, and modifications to a health care
25 practitioner's records within the time period specified in
26 subparagraph (3)(a)2., or to comply with the prohibition
27 against collection of duplicate core credentials data from a
28 practitioner may result in denial of an application for
29 renewal of registration or in revocation or suspension of a
30 registration.

31

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

6 (7) LIABILITY INSURANCE REQUIREMENTS.--Each
7 credentials verification organization doing business in this
8 state shall maintain liability insurance appropriate to meet
9 the certification or accreditation requirements established in
10 this section.

11 (8) RULES.--The department,~~in consultation with the~~
12 ~~advisory council,~~shall adopt rules necessary to develop and
13 implement the standardized core credentials data collection
14 program established by this section.

15 ~~(9) COUNCIL ABOLISHED; DEPARTMENT AUTHORITY.--The~~
16 ~~council shall be abolished October 1, 1999. After the council~~
17 ~~is abolished, all duties of the department required under this~~
18 ~~section to be in consultation with the council may be carried~~
19 ~~out by the department on its own.~~

20 Section 73. Section 455.56503, Florida Statutes, is
21 created to read:

22 455.56503 Advanced registered nurse practitioners;
23 information required for certification.--

24 (1)(a) Each person who applies for initial
25 certification under s. 464.012 must, at the time of
26 application, and each person certified under s. 464.012 who
27 applies for certification renewal must, in conjunction with
28 the renewal of such certification and under procedures adopted
29 by the Department of Health, and in addition to any other
30 information that may be required from the applicant, furnish
31 the following information to the Department of Health:

1 1. The name of each school or training program that
2 the applicant has attended, with the months and years of
3 attendance and the month and year of graduation, and a
4 description of all graduate professional education completed
5 by the applicant, excluding any coursework taken to satisfy
6 continuing education requirements.

7 2. The name of each location at which the applicant
8 practices.

9 3. The address at which the applicant will primarily
10 conduct his or her practice.

11 4. Any certification or designation that the applicant
12 has received from a specialty or certification board that is
13 recognized or approved by the regulatory board or department
14 to which the applicant is applying.

15 5. The year that the applicant received initial
16 certification and began practicing the profession in any
17 jurisdiction and the year that the applicant received initial
18 certification in this state.

19 6. Any appointment which the applicant currently holds
20 to the faculty of a school related to the profession and an
21 indication as to whether the applicant has had the
22 responsibility for graduate education within the most recent
23 10 years.

24 7. A description of any criminal offense of which the
25 applicant has been found guilty, regardless of whether
26 adjudication of guilt was withheld, or to which the applicant
27 has pled guilty or nolo contendere. A criminal offense
28 committed in another jurisdiction which would have been a
29 felony or misdemeanor if committed in this state must be
30 reported. If the applicant indicates that a criminal offense
31 is under appeal and submits a copy of the notice for appeal of

1 that criminal offense, the department must state that the
2 criminal offense is under appeal if the criminal offense is
3 reported in the applicant's profile. If the applicant
4 indicates to the department that a criminal offense is under
5 appeal, the applicant must, within 15 days after the
6 disposition of the appeal, submit to the department a copy of
7 the final written order of disposition.

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

25 (b) In addition to the information required under
26 paragraph (a), each applicant for initial certification or
27 certification renewal must provide the information required of
28 licensees pursuant to s. 455.697.

29 (2) The Department of Health shall send a notice to
30 each person certified under s. 464.012 at the
31 certificateholder's last known address of record regarding the

1 requirements for information to be submitted by advanced
2 registered nurse practitioners pursuant to this section in
3 conjunction with the renewal of such certificate.

4 (3) Each person certified under s. 464.012 who has
5 submitted information pursuant to subsection (1) must update
6 that information in writing by notifying the Department of
7 Health within 45 days after the occurrence of an event or the
8 attainment of a status that is required to be reported by
9 subsection (1). Failure to comply with the requirements of
10 this subsection to update and submit information constitutes a
11 ground for disciplinary action under chapter 464 and s.
12 455.624(1)(k). For failure to comply with the requirements of
13 this subsection to update and submit information, the
14 department or board, as appropriate, may:

15 (a) Refuse to issue a certificate to any person
16 applying for initial certification who fails to submit and
17 update the required information.

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

1 certified mail, restricted delivery, to the subject at the
2 certificateholder's last known address.

3 (4)(a) An applicant for initial certification under s.
4 464.012 must submit a set of fingerprints to the Department of
5 Health on a form and under procedures specified by the
6 department, along with payment in an amount equal to the costs
7 incurred by the Department of Health for a national criminal
8 history check of the applicant.

9 (b) An applicant for renewed certification who has not
10 previously submitted a set of fingerprints to the Department
11 of Health for purposes of certification must submit a set of
12 fingerprints to the department as a condition of the initial
13 renewal of his or her certificate after the effective date of
14 this section. The applicant must submit the fingerprints on a
15 form and under procedures specified by the department, along
16 with payment in an amount equal to the costs incurred by the
17 Department of Health for a national criminal history check.
18 For subsequent renewals, the applicant for renewed
19 certification must only submit information necessary to
20 conduct a statewide criminal history check, along with payment
21 in an amount equal to the costs incurred by the Department of
22 Health for a statewide criminal history check.

23 (c)1. The Department of Health shall submit the
24 fingerprints provided by an applicant for initial
25 certification to the Florida Department of Law Enforcement for
26 a statewide criminal history check, and the Florida Department
27 of Law Enforcement shall forward the fingerprints to the
28 Federal Bureau of Investigation for a national criminal
29 history check of the applicant.

30 2. The department shall submit the fingerprints
31 provided by an applicant for the initial renewal of

1 certification to the Florida Department of Law Enforcement for
2 a statewide criminal history check, and the Florida Department
3 of Law Enforcement shall forward the fingerprints to the
4 Federal Bureau of Investigation for a national criminal
5 history check for the initial renewal of the applicant's
6 certificate after the effective date of this section.

7 3. For any subsequent renewal of the applicant's
8 certificate, the department shall submit the required
9 information for a statewide criminal history check of the
10 applicant to the Florida Department of Law Enforcement.

11 (d) Any applicant for initial certification or renewal
12 of certification as an advanced registered nurse practitioner
13 who submits to the Department of Health a set of fingerprints
14 and information required for the criminal history check
15 required under this section shall not be required to provide a
16 subsequent set of fingerprints or other duplicate information
17 required for a criminal history check to the Agency for Health
18 Care Administration, the Department of Juvenile Justice, or
19 the Department of Children and Family Services for employment
20 or licensure with such agency or department, if the applicant
21 has undergone a criminal history check as a condition of
22 initial certification or renewal of certification as an
23 advanced registered nurse practitioner with the Department of
24 Health, notwithstanding any other provision of law to the
25 contrary. In lieu of such duplicate submission, the Agency for
26 Health Care Administration, the Department of Juvenile
27 Justice, and the Department of Children and Family Services
28 shall obtain criminal history information for employment or
29 licensure of persons certified under s. 464.012 by such agency
30 or department from the Department of Health's health care
31 practitioner credentialing system.

1 (5) Each person who is required to submit information
2 pursuant to this section may submit additional information to
3 the Department of Health. Such information may include, but is
4 not limited to:

5 (a) Information regarding publications in
6 peer-reviewed professional literature within the previous 10
7 years.

8 (b) Information regarding professional or community
9 service activities or awards.

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

15 (d) An indication of whether the person participates
16 in the Medicaid program.

17 Section 74. Section 455.5651, Florida Statutes, is
18 amended to read:

19 455.5651 Practitioner profile; creation.--

20 (1) Beginning July 1, 1999, the Department of Health
21 shall compile the information submitted pursuant to s. 455.565
22 into a practitioner profile of the applicant submitting the
23 information, except that the Department of Health may develop
24 a format to compile uniformly any information submitted under
25 s. 455.565(4)(b). Beginning July 1, 2001, the Department of
26 Health may compile the information submitted pursuant to s.
27 455.56503 into a practitioner profile of the applicant
28 submitting the information.

29 (2) On the profile published ~~required~~ under subsection
30 (1), the department shall indicate if the information provided
31 under s. 455.565(1)(a)7. or s. 455.56503(1)(a)7.is not

1 corroborated by a criminal history check conducted according
2 to this subsection. If the information provided under s.
3 455.565(1)(a)7. or s. 455.56503(1)(a)7.is corroborated by the
4 criminal history check, the fact that the criminal history
5 check was performed need not be indicated on the profile. The
6 department, or the board having regulatory authority over the
7 practitioner acting on behalf of the department, shall
8 investigate any information received by the department or the
9 board when it has reasonable grounds to believe that the
10 practitioner has violated any law that relates to the
11 practitioner's practice.

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

20 (4) The Department of Health shall include, with
21 respect to a practitioner licensed under chapter 458 or
22 chapter 459, a statement of how the practitioner has elected
23 to comply with the financial responsibility requirements of s.
24 458.320 or s. 459.0085. The department shall include, with
25 respect to practitioners subject to s. 455.694, a statement of
26 how the practitioner has elected to comply with the financial
27 responsibility requirements of that section.The department
28 shall include, with respect to practitioners licensed under
29 chapter 458, chapter 459, or chapter 461, information relating
30 to liability actions which has been reported under s. 455.697
31 or s. 627.912 within the previous 10 years for any paid claim

1 that exceeds \$5,000. Such claims information shall be reported
2 in the context of comparing an individual practitioner's
3 claims to the experience of other practitioners ~~physicians~~
4 within the same specialty, or profession if the practitioner
5 is not a specialist, to the extent such information is
6 available to the Department of Health. If information relating
7 to a liability action is included in a practitioner's
8 practitioner profile, the profile must also include the
9 following statement: "Settlement of a claim may occur for a
10 variety of reasons that do not necessarily reflect negatively
11 on the professional competence or conduct of the practitioner
12 ~~physician~~. A payment in settlement of a medical malpractice
13 action or claim should not be construed as creating a
14 presumption that medical malpractice has occurred."

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

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

25 (7) Upon the completion of a practitioner profile
26 under this section, the Department of Health shall furnish the
27 practitioner who is the subject of the profile a copy of it.
28 The practitioner has a period of 30 days in which to review
29 the profile and to correct any factual inaccuracies in it. The
30 Department of Health shall make the profile available to the
31 public at the end of the 30-day period. The department shall

1 make the profiles available to the public through the World
2 Wide Web and other commonly used means of distribution.

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

6 Section 75. Section 455.5653, Florida Statutes, is
7 amended to read:

8 455.5653 Practitioner profiles; data
9 storage.--Effective upon this act becoming a law, the
10 Department of Health must develop or contract for a computer
11 system to accommodate the new data collection and storage
12 requirements under this act pending the development and
13 operation of a computer system by the Department of Health for
14 handling the collection, input, revision, and update of data
15 submitted by physicians as a part of their initial licensure
16 or renewal to be compiled into individual practitioner
17 profiles. The Department of Health must incorporate any data
18 required by this act into the computer system used in
19 conjunction with the regulation of health care professions
20 under its jurisdiction. ~~The department must develop, by the~~
21 ~~year 2000, a schedule and procedures for each practitioner~~
22 ~~within a health care profession regulated within the Division~~
23 ~~of Medical Quality Assurance to submit relevant information to~~
24 ~~be compiled into a profile to be made available to the public.~~
25 The Department of Health is authorized to contract with and
26 negotiate any interagency agreement necessary to develop and
27 implement the practitioner profiles. The Department of Health
28 shall have access to any information or record maintained by
29 the Agency for Health Care Administration, including any
30 information or record that is otherwise confidential and
31 exempt from the provisions of chapter 119 and s. 24(a), Art. I

1 of the State Constitution, so that the Department of Health
2 may corroborate any information that practitioners ~~physicians~~
3 are required to report under s. 455.565 or s. 455.56503.

4 Section 76. Section 455.5654, Florida Statutes, is
5 amended to read:

6 455.5654 Practitioner profiles; rules;
7 workshops.--Effective upon this act becoming a law, the
8 Department of Health shall adopt rules for the form of a
9 practitioner profile that the agency is required to prepare.
10 The Department of Health, pursuant to chapter 120, must hold
11 public workshops for purposes of rule development to implement
12 this section. An agency to which information is to be
13 submitted under this act may adopt by rule a form for the
14 submission of the information required under s. 455.565 or s.
15 455.56503.

16 Section 77. There is appropriated from the Medical
17 Quality Assurance Trust Fund to the Department of Health the
18 sum of \$280,000 to implement the provisions of this act.

19 Section 78. This act shall take effect July 1, 2000.
20

21 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
22 COMMITTEE SUBSTITUTE FOR
23 Senate Bill 1932

24 The bill authorizes the appropriate regulatory board within
25 the Department of Health or department itself when there is no
26 employee or prospective employee who is licensed by the
27 department or a regulatory board within the department and who
28 is subject to criminal background screening as a condition of
29 employment with or contract in a nursing home, home health
30 agency, nurse registry, or as a companion or homemaker. The
31 bill creates the Council on Certified Nursing Assistants,
revises application procedures and requirements for CNAs, and
deletes a reporting requirement to the Board of Nursing. The
bill requires the Agency for Health Care Administration, the
Department of Juvenile Justice, or the Department of Children
and Family Services to obtain criminal history for employment
or licensure of advanced registered nurse practitioners from
the Department of Health's credentialing system.