

By the Committees on Fiscal Policy; Health, Aging and Long-Term Care; and Senator Silver

309-2149A-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. 400.23, F.S.; authorizing licensed
7 practical nurses in nursing home facilities to
8 supervise the activities of other licensed
9 practical nurses, certified nursing assistants,
10 and other unlicensed personnel working in such
11 facilities in accordance with rules adopted by
12 the Board of Nursing; amending s. 455.557,
13 F.S.; including advanced registered nurse
14 practitioners under the credentialing program;
15 creating s. 455.56503, F.S.; requiring advanced
16 registered nurse practitioners to submit
17 information and fingerprints for profiling
18 purposes; amending s. 455.5651, F.S.;
19 authorizing the department to publish certain
20 information in practitioner profiles; amending
21 s. 455.5653, F.S.; deleting obsolete provisions
22 relating to scheduling and development of
23 practitioner profiles for additional health
24 care practitioners; providing access to
25 information on advanced registered nurse
26 practitioners maintained by the Agency for
27 Health Care Administration for corroboration
28 purposes; amending s. 455.5654, F.S.; providing
29 for adoption by rule of a form for submission
30 of profiling information; amending s. 455.587,
31 F.S.; providing requirements for funding

1 regulation of professions by the department;
2 providing an effective date.

3
4 Be It Enacted by the Legislature of the State of Florida:

5
6 Section 1. Sections 468.821 through 468.829, Florida
7 Statutes, are renumbered as sections 464.201 through 464.209,
8 respectively, designated as part II of chapter 464, Florida
9 Statutes, and amended to read:

10 464.201 ~~468.821~~ Definitions.--As used in this part,
11 the term:

12 (1) "Approved training program" means:

13 (a) A course of training conducted by a public sector
14 or private sector educational center licensed by the
15 Department of Education to implement the basic curriculum for
16 nursing assistants which is approved by the Department of
17 Education. Beginning October 1, 2000, the board shall assume
18 responsibility for approval of training programs under this
19 paragraph.

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

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

22 (3)~~(2)~~ "Certified nursing assistant" means a person
23 who meets the qualifications specified in this part and who is
24 certified by the board ~~department~~ as a certified nursing
25 assistant.

26 (4)~~(3)~~ "Department" means the Department of Health.

27 (5)~~(4)~~ "Registry" means the listing of certified
28 nursing assistants maintained by the board ~~department~~.

29 464.202 ~~468.822~~ Duties and powers of the board
30 ~~department~~.--The board ~~department~~ shall maintain, or contract
31 with or approve another entity to maintain, a state registry

1 of certified nursing assistants. The registry must consist of
2 the name of each certified nursing assistant in this state;
3 other identifying information defined by board ~~department~~
4 rule; certification status; the effective date of
5 certification; other information required by state or federal
6 law; information regarding any crime or any abuse, neglect, or
7 exploitation as provided under chapter 435; and any
8 disciplinary action taken against the certified nursing
9 assistant. The registry shall be accessible to the public, the
10 certificateholder, employers, and other state agencies. The
11 board ~~department~~ shall adopt by rule testing procedures for
12 use in certifying nursing assistants and shall adopt rules
13 regulating the practice of certified nursing assistants to
14 enforce this part. The board ~~department~~ may contract with or
15 approve another entity or organization to provide the
16 examination services, including the development and
17 administration of examinations. The board shall require that
18 the contract provider provide and accept certified nursing
19 assistant applications via the Internet, and process
20 applications and complete testing within 5 calendar days after
21 the receipt of the application, with test scores provided
22 within 2 calendar days after the test date.The provider shall
23 pay all reasonable costs and expenses incurred by the board
24 ~~department~~ in evaluating the provider's application and
25 performance during the delivery of services, including
26 examination services and procedures for maintaining the
27 certified nursing assistant registry.

28 464.203 ~~468.823~~ Certified nursing assistants;
29 certification requirement.--

30 (1) The board ~~department~~ shall issue a certificate to
31 practice as a certified nursing assistant to any person who

1 demonstrates a minimum competency to read and write and
2 successfully passes the required Level I or Level II screening
3 pursuant to s. 400.215 and meets one of the following
4 requirements:

5 (a) Has successfully completed an approved training
6 program and achieved a minimum score, established by rule of
7 the board department, on the nursing assistant competency
8 examination, which consists of a written portion and
9 skills-demonstration portion approved by the board department
10 and administered at a site and by personnel approved by the
11 department.

12 (b) Has achieved a minimum score, established by rule
13 of the board department, on the nursing assistant competency
14 examination, which consists of a written portion and
15 skills-demonstration portion, approved by the board department
16 and administered at a site and by personnel approved by the
17 department and:

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

20 (c) Is currently certified in another state; is listed
21 on that state's certified nursing assistant registry; and has
22 not been found to have committed abuse, neglect, or
23 exploitation in that state; ~~and has successfully completed a~~
24 ~~national nursing assistant evaluation in order to receive~~
25 ~~certification in that state.~~

26 (2) If an applicant fails to pass the nursing
27 assistant competency examination in three attempts, the
28 applicant is not eligible for reexamination unless the
29 applicant completes an approved training program.

30 (3) An oral examination shall be administered as a
31 substitute for the written portion of the examination upon

1 request. The oral examination shall be administered at a site
2 and by personnel approved by the department.

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

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

8 464.204 ~~468.824~~ Denial, suspension, or revocation of
9 certification; disciplinary actions.--

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

13 (a) Obtaining or attempting to obtain certification or
14 an exemption, or possessing or attempting to possess
15 certification or a letter of exemption, by bribery,
16 misrepresentation, deceit, or through an error of the board
17 ~~department~~.

18 (b) Intentionally violating any provision of this
19 chapter, chapter 455, or the rules adopted by the board
20 ~~department~~.

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

25 (a) Denial, suspension, or revocation of
26 certification.

27 (b) Imposition of an administrative fine not to exceed
28 \$150 for each count or separate offense.

29 (c) Imposition of probation or restriction of
30 certification, including conditions such as corrective actions

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1 as retraining or compliance with an approved treatment program
2 for impaired practitioners.

3 (3) The board ~~department~~ may, upon the request of a
4 certificateholder, exempt the certificateholder from
5 disqualification ~~of certification or disqualification~~ of
6 employment in accordance with chapter 435 and issue a letter
7 of exemption. ~~After January 1, 2000,~~The board ~~department~~ must
8 notify an applicant seeking an exemption from disqualification
9 from certification or employment of its decision to approve or
10 deny the request within 30 days after the date the board
11 ~~department~~ receives all required documentation.

12 464.205 ~~468.825~~ Availability of disciplinary records
13 and proceedings.--Pursuant to s. 455.621, any complaint or
14 record maintained by the department ~~of Health~~ pursuant to the
15 discipline of a certified nursing assistant and any proceeding
16 held by the board ~~department~~ to discipline a certified nursing
17 assistant shall remain open and available to the public.

18 464.206 ~~468.826~~ Exemption from liability.--If an
19 employer terminates or denies employment to a certified
20 nursing assistant whose certification is inactive as shown on
21 the certified nursing assistant registry or whose name appears
22 on the central abuse registry and tracking system of the
23 Department of Children and Family Services or on a criminal
24 screening report of the Department of Law Enforcement, the
25 employer is not civilly liable for such termination and a
26 cause of action may not be brought against the employer for
27 damages, regardless of whether the employee has filed for an
28 exemption from the board ~~department~~ under s. 464.204(3)
29 ~~468.824(1)~~. There may not be any monetary liability on the
30 part of, and a cause of action for damages may not arise
31 against, any licensed facility, its governing board or members

1 thereof, medical staff, disciplinary board, agents,
2 investigators, witnesses, employees, or any other person for
3 any action taken in good faith without intentional fraud in
4 carrying out this section.

5 464.207 ~~468.827~~ Penalties.--It is a misdemeanor of the
6 first degree, punishable as provided under s. 775.082 or s.
7 775.083, for any person, knowingly or intentionally, to fail
8 to disclose, by false statement, misrepresentation,
9 impersonation, or other fraudulent means, in any application
10 for voluntary or paid employment or certification licensure
11 regulated under this part, a material fact used in making a
12 determination as to such person's qualifications to be an
13 employee or certificateholder licensee.

14 464.208 ~~468.828~~ Background screening information;
15 rulemaking authority.--

16 (1) The Agency for Health Care Administration shall
17 allow the board ~~department~~ to electronically access its
18 background screening database and records, and the Department
19 of Children and Family Services shall allow the board
20 ~~department~~ to electronically access its central abuse registry
21 and tracking system under chapter 415.

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

29 (3) If the requirements of the Omnibus Budget
30 Reconciliation Act of 1987, as amended, for the certification
31 of nursing assistants are in conflict with this part, the

1 federal requirements shall prevail for those facilities
2 certified to provide care under Title XVIII (Medicare) or
3 Title XIX (Medicaid) of the Social Security Act.

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

6 464.209 ~~468.829~~ Certified nursing assistant
7 registry.--

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

17 (2) The board ~~department~~ shall update the certified
18 nursing assistant registry upon receipt of the lists of
19 certified nursing assistants, ~~and shall complete the first of~~
20 ~~such updates by December 31, 1999.~~

21 (3) Each certified nursing assistant whose name is not
22 reported to the board ~~department~~ under subsection (1) on
23 October 1, 1999, shall be assigned an inactive certification
24 on January 1, 2000. A certified nursing assistant may remove
25 such an inactive certification by submitting documentation to
26 the board ~~department~~ that he or she was employed for a minimum
27 of 8 hours for monetary compensation as a certified nursing
28 assistant in a nursing-related occupation during the preceding
29 24 months.

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

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

3 464.2085 Council on Certified Nursing Assistants.--The
4 Council on Certified Nursing Assistants is created within the
5 department, under the Board of Nursing.

6 (1) The council shall consist of five members
7 appointed as follows:

8 (a) The chairperson of the Board of Nursing shall
9 appoint two members who are registered nurses. One of the
10 members must currently supervise a certified nursing assistant
11 in a licensed nursing home.

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

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

19 (2) The council shall:

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

22 (b) Develop all rules regulating the education,
23 training, and certification process for nursing assistants
24 certified under this chapter. The Board of Nursing shall
25 consider adopting a proposed rule developed by the council at
26 the regularly scheduled meeting immediately following the
27 submission of the proposed rule by the council.

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

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1 (d) Address concerns and problems of certified nursing
2 assistants in order to improve safety in the practice of
3 certified nursing assistants.

4 Section 3. Paragraph (g) of subsection (3) of section
5 20.43, Florida Statutes, is amended to read:

6 20.43 Department of Health.--There is created a
7 Department of Health.

8 (3) The following divisions of the Department of
9 Health are established:

10 (g) Division of Medical Quality Assurance, which is
11 responsible for the following boards and professions
12 established within the division:

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

14 ~~1.2.~~ Health care services pools, as provided under s.
15 402.48.

16 ~~2.3.~~ The Board of Acupuncture, created under chapter
17 457.

18 ~~3.4.~~ The Board of Medicine, created under chapter 458.

19 ~~4.5.~~ The Board of Osteopathic Medicine, created under
20 chapter 459.

21 ~~5.6.~~ The Board of Chiropractic Medicine, created under
22 chapter 460.

23 ~~6.7.~~ The Board of Podiatric Medicine, created under
24 chapter 461.

25 ~~7.8.~~ Naturopathy, as provided under chapter 462.

26 ~~8.9.~~ The Board of Optometry, created under chapter
27 463.

28 ~~9.10.~~ The Board of Nursing, created under part I of
29 chapter 464.

30 10. Nursing assistants, as provided under part II of
31 chapter 464.

- 1 11. The Board of Pharmacy, created under chapter 465.
- 2 12. The Board of Dentistry, created under chapter 466.
- 3 13. Midwifery, as provided under chapter 467.
- 4 14. The Board of Speech-Language Pathology and
- 5 Audiology, created under part I of chapter 468.
- 6 15. The Board of Nursing Home Administrators, created
- 7 under part II of chapter 468.
- 8 16. The Board of Occupational Therapy, created under
- 9 part III of chapter 468.
- 10 17. Respiratory therapy, as provided under part V of
- 11 chapter 468.
- 12 18. Dietetics and nutrition practice, as provided
- 13 under part X of chapter 468.
- 14 19. The Board of Athletic Training, created under part
- 15 XIII of chapter 468.
- 16 20. The Board of Orthotists and Prosthetists, created
- 17 under part XIV of chapter 468.
- 18 21. Electrolysis, as provided under chapter 478.
- 19 22. The Board of Massage Therapy, created under
- 20 chapter 480.
- 21 23. The Board of Clinical Laboratory Personnel,
- 22 created under part III of chapter 483.
- 23 24. Medical physicists, as provided under part IV of
- 24 chapter 483.
- 25 25. The Board of Opticianry, created under part I of
- 26 chapter 484.
- 27 26. The Board of Hearing Aid Specialists, created
- 28 under part II of chapter 484.
- 29 27. The Board of Physical Therapy Practice, created
- 30 under chapter 486.
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1 28. The Board of Psychology, created under chapter
2 490.

3 29. School psychologists, as provided under chapter
4 490.

5 30. The Board of Clinical Social Work, Marriage and
6 Family Therapy, and Mental Health Counseling, created under
7 chapter 491.

8
9 The department may contract with the Agency for Health Care
10 Administration who shall provide consumer complaint,
11 investigative, and prosecutorial services required by the
12 Division of Medical Quality Assurance, councils, or boards, as
13 appropriate.

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

16 39.01 Definitions.--When used in this chapter, unless
17 the context otherwise requires:

18 (38) "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 5. Paragraph (b) of subsection (1) of section
24 39.304, Florida Statutes, is amended to read:

25 39.304 Photographs, medical examinations, X rays, and
26 medical treatment of abused, abandoned, or neglected child.--

27 (1)

28 (b) If the areas of trauma visible on a child indicate
29 a need for a medical examination, or if the child verbally
30 complains or otherwise exhibits distress as a result of injury
31 through suspected child abuse, abandonment, or neglect, or is

1 alleged to have been sexually abused, the person required to
2 investigate may cause the child to be referred for diagnosis
3 to a licensed physician or an emergency department in a
4 hospital without the consent of the child's parents or legal
5 custodian. Such examination may be performed by any licensed
6 physician or an advanced registered nurse practitioner
7 licensed pursuant to part I of chapter 464. Any licensed
8 physician, or advanced registered nurse practitioner licensed
9 pursuant to part I of chapter 464, who has reasonable cause to
10 suspect that an injury was the result of child abuse,
11 abandonment, or neglect may authorize a radiological
12 examination to be performed on the child without the consent
13 of the child's parent or legal custodian.

14 Section 6. Paragraph (c) of subsection (6) of section
15 110.131, Florida Statutes, is amended to read:

16 110.131 Other-personal-services temporary
17 employment.--

18 (6)

19 (c) Notwithstanding the provisions of this section,
20 the agency head or his or her designee may extend the
21 other-personal-services employment of a health care
22 practitioner licensed pursuant to chapter 458, chapter 459,
23 chapter 460, chapter 461, chapter 463, part I of chapter 464,
24 chapter 466, chapter 468, chapter 483, chapter 486, or chapter
25 490 beyond 2,080 hours and may employ such practitioner on an
26 hourly or other basis.

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

29 232.46 Administration of medication by school district
30 personnel.--

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1 (1) Notwithstanding the provisions of the Nurse
2 Practice Act, part I of chapter 464, school district personnel
3 shall be authorized to assist students in the administration
4 of prescription medication when the following conditions have
5 been met:

6 (a) Each district school board shall include in its
7 approved school health services plan a procedure to provide
8 training, by a registered nurse, a licensed practical nurse, a
9 physician licensed pursuant to chapter 458 or chapter 459, or
10 a physician assistant licensed pursuant to chapter 458 or
11 chapter 459, to the school personnel designated by the
12 principal to assist students in the administration of
13 prescribed medication. Such training may be provided in
14 collaboration with other school districts, through contract
15 with an education consortium, or by any other arrangement
16 consistent with the intent of this section.

17 (b) Each district school board shall adopt policies
18 and procedures governing the administration of prescription
19 medication by school district personnel. The policies and
20 procedures shall include, but not be limited to, the following
21 provisions:

22 1. For each prescribed medication, the student's
23 parent or guardian shall provide to the school principal a
24 written statement which shall grant to the principal or the
25 principal's designee permission to assist in the
26 administration of such medication and which shall explain the
27 necessity for such medication to be provided during the school
28 day, including any occasion when the student is away from
29 school property on official school business. The school
30 principal or the principal's trained designee shall assist the
31 student in the administration of such medication.

1 2. Each prescribed medication to be administered by
2 school district personnel shall be received, counted, and
3 stored in its original container. When the medication is not
4 in use, it shall be stored in its original container in a
5 secure fashion under lock and key in a location designated by
6 the principal.

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

9 240.4075 Nursing Student Loan Forgiveness Program.--

10 (6) In addition to licensing fees imposed under part I
11 of chapter 464, there is hereby levied and imposed an
12 additional fee of \$5, which fee shall be paid upon licensure
13 or renewal of nursing licensure. Revenues collected from the
14 fee imposed in this subsection shall be deposited in the
15 Nursing Student Loan Forgiveness Trust Fund of the Department
16 of Education and will be used solely for the purpose of
17 carrying out the provisions of this section and s. 240.4076.
18 Up to 50 percent of the revenues appropriated to implement
19 this subsection may be used for the nursing scholarship
20 program established pursuant to s. 240.4076.

21 Section 9. Paragraph (b) of subsection (1) of section
22 246.081, Florida Statutes, is amended to read:

23 246.081 License, certificate of exemption, or
24 authorization required; exceptions.--

25 (1) The following colleges are not under the
26 jurisdiction of the board and are not required to obtain a
27 license, a certificate of exemption, permission to operate, or
28 an authorization from the board:

29 (b) Any college, school, or course licensed or
30 approved for establishment and operation under part I of
31 chapter 464, chapter 466, or chapter 475, or any other chapter

1 of the Florida Statutes, requiring licensing or approval as
2 defined in ss. 246.011-246.151.

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

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

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

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

20 381.0302 Florida Health Services Corps.--

21 (7) The financial penalty for noncompliance with
22 participation requirements for persons who have received
23 financial payments under subsection (5) or subsection (6)
24 shall be determined in the same manner as in the National
25 Health Services Corps scholarship program. In addition,
26 noncompliance with participation requirements shall also
27 result in ineligibility for professional licensure or renewal
28 of licensure under chapter 458, chapter 459, chapter 460, part
29 I of chapter 464, chapter 465, or chapter 466. For a
30 participant who is unable to participate for reasons of
31 disability, the penalty is the actual amount of financial

1 assistance provided to the participant. Financial penalties
2 shall be deposited in the Florida Health Services Corps Trust
3 Fund and shall be used to provide additional scholarship and
4 financial assistance.

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

7 384.30 Minors' consent to treatment.--

8 (1) The department and its authorized representatives,
9 each physician licensed to practice medicine under the
10 provisions of chapter 458 or chapter 459, each health care
11 professional licensed under the provisions of part I of
12 chapter 464 who is acting pursuant to the scope of his or her
13 license, and each public or private hospital, clinic, or other
14 health facility may examine and provide treatment for sexually
15 transmissible diseases to any minor, if the physician, health
16 care professional, or facility is qualified to provide such
17 treatment. The consent of the parents or guardians of a minor
18 is not a prerequisite for an examination or treatment.

19 Section 13. Section 384.31, Florida Statutes, is
20 amended to read:

21 384.31 Serological testing of pregnant women; duty of
22 the attendant.--

23 (1) Every person, including every physician licensed
24 under chapter 458 or chapter 459 or midwife licensed under
25 part I of chapter 464 or chapter 467, attending a pregnant
26 woman for conditions relating to pregnancy during the period
27 of gestation and delivery shall take or cause to be taken a
28 sample of venous blood at a time or times specified by the
29 department. Each sample of blood shall be tested by a
30 laboratory approved for such purposes under part I of chapter
31

1 483 for sexually transmissible diseases as required by rule of
2 the department.

3 (2) At the time the venous blood sample is taken,
4 testing for human immunodeficiency virus (HIV) infection shall
5 be offered to each pregnant woman. The prevailing professional
6 standard of care in this state requires each health care
7 provider and midwife who attends a pregnant woman to counsel
8 the woman to be tested for human immunodeficiency virus (HIV).
9 Counseling shall include a discussion of the availability of
10 treatment if the pregnant woman tests HIV positive. If a
11 pregnant woman objects to HIV testing, reasonable steps shall
12 be taken to obtain a written statement of such objection,
13 signed by the patient, which shall be placed in the patient's
14 medical record. Every person, including every physician
15 licensed under chapter 458 or chapter 459 or midwife licensed
16 under part I of chapter 464 or chapter 467, who attends a
17 pregnant woman who has been offered and objects to HIV testing
18 shall be immune from liability arising out of or related to
19 the contracting of HIV infection or acquired immune deficiency
20 syndrome (AIDS) by the child from the mother.

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

23 394.455 Definitions.--As used in this part, unless the
24 context clearly requires otherwise, the term:

25 (23) "Psychiatric nurse" means a registered nurse
26 licensed under part I of chapter 464 who has a master's degree
27 or a doctorate in psychiatric nursing and 2 years of
28 post-master's clinical experience under the supervision of a
29 physician.

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

4 395.0191 Staff membership and clinical privileges.--

5 (2)(a) Each licensed facility shall establish rules
6 and procedures for consideration of an application for
7 clinical privileges submitted by an advanced registered nurse
8 practitioner licensed and certified under part I of chapter
9 464, in accordance with the provisions of this section. No
10 licensed facility shall deny such application solely because
11 the applicant is licensed under part I of chapter 464 or
12 because the applicant is not a participant in the Florida
13 Birth-Related Neurological Injury Compensation Plan.

14 (b) An advanced registered nurse practitioner who is
15 certified as a registered nurse anesthetist licensed under
16 part I of chapter 464 shall administer anesthesia under the
17 onsite medical direction of a professional licensed under
18 chapter 458, chapter 459, or chapter 466, and in accordance
19 with an established protocol approved by the medical staff.
20 The medical direction shall specifically address the needs of
21 the individual patient.

22 (4) Nothing herein shall restrict in any way the
23 authority of the medical staff of a licensed facility to
24 review for approval or disapproval all applications for
25 appointment and reappointment to all categories of staff and
26 to make recommendations on each applicant to the governing
27 board, including the delineation of privileges to be granted
28 in each case. In making such recommendations and in the
29 delineation of privileges, each applicant shall be considered
30 individually pursuant to criteria for a doctor licensed under
31 chapter 458, chapter 459, chapter 461, or chapter 466, or for

1 an advanced registered nurse practitioner licensed and
2 certified under part I of chapter 464, or for a psychologist
3 licensed under chapter 490, as applicable. The applicant's
4 eligibility for staff membership or clinical privileges shall
5 be determined by the applicant's background, experience,
6 health, training, and demonstrated competency; the applicant's
7 adherence to applicable professional ethics; the applicant's
8 reputation; and the applicant's ability to work with others
9 and by such other elements as determined by the governing
10 board, consistent with this part.

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

13 400.021 Definitions.--When used in this part, unless
14 the context otherwise requires, the term:

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

18 Section 17. Section 400.211, Florida Statutes, is
19 amended to read:

20 400.211 Persons employed as nursing assistants;
21 certification requirement.--

22 (1) To serve as a nursing assistant in any nursing
23 home, a person must be certified as a nursing assistant under
24 part II ~~XV~~ of chapter 464 ~~468~~, unless the person is ~~except~~ a
25 registered nurse or practical nurse licensed in accordance
26 with part I of chapter 464 or an applicant for such licensure
27 who is permitted to practice nursing in accordance with rules
28 adopted by the Board of Nursing pursuant to part I of chapter
29 ~~464, to serve as a nursing assistant in any nursing home.~~

30 (2) The following categories of persons who are not
31 certified as nursing assistants under ~~this~~ part II of chapter

1 464 may be employed by a nursing facility for a period of 4
2 months:

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

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

10

11 The certification requirement must be met within 4 months
12 after ~~of~~ initial employment as a nursing assistant in a
13 licensed nursing facility.

14 (3) Nursing homes shall require persons seeking
15 employment as a certified nursing assistant to submit an
16 employment history to the facility. The facility shall verify
17 the employment history unless, through diligent efforts, such
18 verification is not possible. There shall be no monetary
19 liability on the part of, and no cause of action for damages
20 shall arise against, a former employer who reasonably and in
21 good faith communicates his or her honest opinion about a
22 former employee's job performance.

23 Section 18. Paragraph (b) of subsection (4) of section
24 400.215, Florida Statutes, is amended to read:

25 400.215 Personnel screening requirement.--

26 (4)

27 (b) As provided in s. 435.07, the appropriate
28 regulatory board within the Department of Health, or that
29 department itself when there is no board, may grant an
30 exemption from disqualification to an employee or prospective
31 employee who is subject to this section and who has received a

1 professional license or certification from the Department of
2 Health or a regulatory board within that department.

3 Section 19. Paragraph (c) is added to subsection (3)
4 of section 400.23, Florida Statutes, to read:

5 400.23 Rules; evaluation and deficiencies; licensure
6 status.--

7 (3)

8 (c) Licensed practical nurses licensed under chapter
9 464 who are providing nursing services in nursing home
10 facilities under this part may supervise the activities of
11 other licensed practical nurses, certified nursing assistants,
12 and other unlicensed personnel providing services in such
13 facilities in accordance with rules adopted by the Board of
14 Nursing.

15 Section 20. Subsections (12) and (14) of section
16 400.402, Florida Statutes, are amended to read:

17 400.402 Definitions.--When used in this part, the
18 term:

19 (12) "Extended congregate care" means acts beyond
20 those authorized in subsection (17) that may be performed
21 pursuant to part I of chapter 464 by persons licensed
22 thereunder while carrying out their professional duties, and
23 other supportive services which may be specified by rule. The
24 purpose of such services is to enable residents to age in
25 place in a residential environment despite mental or physical
26 limitations that might otherwise disqualify them from
27 residency in a facility licensed under this part.

28 (14) "Limited nursing services" means acts that may be
29 performed pursuant to part I of chapter 464 by persons
30 licensed thereunder while carrying out their professional
31 duties but limited to those acts which the department

1 specifies by rule. Acts which may be specified by rule as
2 allowable limited nursing services shall be for persons who
3 meet the admission criteria established by the department for
4 assisted living facilities and shall not be complex enough to
5 require 24-hour nursing supervision and may include such
6 services as the application and care of routine dressings, and
7 care of casts, braces, and splints.

8 Section 21. Paragraphs (a) and (b) of subsection (3)
9 of section 400.407, Florida Statutes, are amended to read:

10 400.407 License required; fee, display.--

11 (3) Any license granted by the agency must state the
12 maximum resident capacity of the facility, the type of care
13 for which the license is granted, the date the license is
14 issued, the expiration date of the license, and any other
15 information deemed necessary by the agency. Licenses shall be
16 issued for one or more of the following categories of care:
17 standard, extended congregate care, limited nursing services,
18 or limited mental health.

19 (a) A standard license shall be issued to facilities
20 providing one or more of the services identified in s.
21 400.402. Such facilities may also employ or contract with a
22 person licensed under part I of chapter 464 to administer
23 medications and perform other tasks as specified in s.
24 400.4255.

25 (b) An extended congregate care license shall be
26 issued to facilities providing, directly or through contract,
27 services beyond those authorized in paragraph (a), including
28 acts performed pursuant to part I of chapter 464 by persons
29 licensed thereunder, and supportive services defined by rule
30 to persons who otherwise would be disqualified from continued
31 residence in a facility licensed under this part.

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

- 18 a. A class I or class II violation;
19 b. Three or more repeat or recurring class III
20 violations of identical or similar resident care standards as
21 specified in rule from which a pattern of noncompliance is
22 found by the agency;
23 c. Three or more class III violations that were not
24 corrected in accordance with the corrective action plan
25 approved by the agency;
26 d. Violation of resident care standards resulting in a
27 requirement to employ the services of a consultant pharmacist
28 or consultant dietitian;
29 e. Denial, suspension, or revocation of a license for
30 another facility under this part in which the applicant for an
31

1 extended congregate care license has at least 25 percent
2 ownership interest; or
3 f. Imposition of a moratorium on admissions or
4 initiation of injunctive proceedings.
5 2. Facilities that are licensed to provide extended
6 congregate care services shall maintain a written progress
7 report on each person who receives such services, which report
8 describes the type, amount, duration, scope, and outcome of
9 services that are rendered and the general status of the
10 resident's health. A registered nurse, or appropriate
11 designee, representing the agency shall visit such facilities
12 at least two times a year to monitor residents who are
13 receiving extended congregate care services and to determine
14 if the facility is in compliance with this part and with rules
15 that relate to extended congregate care. One of these visits
16 may be in conjunction with the regular biennial survey. The
17 monitoring visits may be provided through contractual
18 arrangements with appropriate community agencies. A
19 registered nurse shall serve as part of the team that
20 biennially inspects such facility. The agency may waive one of
21 the required yearly monitoring visits for a facility that has
22 been licensed for at least 24 months to provide extended
23 congregate care services, if, during the biennial inspection,
24 the registered nurse determines that extended congregate care
25 services are being provided appropriately, and if the facility
26 has no class I or class II violations and no uncorrected class
27 III violations. Before such decision is made, the agency shall
28 consult with the long-term care ombudsman council for the area
29 in which the facility is located to determine if any
30 complaints have been made and substantiated about the quality
31 of services or care. The agency may not waive one of the

1 required yearly monitoring visits if complaints have been made
2 and substantiated.

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

5 a. Demonstrate the capability to meet unanticipated
6 resident service needs.

7 b. Offer a physical environment that promotes a
8 homelike setting, provides for resident privacy, promotes
9 resident independence, and allows sufficient congregate space
10 as defined by rule.

11 c. Have sufficient staff available, taking into
12 account the physical plant and firesafety features of the
13 building, to assist with the evacuation of residents in an
14 emergency, as necessary.

15 d. Adopt and follow policies and procedures that
16 maximize resident independence, dignity, choice, and
17 decisionmaking to permit residents to age in place to the
18 extent possible, so that moves due to changes in functional
19 status are minimized or avoided.

20 e. Allow residents or, if applicable, a resident's
21 representative, designee, surrogate, guardian, or attorney in
22 fact to make a variety of personal choices, participate in
23 developing service plans, and share responsibility in
24 decisionmaking.

25 f. Implement the concept of managed risk.

26 g. Provide, either directly or through contract, the
27 services of a person licensed pursuant to part I of chapter
28 464.

29 h. In addition to the training mandated in s. 400.452,
30 provide specialized training as defined by rule for facility
31 staff.

1 4. Facilities licensed to provide extended congregate
2 care services are exempt from the criteria for continued
3 residency as set forth in rules adopted under s. 400.441.
4 Facilities so licensed shall adopt their own requirements
5 within guidelines for continued residency set forth by the
6 department in rule. However, such facilities may not serve
7 residents who require 24-hour nursing supervision. Facilities
8 licensed to provide extended congregate care services shall
9 provide each resident with a written copy of facility policies
10 governing admission and retention.

11 5. The primary purpose of extended congregate care
12 services is to allow residents, as they become more impaired,
13 the option of remaining in a familiar setting from which they
14 would otherwise be disqualified for continued residency. A
15 facility licensed to provide extended congregate care services
16 may also admit an individual who exceeds the admission
17 criteria for a facility with a standard license, if the
18 individual is determined appropriate for admission to the
19 extended congregate care facility.

20 6. Before admission of an individual to a facility
21 licensed to provide extended congregate care services, the
22 individual must undergo a medical examination as provided in
23 s. 400.426(4) and the facility must develop a preliminary
24 service plan for the individual.

25 7. When a facility can no longer provide or arrange
26 for services in accordance with the resident's service plan
27 and needs and the facility's policy, the facility shall make
28 arrangements for relocating the person in accordance with s.
29 400.428(1)(k).

30
31

1 8. Failure to provide extended congregate care
2 services may result in denial of extended congregate care
3 license renewal.

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

12 a. A description of the facilities licensed to provide
13 such services, including total number of beds licensed under
14 this part.

15 b. The number and characteristics of residents
16 receiving such services.

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

19 d. An analysis of deficiencies cited during biennial
20 inspections.

21 e. The number of residents who required extended
22 congregate care services at admission and the source of
23 admission.

24 f. Recommendations for statutory or regulatory
25 changes.

26 g. The availability of extended congregate care to
27 state clients residing in facilities licensed under this part
28 and in need of additional services, and recommendations for
29 appropriations to subsidize extended congregate care services
30 for such persons.

31

1 h. Such other information as the department considers
2 appropriate.

3 Section 22. Paragraphs (a) and (c) of subsection (1)
4 and subsection (2) of section 400.4255, Florida Statutes, are
5 amended to read:

6 400.4255 Use of personnel; emergency care.--

7 (1)(a) Persons under contract to the facility,
8 facility staff, or volunteers, who are licensed according to
9 part I of chapter 464, or those persons exempt under s.
10 464.022(1), and others as defined by rule, may administer
11 medications to residents, take residents' vital signs, manage
12 individual weekly pill organizers for residents who
13 self-administer medication, give prepackaged enemas ordered by
14 a physician, observe residents, document observations on the
15 appropriate resident's record, report observations to the
16 resident's physician, and contract or allow residents or a
17 resident's representative, designee, surrogate, guardian, or
18 attorney in fact to contract with a third party, provided
19 residents meet the criteria for appropriate placement as
20 defined in s. 400.426. Nursing assistants certified pursuant
21 to part II of chapter 464 ~~s. 400.211~~ may take residents' vital
22 signs as directed by a licensed nurse or physician.

23 (c) In an emergency situation, licensed personnel may
24 carry out their professional duties pursuant to part I of
25 chapter 464 until emergency medical personnel assume
26 responsibility for care.

27 (2) In facilities licensed to provide extended
28 congregate care, persons under contract to the facility,
29 facility staff, or volunteers, who are licensed according to
30 part I of chapter 464, or those persons exempt under s.
31 464.022(1), or those persons certified as nursing assistants

1 pursuant to part II of chapter 464 ~~s. 400.211~~, may also
2 perform all duties within the scope of their license or
3 certification, as approved by the facility administrator and
4 pursuant to this part.

5 Section 23. Subsection (3) of section 400.426, Florida
6 Statutes, is amended to read:

7 400.426 Appropriateness of placements; examinations of
8 residents.--

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

21 Section 24. Subsections (3) and (21) of section
22 400.462, Florida Statutes, are amended to read:

23 400.462 Definitions.--As used in this part, the term:

24 (3) "Certified nursing assistant" means any person who
25 has been issued a certificate under part II of chapter 464 ~~s.~~
26 ~~400.211~~. The licensed home health agency or licensed nurse
27 registry shall ensure that the certified nursing assistant
28 employed by or under contract with the home health agency or
29 licensed nurse registry is adequately trained to perform the
30 tasks of a home health aide in the home setting.

31

1 (21) "Skilled care" means nursing services or
2 therapeutic services delivered by a health care professional
3 who is licensed under part I of chapter 464; part I, part III,
4 or part V of chapter 468; or chapter 486 and who is employed
5 by or under contract with a licensed home health agency or is
6 referred by a licensed nurse registry.

7 Section 25. Paragraph (c) of subsection (6) of section
8 400.464, Florida Statutes, is amended to read:

9 400.464 Home health agencies to be licensed;
10 expiration of license; exemptions; unlawful acts; penalties.--

11 (6) The following are exempt from the licensure
12 requirements of this part:

13 (c) A health care professional, whether or not
14 incorporated, who is licensed under chapter 457; chapter 458;
15 chapter 459; part I of chapter 464; chapter 467; part I, part
16 III, part V, or part X of chapter 468; chapter 480; chapter
17 486; chapter 490; or chapter 491; and who is acting alone
18 within the scope of his or her professional license to provide
19 care to patients in their homes.

20 Section 26. Paragraph (a) of subsection (10),
21 subsection (11), and paragraph (a) of subsection (15) of
22 section 400.506, Florida Statutes, are amended to read:

23 400.506 Licensure of nurse registries; requirements;
24 penalties.--

25 (10)(a) A nurse registry may refer for contract in
26 private residences registered nurses and licensed practical
27 nurses registered and licensed under part I of chapter 464,
28 certified nursing assistants certified under part II of
29 chapter 464 ~~s. 400.211~~, home health aides who present
30 documented proof of successful completion of the training
31 required by rule of the agency, and companions or homemakers

1 for the purposes of providing those services authorized under
2 s. 400.509(1). Each person referred by a nurse registry must
3 provide current documentation that he or she is free from
4 communicable diseases.

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

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

19 (a) When, in accordance with the privileges and
20 restrictions imposed upon a nurse under part I of chapter 464,
21 the delivery of care to a patient is under the direction or
22 supervision of a physician or when a physician is responsible
23 for the medical care of the patient, a medical plan of
24 treatment must be established for each patient receiving care
25 or treatment provided by a licensed nurse in the home. The
26 original medical plan of treatment must be timely signed by
27 the physician and reviewed by him or her in consultation with
28 the licensed nurse at least every 2 months. Any additional
29 order or change in orders must be obtained from the physician
30 and reduced to writing and timely signed by the physician.
31 The delivery of care under a medical plan of treatment must be

1 substantiated by the appropriate nursing notes or
2 documentation made by the nurse in compliance with nursing
3 practices established under part I of chapter 464.

4 Section 27. Subsection (1) of section 400.512, Florida
5 Statutes, is amended to read:

6 400.512 Screening of home health agency personnel;
7 nurse registry personnel; and companions and homemakers.--The
8 agency shall require employment or contractor screening as
9 provided in chapter 435, using the level 1 standards for
10 screening set forth in that chapter, for home health agency
11 personnel; persons referred for employment by nurse
12 registries; and persons employed by companion or homemaker
13 services registered under s. 400.509.

14 (1)(a) The Agency for Health Care Administration may,
15 upon request, grant exemptions from disqualification from
16 employment or contracting under this section as provided in s.
17 435.07, except for health care practitioners licensed by the
18 Department of Health or a regulatory board within that
19 department.

20 (b) The appropriate regulatory board within the
21 Department of Health, or that department itself when there is
22 no board, may, upon request of the licensed health care
23 practitioner, grant exemptions from disqualification from
24 employment or contracting under this section as provided in s.
25 435.07.

26 Section 28. Subsections (2) and (3) of section
27 400.6105, Florida Statutes, are amended to read:

28 400.6105 Staffing and personnel.--

29 (2) Each hospice shall employ a full-time registered
30 nurse licensed pursuant to part I of chapter 464 who shall
31

1 coordinate the implementation of the plan of care for each
2 patient.

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

14 Section 29. Subsection (20) of section 401.23, Florida
15 Statutes, is amended to read:

16 401.23 Definitions.--As used in this part, the term:

17 (20) "Registered nurse" means a practitioner who is
18 licensed to practice professional nursing pursuant to part I
19 of chapter 464.

20 Section 30. Paragraph (c) of subsection (1) of section
21 401.252, Florida Statutes, is amended to read:

22 401.252 Interfacility transfer.--

23 (1) A licensed basic or advanced life support
24 ambulance service may conduct interfacility transfers in a
25 permitted ambulance, using a registered nurse in place of an
26 emergency medical technician or paramedic, if:

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

29 Section 31. Subsection (11) of section 408.706,
30 Florida Statutes, is amended to read:

31

1 408.706 Community health purchasing alliances;
2 accountable health partnerships.--

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

24 Section 32. Paragraph (d) of subsection (12) of
25 section 409.908, Florida Statutes, is amended to read:

26 409.908 Reimbursement of Medicaid providers.--Subject
27 to specific appropriations, the agency shall reimburse
28 Medicaid providers, in accordance with state and federal law,
29 according to methodologies set forth in the rules of the
30 agency and in policy manuals and handbooks incorporated by
31 reference therein. These methodologies may include fee

1 schedules, reimbursement methods based on cost reporting,
2 negotiated fees, competitive bidding pursuant to s. 287.057,
3 and other mechanisms the agency considers efficient and
4 effective for purchasing services or goods on behalf of
5 recipients. Payment for Medicaid compensable services made on
6 behalf of Medicaid eligible persons is subject to the
7 availability of moneys and any limitations or directions
8 provided for in the General Appropriations Act or chapter 216.
9 Further, nothing in this section shall be construed to prevent
10 or limit the agency from adjusting fees, reimbursement rates,
11 lengths of stay, number of visits, or number of services, or
12 making any other adjustments necessary to comply with the
13 availability of moneys and any limitations or directions
14 provided for in the General Appropriations Act, provided the
15 adjustment is consistent with legislative intent.

16 (12)

17 (d) Notwithstanding paragraph (b), reimbursement fees
18 to physicians for providing total obstetrical services to
19 Medicaid recipients, which include prenatal, delivery, and
20 postpartum care, shall be at least \$1,500 per delivery for a
21 pregnant woman with low medical risk and at least \$2,000 per
22 delivery for a pregnant woman with high medical risk. However,
23 reimbursement to physicians working in Regional Perinatal
24 Intensive Care Centers designated pursuant to chapter 383, for
25 services to certain pregnant Medicaid recipients with a high
26 medical risk, may be made according to obstetrical care and
27 neonatal care groupings and rates established by the agency.
28 Nurse midwives licensed under part I of chapter 464 or
29 midwives licensed under chapter 467 shall be reimbursed at no
30 less than 80 percent of the low medical risk fee. The agency
31 shall by rule determine, for the purpose of this paragraph,

1 what constitutes a high or low medical risk pregnant woman and
2 shall not pay more based solely on the fact that a caesarean
3 section was performed, rather than a vaginal delivery. The
4 agency shall by rule determine a prorated payment for
5 obstetrical services in cases where only part of the total
6 prenatal, delivery, or postpartum care was performed. The
7 Department of Health shall adopt rules for appropriate
8 insurance coverage for midwives licensed under chapter 467.
9 Prior to the issuance and renewal of an active license, or
10 reactivation of an inactive license for midwives licensed
11 under chapter 467, such licensees shall submit proof of
12 coverage with each application.

13 Section 33. Subsection (1) of section 415.1085,
14 Florida Statutes, is amended to read:

15 415.1085 Photographs, medical examinations, and X rays
16 of abused or neglected aged persons or disabled adults.--

17 (1) Any person authorized by law to investigate cases
18 of alleged abuse or neglect of an aged person or disabled
19 adult may take or cause to be taken photographs of the areas
20 of trauma visible on the aged person or disabled adult who is
21 the subject of a report, and photographs of the surrounding
22 environment, with the consent of the subject or guardian or
23 guardians. If the areas of trauma visible on the aged person
24 or disabled adult indicate a need for medical examination, or
25 if the aged person or disabled adult verbally complains or
26 otherwise exhibits distress as a result of injury through
27 suspected adult abuse, neglect, or exploitation, or is alleged
28 to have been sexually abused, the department may, with the
29 consent of the subject or guardian or guardians, cause the
30 aged person or disabled adult to be referred to a licensed
31 physician or any emergency department in a hospital or health

1 care facility for medical examinations and X rays, if deemed
2 necessary by the examining physician. Such examinations may
3 be performed by an advanced registered nurse practitioner
4 licensed pursuant to part I of chapter 464. Medical
5 examinations performed and X rays taken pursuant to this
6 section shall be paid for by third-party reimbursement, if
7 available, or by the subject or his or her guardian, if they
8 are determined to be financially able to pay; or, if neither
9 is available, the department shall pay the costs within
10 available emergency services funds.

11 Section 34. Paragraph (a) of subsection (1) of section
12 455.597 Florida Statutes, is amended to read:

13 455.597 Requirement for instruction on domestic
14 violence.--

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

1 Section 35. Subsection (1) of section 455.604, Florida
2 Statutes, is amended to read:

3 455.604 Requirement for instruction for certain
4 licensees on human immunodeficiency virus and acquired immune
5 deficiency syndrome.--

6 (1) The appropriate board shall require each person
7 licensed or certified under chapter 457; chapter 458; chapter
8 459; chapter 460; chapter 461; chapter 463; part I of chapter
9 464; chapter 465; chapter 466; part II, part III, part V, or
10 part X of chapter 468; or chapter 486 to complete a continuing
11 educational course, approved by the board, on human
12 immunodeficiency virus and acquired immune deficiency syndrome
13 as part of biennial relicensure or recertification. The course
14 shall consist of education on the modes of transmission,
15 infection control procedures, clinical management, and
16 prevention of human immunodeficiency virus and acquired immune
17 deficiency syndrome. Such course shall include information on
18 current Florida law on acquired immune deficiency syndrome and
19 its impact on testing, confidentiality of test results,
20 treatment of patients, and any protocols and procedures
21 applicable to human immunodeficiency virus counseling and
22 testing, reporting, the offering of HIV testing to pregnant
23 women, and partner notification issues pursuant to ss. 381.004
24 and 384.25.

25 Section 36. Paragraph (a) of subsection (2) of section
26 455.667, Florida Statutes, is amended to read:

27 455.667 Ownership and control of patient records;
28 report or copies of records to be furnished.--

29 (2) As used in this section, the terms "records
30 owner," "health care practitioner," and "health care
31 practitioner's employer" do not include any of the following

1 persons or entities; furthermore, the following persons or
2 entities are not authorized to acquire or own medical records,
3 but are authorized under the confidentiality and disclosure
4 requirements of this section to maintain those documents
5 required by the part or chapter under which they are licensed
6 or regulated:

7 (a) Certified nursing assistants regulated under part
8 II of chapter 464 ~~s. 400.211~~.

9 Section 37. Section 455.677, Florida Statutes, is
10 amended to read:

11 455.677 Disposition of records of deceased
12 practitioners or practitioners relocating or terminating
13 practice.--Each board created under the provisions of chapter
14 457, chapter 458, chapter 459, chapter 460, chapter 461,
15 chapter 463, part I of chapter 464, chapter 465, chapter 466,
16 part I of chapter 484, chapter 486, chapter 490, or chapter
17 491, and the department under the provisions of chapter 462,
18 shall provide by rule for the disposition, under that chapter,
19 of the medical records or records of a psychological nature of
20 practitioners which are in existence at the time the
21 practitioner dies, terminates practice, or relocates and is no
22 longer available to patients and which records pertain to the
23 practitioner's patients. The rules shall provide that the
24 records be retained for at least 2 years after the
25 practitioner's death, termination of practice, or relocation.
26 In the case of the death of the practitioner, the rules shall
27 provide for the disposition of such records by the estate of
28 the practitioner.

29 Section 38. Paragraph (b) of subsection (2) of section
30 455.694, Florida Statutes, is amended to read:

31

1 455.694 Financial responsibility requirements for
2 certain health care practitioners.--

3 (2) The board or department may grant exemptions upon
4 application by practitioners meeting any of the following
5 criteria:

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

19 Section 39. Subsection (2) of section 455.707, Florida
20 Statutes, is amended to read:

21 455.707 Treatment programs for impaired
22 practitioners.--

23 (2) The department shall retain one or more impaired
24 practitioner consultants as recommended by the committee. A
25 consultant shall be a licensee or recovered licensee under the
26 jurisdiction of the Division of Medical Quality Assurance
27 within the department, and at least one consultant must be a
28 practitioner or recovered practitioner licensed under chapter
29 458, chapter 459, or part I of chapter 464. The consultant
30 shall assist the probable cause panel and department in
31 carrying out the responsibilities of this section. This shall

1 include working with department investigators to determine
2 whether a practitioner is, in fact, impaired.

3 Section 40. Subsection (2) of section 458.348, Florida
4 Statutes, is amended to read:

5 458.348 Formal supervisory relationships, standing
6 orders, and established protocols; notice; standards.--

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

26 Section 41. Section 464.001, Florida Statutes, is
27 amended to read:

28 464.001 Short title.--This part may be cited ~~chapter~~
29 ~~shall be known~~ as the "Nurse Practice Act."

30 Section 42. Section 464.002, Florida Statutes, is
31 amended to read:

1 464.002 Purpose.--The sole legislative purpose in
2 enacting this part ~~chapter~~ is to ensure that every nurse
3 practicing in this state meets minimum requirements for safe
4 practice. It is the legislative intent that nurses who fall
5 below minimum competency or who otherwise present a danger to
6 the public shall be prohibited from practicing in this state.

7 Section 43. Section 464.003, Florida Statutes, is
8 amended to read:

9 464.003 Definitions.--As used in this part ~~chapter~~:

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

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

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

18 1. The observation, assessment, nursing diagnosis,
19 planning, intervention, and evaluation of care; health
20 teaching and counseling of the ill, injured, or infirm; and
21 the promotion of wellness, maintenance of health, and
22 prevention of illness of others.

23 2. The administration of medications and treatments as
24 prescribed or authorized by a duly licensed practitioner
25 authorized by the laws of this state to prescribe such
26 medications and treatments.

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

29 (b) "Practice of practical nursing" means the
30 performance of selected acts, including the administration of
31 treatments and medications, in the care of the ill, injured,

1 or infirm and the promotion of wellness, maintenance of
2 health, and prevention of illness of others under the
3 direction of a registered nurse, a licensed physician, a
4 licensed osteopathic physician, a licensed podiatric
5 physician, or a licensed dentist.

6
7 The professional nurse and the practical nurse shall be
8 responsible and accountable for making decisions that are
9 based upon the individual's educational preparation and
10 experience in nursing.

11 (c) "Advanced or specialized nursing practice" means,
12 in addition to the practice of professional nursing, the
13 performance of advanced-level nursing acts approved by the
14 board which, by virtue of postbasic specialized education,
15 training, and experience, are proper to be performed by an
16 advanced registered nurse practitioner. Within the context of
17 advanced or specialized nursing practice, the advanced
18 registered nurse practitioner may perform acts of nursing
19 diagnosis and nursing treatment of alterations of the health
20 status. The advanced registered nurse practitioner may also
21 perform acts of medical diagnosis and treatment, prescription,
22 and operation which are identified and approved by a joint
23 committee composed of three members appointed by the Board of
24 Nursing, two of whom shall be advanced registered nurse
25 practitioners; three members appointed by the Board of
26 Medicine, two of whom shall have had work experience with
27 advanced registered nurse practitioners; and the secretary of
28 the department or the secretary's designee. Each committee
29 member appointed by a board shall be appointed to a term of 4
30 years unless a shorter term is required to establish or
31 maintain staggered terms. The Board of Nursing shall adopt

1 rules authorizing the performance of any such acts approved by
2 the joint committee. Unless otherwise specified by the joint
3 committee, such acts shall be performed under the general
4 supervision of a practitioner licensed under chapter 458,
5 chapter 459, or chapter 466 within the framework of standing
6 protocols which identify the medical acts to be performed and
7 the conditions for their performance. The department may, by
8 rule, require that a copy of the protocol be filed with the
9 department along with the notice required by s. 458.348.

10 (d) "Nursing diagnosis" means the observation and
11 evaluation of physical or mental conditions, behaviors, signs
12 and symptoms of illness, and reactions to treatment and the
13 determination as to whether such conditions, signs, symptoms,
14 and reactions represent a deviation from normal.

15 (e) "Nursing treatment" means the establishment and
16 implementation of a nursing regimen for the care and comfort
17 of individuals, the prevention of illness, and the education,
18 restoration, and maintenance of health.

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

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

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

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

30 Section 44. Section 464.006, Florida Statutes, is
31 amended to read:

1 464.006 Authority to make rules.--The board ~~of Nursing~~
2 has authority to adopt rules pursuant to ss. 120.536(1) and
3 120.54 to implement the provisions of this part ~~chapter~~
4 conferring duties upon it.

5 Section 45. Subsection (3) of section 464.009, Florida
6 Statutes, is amended to read:

7 464.009 Licensure by endorsement.--

8 (3) The department shall not issue a license by
9 endorsement to any applicant who is under investigation in
10 another state for an act which would constitute a violation of
11 this part ~~chapter~~ until such time as the investigation is
12 complete, at which time the provisions of s. 464.018 shall
13 apply.

14 Section 46. Paragraphs (a) and (d) of subsection (1)
15 and paragraph (b) of subsection (2) of section 464.016,
16 Florida Statutes, are amended to read:

17 464.016 Violations and penalties.--

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

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

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

27 (2) Each of the following acts constitutes a
28 misdemeanor of the first degree, punishable as provided in s.
29 775.082 or s. 775.083:

30 (b) Knowingly concealing information relating to
31 violations of this part ~~chapter~~.

1 Section 47. Paragraphs (i), (k), and (l) of subsection
2 (1) and subsection (4) of section 464.018, Florida Statutes,
3 are amended to read:

4 464.018 Disciplinary actions.--

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

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

11 (k) Failing to report to the department any person who
12 the licensee knows is in violation of this part ~~chapter~~ or of
13 the rules of the department or the board; however, if the
14 licensee verifies that such person is actively participating
15 in a board-approved program for the treatment of a physical or
16 mental condition, the licensee is required to report such
17 person only to an impaired professionals consultant.

18 (1) Knowingly violating any provision of this part
19 ~~chapter~~, a rule of the board or the department, or a lawful
20 order of the board or department previously entered in a
21 disciplinary proceeding or failing to comply with a lawfully
22 issued subpoena of the department.

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

29 Section 48. Subsections (1), (2), and (3) of section
30 464.019, Florida Statutes, are amended to read:

31 464.019 Approval of nursing programs.--

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

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

13 (3) The department shall survey each institution
14 applying for approval and submit its findings to the board.
15 If the board is satisfied that the program meets the
16 requirements of this part ~~chapter~~ and rules pursuant thereto,
17 it shall certify the program for approval and the department
18 shall approve the program.

19 Section 49. Section 464.022, Florida Statutes, is
20 amended to read:

21 464.022 Exceptions.--No provision of this part ~~chapter~~
22 shall be construed to prohibit:

23 (1) The care of the sick by friends or members of the
24 family without compensation, the incidental care of the sick
25 by domestic servants, or the incidental care of
26 noninstitutionalized persons by a surrogate family.

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

28 (3) The practice of nursing by students enrolled in
29 approved schools of nursing.

30 (4) The practice of nursing by graduates of approved
31 programs or the equivalent, pending the result of the first

1 | licensing examination for which they are eligible following
2 | graduation, provided they practice under direct supervision of
3 | a registered professional nurse. The board shall by rule
4 | define what constitutes direct supervision.

5 | (5) The rendering of services by nursing assistants
6 | acting under the direct supervision of a registered
7 | professional nurse.

8 | (6) Any nurse practicing in accordance with the
9 | practices and principles of the body known as the Church of
10 | Christ Scientist; nor shall any rule of the board apply to any
11 | sanitarium, nursing home, or rest home operated in accordance
12 | with the practices and principles of the body known as the
13 | Church of Christ Scientist.

14 | (7) The practice of any legally qualified nurse or
15 | licensed attendant of another state who is employed by the
16 | United States Government, or any bureau, division, or agency
17 | thereof, while in the discharge of official duties.

18 | (8) Any nurse currently licensed in another state from
19 | performing nursing services in this state for a period of 60
20 | days after furnishing to the employer satisfactory evidence of
21 | current licensure in another state and having submitted proper
22 | application and fees to the board for licensure prior to
23 | employment. The board may extend this time for administrative
24 | purposes when necessary.

25 | (9) The rendering of nursing services on a
26 | fee-for-service basis, or the reimbursement for nursing
27 | services directly to a nurse rendering such services by any
28 | government program, commercial insurance company, hospital or
29 | medical services plan, or any other third-party payor.

30 |
31 |

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

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

10 (12) The practice of nursing by any legally qualified
11 nurse of another state whose employment requires the nurse to
12 accompany and care for a patient temporarily residing in this
13 state for not more than 30 consecutive days, provided the
14 patient is not in an inpatient setting, the board is notified
15 prior to arrival of the patient and nurse, the nurse has the
16 standing physician orders and current medical status of the
17 patient available, and prearrangements with the appropriate
18 licensed health care providers in this state have been made in
19 case the patient needs placement in an inpatient setting.

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

22 Section 50. Section 464.023, Florida Statutes, is
23 amended to read:

24 464.023 Saving clauses.--

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

28 (2) Each licensee or holder of a certificate who was
29 duly licensed or certified on June 30, 1979, shall be entitled
30 to hold such license or certificate. Henceforth, such license
31

1 or certificate shall be renewed in accordance with the
2 provisions of this part act.

3 Section 51. Subsection (3) of section 464.027, Florida
4 Statutes, is amended to read:

5 464.027 Registered nurse first assistant.--

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

8 (a) Is licensed as a registered nurse under this part
9 chapter;

10 (b) Is certified in perioperative nursing; and

11 (c) Holds a certificate from, and has successfully
12 completed, a recognized program.

13 Section 52. Subsection (6) of section 466.003, Florida
14 Statutes, is amended to read:

15 466.003 Definitions.--As used in this chapter:

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

21 Section 53. Subsection (2) of section 467.003, Florida
22 Statutes, is amended to read:

23 467.003 Definitions.--As used in this chapter, unless
24 the context otherwise requires:

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

29 Section 54. Paragraph (a) of subsection (2) of section
30 467.0125, Florida Statutes, is amended to read:

31 467.0125 Licensure by endorsement.--

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

5 (a) The Department of Health shall determine the areas
6 of critical need, and the midwife so certified shall practice
7 only in those specific areas, under the auspices of a
8 physician licensed pursuant to chapter 458 or chapter 459, a
9 certified nurse midwife licensed pursuant to part I of chapter
10 464, or a midwife licensed under this chapter, who has a
11 minimum of 3 years' professional experience. Such areas shall
12 include, but not be limited to, health professional shortage
13 areas designated by the United States Department of Health and
14 Human Services.

15 Section 55. Paragraph (e) of subsection (2) of section
16 467.203, Florida Statutes, is amended to read:

17 467.203 Disciplinary actions; penalties.--

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

21 (e) Placement of the midwife on probation for such
22 period of time and subject to such conditions as the
23 department may specify, including requiring the midwife to
24 submit to treatment; undertake further relevant education or
25 training; take an examination; or work under the supervision
26 of another licensed midwife, a physician, or a nurse midwife
27 licensed under part I of chapter 464.

28 Section 56. Paragraph (a) of subsection (1) of section
29 468.505, Florida Statutes, is amended to read:

30 468.505 Exemptions; exceptions.--

31

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

4 (a) A person licensed in this state under chapter 457,
5 chapter 458, chapter 459, chapter 460, chapter 461, chapter
6 462, chapter 463, part I of chapter 464, chapter 465, chapter
7 466, chapter 480, chapter 490, or chapter 491, when engaging
8 in the profession or occupation for which he or she is
9 licensed, or of any person employed by and under the
10 supervision of the licensee when rendering services within the
11 scope of the profession or occupation of the licensee.

12 Section 57. Subsection (7) of section 483.041, Florida
13 Statutes, is amended to read:

14 483.041 Definitions.--As used in this part, the term:

15 (7) "Licensed practitioner" means a physician licensed
16 under chapter 458, chapter 459, chapter 460, or chapter 461; a
17 dentist licensed under chapter 466; a person licensed under
18 chapter 462; or an advanced registered nurse practitioner
19 licensed under part I of chapter 464; or a duly licensed
20 practitioner from another state licensed under similar
21 statutes who orders examinations on materials or specimens for
22 nonresidents of the State of Florida, but who reside in the
23 same state as the requesting licensed practitioner.

24 Section 58. Subsection (5) of section 483.801, Florida
25 Statutes, is amended to read:

26 483.801 Exemptions.--This part applies to all clinical
27 laboratories and clinical laboratory personnel within this
28 state, except:

29 (5) Advanced registered nurse practitioners licensed
30 under part I of chapter 464 who perform provider-performed
31

1 microscopy procedures (PPMP) in an exclusive-use laboratory
2 setting.

3 Section 59. Paragraph (a) of subsection (4) of section
4 491.0112, Florida Statutes, is amended to read:

5 491.0112 Sexual misconduct by a psychotherapist;
6 penalties.--

7 (4) For the purposes of this section:

8 (a) The term "psychotherapist" means any person
9 licensed pursuant to chapter 458, chapter 459, part I of
10 chapter 464, chapter 490, or chapter 491, or any other person
11 who provides or purports to provide treatment, diagnosis,
12 assessment, evaluation, or counseling of mental or emotional
13 illness, symptom, or condition.

14 Section 60. Subsection (5) of section 550.24055,
15 Florida Statutes, is amended to read:

16 550.24055 Use of controlled substances or alcohol
17 prohibited; testing of certain occupational licensees;
18 penalty; evidence of test or action taken and admissibility
19 for criminal prosecution limited.--

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

25 Section 61. Paragraph (h) of subsection (4) of section
26 627.351, Florida Statutes, is amended to read:

27 627.351 Insurance risk apportionment plans.--

28 (4) MEDICAL MALPRACTICE RISK APPORTIONMENT.--

29 (h) As used in this subsection:

30 1. "Health care provider" means hospitals licensed
31 under chapter 395; physicians licensed under chapter 458;

1 osteopathic physicians licensed under chapter 459; podiatric
2 physicians licensed under chapter 461; dentists licensed under
3 chapter 466; chiropractic physicians licensed under chapter
4 460; naturopaths licensed under chapter 462; nurses licensed
5 under part I of chapter 464; midwives licensed under chapter
6 467; clinical laboratories registered under chapter 483;
7 physician assistants licensed under chapter 458 or chapter
8 459; physical therapists and physical therapist assistants
9 licensed under chapter 486; health maintenance organizations
10 certificated under part I of chapter 641; ambulatory surgical
11 centers licensed under chapter 395; other medical facilities
12 as defined in subparagraph 2.; blood banks, plasma centers,
13 industrial clinics, and renal dialysis facilities; or
14 professional associations, partnerships, corporations, joint
15 ventures, or other associations for professional activity by
16 health care providers.

17 2. "Other medical facility" means a facility the
18 primary purpose of which is to provide human medical
19 diagnostic services or a facility providing nonsurgical human
20 medical treatment, to which facility the patient is admitted
21 and from which facility the patient is discharged within the
22 same working day, and which facility is not part of a
23 hospital. However, a facility existing for the primary
24 purpose of performing terminations of pregnancy or an office
25 maintained by a physician or dentist for the practice of
26 medicine shall not be construed to be an "other medical
27 facility."

28 3. "Health care facility" means any hospital licensed
29 under chapter 395, health maintenance organization
30 certificated under part I of chapter 641, ambulatory surgical
31

1 center licensed under chapter 395, or other medical facility
2 as defined in subparagraph 2.

3 Section 62. Paragraph (b) of subsection (1) of section
4 627.357, Florida Statutes, is amended to read:

5 627.357 Medical malpractice self-insurance.--

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

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

8 1. Hospital licensed under chapter 395.

9 2. Physician licensed, or physician assistant
10 licensed, under chapter 458.

11 3. Osteopathic physician or physician assistant
12 licensed under chapter 459.

13 4. Podiatric physician licensed under chapter 461.

14 5. Health maintenance organization certificated under
15 part I of chapter 641.

16 6. Ambulatory surgical center licensed under chapter
17 395.

18 7. Chiropractic physician licensed under chapter 460.

19 8. Psychologist licensed under chapter 490.

20 9. Optometrist licensed under chapter 463.

21 10. Dentist licensed under chapter 466.

22 11. Pharmacist licensed under chapter 465.

23 12. Registered nurse, licensed practical nurse, or
24 advanced registered nurse practitioner licensed or registered
25 under part I of chapter 464.

26 13. Other medical facility.

27 14. Professional association, partnership,
28 corporation, joint venture, or other association established
29 by the individuals set forth in subparagraphs 2., 3., 4., 7.,
30 8., 9., 10., 11., and 12. for professional activity.

31

1 Section 63. Subsection (6) of section 627.9404,
2 Florida Statutes, is amended to read:

3 627.9404 Definitions.--For the purposes of this part:

4 (6) "Licensed health care practitioner" means any
5 physician, nurse licensed under part I of chapter 464, or
6 psychotherapist licensed under chapter 490 or chapter 491, or
7 any individual who meets any requirements prescribed by rule
8 by the department.

9 Section 64. Subsection (21) of section 641.31, Florida
10 Statutes, is amended to read:

11 641.31 Health maintenance contracts.--

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

18 Section 65. Subsection (8) of section 766.101, Florida
19 Statutes, is amended to read:

20 766.101 Medical review committee, immunity from
21 liability.--

22 (8) No cause of action of any nature by a person
23 licensed pursuant to chapter 458, chapter 459, chapter 461,
24 chapter 463, part I of chapter 464, chapter 465, or chapter
25 466 shall arise against another person licensed pursuant to
26 chapter 458, chapter 459, chapter 461, chapter 463, part I of
27 chapter 464, chapter 465, or chapter 466 for furnishing
28 information to a duly appointed medical review committee, to
29 an internal risk management program established under s.
30 395.0197, to the Department of Business and Professional
31 Regulation, or to the appropriate regulatory board if the

1 information furnished concerns patient care at a facility
2 licensed pursuant to part I of chapter 395 where both persons
3 provide health care services, if the information is not
4 intentionally fraudulent, and if the information is within the
5 scope of the functions of the committee, department, or board.
6 However, if such information is otherwise available from
7 original sources, it is not immune from discovery or use in a
8 civil action merely because it was presented during a
9 proceeding of the committee, department, or board.

10 Section 66. Subsection (2) of section 766.110, Florida
11 Statutes, is amended to read:

12 766.110 Liability of health care facilities.--

13 (2) Every hospital licensed under chapter 395 may
14 carry liability insurance or adequately insure itself in an
15 amount of not less than \$1.5 million per claim, \$5 million
16 annual aggregate to cover all medical injuries to patients
17 resulting from negligent acts or omissions on the part of
18 those members of its medical staff who are covered thereby in
19 furtherance of the requirements of ss. 458.320 and 459.0085.
20 Self-insurance coverage extended hereunder to a member of a
21 hospital's medical staff meets the financial responsibility
22 requirements of ss. 458.320 and 459.0085 if the physician's
23 coverage limits are not less than the minimum limits
24 established in ss. 458.320 and 459.0085 and the hospital is a
25 verified trauma center as of July 1, 1990, that has extended
26 self-insurance coverage continuously to members of its medical
27 staff for activities both inside and outside of the hospital
28 since January 1, 1987. Any insurer authorized to write
29 casualty insurance may make available, but shall not be
30 required to write, such coverage. The hospital may assess on
31 an equitable and pro rata basis the following professional

1 health care providers for a portion of the total hospital
2 insurance cost for this coverage: physicians licensed under
3 chapter 458, osteopathic physicians licensed under chapter
4 459, podiatric physicians licensed under chapter 461, dentists
5 licensed under chapter 466, and nurses licensed under part I
6 of chapter 464. The hospital may provide for a deductible
7 amount to be applied against any individual health care
8 provider found liable in a law suit in tort or for breach of
9 contract. The legislative intent in providing for the
10 deductible to be applied to individual health care providers
11 found negligent or in breach of contract is to instill in each
12 individual health care provider the incentive to avoid the
13 risk of injury to the fullest extent and ensure that the
14 citizens of this state receive the highest quality health care
15 obtainable.

16 Section 67. Paragraph (d) of subsection (3) of section
17 766.1115, Florida Statutes, is amended to read:

18 766.1115 Health care providers; creation of agency
19 relationship with governmental contractors.--

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

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

- 22 1. A birth center licensed under chapter 383.
- 23 2. An ambulatory surgical center licensed under
24 chapter 395.
- 25 3. A hospital licensed under chapter 395.
- 26 4. A physician or physician assistant licensed under
27 chapter 458.
- 28 5. An osteopathic physician or osteopathic physician
29 assistant licensed under chapter 459.
- 30 6. A chiropractic physician licensed under chapter
31 460.

1 7. A podiatric physician licensed under chapter 461.

2 8. A registered nurse, nurse midwife, licensed
3 practical nurse, or advanced registered nurse practitioner
4 licensed or registered under part I of chapter 464 or any
5 facility which employs nurses licensed or registered under
6 part I of chapter 464 to supply all or part of the care
7 delivered under this section.

8 9. A midwife licensed under chapter 467.

9 10. A health maintenance organization certificated
10 under part I of chapter 641.

11 11. A health care professional association and its
12 employees or a corporate medical group and its employees.

13 12. Any other medical facility the primary purpose of
14 which is to deliver human medical diagnostic services or which
15 delivers nonsurgical human medical treatment, and which
16 includes an office maintained by a provider.

17 13. A dentist or dental hygienist licensed under
18 chapter 466.

19 14. Any other health care professional, practitioner,
20 provider, or facility under contract with a governmental
21 contractor.

22
23 The term includes any nonprofit corporation qualified as
24 exempt from federal income taxation under s. 501(c) of the
25 Internal Revenue Code which delivers health care services
26 provided by licensed professionals listed in this paragraph,
27 any federally funded community health center, and any
28 volunteer corporation or volunteer health care provider that
29 delivers health care services.

30 Section 68. Subsection (1) of section 877.111, Florida
31 Statutes, is amended to read:

1 877.111 Inhalation, ingestion, possession, sale,
2 purchase, or transfer of harmful chemical substances;
3 penalties.--

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

20 Section 69. Subsection (6) of section 945.602, Florida
21 Statutes, is amended to read:

22 945.602 State of Florida Correctional Medical
23 Authority; creation; members.--

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

27 Section 70. Subsection (2) of section 960.28, Florida
28 Statutes, is amended to read:

29 960.28 Payment for victims' initial forensic physical
30 examinations.--

31

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

29 Section 71. Subsection (36) of section 984.03, Florida
30 Statutes, is amended to read:

31

1 984.03 Definitions.--When used in this chapter, the
2 term:

3 (36) "Licensed health care professional" means a
4 physician licensed under chapter 458, an osteopathic physician
5 licensed under chapter 459, a nurse licensed under part I of
6 chapter 464, a physician assistant licensed under chapter 458
7 or chapter 459, or a dentist licensed under chapter 466.

8 Section 72. Subsection (37) of section 985.03, Florida
9 Statutes, is amended to read:

10 985.03 Definitions.--When used in this chapter, the
11 term:

12 (37) "Licensed health care professional" means a
13 physician licensed under chapter 458, an osteopathic physician
14 licensed under chapter 459, a nurse licensed under part I of
15 chapter 464, a physician assistant licensed under chapter 458
16 or chapter 459, or a dentist licensed under chapter 466.

17 Section 73. Section 455.557, Florida Statutes, is
18 amended to read:

19 455.557 Standardized credentialing for health care
20 practitioners.--

21 (1) INTENT.--The Legislature recognizes that an
22 efficient and effective health care practitioner credentialing
23 program helps to ensure access to quality health care and also
24 recognizes that health care practitioner credentialing
25 activities have increased significantly as a result of health
26 care reform and recent changes in health care delivery and
27 reimbursement systems. Moreover, the resulting duplication of
28 health care practitioner credentialing activities is
29 unnecessarily costly and cumbersome for both the practitioner
30 and the entity granting practice privileges. Therefore, it is
31 the intent of this section that a credentials collection

1 program be established which provides that, once a health care
2 practitioner's core credentials data are collected, they need
3 not be collected again, except for corrections, updates, and
4 modifications thereto. Participation under this section shall
5 initially include those individuals licensed under chapter
6 458, chapter 459, chapter 460, ~~or~~ chapter 461, or s. 464.012.
7 However, the department shall, with the approval of the
8 applicable board, include other professions under the
9 jurisdiction of the Division of Medical Quality Assurance in
10 this program, provided they meet the requirements of s.
11 455.565 or s. 455.56503.

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

13 ~~(a) "Advisory council" or "council" means the~~
14 ~~Credentials Advisory Council.~~

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

24 (b)~~(c)~~ "Core credentials data" means the following
25 data: current name, any former name, and any alias, any
26 professional education, professional training, licensure,
27 current Drug Enforcement Administration certification, social
28 security number, specialty board certification, Educational
29 Commission for Foreign Medical Graduates certification,
30 hospital or other institutional affiliations, evidence of
31 professional liability coverage or evidence of financial

1 responsibility as required by s. 458.320, ~~or~~ s. 459.0085, or
2 s. 455.694, history of claims, suits, judgments, or
3 settlements, final disciplinary action reported pursuant to s.
4 455.565(1)(a)8. or s. 455.56503(1)(a)8., and Medicare or
5 Medicaid sanctions.

6 (c)~~(d)~~ "Credential" or "credentialing" means the
7 process of assessing and verifying the qualifications of a
8 licensed health care practitioner or applicant for licensure
9 as a health care practitioner.

10 (d)~~(e)~~ "Credentials verification organization" means
11 any organization certified or accredited as a credentials
12 verification organization.

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

15 (f)~~(g)~~ "Designated credentials verification
16 organization" means the credentials verification organization
17 which is selected by the health care practitioner, if the
18 health care practitioner chooses to make such a designation.

19 (g)~~(h)~~ "Drug Enforcement Administration certification"
20 means certification issued by the Drug Enforcement
21 Administration for purposes of administration or prescription
22 of controlled substances. Submission of such certification
23 under this section must include evidence that the
24 certification is current and must also include all current
25 addresses to which the certificate is issued.

26 (h)~~(i)~~ "Health care entity" means:

27 1. Any health care facility or other health care
28 organization licensed or certified to provide approved medical
29 and allied health services in this state;

30 2. Any entity licensed by the Department of Insurance
31 as a prepaid health care plan or health maintenance

1 organization or as an insurer to provide coverage for health
2 care services through a network of providers; or
3 3. Any accredited medical school in this state.
4 (i)~~(j)~~ "Health care practitioner" means any person
5 licensed, or, for credentialing purposes only, any person
6 applying for licensure, under chapter 458, chapter 459,
7 chapter 460, ~~or~~ chapter 461, or s. 464.012 or any person
8 licensed or applying for licensure under a chapter
9 subsequently made subject to this section by the department
10 with the approval of the applicable board, except a person
11 registered or applying for registration pursuant to s. 458.345
12 or s. 459.021.
13 (j)~~(k)~~ "Hospital or other institutional affiliations"
14 means each hospital or other institution for which the health
15 care practitioner or applicant has provided medical services.
16 Submission of such information under this section must
17 include, for each hospital or other institution, the name and
18 address of the hospital or institution, the staff status of
19 the health care practitioner or applicant at that hospital or
20 institution, and the dates of affiliation with that hospital
21 or institution.
22 (k)~~(l)~~ "National accrediting organization" means an
23 organization that awards accreditation or certification to
24 hospitals, managed care organizations, credentials
25 verification organizations, or other health care
26 organizations, including, but not limited to, the Joint
27 Commission on Accreditation of Healthcare Organizations, the
28 American Accreditation HealthCare Commission/URAC, and the
29 National Committee for Quality Assurance.
30
31

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

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

9 (3) STANDARDIZED CREDENTIALS VERIFICATION PROGRAM.--

10 (a) Every health care practitioner shall:

11 1. Report all core credentials data to the department
12 which is not already on file with the department, either by
13 designating a credentials verification organization to submit
14 the data or by submitting the data directly.

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

23 (b) The department shall:

24 1. Maintain a complete, current file of core
25 credentials data on each health care practitioner, which shall
26 include all updates provided in accordance with subparagraph
27 (a)2.

28 2. Release the core credentials data that is otherwise
29 confidential or exempt from the provisions of chapter 119 and
30 s. 24(a), Art. I of the State Constitution and any
31

1 corrections, updates, and modifications thereto, if authorized
2 by the health care practitioner.

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

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

15 5. ~~Establish a Credentials Advisory Council,~~
16 ~~consisting of 13 members, to assist the department as provided~~
17 ~~in this section. The secretary, or his or her designee, shall~~
18 ~~serve as one member and chair of the council and shall appoint~~
19 ~~the remaining 12 members. Except for any initial lesser term~~
20 ~~required to achieve staggering, such appointments shall be for~~
21 ~~4-year staggered terms, with one 4-year reappointment, as~~
22 ~~applicable. Three members shall represent hospitals, and two~~
23 ~~members shall represent health maintenance organizations. One~~
24 ~~member shall represent health insurance entities. One member~~
25 ~~shall represent the credentials verification industry. Two~~
26 ~~members shall represent physicians licensed under chapter 458.~~
27 ~~One member shall represent osteopathic physicians licensed~~
28 ~~under chapter 459. One member shall represent chiropractic~~
29 ~~physicians licensed under chapter 460. One member shall~~
30 ~~represent podiatric physicians licensed under chapter 461.~~

31

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

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

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

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

16 (4) DUPLICATION OF DATA PROHIBITED.--

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

29 (b) Effective July 1, 2002, a state agency in this
30 state which credentials health care practitioners may not
31 collect or attempt to collect duplicate core credentials data

1 from any individual health care practitioner if the
2 information is already available from the department. This
3 section shall not be construed to restrict the right of any
4 such state agency to request additional information not
5 included in the core credential data file, but which is deemed
6 necessary for the agency's specific credentialing purposes.

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

28 (6) LIABILITY.--No civil, criminal, or administrative
29 action may be instituted, and there shall be no liability,
30 against any registered credentials verification organization

31

1 or health care entity on account of its reliance on any data
2 obtained directly from the department.

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

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

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

17 Section 74. Section 455.56503, Florida Statutes, is
18 created to read:

19 455.56503 Advanced registered nurse practitioners;
20 information required for certification.--

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

29 1. The name of each school or training program that
30 the applicant has attended which pertains to licensure
31 requirements, with the months and years of attendance and the

1 month and year of graduation, and, if applicable, a
2 description of all graduate professional education completed
3 by the applicant, excluding any coursework taken to satisfy
4 continuing education requirements.

5 2. The name of each location at which the applicant
6 practices.

7 3. The address at which the applicant will primarily
8 conduct his or her practice.

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

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

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

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

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

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

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

27 (2) The Department of Health shall send a notice to
28 each person certified under s. 464.012 at the
29 certificateholder's last known address of record, as required
30 by s. 455.714, regarding the requirements for information to
31 be submitted by practitioners pursuant to this section as a

1 condition of the renewal of such certification. Failure to
2 submit the information required in subsection (1) or failure
3 to submit a set of fingerprints as required by subsection (4)
4 shall render the certification delinquent until such time as
5 all requirements have been met.

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

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

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

1 Service of a citation may be made by personal service or
2 certified mail, restricted delivery, to the subject at the
3 certificateholder's last known address.

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

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

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

31

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

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

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

1 or department from the Department of Health's health care
2 practitioner credentialing system.

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

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

10 (b) Information regarding professional or community
11 service activities or awards.

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

17 (d) An indication of whether the person participates
18 in the Medicaid program.

19 (6) All information submitted under this section,
20 except fingerprints, must be submitted electronically by the
21 practitioner along with payment in an amount equal to the
22 costs incurred by the department to collect, compile, and
23 publish the information through a secure on-line licensing
24 program. However, electronic submission of such information is
25 only required if otherwise required by law.

26 Section 75. Section 455.5651, Florida Statutes, is
27 amended to read:

28 455.5651 Practitioner profile; creation.--

29 (1) Beginning July 1, 1999, the Department of Health
30 shall compile the information submitted pursuant to s. 455.565
31 into a practitioner profile of the applicant submitting the

1 information, except that the Department of Health may develop
2 a format to compile uniformly any information submitted under
3 s. 455.565(4)(b). Beginning July 1, 2001, the Department of
4 Health may compile the information submitted pursuant to s.
5 455.56503 into a practitioner profile of the applicant
6 submitting the information.

7 (2) On the profile published ~~required~~ under subsection
8 (1), the department shall indicate if the information provided
9 under s. 455.565(1)(a)7. or s. 455.56503(1)(a)7.is not
10 corroborated by a criminal history check conducted according
11 to this subsection. If the information provided under s.
12 455.565(1)(a)7. or s. 455.56503(1)(a)7.is corroborated by the
13 criminal history check, the fact that the criminal history
14 check was performed need not be indicated on the profile. The
15 department, or the board having regulatory authority over the
16 practitioner acting on behalf of the department, shall
17 investigate any information received by the department or the
18 board when it has reasonable grounds to believe that the
19 practitioner has violated any law that relates to the
20 practitioner's practice.

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

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

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

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

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

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

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

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

15 Section 76. Section 455.5653, Florida Statutes, is
16 amended to read:

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

1 ~~of Medical Quality Assurance to submit relevant information to~~
2 ~~be compiled into a profile to be made available to the public.~~
3 The Department of Health is authorized to contract with and
4 negotiate any interagency agreement necessary to develop and
5 implement the practitioner profiles. The Department of Health
6 shall have access to any information or record maintained by
7 the Agency for Health Care Administration, including any
8 information or record that is otherwise confidential and
9 exempt from the provisions of chapter 119 and s. 24(a), Art. I
10 of the State Constitution, so that the Department of Health
11 may corroborate any information that practitioners ~~physicians~~
12 are required to report under s. 455.565 or s. 455.56503.

13 Section 77. Section 455.5654, Florida Statutes, is
14 amended to read:

15 455.5654 Practitioner profiles; rules;
16 workshops.--Effective upon this act becoming a law, the
17 Department of Health shall adopt rules for the form of a
18 practitioner profile that the agency is required to prepare.
19 The Department of Health, pursuant to chapter 120, must hold
20 public workshops for purposes of rule development to implement
21 this section. An agency to which information is to be
22 submitted under this act may adopt by rule a form for the
23 submission of the information required under s. 455.565 or s.
24 455.56503.

25 Section 78. Subsection (5) of section 455.587, Florida
26 Statutes, is amended to read:

27 455.587 Fees; receipts; disposition.--

28 (5) All moneys collected by the department from fees
29 or fines or from costs awarded to the agency by a court shall
30 be paid into a trust fund used by the department to implement
31 this part. The Legislature shall appropriate funds from this

1 trust fund sufficient to carry out this part and the
2 provisions of law with respect to professions regulated by the
3 Division of Medical Quality Assurance within the department
4 and the boards. The department may contract with public and
5 private entities to receive and deposit revenue pursuant to
6 this section. The department shall maintain separate accounts
7 in the trust fund used by the department to implement this
8 part for every profession within the department. To the
9 maximum extent possible, the department shall directly charge
10 all expenses to the account of each regulated profession. For
11 the purpose of this subsection, direct charge expenses
12 include, but are not limited to, costs for investigations,
13 examinations, and legal services. For expenses that cannot be
14 charged directly, the department shall provide for the
15 proportionate allocation among the accounts of expenses
16 incurred by the department in the performance of its duties
17 with respect to each regulated profession. The regulation by
18 the department of professions, as defined in part II of
19 chapter 455, shall be financed solely from revenue collected
20 by it from fees and other charges and deposited in the Medical
21 Quality Assurance Trust Fund, and all such revenue is
22 appropriated to the department. However, it is the legislative
23 intent that each profession shall operate within its
24 anticipated fees.The department may not expend funds from the
25 account of a profession to pay for the expenses incurred on
26 behalf of another profession, except that the Board of Nursing
27 must pay for any costs incurred in regulation of certified
28 nursing assistants. The department shall maintain adequate
29 records to support its allocation of agency expenses. The
30 department shall provide any board with reasonable access to
31 these records upon request. The department shall provide each

1 board an annual report of revenue and direct and allocated
2 expenses related to the operation of that profession. The
3 board shall use these reports and the department's adopted
4 long-range plan to determine the amount of license fees. A
5 condensed version of this information, with the department's
6 recommendations, shall be included in the annual report to the
7 Legislature prepared under s. 455.644.

8 Section 79. This act shall take effect July 1, 2000.

9
10 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
11 COMMITTEE SUBSTITUTE FOR
12 CS/SB 1932

13 Conforms practitioner profiling requirements for Advanced
14 Registered Nurse Practitioners to those being proposed for
15 other health care professions within the Division of Medical
16 Quality Assurance.

17 Clarifies legislative intent that the regulation of
18 professions is to be solely financed by fees and other
19 charges.

20 Provides for the Board of Nursing to pay costs associated with
21 regulating certified nursing assistants.

22 Provides that licensed practical nurses who are providing
23 nursing services in nursing home facilities may supervise the
24 activities of other licensed practical nurses, certified
25 nursing assistants, and unlicensed personnel in accordance
26 with rules adopted by the Board of Nursing.

27 Removes the language appropriating \$280,000 from the Medical
28 Quality Assurance Trust Fund.
29
30
31