

1 amending s. 455.557, F.S.; including advanced
2 registered nurse practitioners under the
3 credentialing program; creating s. 455.56503,
4 F.S.; requiring advanced registered nurse
5 practitioners to submit information and
6 fingerprints for profiling purposes; amending
7 s. 455.5651, F.S.; authorizing the department
8 to publish certain information in practitioner
9 profiles; amending s. 455.5653, F.S.; deleting
10 obsolete language relating to scheduling and
11 development of practitioner profiles for
12 additional health care practitioners; providing
13 access to information on advanced registered
14 nurse practitioners maintained by the Agency
15 for Health Care Administration for
16 corroboration purposes; amending s. 455.5654,
17 F.S.; providing for adoption by rule of a form
18 for submission of profiling information;
19 providing an appropriation; providing an
20 effective date.

21
22 Be It Enacted by the Legislature of the State of Florida:

23
24 Section 1. Sections 468.821 through 468.829, Florida
25 Statutes, are renumbered as sections 464.201 through 464.209,
26 respectively, designated as part II of chapter 464, Florida
27 Statutes, and amended to read:

28 464.201 ~~468.821~~ Definitions.--As used in this part,
29 the term:

30 (1) "Approved training program" means:

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

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

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

10 (3)~~(2)~~ "Certified nursing assistant" means a person
11 who meets the qualifications specified in this part and who is
12 certified by the board ~~department~~ as a certified nursing
13 assistant.

14 (4)~~(3)~~ "Department" means the Department of Health.

15 (5)~~(4)~~ "Registry" means the listing of certified
16 nursing assistants maintained by the board ~~department~~.

17 464.202 ~~468.822~~ Duties and powers of the board
18 ~~department~~.--The board ~~department~~ shall maintain, or contract
19 with or approve another entity to maintain, a state registry
20 of certified nursing assistants. The registry must consist of
21 the name of each certified nursing assistant in this state;
22 other identifying information defined by board ~~department~~
23 rule; certification status; the effective date of
24 certification; other information required by state or federal
25 law; information regarding any crime or any abuse, neglect, or
26 exploitation as provided under chapter 435; and any
27 disciplinary action taken against the certified nursing
28 assistant. The registry shall be accessible to the public, the
29 certificateholder, employers, and other state agencies. The
30 board ~~department~~ shall adopt by rule testing procedures for
31 use in certifying nursing assistants and shall adopt rules

1 regulating the practice of certified nursing assistants to
2 enforce this part. The board ~~department~~ may contract with or
3 approve another entity or organization to provide the
4 examination services, including the development and
5 administration of examinations. The provider shall pay all
6 reasonable costs and expenses incurred by the board ~~department~~
7 in evaluating the provider's application and performance
8 during the delivery of services, including examination
9 services and procedures for maintaining the certified nursing
10 assistant registry.

11 464.203 ~~468.823~~ Certified nursing assistants;
12 certification requirement.--

13 (1) The board ~~department~~ shall issue a certificate to
14 practice as a certified nursing assistant to any person who
15 demonstrates to the board a minimum competency to read and
16 write and meets one of the following requirements:

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

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

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

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

7 (2) If an applicant fails to pass the nursing
8 assistant competency examination in three attempts, the
9 applicant is not eligible for reexamination unless the
10 applicant completes an approved training program.

11 (3) An oral examination shall be administered as a
12 substitute for the written portion of the examination upon
13 request. The oral examination shall be administered at a site
14 and by personnel approved by the department.

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

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

20 464.204 ~~468.824~~ Denial, suspension, or revocation of
21 certification; disciplinary actions.--

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

25 (a) Obtaining or attempting to obtain certification or
26 an exemption, or possessing or attempting to possess
27 certification or a letter of exemption, by bribery,
28 misrepresentation, deceit, or through an error of the board
29 ~~department~~.

30
31

1 (b) ~~Intentionally~~ Violating any provision of this
2 chapter, chapter 455, or the rules adopted by the board
3 ~~department~~.

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

8 (a) Denial, suspension, or revocation of
9 certification.

10 (b) Imposition of an administrative fine not to exceed
11 \$150 for each count or separate offense.

12 (c) Imposition of probation or restriction of
13 certification, including conditions such as corrective actions
14 as retraining or compliance with an approved treatment program
15 for impaired practitioners.

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

25 464.205 ~~468.825~~ Availability of disciplinary records
26 and proceedings.--Pursuant to s. 455.621, any complaint or
27 record maintained by the department ~~of Health~~ pursuant to the
28 discipline of a certified nursing assistant and any proceeding
29 held by the board ~~department~~ to discipline a certified nursing
30 assistant shall remain open and available to the public.

31

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

19 464.207 ~~468.827~~ Penalties.--It is a misdemeanor of the
20 first degree, punishable as provided under s. 775.082 or s.
21 775.083, for any person, knowingly or intentionally, to fail
22 to disclose, by false statement, misrepresentation,
23 impersonation, or other fraudulent means, in any application
24 for voluntary or paid employment or certification ~~licensure~~
25 regulated under this part, a material fact used in making a
26 determination as to such person's qualifications to be an
27 employee or certificateholder ~~licensee~~.

28 464.208 ~~468.828~~ Background screening information;
29 rulemaking authority.--

30 (1) The Agency for Health Care Administration shall
31 allow the board ~~department~~ to electronically access its

1 background screening database and records, and the Department
2 of Children and Family Services shall allow the board
3 ~~department~~ to electronically access its central abuse registry
4 and tracking system under chapter 415.

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

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

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

20 464.209 ~~468.829~~ Certified nursing assistant
21 registry.--

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

31

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

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

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

15 Section 2. Paragraph (g) of subsection (3) of section
16 20.43, Florida Statutes, is amended to read:

17 20.43 Department of Health.--There is created a
18 Department of Health.

19 (3) The following divisions of the Department of
20 Health are established:

21 (g) Division of Medical Quality Assurance, which is
22 responsible for the following boards and professions
23 established within the division:

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

25 ~~1.2.~~ Health care services pools, as provided under s.
26 402.48.

27 ~~2.3.~~ The Board of Acupuncture, created under chapter
28 457.

29 ~~3.4.~~ The Board of Medicine, created under chapter 458.

30 ~~4.5.~~ The Board of Osteopathic Medicine, created under
31 chapter 459.

- 1 ~~5.6.~~ The Board of Chiropractic Medicine, created under
2 chapter 460.
- 3 ~~6.7.~~ The Board of Podiatric Medicine, created under
4 chapter 461.
- 5 ~~7.8.~~ Naturopathy, as provided under chapter 462.
- 6 ~~8.9.~~ The Board of Optometry, created under chapter
7 463.
- 8 ~~9.10.~~ The Board of Nursing, created under part I of
9 chapter 464.
- 10 10. Nursing assistants, as provided under part II of
11 chapter 464.
- 12 11. The Board of Pharmacy, created under chapter 465.
- 13 12. The Board of Dentistry, created under chapter 466.
- 14 13. Midwifery, as provided under chapter 467.
- 15 14. The Board of Speech-Language Pathology and
16 Audiology, created under part I of chapter 468.
- 17 15. The Board of Nursing Home Administrators, created
18 under part II of chapter 468.
- 19 16. The Board of Occupational Therapy, created under
20 part III of chapter 468.
- 21 17. Respiratory therapy, as provided under part V of
22 chapter 468.
- 23 18. Dietetics and nutrition practice, as provided
24 under part X of chapter 468.
- 25 19. The Board of Athletic Training, created under part
26 XIII of chapter 468.
- 27 20. The Board of Orthotists and Prosthetists, created
28 under part XIV of chapter 468.
- 29 21. Electrolysis, as provided under chapter 478.
- 30 22. The Board of Massage Therapy, created under
31 chapter 480.

1 23. The Board of Clinical Laboratory Personnel,
2 created under part III of chapter 483.

3 24. Medical physicists, as provided under part IV of
4 chapter 483.

5 25. The Board of Opticianry, created under part I of
6 chapter 484.

7 26. The Board of Hearing Aid Specialists, created
8 under part II of chapter 484.

9 27. The Board of Physical Therapy Practice, created
10 under chapter 486.

11 28. The Board of Psychology, created under chapter
12 490.

13 29. School psychologists, as provided under chapter
14 490.

15 30. The Board of Clinical Social Work, Marriage and
16 Family Therapy, and Mental Health Counseling, created under
17 chapter 491.

18

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

24 Section 3. Subsection (38) of section 39.01, Florida
25 Statutes, is amended to read:

26 39.01 Definitions.--When used in this chapter, unless
27 the context otherwise requires:

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

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

3 Section 4. Paragraph (b) of subsection (1) of section
4 39.304, Florida Statutes, is amended to read:

5 39.304 Photographs, medical examinations, X rays, and
6 medical treatment of abused, abandoned, or neglected child.--

7 (1)

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

25 Section 5. Paragraph (c) of subsection (6) of section
26 110.131, Florida Statutes, is amended to read:

27 110.131 Other-personal-services temporary
28 employment.--

29 (6)

30 (c) Notwithstanding the provisions of this section,
31 the agency head or his or her designee may extend the

1 other-personal-services employment of a health care
2 practitioner licensed pursuant to chapter 458, chapter 459,
3 chapter 460, chapter 461, chapter 463, part I of chapter 464,
4 chapter 466, chapter 468, chapter 483, chapter 486, or chapter
5 490 beyond 2,080 hours and may employ such practitioner on an
6 hourly or other basis.

7 Section 6. Subsection (1) of section 232.46, Florida
8 Statutes, is amended to read:

9 232.46 Administration of medication by school district
10 personnel.--

11 (1) Notwithstanding the provisions of the Nurse
12 Practice Act, part I of chapter 464, school district personnel
13 shall be authorized to assist students in the administration
14 of prescription medication when the following conditions have
15 been met:

16 (a) Each district school board shall include in its
17 approved school health services plan a procedure to provide
18 training, by a registered nurse, a licensed practical nurse, a
19 physician licensed pursuant to chapter 458 or chapter 459, or
20 a physician assistant licensed pursuant to chapter 458 or
21 chapter 459, to the school personnel designated by the
22 principal to assist students in the administration of
23 prescribed medication. Such training may be provided in
24 collaboration with other school districts, through contract
25 with an education consortium, or by any other arrangement
26 consistent with the intent of this section.

27 (b) Each district school board shall adopt policies
28 and procedures governing the administration of prescription
29 medication by school district personnel. The policies and
30 procedures shall include, but not be limited to, the following
31 provisions:

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

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

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

19 240.4075 Nursing Student Loan Forgiveness Program.--

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

31

1 Section 8. Paragraph (b) of subsection (1) of section
2 246.081, Florida Statutes, is amended to read:

3 246.081 License, certificate of exemption, or
4 authorization required; exceptions.--

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

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

14 Section 9. Subsection (2) of section 310.102, Florida
15 Statutes, is amended to read:

16 310.102 Treatment programs for impaired pilots and
17 deputy pilots.--

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

29 Section 10. Subsection (7) of section 381.0302,
30 Florida Statutes, is amended to read:

31 381.0302 Florida Health Services Corps.--

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

16 Section 11. Subsection (1) of section 384.30, Florida
17 Statutes, is amended to read:

18 384.30 Minors' consent to treatment.--

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

30 Section 12. Section 384.31, Florida Statutes, is
31 amended to read:

1 384.31 Serological testing of pregnant women; duty of
2 the attendant.--
3 (1) Every person, including every physician licensed
4 under chapter 458 or chapter 459 or midwife licensed under
5 part I of chapter 464 or chapter 467, attending a pregnant
6 woman for conditions relating to pregnancy during the period
7 of gestation and delivery shall take or cause to be taken a
8 sample of venous blood at a time or times specified by the
9 department. Each sample of blood shall be tested by a
10 laboratory approved for such purposes under part I of chapter
11 483 for sexually transmissible diseases as required by rule of
12 the department.
13 (2) At the time the venous blood sample is taken,
14 testing for human immunodeficiency virus (HIV) infection shall
15 be offered to each pregnant woman. The prevailing professional
16 standard of care in this state requires each health care
17 provider and midwife who attends a pregnant woman to counsel
18 the woman to be tested for human immunodeficiency virus (HIV).
19 Counseling shall include a discussion of the availability of
20 treatment if the pregnant woman tests HIV positive. If a
21 pregnant woman objects to HIV testing, reasonable steps shall
22 be taken to obtain a written statement of such objection,
23 signed by the patient, which shall be placed in the patient's
24 medical record. Every person, including every physician
25 licensed under chapter 458 or chapter 459 or midwife licensed
26 under part I of chapter 464 or chapter 467, who attends a
27 pregnant woman who has been offered and objects to HIV testing
28 shall be immune from liability arising out of or related to
29 the contracting of HIV infection or acquired immune deficiency
30 syndrome (AIDS) by the child from the mother.
31

1 Section 13. Subsection (23) of section 394.455,
2 Florida Statutes, is amended to read:

3 394.455 Definitions.--As used in this part, unless the
4 context clearly requires otherwise, the term:

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

10 Section 14. Paragraphs (a) and (b) of subsection (2)
11 and subsection (4) of section 395.0191, Florida Statutes, are
12 amended to read:

13 395.0191 Staff membership and clinical privileges.--

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

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

31

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

21 Section 15. Subsection (11) of section 400.021,
22 Florida Statutes, is amended to read:

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

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

28 Section 16. Section 400.211, Florida Statutes, is
29 amended to read:

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

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

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

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

15 (b) Persons who have been positively verified by the
16 department ~~a state-approved test site~~ as certified and on the
17 registry in another state with no findings of abuse, but who
18 have not completed the ~~written~~ examination required under s.
19 464.203 ~~this section.~~

20
21 The certification requirement must be met within 4 months
22 after ~~of~~ initial employment as a nursing assistant in a
23 licensed nursing facility.

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

1 good faith communicates his or her honest opinion about a
2 former employee's job performance.

3 Section 17. Paragraph (b) of subsection (4) of section
4 400.215, Florida Statutes, is amended to read:

5 400.215 Personnel screening requirement.--

6 (4)

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

14 Section 18. Subsections (12) and (14) of section
15 400.402, Florida Statutes, are amended to read:

16 400.402 Definitions.--When used in this part, the
17 term:

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

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

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

7 Section 19. Paragraphs (a) and (b) of subsection (3)
8 of section 400.407, Florida Statutes, are amended to read:

9 400.407 License required; fee, display.--

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

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

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

31

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

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

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

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

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

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

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

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

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

25 f. Implement the concept of managed risk.

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

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

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

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

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

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

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- 1 8. Failure to provide extended congregate care
2 services may result in denial of extended congregate care
3 license renewal.
- 4 9. No later than January 1 of each year, the
5 department, in consultation with the agency, shall prepare and
6 submit to the Governor, the President of the Senate, the
7 Speaker of the House of Representatives, and the chairs of
8 appropriate legislative committees, a report on the status of,
9 and recommendations related to, extended congregate care
10 services. The status report must include, but need not be
11 limited to, the following information:
- 12 a. A description of the facilities licensed to provide
13 such services, including total number of beds licensed under
14 this part.
- 15 b. The number and characteristics of residents
16 receiving such services.
- 17 c. The types of services rendered that could not be
18 provided through a standard license.
- 19 d. An analysis of deficiencies cited during biennial
20 inspections.
- 21 e. The number of residents who required extended
22 congregate care services at admission and the source of
23 admission.
- 24 f. Recommendations for statutory or regulatory
25 changes.
- 26 g. The availability of extended congregate care to
27 state clients residing in facilities licensed under this part
28 and in need of additional services, and recommendations for
29 appropriations to subsidize extended congregate care services
30 for such persons.
31

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

3 Section 20. Paragraphs (a) and (c) of subsection (1)
4 and subsection (2) of section 400.4255, Florida Statutes, are
5 amended to read:

6 400.4255 Use of personnel; emergency care.--

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

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

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

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

5 Section 21. Subsection (3) of section 400.426, Florida
6 Statutes, is amended to read:

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

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

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

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

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

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

7 Section 23. Paragraph (c) of subsection (6) of section
8 400.464, Florida Statutes, is amended to read:

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

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

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

20 Section 24. Paragraph (a) of subsection (10),
21 subsection (11), and paragraph (a) of subsection (15) of
22 section 400.506, Florida Statutes, are amended to read:

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

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

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

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

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

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

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

4 Section 25. Subsection (1) of section 400.512, Florida
5 Statutes, is amended to read:

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

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

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

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

28 400.6105 Staffing and personnel.--

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

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

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

14 Section 27. Subsection (20) of section 401.23, Florida
15 Statutes, is amended to read:

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

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

20 Section 28. Paragraph (c) of subsection (1) of section
21 401.252, Florida Statutes, is amended to read:

22 401.252 Interfacility transfer.--

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

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

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

31

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

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

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

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

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

16 (12)

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

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

13 Section 31. Subsection (1) of section 415.1085,
14 Florida Statutes, is amended to read:

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

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

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

11 Section 32. Paragraph (a) of subsection (1) of section
12 455.597 Florida Statutes, is amended to read:

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

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

1 Section 33. Subsection (1) of section 455.604, Florida
2 Statutes, is amended to read:

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

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

25 Section 34. Paragraph (a) of subsection (2) of section
26 455.667, Florida Statutes, is amended to read:

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

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

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

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

9 Section 35. Section 455.677, Florida Statutes, is
10 amended to read:

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

29 Section 36. Paragraph (b) of subsection (2) of section
30 455.694, Florida Statutes, is amended to read:

31

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

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

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

19 Section 37. Subsection (2) of section 455.707, Florida
20 Statutes, is amended to read:

21 455.707 Treatment programs for impaired
22 practitioners.--

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

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

3 Section 38. Subsection (2) of section 458.348, Florida
4 Statutes, is amended to read:

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

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

26 Section 39. Section 464.001, Florida Statutes, is
27 amended to read:

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

30 Section 40. Section 464.002, Florida Statutes, is
31 amended to read:

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

7 Section 41. Section 464.003, Florida Statutes, is
8 amended to read:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

30 Section 42. Section 464.006, Florida Statutes, is
31 amended to read:

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

5 Section 43. Subsection (3) of section 464.009, Florida
6 Statutes, is amended to read:

7 464.009 Licensure by endorsement.--

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

14 Section 44. Paragraphs (a) and (d) of subsection (1)
15 and paragraph (b) of subsection (2) of section 464.016,
16 Florida Statutes, are amended to read:

17 464.016 Violations and penalties.--

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

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

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

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

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

1 Section 45. Paragraphs (i), (k), and (l) of subsection
2 (1) and subsection (4) of section 464.018, Florida Statutes,
3 are amended to read:

4 464.018 Disciplinary actions.--

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

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

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

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

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

29 Section 46. Subsections (1), (2), and (3) of section
30 464.019, Florida Statutes, are amended to read:

31 464.019 Approval of nursing programs.--

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

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

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

19 Section 47. Section 464.022, Florida Statutes, is
20 amended to read:

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

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

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

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

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

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

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

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

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

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

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

30
31

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

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

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

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

22 Section 48. Section 464.023, Florida Statutes, is
23 amended to read:

24 464.023 Saving clauses.--

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

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

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

3 Section 49. Paragraph (a) of subsection (3) of section
4 464.027, Florida Statutes, is amended to read:

5 464.027 Registered nurse first assistant.--

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

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

10 Section 50. Subsection (6) of section 466.003, Florida
11 Statutes, is amended to read:

12 466.003 Definitions.--As used in this chapter:

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

18 Section 51. Subsection (2) of section 467.003, Florida
19 Statutes, is amended to read:

20 467.003 Definitions.--As used in this chapter, unless
21 the context otherwise requires:

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

26 Section 52. Paragraph (a) of subsection (2) of section
27 467.0125, Florida Statutes, is amended to read:

28 467.0125 Licensure by endorsement.--

29 (2) The department may issue a temporary certificate
30 to practice in areas of critical need to any midwife who is
31

1 qualifying for licensure by endorsement under subsection (1),
2 with the following restrictions:
3 (a) The Department of Health shall determine the areas
4 of critical need, and the midwife so certified shall practice
5 only in those specific areas, under the auspices of a
6 physician licensed pursuant to chapter 458 or chapter 459, a
7 certified nurse midwife licensed pursuant to part I of chapter
8 464, or a midwife licensed under this chapter, who has a
9 minimum of 3 years' professional experience. Such areas shall
10 include, but not be limited to, health professional shortage
11 areas designated by the United States Department of Health and
12 Human Services.

13 Section 53. Paragraph (e) of subsection (2) of section
14 467.203, Florida Statutes, is amended to read:

15 467.203 Disciplinary actions; penalties.--

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

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

26 Section 54. Paragraph (a) of subsection (1) of section
27 468.505, Florida Statutes, is amended to read:

28 468.505 Exemptions; exceptions.--

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

1 (a) A person licensed in this state under chapter 457,
2 chapter 458, chapter 459, chapter 460, chapter 461, chapter
3 462, chapter 463, part I of chapter 464, chapter 465, chapter
4 466, chapter 480, chapter 490, or chapter 491, when engaging
5 in the profession or occupation for which he or she is
6 licensed, or of any person employed by and under the
7 supervision of the licensee when rendering services within the
8 scope of the profession or occupation of the licensee.

9 Section 55. Subsection (7) of section 483.041, Florida
10 Statutes, is amended to read:

11 483.041 Definitions.--As used in this part, the term:

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

21 Section 56. Subsection (5) of section 483.801, Florida
22 Statutes, is amended to read:

23 483.801 Exemptions.--This part applies to all clinical
24 laboratories and clinical laboratory personnel within this
25 state, except:

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

30 Section 57. Paragraph (a) of subsection (4) of section
31 491.0112, Florida Statutes, is amended to read:

1 491.0112 Sexual misconduct by a psychotherapist;
2 penalties.--

3 (4) For the purposes of this section:

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

10 Section 58. Subsection (5) of section 550.24055,
11 Florida Statutes, is amended to read:

12 550.24055 Use of controlled substances or alcohol
13 prohibited; testing of certain occupational licensees;
14 penalty; evidence of test or action taken and admissibility
15 for criminal prosecution limited.--

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

21 Section 59. Paragraph (h) of subsection (4) of section
22 627.351, Florida Statutes, is amended to read:

23 627.351 Insurance risk apportionment plans.--

24 (4) MEDICAL MALPRACTICE RISK APPORTIONMENT.--

25 (h) As used in this subsection:

26 1. "Health care provider" means hospitals licensed
27 under chapter 395; physicians licensed under chapter 458;
28 osteopathic physicians licensed under chapter 459; podiatric
29 physicians licensed under chapter 461; dentists licensed under
30 chapter 466; chiropractic physicians licensed under chapter
31 460; naturopaths licensed under chapter 462; nurses licensed

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

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

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

29 Section 60. Paragraph (b) of subsection (1) of section
30 627.357, Florida Statutes, is amended to read:

31 627.357 Medical malpractice self-insurance.--

- 1 (1) DEFINITIONS.--As used in this section, the term:
2 (b) "Health care provider" means any:
3 1. Hospital licensed under chapter 395.
4 2. Physician licensed, or physician assistant
5 licensed, under chapter 458.
6 3. Osteopathic physician or physician assistant
7 licensed under chapter 459.
8 4. Podiatric physician licensed under chapter 461.
9 5. Health maintenance organization certificated under
10 part I of chapter 641.
11 6. Ambulatory surgical center licensed under chapter
12 395.
13 7. Chiropractic physician licensed under chapter 460.
14 8. Psychologist licensed under chapter 490.
15 9. Optometrist licensed under chapter 463.
16 10. Dentist licensed under chapter 466.
17 11. Pharmacist licensed under chapter 465.
18 12. Registered nurse, licensed practical nurse, or
19 advanced registered nurse practitioner licensed or registered
20 under part I of chapter 464.
21 13. Other medical facility.
22 14. Professional association, partnership,
23 corporation, joint venture, or other association established
24 by the individuals set forth in subparagraphs 2., 3., 4., 7.,
25 8., 9., 10., 11., and 12. for professional activity.
26 Section 61. Subsection (6) of section 627.9404,
27 Florida Statutes, is amended to read:
28 627.9404 Definitions.--For the purposes of this part:
29 (6) "Licensed health care practitioner" means any
30 physician, nurse licensed under part I of chapter 464, or
31 psychotherapist licensed under chapter 490 or chapter 491, or

1 any individual who meets any requirements prescribed by rule
2 by the department.

3 Section 62. Subsection (21) of section 641.31, Florida
4 Statutes, is amended to read:

5 641.31 Health maintenance contracts.--

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

12 Section 63. Subsection (8) of section 766.101, Florida
13 Statutes, is amended to read:

14 766.101 Medical review committee, immunity from
15 liability.--

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

1 original sources, it is not immune from discovery or use in a
2 civil action merely because it was presented during a
3 proceeding of the committee, department, or board.

4 Section 64. Subsection (2) of section 766.110, Florida
5 Statutes, is amended to read:

6 766.110 Liability of health care facilities.--

7 (2) Every hospital licensed under chapter 395 may
8 carry liability insurance or adequately insure itself in an
9 amount of not less than \$1.5 million per claim, \$5 million
10 annual aggregate to cover all medical injuries to patients
11 resulting from negligent acts or omissions on the part of
12 those members of its medical staff who are covered thereby in
13 furtherance of the requirements of ss. 458.320 and 459.0085.
14 Self-insurance coverage extended hereunder to a member of a
15 hospital's medical staff meets the financial responsibility
16 requirements of ss. 458.320 and 459.0085 if the physician's
17 coverage limits are not less than the minimum limits
18 established in ss. 458.320 and 459.0085 and the hospital is a
19 verified trauma center as of July 1, 1990, that has extended
20 self-insurance coverage continuously to members of its medical
21 staff for activities both inside and outside of the hospital
22 since January 1, 1987. Any insurer authorized to write
23 casualty insurance may make available, but shall not be
24 required to write, such coverage. The hospital may assess on
25 an equitable and pro rata basis the following professional
26 health care providers for a portion of the total hospital
27 insurance cost for this coverage: physicians licensed under
28 chapter 458, osteopathic physicians licensed under chapter
29 459, podiatric physicians licensed under chapter 461, dentists
30 licensed under chapter 466, and nurses licensed under part I
31 of chapter 464. The hospital may provide for a deductible

1 amount to be applied against any individual health care
2 provider found liable in a law suit in tort or for breach of
3 contract. The legislative intent in providing for the
4 deductible to be applied to individual health care providers
5 found negligent or in breach of contract is to instill in each
6 individual health care provider the incentive to avoid the
7 risk of injury to the fullest extent and ensure that the
8 citizens of this state receive the highest quality health care
9 obtainable.

10 Section 65. Paragraph (d) of subsection (3) of section
11 766.1115, Florida Statutes, is amended to read:

12 766.1115 Health care providers; creation of agency
13 relationship with governmental contractors.--

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

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

16 1. A birth center licensed under chapter 383.

17 2. An ambulatory surgical center licensed under
18 chapter 395.

19 3. A hospital licensed under chapter 395.

20 4. A physician or physician assistant licensed under
21 chapter 458.

22 5. An osteopathic physician or osteopathic physician
23 assistant licensed under chapter 459.

24 6. A chiropractic physician licensed under chapter
25 460.

26 7. A podiatric physician licensed under chapter 461.

27 8. A registered nurse, nurse midwife, licensed
28 practical nurse, or advanced registered nurse practitioner
29 licensed or registered under part I of chapter 464 or any
30 facility which employs nurses licensed or registered under
31

1 part I of chapter 464 to supply all or part of the care
2 delivered under this section.

3 9. A midwife licensed under chapter 467.

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

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

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

12 13. A dentist or dental hygienist licensed under
13 chapter 466.

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

17

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

25 Section 66. Subsection (1) of section 877.111, Florida
26 Statutes, is amended to read:

27 877.111 Inhalation, ingestion, possession, sale,
28 purchase, or transfer of harmful chemical substances;
29 penalties.--

30 (1) It is unlawful for any person to inhale or ingest,
31 or to possess with intent to breathe, inhale, or drink, any

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

15 Section 67. Subsection (6) of section 945.602, Florida
16 Statutes, is amended to read:

17 945.602 State of Florida Correctional Medical
18 Authority; creation; members.--

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

22 Section 68. Subsection (2) of section 960.28, Florida
23 Statutes, is amended to read:

24 960.28 Payment for victims' initial forensic physical
25 examinations.--

26 (2) The Crime Victims' Services Office of the
27 department shall pay for medical expenses connected with an
28 initial forensic physical examination of a victim who reports
29 a violation of chapter 794 or chapter 800 to a law enforcement
30 officer. Such payment shall be made regardless of whether or
31 not the victim is covered by health or disability insurance.

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

23 Section 69. Subsection (36) of section 984.03, Florida
24 Statutes, is amended to read:

25 984.03 Definitions.--When used in this chapter, the
26 term:

27 (36) "Licensed health care professional" means a
28 physician licensed under chapter 458, an osteopathic physician
29 licensed under chapter 459, a nurse licensed under part I of
30 chapter 464, a physician assistant licensed under chapter 458
31 or chapter 459, or a dentist licensed under chapter 466.

1 Section 70. Subsection (37) of section 985.03, Florida
2 Statutes, is amended to read:

3 985.03 Definitions.--When used in this chapter, the
4 term:

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

10 Section 71. Section 455.557, Florida Statutes, is
11 amended to read:

12 455.557 Standardized credentialing for health care
13 practitioners.--

14 (1) INTENT.--The Legislature recognizes that an
15 efficient and effective health care practitioner credentialing
16 program helps to ensure access to quality health care and also
17 recognizes that health care practitioner credentialing
18 activities have increased significantly as a result of health
19 care reform and recent changes in health care delivery and
20 reimbursement systems. Moreover, the resulting duplication of
21 health care practitioner credentialing activities is
22 unnecessarily costly and cumbersome for both the practitioner
23 and the entity granting practice privileges. Therefore, it is
24 the intent of this section that a credentials collection
25 program be established which provides that, once a health care
26 practitioner's core credentials data are collected, they need
27 not be collected again, except for corrections, updates, and
28 modifications thereto. Participation under this section shall
29 ~~initially~~ include those individuals licensed under chapter
30 458, chapter 459, chapter 460, ~~or~~ chapter 461, or s. 464.012.
31 However, the department shall, with the approval of the

1 applicable board, include other professions under the
2 jurisdiction of the Division of Medical Quality Assurance in
3 this program, provided they meet the requirements of s.
4 455.565 or s. 455.56503.

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

6 ~~(a) "Advisory council" or "council" means the~~
7 ~~Credentials Advisory Council.~~

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

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

30 (c)~~(d)~~ "Credential" or "credentialing" means the
31 process of assessing and verifying the qualifications of a

1 licensed health care practitioner or applicant for licensure
2 as a health care practitioner.

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

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

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

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

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

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

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

27 3. Any accredited medical school in this state.

28 (i)~~(j)~~ "Health care practitioner" means any person
29 licensed, or, for credentialing purposes only, any person
30 applying for licensure, under chapter 458, chapter 459,
31 chapter 460, ~~or~~ chapter 461, or s. 464.012 or any person

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

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

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

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

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

31 (3) STANDARDIZED CREDENTIALS VERIFICATION PROGRAM.--

- 1 (a) Every health care practitioner shall:
- 2 1. Report all core credentials data to the department
3 which is not already on file with the department, either by
4 designating a credentials verification organization to submit
5 the data or by submitting the data directly.
- 6 2. Notify the department within 45 days of any
7 corrections, updates, or modifications to the core credentials
8 data either through his or her designated credentials
9 verification organization or by submitting the data directly.
10 Corrections, updates, and modifications to the core
11 credentials data provided the department under this section
12 shall comply with the updating requirements of s. 455.565(3)
13 or s. 455.56503(3) related to profiling.
- 14 (b) The department shall:
- 15 1. Maintain a complete, current file of core
16 credentials data on each health care practitioner, which shall
17 include all updates provided in accordance with subparagraph
18 (a)2.
- 19 2. Release the core credentials data that is otherwise
20 confidential or exempt from the provisions of chapter 119 and
21 s. 24(a), Art. I of the State Constitution and any
22 corrections, updates, and modifications thereto, if authorized
23 by the health care practitioner.
- 24 3. Charge a fee to access the core credentials data,
25 which may not exceed the actual cost, including prorated setup
26 and operating costs, pursuant to the requirements of chapter
27 119. ~~The actual cost shall be set in consultation with the~~
28 ~~advisory council.~~
- 29 4. ~~Develop, in consultation with the advisory council,~~
30 standardized forms to be used by the health care practitioner
31 or designated credentials verification organization for the

1 initial reporting of core credentials data, for the health
2 care practitioner to authorize the release of core credentials
3 data, and for the subsequent reporting of corrections,
4 updates, and modifications thereto.

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

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

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

28 2. Not provide the health care practitioner's core
29 data, including all corrections, updates, and modifications,
30 without the authorization of the practitioner.

31

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

6 (4) DUPLICATION OF DATA PROHIBITED.--

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

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

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

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

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

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

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

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

6 Section 72. Section 455.56503, Florida Statutes, is
7 created to read:

8 455.56503 Advanced registered nurse practitioners;
9 information required for certification.--

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

27 (d) Any applicant for initial certification or renewal
28 of certification as an advanced registered nurse practitioner
29 who submits to the Department of Health a set of fingerprints
30 and information required for the criminal history check
31 required under this section shall not be required to provide a

1 subsequent set of fingerprints or other duplicate information
2 required for a criminal history check to the Agency for Health
3 Care Administration, the Department of Juvenile Justice, or
4 the Department of Children and Family Services for employment
5 or licensure with such agency or department, if the applicant
6 has undergone a criminal history check as a condition of
7 initial certification or renewal of certification as an
8 advanced registered nurse practitioner with the Department of
9 Health, notwithstanding any other provision of law to the
10 contrary. In lieu of such duplicate submission, the Agency for
11 Health Care Administration, the Department of Juvenile
12 Justice, and the Department of Children and Family Services
13 shall obtain criminal history information for employment or
14 licensure of persons certified under s. 464.012 by such agency
15 or department from the Department of Health's health care
16 practitioner credentialing system.

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

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

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

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

31

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

3 Section 73. Section 455.5651, Florida Statutes, is
4 amended to read:

5 455.5651 Practitioner profile; creation.--

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

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

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

1 competently practice his or her profession. The department
2 must include in each practitioner's practitioner profile the
3 following statement: "The criminal history information, if
4 any exists, may be incomplete; federal criminal history
5 information is not available to the public." The department
6 shall not publish a criminal conviction if such conviction has
7 been sealed, expunged, or pardoned.

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

1 action or claim should not be construed as creating a
2 presumption that medical malpractice has occurred."

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

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

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

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

25 Section 74. Section 455.5653, Florida Statutes, is
26 amended to read:

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

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

23 Section 75. Section 455.5654, Florida Statutes, is
24 amended to read:

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

1 submitted under this act may adopt by rule a form for the
2 submission of the information required under s. 455.565 or s.
3 455.56503.

4 Section 76. There is hereby appropriated from the
5 Medical Quality Assurance Trust Fund to the Department of
6 Health the sum of \$280,000 to implement the provisions of this
7 act.

8 Section 77. This act shall take effect July 1, 2000.
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