

Bill No. CS for SB 420

Amendment No. ____

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

Senate Amendment (with title amendment)

On page 38, between lines 25 and 26,

insert:

Section 17. Pursuant to section 187 of chapter 99-397, Laws of Florida, the Agency for Health Care Administration was directed to conduct a detailed study and analysis of clinical laboratory services for kidney dialysis patients in the State of Florida and to report back to the Legislature no later than February 1, 2000. The agency reported that additional time and investigative resources were necessary to adequately respond to the legislative directives. Therefore, the sum of \$230,000 from the Agency for Health Care Administration Tobacco Settlement Trust Fund is appropriated to the Agency for Health Care Administration to contract with the University of South Florida to conduct a review of laboratory test utilization, any self-referral to clinical laboratories, financial arrangements among kidney dialysis centers, their medical directors, referring physicians, and any business

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1 relationships and affiliations with clinical laboratories, and
2 the quality and effectiveness of kidney dialysis treatment in
3 this state. A report on the findings from such review shall be
4 presented to the President of the Senate, the Speaker of the
5 House of Representatives, and the chairs of the appropriate
6 substantive committees of the Legislature no later than
7 February 1, 2001.

8 Section 18. Florida Commission on Excellence in Health
9 Care.--

10 (1) LEGISLATIVE FINDINGS AND INTENT.--The Legislature
11 finds that the health care delivery industry is one of the
12 largest and most complex industries in Florida. The
13 Legislature finds that the current system of regulating health
14 care practitioners and health care providers is one of blame
15 and punishment and does not encourage voluntary admission of
16 errors and immediate corrective action on a large scale. The
17 Legislature finds that previous attempts to identify and
18 address areas which impact the quality of care provided by the
19 health care industry have suffered from a lack of coordination
20 among the industry's stakeholders and regulators. The
21 Legislature finds that additional focus on strengthening
22 health care delivery systems by eliminating avoidable mistakes
23 in the diagnosis and treatment of Floridians holds tremendous
24 promise to increase the quality of health care services
25 available to Floridians, thereby reducing the costs associated
26 with medical mistakes and malpractice and in turn increasing
27 access to health care in the state. To achieve this enhanced
28 focus, it is the intent of the Legislature to create the
29 Florida Commission on Excellence in Health Care to facilitate
30 the development of a comprehensive statewide strategy for
31 improving health care delivery systems through meaningful

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1 reporting standards, data collection and review, and quality
2 measurement.

3 (2) DEFINITIONS.--As used in this act, the term:

4 (a) "Agency" means the Agency for Health Care
5 Administration.

6 (b) "Commission" means the Florida Commission on
7 Excellence in Health Care.

8 (c) "Department" means the Department of Health.

9 (d) "Error," with respect to health care, means an
10 unintended act, by omission or commission.

11 (e) "Health care practitioner" means any person
12 licensed under chapter 457; chapter 458; chapter 459; chapter
13 460; chapter 461; chapter 462; chapter 463; chapter 464;
14 chapter 465; chapter 466; chapter 467; part I, part II, part
15 III, part V, part X, part XIII, or part XIV of chapter 468;
16 chapter 478; chapter 480; part III or part IV of chapter 483;
17 chapter 484; chapter 486; chapter 490; or chapter 491, Florida
18 Statutes.

19 (f) "Health care provider" means any health care
20 facility or other health care organization licensed or
21 certified to provide approved medical and allied health
22 services in this state.

23 (3) COMMISSION; DUTIES AND RESPONSIBILITIES.--There is
24 hereby created the Florida Commission on Excellence in Health
25 Care. The commission shall:

26 (a) Identify existing data sources that evaluate
27 quality of care in Florida and collect, analyze, and evaluate
28 this data.

29 (b) Establish guidelines for data sharing and
30 coordination.

31 (c) Identify core sets of quality measures for

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1 standardized reporting by appropriate components of the health
2 care continuum.

3 (d) Recommend a framework for quality measurement and
4 outcome reporting.

5 (e) Develop quality measures that enhance and improve
6 the ability to evaluate and improve care.

7 (f) Make recommendations regarding research and
8 development needed to advance quality measurement and
9 reporting.

10 (g) Evaluate regulatory issues relating to the
11 pharmacy profession and recommend changes necessary to
12 optimize patient safety.

13 (h) Facilitate open discussion of a process to ensure
14 that comparative information on health care quality is valid,
15 reliable, comprehensive, understandable, and widely available
16 in the public domain.

17 (i) Sponsor public hearings to share information and
18 expertise, identify "best practices," and recommend methods to
19 promote their acceptance.

20 (j) Evaluate current regulatory programs to determine
21 what changes, if any, need to be made to facilitate patient
22 safety.

23 (k) Review public and private health care purchasing
24 systems to determine if there are sufficient mandates and
25 incentives to facilitate continuous improvement in patient
26 safety.

27 (l) Analyze how effective existing regulatory systems
28 are in ensuring continuous competence and knowledge of
29 effective safety practices.

30 (m) Develop a framework for organizations that
31 license, accredit, or credential health care practitioners and

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1 health care providers to more quickly and effectively identify
2 unsafe providers and practitioners and to take action
3 necessary to remove the unsafe provider or practitioner from
4 practice or operation until such time as the practitioner or
5 provider has proven safe to practice or operate.

6 (n) Recommend procedures for development of a
7 curriculum on patient safety and methods of incorporating such
8 curriculum into training, licensure, and certification
9 requirements.

10 (o) Develop a framework for regulatory bodies to
11 disseminate information on patient safety to health care
12 practitioners, health care providers, and consumers through
13 conferences, journal articles and editorials, newsletters,
14 publications, and Internet websites.

15 (p) Recommend procedures to incorporate recognized
16 patient safety considerations into practice guidelines and
17 into standards related to the introduction and diffusion of
18 new technologies, therapies, and drugs.

19 (q) Recommend a framework for development of
20 community-based collaborative initiatives for error reporting
21 and analysis and implementation of patient safety
22 improvements.

23 (r) Evaluate the role of advertising in promoting or
24 adversely affecting patient safety.

25 (s) Evaluate and make recommendations regarding the
26 need for licensure of additional persons who participate in
27 the delivery of health care to Floridians, including, but not
28 limited to, surgical technologists and pharmacy technicians.

29 (t) Evaluate the benefits and problems of the current
30 disciplinary systems and make recommendations regarding
31 alternatives and improvements.

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1 (4) MEMBERSHIP, ORGANIZATION, MEETINGS, PROCEDURES,
2 STAFF.--

3 (a) The commission shall consist of:

4 1. The Secretary of Health and the Executive Director
5 of the Agency for Health Care Administration.

6 2. One representative each from the following agencies
7 or organizations: the Board of Medicine, the Board of
8 Osteopathic Medicine, the Board of Pharmacy, the Board of
9 Nursing, the Board of Dentistry, the Florida Dental
10 Association, the Florida Medical Association, the Florida
11 Osteopathic Medical Association, the Florida Academy of
12 Physician Assistants, the Florida Chiropractic Society, the
13 Florida Chiropractic Association, the Florida Podiatric
14 Medical Association, the Florida Society of Ambulatory
15 Surgical Centers, the Florida Statutory Teaching Hospital
16 Council, Inc., the Florida Statutory Rural Hospital Council,
17 the Florida Nurses Association, the Florida Organization of
18 Nursing Executives, the Florida Pharmacy Association, the
19 Florida Society of Health System Pharmacists, Inc., the
20 Florida Retail Federation, the Florida Hospital Association,
21 the Association of Community Hospitals and Health Systems of
22 Florida, Inc., the Florida League of Health Care Systems, the
23 Florida Health Care Risk Management Advisory Council, the
24 Florida Health Care Association, and the Florida Association
25 of Homes for the Aging;

26 3. One licensed clinical laboratory director,
27 appointed by the Secretary of Health;

28 4. Two health lawyers, appointed by the Secretary of
29 Health, one of whom shall be a member of The Florida Bar
30 Health Law Section who defends physicians and one of whom
31 shall be a member of the Florida Academy of Trial Lawyers;

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1 5. One representative of the medical malpractice
2 professional liability insurance industry, appointed by the
3 Secretary of Health;

4 6. One representative of a Florida medical school
5 appointed by the Secretary of Health;

6 7. Two representatives of the health insurance
7 industry, appointed by the Executive Director of the Agency
8 for Health Care Administration, one of whom shall represent
9 indemnity plans and one of whom shall represent managed care;

10 8. Four consumer advocates, consisting of one from the
11 Association for Responsible Medicine, one appointed by the
12 Governor, one appointed by the President of the Senate, and
13 one appointed by the Speaker of the House of Representatives;
14 and

15 9. Two legislators, one appointed by the President of
16 the Senate and one appointed by the Speaker of the House of
17 Representatives.

18
19 Commission membership shall reflect the geographic and
20 demographic diversity of the state.

21 (b) The Secretary of Health and the Executive Director
22 of the Agency for Health Care Administration shall jointly
23 chair the commission. Subcommittees shall be formed by the
24 joint chairs, as needed, to make recommendations to the full
25 commission on the subjects assigned. However, all votes on
26 work products of the commission shall be at the full
27 commission level, and all recommendations to the Governor, the
28 President of the Senate, and the Speaker of the House of
29 Representatives must pass by a two-thirds vote of the full
30 commission. Sponsoring agencies and organizations may
31 designate an alternative member who may attend and vote on

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1 behalf of the sponsoring agency or organization in the event
2 the appointed member is unable to attend a meeting of the
3 commission or any subcommittee. The commission shall be
4 staffed by employees of the Department of Health and the
5 Agency for Health Care Administration. Sponsoring agencies or
6 organizations must fund the travel and related expenses of
7 their appointed members on the commission. Travel and related
8 expenses for the consumer members of the commission shall be
9 reimbursed by the state pursuant to s. 112.061, Florida
10 Statutes. The commission shall hold its first meeting no later
11 than July 15, 2000.

12 (5) EVIDENTIARY PROHIBITIONS.--

13 (a) The findings, recommendations, evaluations,
14 opinions, investigations, proceedings, records, reports,
15 minutes, testimony, correspondence, work product, and actions
16 of the commission shall be available to the public, but may
17 not be introduced into evidence at any civil, criminal,
18 special, or administrative proceeding against a health care
19 practitioner or health care provider arising out of the
20 matters which are the subject of the findings of the
21 commission. Moreover, no member of the commission shall be
22 examined in any civil, criminal, special, or administrative
23 proceeding against a health care practitioner or health care
24 provider as to any evidence or other matters produced or
25 presented during the proceedings of this commission or as to
26 any findings, recommendations, evaluations, opinions,
27 investigations, proceedings, records, reports, minutes,
28 testimony, correspondence, work product, or other actions of
29 the commission or any members thereof. However, nothing in
30 this section shall be construed to mean that information,
31 documents, or records otherwise available and obtained from

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1 original sources are immune from discovery or use in any
2 civil, criminal, special, or administrative proceeding merely
3 because they were presented during proceedings of the
4 commission. Nor shall any person who testifies before the
5 commission or who is a member of the commission be prevented
6 from testifying as to matters within his or her knowledge in a
7 subsequent civil, criminal, special, or administrative
8 proceeding merely because such person testified in front of
9 the commission.

10 (b) The findings, recommendations, evaluations,
11 opinions, investigations, proceedings, records, reports,
12 minutes, testimony, correspondence, work product, and actions
13 of the commission shall be used as a guide and resource and
14 shall not be construed as establishing or advocating the
15 standard of care for health care practitioners or health care
16 providers unless subsequently enacted into law or adopted in
17 rule. Nor shall any findings, recommendations, evaluations,
18 opinions, investigations, proceedings, records, reports,
19 minutes, testimony, correspondence, work product, or actions
20 of the commission be admissible as evidence in any way,
21 directly or indirectly, by introduction of documents or as a
22 basis of an expert opinion as to the standard of care
23 applicable to health care practitioners or health care
24 providers in any civil, criminal, special, or administrative
25 proceeding unless subsequently enacted into law or adopted in
26 rule.

27 (c) No person who testifies before the commission or
28 who is a member of the commission may specifically identify
29 any patient, health care practitioner, or health care provider
30 by name. Moreover, the findings, recommendations, evaluations,
31 opinions, investigations, proceedings, records, reports,

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1 minutes, testimony, correspondence, work product, and actions
2 of the commission may not specifically identify any patient,
3 health care practitioner, or health care provider by name.

4 (6) REPORT; TERMINATION.--The commission shall provide
5 a report of its findings and recommendations to the Governor,
6 the President of the Senate, and the Speaker of the House of
7 Representatives no later than February 1, 2001. After
8 submission of the report, the commission shall continue to
9 exist for the purpose of assisting the Department of Health,
10 the Agency for Health Care Administration, and the regulatory
11 boards in their drafting of proposed legislation and rules to
12 implement its recommendations and for the purpose of providing
13 information to the health care industry on its
14 recommendations. The commission shall be terminated June 1,
15 2001.

16 Section 19. The sum of \$91,000 in nonrecurring general
17 revenue is hereby appropriated from the General Revenue Fund
18 to the Department of Health to cover costs of the Florida
19 Commission on Excellence in Health Care relating to the travel
20 and related expenses of staff, consumer members, and members
21 appointed by the department or agency; the hiring of
22 consultants, if necessary; and the reproduction and
23 dissemination of documents; however, no portion of this
24 appropriation shall be effective that duplicates a similar
25 appropriation for the same purpose contained in other
26 legislation from the 2000 legislative session that becomes
27 law.

28 Section 20. The sum of \$200,000 is appropriated from
29 the Insurance Commissioner's Regulatory Trust Fund to the
30 Office of Legislative Services for the purpose of implementing
31 the legislative intent expressed in s. 624.215(1), Florida

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1 Statutes, for a systematic review of current mandated health
2 coverages. The review must be conducted by certified actuaries
3 and other appropriate professionals and shall consist of an
4 assessment of the impact, including, but not limited to, the
5 costs and benefits, of current mandated health coverages using
6 the guidelines provided in s. 624.215(2), Florida Statutes.
7 This assessment shall establish the aggregate cost of mandated
8 health coverages.

9 Section 21. Subsections (1) and (3) of section
10 455.564, Florida Statutes, are amended to read:

11 455.564 Department; general licensing provisions.--

12 (1)(a) Any person desiring to be licensed in a
13 profession within the jurisdiction of the department shall
14 apply to the department in writing to take the licensure
15 examination. The application shall be made on a form prepared
16 and furnished by the department. The application form must be
17 available on the World Wide Web and the department may accept
18 electronically submitted applications beginning July 1, 2001.
19 The application ~~and~~ shall require the social security number
20 of the applicant, except as provided in paragraph (b). The
21 form shall be supplemented as needed to reflect any material
22 change in any circumstance or condition stated in the
23 application which takes place between the initial filing of
24 the application and the final grant or denial of the license
25 and which might affect the decision of the department. If an
26 application is submitted electronically, the department may
27 require supplemental materials, including an original
28 signature of the applicant and verification of credentials, to
29 be submitted in a non-electronic format. An incomplete
30 application shall expire 1 year after initial filing. In order
31 to further the economic development goals of the state, and

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1 notwithstanding any law to the contrary, the department may
2 enter into an agreement with the county tax collector for the
3 purpose of appointing the county tax collector as the
4 department's agent to accept applications for licenses and
5 applications for renewals of licenses. The agreement must
6 specify the time within which the tax collector must forward
7 any applications and accompanying application fees to the
8 department.

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

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

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

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

16 Section 22. Paragraph (d) is added to subsection (4)
17 of section 455.565, Florida Statutes, to read:

18 455.565 Designated health care professionals;
19 information required for licensure.--

20 (4)

21 (d) Any applicant for initial licensure or renewal of
22 licensure as a health care practitioner who submits to the
23 Department of Health a set of fingerprints or information
24 required for the criminal history check required under this
25 section shall not be required to provide a subsequent set of
26 fingerprints or other duplicate information required for a
27 criminal history check to the Agency for Health Care
28 Administration, the Department of Juvenile Justice, or the
29 Department of Children and Family Services for employment or
30 licensure with such agency or department if the applicant has
31 undergone a criminal history check as a condition of initial

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

11 Section 23. Section 455.5651, Florida Statutes, is
 12 amended to read:

13 455.5651 Practitioner profile; creation.--

14 (1) Beginning July 1, 1999, the Department of Health
 15 shall compile the information submitted pursuant to s. 455.565
 16 into a practitioner profile of the applicant submitting the
 17 information, except that the Department of Health may develop
 18 a format to compile uniformly any information submitted under
 19 s. 455.565(4)(b).

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

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1 relates to the practitioner's practice.

2 (3) The Department of Health may include in each
3 practitioner's practitioner profile that criminal information
4 that directly relates to the practitioner's ability to
5 competently practice his or her profession. The department
6 must include in each practitioner's practitioner profile the
7 following statement: "The criminal history information, if
8 any exists, may be incomplete; federal criminal history
9 information is not available to the public."

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

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1 on the professional competence or conduct of the practitioner
2 physician. A payment in settlement of a medical malpractice
3 action or claim should not be construed as creating a
4 presumption that medical malpractice has occurred."

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

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

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

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

27 Section 24. Section 455.5653, Florida Statutes, is
28 amended to read:

29 455.5653 Practitioner profiles; data
30 storage.--Effective upon this act becoming a law, the
31 Department of Health must develop or contract for a computer

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

25 Section 25. Section 455.5654, Florida Statutes, is
26 amended to read:

27 455.5654 Practitioner profiles; rules;
28 workshops.--Effective upon this act becoming a law, the
29 Department of Health shall adopt rules for the form of a
30 practitioner profile that the agency is required to prepare.
31 The Department of Health, pursuant to chapter 120, must hold

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1 public workshops for purposes of rule development to implement
2 this section. An agency to which information is to be
3 submitted under this act may adopt by rule a form for the
4 submission of the information required under s. 455.565.

5 Section 26. Subsection (1) of section 455.567, Florida
6 Statutes, is amended to read:

7 455.567 Sexual misconduct; disqualification for
8 license, certificate, or registration.--

9 (1) Sexual misconduct in the practice of a health care
10 profession means violation of the professional relationship
11 through which the health care practitioner uses such
12 relationship to engage or attempt to engage the patient or
13 client, or an immediate family member, guardian, or
14 representative of the patient or client in, or to induce or
15 attempt to induce such person to engage in, verbal or physical
16 sexual activity outside the scope of the professional practice
17 of such health care profession. Sexual misconduct in the
18 practice of a health care profession is prohibited.

19 Section 27. Paragraphs (f) and (u) of subsection (1),
20 paragraph (c) of subsection (2), and subsection (3) of section
21 455.624, Florida Statutes, are amended, and paragraphs (y) and
22 (z) are added to subsection (1) of said section, to read:

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

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

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

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

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

14 (y) Being unable to practice with reasonable skill and
15 safety to patients by reason of illness or use of alcohol,
16 drugs, narcotics, chemicals, or any other type of material or
17 as a result of any mental or physical condition. In enforcing
18 this paragraph, the department shall have, upon a finding of
19 the secretary or the secretary's designee that probable cause
20 exists to believe that the licensee is unable to practice
21 because of the reasons stated in this paragraph, the authority
22 to issue an order to compel a licensee to submit to a mental
23 or physical examination by physicians designated by the
24 department. If the licensee refuses to comply with such order,
25 the department's order directing such examination may be
26 enforced by filing a petition for enforcement in the circuit
27 court where the licensee resides or does business. The
28 department shall be entitled to the summary procedure provided
29 in s. 51.011. A licensee or certificateholder affected under
30 this paragraph shall at reasonable intervals be afforded an
31 opportunity to demonstrate that he or she can resume the

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1 competent practice of his or her profession with reasonable
2 skill and safety to patients.

3 (z) Testing positive for any drug, as defined in s.
4 112.0455, on any confirmed preemployment or employer-ordered
5 drug screening when the practitioner does not have a lawful
6 prescription and legitimate medical reason for using such
7 drug.

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

16 (c) Restriction of practice or license.

17
18 In determining what action is appropriate, the board, or
19 department when there is no board, must first consider what
20 sanctions are necessary to protect the public or to compensate
21 the patient. Only after those sanctions have been imposed may
22 the disciplining authority consider and include in the order
23 requirements designed to rehabilitate the practitioner. All
24 costs associated with compliance with orders issued under this
25 subsection are the obligation of the practitioner.

26 (3)(a) Notwithstanding subsection (2), if the ground
27 for disciplinary action is the first-time failure of the
28 licensee to satisfy continuing education requirements
29 established by the board, or by the department if there is no
30 board, the board or department, as applicable, shall issue a
31 citation in accordance with s. 455.617 and assess a fine, as

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1 determined by the board or department by rule. In addition,
2 for each hour of continuing education not completed or
3 completed late, the board or department, as applicable, may
4 require the licensee to take 1 additional hour of continuing
5 education for each hour not completed or completed late.

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

14 Section 28. For the purpose of incorporating the
15 amendment to section 455.624, Florida Statutes, in references
16 thereto, the sections or subdivisions of Florida Statutes set
17 forth below are reenacted to read:

18 455.577 Penalty for theft or reproduction of an
19 examination.--In addition to, or in lieu of, any other
20 discipline imposed pursuant to s. 455.624, the theft of an
21 examination in whole or in part or the act of reproducing or
22 copying any examination administered by the department,
23 whether such examination is reproduced or copied in part or in
24 whole and by any means, constitutes a felony of the third
25 degree, punishable as provided in s. 775.082, s. 775.083, or
26 s. 775.084.

27 455.631 Penalty for giving false information.--In
28 addition to, or in lieu of, any other discipline imposed
29 pursuant to s. 455.624, the act of knowingly giving false
30 information in the course of applying for or obtaining a
31 license from the department, or any board thereunder, with

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

8 455.651 Disclosure of confidential information.--

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

15 455.712 Business establishments; requirements for
16 active status licenses.--

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

25 458.347 Physician assistants.--

26 (7) PHYSICIAN ASSISTANT LICENSURE.--

27 (g) The Board of Medicine may impose any of the
28 penalties specified in ss. 455.624 and 458.331(2) upon a
29 physician assistant if the physician assistant or the
30 supervising physician has been found guilty of or is being
31 investigated for any act that constitutes a violation of this

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1 chapter or part II of chapter 455.

2 459.022 Physician assistants.--

3 (7) PHYSICIAN ASSISTANT LICENSURE.--

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

10 468.1755 Disciplinary proceedings.--

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

13 (a) Violation of any provision of s. 455.624(1) or s.
14 468.1745(1).

15 468.719 Disciplinary actions.--

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

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

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

26 468.811 Disciplinary proceedings.--

27 (1) The following acts are grounds for disciplinary
28 action against a licensee and the issuance of cease and desist
29 orders or other related action by the department, pursuant to
30 s. 455.624, against any person who engages in or aids in a
31 violation.

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- 1 (a) Attempting to procure a license by fraudulent
2 misrepresentation.
- 3 (b) Having a license to practice orthotics,
4 prosthetics, or pedorthics revoked, suspended, or otherwise
5 acted against, including the denial of licensure in another
6 jurisdiction.
- 7 (c) Being convicted or found guilty of or pleading
8 nolo contendere to, regardless of adjudication, in any
9 jurisdiction, a crime that directly relates to the practice of
10 orthotics, prosthetics, or pedorthics, including violations of
11 federal laws or regulations regarding orthotics, prosthetics,
12 or pedorthics.
- 13 (d) Filing a report or record that the licensee knows
14 is false, intentionally or negligently failing to file a
15 report or record required by state or federal law, willfully
16 impeding or obstructing such filing, or inducing another
17 person to impede or obstruct such filing. Such reports or
18 records include only reports or records that are signed in a
19 person's capacity as a licensee under this act.
- 20 (e) Advertising goods or services in a fraudulent,
21 false, deceptive, or misleading manner.
- 22 (f) Violation of this act or part II of chapter 455,
23 or any rules adopted thereunder.
- 24 (g) Violation of an order of the board, agency, or
25 department previously entered in a disciplinary hearing or
26 failure to comply with a subpoena issued by the board, agency,
27 or department.
- 28 (h) Practicing with a revoked, suspended, or inactive
29 license.
- 30 (i) Gross or repeated malpractice or the failure to
31 deliver orthotic, prosthetic, or pedorthic services with that

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1 level of care and skill which is recognized by a reasonably
2 prudent licensed practitioner with similar professional
3 training as being acceptable under similar conditions and
4 circumstances.

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

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

11 484.056 Disciplinary proceedings.--

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

19 (a) Violation of any provision of s. 455.624(1), s.
20 484.0512, or s. 484.053.

21 Section 29. Section 455.704, Florida Statutes, is
22 repealed.

23 Section 30. Subsections (1), (2), and (3) of section
24 455.707, Florida Statutes, are amended to read:

25 455.707 Treatment programs for impaired
26 practitioners.--

27 (1) For professions that do not have impaired
28 practitioner programs provided for in their practice acts, the
29 department shall, by rule, designate approved impaired
30 practitioner treatment programs under this section. The
31 department may adopt rules setting forth appropriate criteria

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1 for approval of treatment providers ~~based on the policies and~~
2 ~~guidelines established by the Impaired Practitioners~~
3 ~~Committee~~. The rules may ~~must~~ specify the manner in which the
4 consultant, retained as set forth in subsection (2), works
5 with the department in intervention, requirements for
6 evaluating and treating a professional, and requirements for
7 the continued care and monitoring of a professional by the
8 consultant by an approved ~~at a department-approved~~ treatment
9 provider. ~~The department shall not compel any impaired~~
10 ~~practitioner program in existence on October 1, 1992, to serve~~
11 ~~additional professions.~~

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

23 (3)(a) Whenever the department receives a written or
24 oral legally sufficient complaint alleging that a licensee
25 under the jurisdiction of the Division of Medical Quality
26 Assurance within the department is impaired as a result of the
27 misuse or abuse of alcohol or drugs, or both, or due to a
28 mental or physical condition which could affect the licensee's
29 ability to practice with skill and safety, and no complaint
30 against the licensee other than impairment exists, the
31 reporting of such information shall not constitute grounds for

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1 discipline pursuant to s. 455.624 or the corresponding grounds
2 for discipline within the applicable practice act ~~a complaint~~
3 ~~within the meaning of s. 455.621~~ if the probable cause panel
4 of the appropriate board, or the department when there is no
5 board, finds:

- 6 1. The licensee has acknowledged the impairment
7 problem.
- 8 2. The licensee has voluntarily enrolled in an
9 appropriate, approved treatment program.
- 10 3. The licensee has voluntarily withdrawn from
11 practice or limited the scope of practice as required by the
12 consultant ~~determined by the panel, or the department when~~
13 ~~there is no board~~, in each case, until such time as the panel,
14 or the department when there is no board, is satisfied the
15 licensee has successfully completed an approved treatment
16 program.
- 17 4. The licensee has executed releases for medical
18 records, authorizing the release of all records of
19 evaluations, diagnoses, and treatment of the licensee,
20 including records of treatment for emotional or mental
21 conditions, to the consultant. The consultant shall make no
22 copies or reports of records that do not regard the issue of
23 the licensee's impairment and his or her participation in a
24 treatment program.

25 (b) If, however, the department has not received a
26 legally sufficient complaint and the licensee agrees to
27 withdraw from practice until such time as the consultant
28 determines the licensee has satisfactorily completed an
29 approved treatment program or evaluation, the probable cause
30 panel, or the department when there is no board, shall not
31 become involved in the licensee's case.

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

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

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

22 (f) A finding of probable cause shall not be made as
23 long as the panel, or the department when there is no board,
24 is satisfied, based upon information it receives from the
25 consultant and the department, that the licensee is
26 progressing satisfactorily in an approved impaired
27 practitioner treatment program and no other complaint against
28 the licensee exists.

29 Section 31. Subsection (1) of section 310.102, Florida
30 Statutes, is amended to read:

31 310.102 Treatment programs for impaired pilots and

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1 deputy pilots.--

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

8 Section 32. Section 455.711, Florida Statutes, is
9 amended to read:

10 455.711 Licenses; active and inactive and delinquent
11 status; delinquency.--

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

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

24 (3) Each board, or the department if there is no
25 board, shall by rule impose a fee for renewal of an active or
26 inactive status license. The renewal fee for an inactive
27 status license may not exceed ~~which is no greater than~~ the fee
28 for an active status license.

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

31 (a) Active status licensees choosing inactive status

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1 at the time of license renewal must pay the inactive status
2 renewal fee, and, if applicable, the delinquency fee and the
3 fee to change licensure status. Active status licensees
4 choosing inactive status at any other time than at the time of
5 license renewal must pay the fee to change licensure status.

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

24 (5) A licensee must apply with a complete application,
25 as defined by rule of the board, or the department if there is
26 no board, to renew an active ~~status~~ or inactive status license
27 before the license expires. If a licensee fails to renew
28 before the license expires, the license becomes delinquent in
29 the license cycle following expiration.

30 (6) A delinquent ~~status~~ licensee must affirmatively
31 apply with a complete application, as defined by rule of the

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1 board, or the department if there is no board, for active or
2 inactive status during the licensure cycle in which a licensee
3 becomes delinquent. Failure by a delinquent ~~status~~ licensee to
4 become active or inactive before the expiration of the current
5 licensure cycle renders the license null without any further
6 action by the board or the department. Any subsequent
7 licensure shall be as a result of applying for and meeting all
8 requirements imposed on an applicant for new licensure.

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

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

19 (9) Each board, or the department if there is no
20 board, may by rule impose reasonable conditions, excluding
21 full reexamination but including part of a national
22 examination or a special purpose examination to assess current
23 competency, necessary to ensure that a licensee who has been
24 on inactive status for more than two consecutive biennial
25 licensure cycles and who applies for active status can
26 practice with the care and skill sufficient to protect the
27 health, safety, and welfare of the public. Reactivation
28 requirements may differ depending on the length of time
29 licensees are inactive. The costs to meet reactivation
30 requirements shall be borne by licensees requesting
31 reactivation.

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

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

13 (12) This section does not apply to a business
14 establishment registered, permitted, or licensed by the
15 department to do business.

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

19 Section 33. Subsection (3) of section 455.587, Florida
20 Statutes, is amended to read:

21 455.587 Fees; receipts; disposition.--

22 (3) Each board, or the department if there is no
23 board, may, by rule, assess and collect a one-time fee from
24 each active status licensee and each ~~voluntary~~ inactive status
25 licensee in an amount necessary to eliminate a cash deficit
26 or, if there is not a cash deficit, in an amount sufficient to
27 maintain the financial integrity of the professions as
28 required in this section. Not more than one such assessment
29 may be made in any 4-year period without specific legislative
30 authorization.

31 Section 34. Subsection (1) of section 455.714, Florida

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1 Statutes, is amended to read:

2 455.714 Renewal and cancellation notices.--

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

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

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

11 Section 35. Section 455.719, Florida Statutes, is
12 created to read:

13 455.719 Health care professionals; exemption from
14 disqualification from employment or contracting.--Any other
15 provision of law to the contrary notwithstanding, only the
16 appropriate regulatory board, or the department when there is
17 no board, may grant an exemption from disqualification from
18 employment or contracting as provided in s. 435.07 to a person
19 under the licensing jurisdiction of that board or the
20 department, as applicable.

21 Section 36. Section 455.637, Florida Statutes, is
22 amended to read:

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

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

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

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

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

30 (b) In addition to the ~~foregoing~~ remedies under
 31 paragraph (a), the department may impose by citation an

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

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

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1 \$5,000 for each offense. The court may also award to the
2 prevailing party court costs and reasonable attorney fees and,
3 in the event the department prevails, may also award
4 reasonable costs of investigation and prosecution.

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

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

31 2. It is a felony of the second degree, punishable as

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

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

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

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

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

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1 ~~30 days after the citation is served, the citation shall~~
2 ~~become a final order of the department. The penalty shall be a~~
3 ~~fine of not less than \$500 or more than \$5,000 or other~~
4 ~~conditions as established by rule.~~

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

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

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

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

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

22 (5) Nothing herein shall be construed to limit or
23 restrict the sale, use, or recommendation of the use of a
24 dietary supplement, as defined by the Food, Drug, and Cosmetic
25 Act, Title 21, s. 321, so long as the person selling, using,
26 or recommending the dietary supplement does so in compliance
27 with federal and state law.

28 Section 37. Section 458.3135, Florida Statutes, is
29 created to read:

30 458.3135 Temporary certificate for visiting physicians
31 to practice in approved cancer centers.--

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1 (1) Any physician who has been accepted for a course
2 of training by a cancer center approved by the board and who
3 meets all of the qualifications set forth in this section may
4 be issued a temporary certificate to practice in a
5 board-approved cancer center under the International Cancer
6 Center Visiting Physician Program. A certificate may be issued
7 to a physician who will be training under the direct
8 supervision of a physician employed by or under contract with
9 an approved cancer center for a period of no more than 1 year.
10 The purpose of the International Cancer Center Visiting
11 Physician Program is to provide to internationally respected
12 and highly qualified physicians advanced education and
13 training on cancer treatment techniques developed at an
14 approved cancer center. The board may issue this temporary
15 certificate in accordance with the restrictions set forth in
16 this section.

17 (2) A temporary certificate for practice in an
18 approved cancer center may be issued without examination to an
19 individual who:

20 (a) Is a graduate of an accredited medical school or
21 its equivalent, or is a graduate of a foreign medical school
22 listed with the World Health Organization;

23 (b) Holds a valid and unencumbered license to practice
24 medicine in another country;

25 (c) Has completed the application form adopted by the
26 board and remitted a nonrefundable application fee not to
27 exceed \$300;

28 (d) Has not committed any act in this or any other
29 jurisdiction which would constitute the basis for disciplining
30 a physician under s. 455.624 or s. 458.331;

31 (e) Meets the financial responsibility requirements of

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1 s. 458.320; and

2 (f) Has been accepted for a course of training by a
3 cancer center approved by the board.

4 (3) The board shall by rule establish qualifications
5 for approval of cancer centers under this section, which at a
6 minimum shall require the cancer center to be licensed under
7 chapter 395 and have met the standards required to be a
8 National Cancer Institute-designated cancer center. The board
9 shall review the cancer centers approved under this section
10 not less than annually to ascertain that the minimum
11 requirements of this chapter and the rules adopted thereunder
12 are being complied with. If it is determined that such minimum
13 requirements are not being met by an approved cancer center,
14 the board shall rescind its approval of that cancer center and
15 no temporary certificate for that cancer center shall be valid
16 until such time as the board reinstates its approval of that
17 cancer center.

18 (4) A recipient of a temporary certificate for
19 practice in an approved cancer center may use the certificate
20 to practice for the duration of the course of training at the
21 approved cancer center so long as the duration of the course
22 does not exceed 1 year. If at any time the cancer center is no
23 longer approved by the board, the temporary certificate shall
24 expire and the recipient shall no longer be authorized to
25 practice in this state.

26 (5) A recipient of a temporary certificate for
27 practice in an approved cancer center is limited to practicing
28 in facilities owned or operated by that approved cancer center
29 and is limited to only practicing under the direct supervision
30 of a physician who holds a valid, active, and unencumbered
31 license to practice medicine in this state issued under this

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1 chapter or chapter 459.

2 (6) The board shall not issue a temporary certificate
3 for practice in an approved cancer center to any physician who
4 is under investigation in another jurisdiction for an act that
5 would constitute a violation of this chapter or chapter 455
6 until such time as the investigation is complete and the
7 physician is found innocent of all charges.

8 (7) A physician applying under this section is exempt
9 from the requirements of ss. 455.565-455.5656. All other
10 provisions of chapters 455 and 458 apply.

11 (8) In any year, the maximum number of temporary
12 certificates that may be issued by the board under this
13 section may not exceed 10 at each approved cancer center.

14 (9) The board may adopt rules pursuant to ss.
15 120.536(1) and 120.54 as necessary to implement this section.

16 (10) Nothing in this section may be construed to
17 authorize a physician who is not licensed to practice medicine
18 in this state to qualify for or otherwise engage in the
19 practice of medicine in this state, except as provided in this
20 section.

21 Section 38. Paragraph (i) of subsection (1), and
22 subsection (4) of section 458.3145, Florida Statutes, are
23 amended to read:

24 458.3145 Medical faculty certificate.--

25 (1) A medical faculty certificate may be issued
26 without examination to an individual who:

27 (a) Is a graduate of an accredited medical school or
28 its equivalent, or is a graduate of a foreign medical school
29 listed with the World Health Organization;

30 (b) Holds a valid, current license to practice
31 medicine in another jurisdiction;

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- 1 (c) Has completed the application form and remitted a
 2 nonrefundable application fee not to exceed \$500;
- 3 (d) Has completed an approved residency or fellowship
 4 of at least 1 year or has received training which has been
 5 determined by the board to be equivalent to the 1-year
 6 residency requirement;
- 7 (e) Is at least 21 years of age;
- 8 (f) Is of good moral character;
- 9 (g) Has not committed any act in this or any other
 10 jurisdiction which would constitute the basis for disciplining
 11 a physician under s. 458.331;
- 12 (h) For any applicant who has graduated from medical
 13 school after October 1, 1992, has completed, before entering
 14 medical school, the equivalent of 2 academic years of
 15 preprofessional, postsecondary education, as determined by
 16 rule of the board, which must include, at a minimum, courses
 17 in such fields as anatomy, biology, and chemistry; and
- 18 (i) Has been offered and has accepted a full-time
 19 faculty appointment to teach in a program of medicine at:
- 20 1. The University of Florida,
 21 2. The University of Miami,
 22 3. The University of South Florida, ~~or~~
 23 4. The Florida State University, or
 24 ~~5.~~ 5. The Mayo Medical School at the Mayo Clinic in
 25 Jacksonville, Florida.
- 26 (2) The certificate authorizes the holder to practice
 27 only in conjunction with his or her faculty position at an
 28 accredited medical school and its affiliated clinical
 29 facilities or teaching hospitals that are registered with the
 30 Board of Medicine as sites at which holders of medical faculty
 31 certificates will be practicing. Such certificate

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1 automatically expires when the holder's relationship with the
2 medical school is terminated or after a period of 24 months,
3 whichever occurs sooner, and is renewable every 2 years by a
4 holder who applies to the board on a form prescribed by the
5 board and provides certification by the dean of the medical
6 school that the holder is a distinguished medical scholar and
7 an outstanding practicing physician.

8 (3) The holder of a medical faculty certificate issued
9 under this section has all rights and responsibilities
10 prescribed by law for the holder of a license issued under s.
11 458.311, except as specifically provided otherwise by law.
12 Such responsibilities include compliance with continuing
13 medical education requirements as set forth by rule of the
14 board. A hospital or ambulatory surgical center licensed under
15 chapter 395, health maintenance organization certified under
16 chapter 641, insurer as defined in s. 624.03,
17 multiple-employer welfare arrangement as defined in s.
18 624.437, or any other entity in this state, in considering and
19 acting upon an application for staff membership, clinical
20 privileges, or other credentials as a health care provider,
21 may not deny the application of an otherwise qualified
22 physician for such staff membership, clinical privileges, or
23 other credentials solely because the applicant is a holder of
24 a medical faculty certificate under this section.

25 (4) In any year, the maximum number of extended
26 medical faculty certificateholders as provided in subsection
27 (2) may not exceed 15 persons at each institution named in
28 subparagraphs (1)(i)~~1-43~~. and at the facility named in s.
29 240.512 and may not exceed 5 persons at the institution named
30 in subparagraph (1)(i)~~54~~.

31 5. Annual review of all such certificate recipients

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1 will be made by the deans of the accredited 4-year medical
2 schools within this state and reported to the Board of
3 Medicine.

4 (5) Notwithstanding subsection (1), any physician,
5 when providing medical care or treatment in connection with
6 the education of students, residents, or faculty at the
7 request of the dean of an accredited medical school within
8 this state or at the request of the medical director of a
9 statutory teaching hospital as defined in s. 408.07, may do so
10 upon registration with the board and demonstration of
11 financial responsibility pursuant to s. 458.320(1) or (2)
12 unless such physician is exempt under s. 458.320(5)(a). The
13 performance of such medical care or treatment must be limited
14 to a single period of time, which may not exceed 180
15 consecutive days, and must be rendered within a facility
16 registered under subsection (2) or within a statutory teaching
17 hospital as defined in s. 408.07. A registration fee not to
18 exceed \$300, as set by the board, is required of each
19 physician registered under this subsection. However, no more
20 than three physicians per year per institution may be
21 registered under this subsection, and an exemption under this
22 subsection may not be granted to a physician more than once in
23 any given 5-year period.

24 Section 39. Subsection (5) is added to section
25 458.315, Florida Statutes, to read:

26 458.315 Temporary certificate for practice in areas of
27 critical need.--Any physician who is licensed to practice in
28 any other state, whose license is currently valid, and who
29 pays an application fee of \$300 may be issued a temporary
30 certificate to practice in communities of Florida where there
31 is a critical need for physicians. A certificate may be

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1 issued to a physician who will be employed by a county health
2 department, correctional facility, community health center
3 funded by s. 329, s. 330, or s. 340 of the United States
4 Public Health Services Act, or other entity that provides
5 health care to indigents and that is approved by the State
6 Health Officer. The Board of Medicine may issue this
7 temporary certificate with the following restrictions:

8 (5) The application fee and all licensure fees,
9 including neurological injury compensation assessments, shall
10 be waived for those persons obtaining a temporary certificate
11 to practice in areas of critical need for the purpose of
12 providing volunteer, uncompensated care for low-income
13 Floridians. The applicant must submit an affidavit from the
14 employing agency or institution stating that the physician
15 will not receive any compensation for any service involving
16 the practice of medicine.

17 Section 40. Section 458.345, Florida Statutes, is
18 amended to read:

19 458.345 Registration of resident physicians, interns,
20 and fellows; list of hospital employees; prescribing of
21 medicinal drugs; penalty.--

22 (1) Any person desiring to practice as a resident
23 physician, assistant resident physician, house physician,
24 intern, or fellow in fellowship training which leads to
25 subspecialty board certification in this state, or any person
26 desiring to practice as a resident physician, assistant
27 resident physician, house physician, intern, or fellow in
28 fellowship training in a teaching hospital in this state as
29 defined in s. 408.07(44) or s. 395.805(2), who does not hold a
30 valid, active license issued under this chapter shall apply to
31 the department to be registered and shall remit a fee not to

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1 exceed \$300 as set by the board. The department shall
2 register any applicant the board certifies has met the
3 following requirements:

4 (a) Is at least 21 years of age.

5 (b) Has not committed any act or offense within or
6 without the state which would constitute the basis for refusal
7 to certify an application for licensure pursuant to s.
8 458.331.

9 (c) Is a graduate of a medical school or college as
10 specified in s. 458.311(1)(f).

11 (2) The board shall not certify to the department for
12 registration any applicant who is under investigation in any
13 state or jurisdiction for an act which would constitute the
14 basis for imposing a disciplinary penalty specified in s.
15 458.331(2)(b) until such time as the investigation is
16 completed, at which time the provisions of s. 458.331 shall
17 apply.

18 (3) Every hospital or teaching hospital employing or
19 utilizing the services of a resident physician, assistant
20 resident physician, house physician, intern, or fellow in
21 fellowship training registered under this section ~~which leads~~
22 ~~to subspecialty board certification~~ shall designate a person
23 who shall, on dates designated by the board, in consultation
24 with the department, furnish the department with a list of
25 such ~~the~~ hospital's employees and such other information as
26 the board may direct. The chief executive officer of each
27 such hospital shall provide the executive director of the
28 board with the name, title, and address of the person
29 responsible for furnishing such reports.

30 (4) Registration under this section shall
31 automatically expire after 2 years without further action by

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1 the board or the department unless an application for renewal
2 is approved by the board. No person registered under this
3 section may be employed or utilized as a house physician or
4 act as a resident physician, an assistant resident physician,
5 an intern, or a fellow in fellowship training ~~which leads to a~~
6 ~~subspecialty board certification~~ in a hospital or teaching
7 hospital of this state for more than 2 years without a valid,
8 active license or renewal of registration under this section.
9 Requirements for renewal of registration shall be established
10 by rule of the board. An application fee not to exceed \$300
11 as set by the board shall accompany the application for
12 renewal, except that resident physicians, assistant resident
13 physicians, interns, and fellows in fellowship training
14 registered under this section ~~which leads to subspecialty~~
15 ~~board certification~~ shall be exempt from payment of any
16 renewal fees.

17 (5) Notwithstanding any provision of this section or
18 s. 120.52 to the contrary, any person who is registered under
19 this section is subject to the provisions of s. 458.331.

20 (6) A person registered as a resident physician under
21 this section may in the normal course of his or her employment
22 prescribe medicinal drugs described in schedules set out in
23 chapter 893 when:

24 (a) The person prescribes such medicinal drugs through
25 use of a Drug Enforcement Administration number issued to the
26 hospital or teaching hospital by which the person is employed
27 or at which the person's services are used;

28 (b) The person is identified by a discrete suffix to
29 the identification number issued to such ~~the~~ hospital; and

30 (c) The use of the institutional identification number
31 and individual suffixes conforms to the requirements of the

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1 federal Drug Enforcement Administration.

2 (7) Any person willfully violating this section
3 commits a misdemeanor of the first degree, punishable as
4 provided in s. 775.082 or s. 775.083.

5 (8) The board shall promulgate rules pursuant to ss.
6 120.536(1) and 120.54 as necessary to implement this section.

7 Section 41. Subsection (3) of section 458.348, Florida
8 Statutes, is created to read:

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

11 (3) PROTOCOLS REQUIRING DIRECT SUPERVISION.--All
12 protocols relating to electrolysis or electrology using laser
13 or light-based hair removal or reduction by persons other than
14 physicians licensed under this chapter or chapter 459 shall
15 require the person performing such service to be appropriately
16 trained and work only under the direct supervision and
17 responsibility of a physician licensed under this chapter or
18 chapter 459. All protocols relating to electrolysis or
19 electrology using needle-type epilation devices by persons
20 other than physicians licensed under this chapter or chapter
21 459 shall require the person performing such service to be
22 appropriately trained and work only under the general
23 supervision of a physician licensed under this chapter or
24 chapter 459.

25 Section 42. Section 459.021, Florida Statutes, is
26 amended to read:

27 459.021 Registration of resident physicians, interns,
28 and fellows; list of hospital employees; penalty.--

29 (1) Any person who holds a degree of Doctor of
30 Osteopathic Medicine from a college of osteopathic medicine
31 recognized and approved by the American Osteopathic

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1 Association who desires to practice as a resident physician,
2 assistant resident physician, house physician, intern, or
3 fellow in fellowship training which leads to subspecialty
4 board certification in this state, or any person desiring to
5 practice as a resident physician, assistant resident
6 physician, house physician, intern, or fellow in fellowship
7 training in a teaching hospital in this state as defined in s.
8 408.07(44) or s. 395.805(2),who does not hold an active
9 license issued under this chapter shall apply to the
10 department to be registered, on an application provided by the
11 department, within 30 days of commencing such a training
12 program and shall remit a fee not to exceed \$300 as set by the
13 board.

14 (2) Any person required to be registered under this
15 section shall renew such registration annually. Such
16 registration shall be terminated upon the registrant's receipt
17 of an active license issued under this chapter. No person
18 shall be registered under this section for an aggregate of
19 more than 5 years, unless additional years are approved by the
20 board.

21 (3) Every hospital or teaching hospital having
22 employed or contracted with or utilized the services of a
23 person who holds a degree of Doctor of Osteopathic Medicine
24 from a college of osteopathic medicine recognized and approved
25 by the American Osteopathic Association as a resident
26 physician, assistant resident physician, house physician,
27 intern, or fellow in fellowship training registered under this
28 section ~~which leads to subspecialty board certification~~ shall
29 designate a person who shall furnish, on dates designated by
30 the board, in consultation with the department, to the
31 department a list of all such persons who have served in such

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1 ~~the~~ hospital during the preceding 6-month period. The chief
2 executive officer of each such hospital shall provide the
3 executive director of the board with the name, title, and
4 address of the person responsible for filing such reports.

5 (4) The registration may be revoked or the department
6 may refuse to issue any registration for any cause which would
7 be a ground for its revocation or refusal to issue a license
8 to practice osteopathic medicine, as well as on the following
9 grounds:

10 (a) Omission of the name of an intern, resident
11 physician, assistant resident physician, house physician, or
12 fellow in fellowship training from the list of employees
13 required by subsection (3) to be furnished to the department
14 by the hospital or teaching hospital served by the employee.

15 (b) Practicing osteopathic medicine outside of a bona
16 fide hospital training program.

17 (5) It is a misdemeanor of the second degree,
18 punishable as provided in s. 775.082 or s. 775.083 for any
19 hospital or teaching hospital, and also for the
20 superintendent, administrator, and other person or persons
21 having administrative authority in such ~~a~~ hospital:

22 (a) To employ the services in such ~~the~~ hospital of any
23 person listed in subsection (3), unless such person is
24 registered with the department under the law or the holder of
25 a license to practice osteopathic medicine under this chapter.

26 (b) To fail to furnish to the department the list and
27 information required by subsection (3).

28 (6) Any person desiring registration pursuant to this
29 section shall meet all the requirements of s. 459.0055.

30 (7) The board shall promulgate rules pursuant to ss.
31 120.536(1) and 120.54 as necessary to implement this section.

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1 (8) Notwithstanding any provision of this section or
2 s. 120.52 to the contrary, any person who is registered under
3 this section is subject to the provisions of s. 459.015.

4 (9) A person registered as a resident physician under
5 this section may in the normal course of his or her employment
6 prescribe medicinal drugs described in schedules set out in
7 chapter 893 when:

8 (a) The person prescribes such medicinal drugs through
9 use of a Drug Enforcement Administration number issued to the
10 hospital or teaching hospital by which the person is employed
11 or at which the person's services are used;

12 (b) The person is identified by a discrete suffix to
13 the identification number issued to such ~~the~~ hospital; and

14 (c) The use of the institutional identification number
15 and individual suffixes conforms to the requirements of the
16 federal Drug Enforcement Administration.

17 Section 43. Paragraph (d) is added to subsection (9)
18 of section 458.347, Florida Statutes, to read:

19 458.347 Physician assistants.--

20 (9) COUNCIL ON PHYSICIAN ASSISTANTS.--The Council on
21 Physician Assistants is created within the department.

22 (a) The council shall consist of five members
23 appointed as follows:

24 1. The chairperson of the Board of Medicine shall
25 appoint three members who are physicians and members of the
26 Board of Medicine. One of the physicians must supervise a
27 physician assistant in the physician's practice.

28 2. The chairperson of the Board of Osteopathic
29 Medicine shall appoint one member who is a physician and a
30 member of the Board of Osteopathic Medicine.

31 3. The secretary of the department or his or her

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1 designee shall appoint a fully licensed physician assistant
2 licensed under this chapter or chapter 459.

3 (b) Two of the members appointed to the council must
4 be physicians who supervise physician assistants in their
5 practice. Members shall be appointed to terms of 4 years,
6 except that of the initial appointments, two members shall be
7 appointed to terms of 2 years, two members shall be appointed
8 to terms of 3 years, and one member shall be appointed to a
9 term of 4 years, as established by rule of the boards.
10 Council members may not serve more than two consecutive terms.
11 The council shall annually elect a chairperson from among its
12 members.

13 (c) The council shall:

14 1. Recommend to the department the licensure of
15 physician assistants.

16 2. Develop all rules regulating the use of physician
17 assistants by physicians under this chapter and chapter 459,
18 except for rules relating to the formulary developed under
19 paragraph (4)(f). The council shall also develop rules to
20 ensure that the continuity of supervision is maintained in
21 each practice setting. The boards shall consider adopting a
22 proposed rule developed by the council at the regularly
23 scheduled meeting immediately following the submission of the
24 proposed rule by the council. A proposed rule submitted by
25 the council may not be adopted by either board unless both
26 boards have accepted and approved the identical language
27 contained in the proposed rule. The language of all proposed
28 rules submitted by the council must be approved by both boards
29 pursuant to each respective board's guidelines and standards
30 regarding the adoption of proposed rules. If either board
31 rejects the council's proposed rule, that board must specify

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1 its objection to the council with particularity and include
2 any recommendations it may have for the modification of the
3 proposed rule.

4 3. Make recommendations to the boards regarding all
5 matters relating to physician assistants.

6 4. Address concerns and problems of practicing
7 physician assistants in order to improve safety in the
8 clinical practices of licensed physician assistants.

9 (d) When the Council finds that an applicant for
10 licensure has failed to meet, to the Council's satisfaction,
11 each of the requirements for licensure set forth in this
12 section, the Council may enter an order to:

13 1. Refuse to certify the applicant for licensure;

14 2. Approve the applicant for licensure with
15 restrictions on the scope of practice or license; or

16 3. Approve the applicant for conditional licensure.

17 Such conditions may include placement of the licensee on
18 probation for a period of time and subject to such conditions
19 as the Council may specify, including but not limited to,
20 requiring the licensee to undergo treatment, to attend
21 continuing education courses, to work under the direct
22 supervision of a physician licensed in this state, or to take
23 corrective action.

24 Section 44. Paragraph (d) is added to subsection (9)
25 of section 459.022, Florida Statutes, to read:

26 459.022 Physician assistants.--

27 (9) COUNCIL ON PHYSICIAN ASSISTANTS.--The Council on
28 Physician Assistants is created within the department.

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

31 1. The chairperson of the Board of Medicine shall

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1 appoint three members who are physicians and members of the
2 Board of Medicine. One of the physicians must supervise a
3 physician assistant in the physician's practice.

4 2. The chairperson of the Board of Osteopathic
5 Medicine shall appoint one member who is a physician and a
6 member of the Board of Osteopathic Medicine.

7 3. The secretary of the department or her or his
8 designee shall appoint a fully licensed physician assistant
9 licensed under chapter 458 or this chapter.

10 (b) Two of the members appointed to the council must
11 be physicians who supervise physician assistants in their
12 practice. Members shall be appointed to terms of 4 years,
13 except that of the initial appointments, two members shall be
14 appointed to terms of 2 years, two members shall be appointed
15 to terms of 3 years, and one member shall be appointed to a
16 term of 4 years, as established by rule of the boards.
17 Council members may not serve more than two consecutive terms.
18 The council shall annually elect a chairperson from among its
19 members.

20 (c) The council shall:

21 1. Recommend to the department the licensure of
22 physician assistants.

23 2. Develop all rules regulating the use of physician
24 assistants by physicians under chapter 458 and this chapter,
25 except for rules relating to the formulary developed under s.
26 458.347(4)(f). The council shall also develop rules to ensure
27 that the continuity of supervision is maintained in each
28 practice setting. The boards shall consider adopting a
29 proposed rule developed by the council at the regularly
30 scheduled meeting immediately following the submission of the
31 proposed rule by the council. A proposed rule submitted by

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1 the council may not be adopted by either board unless both
2 boards have accepted and approved the identical language
3 contained in the proposed rule. The language of all proposed
4 rules submitted by the council must be approved by both boards
5 pursuant to each respective board's guidelines and standards
6 regarding the adoption of proposed rules. If either board
7 rejects the council's proposed rule, that board must specify
8 its objection to the council with particularity and include
9 any recommendations it may have for the modification of the
10 proposed rule.

11 3. Make recommendations to the boards regarding all
12 matters relating to physician assistants.

13 4. Address concerns and problems of practicing
14 physician assistants in order to improve safety in the
15 clinical practices of licensed physician assistants.

16 (d) When the Council finds that an applicant for
17 licensure has failed to meet, to the Council's satisfaction,
18 each of the requirements for licensure set forth in this
19 section, the Council may enter an order to:

20 1. Refuse to certify the applicant for licensure;

21 2. Approve the applicant for licensure with
22 restrictions on the scope of practice or license; or

23 3. Approve the applicant for conditional licensure.

24 Such conditions may include placement of the licensee on
25 probation for a period of time and subject to such conditions
26 as the Council may specify, including but not limited to,
27 requiring the licensee to undergo treatment, to attend
28 continuing education courses, to work under the direct
29 supervision of a physician licensed in this state, or to take
30 corrective action.

31 Section 45. The amendment of s. 455.637, Florida

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1 Statutes, by this act applies to offenses committed on or
2 after the effective date of such section.

3 Section 46. Section 455.641, Florida Statutes, is
4 repealed.

5 Section 47. For the purpose of incorporating the
6 amendment to section 455.637, Florida Statutes, in references
7 thereto, the sections or subdivisions of Florida Statutes set
8 forth below are reenacted to read:

9 455.574 Department of Health; examinations.--

10 (1)

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

25 468.1295 Disciplinary proceedings.--

26 (1) The following acts constitute grounds for both
27 disciplinary actions as set forth in subsection (2) and cease
28 and desist or other related actions by the department as set
29 forth in s. 455.637:

30 (a) Procuring or attempting to procure a license by
31 bribery, by fraudulent misrepresentation, or through an error

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1 of the department or the board.

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

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

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

17 (e) Advertising goods or services in a manner which is
18 fraudulent, false, deceptive, or misleading in form or
19 content.

20 (f) Being proven guilty of fraud or deceit or of
21 negligence, incompetency, or misconduct in the practice of
22 speech-language pathology or audiology.

23 (g) Violating a lawful order of the board or
24 department previously entered in a disciplinary hearing, or
25 failing to comply with a lawfully issued subpoena of the board
26 or department.

27 (h) Practicing with a revoked, suspended, inactive, or
28 delinquent license.

29 (i) Using, or causing or promoting the use of, any
30 advertising matter, promotional literature, testimonial,
31 guarantee, warranty, label, brand, insignia, or other

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1 representation, however disseminated or published, which is
2 misleading, deceiving, or untruthful.

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

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

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

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

16 (n) Misrepresenting the professional services
17 available in the fitting, sale, adjustment, service, or repair
18 of a hearing aid, or using any other term or title which might
19 connote the availability of professional services when such
20 use is not accurate.

21 (o) Representing, advertising, or implying that a
22 hearing aid or its repair is guaranteed without providing full
23 disclosure of the identity of the guarantor; the nature,
24 extent, and duration of the guarantee; and the existence of
25 conditions or limitations imposed upon the guarantee.

26 (p) Representing, directly or by implication, that a
27 hearing aid utilizing bone conduction has certain specified
28 features, such as the absence of anything in the ear or
29 leading to the ear, or the like, without disclosing clearly
30 and conspicuously that the instrument operates on the bone
31 conduction principle and that in many cases of hearing loss

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1 this type of instrument may not be suitable.

2 (q) Stating or implying that the use of any hearing
3 aid will improve or preserve hearing or prevent or retard the
4 progression of a hearing impairment or that it will have any
5 similar or opposite effect.

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

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

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

17 (u) Failing to notify the department in writing of a
18 change in current mailing and place-of-practice address within
19 30 days after such change.

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

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

25 (x) Practicing or offering to practice beyond the
26 scope permitted by law or accepting and performing
27 professional responsibilities the licensee or
28 certificateholder knows, or has reason to know, the licensee
29 or certificateholder is not competent to perform.

30 (y) Aiding, assisting, procuring, or employing any
31 unlicensed person to practice speech-language pathology or

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1 audiology.

2 (z) Delegating or contracting for the performance of
3 professional responsibilities by a person when the licensee
4 delegating or contracting for performance of such
5 responsibilities knows, or has reason to know, such person is
6 not qualified by training, experience, and authorization to
7 perform them.

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

11 (bb) Being unable to practice the profession for which
12 he or she is licensed or certified under this chapter with
13 reasonable skill or competence as a result of any mental or
14 physical condition or by reason of illness, drunkenness, or
15 use of drugs, narcotics, chemicals, or any other substance. In
16 enforcing this paragraph, upon a finding by the secretary, his
17 or her designee, or the board that probable cause exists to
18 believe that the licensee or certificateholder is unable to
19 practice the profession because of the reasons stated in this
20 paragraph, the department shall have the authority to compel a
21 licensee or certificateholder to submit to a mental or
22 physical examination by a physician, psychologist, clinical
23 social worker, marriage and family therapist, or mental health
24 counselor designated by the department or board. If the
25 licensee or certificateholder refuses to comply with the
26 department's order directing the examination, such order may
27 be enforced by filing a petition for enforcement in the
28 circuit court in the circuit in which the licensee or
29 certificateholder resides or does business. The department
30 shall be entitled to the summary procedure provided in s.
31 51.011. A licensee or certificateholder affected under this

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1 paragraph shall at reasonable intervals be afforded an
2 opportunity to demonstrate that he or she can resume the
3 competent practice for which he or she is licensed or
4 certified with reasonable skill and safety to patients.

5 484.014 Disciplinary actions.--

6 (1) The following acts relating to the practice of
7 opticianry shall be grounds for both disciplinary action
8 against an optician as set forth in this section and cease and
9 desist or other related action by the department as set forth
10 in s. 455.637 against any person operating an optical
11 establishment who engages in, aids, or abets any such
12 violation:

13 (a) Procuring or attempting to procure a license by
14 misrepresentation, bribery, or fraud or through an error of
15 the department or the board.

16 (b) Procuring or attempting to procure a license for
17 any other person by making or causing to be made any false
18 representation.

19 (c) Making or filing a report or record which the
20 licensee knows to be false, intentionally or negligently
21 failing to file a report or record required by federal or
22 state law, willfully impeding or obstructing such filing, or
23 inducing another person to do so. Such reports or records
24 shall include only those which the person is required to make
25 or file as an optician.

26 (d) Failing to make fee or price information readily
27 available by providing such information upon request or upon
28 the presentation of a prescription.

29 (e) Advertising goods or services in a manner which is
30 fraudulent, false, deceptive, or misleading in form or
31 content.

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- 1 (f) Fraud or deceit, or negligence, incompetency, or
2 misconduct, in the authorized practice of opticianry.
- 3 (g) Violation or repeated violation of this part or of
4 part II of chapter 455 or any rules promulgated pursuant
5 thereto.
- 6 (h) Practicing with a revoked, suspended, inactive, or
7 delinquent license.
- 8 (i) Violation of a lawful order of the board or
9 department previously entered in a disciplinary hearing or
10 failing to comply with a lawfully issued subpoena of the
11 department.
- 12 (j) Violation of any provision of s. 484.012.
- 13 (k) Conspiring with another licensee or with any
14 person to commit an act, or committing an act, which would
15 coerce, intimidate, or preclude another licensee from lawfully
16 advertising her or his services.
- 17 (l) Willfully submitting to any third-party payor a
18 claim for services which were not provided to a patient.
- 19 (m) Failing to keep written prescription files.
- 20 (n) Willfully failing to report any person who the
21 licensee knows is in violation of this part or of rules of the
22 department or the board.
- 23 (o) Exercising influence on a client in such a manner
24 as to exploit the client for financial gain of the licensee or
25 of a third party.
- 26 (p) Gross or repeated malpractice.
- 27 (q) Permitting any person not licensed as an optician
28 in this state to fit or dispense any lenses, spectacles,
29 eyeglasses, or other optical devices which are part of the
30 practice of opticianry.
- 31 (r) Being convicted or found guilty of, or entering a

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1 plea of nolo contendere to, regardless of adjudication, in a
2 court of this state or other jurisdiction, a crime which
3 relates to the ability to practice opticianry or to the
4 practice of opticianry.

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

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

16 484.056 Disciplinary proceedings.--

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

24 (a) Violation of any provision of s. 455.624(1), s.
25 484.0512, or s. 484.053.

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

29 (c) Having a license to dispense hearing aids revoked,
30 suspended, or otherwise acted against, including the denial of
31 licensure, by the licensing authority of another state,

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1 territory, or country.

2 (d) Being convicted or found guilty of, or entering a
3 plea of nolo contendere to, regardless of adjudication, a
4 crime in any jurisdiction which directly relates to the
5 practice of dispensing hearing aids or the ability to practice
6 dispensing hearing aids, including violations of any federal
7 laws or regulations regarding hearing aids.

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

16 (f) Advertising goods or services in a manner which is
17 fraudulent, false, deceptive, or misleading in form or
18 content.

19 (g) Proof that the licensee is guilty of fraud or
20 deceit or of negligence, incompetency, or misconduct in the
21 practice of dispensing hearing aids.

22 (h) Violation or repeated violation of this part or of
23 part II of chapter 455, or any rules promulgated pursuant
24 thereto.

25 (i) Violation of a lawful order of the board or
26 department previously entered in a disciplinary hearing or
27 failure to comply with a lawfully issued subpoena of the board
28 or department.

29 (j) Practicing with a revoked, suspended, inactive, or
30 delinquent license.

31 (k) Using, or causing or promoting the use of, any

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1 advertising matter, promotional literature, testimonial,
2 guarantee, warranty, label, brand, insignia, or other
3 representation, however disseminated or published, which is
4 misleading, deceiving, or untruthful.

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

8 (m) Misrepresentation of professional services
9 available in the fitting, sale, adjustment, service, or repair
10 of a hearing aid, or use of the terms "doctor," "clinic,"
11 "clinical," "medical audiologist," "clinical audiologist,"
12 "research audiologist," or "audiologic" or any other term or
13 title which might connote the availability of professional
14 services when such use is not accurate.

15 (n) Representation, advertisement, or implication that
16 a hearing aid or its repair is guaranteed without providing
17 full disclosure of the identity of the guarantor; the nature,
18 extent, and duration of the guarantee; and the existence of
19 conditions or limitations imposed upon the guarantee.

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

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

30 (q) Stating or implying that the use of any hearing
31 aid will improve or preserve hearing or prevent or retard the

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1 progression of a hearing impairment or that it will have any
2 similar or opposite effect.

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

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

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

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

18 (v) Failing to provide all information as described in
19 s. 484.051(1).

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

23 Section 48. Paragraphs (a) and (g) of subsection (3)
24 of section 921.0022, Florida Statutes, are amended to read:

25 921.0022 Criminal Punishment Code; offense severity
26 ranking chart.--

27 (3) OFFENSE SEVERITY RANKING CHART

28

29 Florida	Felony	
30 Statute	Degree	Description

31

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1			(a) LEVEL 1
2	24.118(3)(a)	3rd	Counterfeit or altered state
3			lottery ticket.
4	212.054(2)(b)	3rd	Discretionary sales surtax;
5			limitations, administration, and
6			collection.
7	212.15(2)(b)	3rd	Failure to remit sales taxes,
8			amount greater than \$300 but less
9			than \$20,000.
10	319.30(5)	3rd	Sell, exchange, give away
11			certificate of title or
12			identification number plate.
13	319.35(1)(a)	3rd	Tamper, adjust, change, etc., an
14			odometer.
15	320.26(1)(a)	3rd	Counterfeit, manufacture, or sell
16			registration license plates or
17			validation stickers.
18	322.212(1)	3rd	Possession of forged, stolen,
19			counterfeit, or unlawfully issued
20			driver's license; possession of
21			simulated identification.
22	322.212(4)	3rd	Supply or aid in supplying
23			unauthorized driver's license or
24			identification card.
25	322.212(5)(a)	3rd	False application for driver's
26			license or identification card.
27	370.13(3)(a)	3rd	Molest any stone crab trap, line,
28			or buoy which is property of
29			licenseholder.
30	370.135(1)	3rd	Molest any blue crab trap, line,
31			or buoy which is property of

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1			licenseholder.
2	372.663(1)	3rd	Poach any alligator or
3			crocodilia.
4	414.39(2)	3rd	Unauthorized use, possession,
5			forgery, or alteration of food
6			stamps, Medicaid ID, value
7			greater than \$200.
8	414.39(3)(a)	3rd	Fraudulent misappropriation of
9			public assistance funds by
10			employee/official, value more
11			than \$200.
12	443.071(1)	3rd	False statement or representation
13			to obtain or increase
14			unemployment compensation
15			benefits.
16	458.327(1)(a)	3rd	Unlicensed practice of medicine.
17	466.026(1)(a)	3rd	Unlicensed practice of dentistry
18			or dental hygiene.
19	509.151(1)	3rd	Defraud an innkeeper, food or
20			lodging value greater than \$300.
21	517.302(1)	3rd	Violation of the Florida
22			Securities and Investor
23			Protection Act.
24	562.27(1)	3rd	Possess still or still apparatus.
25	713.69	3rd	Tenant removes property upon
26			which lien has accrued, value
27			more than \$50.
28	812.014(3)(c)	3rd	Petit theft (3rd conviction);
29			theft of any property not
30			specified in subsection (2).
31			

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1	812.081(2)	3rd	Unlawfully makes or causes to be
2			made a reproduction of a trade
3			secret.
4	815.04(4)(a)	3rd	Offense against intellectual
5			property (i.e., computer
6			programs, data).
7	817.52(2)	3rd	Hiring with intent to defraud,
8			motor vehicle services.
9	826.01	3rd	Bigamy.
10	828.122(3)	3rd	Fighting or baiting animals.
11	831.04(1)	3rd	Any erasure, alteration, etc., of
12			any replacement deed, map, plat,
13			or other document listed in s.
14			92.28.
15	831.31(1)(a)	3rd	Sell, deliver, or possess
16			counterfeit controlled
17			substances, all but s. 893.03(5)
18			drugs.
19	832.041(1)	3rd	Stopping payment with intent to
20			defraud \$150 or more.
21	832.05		
22	(2)(b)&(4)(c)	3rd	Knowing, making, issuing
23			worthless checks \$150 or more or
24			obtaining property in return for
25			worthless check \$150 or more.
26	838.015(3)	3rd	Bribery.
27	838.016(1)	3rd	Public servant receiving unlawful
28			compensation.
29	838.15(2)	3rd	Commercial bribe receiving.
30	838.16	3rd	Commercial bribery.
31			

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1	843.18	3rd	Fleeing by boat to elude a law enforcement officer.
2			
3	847.011(1)(a)	3rd	Sell, distribute, etc., obscene, lewd, etc., material (2nd conviction).
4			
5			
6	849.01	3rd	Keeping gambling house.
7	849.09(1)(a)-(d)	3rd	Lottery; set up, promote, etc., or assist therein, conduct or advertise drawing for prizes, or dispose of property or money by means of lottery.
8			
9			
10			
11			
12	849.23	3rd	Gambling-related machines; "common offender" as to property rights.
13			
14			
15	849.25(2)	3rd	Engaging in bookmaking.
16	860.08	3rd	Interfere with a railroad signal.
17	860.13(1)(a)	3rd	Operate aircraft while under the influence.
18			
19	893.13(2)(a)2.	3rd	Purchase of cannabis.
20	893.13(6)(a)	3rd	Possession of cannabis (more than 20 grams).
21			
22	893.13(7)(a)10.	3rd	Affix false or forged label to package of controlled substance.
23			
24	934.03(1)(a)	3rd	Intercepts, or procures any other person to intercept, any wire or oral communication.
25			
26			
27			(g) LEVEL 7
28	316.193(3)(c)2.	3rd	DUI resulting in serious bodily injury.
29			
30	327.35(3)(c)2.	3rd	Vessel BUI resulting in serious bodily injury.
31			

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1	402.319(2)	2nd	Misrepresentation and negligence
2			or intentional act resulting in
3			great bodily harm, permanent
4			disfiguration, permanent
5			disability, or death.
6	409.920(2)	3rd	Medicaid provider fraud.
7	<u>455.637(2)</u>	<u>3rd</u>	<u>Practicing a health care</u>
8			<u>profession without a license.</u>
9	<u>455.637(2)</u>	<u>2nd</u>	<u>Practicing a health care</u>
10			<u>profession without a license</u>
11			<u>which results in serious bodily</u>
12			<u>injury.</u>
13	<u>458.327(1)</u>	<u>3rd</u>	<u>Practicing medicine without a</u>
14			<u>license.</u>
15	<u>459.013(1)</u>	<u>3rd</u>	<u>Practicing osteopathic medicine</u>
16			<u>without a license.</u>
17	<u>460.411(1)</u>	<u>3rd</u>	<u>Practicing chiropractic medicine</u>
18			<u>without a license.</u>
19	<u>461.012(1)</u>	<u>3rd</u>	<u>Practicing podiatric medicine</u>
20			<u>without a license.</u>
21	<u>462.17</u>	<u>3rd</u>	<u>Practicing naturopathy without a</u>
22			<u>license.</u>
23	<u>463.015(1)</u>	<u>3rd</u>	<u>Practicing optometry without a</u>
24			<u>license.</u>
25	<u>464.016(1)</u>	<u>3rd</u>	<u>Practicing nursing without a</u>
26			<u>license.</u>
27	<u>465.015(2)</u>	<u>3rd</u>	<u>Practicing pharmacy without a</u>
28			<u>license.</u>
29	<u>466.026(1)</u>	<u>3rd</u>	<u>Practicing dentistry or dental</u>
30			<u>hygiene without a license.</u>
31			

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1	<u>467.201</u>	<u>3rd</u>	<u>Practicing midwifery without a</u>
2			<u>license.</u>
3	<u>468.366</u>	<u>3rd</u>	<u>Delivering respiratory care</u>
4			<u>services without a license.</u>
5	<u>483.828(1)</u>	<u>3rd</u>	<u>Practicing as clinical laboratory</u>
6			<u>personnel without a license.</u>
7	<u>483.901(9)</u>	<u>3rd</u>	<u>Practicing medical physics</u>
8			<u>without a license.</u>
9	<u>484.053</u>	<u>3rd</u>	<u>Dispensing hearing aids without a</u>
10			<u>license.</u>
11	494.0018(2)	1st	Conviction of any violation of
12			ss. 494.001-494.0077 in which the
13			total money and property
14			unlawfully obtained exceeded
15			\$50,000 and there were five or
16			more victims.
17	782.051(3)	2nd	Attempted felony murder of a
18			person by a person other than the
19			perpetrator or the perpetrator of
20			an attempted felony.
21	782.07(1)	2nd	Killing of a human being by the
22			act, procurement, or culpable
23			negligence of another
24			(manslaughter).
25	782.071	2nd	Killing of human being or viable
26			fetus by the operation of a motor
27			vehicle in a reckless manner
28			(vehicular homicide).
29	782.072	2nd	Killing of a human being by the
30			operation of a vessel in a
31			reckless manner (vessel

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1			homicide).
2	784.045(1)(a)1.	2nd	Aggravated battery; intentionally
3			causing great bodily harm or
4			disfigurement.
5	784.045(1)(a)2.	2nd	Aggravated battery; using deadly
6			weapon.
7	784.045(1)(b)	2nd	Aggravated battery; perpetrator
8			aware victim pregnant.
9	784.048(4)	3rd	Aggravated stalking; violation of
10			injunction or court order.
11	784.07(2)(d)	1st	Aggravated battery on law
12			enforcement officer.
13	784.08(2)(a)	1st	Aggravated battery on a person 65
14			years of age or older.
15	784.081(1)	1st	Aggravated battery on specified
16			official or employee.
17	784.082(1)	1st	Aggravated battery by detained
18			person on visitor or other
19			detainee.
20	784.083(1)	1st	Aggravated battery on code
21			inspector.
22	790.07(4)	1st	Specified weapons violation
23			subsequent to previous conviction
24			of s. 790.07(1) or (2).
25	790.16(1)	1st	Discharge of a machine gun under
26			specified circumstances.
27	796.03	2nd	Procuring any person under 16
28			years for prostitution.
29	800.04(5)(c)1.	2nd	Lewd or lascivious molestation;
30			victim less than 12 years of age;
31			offender less than 18 years.

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1	800.04(5)(c)2.	2nd	Lewd or lascivious molestation;
2			victim 12 years of age or older
3			but less than 16 years; offender
4			18 years or older.
5	806.01(2)	2nd	Maliciously damage structure by
6			fire or explosive.
7	810.02(3)(a)	2nd	Burglary of occupied dwelling;
8			unarmed; no assault or battery.
9	810.02(3)(b)	2nd	Burglary of unoccupied dwelling;
10			unarmed; no assault or battery.
11	810.02(3)(d)	2nd	Burglary of occupied conveyance;
12			unarmed; no assault or battery.
13	812.014(2)(a)	1st	Property stolen, valued at
14			\$100,000 or more; property stolen
15			while causing other property
16			damage; 1st degree grand theft.
17	812.019(2)	1st	Stolen property; initiates,
18			organizes, plans, etc., the theft
19			of property and traffics in
20			stolen property.
21	812.131(2)(a)	2nd	Robbery by sudden snatching.
22	812.133(2)(b)	1st	Carjacking; no firearm, deadly
23			weapon, or other weapon.
24	825.102(3)(b)	2nd	Neglecting an elderly person or
25			disabled adult causing great
26			bodily harm, disability, or
27			disfigurement.
28	825.1025(2)	2nd	Lewd or lascivious battery upon
29			an elderly person or disabled
30			adult.
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1	825.103(2)(b)	2nd	Exploiting an elderly person or
2			disabled adult and property is
3			valued at \$20,000 or more, but
4			less than \$100,000.
5	827.03(3)(b)	2nd	Neglect of a child causing great
6			bodily harm, disability, or
7			disfigurement.
8	827.04(3)	3rd	Impregnation of a child under 16
9			years of age by person 21 years
10			of age or older.
11	837.05(2)	3rd	Giving false information about
12			alleged capital felony to a law
13			enforcement officer.
14	872.06	2nd	Abuse of a dead human body.
15	893.13(1)(c)1.	1st	Sell, manufacture, or deliver
16			cocaine (or other drug prohibited
17			under s. 893.03(1)(a), (1)(b),
18			(1)(d), (2)(a), or (2)(b)) within
19			1,000 feet of a child care
20			facility or school.
21	893.13(1)(e)	1st	Sell, manufacture, or deliver
22			cocaine or other drug prohibited
23			under s. 893.03(1)(a), (1)(b),
24			(1)(d), (2)(a), or (2)(b), within
25			1,000 feet of property used for
26			religious services or a specified
27			business site.
28	893.13(4)(a)	1st	Deliver to minor cocaine (or
29			other s. 893.03(1)(a), (1)(b),
30			(1)(d), (2)(a), or (2)(b) drugs).
31			

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- 1 893.135(1)(a)1. 1st Trafficking in cannabis, more
- 2 than 50 lbs., less than 2,000
- 3 lbs.
- 4 893.135
- 5 (1)(b)1.a. 1st Trafficking in cocaine, more than
- 6 28 grams, less than 200 grams.
- 7 893.135
- 8 (1)(c)1.a. 1st Trafficking in illegal drugs,
- 9 more than 4 grams, less than 14
- 10 grams.
- 11 893.135
- 12 (1)(d)1. 1st Trafficking in phencyclidine,
- 13 more than 28 grams, less than 200
- 14 grams.
- 15 893.135(1)(e)1. 1st Trafficking in methaqualone, more
- 16 than 200 grams, less than 5
- 17 kilograms.
- 18 893.135(1)(f)1. 1st Trafficking in amphetamine, more
- 19 than 14 grams, less than 28
- 20 grams.
- 21 893.135
- 22 (1)(g)1.a. 1st Trafficking in flunitrazepam, 4
- 23 grams or more, less than 14
- 24 grams.

25 Section 49. Subsection (1) of section 458.327, Florida
26 Statutes, reads:

- 27 458.327 Penalty for violations.--
- 28 (1) Each of the following acts constitutes a felony of
- 29 the third degree, punishable as provided in s. 775.082, s.
- 30 775.083, or s. 775.084:
- 31 (a) The practice of medicine or an attempt to practice

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1 medicine without a license to practice in Florida.

2 (b) The use or attempted use of a license which is
3 suspended or revoked to practice medicine.

4 (c) Attempting to obtain or obtaining a license to
5 practice medicine by knowing misrepresentation.

6 (d) Attempting to obtain or obtaining a position as a
7 medical practitioner or medical resident in a clinic or
8 hospital through knowing misrepresentation of education,
9 training, or experience.

10 Section 50. Subsection (1) of section 459.013, Florida
11 Statutes, reads:

12 459.013 Penalty for violations.--

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

16 (a) The practice of osteopathic medicine, or an
17 attempt to practice osteopathic medicine, without an active
18 license or certificate issued pursuant to this chapter.

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

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

25 (d) Attempting to obtain or obtaining a position as an
26 osteopathic medical practitioner or osteopathic medical
27 resident in a clinic or hospital through knowing
28 misrepresentation of education, training, or experience.

29 Section 51. Subsection (1) of section 460.411, Florida
30 Statutes, reads:

31 460.411 Violations and penalties.--

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

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

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

10 Section 52. Subsection (1) of section 461.012, Florida
11 Statutes, reads:

12 461.012 Violations and penalties.--

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

17 (a) Practicing or attempting to practice podiatric
18 medicine without an active license or with a license
19 fraudulently obtained.

20 (b) Advertising podiatric services without an active
21 license obtained pursuant to this chapter or with a license
22 fraudulently obtained.

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

25 Section 53. Section 462.17, Florida Statutes, reads:

26 462.17 Penalty for offenses relating to

27 naturopathy.--Any person who shall:

28 (1) Sell, fraudulently obtain, or furnish any
29 naturopathic diploma, license, record, or registration or aid
30 or abet in the same;

31 (2) Practice naturopathy under the cover of any

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1 diploma, license, record, or registration illegally or
2 fraudulently obtained or secured or issued unlawfully or upon
3 fraudulent representations;

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

6 (4) Falsely impersonate another practitioner of a like
7 or different name;

8 (5) Practice or advertise to practice naturopathy or
9 use in connection with her or his name any designation tending
10 to imply or to designate the person as a practitioner of
11 naturopathy without then being lawfully licensed and
12 authorized to practice naturopathy in this state; or

13 (6) Practice naturopathy during the time her or his
14 license is suspended or revoked

15
16 shall be guilty of a felony of the third degree, punishable as
17 provided in s. 775.082, s. 775.083, or s. 775.084.

18 Section 54. Subsection (1) of section 463.015, Florida
19 Statutes, reads:

20 463.015 Violations and penalties.--

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

24 (a) Practicing or attempting to practice optometry
25 without a valid active license issued pursuant to this
26 chapter.

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

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

31 Section 55. Subsection (1) of section 464.016, Florida

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1 Statutes, reads:

2 464.016 Violations and penalties.--

3 (1) Each of the following acts constitutes a felony of
4 the third degree, punishable as provided in s. 775.082, s.
5 775.083, or s. 775.084:

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

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

11 (c) Knowingly employing unlicensed persons in the
12 practice of nursing.

13 (d) Obtaining or attempting to obtain a license or
14 certificate under this chapter by misleading statements or
15 knowing misrepresentation.

16 Section 56. Subsection (2) of section 465.015, Florida
17 Statutes, reads:

18 465.015 Violations and penalties.--

19 (2) It is unlawful for any person:

20 (a) To make a false or fraudulent statement, either
21 for herself or himself or for another person, in any
22 application, affidavit, or statement presented to the board or
23 in any proceeding before the board.

24 (b) To fill, compound, or dispense prescriptions or to
25 dispense medicinal drugs if such person does not hold an
26 active license as a pharmacist in this state, is not
27 registered as an intern in this state, or is an intern not
28 acting under the direct and immediate personal supervision of
29 a licensed pharmacist.

30 (c) To sell or dispense drugs as defined in s.
31 465.003(8) without first being furnished with a prescription.

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1 (d) To sell samples or complimentary packages of drug
2 products.

3 Section 57. Subsection (1) of section 466.026, Florida
4 Statutes, reads:

5 466.026 Prohibitions; penalties.--

6 (1) Each of the following acts constitutes a felony of
7 the third degree, punishable as provided in s. 775.082, s.
8 775.083, or s. 775.084:

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

12 (b) Using or attempting to use a license issued
13 pursuant to this chapter which license has been suspended or
14 revoked.

15 (c) Knowingly employing any person to perform duties
16 outside the scope allowed such person under this chapter or
17 the rules of the board.

18 (d) Giving false or forged evidence to the department
19 or board for the purpose of obtaining a license.

20 (e) Selling or offering to sell a diploma conferring a
21 degree from a dental college or dental hygiene school or
22 college, or a license issued pursuant to this chapter, or
23 procuring such diploma or license with intent that it shall be
24 used as evidence of that which the document stands for, by a
25 person other than the one upon whom it was conferred or to
26 whom it was granted.

27 Section 58. Section 467.201, Florida Statutes, reads:

28 467.201 Violations and penalties.--Each of the
29 following acts constitutes a felony of the third degree,
30 punishable as provided in s. 775.082, s. 775.083, or s.
31 775.084:

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1 (1) Practicing midwifery, unless holding an active
2 license to do so.

3 (2) Using or attempting to use a license which has
4 been suspended or revoked.

5 (3) The willful practice of midwifery by a student
6 midwife without a preceptor present, except in an emergency.

7 (4) Knowingly allowing a student midwife to practice
8 midwifery without a preceptor present, except in an emergency.

9 (5) Obtaining or attempting to obtain a license under
10 this chapter through bribery or fraudulent misrepresentation.

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

15 (7) Knowingly concealing information relating to the
16 enforcement of this chapter or rules adopted pursuant thereto.

17 Section 59. Section 468.366, Florida Statutes, reads:
18 468.366 Penalties for violations.--

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

21 (a) Sell or fraudulently obtain, attempt to obtain, or
22 furnish to any person a diploma, license, or record, or aid or
23 abet in the sale, procurement, or attempted procurement
24 thereof.

25 (b) Deliver respiratory care services, as defined by
26 this part or by rule of the board, under cover of any diploma,
27 license, or record that was illegally or fraudulently obtained
28 or signed or issued unlawfully or under fraudulent
29 representation.

30 (c) Deliver respiratory care services, as defined by
31 this part or by rule of the board, unless such person is duly

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1 licensed to do so under the provisions of this part or unless
2 such person is exempted pursuant to s. 468.368.

3 (d) Use, in connection with his or her name, any
4 designation tending to imply that he or she is a respiratory
5 care practitioner or a respiratory therapist, duly licensed
6 under the provisions of this part, unless he or she is so
7 licensed.

8 (e) Advertise an educational program as meeting the
9 requirements of this part, or conduct an educational program
10 for the preparation of respiratory care practitioners or
11 respiratory therapists, unless such program has been approved
12 by the board.

13 (f) Knowingly employ unlicensed persons in the
14 delivery of respiratory care services, unless exempted by this
15 part.

16 (g) Knowingly conceal information relative to any
17 violation of this part.

18 (2) Any violation of this section is a felony of the
19 third degree, punishable as provided in s. 775.082, s.
20 775.083, or s. 775.084.

21 Section 60. Subsection (1) of section 483.828, Florida
22 Statutes, reads:

23 483.828 Penalties for violations.--

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

27 (a) Practicing as clinical laboratory personnel
28 without an active license.

29 (b) Using or attempting to use a license to practice
30 as clinical laboratory personnel which is suspended or
31 revoked.

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1 (c) Attempting to obtain or obtaining a license to
2 practice as clinical laboratory personnel by knowing
3 misrepresentation.

4 Section 61. Subsection (9) of section 483.901, Florida
5 Statutes, reads:

6 483.901 Medical physicists; definitions; licensure.--

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

10 (a) Practice or attempt to practice medical physics or
11 hold oneself out to be a licensed medical physicist without
12 holding an active license.

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

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

17 Section 62. Section 484.053, Florida Statutes, reads:
18 484.053 Prohibitions; penalties.--

19 (1) A person may not:

20 (a) Practice dispensing hearing aids unless the person
21 is a licensed hearing aid specialist;

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

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

25 (d) Give false, incomplete, or forged evidence to the
26 board or a member thereof for the purposes of obtaining a
27 license;

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

31 (f) Knowingly employ unlicensed persons in the

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1 practice of dispensing hearing aids; or

2 (g) Knowingly conceal information relative to
3 violations of this part.

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

7 (3) If a person licensed under this part allows the
8 sale of a hearing aid by an unlicensed person not registered
9 as a trainee or fails to comply with the requirements of s.
10 484.0445(2) relating to supervision of trainees, the board
11 shall, upon determination of that violation, order the full
12 refund of moneys paid by the purchaser upon return of the
13 hearing aid to the seller's place of business.

14 Section 63. Subsection (1) of section 457.102, Florida
15 Statutes, is amended to read:

16 457.102 Definitions.--As used in this chapter:

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

29 Section 64. Section 457.105, Florida Statutes, is
30 amended to read:

31 457.105 Licensure qualifications and fees.--

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

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

7 (a) Is 21 ~~18~~ years of age or older, has good moral
8 character, and has the ability to communicate in English,
9 which is demonstrated by having passed the national written
10 examination in English or, if such examination was passed in a
11 foreign language, by also having passed a nationally
12 recognized English proficiency examination;

13 (b) Has completed 60 college credits from an
14 accredited postsecondary institution as a prerequisite to
15 enrollment in an authorized 3-year course of study in
16 acupuncture and oriental medicine, and has completed a 3-year
17 course of study in acupuncture and oriental medicine, and
18 effective July 31, 2001, a 4-year course of study in
19 acupuncture and oriental medicine, which meets standards
20 established by the board by rule, which standards include, but
21 are not limited to, successful completion of academic courses
22 in western anatomy, western physiology, western pathology,
23 western biomedical terminology, first aid, and cardiopulmonary
24 resuscitation (CPR). However, any person who enrolled in an
25 authorized course of study in acupuncture before August 1,
26 1997, must have completed only a 2-year course of study which
27 meets standards established by the board by rule, which
28 standards must include, but are not limited to, successful
29 completion of academic courses in western anatomy, western
30 physiology, and western pathology;

31 (c) Has successfully completed a board-approved

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1 national certification process, is actively licensed in a
2 state that has examination requirements that are substantially
3 equivalent to or more stringent than those of this state, or
4 passes an examination administered by the department, which
5 examination tests the applicant's competency and knowledge of
6 the practice of acupuncture and oriental medicine. At the
7 request of any applicant, oriental nomenclature for the points
8 shall be used in the examination. The examination shall
9 include a practical examination of the knowledge and skills
10 required to practice modern and traditional acupuncture and
11 oriental medicine, covering diagnostic and treatment
12 techniques and procedures; and

13 (d) Pays the required fees set by the board by rule
14 not to exceed the following amounts:

15 1. Examination fee: \$500 plus the actual per applicant
16 cost to the department for purchase of the written and
17 practical portions of the examination from a national
18 organization approved by the board.

19 2. Application fee: \$300.

20 3. Reexamination fee: \$500 plus the actual per
21 applicant cost to the department for purchase of the written
22 and practical portions of the examination from a national
23 organization approved by the board.

24 4. Initial biennial licensure fee: \$400, if licensed
25 in the first half of the biennium, and \$200, if licensed in
26 the second half of the biennium.

27 Section 65. Subsection (1) of section 457.107, Florida
28 Statutes, is amended to read:

29 457.107 Renewal of licenses; continuing education.--

30 (1) The department shall renew a license upon receipt
31 of the renewal application and the fee set by the board by

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1 rule, not to exceed ~~\$500~~\$700.

2 Section 66. Section 483.824, Florida Statutes, is
3 amended to read:

4 483.824 Qualifications of clinical laboratory
5 director.--A clinical laboratory director must have 4 years of
6 clinical laboratory experience with 2 years of experience in
7 the specialty to be directed or be nationally board certified
8 in the specialty to be directed, and must meet one of the
9 following requirements:

10 (1) Be a physician licensed under chapter 458 or
11 chapter 459;

12 (2) Hold an earned doctoral degree in a chemical,
13 physical, or biological science from a regionally accredited
14 institution and maintain national certification requirements
15 equal to those required by the federal Health Care Financing
16 Administration ~~be nationally certified~~; or

17 (3) For the subspecialty of oral pathology, be a
18 physician licensed under chapter 458 or chapter 459 or a
19 dentist licensed under chapter 466.

20 Section 67. Subsection (11) of section 641.51, Florida
21 Statutes, is created to read:

22 641.51 Quality assurance program; second medical
23 opinion requirement.--

24 (11) If a contracted primary care physician, licensed
25 under Chapter 458 or Chapter 459, and the organization
26 determine that a subscriber requires examination by a licensed
27 ophthalmologist for medically necessary, contractually covered
28 services, then the organization shall authorize the contracted
29 primary care physician to send the subscriber to a contracted
30 licensed ophthalmologist,

31 Section 68. February 6th of each year is designated

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1 Florida Alzheimer's Disease Day.

2 Section 69. Subsections (4) through (10) of section
3 641.51, Florida Statutes, are redesignated as subsections (5)
4 through (11), respectively, and a new subsection (4) is added
5 to said section to read:

6 641.51 Quality assurance program; second medical
7 opinion requirement.--

8 (4) The organization shall ensure that only a
9 physician licensed under chapter 458 or chapter 459 or an
10 allopathic or osteopathic physician with an active,
11 unencumbered license in another state with similar licensing
12 requirements may render an adverse determination regarding a
13 service provided by a physician licensed in this state. The
14 organization shall submit to the treating provider and the
15 subscriber written notification regarding the organization's
16 adverse determination within 2 working days after the
17 subscriber or provider is notified of the adverse
18 determination. The written notification must include the
19 utilization review criteria or benefits provisions used in the
20 adverse determination, identify the physician who rendered the
21 adverse determination, and be signed by an authorized
22 representative of the organization or the physician who
23 rendered the adverse determination. The organization must
24 include with the notification of an adverse determination
25 information concerning the appeal process for adverse
26 determinations.

27 Section 70. Subsection (2) of section 766.106, Florida
28 Statutes, is amended to read:

29 766.106 Notice before filing action for medical
30 malpractice; presuit screening period; offers for admission of
31 liability and for arbitration; informal discovery; review.--

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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 3, line 1, after the semicolon,

4

5 insert:

6 providing an appropriation for continued review
7 of clinical laboratory services for kidney
8 dialysis patients and requiring a report
9 thereon; creating the Florida Commission on
10 Excellence in Health Care; providing
11 legislative findings and intent; providing
12 definitions; providing duties and
13 responsibilities; providing for membership,
14 organization, meetings, procedures, and staff;
15 providing for reimbursement of travel and
16 related expenses of certain members; providing
17 certain evidentiary prohibitions; requiring a
18 report to the Governor, the President of the
19 Senate, and the Speaker of the House of
20 Representatives; providing for termination of
21 the commission; providing appropriations;
22 amending s. 455.564, F.S.; revising general
23 licensing provisions for professions under the
24 jurisdiction of the Department of Health;
25 providing for processing of applications from
26 foreign or nonresident applicants not yet
27 having a social security number; providing for
28 temporary licensure of such applicants;
29 revising provisions relating to ongoing
30 criminal investigations or prosecutions;
31 requiring proof of restoration of civil rights

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1 under certain circumstances; authorizing
2 requirement for personal appearance prior to
3 grant or denial of a license; providing for
4 tolling of application decision deadlines under
5 certain circumstances; amending s. 455.565,
6 F.S.; eliminating duplicative submission of
7 fingerprints and other information required for
8 criminal history checks; providing for certain
9 access to criminal history information through
10 the department's health care practitioner
11 credentialing system; amending s. 455.5651,
12 F.S.; authorizing the department to publish
13 certain information in practitioner profiles;
14 amending s. 455.5653, F.S.; deleting obsolete
15 language relating to scheduling and development
16 of practitioner profiles for additional health
17 care practitioners; providing the department
18 access to information on health care
19 practitioners maintained by the Agency for
20 Health Care Administration for corroboration
21 purposes; amending s. 455.5654, F.S.; providing
22 for adoption by rule of a form for submission
23 of profiling information; amending s. 455.567,
24 F.S.; expanding the prohibition against sexual
25 misconduct to cover violations against
26 guardians and representatives of patients or
27 clients; providing penalties; amending s.
28 455.624, F.S.; revising and providing grounds
29 for disciplinary action relating to having a
30 license to practice a regulated health care
31 profession acted against, sexual misconduct,

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1 inability to practice properly due to alcohol
2 or substance abuse or a mental or physical
3 condition, and testing positive for a drug
4 without a lawful prescription therefor;
5 providing for restriction of license as a
6 disciplinary action; providing for issuance of
7 a citation and assessment of a fine for certain
8 first-time violations; reenacting ss. 455.577,
9 455.631, 455.651(2), 455.712(1), 458.347(7)(g),
10 459.022(7)(f), 468.1755(1)(a), 468.719(1)(a)
11 and (2), 468.811, and 484.056(1)(a), F.S.,
12 relating to theft or reproduction of an
13 examination, giving false information,
14 disclosure of confidential information,
15 business establishments providing regulated
16 services without an active status license, and
17 practice violations by physician assistants,
18 nursing home administrators, athletic trainers,
19 orthotists, prosthetists, pedorthists, and
20 hearing aid specialists, to incorporate the
21 amendment to s. 455.624, F.S., in references
22 thereto; repealing s. 455.704, F.S., relating
23 to the Impaired Practitioners Committee;
24 amending s. 455.707, F.S., relating to impaired
25 practitioners, to conform; clarifying
26 provisions relating to complaints against
27 impaired practitioners; amending s. 310.102,
28 F.S.; revising and removing references, to
29 conform; amending s. 455.711, F.S.; revising
30 provisions relating to active and inactive
31 status licensure; eliminating reference to

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1 delinquency as a licensure status; providing
2 rulemaking authority; amending ss. 455.587 and
3 455.714, F.S.; revising references, to conform;
4 creating s. 455.719, F.S.; providing that the
5 appropriate medical regulatory board, or the
6 department when there is no board, has
7 exclusive authority to grant exemptions from
8 disqualification from employment or contracting
9 with respect to persons under the licensing
10 jurisdiction of that board or the department,
11 as applicable; amending s. 455.637, F.S.;

12 revising provisions relating to sanctions
13 against the unlicensed practice of a health
14 care profession; providing legislative intent;
15 revising and expanding provisions relating to
16 civil and administrative remedies; providing
17 criminal penalties; incorporating and modifying
18 the substance of current provisions that impose
19 a fee to combat unlicensed activity and provide
20 for disposition of the proceeds thereof;
21 providing statutory construction relating to
22 dietary supplements; creating s. 458.3135,
23 F.S.; providing for temporary certification for
24 visiting physicians to practice in approved
25 cancer centers; providing certification
26 requirements; providing fees; providing for
27 approval of cancer centers and annual review of
28 such approval; providing practice limitations
29 and conditions; limiting the number of
30 certificates that may be issued; providing
31 rulemaking authority; amending s. 458.3145,

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1 F.S.; adding medical schools to list of
2 programs at which medical faculty
3 certificateholders may practice; amending s.
4 458.315, F.S.; waiving application and
5 licensure fees for physicians obtaining a
6 temporary certificate to practice in areas of
7 critical need when such practice is limited to
8 volunteer, uncompensated care for low-income
9 persons; amending ss. 458.345 and 459.021,
10 F.S.; providing for registration of persons
11 desiring to practice as a resident physician,
12 assistant resident physician, house physician,
13 intern, or fellow in fellowship training in a
14 statutory teaching hospital; providing
15 requirements; providing fees; providing
16 penalties; providing rulemaking authority;
17 amending s. 458.348, F.S.; requiring protocols
18 to contain specified requirements; amending s.
19 458.347, F.S.; providing authority to the
20 Council on Physician Assistants to refuse to
21 certify an applicant for licensure or place
22 restrictions or conditions on license; amending
23 s. 459.022, F.S.; providing authority to the
24 Council on Physician Assistants to refuse to
25 certify an applicant for licensure or place
26 restrictions or conditions on license;
27 providing applicability; repealing s. 455.641,
28 F.S., relating to unlicensed activity fees, to
29 conform; reenacting ss. 455.574(1)(d),
30 468.1295(1), 484.014(1), and 484.056(1), F.S.,
31 relating to violation of security provisions

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1 for examinations and violations involving
2 speech-language pathology, audiology,
3 opticianry, and the dispensing of hearing aids,
4 to incorporate the amendment to s. 455.637,
5 F.S., in references thereto; amending s.
6 921.0022, F.S.; modifying the criminal offense
7 severity ranking chart to add or increase the
8 level of various offenses relating to the
9 practice of a health care profession, the
10 practice of medicine, osteopathic medicine,
11 chiropractic medicine, podiatric medicine,
12 naturopathy, optometry, nursing, pharmacy,
13 dentistry, dental hygiene, midwifery,
14 respiratory therapy, and medical physics,
15 practicing as clinical laboratory personnel,
16 and the dispensing of hearing aids; reading ss.
17 458.327, 459.013, 460.411, 461.012, 462.17,
18 463.015, 464.016, 465.015, 466.026, 467.201,
19 468.366, 483.828, 483.901, 484.053, F.S.;
20 providing penalties; amending s. 457.102, F.S.;
21 revising the definition of "acupuncture";
22 amending s. 457.105, F.S.; revising licensure
23 qualifications to practice acupuncture;
24 amending s. 457.107, F.S.; modifying the fee
25 for renewal of a license to practice
26 acupuncture; amending s. 483.824, F.S.;
27 revising qualifications of clinical laboratory
28 directors; amending s. 641.51, F.S.; providing
29 for referral to ophthalmologist under certain
30 circumstances; designating Florida Alzheimer's
31 Disease Day; amending s. 766.106, F.S.;

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1 providing that following the initiation of a
2 suit alleging medical malpractice the claimant
3 must provide notice to the Department of Health
4 along with a copy of the service of process;
5 amending s. 641.51, F.S., relating to quality
6 assurance program requirements for certain
7 managed care organizations; allowing the
8 rendering of adverse determinations by
9 physicians licensed in Florida or states with
10 similar requirements; requiring the submission
11 of facts and documentation pertaining to
12 rendered adverse determinations; providing
13 timeframe for organizations to submit facts and
14 documentation to providers and subscribers in
15 writing; requiring an authorized representative
16 to sign the notification;

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