

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

309-2080-00

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

1           amending s. 455.5653, F.S.; deleting obsolete  
2           provisions relating to scheduling and  
3           development of practitioner profiles for  
4           additional health care practitioners; providing  
5           the department access to information on health  
6           care practitioners maintained by the Agency for  
7           Health Care Administration for corroboration  
8           purposes; amending s. 455.5654, F.S.; providing  
9           for adoption by rule of a form for submission  
10          of profiling information; amending s. 455.567,  
11          F.S.; expanding the prohibition against sexual  
12          misconduct to cover violations against  
13          guardians and representatives of patients or  
14          clients; providing penalties; amending s.  
15          455.574, F.S.; providing for determination of  
16          the amount of the examination fee when the  
17          board or department purchases the examination;  
18          amending s. 455.587, F.S.; revising authority  
19          to set fees; providing reporting requirements;  
20          amending s. 455.624, F.S.; revising and  
21          providing grounds for disciplinary action  
22          relating to having a license to practice a  
23          regulated health care profession acted against,  
24          sexual misconduct, inability to practice  
25          properly due to alcohol or substance abuse or a  
26          mental or physical condition, and testing  
27          positive for a drug without a lawful  
28          prescription therefor; providing for  
29          restriction of license as a disciplinary  
30          action; providing for issuance of a citation  
31          and assessment of a fine for certain first-time

1 violations; reenacting ss. 455.577, 455.631,  
2 455.651(2), 455.712(1), 458.347(7)(g),  
3 459.022(7)(f), 468.1755(1)(a), 468.719(1)(a)  
4 and (2), 468.811, and 484.056(1)(a), F.S.,  
5 relating to theft or reproduction of an  
6 examination, giving false information,  
7 disclosure of confidential information,  
8 business establishments providing regulated  
9 services without an active status license, and  
10 practice violations by physician assistants,  
11 nursing home administrators, athletic trainers,  
12 orthotists, prosthetists, pedorthists, and  
13 hearing aid specialists, to incorporate the  
14 amendment to s. 455.624, F.S., in references  
15 thereto; repealing s. 455.704, F.S., relating  
16 to the Impaired Practitioners Committee;  
17 amending s. 455.707, F.S., relating to impaired  
18 practitioners, to conform; clarifying  
19 provisions relating to complaints against  
20 impaired practitioners; amending s. 310.102,  
21 F.S.; revising and removing references, to  
22 conform; amending s. 455.711, F.S.; revising  
23 provisions relating to active and inactive  
24 status licensure; eliminating reference to  
25 delinquency as a licensure status; providing  
26 rulemaking authority; amending ss. 455.587 and  
27 455.714, F.S.; conforming references; creating  
28 s. 455.719, F.S.; providing that the  
29 appropriate medical regulatory board, or the  
30 department when there is no board, has  
31 exclusive authority to grant exemptions from

1           disqualification from employment or contracting  
2           with respect to persons under the licensing  
3           jurisdiction of that board or the department,  
4           as applicable; providing an appropriation for  
5           continued review of clinical laboratory  
6           services for kidney dialysis patients and  
7           requiring a report thereon; amending s.  
8           455.637, F.S.; revising provisions relating to  
9           sanctions against the unlicensed practice of a  
10          health care profession; providing legislative  
11          intent; revising and expanding provisions  
12          relating to civil and administrative remedies;  
13          providing criminal penalties; incorporating and  
14          modifying the substance of current provisions  
15          that impose a fee to combat unlicensed activity  
16          and provide for disposition of the proceeds  
17          thereof; providing applicability; repealing s.  
18          455.641, F.S., relating to unlicensed activity  
19          fees, to conform; reenacting ss. 455.574(1)(d),  
20          468.1295(1), 484.014(1), and 484.056(1), F.S.,  
21          relating to violation of security provisions  
22          for examinations and violations involving  
23          speech-language pathology, audiology,  
24          opticianry, and the dispensing of hearing aids,  
25          to incorporate the amendment to s. 455.637,  
26          F.S., in references thereto; creating s.  
27          455.665, F.S.; requiring a specified statement  
28          in any advertisement by a health care  
29          practitioner for a surgical procedure; amending  
30          s. 921.0022, F.S.; modifying the criminal  
31          offense severity ranking chart to include

1 offenses relating to unlicensed practice of a  
2 health care profession; providing an effective  
3 date.

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

6  
7 Section 1. Subsections (1) and (3) of section 455.564,  
8 Florida Statutes, are amended to read:

9 455.564 Department; general licensing provisions.--

10 (1)(a) Any person desiring to be licensed in a  
11 profession within the jurisdiction of the department shall  
12 apply to the department in writing to take the licensure  
13 examination. The application shall be made on a form prepared  
14 and furnished by the department and shall require the social  
15 security number of the applicant, except as provided in  
16 paragraph (b). The form shall be supplemented as needed to  
17 reflect any material change in any circumstance or condition  
18 stated in the application which takes place between the  
19 initial filing of the application and the final grant or  
20 denial of the license and which might affect the decision of  
21 the department. An incomplete application shall expire 1 year  
22 after initial filing. In order to further the economic  
23 development goals of the state, and notwithstanding any law to  
24 the contrary, the department may enter into an agreement with  
25 the county tax collector for the purpose of appointing the  
26 county tax collector as the department's agent to accept  
27 applications for licenses and applications for renewals of  
28 licenses. The agreement must specify the time within which the  
29 tax collector must forward any applications and accompanying  
30 application fees to the department.

31

1           (b) If an applicant has not been issued a social  
2 security number by the Federal Government at the time of  
3 application because the applicant is not a citizen or resident  
4 of this country, the department may process the application  
5 using a unique personal identification number. If such an  
6 applicant is otherwise eligible for licensure, the board, or  
7 the department when there is no board, may issue a temporary  
8 license to the applicant, which shall expire 30 days after  
9 issuance unless a social security number is obtained and  
10 submitted in writing to the department. Upon receipt of the  
11 applicant's social security number, the department shall issue  
12 a new license, which shall expire at the end of the current  
13 biennium.

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

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

29           (c) In considering applications for licensure, the  
30 board, or the department when there is no board, may require a  
31 personal appearance of the applicant. If the applicant is

1 required to appear, the time period in which a licensure  
2 application must be granted or denied shall be tolled until  
3 such time as the applicant appears. However, if the applicant  
4 fails to appear before the board at either of the next two  
5 regularly scheduled board meetings, or fails to appear before  
6 the department within 30 days if there is no board, the  
7 application for licensure shall be denied.

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

10 455.565 Designated health care professionals;  
11 information required for licensure.--

12 (4)

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

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

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

5 455.56505 Health care practitioners; information  
6 required for licensure.--

7 (1) It is the intent of the Legislature to provide  
8 consumers of health care services access to information about  
9 health care practitioners which will enable consumers to make  
10 an informed decision in choosing their health care  
11 practitioner. It is also the intent of the Legislature to  
12 provide a mechanism to the Department of Health and the  
13 regulatory boards thereunder to update and verify existing  
14 information regarding the credentials and background of health  
15 care practitioners which was provided to the department at the  
16 time of initial application for licensure. It is further the  
17 intent of the Legislature that any practitioner who is found  
18 to have provided false, misleading, or incorrect information  
19 or failed to provide the information requested at the time of  
20 application be held responsible for such action in accordance  
21 with the disciplinary provisions of this chapter and the  
22 chapter regulating that profession. Accordingly, the  
23 Department of Health shall report to the Legislature by  
24 January 1, 2001, whether those intentions are being met by the  
25 requirements of practitioner profiling and any recommendations  
26 related thereto.

27 (2) Health care practitioners shall submit to the  
28 Department of Health and the department shall collect,  
29 compile, and publish practitioner information in accordance  
30 with the following schedule:

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1           (a) Beginning July 1, 2001, advanced registered nurse  
2 practitioners certified or applying for certification pursuant  
3 to s. 464.012 and practitioners licensed or applying for  
4 licensure pursuant to chapter 458, chapter 459, chapter 460,  
5 or chapter 461, except a person applying for registration  
6 pursuant to ss. 458.345 and 459.021 and physicians previously  
7 profiled pursuant to s. 455.565, shall comply with the  
8 requirements of this section as a condition of licensure and  
9 licensure renewal.

10           (b) Beginning July 1, 2002, practitioners licensed or  
11 applying for licensure pursuant to chapter 463, chapter 466,  
12 chapter 467, chapter 480, chapter 490, or chapter 491 shall  
13 comply with the requirements of this section as a condition of  
14 licensure and licensure renewal, with the exception of dental  
15 hygienists applying for licensure under chapter 466.

16           (c) Beginning July 1, 2003, practitioners licensed or  
17 applying for licensure pursuant to chapter 457, chapter 462,  
18 chapter 465, chapter 478, or chapter 484 shall comply with the  
19 requirements of this section as a condition of licensure and  
20 licensure renewal.

21           (d) Beginning July 1, 2004, practitioners licensed or  
22 applying for licensure pursuant to part I, part II, part III,  
23 part V, part X, part XIV, or part XV of chapter 468, part III  
24 or part IV of chapter 483, or chapter 486 shall comply with  
25 the requirements of this section as a condition of licensure  
26 and licensure renewal.

27           (e) Beginning July 1, 2005, nurses licensed or  
28 applying for licensure pursuant to chapter 464, except  
29 advanced registered nurse practitioners, shall comply with the  
30 requirements of this section as a condition of licensure and  
31 licensure renewal.

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

6           (3)(a) In accordance with the schedule set forth in  
7 subsection (2), each person who applies for initial licensure  
8 must, at the time of application, and each person who applies  
9 for license renewal must, in conjunction with the renewal of  
10 such license and under procedures adopted by the Department of  
11 Health, and in addition to any other information that may be  
12 required from the applicant, furnish the following information  
13 to the Department of Health:

14           1. The name of each school or training program that  
15 the applicant has attended, with the months and years of  
16 attendance and the month and year of graduation, and, if  
17 applicable, a description of all graduate professional  
18 education completed by the applicant, excluding any coursework  
19 taken to satisfy continuing education requirements.

20           2. The name of each location at which the applicant  
21 practices.

22           3. The address at which the applicant will primarily  
23 conduct his or her practice.

24           4. Any certification or designation that the applicant  
25 has received from a specialty or certification board that is  
26 recognized or approved by the regulatory board or department  
27 to which the applicant is applying.

28           5. The year that the applicant received initial  
29 licensure and began practicing the profession in any  
30 jurisdiction and the year that the applicant received initial  
31 licensure in this state.

1           6. Any appointment that the applicant currently holds  
2 to the faculty of a school related to the profession and an  
3 indication as to whether the applicant has had the  
4 responsibility for graduate education within the most recent  
5 10 years.

6           7. A description of any criminal offense of which the  
7 applicant has been found guilty, regardless of whether  
8 adjudication of guilt was withheld, or to which the applicant  
9 has pled guilty or nolo contendere. A criminal offense  
10 committed in another jurisdiction which would have been a  
11 felony or misdemeanor if committed in this state must be  
12 reported. If the applicant indicates that a criminal offense  
13 is under appeal and submits a copy of the notice for appeal of  
14 that criminal offense, the department must state that the  
15 criminal offense is under appeal if the criminal offense is  
16 reported in the applicant's profile. If the applicant  
17 indicates to the department that a criminal offense is under  
18 appeal, the applicant must, within 15 days after the  
19 disposition of the appeal, submit to the department a copy of  
20 the final written order of disposition.

21           8. A description of any final disciplinary action  
22 taken within the previous 10 years against the applicant by a  
23 licensing or regulatory body in any jurisdiction, by a  
24 specialty board that is recognized by the board or department,  
25 or by a hospital, health maintenance organization, prepaid  
26 health clinic, ambulatory surgical center, or nursing home.  
27 Disciplinary action includes resignation from or nonrenewal of  
28 staff membership or the restriction of privileges at a  
29 hospital, health maintenance organization, prepaid health  
30 clinic, ambulatory surgical center, or nursing home taken in  
31 lieu of or in settlement of a pending disciplinary case

1 related to competence or character. If the applicant indicates  
2 that the disciplinary action is under appeal and submits a  
3 copy of the document initiating an appeal of the disciplinary  
4 action, the department must state that the disciplinary action  
5 is under appeal if the disciplinary action is reported in the  
6 applicant's profile.

7 (b) In addition to the information required under  
8 paragraph (a), each applicant for initial licensure or  
9 licensure renewal must provide the information required of  
10 licensees pursuant to s. 455.697.

11 (4) The Department of Health shall send a notice to  
12 each licensee at the licensee's last known address of record  
13 as required by s. 455.714 regarding the requirements for  
14 information to be submitted by practitioners pursuant to this  
15 section as a condition of the renewal of such license. Failure  
16 to submit the information required in subsection (3) or a set  
17 of fingerprints as required by subsection (6) shall render the  
18 license delinquent until such time as all requirements have  
19 been met.

20 (5) Each person who has submitted information pursuant  
21 to subsection (3) must update that information electronically  
22 within 45 days after the occurrence of an event or the  
23 attainment of a status that is required to be reported by  
24 subsection (3). Failure to comply with the requirements of  
25 this subsection to update and submit information constitutes a  
26 ground for disciplinary action under each respective licensing  
27 chapter and s. 455.624(1)(k). For failure to comply with the  
28 requirements of this subsection to update and submit  
29 information, the department or board, as appropriate, may:  
30  
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1       (a) Refuse to issue a license to any person applying  
2 for initial licensure who fails to submit and update the  
3 required information.

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

18       (6)(a) An applicant for initial licensure must submit  
19 a set of fingerprints to the Department of Health on a form  
20 and under procedures specified by the department, along with  
21 payment in an amount equal to the costs incurred by the  
22 Department of Health for a national criminal history check of  
23 the applicant.

24       (b) An applicant for renewed licensure who has not  
25 previously submitted a set of fingerprints to the Department  
26 of Health for purposes of licensure must submit a set of  
27 fingerprints to the department as a condition of renewal of  
28 license. The applicant for renewed licensure must submit the  
29 fingerprints on a form and under procedures specified by the  
30 department, along with payment in an amount equal to the costs  
31 incurred by the Department of Health for a national criminal

1 history check. For subsequent renewals, the applicant for  
2 renewed licensure must only submit information necessary to  
3 conduct a statewide criminal history check, along with payment  
4 in an amount equal to the costs incurred by the Department of  
5 Health for a statewide criminal history check.

6 (c)1. The Department of Health shall submit the  
7 fingerprints provided by an applicant for initial licensure to  
8 the Florida Department of Law Enforcement for a statewide  
9 criminal history check, and the Florida Department of Law  
10 Enforcement shall forward the fingerprints to the Federal  
11 Bureau of Investigation for a national criminal history check  
12 of the applicant.

13 2. The department shall submit the fingerprints  
14 provided by an applicant for the initial renewal of license to  
15 the Florida Department of Law Enforcement for a statewide  
16 criminal history check, and the Florida Department of Law  
17 Enforcement shall forward the fingerprints to the Federal  
18 Bureau of Investigation for a national criminal history check  
19 for the initial renewal of the applicant's license after the  
20 effective date of this section.

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

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

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

22 (7) Each person who is required to submit information  
23 pursuant to this section may submit additional information to  
24 the department under procedures specified by the department.  
25 Such information may include, but is not limited to:

26 (a) Information regarding publications in  
27 peer-reviewed professional literature within the previous 10  
28 years.

29 (b) Information regarding professional or community  
30 service activities or awards.

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1           (c) Languages, other than English, used by the  
2 applicant to communicate with patients or clients and  
3 identification of any translating service that may be  
4 available at the place where the applicant primarily conducts  
5 his or her practice.

6           (d) An indication of whether the person participates  
7 in the Medicaid program.

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

14           Section 4. Section 455.5651, Florida Statutes, is  
15 amended to read:

16           455.5651 Practitioner profile; creation.--

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

26           (2) On the profile published ~~required~~ under subsection  
27 (1), the department shall indicate if the information provided  
28 under s. 455.565(1)(a)7. or s. 455.56505(1)(a)7.is not  
29 corroborated by a criminal history check conducted according  
30 to this subsection. If the information provided under s.  
31 455.565(1)(a)7. or s. 455.56505(1)(a)7.is corroborated by the



1 criminal history check, the fact that the criminal history  
2 check was performed need not be indicated on the profile. The  
3 department, or the board having regulatory authority over the  
4 practitioner acting on behalf of the department, shall  
5 investigate any information received by the department or the  
6 board when it has reasonable grounds to believe that the  
7 practitioner has violated any law that relates to the  
8 practitioner's practice.

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

17 (4) The Department of Health shall include, with  
18 respect to a practitioner licensed under chapter 458 or  
19 chapter 459, a statement of how the practitioner has elected  
20 to comply with the financial responsibility requirements of s.  
21 458.320 or s. 459.0085. The department shall include, with  
22 respect to practitioners subject to s. 455.694, a statement of  
23 how the practitioner has elected to comply with the financial  
24 responsibility requirements of that section.The department  
25 shall include, with respect to practitioners licensed under  
26 chapter 458, chapter 459, ~~or~~ chapter 461, or chapter 466,  
27 information relating to liability actions which has been  
28 reported under s. 455.697 or s. 627.912 within the previous 10  
29 years for any paid claim that exceeds \$5,000. Such claims  
30 information shall be reported in the context of comparing an  
31 individual practitioner's claims to the experience of other

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

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

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

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

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

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

6           455.5653 Practitioner profiles; data  
7 storage.--Effective upon this act becoming a law, the  
8 Department of Health must develop or contract for a computer  
9 system to accommodate the new data collection and storage  
10 requirements under this act pending the development and  
11 operation of a computer system by the Department of Health for  
12 handling the collection, input, revision, and update of data  
13 submitted by physicians as a part of their initial licensure  
14 or renewal to be compiled into individual practitioner  
15 profiles. The Department of Health must incorporate any data  
16 required by this act into the computer system used in  
17 conjunction with the regulation of health care professions  
18 under its jurisdiction. ~~The department must develop, by the~~  
19 ~~year 2000, a schedule and procedures for each practitioner~~  
20 ~~within a health care profession regulated within the Division~~  
21 ~~of Medical Quality Assurance to submit relevant information to~~  
22 ~~be compiled into a profile to be made available to the public.~~  
23 The Department of Health is authorized to contract with and  
24 negotiate any interagency agreement necessary to develop and  
25 implement the practitioner profiles. The Department of Health  
26 shall have access to any information or record maintained by  
27 the Agency for Health Care Administration, including any  
28 information or record that is otherwise confidential and  
29 exempt from the provisions of chapter 119 and s. 24(a), Art. I  
30 of the State Constitution, so that the Department of Health  
31

1 may corroborate any information that ~~practitioners~~ physicians  
2 are required to report under s. 455.565 or s. 455.56505.

3 Section 6. Section 455.5654, Florida Statutes, is  
4 amended to read:

5 455.5654 Practitioner profiles; rules;  
6 workshops.--Effective upon this act becoming a law, the  
7 Department of Health shall adopt rules for the form of a  
8 practitioner profile that the agency is required to prepare.  
9 The Department of Health, pursuant to chapter 120, must hold  
10 public workshops for purposes of rule development to implement  
11 this section. An agency to which information is to be  
12 submitted under this act may adopt by rule a form for the  
13 submission of the information required under s. 455.565 or s.  
14 455.56505.

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

17 455.567 Sexual misconduct; disqualification for  
18 license, certificate, or registration.--

19 (1) Sexual misconduct in the practice of a health care  
20 profession means violation of the professional relationship  
21 through which the health care practitioner uses such  
22 relationship to engage or attempt to engage the patient or  
23 client, or an immediate family member, guardian, or  
24 representative of the patient or client in, or to induce or  
25 attempt to induce such person to engage in, verbal or physical  
26 sexual activity outside the scope of the professional practice  
27 of such health care profession. Sexual misconduct in the  
28 practice of a health care profession is prohibited.

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

31 455.574 Department of Health; examinations.--

1           (1)  
2           (g) If the board or department purchases an  
3 examination to test candidates for initial licensure, the  
4 examination fee shall be set by rule of the appropriate board,  
5 or the department when there is no board, in an amount not to  
6 exceed the examination fee set forth in the applicable  
7 practice act as of October 1, 1999, plus the actual  
8 per-applicant cost to the board or department to purchase the  
9 examination, notwithstanding any other provision of law to the  
10 contrary.

11           Section 9. Subsection (1) of section 455.587, Florida  
12 Statutes, is amended to read:

13           455.587 Fees; receipts; disposition.--

14           (1) Each board within the jurisdiction of the  
15 department, or the department when there is no board, shall  
16 determine by rule the amount of license fees for the  
17 profession it regulates, based upon long-range estimates  
18 prepared by the department of the revenue required to  
19 implement laws relating to the regulation of professions by  
20 the department and the board. Each board, or the department  
21 if there is no board, shall ensure that license fees are  
22 adequate to cover all anticipated costs and to maintain a  
23 reasonable cash balance, as determined by rule of the agency,  
24 with advice of the applicable board. If sufficient action is  
25 not taken by a board within 1 year after notification by the  
26 department that license fees are projected to be inadequate,  
27 the department shall set license fees on behalf of the  
28 applicable board to cover anticipated costs and to maintain  
29 the required cash balance. Notwithstanding any other law, each  
30 board or the department if there is no board, must set fees in  
31 an amount necessary to cover the actual cost of regulation,

1 and is not restricted to the current statutory fees if the  
2 upper limit of such fees prevents the profession regulated by  
3 the board or department from generating sufficient funds to  
4 cover all anticipated costs and maintaining a reasonable cash  
5 balance for that profession in the trust fund to implement  
6 this part. As used in this subsection, the term "reasonable  
7 cash balance" means a positive cash balance that exists at the  
8 end of each fiscal year, plus sufficient funds to cover the  
9 department's projections of revenue and expenditures for the  
10 regulation of the profession for the next 24 months following  
11 the end of each fiscal year. The department must provide  
12 detailed information about any projected fee increase,  
13 including any justification for the projection and an  
14 explanation of any effort to avoid such increase to each board  
15 on January 1 of each year before the board may impose the fee  
16 increase based on the projection.The department must ~~shall~~  
17 include recommended fee ~~cap~~ increases in its annual report to  
18 the Legislature. Further, it is the legislative intent that no  
19 regulated profession operate with a negative cash balance. The  
20 department may provide by rule for advancing sufficient funds  
21 to any profession operating with a negative cash balance. The  
22 advancement may be for a period not to exceed 2 consecutive  
23 years, and the regulated profession must pay interest.  
24 Interest shall be calculated at the current rate earned on  
25 investments of a trust fund used by the department to  
26 implement this part. Interest earned shall be allocated to the  
27 various funds in accordance with the allocation of investment  
28 earnings during the period of the advance.

29       Section 10. Paragraphs (f) and (u) of subsection (1),  
30 paragraph (c) of subsection (2), and subsection (3) of section  
31

1 455.624, Florida Statutes, are amended, and paragraphs (y) and  
2 (z) are added to subsection (1) of that section, to read:

3 455.624 Grounds for discipline; penalties;  
4 enforcement.--

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

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

19 (u) Engaging or attempting to engage in sexual  
20 misconduct as defined and prohibited in s. 455.567(1)~~a~~  
21 ~~patient or client in verbal or physical sexual activity. For~~  
22 ~~the purposes of this section, a patient or client shall be~~  
23 ~~presumed to be incapable of giving free, full, and informed~~  
24 ~~consent to verbal or physical sexual activity.~~

25 (y) Being unable to practice with reasonable skill and  
26 safety to patients by reason of illness or use of alcohol,  
27 drugs, narcotics, chemicals, or any other type of material or  
28 as a result of any mental or physical condition. In enforcing  
29 this paragraph, the department shall have, upon a finding of  
30 the secretary or the secretary's designee that probable cause  
31 exists to believe that the licensee is unable to practice

1 because of the reasons stated in this paragraph, the authority  
2 to issue an order to compel a licensee to submit to a mental  
3 or physical examination by physicians designated by the  
4 department. If the licensee refuses to comply with such order,  
5 the department's order directing such examination may be  
6 enforced by filing a petition for enforcement in the circuit  
7 court where the licensee resides or does business. The  
8 department shall be entitled to the summary procedure provided  
9 in s. 51.011. A licensee or certificateholder affected under  
10 this paragraph shall at reasonable intervals be afforded an  
11 opportunity to demonstrate that he or she can resume the  
12 competent practice of his or her profession with reasonable  
13 skill and safety to patients.

14 (z) Testing positive for any drug, as defined in s.  
15 112.0455, on any confirmed preemployment or employer-ordered  
16 drug screening when the practitioner does not have a lawful  
17 prescription and legitimate medical reason for using such  
18 drug.

19 (2) When the board, or the department when there is no  
20 board, finds any person guilty of the grounds set forth in  
21 subsection (1) or of any grounds set forth in the applicable  
22 practice act, including conduct constituting a substantial  
23 violation of subsection (1) or a violation of the applicable  
24 practice act which occurred prior to obtaining a license, it  
25 may enter an order imposing one or more of the following  
26 penalties:

27 (c) Restriction of practice or license.

28  
29 In determining what action is appropriate, the board, or  
30 department when there is no board, must first consider what  
31 sanctions are necessary to protect the public or to compensate



1 the patient. Only after those sanctions have been imposed may  
2 the disciplining authority consider and include in the order  
3 requirements designed to rehabilitate the practitioner. All  
4 costs associated with compliance with orders issued under this  
5 subsection are the obligation of the practitioner.

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

17 (b) Notwithstanding subsection (2), if the ground for  
18 disciplinary action is the first-time violation of a practice  
19 act for unprofessional conduct, as that term is used in ss.  
20 464.018(1)(h), 467.203(1)(f), 468.365(1)(f), and 478.52(1)(f),  
21 and no actual harm to the patient occurred, the board or  
22 department, as applicable, shall issue a citation in  
23 accordance with s. 455.617 and assess a fine, as determined by  
24 the board or department by rule.

25 Section 11. For the purpose of incorporating the  
26 amendment to section 455.624, Florida Statutes, in references  
27 thereto, sections 455.577 and 455.631, subsection (2) of  
28 section 455.651, subsection (1) of section 455.712, paragraph  
29 (g) of subsection (7) of section 458.347, paragraph (f) of  
30 subsection (7) of section 459.022, paragraph (a) of subsection  
31 (1) of section 468.1755, paragraph (a) of subsection (1) and

1 subsection (2) of section 468.719, section 468.811, and  
2 paragraph (a) of subsection (1) of section 484.056, Florida  
3 Statutes, are reenacted to read:

4           455.577 Penalty for theft or reproduction of an  
5 examination.--In addition to, or in lieu of, any other  
6 discipline imposed pursuant to s. 455.624, the theft of an  
7 examination in whole or in part or the act of reproducing or  
8 copying any examination administered by the department,  
9 whether such examination is reproduced or copied in part or in  
10 whole and by any means, constitutes a felony of the third  
11 degree, punishable as provided in s. 775.082, s. 775.083, or  
12 s. 775.084.

13           455.631 Penalty for giving false information.--In  
14 addition to, or in lieu of, any other discipline imposed  
15 pursuant to s. 455.624, the act of knowingly giving false  
16 information in the course of applying for or obtaining a  
17 license from the department, or any board thereunder, with  
18 intent to mislead a public servant in the performance of his  
19 or her official duties, or the act of attempting to obtain or  
20 obtaining a license from the department, or any board  
21 thereunder, to practice a profession by knowingly misleading  
22 statements or knowing misrepresentations constitutes a felony  
23 of the third degree, punishable as provided in s. 775.082, s.  
24 775.083, or s. 775.084.

25           455.651 Disclosure of confidential information.--

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

1           455.712 Business establishments; requirements for  
2 active status licenses.--

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

11           458.347 Physician assistants.--

12           (7) PHYSICIAN ASSISTANT LICENSURE.--

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

19           459.022 Physician assistants.--

20           (7) PHYSICIAN ASSISTANT LICENSURE.--

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

27           468.1755 Disciplinary proceedings.--

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

30           (a) Violation of any provision of s. 455.624(1) or s.  
31 468.1745(1).

1           468.719 Disciplinary actions.--

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

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

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

12           468.811 Disciplinary proceedings.--

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

18           (a) Attempting to procure a license by fraudulent  
19 misrepresentation.

20           (b) Having a license to practice orthotics,  
21 prosthetics, or pedorthics revoked, suspended, or otherwise  
22 acted against, including the denial of licensure in another  
23 jurisdiction.

24           (c) Being convicted or found guilty of or pleading  
25 nolo contendere to, regardless of adjudication, in any  
26 jurisdiction, a crime that directly relates to the practice of  
27 orthotics, prosthetics, or pedorthics, including violations of  
28 federal laws or regulations regarding orthotics, prosthetics,  
29 or pedorthics.

30           (d) Filing a report or record that the licensee knows  
31 is false, intentionally or negligently failing to file a

1 report or record required by state or federal law, willfully  
2 impeding or obstructing such filing, or inducing another  
3 person to impede or obstruct such filing. Such reports or  
4 records include only reports or records that are signed in a  
5 person's capacity as a licensee under this act.

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

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

10 (g) Violation of an order of the board, agency, or  
11 department previously entered in a disciplinary hearing or  
12 failure to comply with a subpoena issued by the board, agency,  
13 or department.

14 (h) Practicing with a revoked, suspended, or inactive  
15 license.

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

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

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

28 484.056 Disciplinary proceedings.--

29 (1) The following acts relating to the practice of  
30 dispensing hearing aids shall be grounds for both disciplinary  
31 action against a hearing aid specialist as set forth in this

1 section and cease and desist or other related action by the  
2 department as set forth in s. 455.637 against any person  
3 owning or operating a hearing aid establishment who engages  
4 in, aids, or abets any such violation:

5 (a) Violation of any provision of s. 455.624(1), s.  
6 484.0512, or s. 484.053.

7 Section 12. Section 455.704, Florida Statutes, is  
8 repealed.

9 Section 13. Subsections (1), (2), and (3) of section  
10 455.707, Florida Statutes, are amended to read:

11 455.707 Treatment programs for impaired  
12 practitioners.--

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

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

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

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

23 1. The licensee has acknowledged the impairment  
24 problem.

25 2. The licensee has voluntarily enrolled in an  
26 appropriate, approved treatment program.

27 3. The licensee has voluntarily withdrawn from  
28 practice or limited the scope of practice as required by the  
29 consultant determined by the panel, or the department when  
30 ~~there is no board~~, in each case, until such time as the panel,  
31 or the department when there is no board, is satisfied the

1 | licensee has successfully completed an approved treatment  
2 | program.

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

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

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

24 |         (d) Whenever the department receives a legally  
25 | sufficient complaint alleging that a licensee is impaired as  
26 | described in paragraph (a) and no complaint against the  
27 | licensee other than impairment exists, the department shall  
28 | forward all information in its possession regarding the  
29 | impaired licensee to the consultant. For the purposes of this  
30 | section, a suspension from hospital staff privileges due to  
31 | the impairment does not constitute a complaint.



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

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

15           Section 14. Subsection (1) of section 310.102, Florida  
16 Statutes, is amended to read:

17           310.102 Treatment programs for impaired pilots and  
18 deputy pilots.--

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

25           Section 15. Section 455.711, Florida Statutes, is  
26 amended to read:

27           455.711 Licenses; active and inactive and delinquent  
28 status; delinquency.--

29           (1) A licensee may practice a profession only if the  
30 licensee has an active status license. A licensee who  
31 practices a profession without an active status license is in

1 violation of this section and s. 455.624, and the board, or  
2 the department if there is no board, may impose discipline on  
3 the licensee.

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

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

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

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

23 (b) An inactive status licensee may change to active  
24 status at any time, if the licensee meets all requirements for  
25 active status, pays any additional licensure fees necessary to  
26 equal those imposed on an active status licensee, pays any  
27 applicable reactivation fees as set by the board, or the  
28 department if there is no board, and meets all continuing  
29 education requirements as specified in this section. Inactive  
30 status licensees choosing active status at the time of license  
31 renewal must pay the active status renewal fee, any applicable

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

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

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

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

31

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

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

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

25           (11) The status or a change in status of a licensee  
26 does not alter in any way the right of the board, or of the  
27 department if there is no board, to impose discipline or to  
28 enforce discipline previously imposed on a licensee for acts  
29 or omissions committed by the licensee while holding a  
30 license, whether active, inactive, or delinquent.

31

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

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

7           Section 16. Subsection (3) of section 455.587, Florida  
8 Statutes, is amended to read:

9           455.587 Fees; receipts; disposition.--

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

19           Section 17. Subsection (1) of section 455.714, Florida  
20 Statutes, is amended to read:

21           455.714 Renewal and cancellation notices.--

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

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

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

30           Section 18. Section 455.719, Florida Statutes, is  
31 created to read:

1           455.719 Health care professionals; exemption from  
2 disqualification from employment or contracting.--Any other  
3 provision of law to the contrary notwithstanding, only the  
4 appropriate regulatory board, or the department when there is  
5 no board, may grant an exemption from disqualification from  
6 employment or contracting as provided in s. 435.07 to a person  
7 under the licensing jurisdiction of that board or the  
8 department, as applicable.

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

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

1           455.637 Unlicensed practice of a health care  
2 profession; intent; cease and desist notice; penalties ~~civil~~  
3 ~~penalty~~; enforcement; citations; fees; allocation and  
4 disposition of moneys collected.--

5           (1) It is the intent of the Legislature that vigorous  
6 enforcement of licensure regulation for all health care  
7 professions is a state priority in order to protect Florida  
8 residents and visitors from the potentially serious and  
9 dangerous consequences of receiving medical and health care  
10 services from unlicensed persons whose professional education  
11 and training and other relevant qualifications have not been  
12 approved through the issuance of a license by the appropriate  
13 regulatory board or the department when there is no board. The  
14 unlicensed practice of a health care profession or the  
15 performance or delivery of medical or health care services to  
16 patients in this state without a valid, active license to  
17 practice that profession is strictly prohibited.

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

20           (a)~~(1)~~ When the department has probable cause to  
21 believe that any person not licensed by the department, or the  
22 appropriate regulatory board within the department, has  
23 violated any provision of this part or any statute that  
24 relates to the practice of a profession regulated by the  
25 department, or any rule adopted pursuant thereto, the  
26 department may issue and deliver to such person a notice to  
27 cease and desist from such violation. In addition, the  
28 department may issue and deliver a notice to cease and desist  
29 to any person who aids and abets the unlicensed practice of a  
30 profession by employing such unlicensed person. The issuance  
31 of a notice to cease and desist shall not constitute agency

1 action for which a hearing under ss. 120.569 and 120.57 may be  
2 sought. For the purpose of enforcing a cease and desist order,  
3 the department may file a proceeding in the name of the state  
4 seeking issuance of an injunction or a writ of mandamus  
5 against any person who violates any provisions of such order.

6 (b) In addition to the ~~foregoing~~ remedies under  
7 paragraph (a), the department may impose by citation an  
8 administrative penalty not to exceed \$5,000 per incident  
9 ~~pursuant to the provisions of chapter 120 or may issue a~~  
10 ~~citation pursuant to the provisions of subsection (3)~~. The  
11 citation shall be issued to the subject and shall contain the  
12 subject's name and any other information the department  
13 determines to be necessary to identify the subject, a brief  
14 factual statement, the sections of the law allegedly violated,  
15 and the penalty imposed. If the subject does not dispute the  
16 matter in the citation with the department within 30 days  
17 after the citation is served, the citation shall become a  
18 final order of the department. The department may adopt rules  
19 to implement this section. The penalty shall be a fine of not  
20 less than \$500 nor more than \$5,000 as established by rule of  
21 the department. Each day that the unlicensed practice  
22 continues after issuance of a notice to cease and desist  
23 constitutes a separate violation. The department shall be  
24 entitled to recover the costs of investigation and prosecution  
25 in addition to the fine levied pursuant to the citation.  
26 Service of a citation may be made by personal service or by  
27 mail to the subject at the subject's last known address or  
28 place of practice. If the department is required to seek  
29 enforcement of the cease and desist or agency order ~~for a~~  
30 ~~penalty pursuant to s. 120.569~~, it shall be entitled to  
31



1 collect its attorney's fees and costs, ~~together with any cost~~  
2 ~~of collection.~~

3 (c)(2) In addition to or in lieu of any other  
4 administrative remedy ~~provided in subsection (1)~~, the  
5 department may seek the imposition of a civil penalty through  
6 the circuit court for any violation for which the department  
7 may issue a notice to cease and desist ~~under subsection (1)~~.  
8 The civil penalty shall be no less than \$500 and no more than  
9 \$5,000 for each offense. The court may also award to the  
10 prevailing party court costs and reasonable attorney fees and,  
11 in the event the department prevails, may also award  
12 reasonable costs of investigation and prosecution.

13 (d) In addition to the administrative and civil  
14 remedies under paragraphs (b) and (c) and in addition to the  
15 criminal violations and penalties listed in the individual  
16 health care practice acts:

17 1. It is a felony of the third degree, punishable as  
18 provided in s. 775.082, s. 775.083, or s. 775.084, to  
19 practice, attempt to practice, or offer to practice a health  
20 care profession without an active, valid Florida license to  
21 practice that profession. Practicing without an active, valid  
22 license also includes practicing on a suspended, revoked, or  
23 void license but does not include practicing, attempting to  
24 practice, or offering to practice with an inactive or  
25 delinquent license for any period up to 12 months. Applying  
26 for employment for a position that requires a license without  
27 notifying the employer that the person does not currently  
28 possess a valid, active license to practice that profession  
29 shall be deemed to be an attempt or offer to practice that  
30 health care profession without a license. Holding oneself out,  
31 regardless of the means of communication, as able to practice

1 a health care profession or as able to provide services that  
2 require a health care license shall be deemed to be an attempt  
3 or offer to practice such profession without a license. The  
4 minimum penalty for violating this subparagraph shall be a  
5 fine of \$1,000 and a minimum mandatory period of incarceration  
6 of 1 year.

7       2. It is a felony of the second degree, punishable as  
8 provided in s. 775.082, s. 775.083, or s. 775.084, to practice  
9 a health care profession without an active, valid Florida  
10 license to practice that profession when such practice results  
11 in serious bodily injury. For purposes of this section,  
12 "serious bodily injury" means death; brain or spinal damage;  
13 disfigurement; fracture or dislocation of bones or joints;  
14 limitation of neurological, physical, or sensory function; or  
15 any condition that required subsequent surgical repair. The  
16 minimum penalty for violating this subparagraph shall be a  
17 fine of \$1,000 and a minimum mandatory period of incarceration  
18 of 1 year.

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

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1           (3) Because all enforcement costs should be covered by  
2 professions regulated by the department, the department shall  
3 impose, upon initial licensure and each licensure renewal, a  
4 special fee of \$5 per licensee to fund efforts to combat  
5 unlicensed activity. Such fee shall be in addition to all  
6 other fees collected from each licensee. The board with  
7 concurrence of the department, or the department when there is  
8 no board, may earmark \$5 of the current licensure fee for this  
9 purpose, if such board, or profession regulated by the  
10 department, is not in a deficit and has a reasonable cash  
11 balance. The department shall make direct charges to the  
12 Medical Quality Assurance Trust Fund by profession. The  
13 department shall seek board advice regarding enforcement  
14 methods and strategies. The department shall directly credit  
15 the Medical Quality Assurance Trust Fund, by profession, with  
16 the revenues received from the department's efforts to enforce  
17 licensure provisions. The department shall include all  
18 financial and statistical data resulting from unlicensed  
19 activity enforcement as a separate category in the quarterly  
20 management report provided for in s. 455.587. For an  
21 unlicensed activity account, a balance which remains at the  
22 end of a renewal cycle may, with concurrence of the applicable  
23 board and the department, be transferred to the operating fund  
24 account of that profession. The department shall also use  
25 these funds to inform and educate consumers generally on the  
26 importance of using licensed health care practitioners.

27           ~~(3)(a) Notwithstanding the provisions of s. 455.621,~~  
28 ~~the department shall adopt rules to permit the issuance of~~  
29 ~~citations for unlicensed practice of a profession. The~~  
30 ~~citation shall be issued to the subject and shall contain the~~  
31 ~~subject's name and any other information the department~~

1 ~~determines to be necessary to identify the subject, a brief~~  
2 ~~factual statement, the sections of the law allegedly violated,~~  
3 ~~and the penalty imposed. The citation must clearly state that~~  
4 ~~the subject may choose, in lieu of accepting the citation, to~~  
5 ~~follow the procedure under s. 455.621. If the subject disputes~~  
6 ~~the matter in the citation, the procedures set forth in s.~~  
7 ~~455.621 must be followed. However, if the subject does not~~  
8 ~~dispute the matter in the citation with the department within~~  
9 ~~30 days after the citation is served, the citation shall~~  
10 ~~become a final order of the department. The penalty shall be a~~  
11 ~~fine of not less than \$500 or more than \$5,000 or other~~  
12 ~~conditions as established by rule.~~

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

15 ~~(c) The department shall be entitled to recover the~~  
16 ~~costs of investigation, in addition to any penalty provided~~  
17 ~~according to department rule as part of the penalty levied~~  
18 ~~pursuant to the citation.~~

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

22 ~~(4) All fines, fees, and costs collected through the~~  
23 ~~procedures set forth in this section shall be allocated to the~~  
24 ~~professions in the manner provided for in s. 455.641 for the~~  
25 ~~allocation of the fees assessed and collected to combat~~  
26 ~~unlicensed practice of a profession.~~

27 ~~(4)(5)~~ The provisions of this section apply only to  
28 health care the professional practice acts administered by the  
29 department.

30  
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1           Section 21. The amendment of section 455.637, Florida  
2 Statutes, by this act applies to offenses committed on or  
3 after the effective date of such section.

4           Section 22. Section 455.641, Florida Statutes, is  
5 repealed.

6           Section 23. For the purpose of incorporating the  
7 amendment to section 455.637, Florida Statutes, in references  
8 thereto, paragraph (d) of subsection (1) of section 455.574,  
9 subsection (1) of section 468,1295, subsection (1) of section  
10 484.014, and subsection (1) of section 484.056, Florida  
11 Statutes, are reenacted to read:

12           455.574 Department of Health; examinations.--

13           (1)

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

28           468.1295 Disciplinary proceedings.--

29           (1) The following acts constitute grounds for both  
30 disciplinary actions as set forth in subsection (2) and cease  
31

1 and desist or other related actions by the department as set  
2 forth in s. 455.637:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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1           (p) Representing, directly or by implication, that a  
2 hearing aid utilizing bone conduction has certain specified  
3 features, such as the absence of anything in the ear or  
4 leading to the ear, or the like, without disclosing clearly  
5 and conspicuously that the instrument operates on the bone  
6 conduction principle and that in many cases of hearing loss  
7 this type of instrument may not be suitable.

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

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

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

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

23           (u) Failing to notify the department in writing of a  
24 change in current mailing and place-of-practice address within  
25 30 days after such change.

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

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

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1           (x) Practicing or offering to practice beyond the  
2 scope permitted by law or accepting and performing  
3 professional responsibilities the licensee or  
4 certificateholder knows, or has reason to know, the licensee  
5 or certificateholder is not competent to perform.

6           (y) Aiding, assisting, procuring, or employing any  
7 unlicensed person to practice speech-language pathology or  
8 audiology.

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

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

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

1 licensee or certificateholder refuses to comply with the  
2 department's order directing the examination, such order may  
3 be enforced by filing a petition for enforcement in the  
4 circuit court in the circuit in which the licensee or  
5 certificateholder resides or does business. The department  
6 shall be entitled to the summary procedure provided in s.  
7 51.011. A licensee or certificateholder affected under this  
8 paragraph shall at reasonable intervals be afforded an  
9 opportunity to demonstrate that he or she can resume the  
10 competent practice for which he or she is licensed or  
11 certified with reasonable skill and safety to patients.

12 484.014 Disciplinary actions.--

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

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

23 (b) Procuring or attempting to procure a license for  
24 any other person by making or causing to be made any false  
25 representation.

26 (c) Making or filing a report or record which the  
27 licensee knows to be false, intentionally or negligently  
28 failing to file a report or record required by federal or  
29 state law, willfully impeding or obstructing such filing, or  
30 inducing another person to do so. Such reports or records

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1 shall include only those which the person is required to make  
2 or file as an optician.

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

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

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

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

14 (h) Practicing with a revoked, suspended, inactive, or  
15 delinquent license.

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

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

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

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

27 (m) Failing to keep written prescription files.

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

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

4           (p) Gross or repeated malpractice.

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

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

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

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

25           484.056 Disciplinary proceedings.--

26           (1) The following acts relating to the practice of  
27 dispensing hearing aids shall be grounds for both disciplinary  
28 action against a hearing aid specialist as set forth in this  
29 section and cease and desist or other related action by the  
30 department as set forth in s. 455.637 against any person

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1 owning or operating a hearing aid establishment who engages  
2 in, aids, or abets any such violation:

3 (a) Violation of any provision of s. 455.624(1), s.  
4 484.0512, or s. 484.053.

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

8 (c) Having a license to dispense hearing aids revoked,  
9 suspended, or otherwise acted against, including the denial of  
10 licensure, by the licensing authority of another state,  
11 territory, or country.

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

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

26 (f) Advertising goods or services in a manner which is  
27 fraudulent, false, deceptive, or misleading in form or  
28 content.

29 (g) Proof that the licensee is guilty of fraud or  
30 deceit or of negligence, incompetency, or misconduct in the  
31 practice of dispensing hearing aids.

1           (h) Violation or repeated violation of this part or of  
2 part II of chapter 455, or any rules promulgated pursuant  
3 thereto.

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

8           (j) Practicing with a revoked, suspended, inactive, or  
9 delinquent license.

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

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

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

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

30          (o) Representing, directly or by implication, that a  
31 hearing aid utilizing bone conduction has certain specified

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

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

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

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

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

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

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

28 (v) Failing to provide all information as described in  
29 s. 484.051(1).

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

4           Section 24. Section 455.665, Florida Statutes, is  
5 created to read:

6           455.665 Advertisement by a health care practitioner  
7 for a surgical procedure; required statement.--

8           (1) In the text of any written advertisement for a  
9 surgical procedure, the following statement must appear in  
10 capital letters clearly distinguishable from the rest of the  
11 text: "MANY SURGICAL PROCEDURES CARRY RISKS OF UNINTENDED  
12 SERIOUS BODILY INJURY OR DEATH. CONSULT A LICENSED  
13 PRACTITIONER CONCERNING THESE RISKS BEFORE SUBMITTING TO ANY  
14 SURGERY."

15           (2) Any advertisement that has an audible component  
16 must orally contain the statement required in subsection (1)  
17 verbatim.

18           Section 25. Paragraphs (a) and (g) of subsection (3)  
19 of section 921.0022, Florida Statutes, are amended to read:

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

22           (3) OFFENSE SEVERITY RANKING CHART

Florida Statute	Felony Degree	Description
		(a) LEVEL 1
24.118(3)(a)	3rd	Counterfeit or altered state lottery ticket.



1	212.054(2)(b)	3rd	Discretionary sales surtax;
2			limitations, administration, and
3			collection.
4	212.15(2)(b)	3rd	Failure to remit sales taxes,
5			amount greater than \$300 but less
6			than \$20,000.
7	319.30(5)	3rd	Sell, exchange, give away
8			certificate of title or
9			identification number plate.
10	319.35(1)(a)	3rd	Tamper, adjust, change, etc., an
11			odometer.
12	320.26(1)(a)	3rd	Counterfeit, manufacture, or sell
13			registration license plates or
14			validation stickers.
15	322.212(1)	3rd	Possession of forged, stolen,
16			counterfeit, or unlawfully issued
17			driver's license; possession of
18			simulated identification.
19	322.212(4)	3rd	Supply or aid in supplying
20			unauthorized driver's license or
21			identification card.
22	322.212(5)(a)	3rd	False application for driver's
23			license or identification card.
24	370.13(3)(a)	3rd	Molest any stone crab trap, line,
25			or buoy which is property of
26			licenseholder.
27	370.135(1)	3rd	Molest any blue crab trap, line,
28			or buoy which is property of
29			licenseholder.
30	372.663(1)	3rd	Poach any alligator or
31			crocodilia.

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

1	815.04(4)(a)	3rd	Offense against intellectual
2			property (i.e., computer
3			programs, data).
4	817.52(2)	3rd	Hiring with intent to defraud,
5			motor vehicle services.
6	826.01	3rd	Bigamy.
7	828.122(3)	3rd	Fighting or baiting animals.
8	831.04(1)	3rd	Any erasure, alteration, etc., of
9			any replacement deed, map, plat,
10			or other document listed in s.
11			92.28.
12	831.31(1)(a)	3rd	Sell, deliver, or possess
13			counterfeit controlled
14			substances, all but s. 893.03(5)
15			drugs.
16	832.041(1)	3rd	Stopping payment with intent to
17			defraud \$150 or more.
18	832.05		
19	(2)(b)&(4)(c)	3rd	Knowing, making, issuing
20			worthless checks \$150 or more or
21			obtaining property in return for
22			worthless check \$150 or more.
23	838.015(3)	3rd	Bribery.
24	838.016(1)	3rd	Public servant receiving unlawful
25			compensation.
26	838.15(2)	3rd	Commercial bribe receiving.
27	838.16	3rd	Commercial bribery.
28	843.18	3rd	Fleeing by boat to elude a law
29			enforcement officer.
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1	847.011(1)(a)	3rd	Sell, distribute, etc., obscene,
2			lewd, etc., material (2nd
3			conviction).
4	849.01	3rd	Keeping gambling house.
5	849.09(1)(a)-(d)	3rd	Lottery; set up, promote, etc.,
6			or assist therein, conduct or
7			advertise drawing for prizes, or
8			dispose of property or money by
9			means of lottery.
10	849.23	3rd	Gambling-related machines;
11			"common offender" as to property
12			rights.
13	849.25(2)	3rd	Engaging in bookmaking.
14	860.08	3rd	Interfere with a railroad signal.
15	860.13(1)(a)	3rd	Operate aircraft while under the
16			influence.
17	893.13(2)(a)2.	3rd	Purchase of cannabis.
18	893.13(6)(a)	3rd	Possession of cannabis (more than
19			20 grams).
20	893.13(7)(a)10.	3rd	Affix false or forged label to
21			package of controlled substance.
22	934.03(1)(a)	3rd	Intercepts, or procures any other
23			person to intercept, any wire or
24			oral communication.
25			(g) LEVEL 7
26	316.193(3)(c)2.	3rd	DUI resulting in serious bodily
27			injury.
28	327.35(3)(c)2.	3rd	Vessel BUI resulting in serious
29			bodily injury.
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1	402.319(2)	2nd	Misrepresentation and negligence
2			or intentional act resulting in
3			great bodily harm, permanent
4			disfiguration, permanent
5			disability, or death.
6	409.920(2)	3rd	Medicaid provider fraud.
7	<u>455.637(2)</u>	<u>3rd</u>	<u>Practicing a health care</u>
8			<u>profession without a license.</u>
9	<u>455.637(2)</u>	<u>2nd</u>	<u>Practicing a health care</u>
10			<u>profession without a license</u>
11			<u>which results in serious bodily</u>
12			<u>injury.</u>
13	<u>458.327(1)</u>	<u>3rd</u>	<u>Practicing medicine without a</u>
14			<u>license.</u>
15	<u>459.013(1)</u>	<u>3rd</u>	<u>Practicing osteopathic medicine</u>
16			<u>without a license.</u>
17	<u>460.411(1)</u>	<u>3rd</u>	<u>Practicing chiropractic medicine</u>
18			<u>without a license.</u>
19	<u>461.012(1)</u>	<u>3rd</u>	<u>Practicing podiatric medicine</u>
20			<u>without a license.</u>
21	<u>462.17</u>	<u>3rd</u>	<u>Practicing naturopathy without a</u>
22			<u>license.</u>
23	<u>463.015(1)</u>	<u>3rd</u>	<u>Practicing optometry without a</u>
24			<u>license.</u>
25	<u>464.016(1)</u>	<u>3rd</u>	<u>Practicing nursing without a</u>
26			<u>license.</u>
27	<u>465.015(2)</u>	<u>3rd</u>	<u>Practicing pharmacy without a</u>
28			<u>license.</u>
29	<u>466.026(1)</u>	<u>3rd</u>	<u>Practicing dentistry or dental</u>
30			<u>hygiene without a license.</u>
31			

1	<u>467.201</u>	<u>3rd</u>	<u>Practicing midwifery without a</u>
2			<u>license.</u>
3	<u>468.366</u>	<u>3rd</u>	<u>Delivering respiratory care</u>
4			<u>services without a license.</u>
5	<u>483.828(1)</u>	<u>3rd</u>	<u>Practicing as clinical laboratory</u>
6			<u>personnel without a license.</u>
7	<u>483.901(9)</u>	<u>3rd</u>	<u>Practicing medical physics</u>
8			<u>without a license.</u>
9	<u>484.053</u>	<u>3rd</u>	<u>Dispensing hearing aids without a</u>
10			<u>license.</u>
11	494.0018(2)	1st	Conviction of any violation of
12			ss. 494.001-494.0077 in which the
13			total money and property
14			unlawfully obtained exceeded
15			\$50,000 and there were five or
16			more victims.
17	782.051(3)	2nd	Attempted felony murder of a
18			person by a person other than the
19			perpetrator or the perpetrator of
20			an attempted felony.
21	782.07(1)	2nd	Killing of a human being by the
22			act, procurement, or culpable
23			negligence of another
24			(manslaughter).
25	782.071	2nd	Killing of human being or viable
26			fetus by the operation of a motor
27			vehicle in a reckless manner
28			(vehicular homicide).
29			
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1	782.072	2nd	Killing of a human being by the
2			operation of a vessel in a
3			reckless manner (vessel
4			homicide).
5	784.045(1)(a)1.	2nd	Aggravated battery; intentionally
6			causing great bodily harm or
7			disfigurement.
8	784.045(1)(a)2.	2nd	Aggravated battery; using deadly
9			weapon.
10	784.045(1)(b)	2nd	Aggravated battery; perpetrator
11			aware victim pregnant.
12	784.048(4)	3rd	Aggravated stalking; violation of
13			injunction or court order.
14	784.07(2)(d)	1st	Aggravated battery on law
15			enforcement officer.
16	784.08(2)(a)	1st	Aggravated battery on a person 65
17			years of age or older.
18	784.081(1)	1st	Aggravated battery on specified
19			official or employee.
20	784.082(1)	1st	Aggravated battery by detained
21			person on visitor or other
22			detainee.
23	784.083(1)	1st	Aggravated battery on code
24			inspector.
25	790.07(4)	1st	Specified weapons violation
26			subsequent to previous conviction
27			of s. 790.07(1) or (2).
28	790.16(1)	1st	Discharge of a machine gun under
29			specified circumstances.
30	796.03	2nd	Procuring any person under 16
31			years for prostitution.

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



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

1 893.13(4)(a) 1st Deliver to minor cocaine (or  
2 other s. 893.03(1)(a), (1)(b),  
3 (1)(d), (2)(a), or (2)(b) drugs).  
4 893.135(1)(a)1. 1st Trafficking in cannabis, more  
5 than 50 lbs., less than 2,000  
6 lbs.  
7 893.135  
8 (1)(b)1.a. 1st Trafficking in cocaine, more than  
9 28 grams, less than 200 grams.  
10 893.135  
11 (1)(c)1.a. 1st Trafficking in illegal drugs,  
12 more than 4 grams, less than 14  
13 grams.  
14 893.135  
15 (1)(d)1. 1st Trafficking in phencyclidine,  
16 more than 28 grams, less than 200  
17 grams.  
18 893.135(1)(e)1. 1st Trafficking in methaqualone, more  
19 than 200 grams, less than 5  
20 kilograms.  
21 893.135(1)(f)1. 1st Trafficking in amphetamine, more  
22 than 14 grams, less than 28  
23 grams.  
24 893.135  
25 (1)(g)1.a. 1st Trafficking in flunitrazepam, 4  
26 grams or more, less than 14  
27 grams.  
28 Section 26. This act shall take effect July 1, 2000.  
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1                   STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN  
2                   COMMITTEE SUBSTITUTE FOR  
3                   CS/SB 2354  
4                   Limits the health care practitioners who are licensed under  
5                   Chapter 468 and 483 who are subject to the profiling  
6                   requirements of the bill to those who are regulated within the  
7                   Division of Medical Quality Assurance of the Department of  
8                   Health.  
9                   Requires the Department of Health to provide criminal history  
10                  information on health care practitioners licensed or employed  
11                  by specified departments.  
12                  Makes a technical change that revises the departments  
13                  requirements relating to practitioner profiling from  
14                  "verifying" to "compiling" information.  
15                  Deletes public records law exemptions which would have been  
16                  created in the original bill.  
17                  Limits the first time violations of professional conduct to  
18                  specific grounds of discipline for nurses, midwives,  
19                  respiratory care, practitioners and electrologists.  
20                  Changes the appropriation to the Agency for Health Care  
21                  Administration for the kidney dialysis treatment study from  
22                  Tobacco Settlement Trust Fund to General Revenue.  
23                  Revises practitioner profile requirements to exclude licensed  
24                  dental hygienists.  
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