

1 A bill to be entitled
2 An act relating to nursing; amending part XV of
3 chapter 468, F.S., relating to certified
4 nursing assistants, and transferring that part
5 to chapter 464, F.S., relating to nursing, to
6 transfer from the Department of Health to the
7 Board of Nursing responsibility and rulemaking
8 authority for regulation of certified nursing
9 assistants; changing requirements for nursing
10 assistants; transferring from the Department of
11 Education to the board responsibility for
12 approval of training programs; revising grounds
13 for which the board may impose certain
14 penalties; creating s. 464.2085, F.S.; creating
15 and providing requirements for a Council on
16 Certified Nursing Assistants; amending ss.
17 20.43, 39.01, 39.304, 110.131, 232.46,
18 240.4075, 246.081, 310.102, 381.0302, 384.30,
19 384.31, 394.455, 395.0191, 400.021, 400.211,
20 400.402, 400.407, 400.4255, 400.426, 400.462,
21 400.464, 400.506, 400.6105, 401.23, 401.252,
22 408.706, 409.908, 415.1085, 455.597, 455.604,
23 455.667, 455.677, 455.694, 455.707, 458.348,
24 464.001, 464.002, 464.003, 464.006, 464.009,
25 464.016, 464.018, 464.019, 464.022, 464.023,
26 464.027, 466.003, 467.003, 467.0125, 467.203,
27 468.505, 483.041, 483.801, 491.0112, 550.24055,
28 627.351, 627.357, 627.9404, 641.31, 766.101,
29 766.110, 766.1115, 877.111, 945.602, 960.28,
30 984.03, 985.03, F.S.; conforming references;
31 revising application procedures for certified

1 nursing assistants; revising registration
2 requirements for certified nursing assistants;
3 amending ss. 400.215, 400.512, F.S.; revising
4 provisions relating to the granting of
5 exemptions from disqualification for employment
6 in nursing homes or home health agencies;
7 amending s. 400.23, F.S.; authorizing licensed
8 practical nurses in nursing home facilities to
9 supervise the activities of other licensed
10 practical nurses, certified nursing assistants,
11 and other unlicensed personnel working in such
12 facilities in accordance with rules adopted by
13 the Board of Nursing; amending s. 455.557,
14 F.S.; including advanced registered nurse
15 practitioners under the credentialing program;
16 creating s. 455.56503, F.S.; requiring advanced
17 registered nurse practitioners to submit
18 information and fingerprints for profiling
19 purposes; amending s. 455.5651, F.S.;
20 authorizing the department to publish certain
21 information in practitioner profiles; amending
22 s. 455.5653, F.S.; deleting obsolete provisions
23 relating to scheduling and development of
24 practitioner profiles for additional health
25 care practitioners; providing access to
26 information on advanced registered nurse
27 practitioners maintained by the Agency for
28 Health Care Administration for corroboration
29 purposes; amending s. 455.5654, F.S.; providing
30 for adoption by rule of a form for submission
31 of profiling information; repealing s.

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

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

19

20 Be It Enacted by the Legislature of the State of Florida:

21

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

26 464.201 ~~468.821~~ Definitions.--As used in this part,
27 the term:

28 (1) "Approved training program" means:

29 (a) A course of training conducted by a public sector
30 or private sector educational center licensed by the
31 Department of Education to implement the basic curriculum for

1 nursing assistants which is approved by the Department of
2 Education. Beginning October 1, 2000, the board shall assume
3 responsibility for approval of training programs under this
4 paragraph.

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

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

7 (3)~~(2)~~ "Certified nursing assistant" means a person
8 who meets the qualifications specified in this part and who is
9 certified by the board ~~department~~ as a certified nursing
10 assistant.

11 (4)~~(3)~~ "Department" means the Department of Health.

12 (5)~~(4)~~ "Registry" means the listing of certified
13 nursing assistants maintained by the board ~~department~~.

14 464.202 ~~468.822~~ Duties and powers of the board
15 ~~department~~.--The board ~~department~~ shall maintain, or contract
16 with or approve another entity to maintain, a state registry
17 of certified nursing assistants. The registry must consist of
18 the name of each certified nursing assistant in this state;
19 other identifying information defined by board ~~department~~
20 rule; certification status; the effective date of
21 certification; other information required by state or federal
22 law; information regarding any crime or any abuse, neglect, or
23 exploitation as provided under chapter 435; and any
24 disciplinary action taken against the certified nursing
25 assistant. The registry shall be accessible to the public, the
26 certificateholder, employers, and other state agencies. The
27 board ~~department~~ shall adopt by rule testing procedures for
28 use in certifying nursing assistants and shall adopt rules
29 regulating the practice of certified nursing assistants to
30 enforce this part. The board ~~department~~ may contract with or
31 approve another entity or organization to provide the

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

14 464.203 ~~468.823~~ Certified nursing assistants;
15 certification requirement.--

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

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

29 (b) Has achieved a minimum score, established by rule
30 of the board department, on the nursing assistant competency
31 examination, which consists of a written portion and

1 skills-demonstration portion, approved by the board ~~department~~
2 and administered at a site and by personnel approved by the
3 department and:

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

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

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

19 (2) If an applicant fails to pass the nursing
20 assistant competency examination in three attempts, the
21 applicant is not eligible for reexamination unless the
22 applicant completes an approved training program.

23 (3) An oral examination shall be administered as a
24 substitute for the written portion of the examination upon
25 request. The oral examination shall be administered at a site
26 and by personnel approved by the department.

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

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

1 464.204 ~~468.824~~ Denial, suspension, or revocation of
2 certification; disciplinary actions.--

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

6 (a) Obtaining or attempting to obtain certification or
7 an exemption, or possessing or attempting to possess
8 certification or a letter of exemption, by bribery,
9 misrepresentation, deceit, or through an error of the board
10 ~~department~~.

11 (b) Intentionally violating any provision of this
12 chapter, chapter 455, or the rules adopted by the board
13 ~~department~~.

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

18 (a) Denial, suspension, or revocation of
19 certification.

20 (b) Imposition of an administrative fine not to exceed
21 \$150 for each count or separate offense.

22 (c) Imposition of probation or restriction of
23 certification, including conditions such as corrective actions
24 as retraining or compliance with an approved treatment program
25 for impaired practitioners.

26 (3) The board ~~department~~ may, upon the request of a
27 certificateholder, exempt the certificateholder from
28 ~~disqualification of certification or disqualification of~~
29 employment in accordance with chapter 435 and issue a letter
30 of exemption. ~~After January 1, 2000,~~The board ~~department~~ must
31 notify an applicant seeking an exemption from disqualification

1 from certification or employment of its decision to approve or
2 deny the request within 30 days after the date the board
3 ~~department~~ receives all required documentation.

4 464.205 ~~468.825~~ Availability of disciplinary records
5 and proceedings.--Pursuant to s. 455.621, any complaint or
6 record maintained by the department ~~of Health~~ pursuant to the
7 discipline of a certified nursing assistant and any proceeding
8 held by the board ~~department~~ to discipline a certified nursing
9 assistant shall remain open and available to the public.

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

28 464.207 ~~468.827~~ Penalties.--It is a misdemeanor of the
29 first degree, punishable as provided under s. 775.082 or s.
30 775.083, for any person, knowingly or intentionally, to fail
31 to disclose, by false statement, misrepresentation,

1 impersonation, or other fraudulent means, in any application
2 for voluntary or paid employment or certification licensure
3 regulated under this part, a material fact used in making a
4 determination as to such person's qualifications to be an
5 employee or certificateholder licensee.

6 464.208 ~~468.828~~ Background screening information;
7 rulemaking authority.--

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

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

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

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

29 464.209 ~~468.829~~ Certified nursing assistant
30 registry.--

31

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

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

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

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

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

26 464.2085 Council on Certified Nursing Assistants.--The
27 Council on Certified Nursing Assistants is created within the
28 department, under the Board of Nursing.

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

1 (a) The chairperson of the Board of Nursing shall
2 appoint two members who are registered nurses. One of the
3 members must currently supervise a certified nursing assistant
4 in a licensed nursing home.

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

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

12 (2) The council shall:

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

15 (b) Develop all rules regulating the education,
16 training, and certification process for nursing assistants
17 certified under this chapter. The Board of Nursing shall
18 consider adopting a proposed rule developed by the council at
19 the regularly scheduled meeting immediately following the
20 submission of the proposed rule by the council.

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

23 (d) Address concerns and problems of certified nursing
24 assistants in order to improve safety in the practice of
25 certified nursing assistants.

26 Section 3. Paragraph (g) of subsection (3) of section
27 20.43, Florida Statutes, is amended to read:

28 20.43 Department of Health.--There is created a
29 Department of Health.

30 (3) The following divisions of the Department of
31 Health are established:

1 (g) Division of Medical Quality Assurance, which is
2 responsible for the following boards and professions
3 established within the division:

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

5 1.2. Health care services pools, as provided under s.
6 402.48.

7 ~~2.3.~~ The Board of Acupuncture, created under chapter
8 457.

9 ~~3.4.~~ The Board of Medicine, created under chapter 458.

10 ~~4.5.~~ The Board of Osteopathic Medicine, created under
11 chapter 459.

12 ~~5.6.~~ The Board of Chiropractic Medicine, created under
13 chapter 460.

14 ~~6.7.~~ The Board of Podiatric Medicine, created under
15 chapter 461.

16 ~~7.8.~~ Naturopathy, as provided under chapter 462.

17 ~~8.9.~~ The Board of Optometry, created under chapter
18 463.

19 ~~9.10.~~ The Board of Nursing, created under part I of
20 chapter 464.

21 10. Nursing assistants, as provided under part II of
22 chapter 464.

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

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

25 13. Midwifery, as provided under chapter 467.

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

28 15. The Board of Nursing Home Administrators, created
29 under part II of chapter 468.

30 16. The Board of Occupational Therapy, created under
31 part III of chapter 468.

- 1 17. Respiratory therapy, as provided under part V of
2 chapter 468.
- 3 18. Dietetics and nutrition practice, as provided
4 under part X of chapter 468.
- 5 19. The Board of Athletic Training, created under part
6 XIII of chapter 468.
- 7 20. The Board of Orthotists and Prosthetists, created
8 under part XIV of chapter 468.
- 9 21. Electrolysis, as provided under chapter 478.
- 10 22. The Board of Massage Therapy, created under
11 chapter 480.
- 12 23. The Board of Clinical Laboratory Personnel,
13 created under part III of chapter 483.
- 14 24. Medical physicists, as provided under part IV of
15 chapter 483.
- 16 25. The Board of Opticianry, created under part I of
17 chapter 484.
- 18 26. The Board of Hearing Aid Specialists, created
19 under part II of chapter 484.
- 20 27. The Board of Physical Therapy Practice, created
21 under chapter 486.
- 22 28. The Board of Psychology, created under chapter
23 490.
- 24 29. School psychologists, as provided under chapter
25 490.
- 26 30. The Board of Clinical Social Work, Marriage and
27 Family Therapy, and Mental Health Counseling, created under
28 chapter 491.
- 29
- 30 The department may contract with the Agency for Health Care
31 Administration who shall provide consumer complaint,

1 investigative, and prosecutorial services required by the
2 Division of Medical Quality Assurance, councils, or boards, as
3 appropriate.

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

6 39.01 Definitions.--When used in this chapter, unless
7 the context otherwise requires:

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

13 Section 5. Paragraph (b) of subsection (1) of section
14 39.304, Florida Statutes, is amended to read:

15 39.304 Photographs, medical examinations, X rays, and
16 medical treatment of abused, abandoned, or neglected child.--

17 (1)

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

1 abandonment, or neglect may authorize a radiological
2 examination to be performed on the child without the consent
3 of the child's parent or legal custodian.

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

6 110.131 Other-personal-services temporary
7 employment.--

8 (6)

9 (c) Notwithstanding the provisions of this section,
10 the agency head or his or her designee may extend the
11 other-personal-services employment of a health care
12 practitioner licensed pursuant to chapter 458, chapter 459,
13 chapter 460, chapter 461, chapter 463, part I of chapter 464,
14 chapter 466, chapter 468, chapter 483, chapter 486, or chapter
15 490 beyond 2,080 hours and may employ such practitioner on an
16 hourly or other basis.

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

19 232.46 Administration of medication by school district
20 personnel.--

21 (1) Notwithstanding the provisions of the Nurse
22 Practice Act, part I of chapter 464, school district personnel
23 shall be authorized to assist students in the administration
24 of prescription medication when the following conditions have
25 been met:

26 (a) Each district school board shall include in its
27 approved school health services plan a procedure to provide
28 training, by a registered nurse, a licensed practical nurse, a
29 physician licensed pursuant to chapter 458 or chapter 459, or
30 a physician assistant licensed pursuant to chapter 458 or
31 chapter 459, to the school personnel designated by the

1 principal to assist students in the administration of
2 prescribed medication. Such training may be provided in
3 collaboration with other school districts, through contract
4 with an education consortium, or by any other arrangement
5 consistent with the intent of this section.

6 (b) Each district school board shall adopt policies
7 and procedures governing the administration of prescription
8 medication by school district personnel. The policies and
9 procedures shall include, but not be limited to, the following
10 provisions:

11 1. For each prescribed medication, the student's
12 parent or guardian shall provide to the school principal a
13 written statement which shall grant to the principal or the
14 principal's designee permission to assist in the
15 administration of such medication and which shall explain the
16 necessity for such medication to be provided during the school
17 day, including any occasion when the student is away from
18 school property on official school business. The school
19 principal or the principal's trained designee shall assist the
20 student in the administration of such medication.

21 2. Each prescribed medication to be administered by
22 school district personnel shall be received, counted, and
23 stored in its original container. When the medication is not
24 in use, it shall be stored in its original container in a
25 secure fashion under lock and key in a location designated by
26 the principal.

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

29 240.4075 Nursing Student Loan Forgiveness Program.--

30 (6) In addition to licensing fees imposed under part I
31 of chapter 464, there is hereby levied and imposed an

1 additional fee of \$5, which fee shall be paid upon licensure
2 or renewal of nursing licensure. Revenues collected from the
3 fee imposed in this subsection shall be deposited in the
4 Nursing Student Loan Forgiveness Trust Fund of the Department
5 of Education and will be used solely for the purpose of
6 carrying out the provisions of this section and s. 240.4076.
7 Up to 50 percent of the revenues appropriated to implement
8 this subsection may be used for the nursing scholarship
9 program established pursuant to s. 240.4076.

10 Section 9. Paragraph (b) of subsection (1) of section
11 246.081, Florida Statutes, is amended to read:

12 246.081 License, certificate of exemption, or
13 authorization required; exceptions.--

14 (1) The following colleges are not under the
15 jurisdiction of the board and are not required to obtain a
16 license, a certificate of exemption, permission to operate, or
17 an authorization from the board:

18 (b) Any college, school, or course licensed or
19 approved for establishment and operation under part I of
20 chapter 464, chapter 466, or chapter 475, or any other chapter
21 of the Florida Statutes, requiring licensing or approval as
22 defined in ss. 246.011-246.151.

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

25 310.102 Treatment programs for impaired pilots and
26 deputy pilots.--

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

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

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

9 381.0302 Florida Health Services Corps.--

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

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

27 384.30 Minors' consent to treatment.--

28 (1) The department and its authorized representatives,
29 each physician licensed to practice medicine under the
30 provisions of chapter 458 or chapter 459, each health care
31 professional licensed under the provisions of part I of

1 chapter 464 who is acting pursuant to the scope of his or her
2 license, and each public or private hospital, clinic, or other
3 health facility may examine and provide treatment for sexually
4 transmissible diseases to any minor, if the physician, health
5 care professional, or facility is qualified to provide such
6 treatment. The consent of the parents or guardians of a minor
7 is not a prerequisite for an examination or treatment.

8 Section 13. Section 384.31, Florida Statutes, is
9 amended to read:

10 384.31 Serological testing of pregnant women; duty of
11 the attendant.--

12 (1) Every person, including every physician licensed
13 under chapter 458 or chapter 459 or midwife licensed under
14 part I of chapter 464 or chapter 467, attending a pregnant
15 woman for conditions relating to pregnancy during the period
16 of gestation and delivery shall take or cause to be taken a
17 sample of venous blood at a time or times specified by the
18 department. Each sample of blood shall be tested by a
19 laboratory approved for such purposes under part I of chapter
20 483 for sexually transmissible diseases as required by rule of
21 the department.

22 (2) At the time the venous blood sample is taken,
23 testing for human immunodeficiency virus (HIV) infection shall
24 be offered to each pregnant woman. The prevailing professional
25 standard of care in this state requires each health care
26 provider and midwife who attends a pregnant woman to counsel
27 the woman to be tested for human immunodeficiency virus (HIV).
28 Counseling shall include a discussion of the availability of
29 treatment if the pregnant woman tests HIV positive. If a
30 pregnant woman objects to HIV testing, reasonable steps shall
31 be taken to obtain a written statement of such objection,

1 signed by the patient, which shall be placed in the patient's
2 medical record. Every person, including every physician
3 licensed under chapter 458 or chapter 459 or midwife licensed
4 under part I of chapter 464 or chapter 467, who attends a
5 pregnant woman who has been offered and objects to HIV testing
6 shall be immune from liability arising out of or related to
7 the contracting of HIV infection or acquired immune deficiency
8 syndrome (AIDS) by the child from the mother.

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

11 394.455 Definitions.--As used in this part, unless the
12 context clearly requires otherwise, the term:

13 (23) "Psychiatric nurse" means a registered nurse
14 licensed under part I of chapter 464 who has a master's degree
15 or a doctorate in psychiatric nursing and 2 years of
16 post-master's clinical experience under the supervision of a
17 physician.

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

21 395.0191 Staff membership and clinical privileges.--

22 (2)(a) Each licensed facility shall establish rules
23 and procedures for consideration of an application for
24 clinical privileges submitted by an advanced registered nurse
25 practitioner licensed and certified under part I of chapter
26 464, in accordance with the provisions of this section. No
27 licensed facility shall deny such application solely because
28 the applicant is licensed under part I of chapter 464 or
29 because the applicant is not a participant in the Florida
30 Birth-Related Neurological Injury Compensation Plan.

31

1 (b) An advanced registered nurse practitioner who is
2 certified as a registered nurse anesthetist licensed under
3 part I of chapter 464 shall administer anesthesia under the
4 onsite medical direction of a professional licensed under
5 chapter 458, chapter 459, or chapter 466, and in accordance
6 with an established protocol approved by the medical staff.
7 The medical direction shall specifically address the needs of
8 the individual patient.

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

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

31

1 400.021 Definitions.--When used in this part, unless
2 the context otherwise requires, the term:

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

6 Section 17. Section 400.211, Florida Statutes, is
7 amended to read:

8 400.211 Persons employed as nursing assistants;
9 certification requirement.--

10 (1) To serve as a nursing assistant in any nursing
11 home, a person must be certified as a nursing assistant under
12 part II ~~XV~~ of chapter 464 ~~468~~, unless the person is ~~except~~ a
13 registered nurse or practical nurse licensed in accordance
14 with part I of chapter 464 or an applicant for such licensure
15 who is permitted to practice nursing in accordance with rules
16 adopted by the Board of Nursing pursuant to part I of chapter
17 ~~464, to serve as a nursing assistant in any nursing home.~~

18 (2) The following categories of persons who are not
19 certified as nursing assistants under ~~this~~ part II of chapter
20 464 may be employed by a nursing facility for a period of 4
21 months:

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

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

29 (c) Persons who have preliminarily passed the state's
30 certification exam.

31

1 The certification requirement must be met within 4 months
2 ~~after~~ of initial employment as a nursing assistant in a
3 licensed nursing facility.

4 (3) Nursing homes shall require persons seeking
5 employment as a certified nursing assistant to submit an
6 employment history to the facility. The facility shall verify
7 the employment history unless, through diligent efforts, such
8 verification is not possible. There shall be no monetary
9 liability on the part of, and no cause of action for damages
10 shall arise against, a former employer who reasonably and in
11 good faith communicates his or her honest opinion about a
12 former employee's job performance.

13 Section 18. Paragraph (b) of subsection (4) of section
14 400.215, Florida Statutes, is amended to read:

15 400.215 Personnel screening requirement.--

16 (4)

17 (b) As provided in s. 435.07, the appropriate
18 regulatory board within the Department of Health, or that
19 department itself when there is no board, may grant an
20 exemption from disqualification to an employee or prospective
21 employee who is subject to this section and who has received a
22 professional license or certification from the Department of
23 Health or a regulatory board within that department.

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

26 400.23 Rules; evaluation and deficiencies; licensure
27 status.--

28 (3)

29 (c) Licensed practical nurses licensed under chapter
30 464 who are providing nursing services in nursing home
31 facilities under this part may supervise the activities of

1 other licensed practical nurses, certified nursing assistants,
2 and other unlicensed personnel providing services in such
3 facilities in accordance with rules adopted by the Board of
4 Nursing.

5 Section 20. Subsections (12) and (14) of section
6 400.402, Florida Statutes, are amended to read:

7 400.402 Definitions.--When used in this part, the
8 term:

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

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

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

31 400.407 License required; fee, display.--

1 (3) Any license granted by the agency must state the
2 maximum resident capacity of the facility, the type of care
3 for which the license is granted, the date the license is
4 issued, the expiration date of the license, and any other
5 information deemed necessary by the agency. Licenses shall be
6 issued for one or more of the following categories of care:
7 standard, extended congregate care, limited nursing services,
8 or limited mental health.

9 (a) A standard license shall be issued to facilities
10 providing one or more of the services identified in s.
11 400.402. Such facilities may also employ or contract with a
12 person licensed under part I of chapter 464 to administer
13 medications and perform other tasks as specified in s.
14 400.4255.

15 (b) An extended congregate care license shall be
16 issued to facilities providing, directly or through contract,
17 services beyond those authorized in paragraph (a), including
18 acts performed pursuant to part I of chapter 464 by persons
19 licensed thereunder, and supportive services defined by rule
20 to persons who otherwise would be disqualified from continued
21 residence in a facility licensed under this part.

22 1. In order for extended congregate care services to
23 be provided in a facility licensed under this part, the agency
24 must first determine that all requirements established in law
25 and rule are met and must specifically designate, on the
26 facility's license, that such services may be provided and
27 whether the designation applies to all or part of a facility.
28 Such designation may be made at the time of initial licensure
29 or biennial relicensure, or upon request in writing by a
30 licensee under this part. Notification of approval or denial
31 of such request shall be made within 90 days after receipt of

1 such request and all necessary documentation. Existing
2 facilities qualifying to provide extended congregate care
3 services must have maintained a standard license and may not
4 have been subject to administrative sanctions during the
5 previous 2 years, or since initial licensure if the facility
6 has been licensed for less than 2 years, for any of the
7 following reasons:

- 8 a. A class I or class II violation;
- 9 b. Three or more repeat or recurring class III
10 violations of identical or similar resident care standards as
11 specified in rule from which a pattern of noncompliance is
12 found by the agency;
- 13 c. Three or more class III violations that were not
14 corrected in accordance with the corrective action plan
15 approved by the agency;
- 16 d. Violation of resident care standards resulting in a
17 requirement to employ the services of a consultant pharmacist
18 or consultant dietitian;
- 19 e. Denial, suspension, or revocation of a license for
20 another facility under this part in which the applicant for an
21 extended congregate care license has at least 25 percent
22 ownership interest; or
- 23 f. Imposition of a moratorium on admissions or
24 initiation of injunctive proceedings.

25 2. Facilities that are licensed to provide extended
26 congregate care services shall maintain a written progress
27 report on each person who receives such services, which report
28 describes the type, amount, duration, scope, and outcome of
29 services that are rendered and the general status of the
30 resident's health. A registered nurse, or appropriate
31 designee, representing the agency shall visit such facilities

1 at least two times a year to monitor residents who are
2 receiving extended congregate care services and to determine
3 if the facility is in compliance with this part and with rules
4 that relate to extended congregate care. One of these visits
5 may be in conjunction with the regular biennial survey. The
6 monitoring visits may be provided through contractual
7 arrangements with appropriate community agencies. A
8 registered nurse shall serve as part of the team that
9 biennially inspects such facility. The agency may waive one of
10 the required yearly monitoring visits for a facility that has
11 been licensed for at least 24 months to provide extended
12 congregate care services, if, during the biennial inspection,
13 the registered nurse determines that extended congregate care
14 services are being provided appropriately, and if the facility
15 has no class I or class II violations and no uncorrected class
16 III violations. Before such decision is made, the agency shall
17 consult with the long-term care ombudsman council for the area
18 in which the facility is located to determine if any
19 complaints have been made and substantiated about the quality
20 of services or care. The agency may not waive one of the
21 required yearly monitoring visits if complaints have been made
22 and substantiated.

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

25 a. Demonstrate the capability to meet unanticipated
26 resident service needs.

27 b. Offer a physical environment that promotes a
28 homelike setting, provides for resident privacy, promotes
29 resident independence, and allows sufficient congregate space
30 as defined by rule.

31

1 c. Have sufficient staff available, taking into
2 account the physical plant and firesafety features of the
3 building, to assist with the evacuation of residents in an
4 emergency, as necessary.

5 d. Adopt and follow policies and procedures that
6 maximize resident independence, dignity, choice, and
7 decisionmaking to permit residents to age in place to the
8 extent possible, so that moves due to changes in functional
9 status are minimized or avoided.

10 e. Allow residents or, if applicable, a resident's
11 representative, designee, surrogate, guardian, or attorney in
12 fact to make a variety of personal choices, participate in
13 developing service plans, and share responsibility in
14 decisionmaking.

15 f. Implement the concept of managed risk.

16 g. Provide, either directly or through contract, the
17 services of a person licensed pursuant to part I of chapter
18 464.

19 h. In addition to the training mandated in s. 400.452,
20 provide specialized training as defined by rule for facility
21 staff.

22 4. Facilities licensed to provide extended congregate
23 care services are exempt from the criteria for continued
24 residency as set forth in rules adopted under s. 400.441.
25 Facilities so licensed shall adopt their own requirements
26 within guidelines for continued residency set forth by the
27 department in rule. However, such facilities may not serve
28 residents who require 24-hour nursing supervision. Facilities
29 licensed to provide extended congregate care services shall
30 provide each resident with a written copy of facility policies
31 governing admission and retention.

1 5. The primary purpose of extended congregate care
2 services is to allow residents, as they become more impaired,
3 the option of remaining in a familiar setting from which they
4 would otherwise be disqualified for continued residency. A
5 facility licensed to provide extended congregate care services
6 may also admit an individual who exceeds the admission
7 criteria for a facility with a standard license, if the
8 individual is determined appropriate for admission to the
9 extended congregate care facility.

10 6. Before admission of an individual to a facility
11 licensed to provide extended congregate care services, the
12 individual must undergo a medical examination as provided in
13 s. 400.426(4) and the facility must develop a preliminary
14 service plan for the individual.

15 7. When a facility can no longer provide or arrange
16 for services in accordance with the resident's service plan
17 and needs and the facility's policy, the facility shall make
18 arrangements for relocating the person in accordance with s.
19 400.428(1)(k).

20 8. Failure to provide extended congregate care
21 services may result in denial of extended congregate care
22 license renewal.

23 9. No later than January 1 of each year, the
24 department, in consultation with the agency, shall prepare and
25 submit to the Governor, the President of the Senate, the
26 Speaker of the House of Representatives, and the chairs of
27 appropriate legislative committees, a report on the status of,
28 and recommendations related to, extended congregate care
29 services. The status report must include, but need not be
30 limited to, the following information:

31

1 a. A description of the facilities licensed to provide
2 such services, including total number of beds licensed under
3 this part.

4 b. The number and characteristics of residents
5 receiving such services.

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

8 d. An analysis of deficiencies cited during biennial
9 inspections.

10 e. The number of residents who required extended
11 congregate care services at admission and the source of
12 admission.

13 f. Recommendations for statutory or regulatory
14 changes.

15 g. The availability of extended congregate care to
16 state clients residing in facilities licensed under this part
17 and in need of additional services, and recommendations for
18 appropriations to subsidize extended congregate care services
19 for such persons.

20 h. Such other information as the department considers
21 appropriate.

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

25 400.4255 Use of personnel; emergency care.--

26 (1)(a) Persons under contract to the facility,
27 facility staff, or volunteers, who are licensed according to
28 part I of chapter 464, or those persons exempt under s.
29 464.022(1), and others as defined by rule, may administer
30 medications to residents, take residents' vital signs, manage
31 individual weekly pill organizers for residents who

1 self-administer medication, give prepackaged enemas ordered by
2 a physician, observe residents, document observations on the
3 appropriate resident's record, report observations to the
4 resident's physician, and contract or allow residents or a
5 resident's representative, designee, surrogate, guardian, or
6 attorney in fact to contract with a third party, provided
7 residents meet the criteria for appropriate placement as
8 defined in s. 400.426. Nursing assistants certified pursuant
9 to part II of chapter 464 ~~s. 400.211~~ may take residents' vital
10 signs as directed by a licensed nurse or physician.

11 (c) In an emergency situation, licensed personnel may
12 carry out their professional duties pursuant to part I of
13 chapter 464 until emergency medical personnel assume
14 responsibility for care.

15 (2) In facilities licensed to provide extended
16 congregate care, persons under contract to the facility,
17 facility staff, or volunteers, who are licensed according to
18 part I of chapter 464, or those persons exempt under s.
19 464.022(1), or those persons certified as nursing assistants
20 pursuant to part II of chapter 464 ~~s. 400.211~~, may also
21 perform all duties within the scope of their license or
22 certification, as approved by the facility administrator and
23 pursuant to this part.

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

26 400.426 Appropriateness of placements; examinations of
27 residents.--

28 (3) Persons licensed under part I of chapter 464 who
29 are employed by or under contract with a facility shall, on a
30 routine basis or at least monthly, perform a nursing
31 assessment of the residents for whom they are providing

1 nursing services ordered by a physician, except administration
2 of medication, and shall document such assessment, including
3 any substantial changes in a resident's status which may
4 necessitate relocation to a nursing home, hospital, or
5 specialized health care facility. Such records shall be
6 maintained in the facility for inspection by the agency and
7 shall be forwarded to the resident's case manager, if
8 applicable.

9 Section 24. Subsections (3) and (21) of section
10 400.462, Florida Statutes, are amended to read:

11 400.462 Definitions.--As used in this part, the term:

12 (3) "Certified nursing assistant" means any person who
13 has been issued a certificate under part II of chapter 464 ~~s.~~
14 ~~400.211~~. The licensed home health agency or licensed nurse
15 registry shall ensure that the certified nursing assistant
16 employed by or under contract with the home health agency or
17 licensed nurse registry is adequately trained to perform the
18 tasks of a home health aide in the home setting.

19 (21) "Skilled care" means nursing services or
20 therapeutic services delivered by a health care professional
21 who is licensed under part I of chapter 464; part I, part III,
22 or part V of chapter 468; or chapter 486 and who is employed
23 by or under contract with a licensed home health agency or is
24 referred by a licensed nurse registry.

25 Section 25. Paragraph (c) of subsection (6) of section
26 400.464, Florida Statutes, is amended to read:

27 400.464 Home health agencies to be licensed;
28 expiration of license; exemptions; unlawful acts; penalties.--

29 (6) The following are exempt from the licensure
30 requirements of this part:

31

1 (c) A health care professional, whether or not
2 incorporated, who is licensed under chapter 457; chapter 458;
3 chapter 459; part I of chapter 464; chapter 467; part I, part
4 III, part V, or part X of chapter 468; chapter 480; chapter
5 486; chapter 490; or chapter 491; and who is acting alone
6 within the scope of his or her professional license to provide
7 care to patients in their homes.

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

11 400.506 Licensure of nurse registries; requirements;
12 penalties.--

13 (10)(a) A nurse registry may refer for contract in
14 private residences registered nurses and licensed practical
15 nurses registered and licensed under part I of chapter 464,
16 certified nursing assistants certified under part II of
17 chapter 464 ~~s. 400.211~~, home health aides who present
18 documented proof of successful completion of the training
19 required by rule of the agency, and companions or homemakers
20 for the purposes of providing those services authorized under
21 s. 400.509(1). Each person referred by a nurse registry must
22 provide current documentation that he or she is free from
23 communicable diseases.

24 (11) A person who is referred by a nurse registry for
25 contract in private residences and who is not a nurse licensed
26 under part I of chapter 464 may perform only those services or
27 care to clients that the person has been certified to perform
28 or trained to perform as required by law or rules of the
29 Agency for Health Care Administration or the Department of
30 Business and Professional Regulation. Providing services
31 beyond the scope authorized under this subsection constitutes

1 the unauthorized practice of medicine or a violation of the
2 Nurse Practice Act and is punishable as provided under chapter
3 458, chapter 459, or part I of chapter 464.

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

7 (a) When, in accordance with the privileges and
8 restrictions imposed upon a nurse under part I of chapter 464,
9 the delivery of care to a patient is under the direction or
10 supervision of a physician or when a physician is responsible
11 for the medical care of the patient, a medical plan of
12 treatment must be established for each patient receiving care
13 or treatment provided by a licensed nurse in the home. The
14 original medical plan of treatment must be timely signed by
15 the physician and reviewed by him or her in consultation with
16 the licensed nurse at least every 2 months. Any additional
17 order or change in orders must be obtained from the physician
18 and reduced to writing and timely signed by the physician.
19 The delivery of care under a medical plan of treatment must be
20 substantiated by the appropriate nursing notes or
21 documentation made by the nurse in compliance with nursing
22 practices established under part I of chapter 464.

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

25 400.512 Screening of home health agency personnel;
26 nurse registry personnel; and companions and homemakers.--The
27 agency shall require employment or contractor screening as
28 provided in chapter 435, using the level 1 standards for
29 screening set forth in that chapter, for home health agency
30 personnel; persons referred for employment by nurse
31

1 registries; and persons employed by companion or homemaker
2 services registered under s. 400.509.

3 (1)(a) The Agency for Health Care Administration may,
4 upon request, grant exemptions from disqualification from
5 employment or contracting under this section as provided in s.
6 435.07, except for health care practitioners licensed by the
7 Department of Health or a regulatory board within that
8 department.

9 (b) The appropriate regulatory board within the
10 Department of Health, or that department itself when there is
11 no board, may, upon request of the licensed health care
12 practitioner, grant exemptions from disqualification from
13 employment or contracting under this section as provided in s.
14 435.07.

15 Section 28. Subsections (2) and (3) of section
16 400.6105, Florida Statutes, are amended to read:

17 400.6105 Staffing and personnel.--

18 (2) Each hospice shall employ a full-time registered
19 nurse licensed pursuant to part I of chapter 464 who shall
20 coordinate the implementation of the plan of care for each
21 patient.

22 (3) A hospice shall employ a hospice care team or
23 teams who shall participate in the establishment and ongoing
24 review of the patient's plan of care, and be responsible for
25 and supervise the delivery of hospice care and services to the
26 patient. The team shall, at a minimum, consist of a physician
27 licensed pursuant to chapter 458 or chapter 459, a nurse
28 licensed pursuant to part I of chapter 464, a social worker,
29 and a pastoral or other counselor. The composition of the team
30 may vary for each patient and, over time, for the same patient
31

1 to ensure that all the patient's needs and preferences are
2 met.

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

5 401.23 Definitions.--As used in this part, the term:

6 (20) "Registered nurse" means a practitioner who is
7 licensed to practice professional nursing pursuant to part I
8 of chapter 464.

9 Section 30. Paragraph (c) of subsection (1) of section
10 401.252, Florida Statutes, is amended to read:

11 401.252 Interfacility transfer.--

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

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

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

20 408.706 Community health purchasing alliances;
21 accountable health partnerships.--

22 (11) The ability to recruit and retain alliance
23 district health care providers in its provider network. For
24 provider networks initially formed in an alliance district
25 after July 1, 1993, an accountable health partnership shall
26 make offers as to provider participation in its provider
27 network to relevant alliance district health care providers
28 for at least 60 percent of the available provider positions. A
29 provider who is made an offer may participate in an
30 accountable health partnership as long as the provider abides
31 by the terms and conditions of the provider network contract,

1 provides services at a rate or price equal to the rate or
2 price negotiated by the accountable health partnership, and
3 meets all of the accountable health partnership's
4 qualifications for participation in its provider networks
5 including, but not limited to, network adequacy criteria. For
6 purposes of this subsection, "alliance district health care
7 provider" means a health care provider who is licensed under
8 chapter 458, chapter 459, chapter 460, chapter 461, part I of
9 chapter 464, or chapter 465 who has practiced in Florida for
10 more than 1 year within the alliance district served by the
11 accountable health partnership.

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

14 409.908 Reimbursement of Medicaid providers.--Subject
15 to specific appropriations, the agency shall reimburse
16 Medicaid providers, in accordance with state and federal law,
17 according to methodologies set forth in the rules of the
18 agency and in policy manuals and handbooks incorporated by
19 reference therein. These methodologies may include fee
20 schedules, reimbursement methods based on cost reporting,
21 negotiated fees, competitive bidding pursuant to s. 287.057,
22 and other mechanisms the agency considers efficient and
23 effective for purchasing services or goods on behalf of
24 recipients. Payment for Medicaid compensable services made on
25 behalf of Medicaid eligible persons is subject to the
26 availability of moneys and any limitations or directions
27 provided for in the General Appropriations Act or chapter 216.
28 Further, nothing in this section shall be construed to prevent
29 or limit the agency from adjusting fees, reimbursement rates,
30 lengths of stay, number of visits, or number of services, or
31 making any other adjustments necessary to comply with the

1 availability of moneys and any limitations or directions
2 provided for in the General Appropriations Act, provided the
3 adjustment is consistent with legislative intent.

4 (12)

5 (d) Notwithstanding paragraph (b), reimbursement fees
6 to physicians for providing total obstetrical services to
7 Medicaid recipients, which include prenatal, delivery, and
8 postpartum care, shall be at least \$1,500 per delivery for a
9 pregnant woman with low medical risk and at least \$2,000 per
10 delivery for a pregnant woman with high medical risk. However,
11 reimbursement to physicians working in Regional Perinatal
12 Intensive Care Centers designated pursuant to chapter 383, for
13 services to certain pregnant Medicaid recipients with a high
14 medical risk, may be made according to obstetrical care and
15 neonatal care groupings and rates established by the agency.
16 Nurse midwives licensed under part I of chapter 464 or
17 midwives licensed under chapter 467 shall be reimbursed at no
18 less than 80 percent of the low medical risk fee. The agency
19 shall by rule determine, for the purpose of this paragraph,
20 what constitutes a high or low medical risk pregnant woman and
21 shall not pay more based solely on the fact that a caesarean
22 section was performed, rather than a vaginal delivery. The
23 agency shall by rule determine a prorated payment for
24 obstetrical services in cases where only part of the total
25 prenatal, delivery, or postpartum care was performed. The
26 Department of Health shall adopt rules for appropriate
27 insurance coverage for midwives licensed under chapter 467.
28 Prior to the issuance and renewal of an active license, or
29 reactivation of an inactive license for midwives licensed
30 under chapter 467, such licensees shall submit proof of
31 coverage with each application.

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

3 415.1085 Photographs, medical examinations, and X rays
4 of abused or neglected aged persons or disabled adults.--

5 (1) Any person authorized by law to investigate cases
6 of alleged abuse or neglect of an aged person or disabled
7 adult may take or cause to be taken photographs of the areas
8 of trauma visible on the aged person or disabled adult who is
9 the subject of a report, and photographs of the surrounding
10 environment, with the consent of the subject or guardian or
11 guardians. If the areas of trauma visible on the aged person
12 or disabled adult indicate a need for medical examination, or
13 if the aged person or disabled adult verbally complains or
14 otherwise exhibits distress as a result of injury through
15 suspected adult abuse, neglect, or exploitation, or is alleged
16 to have been sexually abused, the department may, with the
17 consent of the subject or guardian or guardians, cause the
18 aged person or disabled adult to be referred to a licensed
19 physician or any emergency department in a hospital or health
20 care facility for medical examinations and X rays, if deemed
21 necessary by the examining physician. Such examinations may
22 be performed by an advanced registered nurse practitioner
23 licensed pursuant to part I of chapter 464. Medical
24 examinations performed and X rays taken pursuant to this
25 section shall be paid for by third-party reimbursement, if
26 available, or by the subject or his or her guardian, if they
27 are determined to be financially able to pay; or, if neither
28 is available, the department shall pay the costs within
29 available emergency services funds.

30 Section 34. Paragraph (a) of subsection (1) of section
31 455.597 Florida Statutes, is amended to read:

1 455.597 Requirement for instruction on domestic
2 violence.--

3 (1)(a) The appropriate board shall require each person
4 licensed or certified under chapter 458, chapter 459, part I
5 of chapter 464, chapter 466, chapter 467, chapter 490, or
6 chapter 491 to complete a 1-hour continuing education course,
7 approved by the board, on domestic violence, as defined in s.
8 741.28, as part of biennial relicensure or recertification.
9 The course shall consist of information on the number of
10 patients in that professional's practice who are likely to be
11 victims of domestic violence and the number who are likely to
12 be perpetrators of domestic violence, screening procedures for
13 determining whether a patient has any history of being either
14 a victim or a perpetrator of domestic violence, and
15 instruction on how to provide such patients with information
16 on, or how to refer such patients to, resources in the local
17 community, such as domestic violence centers and other
18 advocacy groups, that provide legal aid, shelter, victim
19 counseling, batterer counseling, or child protection services.

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

22 455.604 Requirement for instruction for certain
23 licensees on human immunodeficiency virus and acquired immune
24 deficiency syndrome.--

25 (1) The appropriate board shall require each person
26 licensed or certified under chapter 457; chapter 458; chapter
27 459; chapter 460; chapter 461; chapter 463; part I of chapter
28 464; chapter 465; chapter 466; part II, part III, part V, or
29 part X of chapter 468; or chapter 486 to complete a continuing
30 educational course, approved by the board, on human
31 immunodeficiency virus and acquired immune deficiency syndrome

1 as part of biennial relicensure or recertification. The course
2 shall consist of education on the modes of transmission,
3 infection control procedures, clinical management, and
4 prevention of human immunodeficiency virus and acquired immune
5 deficiency syndrome. Such course shall include information on
6 current Florida law on acquired immune deficiency syndrome and
7 its impact on testing, confidentiality of test results,
8 treatment of patients, and any protocols and procedures
9 applicable to human immunodeficiency virus counseling and
10 testing, reporting, the offering of HIV testing to pregnant
11 women, and partner notification issues pursuant to ss. 381.004
12 and 384.25.

13 Section 36. Paragraph (a) of subsection (2) of section
14 455.667, Florida Statutes, is amended to read:

15 455.667 Ownership and control of patient records;
16 report or copies of records to be furnished.--

17 (2) As used in this section, the terms "records
18 owner," "health care practitioner," and "health care
19 practitioner's employer" do not include any of the following
20 persons or entities; furthermore, the following persons or
21 entities are not authorized to acquire or own medical records,
22 but are authorized under the confidentiality and disclosure
23 requirements of this section to maintain those documents
24 required by the part or chapter under which they are licensed
25 or regulated:

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

28 Section 37. Section 455.677, Florida Statutes, is
29 amended to read:

30 455.677 Disposition of records of deceased
31 practitioners or practitioners relocating or terminating

1 practice.--Each board created under the provisions of chapter
2 457, chapter 458, chapter 459, chapter 460, chapter 461,
3 chapter 463, part I of chapter 464, chapter 465, chapter 466,
4 part I of chapter 484, chapter 486, chapter 490, or chapter
5 491, and the department under the provisions of chapter 462,
6 shall provide by rule for the disposition, under that chapter,
7 of the medical records or records of a psychological nature of
8 practitioners which are in existence at the time the
9 practitioner dies, terminates practice, or relocates and is no
10 longer available to patients and which records pertain to the
11 practitioner's patients. The rules shall provide that the
12 records be retained for at least 2 years after the
13 practitioner's death, termination of practice, or relocation.
14 In the case of the death of the practitioner, the rules shall
15 provide for the disposition of such records by the estate of
16 the practitioner.

17 Section 38. Paragraph (b) of subsection (2) of section
18 455.694, Florida Statutes, is amended to read:

19 455.694 Financial responsibility requirements for
20 certain health care practitioners.--

21 (2) The board or department may grant exemptions upon
22 application by practitioners meeting any of the following
23 criteria:

24 (b) Any person whose license or certification has
25 become inactive under chapter 457, chapter 460, chapter 461,
26 part I of chapter 464, chapter 466, or chapter 467 and who is
27 not practicing in this state. Any person applying for
28 reactivation of a license must show either that such licensee
29 maintained tail insurance coverage which provided liability
30 coverage for incidents that occurred on or after October 1,
31 1993, or the initial date of licensure in this state,

1 whichever is later, and incidents that occurred before the
2 date on which the license became inactive; or such licensee
3 must submit an affidavit stating that such licensee has no
4 unsatisfied medical malpractice judgments or settlements at
5 the time of application for reactivation.

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

8 455.707 Treatment programs for impaired
9 practitioners.--

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

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

23 458.348 Formal supervisory relationships, standing
24 orders, and established protocols; notice; standards.--

25 (2) ESTABLISHMENT OF STANDARDS BY JOINT
26 COMMITTEE.--The joint committee created by s. 464.003(3)(c)
27 shall determine minimum standards for the content of
28 established protocols pursuant to which an advanced registered
29 nurse practitioner may perform medical acts identified and
30 approved by the joint committee pursuant to s. 464.003(3)(c)
31 or acts set forth in s. 464.012(3) and (4) and shall determine

1 minimum standards for supervision of such acts by the
2 physician, unless the joint committee determines that any act
3 set forth in s. 464.012(3) or (4) is not a medical act. Such
4 standards shall be based on risk to the patient and acceptable
5 standards of medical care and shall take into account the
6 special problems of medically underserved areas. The standards
7 developed by the joint committee shall be adopted as rules by
8 the Board of Nursing and the Board of Medicine for purposes of
9 carrying out their responsibilities pursuant to part I of
10 chapter 464 and this chapter, respectively, but neither board
11 shall have disciplinary powers over the licensees of the other
12 board.

13 Section 41. Section 464.001, Florida Statutes, is
14 amended to read:

15 464.001 Short title.--This part may be cited ~~chapter~~
16 ~~shall be known~~ as the "Nurse Practice Act."

17 Section 42. Section 464.002, Florida Statutes, is
18 amended to read:

19 464.002 Purpose.--The sole legislative purpose in
20 enacting this part ~~chapter~~ is to ensure that every nurse
21 practicing in this state meets minimum requirements for safe
22 practice. It is the legislative intent that nurses who fall
23 below minimum competency or who otherwise present a danger to
24 the public shall be prohibited from practicing in this state.

25 Section 43. Section 464.003, Florida Statutes, is
26 amended to read:

27 464.003 Definitions.--As used in this part ~~chapter~~:

- 28 (1) "Department" means the Department of Health.
29 (2) "Board" means the Board of Nursing ~~as created in~~
30 ~~this chapter~~.

31

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

6 1. The observation, assessment, nursing diagnosis,
7 planning, intervention, and evaluation of care; health
8 teaching and counseling of the ill, injured, or infirm; and
9 the promotion of wellness, maintenance of health, and
10 prevention of illness of others.

11 2. The administration of medications and treatments as
12 prescribed or authorized by a duly licensed practitioner
13 authorized by the laws of this state to prescribe such
14 medications and treatments.

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

17 (b) "Practice of practical nursing" means the
18 performance of selected acts, including the administration of
19 treatments and medications, in the care of the ill, injured,
20 or infirm and the promotion of wellness, maintenance of
21 health, and prevention of illness of others under the
22 direction of a registered nurse, a licensed physician, a
23 licensed osteopathic physician, a licensed podiatric
24 physician, or a licensed dentist.

25
26 The professional nurse and the practical nurse shall be
27 responsible and accountable for making decisions that are
28 based upon the individual's educational preparation and
29 experience in nursing.

30 (c) "Advanced or specialized nursing practice" means,
31 in addition to the practice of professional nursing, the

1 performance of advanced-level nursing acts approved by the
2 board which, by virtue of postbasic specialized education,
3 training, and experience, are proper to be performed by an
4 advanced registered nurse practitioner. Within the context of
5 advanced or specialized nursing practice, the advanced
6 registered nurse practitioner may perform acts of nursing
7 diagnosis and nursing treatment of alterations of the health
8 status. The advanced registered nurse practitioner may also
9 perform acts of medical diagnosis and treatment, prescription,
10 and operation which are identified and approved by a joint
11 committee composed of three members appointed by the Board of
12 Nursing, two of whom shall be advanced registered nurse
13 practitioners; three members appointed by the Board of
14 Medicine, two of whom shall have had work experience with
15 advanced registered nurse practitioners; and the secretary of
16 the department or the secretary's designee. Each committee
17 member appointed by a board shall be appointed to a term of 4
18 years unless a shorter term is required to establish or
19 maintain staggered terms. The Board of Nursing shall adopt
20 rules authorizing the performance of any such acts approved by
21 the joint committee. Unless otherwise specified by the joint
22 committee, such acts shall be performed under the general
23 supervision of a practitioner licensed under chapter 458,
24 chapter 459, or chapter 466 within the framework of standing
25 protocols which identify the medical acts to be performed and
26 the conditions for their performance. The department may, by
27 rule, require that a copy of the protocol be filed with the
28 department along with the notice required by s. 458.348.

29 (d) "Nursing diagnosis" means the observation and
30 evaluation of physical or mental conditions, behaviors, signs
31 and symptoms of illness, and reactions to treatment and the

1 determination as to whether such conditions, signs, symptoms,
2 and reactions represent a deviation from normal.

3 (e) "Nursing treatment" means the establishment and
4 implementation of a nursing regimen for the care and comfort
5 of individuals, the prevention of illness, and the education,
6 restoration, and maintenance of health.

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

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

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

14 (7) "Approved program" means a nursing program
15 conducted in a school, college, or university which is
16 approved by the board pursuant to s. 464.019 for the education
17 of nurses.

18 Section 44. Section 464.006, Florida Statutes, is
19 amended to read:

20 464.006 Authority to make rules.--The board of ~~Nursing~~
21 has authority to adopt rules pursuant to ss. 120.536(1) and
22 120.54 to implement the provisions of this part ~~chapter~~
23 conferring duties upon it.

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

26 464.009 Licensure by endorsement.--

27 (3) The department shall not issue a license by
28 endorsement to any applicant who is under investigation in
29 another state for an act which would constitute a violation of
30 this part ~~chapter~~ until such time as the investigation is
31

1 complete, at which time the provisions of s. 464.018 shall
2 apply.

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

6 464.016 Violations and penalties.--

7 (1) Each of the following acts constitutes a felony of
8 the third degree, punishable as provided in s. 775.082, s.
9 775.083, or s. 775.084:

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

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

16 (2) Each of the following acts constitutes a
17 misdemeanor of the first degree, punishable as provided in s.
18 775.082 or s. 775.083:

19 (b) Knowingly concealing information relating to
20 violations of this part ~~chapter~~.

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

24 464.018 Disciplinary actions.--

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

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

31

1 (k) Failing to report to the department any person who
2 the licensee knows is in violation of this part ~~chapter~~ or of
3 the rules of the department or the board; however, if the
4 licensee verifies that such person is actively participating
5 in a board-approved program for the treatment of a physical or
6 mental condition, the licensee is required to report such
7 person only to an impaired professionals consultant.

8 (1) Knowingly violating any provision of this part
9 ~~chapter~~, a rule of the board or the department, or a lawful
10 order of the board or department previously entered in a
11 disciplinary proceeding or failing to comply with a lawfully
12 issued subpoena of the department.

13 (4) The board shall not reinstate the license of a
14 nurse who has been found guilty by the board on three separate
15 occasions of violations of this part ~~chapter~~ relating to the
16 use of drugs or narcotics, which offenses involved the
17 diversion of drugs or narcotics from patients to personal use
18 or sale.

19 Section 48. Subsections (1), (2), and (3) of section
20 464.019, Florida Statutes, are amended to read:

21 464.019 Approval of nursing programs.--

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

29 (2) The board shall adopt rules regarding educational
30 objectives, faculty qualifications, curriculum guidelines,
31 administrative procedures, and clinical training as are

1 necessary to ensure that approved programs graduate nurses
2 capable of competent practice under this part ~~act~~.

3 (3) The department shall survey each institution
4 applying for approval and submit its findings to the board.
5 If the board is satisfied that the program meets the
6 requirements of this part ~~chapter~~ and rules pursuant thereto,
7 it shall certify the program for approval and the department
8 shall approve the program.

9 Section 49. Section 464.022, Florida Statutes, is
10 amended to read:

11 464.022 Exceptions.--No provision of this part ~~chapter~~
12 shall be construed to prohibit:

13 (1) The care of the sick by friends or members of the
14 family without compensation, the incidental care of the sick
15 by domestic servants, or the incidental care of
16 noninstitutionalized persons by a surrogate family.

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

18 (3) The practice of nursing by students enrolled in
19 approved schools of nursing.

20 (4) The practice of nursing by graduates of approved
21 programs or the equivalent, pending the result of the first
22 licensing examination for which they are eligible following
23 graduation, provided they practice under direct supervision of
24 a registered professional nurse. The board shall by rule
25 define what constitutes direct supervision.

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

29 (6) Any nurse practicing in accordance with the
30 practices and principles of the body known as the Church of
31 Christ Scientist; nor shall any rule of the board apply to any

1 sanitarium, nursing home, or rest home operated in accordance
2 with the practices and principles of the body known as the
3 Church of Christ Scientist.

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

8 (8) Any nurse currently licensed in another state from
9 performing nursing services in this state for a period of 60
10 days after furnishing to the employer satisfactory evidence of
11 current licensure in another state and having submitted proper
12 application and fees to the board for licensure prior to
13 employment. The board may extend this time for administrative
14 purposes when necessary.

15 (9) The rendering of nursing services on a
16 fee-for-service basis, or the reimbursement for nursing
17 services directly to a nurse rendering such services by any
18 government program, commercial insurance company, hospital or
19 medical services plan, or any other third-party payor.

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

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

29 (12) The practice of nursing by any legally qualified
30 nurse of another state whose employment requires the nurse to
31 accompany and care for a patient temporarily residing in this

1 state for not more than 30 consecutive days, provided the
2 patient is not in an inpatient setting, the board is notified
3 prior to arrival of the patient and nurse, the nurse has the
4 standing physician orders and current medical status of the
5 patient available, and prearrangements with the appropriate
6 licensed health care providers in this state have been made in
7 case the patient needs placement in an inpatient setting.

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

10 Section 50. Section 464.023, Florida Statutes, is
11 amended to read:

12 464.023 Saving clauses.--

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

16 (2) Each licensee or holder of a certificate who was
17 duly licensed or certified on June 30, 1979, shall be entitled
18 to hold such license or certificate. Henceforth, such license
19 or certificate shall be renewed in accordance with the
20 provisions of this part ~~act~~.

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

23 464.027 Registered nurse first assistant.--

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

26 (a) Is licensed as a registered nurse under this part
27 ~~chapter~~;

28 (b) Is certified in perioperative nursing; and

29 (c) Holds a certificate from, and has successfully
30 completed, a recognized program.

31

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

3 466.003 Definitions.--As used in this chapter:

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

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

11 467.003 Definitions.--As used in this chapter, unless
12 the context otherwise requires:

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

17 Section 54. Paragraph (a) of subsection (2) of section
18 467.0125, Florida Statutes, is amended to read:

19 467.0125 Licensure by endorsement.--

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

24 (a) The Department of Health shall determine the areas
25 of critical need, and the midwife so certified shall practice
26 only in those specific areas, under the auspices of a
27 physician licensed pursuant to chapter 458 or chapter 459, a
28 certified nurse midwife licensed pursuant to part I of chapter
29 464, or a midwife licensed under this chapter, who has a
30 minimum of 3 years' professional experience. Such areas shall
31 include, but not be limited to, health professional shortage

1 areas designated by the United States Department of Health and
2 Human Services.

3 Section 55. Paragraph (e) of subsection (2) of section
4 467.203, Florida Statutes, is amended to read:

5 467.203 Disciplinary actions; penalties.--

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

9 (e) Placement of the midwife on probation for such
10 period of time and subject to such conditions as the
11 department may specify, including requiring the midwife to
12 submit to treatment; undertake further relevant education or
13 training; take an examination; or work under the supervision
14 of another licensed midwife, a physician, or a nurse midwife
15 licensed under part I of chapter 464.

16 Section 56. Paragraph (a) of subsection (1) of section
17 468.505, Florida Statutes, is amended to read:

18 468.505 Exemptions; exceptions.--

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

22 (a) A person licensed in this state under chapter 457,
23 chapter 458, chapter 459, chapter 460, chapter 461, chapter
24 462, chapter 463, part I of chapter 464, chapter 465, chapter
25 466, chapter 480, chapter 490, or chapter 491, when engaging
26 in the profession or occupation for which he or she is
27 licensed, or of any person employed by and under the
28 supervision of the licensee when rendering services within the
29 scope of the profession or occupation of the licensee.

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

1 483.041 Definitions.--As used in this part, the term:

2 (7) "Licensed practitioner" means a physician licensed
3 under chapter 458, chapter 459, chapter 460, or chapter 461; a
4 dentist licensed under chapter 466; a person licensed under
5 chapter 462; or an advanced registered nurse practitioner
6 licensed under part I of chapter 464; or a duly licensed
7 practitioner from another state licensed under similar
8 statutes who orders examinations on materials or specimens for
9 nonresidents of the State of Florida, but who reside in the
10 same state as the requesting licensed practitioner.

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

13 483.801 Exemptions.--This part applies to all clinical
14 laboratories and clinical laboratory personnel within this
15 state, except:

16 (5) Advanced registered nurse practitioners licensed
17 under part I of chapter 464 who perform provider-performed
18 microscopy procedures (PPMP) in an exclusive-use laboratory
19 setting.

20 Section 59. Paragraph (a) of subsection (4) of section
21 491.0112, Florida Statutes, is amended to read:

22 491.0112 Sexual misconduct by a psychotherapist;
23 penalties.--

24 (4) For the purposes of this section:

25 (a) The term "psychotherapist" means any person
26 licensed pursuant to chapter 458, chapter 459, part I of
27 chapter 464, chapter 490, or chapter 491, or any other person
28 who provides or purports to provide treatment, diagnosis,
29 assessment, evaluation, or counseling of mental or emotional
30 illness, symptom, or condition.

31

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

3 550.24055 Use of controlled substances or alcohol
4 prohibited; testing of certain occupational licensees;
5 penalty; evidence of test or action taken and admissibility
6 for criminal prosecution limited.--

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

12 Section 61. Paragraph (h) of subsection (4) of section
13 627.351, Florida Statutes, is amended to read:

14 627.351 Insurance risk apportionment plans.--

15 (4) MEDICAL MALPRACTICE RISK APPORTIONMENT.--

16 (h) As used in this subsection:

17 1. "Health care provider" means hospitals licensed
18 under chapter 395; physicians licensed under chapter 458;
19 osteopathic physicians licensed under chapter 459; podiatric
20 physicians licensed under chapter 461; dentists licensed under
21 chapter 466; chiropractic physicians licensed under chapter
22 460; naturopaths licensed under chapter 462; nurses licensed
23 under part I of chapter 464; midwives licensed under chapter
24 467; clinical laboratories registered under chapter 483;
25 physician assistants licensed under chapter 458 or chapter
26 459; physical therapists and physical therapist assistants
27 licensed under chapter 486; health maintenance organizations
28 certificated under part I of chapter 641; ambulatory surgical
29 centers licensed under chapter 395; other medical facilities
30 as defined in subparagraph 2.; blood banks, plasma centers,
31 industrial clinics, and renal dialysis facilities; or

1 professional associations, partnerships, corporations, joint
2 ventures, or other associations for professional activity by
3 health care providers.

4 2. "Other medical facility" means a facility the
5 primary purpose of which is to provide human medical
6 diagnostic services or a facility providing nonsurgical human
7 medical treatment, to which facility the patient is admitted
8 and from which facility the patient is discharged within the
9 same working day, and which facility is not part of a
10 hospital. However, a facility existing for the primary
11 purpose of performing terminations of pregnancy or an office
12 maintained by a physician or dentist for the practice of
13 medicine shall not be construed to be an "other medical
14 facility."

15 3. "Health care facility" means any hospital licensed
16 under chapter 395, health maintenance organization
17 certificated under part I of chapter 641, ambulatory surgical
18 center licensed under chapter 395, or other medical facility
19 as defined in subparagraph 2.

20 Section 62. Paragraph (b) of subsection (1) of section
21 627.357, Florida Statutes, is amended to read:

22 627.357 Medical malpractice self-insurance.--

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

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

25 1. Hospital licensed under chapter 395.

26 2. Physician licensed, or physician assistant
27 licensed, under chapter 458.

28 3. Osteopathic physician or physician assistant
29 licensed under chapter 459.

30 4. Podiatric physician licensed under chapter 461.

31

1 5. Health maintenance organization certificated under
2 part I of chapter 641.

3 6. Ambulatory surgical center licensed under chapter
4 395.

5 7. Chiropractic physician licensed under chapter 460.

6 8. Psychologist licensed under chapter 490.

7 9. Optometrist licensed under chapter 463.

8 10. Dentist licensed under chapter 466.

9 11. Pharmacist licensed under chapter 465.

10 12. Registered nurse, licensed practical nurse, or
11 advanced registered nurse practitioner licensed or registered
12 under part I of chapter 464.

13 13. Other medical facility.

14 14. Professional association, partnership,
15 corporation, joint venture, or other association established
16 by the individuals set forth in subparagraphs 2., 3., 4., 7.,
17 8., 9., 10., 11., and 12. for professional activity.

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

20 627.9404 Definitions.--For the purposes of this part:

21 (6) "Licensed health care practitioner" means any
22 physician, nurse licensed under part I of chapter 464, or
23 psychotherapist licensed under chapter 490 or chapter 491, or
24 any individual who meets any requirements prescribed by rule
25 by the department.

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

28 641.31 Health maintenance contracts.--

29 (21) Notwithstanding any other provision of law,
30 health maintenance policies or contracts which provide
31 anesthesia coverage, benefits, or services shall offer to the

1 subscriber, if requested and available, the services of a
2 certified registered nurse anesthetist licensed pursuant to
3 part I of chapter 464.

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

6 766.101 Medical review committee, immunity from
7 liability.--

8 (8) No cause of action of any nature by a person
9 licensed pursuant to chapter 458, chapter 459, chapter 461,
10 chapter 463, part I of chapter 464, chapter 465, or chapter
11 466 shall arise against another person licensed pursuant to
12 chapter 458, chapter 459, chapter 461, chapter 463, part I of
13 chapter 464, chapter 465, or chapter 466 for furnishing
14 information to a duly appointed medical review committee, to
15 an internal risk management program established under s.
16 395.0197, to the Department of Business and Professional
17 Regulation, or to the appropriate regulatory board if the
18 information furnished concerns patient care at a facility
19 licensed pursuant to part I of chapter 395 where both persons
20 provide health care services, if the information is not
21 intentionally fraudulent, and if the information is within the
22 scope of the functions of the committee, department, or board.
23 However, if such information is otherwise available from
24 original sources, it is not immune from discovery or use in a
25 civil action merely because it was presented during a
26 proceeding of the committee, department, or board.

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

29 766.110 Liability of health care facilities.--

30 (2) Every hospital licensed under chapter 395 may
31 carry liability insurance or adequately insure itself in an

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

1 citizens of this state receive the highest quality health care
2 obtainable.

3 Section 67. Paragraph (d) of subsection (3) of section
4 766.1115, Florida Statutes, is amended to read:

5 766.1115 Health care providers; creation of agency
6 relationship with governmental contractors.--

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

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

- 9 1. A birth center licensed under chapter 383.
- 10 2. An ambulatory surgical center licensed under
11 chapter 395.
- 12 3. A hospital licensed under chapter 395.
- 13 4. A physician or physician assistant licensed under
14 chapter 458.
- 15 5. An osteopathic physician or osteopathic physician
16 assistant licensed under chapter 459.
- 17 6. A chiropractic physician licensed under chapter
18 460.
- 19 7. A podiatric physician licensed under chapter 461.
- 20 8. A registered nurse, nurse midwife, licensed
21 practical nurse, or advanced registered nurse practitioner
22 licensed or registered under part I of chapter 464 or any
23 facility which employs nurses licensed or registered under
24 part I of chapter 464 to supply all or part of the care
25 delivered under this section.
- 26 9. A midwife licensed under chapter 467.
- 27 10. A health maintenance organization certificated
28 under part I of chapter 641.
- 29 11. A health care professional association and its
30 employees or a corporate medical group and its employees.

31

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

5 13. A dentist or dental hygienist licensed under
6 chapter 466.

7 14. Any other health care professional, practitioner,
8 provider, or facility under contract with a governmental
9 contractor.

10
11 The term includes any nonprofit corporation qualified as
12 exempt from federal income taxation under s. 501(c) of the
13 Internal Revenue Code which delivers health care services
14 provided by licensed professionals listed in this paragraph,
15 any federally funded community health center, and any
16 volunteer corporation or volunteer health care provider that
17 delivers health care services.

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

20 877.111 Inhalation, ingestion, possession, sale,
21 purchase, or transfer of harmful chemical substances;
22 penalties.--

23 (1) It is unlawful for any person to inhale or ingest,
24 or to possess with intent to breathe, inhale, or drink, any
25 compound, liquid, or chemical containing toluol, hexane,
26 trichloroethylene, acetone, toluene, ethyl acetate, methyl
27 ethyl ketone, trichloroethane, isopropanol, methyl isobutyl
28 ketone, ethylene glycol monomethyl ether acetate,
29 cyclohexanone, nitrous oxide, diethyl ether, alkyl nitrites
30 (butyl nitrite), or any similar substance for the purpose of
31 inducing a condition of intoxication or which distorts or

1 disturbs the auditory, visual, or mental processes. This
2 section does not apply to the possession and use of these
3 substances as part of the care or treatment of a disease or
4 injury by a practitioner licensed under chapter 458, chapter
5 459, part I of chapter 464, or chapter 466 or to beverages
6 controlled by the provisions of chapter 561, chapter 562,
7 chapter 563, chapter 564, or chapter 565.

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

10 945.602 State of Florida Correctional Medical
11 Authority; creation; members.--

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

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

17 960.28 Payment for victims' initial forensic physical
18 examinations.--

19 (2) The Crime Victims' Services Office of the
20 department shall pay for medical expenses connected with an
21 initial forensic physical examination of a victim who reports
22 a violation of chapter 794 or chapter 800 to a law enforcement
23 officer. Such payment shall be made regardless of whether or
24 not the victim is covered by health or disability insurance.
25 The payment shall be made only out of moneys allocated to the
26 Crime Victims' Services Office for the purposes of this
27 section, and the payment may not exceed \$250 with respect to
28 any violation. Payment may not be made for an initial forensic
29 physical examination unless the law enforcement officer
30 certifies in writing that the initial forensic physical
31 examination is needed to aid in the investigation of an

1 alleged sexual offense and that the claimant is the alleged
2 victim of the offense. The department shall develop and
3 maintain separate protocols for the initial forensic physical
4 examination of adults and children. Payment under this section
5 is limited to medical expenses connected with the initial
6 forensic physical examination, and payment may be made to a
7 medical provider using an examiner qualified under part I of
8 chapter 464, excluding s. 464.003(5); chapter 458; or chapter
9 459. Payment made to the medical provider by the department
10 shall be considered by the provider as payment in full for the
11 initial forensic physical examination associated with the
12 collection of evidence. The victim may not be required to pay,
13 directly or indirectly, the cost of an initial forensic
14 physical examination performed in accordance with this
15 section.

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

18 984.03 Definitions.--When used in this chapter, the
19 term:

20 (36) "Licensed health care professional" means a
21 physician licensed under chapter 458, an osteopathic physician
22 licensed under chapter 459, a nurse licensed under part I of
23 chapter 464, a physician assistant licensed under chapter 458
24 or chapter 459, or a dentist licensed under chapter 466.

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

27 985.03 Definitions.--When used in this chapter, the
28 term:

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

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

3 Section 73. Section 455.557, Florida Statutes, is
4 amended to read:

5 455.557 Standardized credentialing for health care
6 practitioners.--

7 (1) INTENT.--The Legislature recognizes that an
8 efficient and effective health care practitioner credentialing
9 program helps to ensure access to quality health care and also
10 recognizes that health care practitioner credentialing
11 activities have increased significantly as a result of health
12 care reform and recent changes in health care delivery and
13 reimbursement systems. Moreover, the resulting duplication of
14 health care practitioner credentialing activities is
15 unnecessarily costly and cumbersome for both the practitioner
16 and the entity granting practice privileges. Therefore, it is
17 the intent of this section that a credentials collection
18 program be established which provides that, once a health care
19 practitioner's core credentials data are collected, they need
20 not be collected again, except for corrections, updates, and
21 modifications thereto. Participation under this section shall
22 ~~initially~~ include those individuals licensed under chapter
23 458, chapter 459, chapter 460, ~~or~~ chapter 461, or s. 464.012.
24 However, the department shall, with the approval of the
25 applicable board, include other professions under the
26 jurisdiction of the Division of Medical Quality Assurance in
27 this program, provided they meet the requirements of s.
28 455.565 or s. 455.56503.

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

30 ~~(a) "Advisory council" or "council" means the~~
31 ~~Credentials Advisory Council.~~

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

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

23 ~~(c)(d)~~ "Credential" or "credentialing" means the
 24 process of assessing and verifying the qualifications of a
 25 licensed health care practitioner or applicant for licensure
 26 as a health care practitioner.

27 ~~(d)(e)~~ "Credentials verification organization" means
 28 any organization certified or accredited as a credentials
 29 verification organization.

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

1 (f)~~(g)~~ "Designated credentials verification
2 organization" means the credentials verification organization
3 which is selected by the health care practitioner, if the
4 health care practitioner chooses to make such a designation.

5 (g)~~(h)~~ "Drug Enforcement Administration certification"
6 means certification issued by the Drug Enforcement
7 Administration for purposes of administration or prescription
8 of controlled substances. Submission of such certification
9 under this section must include evidence that the
10 certification is current and must also include all current
11 addresses to which the certificate is issued.

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

13 1. Any health care facility or other health care
14 organization licensed or certified to provide approved medical
15 and allied health services in this state;

16 2. Any entity licensed by the Department of Insurance
17 as a prepaid health care plan or health maintenance
18 organization or as an insurer to provide coverage for health
19 care services through a network of providers; or

20 3. Any accredited medical school in this state.

21 (i)~~(j)~~ "Health care practitioner" means any person
22 licensed, or, for credentialing purposes only, any person
23 applying for licensure, under chapter 458, chapter 459,
24 chapter 460, ~~or~~ chapter 461, or s. 464.012 or any person
25 licensed or applying for licensure under a chapter
26 subsequently made subject to this section by the department
27 with the approval of the applicable board, except a person
28 registered or applying for registration pursuant to s. 458.345
29 or s. 459.021.

30 (j)~~(k)~~ "Hospital or other institutional affiliations"
31 means each hospital or other institution for which the health

1 care practitioner or applicant has provided medical services.
2 Submission of such information under this section must
3 include, for each hospital or other institution, the name and
4 address of the hospital or institution, the staff status of
5 the health care practitioner or applicant at that hospital or
6 institution, and the dates of affiliation with that hospital
7 or institution.

8 (k)~~(l)~~ "National accrediting organization" means an
9 organization that awards accreditation or certification to
10 hospitals, managed care organizations, credentials
11 verification organizations, or other health care
12 organizations, including, but not limited to, the Joint
13 Commission on Accreditation of Healthcare Organizations, the
14 American Accreditation HealthCare Commission/URAC, and the
15 National Committee for Quality Assurance.

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

19 (m)~~(n)~~ "Specialty board certification" means
20 certification in a specialty issued by a specialty board
21 recognized by the board in this state that regulates the
22 profession for which the health care practitioner is licensed
23 or seeking licensure.

24 (3) STANDARDIZED CREDENTIALS VERIFICATION PROGRAM.--

25 (a) Every health care practitioner shall:

26 1. Report all core credentials data to the department
27 which is not already on file with the department, either by
28 designating a credentials verification organization to submit
29 the data or by submitting the data directly.

30 2. Notify the department within 45 days of any
31 corrections, updates, or modifications to the core credentials

1 data either through his or her designated credentials
2 verification organization or by submitting the data directly.
3 Corrections, updates, and modifications to the core
4 credentials data provided the department under this section
5 shall comply with the updating requirements of s. 455.565(3)
6 or s. 455.56503(3) related to profiling.

7 (b) The department shall:

8 1. Maintain a complete, current file of core
9 credentials data on each health care practitioner, which shall
10 include all updates provided in accordance with subparagraph
11 (a)2.

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

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

22 4. ~~Develop, in consultation with the advisory council,~~
23 standardized forms to be used by the health care practitioner
24 or designated credentials verification organization for the
25 initial reporting of core credentials data, for the health
26 care practitioner to authorize the release of core credentials
27 data, and for the subsequent reporting of corrections,
28 updates, and modifications thereto.

29 5. ~~Establish a Credentials Advisory Council,~~
30 ~~consisting of 13 members, to assist the department as provided~~
31 ~~in this section. The secretary, or his or her designee, shall~~

1 ~~serve as one member and chair of the council and shall appoint~~
2 ~~the remaining 12 members. Except for any initial lesser term~~
3 ~~required to achieve staggering, such appointments shall be for~~
4 ~~4-year staggered terms, with one 4-year reappointment, as~~
5 ~~applicable. Three members shall represent hospitals, and two~~
6 ~~members shall represent health maintenance organizations. One~~
7 ~~member shall represent health insurance entities. One member~~
8 ~~shall represent the credentials verification industry. Two~~
9 ~~members shall represent physicians licensed under chapter 458.~~
10 ~~One member shall represent osteopathic physicians licensed~~
11 ~~under chapter 459. One member shall represent chiropractic~~
12 ~~physicians licensed under chapter 460. One member shall~~
13 ~~represent podiatric physicians licensed under chapter 461.~~

14 (c) A registered credentials verification organization
15 may be designated by a health care practitioner to assist the
16 health care practitioner to comply with the requirements of
17 subparagraph (a)2. A designated credentials verification
18 organization shall:

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

21 2. Not provide the health care practitioner's core
22 data, including all corrections, updates, and modifications,
23 without the authorization of the practitioner.

24 (d) This section shall not be construed to restrict in
25 any way the authority of the health care entity to credential
26 and to approve or deny an application for hospital staff
27 membership, clinical privileges, or managed care network
28 participation.

29 (4) DUPLICATION OF DATA PROHIBITED.--

30 (a) A health care entity or credentials verification
31 organization is prohibited from collecting or attempting to

1 collect duplicate core credentials data from any health care
2 practitioner if the information is available from the
3 department. This section shall not be construed to restrict
4 the right of any health care entity or credentials
5 verification organization to collect additional information
6 from the health care practitioner which is not included in the
7 core credentials data file. This section shall not be
8 construed to prohibit a health care entity or credentials
9 verification organization from obtaining all necessary
10 attestation and release form signatures and dates.

11 (b) Effective July 1, 2002, a state agency in this
12 state which credentials health care practitioners may not
13 collect or attempt to collect duplicate core credentials data
14 from any individual health care practitioner if the
15 information is already available from the department. This
16 section shall not be construed to restrict the right of any
17 such state agency to request additional information not
18 included in the core credential data file, but which is deemed
19 necessary for the agency's specific credentialing purposes.

20 (5) STANDARDS AND REGISTRATION.--Any credentials
21 verification organization that does business in this state
22 must be fully accredited or certified as a credentials
23 verification organization by a national accrediting
24 organization as specified in paragraph (2) (a) ~~(b)~~ and must
25 register with the department. The department may charge a
26 reasonable registration fee, ~~set in consultation with the~~
27 ~~advisory council~~, not to exceed an amount sufficient to cover
28 its actual expenses in providing and enforcing such
29 registration. The department shall establish by rule for
30 biennial renewal of such registration. Failure by a registered
31 credentials verification organization to maintain full

1 accreditation or certification, to provide data as authorized
2 by the health care practitioner, to report to the department
3 changes, updates, and modifications to a health care
4 practitioner's records within the time period specified in
5 subparagraph (3)(a)2., or to comply with the prohibition
6 against collection of duplicate core credentials data from a
7 practitioner may result in denial of an application for
8 renewal of registration or in revocation or suspension of a
9 registration.

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

15 (7) LIABILITY INSURANCE REQUIREMENTS.--Each
16 credentials verification organization doing business in this
17 state shall maintain liability insurance appropriate to meet
18 the certification or accreditation requirements established in
19 this section.

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

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

29 Section 74. Section 455.56503, Florida Statutes, is
30 created to read:

31

1 455.56503 Advanced registered nurse practitioners;
2 information required for certification.--

3 (1)(a) Each person who applies for initial
4 certification under s. 464.012 must, at the time of
5 application, and each person certified under s. 464.012 who
6 applies for certification renewal must, in conjunction with
7 the renewal of such certification and under procedures adopted
8 by the Department of Health, and in addition to any other
9 information that may be required from the applicant, furnish
10 the following information to the Department of Health:

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

17 2. The name of each location at which the applicant
18 practices.

19 3. The address at which the applicant will primarily
20 conduct his or her practice.

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

25 5. The year that the applicant received initial
26 certification and began practicing the profession in any
27 jurisdiction and the year that the applicant received initial
28 certification in this state.

29 6. Any appointment which the applicant currently holds
30 to the faculty of a school related to the profession and an
31 indication as to whether the applicant has had the

1 responsibility for graduate education within the most recent
2 10 years.

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

18 8. A description of any final disciplinary action
19 taken within the previous 10 years against the applicant by a
20 licensing or regulatory body in any jurisdiction, by a
21 specialty board that is recognized by the board or department,
22 or by a licensed hospital, health maintenance organization,
23 prepaid health clinic, ambulatory surgical center, or nursing
24 home. Disciplinary action includes resignation from or
25 nonrenewal of staff membership or the restriction of
26 privileges at a licensed hospital, health maintenance
27 organization, prepaid health clinic, ambulatory surgical
28 center, or nursing home taken in lieu of or in settlement of a
29 pending disciplinary case related to competence or character.
30 If the applicant indicates that the disciplinary action is
31 under appeal and submits a copy of the document initiating an

1 appeal of the disciplinary action, the department must state
2 that the disciplinary action is under appeal if the
3 disciplinary action is reported in the applicant's profile.

4 (b) In addition to the information required under
5 paragraph (a), each applicant for initial certification or
6 certification renewal must provide the information required of
7 licensees pursuant to s. 455.697.

8 (2) The Department of Health shall send a notice to
9 each person certified under s. 464.012 at the
10 certificateholder's last known address of record regarding the
11 requirements for information to be submitted by advanced
12 registered nurse practitioners pursuant to this section in
13 conjunction with the renewal of such certificate.

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

25 (a) Refuse to issue a certificate to any person
26 applying for initial certification who fails to submit and
27 update the required information.

28 (b) Issue a citation to any certificateholder who
29 fails to submit and update the required information and may
30 fine the certificateholder up to \$50 for each day that the
31 certificateholder is not in compliance with this subsection.

1 The citation must clearly state that the certificateholder may
2 choose, in lieu of accepting the citation, to follow the
3 procedure under s. 455.621. If the certificateholder disputes
4 the matter in the citation, the procedures set forth in s.
5 455.621 must be followed. However, if the certificateholder
6 does not dispute the matter in the citation with the
7 department within 30 days after the citation is served, the
8 citation becomes a final order and constitutes discipline.
9 Service of a citation may be made by personal service or
10 certified mail, restricted delivery, to the subject at the
11 certificateholder's last known address.

12 (4)(a) An applicant for initial certification under s.
13 464.012 must submit a set of fingerprints to the Department of
14 Health on a form and under procedures specified by the
15 department, along with payment in an amount equal to the costs
16 incurred by the Department of Health for a national criminal
17 history check of the applicant.

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

1 (c)1. The Department of Health shall submit the
2 fingerprints provided by an applicant for initial
3 certification to the Florida Department of Law Enforcement for
4 a statewide criminal history check, and the Florida Department
5 of Law Enforcement shall forward the fingerprints to the
6 Federal Bureau of Investigation for a national criminal
7 history check of the applicant.

8 2. The department shall submit the fingerprints
9 provided by an applicant for the initial renewal of
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 for the initial renewal of the applicant's
15 certificate after the effective date of this section.

16 3. For any subsequent renewal of the applicant's
17 certificate, the department shall submit the required
18 information for a statewide criminal history check of the
19 applicant to the Florida Department of Law Enforcement.

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

1 advanced registered nurse practitioner with the Department of
2 Health, notwithstanding any other provision of law to the
3 contrary. In lieu of such duplicate submission, the Agency for
4 Health Care Administration, the Department of Juvenile
5 Justice, and the Department of Children and Family Services
6 shall obtain criminal history information for employment or
7 licensure of persons certified under s. 464.012 by such agency
8 or department from the Department of Health's health care
9 practitioner credentialing system.

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

14 (a) Information regarding publications in
15 peer-reviewed professional literature within the previous 10
16 years.

17 (b) Information regarding professional or community
18 service activities or awards.

19 (c) Languages, other than English, used by the
20 applicant to communicate with patients or clients and
21 identification of any translating service that may be
22 available at the place where the applicant primarily conducts
23 his or her practice.

24 (d) An indication of whether the person participates
25 in the Medicaid program.

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

28 455.5651 Practitioner profile; creation.--

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

25 Section 78. Subsection (20) of section 400.462,
26 Florida Statutes, is repealed.

27 Section 79. Paragraph (d) of subsection (4) of section
28 400.471, Florida Statutes, is amended to read:

29 400.471 Application for license; fee; provisional
30 license; temporary permit.--

31

1 (4) Each applicant for licensure must comply with the
2 following requirements:

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

24 Section 80. Subsection (3) is added to section
25 400.484, Florida Statutes, to read:

26 400.484 Right of inspection; deficiencies; fines.--

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

1 Section 81. Section 400.487, Florida Statutes, is
2 amended to read:

3 400.487 Home health service agreements; physician's
4 treatment orders;patient assessment; establishment and review
5 of plan of care; provision of services; orders not to
6 resuscitate.--

7 (1) Services provided by a home health agency must be
8 covered by an agreement between the home health agency and the
9 patient or the patient's legal representative specifying the
10 home health services to be provided, the rates or charges for
11 services paid with private funds, and the method of payment. A
12 ~~The~~ home health agency providing skilled care must make an
13 assessment of the patient's needs within 48 hours after the
14 start of services.

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

24 (3) A home health agency shall arrange for supervisory
25 visits by a registered nurse to the home of a patient
26 receiving home health aide services in accordance with the
27 patient's direction and approval.~~If a client is accepted for~~
28 ~~home health aide services or homemaker or companion services~~
29 ~~and such services do not require a physician's order, the home~~
30 ~~health agency shall establish a service provision plan and~~
31 ~~maintain a record of the services provided.~~

1 (4) Each patient ~~or client~~ has the right to be
2 informed of and to participate in the planning of his or her
3 care. Each patient must be provided, upon request, a copy of
4 the plan of care ~~or service provision plan~~ established and
5 maintained for that patient ~~or client~~ by the home health
6 agency.

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

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

22 (7) Home health agency personnel may withhold or
23 withdraw cardiopulmonary resuscitation if presented with an
24 order not to resuscitate executed pursuant to s. 401.45. The
25 agency shall adopt rules providing for the implementation of
26 such orders. Home health personnel and agencies shall not be
27 subject to criminal prosecution or civil liability, nor be
28 considered to have engaged in negligent or unprofessional
29 conduct, for withholding or withdrawing cardiopulmonary
30 resuscitation pursuant to such an order and rules adopted by
31 the agency.

1 Section 82. Section 400.497, Florida Statutes, is
2 amended to read:

3 400.497 Rules establishing minimum standards.--The
4 agency shall adopt, publish, and enforce rules to implement
5 this part, including, as applicable, ss. 400.506 and 400.509,
6 which must provide reasonable and fair minimum standards
7 relating to:

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

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

25 ~~(2) Requirements for prospective employees. A home~~
26 ~~health agency must require prospective employees and~~
27 ~~contractors to submit an employment or contractual history,~~
28 ~~and it must verify the employment or contractual history~~
29 ~~unless through diligent efforts such verification is not~~
30 ~~possible. The agency shall prescribe by rule the minimum~~
31 ~~requirements for establishing that diligent efforts have been~~

1 ~~made. There is no monetary liability on the part of, and no~~
2 ~~cause of action for damages arising against, a former employer~~
3 ~~of a prospective employee of or prospective independent~~
4 ~~contractor with a licensed home health agency who reasonably~~
5 ~~and in good faith communicates his or her honest opinions~~
6 ~~about the former employee's job performance. This subsection~~
7 ~~does not affect the official immunity of an officer or~~
8 ~~employee of a public corporation.~~

9 (3) The criteria for the frequency of onsite licensure
10 surveys.

11 ~~(4)(3)~~ Licensure application and renewal.

12 ~~(5)(4)~~ The ~~administration of the home health agency,~~
13 ~~including requirements for onsite and electronic accessibility~~
14 ~~of supervisory personnel of home health agencies.~~

15 ~~(5) Procedures for administering drugs and~~
16 ~~biologicals.~~

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

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

22 ~~(7)(8)~~ Geographic service areas.

23 ~~(9) Standards for contractual arrangements for the~~
24 ~~provision of home health services by providers not employed by~~
25 ~~the home health agency to whom the patient has been admitted.~~

26 Section 83. Paragraph (d) of subsection (2) and
27 subsection (13) of section 400.506, Florida Statutes, are
28 amended, subsection (17) is renumbered as subsection (18), and
29 a new subsection (17) is added to said section, to read:

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

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

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

24 (13) Each nurse registry must comply with the
25 procedures set forth in s. 400.512 ~~400.497(3)~~ for maintaining
26 records of the employment history of all persons referred for
27 contract and is subject to the standards and conditions set
28 forth in that section ~~s. 400.512~~. However, an initial
29 screening may not be required for persons who have been
30 continuously registered with the nurse registry since
31 September 30, 1990.

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

10 Section 84. Paragraph (d) of subsection (4) of section
11 400.509, Florida Statutes, is amended, subsection (14) is
12 renumbered as subsection (15), and a new subsection (14) is
13 added to said section, to read:

14 400.509 Registration of particular service providers
15 exempt from licensure; certificate of registration; regulation
16 of registrants.--

17 (4) Each applicant for registration must comply with
18 the following requirements:

19 (d) A provisional registration may be granted to an
20 applicant when each individual required by this section to
21 undergo background screening has met the standards for the
22 abuse-registry background check through the agency and the
23 Department of Law Enforcement background check, but the agency
24 has not yet received background screening results from the
25 Federal Bureau of Investigation. A standard registration may
26 be granted to the applicant upon the agency's receipt of a
27 report of the results of the Federal Bureau of Investigation
28 background screening for each individual required by this
29 section to undergo background screening which confirms that
30 all standards have been met, or upon the granting of a
31 disqualification exemption by the agency as set forth in

1 chapter 435. Any other person who is required to undergo
2 level 2 background screening may serve in his or her capacity
3 pending the agency's receipt of the report from the Federal
4 Bureau of Investigation. However, the person may not continue
5 to serve if the report indicates any violation of background
6 screening standards and if a disqualification exemption has
7 not been requested of and granted by the agency as set forth
8 in chapter 435.

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

18 Section 85. Section 400.512, Florida Statutes, is
19 amended to read:

20 400.512 Screening of home health agency personnel;
21 nurse registry personnel; and companions and homemakers.--The
22 agency shall require employment or contractor screening as
23 provided in chapter 435, using the level 1 standards for
24 screening set forth in that chapter, for home health agency
25 personnel; persons referred for employment by nurse
26 registries; and persons employed by companion or homemaker
27 services registered under s. 400.509.

28 (1) The agency may grant exemptions from
29 disqualification from employment or contracting under this
30 section as provided in s. 435.07.

31

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

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

29 (4) Proof of compliance with the screening
 30 requirements of chapter 435 shall be accepted in lieu of the
 31 requirements of this section if the person has been

1 continuously employed or registered without a breach in
2 service that exceeds 180 days, the proof of compliance is not
3 more than 2 years old, and the person has been screened
4 through the agency for any reports of confirmed abuse ~~central~~
5 ~~abuse registry and tracking system of the department~~ and for
6 any criminal record from ~~by~~ the Department of Law Enforcement.
7 A home health agency, nurse registry, or companion or
8 homemaker service registered under s. 400.509 shall directly
9 provide proof of compliance to another home health agency,
10 nurse registry, or companion or homemaker service registered
11 under s. 400.509. The recipient home health agency, nurse
12 registry, or companion or homemaker service registered under
13 s. 400.509 may not accept any proof of compliance directly
14 from the person who requires screening. Proof of compliance
15 with the screening requirements of this section shall be
16 provided upon request to the person screened by the home
17 health agencies; nurse registries; or companion or homemaker
18 services registered under s. 400.509.

19 (5)(a) There is no monetary liability on the part of,
20 and no cause of action for damages arises against, a licensed
21 home health agency, licensed nurse registry, or companion or
22 homemaker service registered under s. 400.509, that, upon
23 notice of a confirmed report of adult abuse, neglect, or
24 exploitation through the agency, terminates the employee or
25 contractor against whom the report was issued, whether or not
26 the employee or contractor has filed for an exemption with the
27 agency in accordance with chapter 435 and whether or not the
28 time for filing has expired.

29 (b) If a home health agency is asked about a person
30 who was employed by or contracted with that agency, there is
31 no monetary liability on the part of, and no cause of action

1 for damages arising against, a former employer of the person
2 for that agency, who reasonably and in good faith communicates
3 his or her honest opinions about the former caregiver's job
4 performance. This paragraph does not affect the official
5 immunity of an officer or employee of a public corporation.

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

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

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

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

25 3. Use information from the criminal records or the
26 agency's reports of confirmed abuse ~~central abuse hotline~~
27 obtained under this section for any purpose other than
28 screening that person for employment as specified in this
29 section or release such information to any other person for
30 any purpose other than screening for employment under this
31 section.

1 (b) It is a felony of the third degree, punishable
2 under s. 775.082, s. 775.083, or s. 775.084, for any person
3 willfully, knowingly, or intentionally to use information from
4 the juvenile records of a person obtained under this section
5 for any purpose other than screening for employment under this
6 section.

7 Section 86. Subsection (5) of section 455.587, Florida
8 Statutes, is amended to read:

9 455.587 Fees; receipts; disposition.--

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

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

21 Section 87. There is appropriated from the Medical
 22 Quality Assurance Trust Fund to the Department of Health the
 23 sum of \$280,000 to implement the provisions of this act.

24 Section 88. This act shall take effect July 1, 2000.
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