

Bill No. CS for SB 2456

Amendment No. ____

<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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Senator Silver moved the following amendment:

Senate Amendment (with title amendment)

On page 12, between lines 24 and 25,

insert:

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

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

(1) "Approved training program" means:

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

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

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1 (2) "Board" means the Board of Nursing.
2 (3)(2) "Certified nursing assistant" means a person
3 who meets the qualifications specified in this part and who is
4 certified by the board department as a certified nursing
5 assistant.
6 (4)(3) "Department" means the Department of Health.
7 (5)(4) "Registry" means the listing of certified
8 nursing assistants maintained by the board department.
9 464.202 468.822 Duties and powers of the board
10 department.--The board department shall maintain, or contract
11 with or approve another entity to maintain, a state registry
12 of certified nursing assistants. The registry must consist of
13 the name of each certified nursing assistant in this state;
14 other identifying information defined by board department
15 rule; certification status; the effective date of
16 certification; other information required by state or federal
17 law; information regarding any crime or any abuse, neglect, or
18 exploitation as provided under chapter 435; and any
19 disciplinary action taken against the certified nursing
20 assistant. The registry shall be accessible to the public, the
21 certificateholder, employers, and other state agencies. The
22 board department shall adopt by rule testing procedures for
23 use in certifying nursing assistants and shall adopt rules
24 regulating the practice of certified nursing assistants to
25 enforce this part. The board department may contract with or
26 approve another entity or organization to provide the
27 examination services, including the development and
28 administration of examinations. The board shall require that
29 the contract provider offer certified nursing assistant
30 applications via the Internet, and may require the contract
31 provider to accept certified nursing assistant applications

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1 for processing via the Internet. The board shall require the
 2 contract provider to provide the preliminary results of the
 3 certified nursing examination on the date the test is
 4 administered.The provider shall pay all reasonable costs and
 5 expenses incurred by the board department in evaluating the
 6 provider's application and performance during the delivery of
 7 services, including examination services and procedures for
 8 maintaining the certified nursing assistant registry.

9 464.203 ~~468.823~~ Certified nursing assistants;
 10 certification requirement.--

11 (1) The board department shall issue a certificate to
 12 practice as a certified nursing assistant to any person who
 13 demonstrates a minimum competency to read and write and
 14 successfully passes the required Level I or Level II screening
 15 pursuant to s. 400.215 and meets one of the following
 16 requirements:

17 (a) Has successfully completed an approved training
 18 program and achieved a minimum score, established by rule of
 19 the board department, on the nursing assistant competency
 20 examination, which consists of a written portion and
 21 skills-demonstration portion approved by the board department
 22 and administered at a site and by personnel approved by the
 23 department.

24 (b) Has achieved a minimum score, established by rule
 25 of the board department, on the nursing assistant competency
 26 examination, which consists of a written portion and
 27 skills-demonstration portion, approved by the board department
 28 and administered at a site and by personnel approved by the
 29 department and:

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

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1 (c) Is currently certified in another state; is listed
2 on that state's certified nursing assistant registry; and has
3 not been found to have committed abuse, neglect, or
4 exploitation in that state; ~~and has successfully completed a~~
5 ~~national nursing assistant evaluation in order to receive~~
6 ~~certification in that state.~~

7 (d) Has completed the curriculum developed under the
8 Enterprise Florida Jobs and Education Partnership Grant and
9 achieved a minimum score, established by rule of the board, on
10 the nursing assistant competency examination, which consists
11 of a written portion and skills-demonstration portion,
12 approved by the board and administered at a site and by
13 personnel approved by the department.

14 (2) If an applicant fails to pass the nursing
15 assistant competency examination in three attempts, the
16 applicant is not eligible for reexamination unless the
17 applicant completes an approved training program.

18 (3) An oral examination shall be administered as a
19 substitute for the written portion of the examination upon
20 request. The oral examination shall be administered at a site
21 and by personnel approved by the department.

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

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

27 464.204 ~~468.824~~ Denial, suspension, or revocation of
28 certification; disciplinary actions.--

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

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1 (a) Obtaining or attempting to obtain certification or
 2 an exemption, or possessing or attempting to possess
 3 certification or a letter of exemption, by bribery,
 4 misrepresentation, deceit, or through an error of the board
 5 ~~department~~.

6 (b) Intentionally violating any provision of this
 7 chapter, chapter 455, or the rules adopted by the board
 8 ~~department~~.

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

13 (a) Denial, suspension, or revocation of
 14 certification.

15 (b) Imposition of an administrative fine not to exceed
 16 \$150 for each count or separate offense.

17 (c) Imposition of probation or restriction of
 18 certification, including conditions such as corrective actions
 19 as retraining or compliance with an approved treatment program
 20 for impaired practitioners.

21 (3) The board ~~department~~ may, upon the request of a
 22 certificateholder, exempt the certificateholder from
 23 ~~disqualification of certification or disqualification of~~
 24 employment in accordance with chapter 435 and issue a letter
 25 of exemption. ~~After January 1, 2000,~~The board ~~department~~ must
 26 notify an applicant seeking an exemption from disqualification
 27 from certification or employment of its decision to approve or
 28 deny the request within 30 days after the date the board
 29 ~~department~~ receives all required documentation.

30 464.205 ~~468.825~~ Availability of disciplinary records
 31 and proceedings.--Pursuant to s. 455.621, any complaint or

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1 record maintained by the department of Health pursuant to the
2 discipline of a certified nursing assistant and any proceeding
3 held by the board department to discipline a certified nursing
4 assistant shall remain open and available to the public.

5 464.206 ~~468.826~~ Exemption from liability.--If an
6 employer terminates or denies employment to a certified
7 nursing assistant whose certification is inactive as shown on
8 the certified nursing assistant registry or whose name appears
9 on the central abuse registry and tracking system of the
10 Department of Children and Family Services or on a criminal
11 screening report of the Department of Law Enforcement, the
12 employer is not civilly liable for such termination and a
13 cause of action may not be brought against the employer for
14 damages, regardless of whether the employee has filed for an
15 exemption from the board department under s. 464.204(3)
16 ~~468.824(1)~~. There may not be any monetary liability on the
17 part of, and a cause of action for damages may not arise
18 against, any licensed facility, its governing board or members
19 thereof, medical staff, disciplinary board, agents,
20 investigators, witnesses, employees, or any other person for
21 any action taken in good faith without intentional fraud in
22 carrying out this section.

23 464.207 ~~468.827~~ Penalties.--It is a misdemeanor of the
24 first degree, punishable as provided under s. 775.082 or s.
25 775.083, for any person, knowingly or intentionally, to fail
26 to disclose, by false statement, misrepresentation,
27 impersonation, or other fraudulent means, in any application
28 for voluntary or paid employment or certification licensure
29 regulated under this part, a material fact used in making a
30 determination as to such person's qualifications to be an
31 employee or certificateholder licensee.

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1 464.208 ~~468.828~~ Background screening information;
2 rulemaking authority.--

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

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

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

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

24 464.209 ~~468.829~~ Certified nursing assistant
25 registry.--

26 (1) By October 1, 1999, and by October 1 of every year
27 thereafter, each employer of certified nursing assistants
28 shall submit to the board ~~Department of Health~~ a list of the
29 names and social security numbers of each person employed by
30 the employer as a certified nursing assistant in a
31 nursing-related occupation for a minimum of 8 hours for

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1 monetary compensation during the preceding 24 months.
 2 Employers may submit such information electronically through
 3 the department's Internet site.

4 (2) The board department shall update the certified
 5 nursing assistant registry upon receipt of the lists of
 6 certified nursing assistants, ~~and shall complete the first of~~
 7 ~~such updates by December 31, 1999.~~

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

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

18 Section 7. Section 464.2085, Florida Statutes, is
 19 created to read:

20 464.2085 Council on Certified Nursing Assistants.--The
 21 Council on Certified Nursing Assistants is created within the
 22 department, under the Board of Nursing.

23 (1) The council shall consist of five members
 24 appointed as follows:

25 (a) The chairperson of the Board of Nursing shall
 26 appoint two members who are registered nurses. One of the
 27 members must currently supervise a certified nursing assistant
 28 in a licensed nursing home.

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

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

5 (2) The council shall:

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

8 (b) Develop all rules regulating the education,
9 training, and certification process for nursing assistants
10 certified under this chapter. The Board of Nursing shall
11 consider adopting a proposed rule developed by the council at
12 the regularly scheduled meeting immediately following the
13 submission of the proposed rule by the council.

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

16 (d) Address concerns and problems of certified nursing
17 assistants in order to improve safety in the practice of
18 certified nursing assistants.

19 Section 8. Paragraph (g) of subsection (3) of section
20 20.43, Florida Statutes, is amended to read:

21 20.43 Department of Health.--There is created a
22 Department of Health.

23 (3) The following divisions of the Department of
24 Health are established:

25 (g) Division of Medical Quality Assurance, which is
26 responsible for the following boards and professions
27 established within the division:

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

29 ~~1.2. Health care services pools, as provided under s.~~
30 ~~402.48.~~

31 ~~2.3. The Board of Acupuncture, created under chapter~~

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1 457.

2 ~~3.4.~~ The Board of Medicine, created under chapter 458.

3 ~~4.5.~~ The Board of Osteopathic Medicine, created under
4 chapter 459.

5 ~~5.6.~~ The Board of Chiropractic Medicine, created under
6 chapter 460.

7 ~~6.7.~~ The Board of Podiatric Medicine, created under
8 chapter 461.

9 ~~7.8.~~ Naturopathy, as provided under chapter 462.

10 ~~8.9.~~ The Board of Optometry, created under chapter
11 463.

12 ~~9.10.~~ The Board of Nursing, created under part I of
13 chapter 464.

14 10. Nursing assistants, as provided under part II of
15 chapter 464.

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

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

18 13. Midwifery, as provided under chapter 467.

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

21 15. The Board of Nursing Home Administrators, created
22 under part II of chapter 468.

23 16. The Board of Occupational Therapy, created under
24 part III of chapter 468.

25 17. Respiratory therapy, as provided under part V of
26 chapter 468.

27 18. Dietetics and nutrition practice, as provided
28 under part X of chapter 468.

29 19. The Board of Athletic Training, created under part
30 XIII of chapter 468.

31 20. The Board of Orthotists and Prosthetists, created

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1 under part XIV of chapter 468.

2 21. Electrolysis, as provided under chapter 478.

3 22. The Board of Massage Therapy, created under
4 chapter 480.

5 23. The Board of Clinical Laboratory Personnel,
6 created under part III of chapter 483.

7 24. Medical physicists, as provided under part IV of
8 chapter 483.

9 25. The Board of Opticianry, created under part I of
10 chapter 484.

11 26. The Board of Hearing Aid Specialists, created
12 under part II of chapter 484.

13 27. The Board of Physical Therapy Practice, created
14 under chapter 486.

15 28. The Board of Psychology, created under chapter
16 490.

17 29. School psychologists, as provided under chapter
18 490.

19 30. The Board of Clinical Social Work, Marriage and
20 Family Therapy, and Mental Health Counseling, created under
21 chapter 491.

22
23 The department may contract with the Agency for Health Care
24 Administration who shall provide consumer complaint,
25 investigative, and prosecutorial services required by the
26 Division of Medical Quality Assurance, councils, or boards, as
27 appropriate.

28 Section 9. Subsection (38) of section 39.01, Florida
29 Statutes, is amended to read:

30 39.01 Definitions.--When used in this chapter, unless
31 the context otherwise requires:

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

6 Section 10. Paragraph (b) of subsection (1) of section
7 39.304, Florida Statutes, is amended to read:

8 39.304 Photographs, medical examinations, X rays, and
9 medical treatment of abused, abandoned, or neglected child.--

10 (1)

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

28 Section 11. Paragraph (c) of subsection (6) of section
29 110.131, Florida Statutes, is amended to read:

30 110.131 Other-personal-services temporary
31 employment.--

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1 medication by school district personnel. The policies and
2 procedures shall include, but not be limited to, the following
3 provisions:

4 1. For each prescribed medication, the student's
5 parent or guardian shall provide to the school principal a
6 written statement which shall grant to the principal or the
7 principal's designee permission to assist in the
8 administration of such medication and which shall explain the
9 necessity for such medication to be provided during the school
10 day, including any occasion when the student is away from
11 school property on official school business. The school
12 principal or the principal's trained designee shall assist the
13 student in the administration of such medication.

14 2. Each prescribed medication to be administered by
15 school district personnel shall be received, counted, and
16 stored in its original container. When the medication is not
17 in use, it shall be stored in its original container in a
18 secure fashion under lock and key in a location designated by
19 the principal.

20 Section 13. Subsection (6) of section 240.4075,
21 Florida Statutes, is amended to read:

22 240.4075 Nursing Student Loan Forgiveness Program.--
23 (6) In addition to licensing fees imposed under part I
24 of chapter 464, there is hereby levied and imposed an
25 additional fee of \$5, which fee shall be paid upon licensure
26 or renewal of nursing licensure. Revenues collected from the
27 fee imposed in this subsection shall be deposited in the
28 Nursing Student Loan Forgiveness Trust Fund of the Department
29 of Education and will be used solely for the purpose of
30 carrying out the provisions of this section and s. 240.4076.
31 Up to 50 percent of the revenues appropriated to implement

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1 this subsection may be used for the nursing scholarship
2 program established pursuant to s. 240.4076.

3 Section 14. Paragraph (b) of subsection (1) of section
4 246.081, Florida Statutes, is amended to read:

5 246.081 License, certificate of exemption, or
6 authorization required; exceptions.--

7 (1) The following colleges are not under the
8 jurisdiction of the board and are not required to obtain a
9 license, a certificate of exemption, permission to operate, or
10 an authorization from the board:

11 (b) Any college, school, or course licensed or
12 approved for establishment and operation under part I of
13 chapter 464, chapter 466, or chapter 475, or any other chapter
14 of the Florida Statutes, requiring licensing or approval as
15 defined in ss. 246.011-246.151.

16 Section 15. Subsection (2) of section 310.102, Florida
17 Statutes, is amended to read:

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

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

31 Section 16. Subsection (7) of section 381.0302,

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1 Florida Statutes, is amended to read:

2 381.0302 Florida Health Services Corps.--

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

18 Section 17. Subsection (1) of section 384.30, Florida
19 Statutes, is amended to read:

20 384.30 Minors' consent to treatment.--

21 (1) The department and its authorized representatives,
22 each physician licensed to practice medicine under the
23 provisions of chapter 458 or chapter 459, each health care
24 professional licensed under the provisions of part I of
25 chapter 464 who is acting pursuant to the scope of his or her
26 license, and each public or private hospital, clinic, or other
27 health facility may examine and provide treatment for sexually
28 transmissible diseases to any minor, if the physician, health
29 care professional, or facility is qualified to provide such
30 treatment. The consent of the parents or guardians of a minor
31 is not a prerequisite for an examination or treatment.

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1 Section 18. Section 384.31, Florida Statutes, is
2 amended to read:

3 384.31 Serological testing of pregnant women; duty of
4 the attendant.--

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

15 (2) At the time the venous blood sample is taken,
16 testing for human immunodeficiency virus (HIV) infection shall
17 be offered to each pregnant woman. The prevailing professional
18 standard of care in this state requires each health care
19 provider and midwife who attends a pregnant woman to counsel
20 the woman to be tested for human immunodeficiency virus (HIV).
21 Counseling shall include a discussion of the availability of
22 treatment if the pregnant woman tests HIV positive. If a
23 pregnant woman objects to HIV testing, reasonable steps shall
24 be taken to obtain a written statement of such objection,
25 signed by the patient, which shall be placed in the patient's
26 medical record. Every person, including every physician
27 licensed under chapter 458 or chapter 459 or midwife licensed
28 under part I of chapter 464 or chapter 467, who attends a
29 pregnant woman who has been offered and objects to HIV testing
30 shall be immune from liability arising out of or related to
31 the contracting of HIV infection or acquired immune deficiency

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1 syndrome (AIDS) by the child from the mother.

2 Section 19. Subsection (23) of section 394.455,
3 Florida Statutes, is amended to read:

4 394.455 Definitions.--As used in this part, unless the
5 context clearly requires otherwise, the term:

6 (23) "Psychiatric nurse" means a registered nurse
7 licensed under part I of chapter 464 who has a master's degree
8 or a doctorate in psychiatric nursing and 2 years of
9 post-master's clinical experience under the supervision of a
10 physician.

11 Section 20. Paragraphs (a) and (b) of subsection (2)
12 and subsection (4) of section 395.0191, Florida Statutes, are
13 amended to read:

14 395.0191 Staff membership and clinical privileges.--

15 (2)(a) Each licensed facility shall establish rules
16 and procedures for consideration of an application for
17 clinical privileges submitted by an advanced registered nurse
18 practitioner licensed and certified under part I of chapter
19 464, in accordance with the provisions of this section. No
20 licensed facility shall deny such application solely because
21 the applicant is licensed under part I of chapter 464 or
22 because the applicant is not a participant in the Florida
23 Birth-Related Neurological Injury Compensation Plan.

24 (b) An advanced registered nurse practitioner who is
25 certified as a registered nurse anesthetist licensed under
26 part I of chapter 464 shall administer anesthesia under the
27 onsite medical direction of a professional licensed under
28 chapter 458, chapter 459, or chapter 466, and in accordance
29 with an established protocol approved by the medical staff.
30 The medical direction shall specifically address the needs of
31 the individual patient.

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

21 Section 21. Subsection (11) of section 400.021,
22 Florida Statutes, is amended to read:

23 400.021 Definitions.--When used in this part, unless
24 the context otherwise requires, the term:

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

28 Section 22. Section 400.211, Florida Statutes, is
29 amended to read:

30 400.211 Persons employed as nursing assistants;
31 certification requirement.--

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1 (1) To serve as a nursing assistant in any nursing
 2 home, a person must be certified as a nursing assistant under
 3 part II ~~XV~~ of chapter 464 ~~468~~, unless the person is ~~except~~ a
 4 registered nurse or practical nurse licensed in accordance
 5 with part I of chapter 464 or an applicant for such licensure
 6 who is permitted to practice nursing in accordance with rules
 7 adopted by the Board of Nursing pursuant to part I of chapter
 8 ~~464, to serve as a nursing assistant in any nursing home.~~

9 (2) The following categories of persons who are not
 10 certified as nursing assistants under ~~this~~ part II of chapter
 11 464 may be employed by a nursing facility for a period of 4
 12 months:

13 (a) Persons who are enrolled in, or have completed, a
 14 state-approved nursing assistant program; or

15 (b) Persons who have been positively verified by a
 16 ~~state approved test site~~ as actively certified and on the
 17 registry in another state with no findings of abuse, ~~but who~~
 18 ~~have not completed the written examination required under this~~
 19 ~~section.; or~~

20 (c) Persons who have preliminarily passed the state's
 21 certification exam.

22
 23 The certification requirement must be met within 4 months
 24 after ~~of~~ initial employment as a nursing assistant in a
 25 licensed nursing facility.

26 (3) Nursing homes shall require persons seeking
 27 employment as a certified nursing assistant to submit an
 28 employment history to the facility. The facility shall verify
 29 the employment history unless, through diligent efforts, such
 30 verification is not possible. There shall be no monetary
 31 liability on the part of, and no cause of action for damages

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1 shall arise against, a former employer who reasonably and in
2 good faith communicates his or her honest opinion about a
3 former employee's job performance.

4 Section 23. Paragraph (b) of subsection (4) of section
5 400.215, Florida Statutes, is amended to read:

6 400.215 Personnel screening requirement.--

7 (4)

8 (b) As provided in s. 435.07, the appropriate
9 regulatory board within the Department of Health, or that
10 department itself when there is no board, may grant an
11 exemption from disqualification to an employee or prospective
12 employee who is subject to this section and who has received a
13 professional license or certification from the Department of
14 Health or a regulatory board within that department.

15 Section 24. Paragraph (c) is added to subsection (3)
16 of section 400.23, Florida Statutes, to read:

17 400.23 Rules; evaluation and deficiencies; licensure
18 status.--

19 (3)

20 (c) Licensed practical nurses licensed under chapter
21 464 who are providing nursing services in nursing home
22 facilities under this part may supervise the activities of
23 other licensed practical nurses, certified nursing assistants,
24 and other unlicensed personnel providing services in such
25 facilities in accordance with rules adopted by the Board of
26 Nursing.

27 Section 25. Subsections (12) and (14) of section
28 400.402, Florida Statutes, are amended to read:

29 400.402 Definitions.--When used in this part, the
30 term:

31 (12) "Extended congregate care" means acts beyond

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1 those authorized in subsection (17) that may be performed
2 pursuant to part I of chapter 464 by persons licensed
3 thereunder while carrying out their professional duties, and
4 other supportive services which may be specified by rule. The
5 purpose of such services is to enable residents to age in
6 place in a residential environment despite mental or physical
7 limitations that might otherwise disqualify them from
8 residency in a facility licensed under this part.

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

20 Section 26. Paragraphs (a) and (b) of subsection (3)
21 of section 400.407, Florida Statutes, are amended to read:

22 400.407 License required; fee, display.--

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

31 (a) A standard license shall be issued to facilities

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1 providing one or more of the services identified in s.
2 400.402. Such facilities may also employ or contract with a
3 person licensed under part I of chapter 464 to administer
4 medications and perform other tasks as specified in s.
5 400.4255.

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

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

- 30 a. A class I or class II violation;
31 b. Three or more repeat or recurring class III

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1 violations of identical or similar resident care standards as
2 specified in rule from which a pattern of noncompliance is
3 found by the agency;

4 c. Three or more class III violations that were not
5 corrected in accordance with the corrective action plan
6 approved by the agency;

7 d. Violation of resident care standards resulting in a
8 requirement to employ the services of a consultant pharmacist
9 or consultant dietitian;

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

14 f. Imposition of a moratorium on admissions or
15 initiation of injunctive proceedings.

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

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1 the required yearly monitoring visits for a facility that has
2 been licensed for at least 24 months to provide extended
3 congregate care services, if, during the biennial inspection,
4 the registered nurse determines that extended congregate care
5 services are being provided appropriately, and if the facility
6 has no class I or class II violations and no uncorrected class
7 III violations. Before such decision is made, the agency shall
8 consult with the long-term care ombudsman council for the area
9 in which the facility is located to determine if any
10 complaints have been made and substantiated about the quality
11 of services or care. The agency may not waive one of the
12 required yearly monitoring visits if complaints have been made
13 and substantiated.

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

16 a. Demonstrate the capability to meet unanticipated
17 resident service needs.

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

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

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

31 e. Allow residents or, if applicable, a resident's

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1 representative, designee, surrogate, guardian, or attorney in
2 fact to make a variety of personal choices, participate in
3 developing service plans, and share responsibility in
4 decisionmaking.

5 f. Implement the concept of managed risk.

6 g. Provide, either directly or through contract, the
7 services of a person licensed pursuant to part I of chapter
8 464.

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

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

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

31 6. Before admission of an individual to a facility

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1 licensed to provide extended congregate care services, the
2 individual must undergo a medical examination as provided in
3 s. 400.426(4) and the facility must develop a preliminary
4 service plan for the individual.

5 7. When a facility can no longer provide or arrange
6 for services in accordance with the resident's service plan
7 and needs and the facility's policy, the facility shall make
8 arrangements for relocating the person in accordance with s.
9 400.428(1)(k).

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

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

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

24 b. The number and characteristics of residents
25 receiving such services.

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

28 d. An analysis of deficiencies cited during biennial
29 inspections.

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

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1 admission.

2 f. Recommendations for statutory or regulatory
3 changes.

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

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

11 Section 27. Paragraphs (a) and (c) of subsection (1)
12 and subsection (2) of section 400.4255, Florida Statutes, are
13 amended to read:

14 400.4255 Use of personnel; emergency care.--

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

31 (c) In an emergency situation, licensed personnel may

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1 carry out their professional duties pursuant to part I of
2 chapter 464 until emergency medical personnel assume
3 responsibility for care.

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

13 Section 28. Subsection (3) of section 400.426, Florida
14 Statutes, is amended to read:

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

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

29 Section 29. Subsections (3) and (21) of section
30 400.462, Florida Statutes, are amended to read:

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

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

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

14 Section 30. Paragraph (c) of subsection (6) of section
 15 400.464, Florida Statutes, is amended to read:

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

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

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

27 Section 31. Paragraph (a) of subsection (10),
 28 subsection (11), and paragraph (a) of subsection (15) of
 29 section 400.506, Florida Statutes, are amended to read:

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

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

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

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

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

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

11 Section 32. Subsection (1) of section 400.512, Florida
12 Statutes, is amended to read:

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

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

27 (b) The appropriate regulatory board within the
28 Department of Health, or that department itself when there is
29 no board, may, upon request of the licensed health care
30 practitioner, grant exemptions from disqualification from
31 employment or contracting under this section as provided in s.

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1 435.07.

2 Section 33. Subsections (2) and (3) of section
3 400.6105, Florida Statutes, are amended to read:

4 400.6105 Staffing and personnel.--

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

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

20 Section 34. Subsection (20) of section 401.23, Florida
21 Statutes, is amended to read:

22 401.23 Definitions.--As used in this part, the term:

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

26 Section 35. Paragraph (c) of subsection (1) of section
27 401.252, Florida Statutes, is amended to read:

28 401.252 Interfacility transfer.--

29 (1) A licensed basic or advanced life support
30 ambulance service may conduct interfacility transfers in a
31 permitted ambulance, using a registered nurse in place of an

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1 emergency medical technician or paramedic, if:

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

4 Section 36. Subsection (11) of section 408.706,
5 Florida Statutes, is amended to read:

6 408.706 Community health purchasing alliances;
7 accountable health partnerships.--

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

29 Section 37. Paragraph (d) of subsection (12) of
30 section 409.908, Florida Statutes, is amended to read:

31 409.908 Reimbursement of Medicaid providers.--Subject

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

21 (12)

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

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

18 Section 38. Subsection (1) of section 415.1085,
19 Florida Statutes, is amended to read:

20 415.1085 Photographs, medical examinations, and X rays
21 of abused or neglected aged persons or disabled adults.--

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

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

16 Section 39. Paragraph (a) of subsection (1) of section
17 455.597 Florida Statutes, is amended to read:

18 455.597 Requirement for instruction on domestic
19 violence.--

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

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

6 Section 40. Subsection (1) of section 455.604, Florida
7 Statutes, is amended to read:

8 455.604 Requirement for instruction for certain
9 licensees on human immunodeficiency virus and acquired immune
10 deficiency syndrome.--

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

30 Section 41. Paragraph (a) of subsection (2) of section
31 455.667, Florida Statutes, is amended to read:

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1 455.667 Ownership and control of patient records;
2 report or copies of records to be furnished.--

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

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

14 Section 42. Section 455.677, Florida Statutes, is
15 amended to read:

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

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1 provide for the disposition of such records by the estate of
2 the practitioner.

3 Section 43. Paragraph (b) of subsection (2) of section
4 455.694, Florida Statutes, is amended to read:

5 455.694 Financial responsibility requirements for
6 certain health care practitioners.--

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

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

23 Section 44. Subsection (2) of section 455.707, Florida
24 Statutes, is amended to read:

25 455.707 Treatment programs for impaired
26 practitioners.--

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

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

7 Section 45. Subsection (2) of section 458.348, Florida
8 Statutes, is amended to read:

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

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

30 Section 46. Section 464.001, Florida Statutes, is
31 amended to read:

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1 the theory and performance of any of the above acts.

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

10

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

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

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

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

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

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

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

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

30 (7) "Approved program" means a nursing program
31 conducted in a school, college, or university which is

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1 approved by the board pursuant to s. 464.019 for the education
2 of nurses.

3 Section 49. Section 464.006, Florida Statutes, is
4 amended to read:

5 464.006 Authority to make rules.--The board of ~~Nursing~~
6 has authority to adopt rules pursuant to ss. 120.536(1) and
7 120.54 to implement the provisions of this part ~~chapter~~
8 conferring duties upon it.

9 Section 50. Subsection (3) of section 464.009, Florida
10 Statutes, is amended to read:

11 464.009 Licensure by endorsement.--

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

18 Section 51. Paragraphs (a) and (d) of subsection (1)
19 and paragraph (b) of subsection (2) of section 464.016,
20 Florida Statutes, are amended to read:

21 464.016 Violations and penalties.--

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

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

28 (d) Obtaining or attempting to obtain a license or
29 certificate under this part ~~chapter~~ by misleading statements
30 or knowing misrepresentation.

31 (2) Each of the following acts constitutes a

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1 misdemeanor of the first degree, punishable as provided in s.
2 775.082 or s. 775.083:

3 (b) Knowingly concealing information relating to
4 violations of this part ~~chapter~~.

5 Section 52. Paragraphs (i), (k), and (l) of subsection
6 (1) and subsection (4) of section 464.018, Florida Statutes,
7 are amended to read:

8 464.018 Disciplinary actions.--

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

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

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

22 (l) Knowingly violating any provision of this part
23 ~~chapter~~, a rule of the board or the department, or a lawful
24 order of the board or department previously entered in a
25 disciplinary proceeding or failing to comply with a lawfully
26 issued subpoena of the department.

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

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1 or sale.

2 Section 53. Subsections (1), (2), and (3) of section
3 464.019, Florida Statutes, are amended to read:

4 464.019 Approval of nursing programs.--

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

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

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

23 Section 54. Section 464.022, Florida Statutes, is
24 amended to read:

25 464.022 Exceptions.--No provision of this part ~~chapter~~
26 shall be construed to prohibit:

27 (1) The care of the sick by friends or members of the
28 family without compensation, the incidental care of the sick
29 by domestic servants, or the incidental care of
30 noninstitutionalized persons by a surrogate family.

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

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1 (3) The practice of nursing by students enrolled in
2 approved schools of nursing.

3 (4) The practice of nursing by graduates of approved
4 programs or the equivalent, pending the result of the first
5 licensing examination for which they are eligible following
6 graduation, provided they practice under direct supervision of
7 a registered professional nurse. The board shall by rule
8 define what constitutes direct supervision.

9 (5) The rendering of services by nursing assistants
10 acting under the direct supervision of a registered
11 professional nurse.

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

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

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

29 (9) The rendering of nursing services on a
30 fee-for-service basis, or the reimbursement for nursing
31 services directly to a nurse rendering such services by any

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1 government program, commercial insurance company, hospital or
2 medical services plan, or any other third-party payor.

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

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

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

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

24 Section 55. Section 464.023, Florida Statutes, is
25 amended to read:

26 464.023 Saving clauses.--

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

30 (2) Each licensee or holder of a certificate who was
31 duly licensed or certified on June 30, 1979, shall be entitled

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1 to hold such license or certificate. Henceforth, such license
2 or certificate shall be renewed in accordance with the
3 provisions of this part act.

4 Section 56. Subsection (3) of section 464.027, Florida
5 Statutes, is amended to read:

6 464.027 Registered nurse first assistant.--

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

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

11 (b) Is certified in perioperative nursing; and

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

14 Section 57. Subsection (6) of section 466.003, Florida
15 Statutes, is amended to read:

16 466.003 Definitions.--As used in this chapter:

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

22 Section 58. Subsection (2) of section 467.003, Florida
23 Statutes, is amended to read:

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

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

30 Section 59. Paragraph (a) of subsection (2) of section
31 467.0125, Florida Statutes, is amended to read:

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1 467.0125 Licensure by endorsement.--

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

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

16 Section 60. Paragraph (e) of subsection (2) of section
17 467.203, Florida Statutes, is amended to read:

18 467.203 Disciplinary actions; penalties.--

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

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

29 Section 61. Paragraph (a) of subsection (1) of section
30 468.505, Florida Statutes, is amended to read:

31 468.505 Exemptions; exceptions.--

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

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

12 Section 62. Subsection (7) of section 483.041, Florida
13 Statutes, is amended to read:

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

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

24 Section 63. Subsection (5) of section 483.801, Florida
25 Statutes, is amended to read:

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

29 (5) Advanced registered nurse practitioners licensed
30 under part I of chapter 464 who perform provider-performed
31 microscopy procedures (PPMP) in an exclusive-use laboratory

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1 setting.

2 Section 64. Paragraph (a) of subsection (4) of section
3 491.0112, Florida Statutes, is amended to read:

4 491.0112 Sexual misconduct by a psychotherapist;
5 penalties.--

6 (4) For the purposes of this section:

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

13 Section 65. Subsection (5) of section 550.24055,
14 Florida Statutes, is amended to read:

15 550.24055 Use of controlled substances or alcohol
16 prohibited; testing of certain occupational licensees;
17 penalty; evidence of test or action taken and admissibility
18 for criminal prosecution limited.--

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

24 Section 66. Paragraph (h) of subsection (4) of section
25 627.351, Florida Statutes, is amended to read:

26 627.351 Insurance risk apportionment plans.--

27 (4) MEDICAL MALPRACTICE RISK APPORTIONMENT.--

28 (h) As used in this subsection:

29 1. "Health care provider" means hospitals licensed
30 under chapter 395; physicians licensed under chapter 458;
31 osteopathic physicians licensed under chapter 459; podiatric

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

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

27 3. "Health care facility" means any hospital licensed
28 under chapter 395, health maintenance organization
29 certificated under part I of chapter 641, ambulatory surgical
30 center licensed under chapter 395, or other medical facility
31 as defined in subparagraph 2.

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1 Section 67. Paragraph (b) of subsection (1) of section
2 627.357, Florida Statutes, is amended to read:

3 627.357 Medical malpractice self-insurance.--

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

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

6 1. Hospital licensed under chapter 395.

7 2. Physician licensed, or physician assistant
8 licensed, under chapter 458.

9 3. Osteopathic physician or physician assistant
10 licensed under chapter 459.

11 4. Podiatric physician licensed under chapter 461.

12 5. Health maintenance organization certificated under
13 part I of chapter 641.

14 6. Ambulatory surgical center licensed under chapter
15 395.

16 7. Chiropractic physician licensed under chapter 460.

17 8. Psychologist licensed under chapter 490.

18 9. Optometrist licensed under chapter 463.

19 10. Dentist licensed under chapter 466.

20 11. Pharmacist licensed under chapter 465.

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

24 13. Other medical facility.

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

29 Section 68. Subsection (6) of section 627.9404,
30 Florida Statutes, is amended to read:

31 627.9404 Definitions.--For the purposes of this part:

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

6 Section 69. Subsection (21) of section 641.31, Florida
 7 Statutes, is amended to read:

8 641.31 Health maintenance contracts.--

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

15 Section 70. Subsection (8) of section 766.101, Florida
 16 Statutes, is amended to read:

17 766.101 Medical review committee, immunity from
 18 liability.--

19 (8) No cause of action of any nature by a person
 20 licensed pursuant to chapter 458, chapter 459, chapter 461,
 21 chapter 463, part I of chapter 464, chapter 465, or chapter
 22 466 shall arise against another person licensed pursuant to
 23 chapter 458, chapter 459, chapter 461, chapter 463, part I of
 24 chapter 464, chapter 465, or chapter 466 for furnishing
 25 information to a duly appointed medical review committee, to
 26 an internal risk management program established under s.
 27 395.0197, to the Department of Business and Professional
 28 Regulation, or to the appropriate regulatory board if the
 29 information furnished concerns patient care at a facility
 30 licensed pursuant to part I of chapter 395 where both persons
 31 provide health care services, if the information is not

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1 intentionally fraudulent, and if the information is within the
2 scope of the functions of the committee, department, or board.
3 However, if such information is otherwise available from
4 original sources, it is not immune from discovery or use in a
5 civil action merely because it was presented during a
6 proceeding of the committee, department, or board.

7 Section 71. Subsection (2) of section 766.110, Florida
8 Statutes, is amended to read:

9 766.110 Liability of health care facilities.--

10 (2) Every hospital licensed under chapter 395 may
11 carry liability insurance or adequately insure itself in an
12 amount of not less than \$1.5 million per claim, \$5 million
13 annual aggregate to cover all medical injuries to patients
14 resulting from negligent acts or omissions on the part of
15 those members of its medical staff who are covered thereby in
16 furtherance of the requirements of ss. 458.320 and 459.0085.
17 Self-insurance coverage extended hereunder to a member of a
18 hospital's medical staff meets the financial responsibility
19 requirements of ss. 458.320 and 459.0085 if the physician's
20 coverage limits are not less than the minimum limits
21 established in ss. 458.320 and 459.0085 and the hospital is a
22 verified trauma center as of July 1, 1990, that has extended
23 self-insurance coverage continuously to members of its medical
24 staff for activities both inside and outside of the hospital
25 since January 1, 1987. Any insurer authorized to write
26 casualty insurance may make available, but shall not be
27 required to write, such coverage. The hospital may assess on
28 an equitable and pro rata basis the following professional
29 health care providers for a portion of the total hospital
30 insurance cost for this coverage: physicians licensed under
31 chapter 458, osteopathic physicians licensed under chapter

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

13 Section 72. Paragraph (d) of subsection (3) of section
 14 766.1115, Florida Statutes, is amended to read:

15 766.1115 Health care providers; creation of agency
 16 relationship with governmental contractors.--

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

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

- 19 1. A birth center licensed under chapter 383.
- 20 2. An ambulatory surgical center licensed under
 21 chapter 395.
- 22 3. A hospital licensed under chapter 395.
- 23 4. A physician or physician assistant licensed under
 24 chapter 458.
- 25 5. An osteopathic physician or osteopathic physician
 26 assistant licensed under chapter 459.
- 27 6. A chiropractic physician licensed under chapter
 28 460.
- 29 7. A podiatric physician licensed under chapter 461.
- 30 8. A registered nurse, nurse midwife, licensed
 31 practical nurse, or advanced registered nurse practitioner

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1 licensed or registered under part I of chapter 464 or any
2 facility which employs nurses licensed or registered under
3 part I of chapter 464 to supply all or part of the care
4 delivered under this section.

5 9. A midwife licensed under chapter 467.

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

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

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

14 13. A dentist or dental hygienist licensed under
15 chapter 466.

16 14. Any other health care professional, practitioner,
17 provider, or facility under contract with a governmental
18 contractor.

19
20 The term includes any nonprofit corporation qualified as
21 exempt from federal income taxation under s. 501(c) of the
22 Internal Revenue Code which delivers health care services
23 provided by licensed professionals listed in this paragraph,
24 any federally funded community health center, and any
25 volunteer corporation or volunteer health care provider that
26 delivers health care services.

27 Section 73. Subsection (1) of section 877.111, Florida
28 Statutes, is amended to read:

29 877.111 Inhalation, ingestion, possession, sale,
30 purchase, or transfer of harmful chemical substances;
31 penalties.--

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

17 Section 74. Subsection (6) of section 945.602, Florida
18 Statutes, is amended to read:

19 945.602 State of Florida Correctional Medical
20 Authority; creation; members.--

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

24 Section 75. Subsection (2) of section 960.28, Florida
25 Statutes, is amended to read:

26 960.28 Payment for victims' initial forensic physical
27 examinations.--

28 (2) The Crime Victims' Services Office of the
29 department shall pay for medical expenses connected with an
30 initial forensic physical examination of a victim who reports
31 a violation of chapter 794 or chapter 800 to a law enforcement

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

25 Section 76. Subsection (36) of section 984.03, Florida
26 Statutes, is amended to read:

27 984.03 Definitions.--When used in this chapter, the
28 term:

29 (36) "Licensed health care professional" means a
30 physician licensed under chapter 458, an osteopathic physician
31 licensed under chapter 459, a nurse licensed under part I of

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1 chapter 464, a physician assistant licensed under chapter 458
2 or chapter 459, or a dentist licensed under chapter 466.

3 Section 77. Subsection (37) of section 985.03, Florida
4 Statutes, is amended to read:

5 985.03 Definitions.--When used in this chapter, the
6 term:

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

12 Section 78. Section 455.557, Florida Statutes, is
13 amended to read:

14 455.557 Standardized credentialing for health care
15 practitioners.--

16 (1) INTENT.--The Legislature recognizes that an
17 efficient and effective health care practitioner credentialing
18 program helps to ensure access to quality health care and also
19 recognizes that health care practitioner credentialing
20 activities have increased significantly as a result of health
21 care reform and recent changes in health care delivery and
22 reimbursement systems. Moreover, the resulting duplication of
23 health care practitioner credentialing activities is
24 unnecessarily costly and cumbersome for both the practitioner
25 and the entity granting practice privileges. Therefore, it is
26 the intent of this section that a credentials collection
27 program be established which provides that, once a health care
28 practitioner's core credentials data are collected, they need
29 not be collected again, except for corrections, updates, and
30 modifications thereto. Participation under this section shall
31 ~~initially~~ include those individuals licensed under chapter

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1 458, chapter 459, chapter 460, ~~or~~ chapter 461, or s. 464.012.
2 However, the department shall, with the approval of the
3 applicable board, include other professions under the
4 jurisdiction of the Division of Medical Quality Assurance in
5 this program, provided they meet the requirements of s.
6 455.565 or s. 455.56503.

7 (2) DEFINITIONS.--As used in this section, the term:
8 ~~(a) "Advisory council" or "council" means the~~
9 ~~Credentials Advisory Council.~~

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

19 (b)~~(c)~~ "Core credentials data" means the following
20 data: current name, any former name, and any alias, any
21 professional education, professional training, licensure,
22 current Drug Enforcement Administration certification, social
23 security number, specialty board certification, Educational
24 Commission for Foreign Medical Graduates certification,
25 hospital or other institutional affiliations, evidence of
26 professional liability coverage or evidence of financial
27 responsibility as required by s. 458.320, ~~or~~ s. 459.0085, or
28 s. 455.694, history of claims, suits, judgments, or
29 settlements, final disciplinary action reported pursuant to s.
30 455.565(1)(a)8. or s. 455.56503(1)(a)8., and Medicare or
31 Medicaid sanctions.

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1 ~~(c)(d)~~ "Credential" or "credentialing" means the
2 process of assessing and verifying the qualifications of a
3 licensed health care practitioner or applicant for licensure
4 as a health care practitioner.

5 ~~(d)(e)~~ "Credentials verification organization" means
6 any organization certified or accredited as a credentials
7 verification organization.

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

10 ~~(f)(g)~~ "Designated credentials verification
11 organization" means the credentials verification organization
12 which is selected by the health care practitioner, if the
13 health care practitioner chooses to make such a designation.

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

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

22 1. Any health care facility or other health care
23 organization licensed or certified to provide approved medical
24 and allied health services in this state;

25 2. Any entity licensed by the Department of Insurance
26 as a prepaid health care plan or health maintenance
27 organization or as an insurer to provide coverage for health
28 care services through a network of providers; or

29 3. Any accredited medical school in this state.

30 ~~(i)(j)~~ "Health care practitioner" means any person
31 licensed, or, for credentialing purposes only, any person

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1 applying for licensure, under chapter 458, chapter 459,
2 chapter 460, ~~or~~ chapter 461, or s. 464.012 or any person
3 licensed or applying for licensure under a chapter
4 subsequently made subject to this section by the department
5 with the approval of the applicable board, except a person
6 registered or applying for registration pursuant to s. 458.345
7 or s. 459.021.

8 (j)~~(k)~~ "Hospital or other institutional affiliations"
9 means each hospital or other institution for which the health
10 care practitioner or applicant has provided medical services.
11 Submission of such information under this section must
12 include, for each hospital or other institution, the name and
13 address of the hospital or institution, the staff status of
14 the health care practitioner or applicant at that hospital or
15 institution, and the dates of affiliation with that hospital
16 or institution.

17 (k)~~(l)~~ "National accrediting organization" means an
18 organization that awards accreditation or certification to
19 hospitals, managed care organizations, credentials
20 verification organizations, or other health care
21 organizations, including, but not limited to, the Joint
22 Commission on Accreditation of Healthcare Organizations, the
23 American Accreditation HealthCare Commission/URAC, and the
24 National Committee for Quality Assurance.

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

28 (m)~~(n)~~ "Specialty board certification" means
29 certification in a specialty issued by a specialty board
30 recognized by the board in this state that regulates the
31 profession for which the health care practitioner is licensed

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1 or seeking licensure.

2 (3) STANDARDIZED CREDENTIALS VERIFICATION PROGRAM.--

3 (a) Every health care practitioner shall:

4 1. Report all core credentials data to the department
5 which is not already on file with the department, either by
6 designating a credentials verification organization to submit
7 the data or by submitting the data directly.

8 2. Notify the department within 45 days of any
9 corrections, updates, or modifications to the core credentials
10 data either through his or her designated credentials
11 verification organization or by submitting the data directly.
12 Corrections, updates, and modifications to the core
13 credentials data provided the department under this section
14 shall comply with the updating requirements of s. 455.565(3)
15 or s. 455.56503(3) related to profiling.

16 (b) The department shall:

17 1. Maintain a complete, current file of core
18 credentials data on each health care practitioner, which shall
19 include all updates provided in accordance with subparagraph
20 (a)2.

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

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

31 4. ~~Develop, in consultation with the advisory council,~~

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1 standardized forms to be used by the health care practitioner
2 or designated credentials verification organization for the
3 initial reporting of core credentials data, for the health
4 care practitioner to authorize the release of core credentials
5 data, and for the subsequent reporting of corrections,
6 updates, and modifications thereto.

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

23 (c) A registered credentials verification organization
24 may be designated by a health care practitioner to assist the
25 health care practitioner to comply with the requirements of
26 subparagraph (a)2. A designated credentials verification
27 organization shall:

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

30 2. Not provide the health care practitioner's core
31 data, including all corrections, updates, and modifications,

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1 without the authorization of the practitioner.

2 (d) This section shall not be construed to restrict in
3 any way the authority of the health care entity to credential
4 and to approve or deny an application for hospital staff
5 membership, clinical privileges, or managed care network
6 participation.

7 (4) DUPLICATION OF DATA PROHIBITED.--

8 (a) A health care entity or credentials verification
9 organization is prohibited from collecting or attempting to
10 collect duplicate core credentials data from any health care
11 practitioner if the information is available from the
12 department. This section shall not be construed to restrict
13 the right of any health care entity or credentials
14 verification organization to collect additional information
15 from the health care practitioner which is not included in the
16 core credentials data file. This section shall not be
17 construed to prohibit a health care entity or credentials
18 verification organization from obtaining all necessary
19 attestation and release form signatures and dates.

20 (b) Effective July 1, 2002, a state agency in this
21 state which credentials health care practitioners may not
22 collect or attempt to collect duplicate core credentials data
23 from any individual health care practitioner if the
24 information is already available from the department. This
25 section shall not be construed to restrict the right of any
26 such state agency to request additional information not
27 included in the core credential data file, but which is deemed
28 necessary for the agency's specific credentialing purposes.

29 (5) STANDARDS AND REGISTRATION.--Any credentials
30 verification organization that does business in this state
31 must be fully accredited or certified as a credentials

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

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

24 (7) LIABILITY INSURANCE REQUIREMENTS.--Each
25 credentials verification organization doing business in this
26 state shall maintain liability insurance appropriate to meet
27 the certification or accreditation requirements established in
28 this section.

29 (8) RULES.--The department, ~~in consultation with the~~
30 ~~advisory council~~, shall adopt rules necessary to develop and
31 implement the standardized core credentials data collection

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1 program established by this section.

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

7 Section 79. Section 455.56503, Florida Statutes, is
 8 created to read:

9 455.56503 Advanced registered nurse practitioners;
 10 information required for certification.--

11 (1)(a) Each person who applies for initial
 12 certification under s. 464.012 must, at the time of
 13 application, and each person certified under s. 464.012 who
 14 applies for certification renewal must, in conjunction with
 15 the renewal of such certification and under procedures adopted
 16 by the Department of Health, and in addition to any other
 17 information that may be required from the applicant, furnish
 18 the following information to the Department of Health:

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

25 2. The name of each location at which the applicant
 26 practices.

27 3. The address at which the applicant will primarily
 28 conduct his or her practice.

29 4. Any certification or designation that the applicant
 30 has received from a specialty or certification board that is
 31 recognized or approved by the regulatory board or department

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1 to which the applicant is applying.

2 5. The year that the applicant received initial
3 certification and began practicing the profession in any
4 jurisdiction and the year that the applicant received initial
5 certification in this state.

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

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

26 8. A description of any final disciplinary action
27 taken within the previous 10 years against the applicant by a
28 licensing or regulatory body in any jurisdiction, by a
29 specialty board that is recognized by the board or department,
30 or by a licensed hospital, health maintenance organization,
31 prepaid health clinic, ambulatory surgical center, or nursing

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1 home. Disciplinary action includes resignation from or
2 nonrenewal of staff membership or the restriction of
3 privileges at a licensed hospital, health maintenance
4 organization, prepaid health clinic, ambulatory surgical
5 center, or nursing home taken in lieu of or in settlement of a
6 pending disciplinary case related to competence or character.
7 If the applicant indicates that the disciplinary action is
8 under appeal and submits a copy of the document initiating an
9 appeal of the disciplinary action, the department must state
10 that the disciplinary action is under appeal if the
11 disciplinary action is reported in the applicant's profile.

12 (b) In addition to the information required under
13 paragraph (a), each applicant for initial certification or
14 certification renewal must provide the information required of
15 licensees pursuant to s. 455.697.

16 (2) The Department of Health shall send a notice to
17 each person certified under s. 464.012 at the
18 certificateholder's last known address of record regarding the
19 requirements for information to be submitted by advanced
20 registered nurse practitioners pursuant to this section in
21 conjunction with the renewal of such certificate.

22 (3) Each person certified under s. 464.012 who has
23 submitted information pursuant to subsection (1) must update
24 that information in writing by notifying the Department of
25 Health within 45 days after the occurrence of an event or the
26 attainment of a status that is required to be reported by
27 subsection (1). Failure to comply with the requirements of
28 this subsection to update and submit information constitutes a
29 ground for disciplinary action under chapter 464 and s.
30 455.624(1)(k). For failure to comply with the requirements of
31 this subsection to update and submit information, the

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1 department or board, as appropriate, may:

2 (a) Refuse to issue a certificate to any person
3 applying for initial certification who fails to submit and
4 update the required information.

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

20 (4)(a) An applicant for initial certification under s.
21 464.012 must submit a set of fingerprints to the Department of
22 Health on a form and under procedures specified by the
23 department, along with payment in an amount equal to the costs
24 incurred by the Department of Health for a national criminal
25 history check of the applicant.

26 (b) An applicant for renewed certification who has not
27 previously submitted a set of fingerprints to the Department
28 of Health for purposes of certification must submit a set of
29 fingerprints to the department as a condition of the initial
30 renewal of his or her certificate after the effective date of
31 this section. The applicant must submit the fingerprints on a

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1 form and under procedures specified by the department, along
 2 with payment in an amount equal to the costs incurred by the
 3 Department of Health for a national criminal history check.
 4 For subsequent renewals, the applicant for renewed
 5 certification must only submit information necessary to
 6 conduct a statewide criminal history check, along with payment
 7 in an amount equal to the costs incurred by the Department of
 8 Health for a statewide criminal history check.

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

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

24 3. For any subsequent renewal of the applicant's
 25 certificate, the department shall submit the required
 26 information for a statewide criminal history check of the
 27 applicant to the Florida Department of Law Enforcement.

28 (d) Any applicant for initial certification or renewal
 29 of certification as an advanced registered nurse practitioner
 30 who submits to the Department of Health a set of fingerprints
 31 and information required for the criminal history check

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1 required under this section shall not be required to provide a
2 subsequent set of fingerprints or other duplicate information
3 required for a criminal history check to the Agency for Health
4 Care Administration, the Department of Juvenile Justice, or
5 the Department of Children and Family Services for employment
6 or licensure with such agency or department, if the applicant
7 has undergone a criminal history check as a condition of
8 initial certification or renewal of certification as an
9 advanced registered nurse practitioner with the Department of
10 Health, notwithstanding any other provision of law to the
11 contrary. In lieu of such duplicate submission, the Agency for
12 Health Care Administration, the Department of Juvenile
13 Justice, and the Department of Children and Family Services
14 shall obtain criminal history information for employment or
15 licensure of persons certified under s. 464.012 by such agency
16 or department from the Department of Health's health care
17 practitioner credentialing system.

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

22 (a) Information regarding publications in
23 peer-reviewed professional literature within the previous 10
24 years.

25 (b) Information regarding professional or community
26 service activities or awards.

27 (c) Languages, other than English, used by the
28 applicant to communicate with patients or clients and
29 identification of any translating service that may be
30 available at the place where the applicant primarily conducts
31 his or her practice.

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1 (d) An indication of whether the person participates
2 in the Medicaid program.

3 Section 80. Section 455.5651, Florida Statutes, is
4 amended to read:

5 455.5651 Practitioner profile; creation.--

6 (1) Beginning July 1, 1999, the Department of Health
7 shall compile the information submitted pursuant to s. 455.565
8 into a practitioner profile of the applicant submitting the
9 information, except that the Department of Health may develop
10 a format to compile uniformly any information submitted under
11 s. 455.565(4)(b). Beginning July 1, 2001, the Department of
12 Health may compile the information submitted pursuant to s.
13 455.56503 into a practitioner profile of the applicant
14 submitting the information.

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

29 (3) The Department of Health may include in each
30 practitioner's practitioner profile that criminal information
31 that directly relates to the practitioner's ability to

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1 competently practice his or her profession. The department
2 must include in each practitioner's practitioner profile the
3 following statement: "The criminal history information, if
4 any exists, may be incomplete; federal criminal history
5 information is not available to the public."

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

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

4 (6) The Department of Health may include in the
5 practitioner's practitioner profile any other information that
6 is a public record of any governmental entity and that relates
7 to a practitioner's ability to competently practice his or her
8 profession. However, the department must consult with the
9 board having regulatory authority over the practitioner before
10 such information is included in his or her profile.

11 (7) Upon the completion of a practitioner profile
12 under this section, the Department of Health shall furnish the
13 practitioner who is the subject of the profile a copy of it.
14 The practitioner has a period of 30 days in which to review
15 the profile and to correct any factual inaccuracies in it. The
16 Department of Health shall make the profile available to the
17 public at the end of the 30-day period. The department shall
18 make the profiles available to the public through the World
19 Wide Web and other commonly used means of distribution.

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

23 Section 81. Section 455.5653, Florida Statutes, is
24 amended to read:

25 455.5653 Practitioner profiles; data
26 storage.--Effective upon this act becoming a law, the
27 Department of Health must develop or contract for a computer
28 system to accommodate the new data collection and storage
29 requirements under this act pending the development and
30 operation of a computer system by the Department of Health for
31 handling the collection, input, revision, and update of data

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1 submitted by physicians as a part of their initial licensure
2 or renewal to be compiled into individual practitioner
3 profiles. The Department of Health must incorporate any data
4 required by this act into the computer system used in
5 conjunction with the regulation of health care professions
6 under its jurisdiction. ~~The department must develop, by the~~
7 ~~year 2000, a schedule and procedures for each practitioner~~
8 ~~within a health care profession regulated within the Division~~
9 ~~of Medical Quality Assurance to submit relevant information to~~
10 ~~be compiled into a profile to be made available to the public.~~
11 The Department of Health is authorized to contract with and
12 negotiate any interagency agreement necessary to develop and
13 implement the practitioner profiles. The Department of Health
14 shall have access to any information or record maintained by
15 the Agency for Health Care Administration, including any
16 information or record that is otherwise confidential and
17 exempt from the provisions of chapter 119 and s. 24(a), Art. I
18 of the State Constitution, so that the Department of Health
19 may corroborate any information that practitioners ~~physicians~~
20 are required to report under s. 455.565 or s. 455.56503.

21 Section 82. Section 455.5654, Florida Statutes, is
22 amended to read:

23 455.5654 Practitioner profiles; rules;
24 workshops.--Effective upon this act becoming a law, the
25 Department of Health shall adopt rules for the form of a
26 practitioner profile that the agency is required to prepare.
27 The Department of Health, pursuant to chapter 120, must hold
28 public workshops for purposes of rule development to implement
29 this section. An agency to which information is to be
30 submitted under this act may adopt by rule a form for the
31 submission of the information required under s. 455.565 or s.

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1 455.56503.

2 Section 83. Subsection (20) of section 400.462,
3 Florida Statutes, is repealed.

4 Section 84. Paragraph (d) of subsection (4) of section
5 400.471, Florida Statutes, is amended to read:

6 400.471 Application for license; fee; provisional
7 license; temporary permit.--

8 (4) Each applicant for licensure must comply with the
9 following requirements:

10 (d) A provisional license may be granted to an
11 applicant when each individual required by this section to
12 undergo background screening has met the standards for the
13 abuse registry background check through the agency and the
14 Department of Law Enforcement background check, but the agency
15 has not yet received background screening results from the
16 Federal Bureau of Investigation. A standard license may be
17 granted to the licensee upon the agency's receipt of a report
18 of the results of the Federal Bureau of Investigation
19 background screening for each individual required by this
20 section to undergo background screening which confirms that
21 all standards have been met, or upon the granting of a
22 disqualification exemption by the agency as set forth in
23 chapter 435. Any other person who is required to undergo level
24 2 background screening may serve in his or her capacity
25 pending the agency's receipt of the report from the Federal
26 Bureau of Investigation. However, the person may not continue
27 to serve if the report indicates any violation of background
28 screening standards and a disqualification exemption has not
29 been requested of and granted by the agency as set forth in
30 chapter 435.

31 Section 85. Subsection (3) is added to section

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1 400.484, Florida Statutes, to read:

2 400.484 Right of inspection; deficiencies; fines.--

3 (3) In addition to any other penalties imposed
 4 pursuant to this section or part, the agency may assess costs
 5 related to an investigation that results in a successful
 6 prosecution, excluding costs associated with an attorney's
 7 time.

8 Section 86. Section 400.487, Florida Statutes, is
 9 amended to read:

10 400.487 Home health service agreements; physician's
 11 treatment orders; patient assessment; establishment and review
 12 of plan of care; provision of services; orders not to
 13 resuscitate.--

14 (1) Services provided by a home health agency must be
 15 covered by an agreement between the home health agency and the
 16 patient or the patient's legal representative specifying the
 17 home health services to be provided, the rates or charges for
 18 services paid with private funds, and the method of payment. A
 19 ~~The~~ home health agency providing skilled care must make an
 20 assessment of the patient's needs within 48 hours after the
 21 start of services.

22 (2) When required by the provisions of chapter 464,
 23 part I, part III, or part V of chapter 468, or chapter 486,
 24 the attending physician for a patient who is to receive
 25 skilled care must establish treatment orders. The treatment
 26 orders must be signed by the physician within 30 ~~24~~ days after
 27 the start of care and must be reviewed, as ~~at least every 62~~
 28 ~~days or more~~ frequently as if the patient's illness requires,
 29 by the physician in consultation with home health agency
 30 personnel that provide services to the patient.

31 (3) A home health agency shall arrange for supervisory

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1 visits by a registered nurse to the home of a patient
2 receiving home health aide services in accordance with the
3 patient's direction and approval.~~If a client is accepted for~~
4 ~~home health aide services or homemaker or companion services~~
5 ~~and such services do not require a physician's order, the home~~
6 ~~health agency shall establish a service provision plan and~~
7 ~~maintain a record of the services provided.~~

8 (4) Each patient ~~or client~~ has the right to be
9 informed of and to participate in the planning of his or her
10 care. Each patient must be provided, upon request, a copy of
11 the plan of care ~~or service provision plan~~ established and
12 maintained for that patient ~~or client~~ by the home health
13 agency.

14 (5) When nursing services are ordered, the home health
15 agency to which a patient has been admitted for care must
16 provide the initial admission visit, all service evaluation
17 visits, and the discharge visit by qualified personnel who are
18 on the payroll of, and to whom an IRS payroll form W-2 will be
19 issued by, the home health agency. Services provided by others
20 under contractual arrangements to a home health agency must be
21 monitored and managed by the admitting home health agency. The
22 admitting home health agency is fully responsible for ensuring
23 that all care provided through its employees or contract staff
24 is delivered in accordance with this part and applicable
25 rules.

26 (6) The skilled care services provided by a home
27 health agency, directly or under contract, must be supervised
28 and coordinated in accordance with the plan of care.

29 (7) Home health agency personnel may withhold or
30 withdraw cardiopulmonary resuscitation if presented with an
31 order not to resuscitate executed pursuant to s. 401.45. The

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1 agency shall adopt rules providing for the implementation of
2 such orders. Home health personnel and agencies shall not be
3 subject to criminal prosecution or civil liability, nor be
4 considered to have engaged in negligent or unprofessional
5 conduct, for withholding or withdrawing cardiopulmonary
6 resuscitation pursuant to such an order and rules adopted by
7 the agency.

8 Section 87. Section 400.497, Florida Statutes, is
9 amended to read:

10 400.497 Rules establishing minimum standards.--The
11 agency shall adopt, publish, and enforce rules to implement
12 this part, including, as applicable, ss. 400.506 and 400.509,
13 which must provide reasonable and fair minimum standards
14 relating to:

15 (1) The home health aide competency test and home
16 health aide training.~~The qualifications, minimum training~~
17 ~~requirements, and supervision requirements of all home health~~
18 ~~agency personnel.~~The agency shall create the home health aide
19 competency test and establish the curriculum and instructor
20 qualifications for home health aide training. Licensed home
21 health agencies may provide this training and shall furnish
22 documentation of such training to other licensed home health
23 agencies upon request. Successful passage of the competency
24 test by home health aides may be substituted for the training
25 required under this section and any rule adopted pursuant
26 thereto.

27 (2) Shared staffing.The agency shall allow shared
28 staffing if the home health agency is part of a retirement
29 community that provides multiple levels of care, is located on
30 one campus, is licensed under this chapter, and otherwise
31 meets the requirements of law and rule.

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1 ~~(2) Requirements for prospective employees. A home~~
2 ~~health agency must require prospective employees and~~
3 ~~contractors to submit an employment or contractual history,~~
4 ~~and it must verify the employment or contractual history~~
5 ~~unless through diligent efforts such verification is not~~
6 ~~possible. The agency shall prescribe by rule the minimum~~
7 ~~requirements for establishing that diligent efforts have been~~
8 ~~made. There is no monetary liability on the part of, and no~~
9 ~~cause of action for damages arising against, a former employer~~
10 ~~of a prospective employee of or prospective independent~~
11 ~~contractor with a licensed home health agency who reasonably~~
12 ~~and in good faith communicates his or her honest opinions~~
13 ~~about the former employee's job performance. This subsection~~
14 ~~does not affect the official immunity of an officer or~~
15 ~~employee of a public corporation.~~

16 (3) The criteria for the frequency of onsite licensure
17 surveys.

18 ~~(4)(3) Licensure application and renewal.~~

19 ~~(5)(4) The administration of the home health agency,~~
20 ~~including requirements for onsite and electronic accessibility~~
21 ~~of supervisory personnel of home health agencies.~~

22 ~~(5) Procedures for administering drugs and~~
23 ~~biologicals.~~

24 ~~(6) Information to be included in Procedures for~~
25 ~~maintaining patients' records.~~

26 ~~(7) Ensuring that home health services are provided in~~
27 ~~accordance with the treatment orders established for each~~
28 ~~patient for whom physician orders are required.~~

29 ~~(7)(8) Geographic service areas.~~

30 ~~(9) Standards for contractual arrangements for the~~
31 ~~provision of home health services by providers not employed by~~

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1 ~~the home health agency to whom the patient has been admitted.~~

2 Section 88. Paragraph (d) of subsection (2) and
3 subsection (13) of section 400.506, Florida Statutes, are
4 amended, subsection (17) is renumbered as subsection (18), and
5 a new subsection (17) is added to said section, to read:

6 400.506 Licensure of nurse registries; requirements;
7 penalties.--

8 (2) Each applicant for licensure must comply with the
9 following requirements:

10 (d) A provisional license may be granted to an
11 applicant when each individual required by this section to
12 undergo background screening has met the standards for the
13 abuse registry background check through the agency and the
14 Department of Law Enforcement background check, but the agency
15 has not yet received background screening results from the
16 Federal Bureau of Investigation. A standard license may be
17 granted to the applicant upon the agency's receipt of a report
18 of the results of the Federal Bureau of Investigation
19 background screening for each individual required by this
20 section to undergo background screening which confirms that
21 all standards have been met, or upon the granting of a
22 disqualification exemption by the agency as set forth in
23 chapter 435. Any other person who is required to undergo level
24 2 background screening may serve in his or her capacity
25 pending the agency's receipt of the report from the Federal
26 Bureau of Investigation. However, the person may not continue
27 to serve if the report indicates any violation of background
28 screening standards and a disqualification exemption has not
29 been requested of and granted by the agency as set forth in
30 chapter 435.

31 (13) Each nurse registry must comply with the

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1 procedures set forth in s. 400.512 ~~400.497(3)~~ for maintaining
2 records of the employment history of all persons referred for
3 contract and is subject to the standards and conditions set
4 forth in that section ~~s. 400.512~~. However, an initial
5 screening may not be required for persons who have been
6 continuously registered with the nurse registry since
7 September 30, 1990.

8 (17) In addition to any other penalties imposed
9 pursuant to this section or part, the agency may assess costs
10 related to an investigation that results in a successful
11 prosecution, excluding costs associated with an attorney's
12 time. If the agency imposes such an assessment and the
13 assessment is not paid, and if challenged is not the subject
14 of a pending appeal, prior to the renewal of the license, the
15 license shall not be issued until the assessment is paid or
16 arrangements for payment of the assessment are made.

17 Section 89. Paragraph (d) of subsection (4) of section
18 400.509, Florida Statutes, is amended, subsection (14) is
19 renumbered as subsection (15), and a new subsection (14) is
20 added to said section, to read:

21 400.509 Registration of particular service providers
22 exempt from licensure; certificate of registration; regulation
23 of registrants.--

24 (4) Each applicant for registration must comply with
25 the following requirements:

26 (d) A provisional registration may be granted to an
27 applicant when each individual required by this section to
28 undergo background screening has met the standards for the
29 abuse-registry background check through the agency and the
30 Department of Law Enforcement background check, but the agency
31 has not yet received background screening results from the

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1 Federal Bureau of Investigation. A standard registration may
2 be granted to the applicant upon the agency's receipt of a
3 report of the results of the Federal Bureau of Investigation
4 background screening for each individual required by this
5 section to undergo background screening which confirms that
6 all standards have been met, or upon the granting of a
7 disqualification exemption by the agency as set forth in
8 chapter 435. Any other person who is required to undergo
9 level 2 background screening may serve in his or her capacity
10 pending the agency's receipt of the report from the Federal
11 Bureau of Investigation. However, the person may not continue
12 to serve if the report indicates any violation of background
13 screening standards and if a disqualification exemption has
14 not been requested of and granted by the agency as set forth
15 in chapter 435.

16 (14) In addition to any other penalties imposed
17 pursuant to this section or part, the agency may assess costs
18 related to an investigation that results in a successful
19 prosecution, excluding costs associated with an attorney's
20 time. If the agency imposes such an assessment and the
21 assessment is not paid, and if challenged is not the subject
22 of a pending appeal, prior to the renewal of the registration,
23 the registration shall not be issued until the assessment is
24 paid or arrangements for payment of the assessment are made.

25 Section 90. Section 400.512, Florida Statutes, is
26 amended to read:

27 400.512 Screening of home health agency personnel;
28 nurse registry personnel; and companions and homemakers.--The
29 agency shall require employment or contractor screening as
30 provided in chapter 435, using the level 1 standards for
31 screening set forth in that chapter, for home health agency

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1 personnel; persons referred for employment by nurse
2 registries; and persons employed by companion or homemaker
3 services registered under s. 400.509.

4 (1) The agency may grant exemptions from
5 disqualification from employment or contracting under this
6 section as provided in s. 435.07.

7 (2) The administrator of each home health agency, the
8 managing employee of each nurse registry, and the managing
9 employee of each companion or homemaker service registered
10 under s. 400.509 must sign an affidavit annually, under
11 penalty of perjury, stating that all personnel hired,
12 contracted with, or registered on or after October 1, 1994,
13 who enter the home of a patient or client in their service
14 capacity have been screened and that its remaining personnel
15 have worked for the home health agency or registrant
16 continuously since before October 1, 1994.

17 (3) As a prerequisite to operating as a home health
18 agency, nurse registry, or companion or homemaker service
19 under s. 400.509, the administrator or managing employee,
20 respectively, must submit to the agency his or her name and
21 any other information necessary to conduct a complete
22 screening according to this section. The agency shall submit
23 the information to the Department of Law Enforcement and shall
24 conduct a search for any report of confirmed abuse ~~the~~
25 ~~department's abuse hotline for state processing.~~ The agency
26 shall review the record of the administrator or manager with
27 respect to the offenses specified in this section and shall
28 notify the owner of its findings. If disposition information
29 is missing on a criminal record, the administrator or manager,
30 upon request of the agency, must obtain and supply within 30
31 days the missing disposition information to the agency.

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1 Failure to supply missing information within 30 days or to
2 show reasonable efforts to obtain such information will result
3 in automatic disqualification.

4 (4) Proof of compliance with the screening
5 requirements of chapter 435 shall be accepted in lieu of the
6 requirements of this section if the person has been
7 continuously employed or registered without a breach in
8 service that exceeds 180 days, the proof of compliance is not
9 more than 2 years old, and the person has been screened
10 through the agency for any reports of confirmed abuse ~~central~~
11 ~~abuse registry and tracking system of the department~~ and for
12 any criminal record from ~~by~~ the Department of Law Enforcement.

13 A home health agency, nurse registry, or companion or
14 homemaker service registered under s. 400.509 shall directly
15 provide proof of compliance to another home health agency,
16 nurse registry, or companion or homemaker service registered
17 under s. 400.509. The recipient home health agency, nurse
18 registry, or companion or homemaker service registered under
19 s. 400.509 may not accept any proof of compliance directly
20 from the person who requires screening. Proof of compliance
21 with the screening requirements of this section shall be
22 provided upon request to the person screened by the home
23 health agencies; nurse registries; or companion or homemaker
24 services registered under s. 400.509.

25 (5)(a) There is no monetary liability on the part of,
26 and no cause of action for damages arises against, a licensed
27 home health agency, licensed nurse registry, or companion or
28 homemaker service registered under s. 400.509, that, upon
29 notice of a confirmed report of adult abuse, neglect, or
30 exploitation through the agency, terminates the employee or
31 contractor against whom the report was issued, whether or not

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1 the employee or contractor has filed for an exemption with the
2 agency in accordance with chapter 435 and whether or not the
3 time for filing has expired.

4 (b) If a home health agency is asked about a person
5 who was employed by or contracted with that agency, there is
6 no monetary liability on the part of, and no cause of action
7 for damages arising against, a former employer of the person
8 for that agency, who reasonably and in good faith communicates
9 his or her honest opinions about the former caregiver's job
10 performance. This paragraph does not affect the official
11 immunity of an officer or employee of a public corporation.

12 (6) The costs of processing the statewide
13 correspondence criminal records checks ~~and the search of the~~
14 ~~department's central abuse hotline~~ must be borne by the home
15 health agency; the nurse registry; or the companion or
16 homemaker service registered under s. 400.509, or by the
17 person being screened, at the discretion of the home health
18 agency, nurse registry, or s. 400.509 registrant.

19 (7)(a) It is a misdemeanor of the first degree,
20 punishable under s. 775.082 or s. 775.083, for any person
21 willfully, knowingly, or intentionally to:

22 1. Fail, by false statement, misrepresentation,
23 impersonation, or other fraudulent means, to disclose in any
24 application for voluntary or paid employment a material fact
25 used in making a determination as to such person's
26 qualifications to be an employee under this section;

27 2. Operate or attempt to operate an entity licensed or
28 registered under this part with persons who do not meet the
29 minimum standards for good moral character as contained in
30 this section; or

31 3. Use information from the criminal records or the

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1 agency's reports of confirmed abuse ~~central abuse hotline~~
2 obtained under this section for any purpose other than
3 screening that person for employment as specified in this
4 section or release such information to any other person for
5 any purpose other than screening for employment under this
6 section.

7 (b) It is a felony of the third degree, punishable
8 under s. 775.082, s. 775.083, or s. 775.084, for any person
9 willfully, knowingly, or intentionally to use information from
10 the juvenile records of a person obtained under this section
11 for any purpose other than screening for employment under this
12 section.

13 Section 91. Subsection (5) of section 455.587, Florida
14 Statutes, is amended to read:

15 455.587 Fees; receipts; disposition.--

16 (5) All moneys collected by the department from fees
17 or fines or from costs awarded to the agency by a court shall
18 be paid into a trust fund used by the department to implement
19 this part. The Legislature shall appropriate funds from this
20 trust fund sufficient to carry out this part and the
21 provisions of law with respect to professions regulated by the
22 Division of Medical Quality Assurance within the department
23 and the boards. The department may contract with public and
24 private entities to receive and deposit revenue pursuant to
25 this section. The department shall maintain separate accounts
26 in the trust fund used by the department to implement this
27 part for every profession within the department. To the
28 maximum extent possible, the department shall directly charge
29 all expenses to the account of each regulated profession. For
30 the purpose of this subsection, direct charge expenses
31 include, but are not limited to, costs for investigations,

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1 examinations, and legal services. For expenses that cannot be
2 charged directly, the department shall provide for the
3 proportionate allocation among the accounts of expenses
4 incurred by the department in the performance of its duties
5 with respect to each regulated profession. The regulation by
6 the department of professions, as defined in this part, shall
7 be financed solely from revenue collected by it from fees and
8 other charges and deposited in the Medical Quality Assurance
9 Trust Fund, and all such revenue is hereby appropriated to the
10 department. However, it is legislative intent that each
11 profession shall operate within its anticipated fees.The
12 department may not expend funds from the account of a
13 profession to pay for the expenses incurred on behalf of
14 another profession, except that the Board of Nursing must pay
15 for any costs incurred in the regulation of certified nursing
16 assistants. The department shall maintain adequate records to
17 support its allocation of agency expenses. The department
18 shall provide any board with reasonable access to these
19 records upon request. The department shall provide each board
20 an annual report of revenue and direct and allocated expenses
21 related to the operation of that profession. The board shall
22 use these reports and the department's adopted long-range plan
23 to determine the amount of license fees. A condensed version
24 of this information, with the department's recommendations,
25 shall be included in the annual report to the Legislature
26 prepared under s. 455.644.

27 Section 92. There is appropriated from the Medical
28 Quality Assurance Trust Fund to the Department of Health the
29 sum of \$280,000 to implement the provisions of this act.

30

31 (Redesignate subsequent sections.)

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1 ===== T I T L E A M E N D M E N T =====

2 And the title is amended as follows:

3 On page 2, line 1, after the semicolon,

4

5 insert:

6 amending part XV of chapter 468, F.S., relating

7 to certified nursing assistants, and

8 transferring that part to chapter 464, F.S.,

9 relating to nursing, to transfer from the

10 Department of Health to the Board of Nursing

11 responsibility and rulemaking authority for

12 regulation of certified nursing assistants;

13 changing requirements for nursing assistants;

14 transferring from the Department of Education

15 to the board responsibility for approval of

16 training programs; revising grounds for which

17 the board may impose certain penalties;

18 creating s. 464.2085, F.S.; creating and

19 providing requirements for a Council on

20 Certified Nursing Assistants; amending ss.

21 20.43, 39.01, 39.304, 110.131, 232.46,

22 240.4075, 246.081, 310.102, 381.0302, 384.30,

23 384.31, 394.455, 395.0191, 400.021, 400.211,

24 400.402, 400.407, 400.4255, 400.426, 400.462,

25 400.464, 400.506, 400.6105, 401.23, 401.252,

26 408.706, 409.908, 415.1085, 455.597, 455.604,

27 455.667, 455.677, 455.694, 455.707, 458.348,

28 464.001, 464.002, 464.003, 464.006, 464.009,

29 464.016, 464.018, 464.019, 464.022, 464.023,

30 464.027, 466.003, 467.003, 467.0125, 467.203,

31 468.505, 483.041, 483.801, 491.0112, 550.24055,

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1 627.351, 627.357, 627.9404, 641.31, 766.101,
2 766.110, 766.1115, 877.111, 945.602, 960.28,
3 984.03, 985.03, F.S.; conforming references;
4 revising application procedures for certified
5 nursing assistants; revising registration
6 requirements for certified nursing assistants;
7 amending ss. 400.215, 400.512, F.S.; revising
8 provisions relating to the granting of
9 exemptions from disqualification for employment
10 in nursing homes or home health agencies;
11 amending s. 400.23, F.S.; authorizing licensed
12 practical nurses in nursing home facilities to
13 supervise the activities of other licensed
14 practical nurses, certified nursing assistants,
15 and other unlicensed personnel working in such
16 facilities in accordance with rules adopted by
17 the Board of Nursing; amending s. 455.557,
18 F.S.; including advanced registered nurse
19 practitioners under the credentialing program;
20 creating s. 455.56503, F.S.; requiring advanced
21 registered nurse practitioners to submit
22 information and fingerprints for profiling
23 purposes; amending s. 455.5651, F.S.;
24 authorizing the department to publish certain
25 information in practitioner profiles; amending
26 s. 455.5653, F.S.; deleting obsolete provisions
27 relating to scheduling and development of
28 practitioner profiles for additional health
29 care practitioners; providing access to
30 information on advanced registered nurse
31 practitioners maintained by the Agency for

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1 Health Care Administration for corroboration
2 purposes; amending s. 455.5654, F.S.; providing
3 for adoption by rule of a form for submission
4 of profiling information; repealing s.
5 400.462(20), F.S., to delete the definition of
6 "screening" under the Home Health Services Act;
7 amending s. 400.471, F.S.; providing for an
8 abuse registry background check through the
9 Agency for Health Care Administration; amending
10 s. 400.484, F.S.; providing for assessment of
11 certain costs of an investigation that results
12 in a successful prosecution; amending s.
13 400.487, F.S.; requiring home health service
14 agreements; revising requirements for
15 physician's treatment orders; providing for
16 supervisory visits by a registered nurse under
17 certain circumstances; deleting provisions
18 relating to service provision plans; amending
19 s. 400.497, F.S.; providing for a home health
20 aide competency test, criteria for the
21 frequency of onsite licensure surveys, and
22 information to be included in patients'
23 records; amending s. 400.506, F.S.; providing
24 for an abuse registry background check through
25 the Agency for Health Care Administration;
26 authorizing assessment of certain costs of an
27 investigation that results in a successful
28 prosecution; revising a cross reference; making
29 renewal of license contingent on payment or
30 arrangement for payment of any unpaid
31 assessment; amending s. 400.509, F.S.;

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1 providing for an abuse registry background
2 check through the Agency for Health Care
3 Administration; authorizing assessment of
4 certain costs of an investigation that results
5 in a successful prosecution; making renewal of
6 registration contingent on payment or
7 arrangement for payment of any unpaid
8 assessment; amending s. 400.512, F.S.; revising
9 provisions relating to the screening of home
10 health agency, nurse registry, and companion
11 and homemaker service personnel; requiring the
12 Agency for Health Care Administration to
13 conduct the search for reports of confirmed
14 abuse; providing an exemption from liability
15 under certain conditions for providing opinions
16 on the job performance of former employees and
17 contract workers; providing conforming changes;
18 amending s. 455.587, F.S.; providing
19 requirements for funding regulation of
20 professions by the Department of Health;
21 providing an appropriation;

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