

Bill No. CS/CS/HB 591, 2nd Eng.

Amendment No. \_\_\_\_

<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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Senator Silver moved the following amendment to amendment (850612):

**Senate Amendment (with title amendment)**

On page 140, between lines 14 and 15,

insert:

Section 82. Sections 468.821 through 468.829, Florida Statutes, are renumbered as sections 464.201 through 464.209, respectively, designated as part II of chapter 464, Florida Statutes, and amended to read:

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

(1) "Approved training program" means:

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

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

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

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

7 (4)~~(3)~~ "Department" means the Department of Health.

8 (5)~~(4)~~ "Registry" means the listing of certified  
9 nursing assistants maintained by the board department.

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

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

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

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

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

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

31 1. Has a high school diploma, or its equivalent; or

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- 1           2. Is at least 18 years of age.
- 2           (c) Is currently certified in another state; is listed
- 3 on that state's certified nursing assistant registry; and has
- 4 not been found to have committed abuse, neglect, or
- 5 exploitation in that state; ~~and has successfully completed a~~
- 6 ~~national nursing assistant evaluation in order to receive~~
- 7 ~~certification in that state.~~
- 8           (d) Has completed the curriculum developed under the
- 9 Enterprise Florida Jobs and Education Partnership Grant and
- 10 achieved a minimum score, established by rule of the board, on
- 11 the nursing assistant competency examination, which consists
- 12 of a written portion and skills-demonstration portion,
- 13 approved by the board and administered at a site and by
- 14 personnel approved by the department.
- 15           (2) If an applicant fails to pass the nursing
- 16 assistant competency examination in three attempts, the
- 17 applicant is not eligible for reexamination unless the
- 18 applicant completes an approved training program.
- 19           (3) An oral examination shall be administered as a
- 20 substitute for the written portion of the examination upon
- 21 request. The oral examination shall be administered at a site
- 22 and by personnel approved by the department.
- 23           (4) The board ~~department~~ shall adopt rules to provide
- 24 for the initial certification of certified nursing assistants.
- 25           (5) A certified nursing assistant shall maintain a
- 26 current address with the board ~~department~~ in accordance with
- 27 s. 455.717.
- 28           464.204 ~~468.824~~ Denial, suspension, or revocation of
- 29 certification; disciplinary actions.--
- 30           (1) The following acts constitute grounds for which
- 31 the board ~~department~~ may impose disciplinary sanctions as

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1 specified in subsection (2):

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

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

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

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

16 (b) Imposition of an administrative fine not to exceed  
17 \$150 for each count or separate offense.

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

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

31 464.205 ~~468.825~~ Availability of disciplinary records

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1 and proceedings.--Pursuant to s. 455.621, any complaint or  
2 record maintained by the department of Health pursuant to the  
3 discipline of a certified nursing assistant and any proceeding  
4 held by the board department to discipline a certified nursing  
5 assistant shall remain open and available to the public.

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

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

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1 employee or certificateholder licensee.

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

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

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

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

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

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

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

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1 nursing-related occupation for a minimum of 8 hours for  
 2 monetary compensation during the preceding 24 months.  
 3 Employers may submit such information electronically through  
 4 the department's Internet site.

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

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

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

19 Section 83. Section 464.2085, Florida Statutes, is  
 20 created to read:

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

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

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

30 (b) The chairperson of the Board of Nursing shall  
 31 appoint one member who is a licensed practical nurse who is



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1 currently working in a licensed nursing home.

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

6 (2) The council shall:

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

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

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

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

20 Section 84. Paragraph (g) of subsection (3) of section  
21 20.43, Florida Statutes, is amended to read:

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

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

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

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

30 ~~1.2. Health care services pools, as provided under s.~~  
31 ~~402.48.~~

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- 1           ~~2.3.~~ The Board of Acupuncture, created under chapter
- 2 457.
- 3           ~~3.4.~~ The Board of Medicine, created under chapter 458.
- 4           ~~4.5.~~ The Board of Osteopathic Medicine, created under
- 5 chapter 459.
- 6           ~~5.6.~~ The Board of Chiropractic Medicine, created under
- 7 chapter 460.
- 8           ~~6.7.~~ The Board of Podiatric Medicine, created under
- 9 chapter 461.
- 10          ~~7.8.~~ Naturopathy, as provided under chapter 462.
- 11          ~~8.9.~~ The Board of Optometry, created under chapter
- 12 463.
- 13          ~~9.10.~~ The Board of Nursing, created under part I of
- 14 chapter 464.
- 15          10. Nursing assistants, as provided under part II of
- 16 chapter 464.
- 17          11. The Board of Pharmacy, created under chapter 465.
- 18          12. The Board of Dentistry, created under chapter 466.
- 19          13. Midwifery, as provided under chapter 467.
- 20          14. The Board of Speech-Language Pathology and
- 21 Audiology, created under part I of chapter 468.
- 22          15. The Board of Nursing Home Administrators, created
- 23 under part II of chapter 468.
- 24          16. The Board of Occupational Therapy, created under
- 25 part III of chapter 468.
- 26          17. Respiratory therapy, as provided under part V of
- 27 chapter 468.
- 28          18. Dietetics and nutrition practice, as provided
- 29 under part X of chapter 468.
- 30          19. The Board of Athletic Training, created under part
- 31 XIII of chapter 468.

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1           20. The Board of Orthotists and Prosthetists, created  
2 under part XIV of chapter 468.

3           21. Electrolysis, as provided under chapter 478.

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

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

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

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

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

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

16           28. The Board of Psychology, created under chapter  
17 490.

18           29. School psychologists, as provided under chapter  
19 490.

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

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

29           Section 85. Subsection (38) of section 39.01, Florida  
30 Statutes, is amended to read:

31           39.01 Definitions.--When used in this chapter, unless

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1 the context otherwise requires:

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

7 Section 86. Paragraph (b) of subsection (1) of section  
8 39.304, Florida Statutes, is amended to read:

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

11 (1)

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

29 Section 87. Paragraph (c) of subsection (6) of section  
30 110.131, Florida Statutes, is amended to read:

31 110.131 Other-personal-services temporary

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1 employment.--

2 (6)

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

11 Section 88. Subsection (1) of section 232.46, Florida  
12 Statutes, is amended to read:

13 232.46 Administration of medication by school district  
14 personnel.--

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

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

31 (b) Each district school board shall adopt policies

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

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

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

21 Section 89. Subsection (6) of section 240.4075,  
22 Florida Statutes, is amended to read:

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

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1 Up to 50 percent of the revenues appropriated to implement  
2 this subsection may be used for the nursing scholarship  
3 program established pursuant to s. 240.4076.

4 Section 90. Paragraph (b) of subsection (1) of section  
5 246.081, Florida Statutes, is amended to read:

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

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

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

17 Section 91. Subsection (2) of section 310.102, Florida  
18 Statutes, is amended to read:

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

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

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1           Section 92. Subsection (7) of section 381.0302,  
2 Florida Statutes, is amended to read:

3           381.0302 Florida Health Services Corps.--

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

19           Section 93. Subsection (1) of section 384.30, Florida  
20 Statutes, is amended to read:

21           384.30 Minors' consent to treatment.--

22           (1) The department and its authorized representatives,  
23 each physician licensed to practice medicine under the  
24 provisions of chapter 458 or chapter 459, each health care  
25 professional licensed under the provisions of part I of  
26 chapter 464 who is acting pursuant to the scope of his or her  
27 license, and each public or private hospital, clinic, or other  
28 health facility may examine and provide treatment for sexually  
29 transmissible diseases to any minor, if the physician, health  
30 care professional, or facility is qualified to provide such  
31 treatment. The consent of the parents or guardians of a minor



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1 is not a prerequisite for an examination or treatment.

2 Section 94. Section 384.31, Florida Statutes, is  
3 amended to read:

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

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

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

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1 the contracting of HIV infection or acquired immune deficiency  
2 syndrome (AIDS) by the child from the mother.

3 Section 95. Subsection (23) of section 394.455,  
4 Florida Statutes, is amended to read:

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

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

12 Section 96. Paragraphs (a) and (b) of subsection (2)  
13 and subsection (4) of section 395.0191, Florida Statutes, are  
14 amended to read:

15 395.0191 Staff membership and clinical privileges.--

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

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

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1 the individual patient.

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

22 Section 97. Subsection (11) of section 400.021,  
23 Florida Statutes, is amended to read:

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

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

29 Section 98. Section 400.211, Florida Statutes, is  
30 amended to read:

31 400.211 Persons employed as nursing assistants;

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1 certification requirement.--

2 (1) To serve as a nursing assistant in any nursing  
 3 home, a person must be certified as a nursing assistant under  
 4 part II ~~XV~~ of chapter 464 ~~468~~, unless the person is ~~except~~ a  
 5 registered nurse or practical nurse licensed in accordance  
 6 with part I of chapter 464 or an applicant for such licensure  
 7 who is permitted to practice nursing in accordance with rules  
 8 adopted by the Board of Nursing pursuant to part I of chapter  
 9 464, to serve as a nursing assistant in any nursing home.

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

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

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

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

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

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

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1 liability on the part of, and no cause of action for damages  
2 shall arise against, a former employer who reasonably and in  
3 good faith communicates his or her honest opinion about a  
4 former employee's job performance.

5 Section 99. Paragraph (b) of subsection (4) of section  
6 400.215, Florida Statutes, is amended to read:

7 400.215 Personnel screening requirement.--

8 (4)

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

16 Section 100. Paragraph (c) is added to subsection (3)  
17 of section 400.23, Florida Statutes, to read:

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

20 (3)

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

28 Section 101. Subsections (12) and (14) of section  
29 400.402, Florida Statutes, are amended to read:

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

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

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

21           Section 102. Paragraphs (a) and (b) of subsection (3)  
22 of section 400.407, Florida Statutes, are amended to read:

23           400.407 License required; fee, display.--

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

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1           (a) A standard license shall be issued to facilities  
2 providing one or more of the services identified in s.  
3 400.402. Such facilities may also employ or contract with a  
4 person licensed under part I of chapter 464 to administer  
5 medications and perform other tasks as specified in s.  
6 400.4255.

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

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

31           a. A class I or class II violation;

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- 1           b. Three or more repeat or recurring class III  
2 violations of identical or similar resident care standards as  
3 specified in rule from which a pattern of noncompliance is  
4 found by the agency;
- 5           c. Three or more class III violations that were not  
6 corrected in accordance with the corrective action plan  
7 approved by the agency;
- 8           d. Violation of resident care standards resulting in a  
9 requirement to employ the services of a consultant pharmacist  
10 or consultant dietitian;
- 11           e. Denial, suspension, or revocation of a license for  
12 another facility under this part in which the applicant for an  
13 extended congregate care license has at least 25 percent  
14 ownership interest; or
- 15           f. Imposition of a moratorium on admissions or  
16 initiation of injunctive proceedings.
- 17           2. Facilities that are licensed to provide extended  
18 congregate care services shall maintain a written progress  
19 report on each person who receives such services, which report  
20 describes the type, amount, duration, scope, and outcome of  
21 services that are rendered and the general status of the  
22 resident's health. A registered nurse, or appropriate  
23 designee, representing the agency shall visit such facilities  
24 at least two times a year to monitor residents who are  
25 receiving extended congregate care services and to determine  
26 if the facility is in compliance with this part and with rules  
27 that relate to extended congregate care. One of these visits  
28 may be in conjunction with the regular biennial survey. The  
29 monitoring visits may be provided through contractual  
30 arrangements with appropriate community agencies. A  
31 registered nurse shall serve as part of the team that



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

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

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

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

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

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

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1 e. Allow residents or, if applicable, a resident's  
2 representative, designee, surrogate, guardian, or attorney in  
3 fact to make a variety of personal choices, participate in  
4 developing service plans, and share responsibility in  
5 decisionmaking.

6 f. Implement the concept of managed risk.

7 g. Provide, either directly or through contract, the  
8 services of a person licensed pursuant to part I of chapter  
9 464.

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

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

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

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

6           7. When a facility can no longer provide or arrange  
7 for services in accordance with the resident's service plan  
8 and needs and the facility's policy, the facility shall make  
9 arrangements for relocating the person in accordance with s.  
10 400.428(1)(k).

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

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

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

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

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

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

31           e. The number of residents who required extended

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1 congregate care services at admission and the source of  
2 admission.

3 f. Recommendations for statutory or regulatory  
4 changes.

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

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

12 Section 103. Paragraphs (a) and (c) of subsection (1)  
13 and subsection (2) of section 400.4255, Florida Statutes, are  
14 amended to read:

15 400.4255 Use of personnel; emergency care.--

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

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1           (c) In an emergency situation, licensed personnel may  
2 carry out their professional duties pursuant to part I of  
3 chapter 464 until emergency medical personnel assume  
4 responsibility for care.

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

14           Section 104. Subsection (3) of section 400.426,  
15 Florida Statutes, is amended to read:

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

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

30           Section 105. Subsections (3) and (21) of section  
31 400.462, Florida Statutes, are amended to read:

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1           400.462 Definitions.--As used in this part, the term:

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

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

15           Section 106. Paragraph (c) of subsection (6) of  
16 section 400.464, Florida Statutes, is amended to read:

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

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

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

28           Section 107. Paragraph (a) of subsection (10),  
29 subsection (11), and paragraph (a) of subsection (15) of  
30 section 400.506, Florida Statutes, are amended to read:

31           400.506 Licensure of nurse registries; requirements;

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1 penalties.--

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

13 (11) A person who is referred by a nurse registry for  
14 contract in private residences and who is not a nurse licensed  
15 under part I of chapter 464 may perform only those services or  
16 care to clients that the person has been certified to perform  
17 or trained to perform as required by law or rules of the  
18 Agency for Health Care Administration or the Department of  
19 Business and Professional Regulation. Providing services  
20 beyond the scope authorized under this subsection constitutes  
21 the unauthorized practice of medicine or a violation of the  
22 Nurse Practice Act and is punishable as provided under chapter  
23 458, chapter 459, or part I of chapter 464.

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

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

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

12 Section 108. Subsection (1) of section 400.512,  
13 Florida Statutes, is amended to read:

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

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

28 (b) The appropriate regulatory board within the  
29 Department of Health, or that department itself when there is  
30 no board, may, upon request of the licensed health care  
31 practitioner, grant exemptions from disqualification from



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1 employment or contracting under this section as provided in s.  
2 435.07.

3           Section 109. Subsections (2) and (3) of section  
4 400.6105, Florida Statutes, are amended to read:

5           400.6105 Staffing and personnel.--

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

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

21           Section 110. Subsection (20) of section 401.23,  
22 Florida Statutes, is amended to read:

23           401.23 Definitions.--As used in this part, the term:

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

27           Section 111. Paragraph (c) of subsection (1) of  
28 section 401.252, Florida Statutes, is amended to read:

29           401.252 Interfacility transfer.--

30           (1) A licensed basic or advanced life support  
31 ambulance service may conduct interfacility transfers in a

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1 permitted ambulance, using a registered nurse in place of an  
2 emergency medical technician or paramedic, if:

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

5 Section 112. Subsection (11) of section 408.706,  
6 Florida Statutes, is amended to read:

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

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

30 Section 113. Paragraph (d) of subsection (12) of  
31 section 409.908, Florida Statutes, is amended to read:

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1           409.908 Reimbursement of Medicaid providers.--Subject  
2 to specific appropriations, the agency shall reimburse  
3 Medicaid providers, in accordance with state and federal law,  
4 according to methodologies set forth in the rules of the  
5 agency and in policy manuals and handbooks incorporated by  
6 reference therein. These methodologies may include fee  
7 schedules, reimbursement methods based on cost reporting,  
8 negotiated fees, competitive bidding pursuant to s. 287.057,  
9 and other mechanisms the agency considers efficient and  
10 effective for purchasing services or goods on behalf of  
11 recipients. Payment for Medicaid compensable services made on  
12 behalf of Medicaid eligible persons is subject to the  
13 availability of moneys and any limitations or directions  
14 provided for in the General Appropriations Act or chapter 216.  
15 Further, nothing in this section shall be construed to prevent  
16 or limit the agency from adjusting fees, reimbursement rates,  
17 lengths of stay, number of visits, or number of services, or  
18 making any other adjustments necessary to comply with the  
19 availability of moneys and any limitations or directions  
20 provided for in the General Appropriations Act, provided the  
21 adjustment is consistent with legislative intent.

22           (12)

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

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

19 Section 114. Subsection (1) of section 415.1085,  
20 Florida Statutes, is amended to read:

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

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

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

17 Section 115. Paragraph (a) of subsection (1) of  
18 section 455.597 Florida Statutes, is amended to read:

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

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

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

7 Section 116. Subsection (1) of section 455.604,  
8 Florida Statutes, is amended to read:

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

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

31 Section 117. Paragraph (a) of subsection (2) of

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1 section 455.667, Florida Statutes, is amended to read:

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

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

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

15 Section 118. Section 455.677, Florida Statutes, is  
16 amended to read:

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

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1 In the case of the death of the practitioner, the rules shall  
2 provide for the disposition of such records by the estate of  
3 the practitioner.

4 Section 119. Paragraph (b) of subsection (2) of  
5 section 455.694, Florida Statutes, is amended to read:

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

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

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

24 Section 120. Subsection (2) of section 455.707,  
25 Florida Statutes, is amended to read:

26 455.707 Treatment programs for impaired  
27 practitioners.--

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



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

8 Section 121. Subsection (2) of section 458.348,  
9 Florida Statutes, is amended to read:

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

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

31 Section 122. Section 464.001, Florida Statutes, is

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1 amended to read:

2 464.001 Short title.--This part may be cited ~~chapter~~  
3 ~~shall be known~~ as the "Nurse Practice Act."

4 Section 123. Section 464.002, Florida Statutes, is  
5 amended to read:

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

12 Section 124. Section 464.003, Florida Statutes, is  
13 amended to read:

14 464.003 Definitions.--As used in this part ~~chapter~~:

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

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

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

23 1. The observation, assessment, nursing diagnosis,  
24 planning, intervention, and evaluation of care; health  
25 teaching and counseling of the ill, injured, or infirm; and  
26 the promotion of wellness, maintenance of health, and  
27 prevention of illness of others.

28 2. The administration of medications and treatments as  
29 prescribed or authorized by a duly licensed practitioner  
30 authorized by the laws of this state to prescribe such  
31 medications and treatments.

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

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

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

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

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

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

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

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

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

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

31 (7) "Approved program" means a nursing program

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1 conducted in a school, college, or university which is  
2 approved by the board pursuant to s. 464.019 for the education  
3 of nurses.

4 Section 125. Section 464.006, Florida Statutes, is  
5 amended to read:

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

10 Section 126. Subsection (3) of section 464.009,  
11 Florida Statutes, is amended to read:

12 464.009 Licensure by endorsement.--

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

19 Section 127. Paragraphs (a) and (d) of subsection (1)  
20 and paragraph (b) of subsection (2) of section 464.016,  
21 Florida Statutes, are amended to read:

22 464.016 Violations and penalties.--

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

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

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

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1           (2) Each of the following acts constitutes a  
2 misdemeanor of the first degree, punishable as provided in s.  
3 775.082 or s. 775.083:

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

6           Section 128. Paragraphs (i), (k), and (l) of  
7 subsection (1) and subsection (4) of section 464.018, Florida  
8 Statutes, are amended to read:

9           464.018 Disciplinary actions.--

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

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

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

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

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

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1 diversion of drugs or narcotics from patients to personal use  
2 or sale.

3 Section 129. Subsections (1), (2), and (3) of section  
4 464.019, Florida Statutes, are amended to read:

5 464.019 Approval of nursing programs.--

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

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

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

24 Section 130. Section 464.022, Florida Statutes, is  
25 amended to read:

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

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

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

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

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

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

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

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

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

30           (9) The rendering of nursing services on a  
31 fee-for-service basis, or the reimbursement for nursing



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1 services directly to a nurse rendering such services by any  
2 government program, commercial insurance company, hospital or  
3 medical services plan, or any other third-party payor.

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

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

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

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

25 Section 131. Section 464.023, Florida Statutes, is  
26 amended to read:

27 464.023 Saving clauses.--

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

31 (2) Each licensee or holder of a certificate who was

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1 duly licensed or certified on June 30, 1979, shall be entitled  
2 to hold such license or certificate. Henceforth, such license  
3 or certificate shall be renewed in accordance with the  
4 provisions of this part act.

5 Section 132. Subsection (3) of section 464.027,  
6 Florida Statutes, is amended to read:

7 464.027 Registered nurse first assistant.--

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

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

12 (b) Is certified in perioperative nursing; and

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

15 Section 133. Subsection (6) of section 466.003,  
16 Florida Statutes, is amended to read:

17 466.003 Definitions.--As used in this chapter:

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

23 Section 134. Subsection (2) of section 467.003,  
24 Florida Statutes, is amended to read:

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

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

31 Section 135. Paragraph (a) of subsection (2) of

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1 section 467.0125, Florida Statutes, is amended to read:

2 467.0125 Licensure by endorsement.--

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

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

17 Section 136. Paragraph (e) of subsection (2) of  
18 section 467.203, Florida Statutes, is amended to read:

19 467.203 Disciplinary actions; penalties.--

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

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

30 Section 137. Paragraph (a) of subsection (1) of  
31 section 468.505, Florida Statutes, is amended to read:

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1           468.505 Exemptions; exceptions.--

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

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

13           Section 138. Subsection (7) of section 483.041,  
14 Florida Statutes, is amended to read:

15           483.041 Definitions.--As used in this part, the term:

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

25           Section 139. Subsection (5) of section 483.801,  
26 Florida Statutes, is amended to read:

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

30           (5) Advanced registered nurse practitioners licensed  
31 under part I of chapter 464 who perform provider-performed

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1 microscopy procedures (PPMP) in an exclusive-use laboratory  
2 setting.

3 Section 140. Paragraph (a) of subsection (4) of  
4 section 491.0112, Florida Statutes, is amended to read:

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

7 (4) For the purposes of this section:

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

14 Section 141. Subsection (5) of section 550.24055,  
15 Florida Statutes, is amended to read:

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

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

25 Section 142. Paragraph (h) of subsection (4) of  
26 section 627.351, Florida Statutes, is amended to read:

27 627.351 Insurance risk apportionment plans.--

28 (4) MEDICAL MALPRACTICE RISK APPORTIONMENT.--

29 (h) As used in this subsection:

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

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

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

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

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1 as defined in subparagraph 2.

2 Section 143. Paragraph (b) of subsection (1) of  
3 section 627.357, Florida Statutes, is amended to read:

4 627.357 Medical malpractice self-insurance.--

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

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

7 1. Hospital licensed under chapter 395.

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

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

12 4. Podiatric physician licensed under chapter 461.

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

15 6. Ambulatory surgical center licensed under chapter  
16 395.

17 7. Chiropractic physician licensed under chapter 460.

18 8. Psychologist licensed under chapter 490.

19 9. Optometrist licensed under chapter 463.

20 10. Dentist licensed under chapter 466.

21 11. Pharmacist licensed under chapter 465.

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

25 13. Other medical facility.

26 14. Professional association, partnership,  
27 corporation, joint venture, or other association established  
28 by the individuals set forth in subparagraphs 2., 3., 4., 7.,  
29 8., 9., 10., 11., and 12. for professional activity.

30 Section 144. Subsection (6) of section 627.9404,  
31 Florida Statutes, is amended to read:

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1           627.9404 Definitions.--For the purposes of this part:

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

7           Section 145. Subsection (21) of section 641.31,  
8 Florida Statutes, is amended to read:

9           641.31 Health maintenance contracts.--

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

16          Section 146. Subsection (8) of section 766.101,  
17 Florida Statutes, is amended to read:

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

20          (8) No cause of action of any nature by a person  
21 licensed pursuant to chapter 458, chapter 459, chapter 461,  
22 chapter 463, part I of chapter 464, chapter 465, or chapter  
23 466 shall arise against another person licensed pursuant to  
24 chapter 458, chapter 459, chapter 461, chapter 463, part I of  
25 chapter 464, chapter 465, or chapter 466 for furnishing  
26 information to a duly appointed medical review committee, to  
27 an internal risk management program established under s.  
28 395.0197, to the Department of Business and Professional  
29 Regulation, or to the appropriate regulatory board if the  
30 information furnished concerns patient care at a facility  
31 licensed pursuant to part I of chapter 395 where both persons



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

8 Section 147. Subsection (2) of section 766.110,  
9 Florida Statutes, is amended to read:

10 766.110 Liability of health care facilities.--

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

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1 chapter 458, osteopathic physicians licensed under chapter  
2 459, podiatric physicians licensed under chapter 461, dentists  
3 licensed under chapter 466, and nurses licensed under part I  
4 of chapter 464. The hospital may provide for a deductible  
5 amount to be applied against any individual health care  
6 provider found liable in a law suit in tort or for breach of  
7 contract. The legislative intent in providing for the  
8 deductible to be applied to individual health care providers  
9 found negligent or in breach of contract is to instill in each  
10 individual health care provider the incentive to avoid the  
11 risk of injury to the fullest extent and ensure that the  
12 citizens of this state receive the highest quality health care  
13 obtainable.

14 Section 148. Paragraph (d) of subsection (3) of  
15 section 766.1115, Florida Statutes, is amended to read:

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

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

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

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

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

6 9. A midwife licensed under chapter 467.

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

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

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

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

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

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

28 Section 149. Subsection (1) of section 877.111,  
29 Florida Statutes, is amended to read:

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

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1 penalties.--

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

18 Section 150. Subsection (6) of section 945.602,  
19 Florida Statutes, is amended to read:

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

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

25 Section 151. Subsection (2) of section 960.28, Florida  
26 Statutes, is amended to read:

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

29 (2) The Crime Victims' Services Office of the  
30 department shall pay for medical expenses connected with an  
31 initial forensic physical examination of a victim who reports

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1 a violation of chapter 794 or chapter 800 to a law enforcement  
2 officer. Such payment shall be made regardless of whether or  
3 not the victim is covered by health or disability insurance.  
4 The payment shall be made only out of moneys allocated to the  
5 Crime Victims' Services Office for the purposes of this  
6 section, and the payment may not exceed \$250 with respect to  
7 any violation. Payment may not be made for an initial forensic  
8 physical examination unless the law enforcement officer  
9 certifies in writing that the initial forensic physical  
10 examination is needed to aid in the investigation of an  
11 alleged sexual offense and that the claimant is the alleged  
12 victim of the offense. The department shall develop and  
13 maintain separate protocols for the initial forensic physical  
14 examination of adults and children. Payment under this section  
15 is limited to medical expenses connected with the initial  
16 forensic physical examination, and payment may be made to a  
17 medical provider using an examiner qualified under part I of  
18 chapter 464, excluding s. 464.003(5); chapter 458; or chapter  
19 459. Payment made to the medical provider by the department  
20 shall be considered by the provider as payment in full for the  
21 initial forensic physical examination associated with the  
22 collection of evidence. The victim may not be required to pay,  
23 directly or indirectly, the cost of an initial forensic  
24 physical examination performed in accordance with this  
25 section.

26 Section 152. Subsection (36) of section 984.03,  
27 Florida Statutes, is amended to read:

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

30 (36) "Licensed health care professional" means a  
31 physician licensed under chapter 458, an osteopathic physician

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1 licensed under chapter 459, a nurse licensed under part I of  
2 chapter 464, a physician assistant licensed under chapter 458  
3 or chapter 459, or a dentist licensed under chapter 466.

4 Section 153. Subsection (37) of section 985.03,  
5 Florida Statutes, is amended to read:

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

8 (37) "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 154. Section 455.557, Florida Statutes, is  
14 amended to read:

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

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

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1 ~~initially~~ include those individuals licensed under chapter  
 2 458, chapter 459, chapter 460, ~~or~~ chapter 461, or s. 464.012.  
 3 However, the department shall, with the approval of the  
 4 applicable board, include other professions under the  
 5 jurisdiction of the Division of Medical Quality Assurance in  
 6 this program, provided they meet the requirements of s.  
 7 455.565 or s. 455.56503.

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

9 ~~(a) "Advisory council" or "council" means the~~  
 10 ~~Credentials Advisory Council.~~

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

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

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1 Medicaid sanctions.

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

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

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

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

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

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

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

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

30 3. Any accredited medical school in this state.

31 (i)~~(j)~~ "Health care practitioner" means any person



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

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

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

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

29 (m)~~(n)~~ "Specialty board certification" means  
30 certification in a specialty issued by a specialty board  
31 recognized by the board in this state that regulates the

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1 profession for which the health care practitioner is licensed  
2 or seeking licensure.

3 (3) STANDARDIZED CREDENTIALS VERIFICATION PROGRAM.--

4 (a) Every health care practitioner shall:

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

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

17 (b) The department shall:

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

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

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

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

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

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

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

31           2. Not provide the health care practitioner's core

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1 data, including all corrections, updates, and modifications,  
2 without the authorization of the practitioner.

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

8 (4) DUPLICATION OF DATA PROHIBITED.--

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

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

30 (5) STANDARDS AND REGISTRATION.--Any credentials  
31 verification organization that does business in this state

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

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

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

30 (8) RULES.--The department, ~~in consultation with the~~  
31 ~~advisory council~~, shall adopt rules necessary to develop and

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1 implement the standardized core credentials data collection  
2 program established by this section.

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

8 Section 155. Section 455.56503, Florida Statutes, is  
9 created to read:

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

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

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

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

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

30 4. Any certification or designation that the applicant  
31 has received from a specialty or certification board that is

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1 recognized or approved by the regulatory board or department  
2 to which the applicant is applying.

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

7 6. Any appointment which the applicant currently holds  
8 to the faculty of a school related to the profession and an  
9 indication as to whether the applicant has had the  
10 responsibility for graduate education within the most recent  
11 10 years.

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

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

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

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

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

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



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1 this subsection to update and submit information, the  
2 department or board, as appropriate, may:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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1 his or her practice.

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

4 Section 156. Section 455.5651, Florida Statutes, is  
5 amended to read:

6 455.5651 Practitioner profile; creation.--

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

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

30 (3) The Department of Health may include in each  
31 practitioner's practitioner profile that criminal information

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

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

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1 presumption that medical malpractice has occurred."

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

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

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

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

24 Section 157. Section 455.5653, Florida Statutes, is  
25 amended to read:

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

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

22 Section 158. Section 455.5654, Florida Statutes, is  
23 amended to read:

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

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1 submission of the information required under s. 455.565 or s.  
2 455.56503.

3 Section 159. Subsection (20) of section 400.462,  
4 Florida Statutes, is repealed.

5 Section 160. Paragraph (d) of subsection (4) of  
6 section 400.471, Florida Statutes, is amended to read:

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

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

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



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1           Section 161. Subsection (3) is added to section  
2 400.484, Florida Statutes, to read:  
3           400.484 Right of inspection; deficiencies; fines.--  
4           (3) In addition to any other penalties imposed  
5 pursuant to this section or part, the agency may assess costs  
6 related to an investigation that results in a successful  
7 prosecution, excluding costs associated with an attorney's  
8 time.

9           Section 162. Section 400.487, Florida Statutes, is  
10 amended to read:

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

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

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

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

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

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

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

30           (7) Home health agency personnel may withhold or  
31 withdraw cardiopulmonary resuscitation if presented with an

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1 order not to resuscitate executed pursuant to s. 401.45. The  
2 agency shall adopt rules providing for the implementation of  
3 such orders. Home health personnel and agencies shall not be  
4 subject to criminal prosecution or civil liability, nor be  
5 considered to have engaged in negligent or unprofessional  
6 conduct, for withholding or withdrawing cardiopulmonary  
7 resuscitation pursuant to such an order and rules adopted by  
8 the agency.

9 Section 163. Section 400.497, Florida Statutes, is  
10 amended to read:

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

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

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

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1 meets the requirements of law and rule.

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

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

19       ~~(4)(3) Licensure application and renewal.~~

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

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

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

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

30       ~~(7)(8) Geographic service areas.~~

31       ~~(9) Standards for contractual arrangements for the~~

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1 ~~provision of home health services by providers not employed by~~  
2 ~~the home health agency to whom the patient has been admitted.~~

3           Section 164. Paragraph (d) of subsection (2) and  
4 subsection (13) of section 400.506, Florida Statutes, are  
5 amended, subsection (17) is renumbered as subsection (18), and  
6 a new subsection (17) is added to said section, to read:

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

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

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

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

9           (17) 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 license, the  
16 license shall not be issued until the assessment is paid or  
17 arrangements for payment of the assessment are made.

18           Section 165. Paragraph (d) of subsection (4) of  
19 section 400.509, Florida Statutes, is amended, subsection (14)  
20 is renumbered as subsection (15), and a new subsection (14) is  
21 added to said section, to read:

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

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

27           (d) A provisional registration may be granted to an  
28 applicant when each individual required by this section to  
29 undergo background screening has met the standards for the  
30 abuse-registry background check through the agency and the  
31 Department of Law Enforcement background check, but the agency

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

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

26 Section 166. Section 400.512, Florida Statutes, is  
27 amended to read:

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

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1 screening set forth in that chapter, for home health agency  
2 personnel; persons referred for employment by nurse  
3 registries; and persons employed by companion or homemaker  
4 services registered under s. 400.509.

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

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

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



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

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

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

26 (5)(a) There is no monetary liability on the part of,  
27 and no cause of action for damages arises against, a licensed  
28 home health agency, licensed nurse registry, or companion or  
29 homemaker service registered under s. 400.509, that, upon  
30 notice of a confirmed report of adult abuse, neglect, or  
31 exploitation through the agency, terminates the employee or

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1 contractor against whom the report was issued, whether or not  
2 the employee or contractor has filed for an exemption with the  
3 agency in accordance with chapter 435 and whether or not the  
4 time for filing has expired.

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

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

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

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

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

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

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

14           Section 167. Subsection (5) of section 455.587,  
15 Florida Statutes, is amended to read:

16           455.587 Fees; receipts; disposition.--

17           (5) All moneys collected by the department from fees  
18 or fines or from costs awarded to the agency by a court shall  
19 be paid into a trust fund used by the department to implement  
20 this part. The Legislature shall appropriate funds from this  
21 trust fund sufficient to carry out this part and the  
22 provisions of law with respect to professions regulated by the  
23 Division of Medical Quality Assurance within the department  
24 and the boards. The department may contract with public and  
25 private entities to receive and deposit revenue pursuant to  
26 this section. The department shall maintain separate accounts  
27 in the trust fund used by the department to implement this  
28 part for every profession within the department. To the  
29 maximum extent possible, the department shall directly charge  
30 all expenses to the account of each regulated profession. For  
31 the purpose of this subsection, direct charge expenses

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

28 Section 168. There is appropriated from the Medical  
29 Quality Assurance Trust Fund to the Department of Health the  
30 sum of \$280,000 to implement the provisions of this act.

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1 (Redesignate subsequent sections.)

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3

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

5 And the title is amended as follows:

6 On page 150, line 31, after the semicolon,

7

8 insert:

9 amending part XV of chapter 468, F.S., relating  
10 to certified nursing assistants, and  
11 transferring that part to chapter 464, F.S.,  
12 relating to nursing, to transfer from the  
13 Department of Health to the Board of Nursing  
14 responsibility and rulemaking authority for  
15 regulation of certified nursing assistants;  
16 changing requirements for nursing assistants;  
17 transferring from the Department of Education  
18 to the board responsibility for approval of  
19 training programs; revising grounds for which  
20 the board may impose certain penalties;  
21 creating s. 464.2085, F.S.; creating and  
22 providing requirements for a Council on  
23 Certified Nursing Assistants; amending ss.  
24 20.43, 39.01, 39.304, 110.131, 232.46,  
25 240.4075, 246.081, 310.102, 381.0302, 384.30,  
26 384.31, 394.455, 395.0191, 400.021, 400.211,  
27 400.402, 400.407, 400.4255, 400.426, 400.462,  
28 400.464, 400.506, 400.6105, 401.23, 401.252,  
29 408.706, 409.908, 415.1085, 455.597, 455.604,  
30 455.667, 455.677, 455.694, 455.707, 458.348,  
31 464.001, 464.002, 464.003, 464.006, 464.009,

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1 464.016, 464.018, 464.019, 464.022, 464.023,  
2 464.027, 466.003, 467.003, 467.0125, 467.203,  
3 468.505, 483.041, 483.801, 491.0112, 550.24055,  
4 627.351, 627.357, 627.9404, 641.31, 766.101,  
5 766.110, 766.1115, 877.111, 945.602, 960.28,  
6 984.03, 985.03, F.S.; conforming references;  
7 revising application procedures for certified  
8 nursing assistants; revising registration  
9 requirements for certified nursing assistants;  
10 amending ss. 400.215, 400.512, F.S.; revising  
11 provisions relating to the granting of  
12 exemptions from disqualification for employment  
13 in nursing homes or home health agencies;  
14 amending s. 400.23, F.S.; authorizing licensed  
15 practical nurses in nursing home facilities to  
16 supervise the activities of other licensed  
17 practical nurses, certified nursing assistants,  
18 and other unlicensed personnel working in such  
19 facilities in accordance with rules adopted by  
20 the Board of Nursing; amending s. 455.557,  
21 F.S.; including advanced registered nurse  
22 practitioners under the credentialing program;  
23 creating s. 455.56503, F.S.; requiring advanced  
24 registered nurse practitioners to submit  
25 information and fingerprints for profiling  
26 purposes; amending s. 455.5651, F.S.;  
27 authorizing the department to publish certain  
28 information in practitioner profiles; amending  
29 s. 455.5653, F.S.; deleting obsolete provisions  
30 relating to scheduling and development of  
31 practitioner profiles for additional health

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

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1 renewal of license contingent on payment or  
2 arrangement for payment of any unpaid  
3 assessment; amending s. 400.509, F.S.;  
4 providing for an abuse registry background  
5 check through the Agency for Health Care  
6 Administration; authorizing assessment of  
7 certain costs of an investigation that results  
8 in a successful prosecution; making renewal of  
9 registration contingent on payment or  
10 arrangement for payment of any unpaid  
11 assessment; amending s. 400.512, F.S.; revising  
12 provisions relating to the screening of home  
13 health agency, nurse registry, and companion  
14 and homemaker service personnel; requiring the  
15 Agency for Health Care Administration to  
16 conduct the search for reports of confirmed  
17 abuse; providing an exemption from liability  
18 under certain conditions for providing opinions  
19 on the job performance of former employees and  
20 contract workers; providing conforming changes;  
21 amending s. 455.587, F.S.; providing  
22 requirements for funding regulation of  
23 professions by the Department of Health;  
24 providing an appropriation;

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