

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

Amendment No.

	<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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11	Senator Latvala moved the following amendment:		
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13	Senate Amendment (with title amendment)		
14	Delete everything after the enacting clause		
15			
16	and insert:		
17	Section 1. Subsections (1) and (2) of section 400.408,		
18	Florida Statutes, are amended to read:		
19	400.408 Unlicensed facilities; referral of person for		
20	residency to unlicensed facility; penalties; verification of		
21	licensure status.--		
22	(1)(a) It is unlawful to own, operate, or maintain an		
23	assisted living facility without obtaining a license under		
24	this part.		
25	(b) Except as provided under paragraph (d), any person		
26	who owns, operates, or maintains an unlicensed assisted living		
27	facility commits a felony of the third degree, punishable as		
28	provided in s. 775.082, s. 775.083, or s. 775.084. Each day of		
29	continued operation is a separate offense.		
30	(c) Any person found guilty of violating paragraph (a)		
31	a second or subsequent time commits a felony of the second		

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1 degree, punishable as provided under s. 775.082, s. 775.083,
2 or s. 775.084. Each day of continued operation is a separate
3 offense.

4 (d) Any person who owns, operates, or maintains an
5 unlicensed assisted living facility due to a change in this
6 part or a modification in department rule within 6 months
7 after the effective date of such change and who, within 10
8 working days after receiving notification from the agency,
9 fails to cease operation or apply for a license under this
10 part commits a felony of the third degree, punishable as
11 provided in s. 775.082, s. 775.083, or s. 775.084. Each day of
12 continued operation is a separate offense.

13 (e) Any facility that fails to cease operation after
14 agency notification may be fined for each day of noncompliance
15 pursuant to s. 400.419.

16 (f) When a licensee has an interest in more than one
17 assisted living facility, and fails to license any one of
18 these facilities, the agency may revoke the license, impose a
19 moratorium, or impose a fine pursuant to s. 400.419, on any or
20 all of the licensed facilities until such time as the
21 unlicensed facility is licensed or ceases operation.

22 (g) If the agency determines that an owner is
23 operating or maintaining an assisted living facility without
24 obtaining a license and determines that a condition exists in
25 the facility that poses a threat to the health, safety, or
26 welfare of a resident of the facility, the owner is subject to
27 the same actions and fines imposed against a licensed facility
28 as specified in ss. 400.414 and 400.419.

29 (h) Any person aware of the operation of an unlicensed
30 assisted living facility must report that facility to the
31 agency. The agency shall provide to the department's elder

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1 information and referral providers a list, by county, of
3 considering an assisted living facility placement in locating
4 a licensed facility.

5 (i) Each field office of the Agency for Health Care
6 _____
7 which includes representatives of local law enforcement
8 agencies, state attorneys, local fire authorities, the
9 _____
10 long-term care ombudsman council, and the district human
11 rights advocacy committee to assist in identifying the
12 operation of unlicensed facilities and to develop and
13 implement a plan to ensure effective enforcement of state laws
14 relating to such facilities. The workgroup shall report its
15 findings, actions, and recommendations semi-annually to the
16 Director of Health Facility Regulation of the agency.

17 (2) It is unlawful to knowingly refer a person for
18 residency to an unlicensed assisted living facility; to an
19 assisted living facility the license of which is under denial
20 or has been suspended or revoked; or to an assisted living
21 facility that has a moratorium on admissions. Any person who
22 violates this subsection commits a noncriminal violation,
23 punishable by a fine not exceeding \$500 as provided in s.
24 775.083.

25 (a) Any health care practitioner, as defined in s.
26 455.501, which is aware of the operation of an unlicensed
27 facility shall report that facility to the agency. Failure to
28 report a facility that the practitioner knows or has
29 reasonable cause to suspect is unlicensed shall be reported to
30 the practitioner's licensing board.

31 (b) Any hospital or community mental health center

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1 licensed under chapter 395 or chapter 394 which knowingly
2 discharges a patient or client to an unlicensed facility is
3 subject to sanction by the agency.

4 (c)~~(a)~~ Any employee of the agency or department, or
5 the Department of Children and Family Services, who knowingly
6 refers a person for residency to an unlicensed facility; to a
7 facility the license of which is under denial or has been
8 suspended or revoked; or to a facility that has a moratorium
9 on admissions is subject to disciplinary action by the agency
10 or department, or the Department of Children and Family
11 Services.

12 (d)~~(b)~~ The employer of any person who is under
13 contract with the agency or department, or the Department of
14 Children and Family Services, and who knowingly refers a
15 person for residency to an unlicensed facility; to a facility
16 the license of which is under denial or has been suspended or
17 revoked; or to a facility that has a moratorium on admissions
18 shall be fined and required to prepare a corrective action
19 plan designed to prevent such referrals.

20 (e)~~(c)~~ The agency shall provide the department and the
21 Department of Children and Family Services with a list of
22 licensed facilities within each county and shall update the
23 list at least quarterly.

24 (f)~~(d)~~ At least annually, the agency shall notify, in
25 appropriate trade publications, physicians licensed under
26 chapter 458 or chapter 459, hospitals licensed under chapter
27 395, nursing home facilities licensed under part II of this
28 chapter, and employees of the agency or the department, or the
29 Department of Children and Family Services, who are
30 responsible for referring persons for residency, that it is
31 unlawful to knowingly refer a person for residency to an

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1 unlicensed assisted living facility and shall notify them of
 2 the penalty for violating such prohibition. The department and
 3 the Department of Children and Family Services shall, in turn,
 4 notify service providers under contract to the respective
 5 departments who have responsibility for resident referrals to
 6 facilities. Further, the notice must direct each noticed
 7 facility and individual to contact the appropriate agency
 8 office in order to verify the licensure status of any facility
 9 prior to referring any person for residency. Each notice must
 10 include the name, telephone number, and mailing address of the
 11 appropriate office to contact.

12 Section 2. Subsection (1) of section 415.1034, Florida
 13 Statutes, is amended to read:

14 415.1034 Mandatory reporting of abuse, neglect, or
 15 exploitation of disabled adults or elderly persons; mandatory
 16 reports of death.--

17 (1) MANDATORY REPORTING.--

18 (a) Any person, including, but not limited to, any:

19 1. Physician, osteopathic physician, medical examiner,
 20 chiropractic physician, nurse, paramedic, emergency medical
 21 technician, or hospital personnel engaged in the admission,
 22 examination, care, or treatment of disabled adults or elderly
 23 persons;

24 2. Health professional or mental health professional
 25 other than one listed in subparagraph 1.;

26 3. Practitioner who relies solely on spiritual means
 27 for healing;

28 4. Nursing home staff; assisted living facility staff;
 29 adult day care center staff; adult family-care home staff;
 30 social worker; or other professional adult care, residential,
 31 or institutional staff;

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2 employee or law enforcement officer;

3
4 Professional Regulation conducting inspections of public
5 lodging establishments under s. 509.032;

6 6. Human rights advocacy committee or long-term care

8 8.— Bank, savings and loan, or credit union officer,
9 trustee, or employee,

10
11 who knows, or has reasonable cause to suspect, that a disabled
12 adult or an elderly person has been or is being abused,
13 neglected, or exploited shall immediately report such
14 knowledge or suspicion to the central abuse registry and
15 tracking system on the single statewide toll-free telephone
16 number.

17 (b) To the extent possible, a report made pursuant to
18 paragraph (a) must contain, but need not be limited to, the
19 following information:

20 1. Name, age, race, sex, physical description, and
21 location of each disabled adult or an elderly person alleged
22 to have been abused, neglected, or exploited.

23 2. Names, addresses, and telephone numbers of the
24 disabled adult's or elderly person's family members.

25 3. Name, address, and telephone number of each alleged
26 perpetrator.

27 4. Name, address, and telephone number of the
28 caregiver of the disabled adult or elderly person, if
29 different from the alleged perpetrator.

30 5. Name, address, and telephone number of the person
31 reporting the alleged abuse, neglect, or exploitation.

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1 6. Description of the physical or psychological
2 injuries sustained.

3 7. Actions taken by the reporter, if any, such as
4 notification of the criminal justice agency.

5 8. Any other information available to the reporting
6 person which may establish the cause of abuse, neglect, or
7 exploitation that occurred or is occurring.

8 Section 3. Subsections (2) and (11) of section
9 400.471, Florida Statutes, are amended to read:

10 400.471 Application for license; fee; provisional
11 license; temporary permit.--

12 (2) The applicant must file with the application
13 satisfactory proof that the home health agency is in
14 compliance with this part and applicable rules, including:

15 (a) A listing of services to be provided, either
16 directly by the applicant or through contractual arrangements
17 with existing providers;

18 (b) The number and discipline of professional staff to
19 be employed; and

20 (c) Proof of financial ability to operate.

21
22 ~~If the applicant has applied for a certificate of need under~~
23 ~~ss. 408.0331-408.045 within the preceding 12 months, the~~
24 ~~applicant may submit the proof required during the~~
25 ~~certificate-of-need process along with an attestation that~~
26 ~~there has been no substantial change in the facts and~~
27 ~~circumstances underlying the original submission.~~

28 (11) The agency may not issue a license designated as
29 certified to a home health agency that fails to ~~receive a~~
30 ~~certificate of need under ss. 408.031-408.045 or that fails to~~
31 satisfy the requirements of a Medicare certification survey

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1 from the agency.

2 Section 4. Section 408.032, Florida Statutes, is
3 amended to read:

4 408.032 Definitions.--As used in ss. 408.031-408.045,
5 the term:

6 (1) "Agency" means the Agency for Health Care
7 Administration.

8 (2) "Capital expenditure" means an expenditure,
9 including an expenditure for a construction project undertaken
10 by a health care facility as its own contractor, which, under
11 generally accepted accounting principles, is not properly
12 chargeable as an expense of operation and maintenance, which
13 is made to change the bed capacity of the facility, or
14 substantially change the services or service area of the
15 health care facility, health service provider, or hospice, and
16 which includes the cost of the studies, surveys, designs,
17 plans, working drawings, specifications, initial financing
18 costs, and other activities essential to acquisition,
19 improvement, expansion, or replacement of the plant and
20 equipment.

21 (3) "Certificate of need" means a written statement
22 issued by the agency evidencing community need for a new,
23 converted, expanded, or otherwise significantly modified
24 health care facility, health service, or hospice.

25 (4) "Commenced construction" means initiation of and
26 continuous activities beyond site preparation associated with
27 erecting or modifying a health care facility, including
28 procurement of a building permit applying the use of
29 agency-approved construction documents, proof of an executed
30 owner/contractor agreement or an irrevocable or binding forced
31 account, and actual undertaking of foundation forming with

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1 steel installation and concrete placing.

2 (5) "District" means a health service planning
3 district composed of the following counties:

4 District 1.--Escambia, Santa Rosa, Okaloosa, and Walton
5 Counties.

6 District 2.--Holmes, Washington, Bay, Jackson,
7 Franklin, Gulf, Gadsden, Liberty, Calhoun, Leon, Wakulla,
8 Jefferson, Madison, and Taylor Counties.

9 District 3.--Hamilton, Suwannee, Lafayette, Dixie,
10 Columbia, Gilchrist, Levy, Union, Bradford, Putnam, Alachua,
11 Marion, Citrus, Hernando, Sumter, and Lake Counties.

12 District 4.--Baker, Nassau, Duval, Clay, St. Johns,
13 Flagler, and Volusia Counties.

14 District 5.--Pasco and Pinellas Counties.

15 District 6.--Hillsborough, Manatee, Polk, Hardee, and
16 Highlands Counties.

17 District 7.--Seminole, Orange, Osceola, and Brevard
18 Counties.

19 District 8.--Sarasota, DeSoto, Charlotte, Lee, Glades,
20 Hendry, and Collier Counties.

21 District 9.--Indian River, Okeechobee, St. Lucie,
22 Martin, and Palm Beach Counties.

23 District 10.--Broward County.

24 District 11.--Dade and Monroe Counties.

25 (6) "Exemption" means the process by which a proposal
26 that would otherwise require a certificate of need may proceed
27 without a certificate of need.

28 (7)~~(6)~~ "Expedited review" means the process by which
29 certain types of applications are not subject to the review
30 cycle requirements contained in s. 408.039(1), and the letter
31 of intent requirements contained in s. 408.039(2).

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1 ~~(8)(7)~~ "Health care facility" means a hospital,
2 long-term care hospital, skilled nursing facility, hospice,
3 ~~intermediate care facility,~~ or intermediate care facility for
4 the developmentally disabled. A facility relying solely on
5 spiritual means through prayer for healing is not included as
6 a health care facility.

7 ~~(9)(8)~~ "Health services" means diagnostic, curative,
8 or rehabilitative services and includes ~~alcohol treatment,~~
9 ~~drug abuse treatment,~~ and mental health services. Obstetric
10 services are not health services for purposes of ss.
11 408.031-408.045.

12 ~~(9)~~ "Home health agency" means an organization, as
13 defined in s. 400.462(4), that is certified or seeks
14 certification as a Medicare home health service provider.

15 (10) "Hospice" or "hospice program" means a hospice as
16 defined in part VI of chapter 400.

17 (11) "Hospital" means a health care facility licensed
18 under chapter 395.

19 ~~(12)~~ "Institutional health service" means a health
20 service which is provided by or through a health care facility
21 and which entails an annual operating cost of \$500,000 or
22 more. The agency shall, by rule, adjust the annual operating
23 cost threshold annually using an appropriate inflation index.

24 ~~(13)~~ "Intermediate care facility" means an institution
25 which provides, on a regular basis, health-related care and
26 services to individuals who do not require the degree of care
27 and treatment which a hospital or skilled nursing facility is
28 designed to provide, but who, because of their mental or
29 physical condition, require health-related care and services
30 above the level of room and board.

31 ~~(12)(14)~~ "Intermediate care facility for the

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1 developmentally disabled" means a residential facility
 2 licensed under chapter 393 and certified by the Federal
 3 Government pursuant to the Social Security Act as a provider
 4 of Medicaid services to persons who are mentally retarded or
 5 who have a related condition.

6 ~~(13)~~~~(15)~~ "Long-term care hospital" means a hospital
 7 licensed under chapter 395 which meets the requirements of 42
 8 C.F.R. s. 412.23(e) and seeks exclusion from the Medicare
 9 prospective payment system for inpatient hospital services.

10 (14) "Mental health services" means inpatient services
 11 provided in a hospital licensed under chapter 395 and listed
 12 on the hospital license as psychiatric beds for adults;
 13 psychiatric beds for children and adolescents; intensive
 14 residential treatment beds for children and adolescents;
 15 substance abuse beds for adults; or substance abuse beds for
 16 children and adolescents.

17 ~~(16) "Multifacility project" means an integrated~~
 18 ~~residential and health care facility consisting of independent~~
 19 ~~living units, assisted living facility units, and nursing home~~
 20 ~~beds certificated on or after January 1, 1987, where:~~

21 ~~(a) The aggregate total number of independent living~~
 22 ~~units and assisted living facility units exceeds the number of~~
 23 ~~nursing home beds.~~

24 ~~(b) The developer of the project has expended the sum~~
 25 ~~of \$500,000 or more on the certificated and noncertificated~~
 26 ~~elements of the project combined, exclusive of land costs, by~~
 27 ~~the conclusion of the 18th month of the life of the~~
 28 ~~certificate of need.~~

29 ~~(c) The total aggregate cost of construction of the~~
 30 ~~certificated element of the project, when combined with other,~~
 31 ~~noncertificated elements, is \$10 million or more.~~

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1 ~~(d) All elements of the project are contiguous or~~
2 ~~immediately adjacent to each other and construction of all~~
3 ~~elements will be continuous.~~

4 (15)~~(17)~~ "Nursing home geographically underserved
5 area" means:

6 (a) A county in which there is no existing or approved
7 nursing home;

8 (b) An area with a radius of at least 20 miles in
9 which there is no existing or approved nursing home; or

10 (c) An area with a radius of at least 20 miles in
11 which all existing nursing homes have maintained at least a 95
12 percent occupancy rate for the most recent 6 months or a 90
13 percent occupancy rate for the most recent 12 months.

14 ~~(18) "Respite care" means short-term care in a~~
15 ~~licensed health care facility which is personal or custodial~~
16 ~~and is provided for chronic illness, physical infirmity, or~~
17 ~~advanced age for the purpose of temporarily relieving family~~
18 ~~members of the burden of providing care and attendance.~~

19 (16)~~(19)~~ "Skilled nursing facility" means an
20 institution, or a distinct part of an institution, which is
21 primarily engaged in providing, to inpatients, skilled nursing
22 care and related services for patients who require medical or
23 nursing care, or rehabilitation services for the
24 rehabilitation of injured, disabled, or sick persons.

25 (17)~~(20)~~ "Tertiary health service" means a health
26 service which, due to its high level of intensity, complexity,
27 specialized or limited applicability, and cost, should be
28 limited to, and concentrated in, a limited number of hospitals
29 to ensure the quality, availability, and cost-effectiveness of
30 such service. Examples of such service include, but are not
31 limited to, organ transplantation, specialty burn units,

1 neonatal intensive care units, comprehensive rehabilitation,
2 and medical or surgical services which are experimental or

4 such services is not yet contemplated within the commonly
5 accepted course of diagnosis or treatment for the condition

7 rule a list of all tertiary health services.

8 _____(21) "Regional area" means any of those regional

10 and district health planning funds are directed to local
11 health councils through the General Appropriations Act.

13 paragraph (a) of subsection (3) of section 408.033, Florida
14 Statutes, are amended to read:

16 (1) LOCAL HEALTH COUNCILS.--

17 (b) Each local health council may:

19 that permits ~~is consistent with the objectives and strategies~~

20 _____ each local
21 health council to develop strategies and set priorities for

23 district or regional area health plan must contain preferences
24 for the development of health services and facilities, which

26 certificate-of-need applications. The district health plan
27 shall be submitted to the agency and updated periodically. The

29 submitted to the agency according to a schedule developed by
30 the agency in conjunction with the local health councils. The

~~coordination between the development~~

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1 ~~of the state health plan and the district health plans and for~~
2 the development of district health plans by major sections
3 over a multiyear period. The elements of a district plan
4 which are necessary to the review of certificate-of-need
5 applications for proposed projects within the district may be
6 adopted by the agency as a part of its rules.

7 2. Advise the agency on health care issues and
8 resource allocations.

9 3. Promote public awareness of community health needs,
10 emphasizing health promotion and cost-effective health service
11 selection.

12 4. Collect data and conduct analyses and studies
13 related to health care needs of the district, including the
14 needs of medically indigent persons, and assist the agency and
15 other state agencies in carrying out data collection
16 activities that relate to the functions in this subsection.

17 5. Monitor the onsite construction progress, if any,
18 of certificate-of-need approved projects and report council
19 findings to the agency on forms provided by the agency.

20 6. Advise and assist any regional planning councils
21 within each district that have elected to address health
22 issues in their strategic regional policy plans with the
23 development of the health element of the plans to address the
24 health goals and policies in the State Comprehensive Plan.

25 7. Advise and assist local governments within each
26 district on the development of an optional health plan element
27 of the comprehensive plan provided in chapter 163, to assure
28 compatibility with the health goals and policies in the State
29 Comprehensive Plan and district health plan. To facilitate
30 the implementation of this section, the local health council
31 shall annually provide the local governments in its service

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1 area, upon request, with:

2 a. A copy and appropriate updates of the district
3 health plan;

4 b. A report of hospital and nursing home utilization
5 statistics for facilities within the local government
6 jurisdiction; and

7 c. Applicable agency rules and calculated need
8 methodologies for health facilities and services regulated
9 under s. 408.034 for the district served by the local health
10 council.

11 8. Monitor and evaluate the adequacy, appropriateness,
12 and effectiveness, within the district, of local, state,
13 federal, and private funds distributed to meet the needs of
14 the medically indigent and other underserved population
15 groups.

16 9. In conjunction with the Agency for Health Care
17 Administration, plan for services at the local level for
18 persons infected with the human immunodeficiency virus.

19 10. Provide technical assistance to encourage and
20 support activities by providers, purchasers, consumers, and
21 local, regional, and state agencies in meeting the health care
22 goals, objectives, and policies adopted by the local health
23 council.

24 11. Provide the agency with data required by rule for
25 the review of certificate-of-need applications and the
26 projection of need for health services and facilities in the
27 district.

28 (3) DUTIES AND RESPONSIBILITIES OF THE AGENCY.--

29 (a) The agency, in conjunction with the local health
30 councils, is responsible for the coordinated planning of ~~all~~
31 health care services in the state ~~and for the preparation of~~

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1 _____.
2 Section 6. Subsection (2) of section 408.034, Florida

4 408.034 Duties and responsibilities of agency;
5 rules.--

7 to health care facilities and health service providers, as
8 provided under chapters 393, 395, and parts II—and VI of
9 chapter 400, the agency may not issue a license to any health
11 health care facility which fails to receive a certificate of
12 need _____ for the licensed facility or service.

13 Section 7. Section 408.035, Florida Statutes, is

15 408.035 Review criteria.--

16 — The agency shall determine the reviewability of
17 applications and shall review applications for

19 and health services in context with the following criteria:

20 ___ (a) The need for the health care facilities and
22 district health , ~~except in emergency circumstances that~~
23 _____.

24 ___ (b) The availability, quality of care, efficiency,
26 ~~appropriateness, accessibility, ___ extent of utilization of-~~
27 ~~and adequacy of like and~~
27 health services in the service district of the applicant.

28 ___ (c) The ability of the applicant to provide quality
30 care.

31 _____

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1 ~~facilities and health services in the service district of the~~
2 ~~applicant, such as outpatient care and ambulatory or home care~~
3 ~~services, which may serve as alternatives for the health care~~
4 ~~facilities and health services to be provided by the~~
5 ~~applicant.~~

6 ~~(e) Probable economies and improvements in service~~
7 ~~which may be derived from operation of joint, cooperative, or~~
8 ~~shared health care resources.~~

9 ~~(4)(f)~~ The need in the service district of the
10 applicant for special health care equipment and services that
11 are not reasonably and economically accessible in adjoining
12 areas.

13 ~~(5)(g)~~ The needs of need for research and educational
14 facilities, including, but not limited to, facilities with
15 institutional training programs and community training
16 programs for health care practitioners and for doctors of
17 osteopathic medicine and medicine at the student, internship,
18 and residency training levels.

19 ~~(6)(h)~~ The availability of resources, including health
20 personnel, management personnel, and funds for capital and
21 operating expenditures, for project accomplishment and
22 operation. ~~the effects the project will have on clinical~~
23 ~~needs of health professional training programs in the service~~
24 ~~district; the extent to which the services will be accessible~~
25 ~~to schools for health professions in the service district for~~
26 ~~training purposes if such services are available in a limited~~
27 ~~number of facilities; the availability of alternative uses of~~
28 ~~such resources for the provision of other health services; and~~

29 ~~(7)~~ The extent to which the proposed services will
30 enhance access to health care for ~~be accessible to all~~
31 residents of the service district.

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1 (8)(i) The immediate and long-term financial
2 feasibility of the proposal.

3 ~~(j) The special needs and circumstances of health~~
4 ~~maintenance organizations.~~

5 ~~(k) The needs and circumstances of those entities that~~
6 ~~provide a substantial portion of their services or resources,~~
7 ~~or both, to individuals not residing in the service district~~
8 ~~in which the entities are located or in adjacent service~~
9 ~~districts. Such entities may include medical and other health~~
10 ~~professions, schools, multidisciplinary clinics, and specialty~~
11 ~~services such as open-heart surgery, radiation therapy, and~~
12 ~~renal transplantation.~~

13 (9)(i) The extent to which the proposal will foster
14 competition that promotes quality and cost-effectiveness.~~The~~
15 ~~probable impact of the proposed project on the costs of~~
16 ~~providing health services proposed by the applicant, upon~~
17 ~~consideration of factors including, but not limited to, the~~
18 ~~effects of competition on the supply of health services being~~
19 ~~proposed and the improvements or innovations in the financing~~
20 ~~and delivery of health services which foster competition and~~
21 ~~service to promote quality assurance and cost-effectiveness.~~

22 (10)(m) The costs and methods of the proposed
23 construction, including the costs and methods of energy
24 provision and the availability of alternative, less costly, or
25 more effective methods of construction.

26 (11)(n) The applicant's past and proposed provision of
27 health care services to Medicaid patients and the medically
28 indigent.

29 ~~(o) The applicant's past and proposed provision of~~
30 ~~services that promote a continuum of care in a multilevel~~
31 ~~health care system, which may include, but are not limited to,~~

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1 ~~acute care, skilled nursing care, home health care, and~~
2 ~~assisted living facilities.~~

3 ~~(12)(p)~~ The applicant's designation as a Gold Seal
4 Program nursing facility pursuant to s. 400.235, when the
5 applicant is requesting additional nursing home beds at that
6 facility.

7 ~~(2) In cases of capital expenditure proposals for the~~
8 ~~provision of new health services to inpatients, the agency~~
9 ~~shall also reference each of the following in its findings of~~
10 ~~fact:~~

11 ~~(a) That less costly, more efficient, or more~~
12 ~~appropriate alternatives to such inpatient services are not~~
13 ~~available and the development of such alternatives has been~~
14 ~~studied and found not practicable.~~

15 ~~(b) That existing inpatient facilities providing~~
16 ~~inpatient services similar to those proposed are being used in~~
17 ~~an appropriate and efficient manner.~~

18 ~~(c) In the case of new construction or replacement~~
19 ~~construction, that alternatives to the construction, for~~
20 ~~example, modernization or sharing arrangements, have been~~
21 ~~considered and have been implemented to the maximum extent~~
22 ~~practicable.~~

23 ~~(d) That patients will experience serious problems in~~
24 ~~obtaining inpatient care of the type proposed, in the absence~~
25 ~~of the proposed new service.~~

26 ~~(e) In the case of a proposal for the addition of beds~~
27 ~~for the provision of skilled nursing or intermediate care~~
28 ~~services, that the addition will be consistent with the plans~~
29 ~~of other agencies of the state responsible for the provision~~
30 ~~and financing of long-term care, including home health~~
31 ~~services.~~

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2 amended to read:

3 408.036 Projects subject to review.--

5 (3), all health-care-related projects, as described in
6 paragraphs (a)-~~___(*)~~, are subject to review and must file an

8 agency is exclusively responsible for determining whether a
9 health-care-related project is subject to review under ss.

11 (a) The addition of beds by new construction or
12 alteration.

14 additional health care facilities, including a replacement
15 health care facility when the proposed project site is not

17 (c) The conversion from one type of health care
18 facility to another _____
19 ~~of care to another, in a skilled or intermediate nursing~~
20 ~~facility, if the conversion effects a change in the level of~~
21 _____
22 ~~skilled or intermediate nursing facility within a 2-year~~
23 ~~period. If the nursing facility is certified for both skilled~~
24 _____
25 paragraph do not apply

26 (d) An ~~Any~~ increase in _____ licensed bed capacity
27 _____.

28 (e) _____The
29 establishment of a _____
30 ~~establishment of a~~ or hospice inpatient facility,
except as provided in s. 408.043 _____

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1 ~~such services by a health care facility or health maintenance~~
2 ~~organization for those other than the subscribers of the~~
3 ~~health maintenance organization; except that this paragraph~~
4 ~~does not apply to the establishment of a Medicare-certified~~
5 ~~home health agency by a facility described in paragraph~~
6 ~~(3)(h).~~

7 ~~(f) An acquisition by or on behalf of a health care~~
8 ~~facility or health maintenance organization, by any means,~~
9 ~~which acquisition would have required review if the~~
10 ~~acquisition had been by purchase.~~

11 ~~(f)(g) The establishment of inpatient institutional~~
12 ~~health services by a health care facility, or a substantial~~
13 ~~change in such services.~~

14 ~~(h) The acquisition by any means of an existing health~~
15 ~~care facility by any person, unless the person provides the~~
16 ~~agency with at least 30 days' written notice of the proposed~~
17 ~~acquisition, which notice is to include the services to be~~
18 ~~offered and the bed capacity of the facility, and unless the~~
19 ~~agency does not determine, within 30 days after receipt of~~
20 ~~such notice, that the services to be provided and the bed~~
21 ~~capacity of the facility will be changed.~~

22 ~~(i) An increase in the cost of a project for which a~~
23 ~~certificate of need has been issued when the increase in cost~~
24 ~~exceeds 20 percent of the originally approved cost of the~~
25 ~~project, except that a cost overrun review is not necessary~~
26 ~~when the cost overrun is less than \$20,000.~~

27 ~~(g)(j) An increase in the number of beds for acute~~
28 ~~care, nursing home care beds, specialty burn units, neonatal~~
29 ~~intensive care units, comprehensive rehabilitation, mental~~
30 ~~health services, or hospital-based distinct part skilled~~
31 ~~nursing units, or at a long-term care hospital psychiatric or~~

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1 ~~rehabilitation beds.~~

2 (h)~~(k)~~ The establishment of tertiary health services.

3 (2) PROJECTS SUBJECT TO EXPEDITED REVIEW.--Unless
4 exempt pursuant to subsection (3), projects subject to an
5 expedited review shall include, but not be limited to:

6 ~~(a) Cost overruns, as defined in paragraph (1)(i).~~

7 (a)~~(b)~~ Research, education, and training programs.

8 (b)~~(c)~~ Shared services contracts or projects.

9 (c)~~(d)~~ A transfer of a certificate of need.

10 (d)~~(e)~~ A 50-percent increase in nursing home beds for
11 a facility incorporated and operating in this state for at
12 least 60 years on or before July 1, 1988, which has a licensed
13 nursing home facility located on a campus providing a variety
14 of residential settings and supportive services. The
15 increased nursing home beds shall be for the exclusive use of
16 the campus residents. Any application on behalf of an
17 applicant meeting this requirement shall be subject to the
18 base fee of \$5,000 provided in s. 408.038.

19 ~~(f) Combination within one nursing home facility of
20 the beds or services authorized by two or more certificates of
21 need issued in the same planning subdistrict.~~

22 ~~(g) Division into two or more nursing home facilities
23 of beds or services authorized by one certificate of need
24 issued in the same planning subdistrict. Such division shall
25 not be approved if it would adversely affect the original
26 certificate's approved cost.~~

27 (e)~~(h)~~ Replacement of a health care facility when the
28 proposed project site is located in the same district and
29 within a 1-mile radius of the replaced health care facility.

30 (f) The conversion of mental health services beds
31 licensed under chapter 395 or hospital-based distinct part

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1 skilled nursing unit beds to general acute care beds; the
 2 conversion of mental health services beds between or among the
 3 licensed bed categories defined as beds for mental health
 4 services; or the conversion of general acute care beds to beds
 5 for mental health services.

6 1. Conversion under this paragraph shall not establish
 7 a new licensed bed category at the hospital but shall apply
 8 only to categories of beds licensed at that hospital.

9 2. Beds converted under this paragraph must be
 10 licensed and operational for at least 12 months before the
 11 hospital may apply for additional conversion affecting beds of
 12 the same type.

13
 14 The agency shall develop rules to implement the provisions for
 15 expedited review, including time schedule, application content
 16 which may be reduced from the full requirements of s.
 17 408.037(1), and application processing.

18 (3) EXEMPTIONS.--Upon request, the following projects
 19 are subject to supported by such documentation as the agency
 20 requires, the agency shall grant an exemption from the
 21 provisions of subsection (1):

22 ~~(a) For the initiation or expansion of obstetric~~
 23 ~~services.~~

24 ~~(a)(b) For replacement of any expenditure to replace~~
 25 ~~or renovate any part of a licensed health care facility on the~~
 26 ~~same site, provided that the number of licensed beds in each~~
 27 ~~licensed bed category will not increase and, in the case of a~~
 28 ~~replacement facility, the project site is the same as the~~
 29 ~~facility being replaced.~~

30 ~~(c) For providing respite care services. An individual~~
 31 ~~may be admitted to a respite care program in a hospital~~

1 ~~without regard to inpatient requirements relating to admitting~~
2 ~~order and attendance of a member of a medical staff.~~

3 ~~_____ (d) For hospice services or _____~~
4 ~~provided by a rural hospital, as defined in s. 395.602, or~~
5 ~~swing beds in a such rural hospital _____~~
6 in a number that does not exceed one-half of its licensed
7 beds.

8 ~~(c)(e)~~
9 hospital beds to Medicare and Medicaid certified skilled
10 nursing beds in a rural hospital as defined in s. 395.602, so
11 long as the conversion of the beds does not involve the
12
13 nursing beds, including swing beds, may not exceed one-half of
14 the total number of licensed beds in the rural hospital as of
15
16 this paragraph, excluding swing beds, shall be included in the
17 community nursing home bed inventory. A rural hospital which
18
19 this paragraph shall notify the agency of the decertification,
20 and the agency shall adjust the community nursing home bed

21
22 ~~(d)~~— For the addition of nursing home beds at a
23 skilled nursing facility that is part of a retirement
24
25 supportive services and that has been incorporated and
26 operated in this state for at least 65 years on or before July
27
28 public but must be for the exclusive use of the community
29 residents.

30 ~~(e)(g)~~
31 nursing facility licensed for at least 50 beds as of January

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1 1, 1994, under part II of chapter 400 which is not part of a
2 continuing care facility if, after the increase, the total
3 licensed bed capacity of that facility is not more than 60
4 beds and if the facility has been continuously licensed since
5 1950 and has received a superior rating on each of its two
6 most recent licensure surveys.

7 ~~(h) For the establishment of a Medicare-certified home~~
8 ~~health agency by a facility certified under chapter 651; a~~
9 ~~retirement community, as defined in s. 400.404(2)(g); or a~~
10 ~~residential facility that serves only retired military~~
11 ~~personnel, their dependents, and the surviving dependents of~~
12 ~~deceased military personnel. Medicare-reimbursed home health~~
13 ~~services provided through such agency shall be offered~~
14 ~~exclusively to residents of the facility or retirement~~
15 ~~community or to residents of facilities or retirement~~
16 ~~communities owned, operated, or managed by the same corporate~~
17 ~~entity. Each visit made to deliver Medicare-reimbursable home~~
18 ~~health services to a home health patient who, at the time of~~
19 ~~service, is not a resident of the facility or retirement~~
20 ~~community shall be a deceptive and unfair trade practice and~~
21 ~~constitutes a violation of ss. 501.201-501.213.~~

22 ~~(i) For the establishment of a Medicare-certified home~~
23 ~~health agency. This paragraph shall take effect 90 days after~~
24 ~~the adjournment sine die of the next regular session of the~~
25 ~~Legislature occurring after the legislative session in which~~
26 ~~the Legislature receives a report from the Director of Health~~
27 ~~Care Administration certifying that the federal Health Care~~
28 ~~Financing Administration has implemented a per-episode~~
29 ~~prospective pay system for Medicare-certified home health~~
30 ~~agencies.~~

31 ~~(f)(j)~~ For an inmate health care facility built by or

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1 for the exclusive use of the Department of Corrections as
2 provided in chapter 945. This exemption expires when such
3 facility is converted to other uses.

4 ~~(k) For an expenditure by or on behalf of a health
5 care facility to provide a health service exclusively on an
6 outpatient basis.~~

7 ~~(g)(1)~~ For the termination of an inpatient a health
8 care service.

9 ~~(h)(m)~~ For the delicensure of beds. A request for
10 exemption ~~An application~~ submitted under this paragraph must
11 identify the number, the category of beds classification, and
12 the name of the facility in which the beds to be delicensed
13 are located.

14 ~~(i)(n)~~ For the provision of adult inpatient diagnostic
15 cardiac catheterization services in a hospital.

16 1. In addition to any other documentation otherwise
17 required by the agency, a request for an exemption submitted
18 under this paragraph must comply with the following criteria:

19 a. The applicant must certify it will not provide
20 therapeutic cardiac catheterization pursuant to the grant of
21 the exemption.

22 b. The applicant must certify it will meet and
23 continuously maintain the minimum licensure requirements
24 adopted by the agency governing such programs pursuant to
25 subparagraph 2.

26 c. The applicant must certify it will provide a
27 minimum of 2 percent of its services to charity and Medicaid
28 patients.

29 2. The agency shall adopt licensure requirements by
30 rule which govern the operation of adult inpatient diagnostic
31 cardiac catheterization programs established pursuant to the

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1 exemption provided in this paragraph. The rules shall ensure
2 that such programs:

3 a. Perform only adult inpatient diagnostic cardiac
4 catheterization services authorized by the exemption and will
5 not provide therapeutic cardiac catheterization or any other
6 services not authorized by the exemption.

7 b. Maintain sufficient appropriate equipment and
8 health personnel to ensure quality and safety.

9 c. Maintain appropriate times of operation and
10 protocols to ensure availability and appropriate referrals in
11 the event of emergencies.

12 d. Maintain appropriate program volumes to ensure
13 quality and safety.

14 e. Provide a minimum of 2 percent of its services to
15 charity and Medicaid patients each year.

16 3.a. The exemption provided by this paragraph shall
17 not apply unless the agency determines that the program is in
18 compliance with the requirements of subparagraph 1. and that
19 the program will, after beginning operation, continuously
20 comply with the rules adopted pursuant to subparagraph 2. The
21 agency shall monitor such programs to ensure compliance with
22 the requirements of subparagraph 2.

23 b.(I) The exemption for a program shall expire
24 immediately when the program fails to comply with the rules
25 adopted pursuant to sub-subparagraphs 2.a., b., and c.

26 (II) Beginning 18 months after a program first begins
27 treating patients, the exemption for a program shall expire
28 when the program fails to comply with the rules adopted
29 pursuant to sub-subparagraphs 2.d. and e.

30 (III) If the exemption for a program expires pursuant
31 to sub-sub-subparagraph (I) or sub-sub-subparagraph (II), the

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1 agency shall not grant an exemption pursuant to this paragraph
2 for an adult inpatient diagnostic cardiac catheterization
3 program located at the same hospital until 2 years following
4 the date of the determination by the agency that the program
5 failed to comply with the rules adopted pursuant to
6 subparagraph 2.

7 ~~4. The agency shall not grant any exemption under this~~
8 ~~paragraph until the adoption of the rules required under this~~
9 ~~paragraph, or until March 1, 1998, whichever comes first.~~
10 ~~However, if final rules have not been adopted by March 1,~~

11 _____
12 used by the agency to grant exemptions under the provisions of
13 this paragraph until final rules become effective.

14 ____ (o) For _____ mobile surgical
15 facilities and related health care services _____ under
16 contract with the Department of Corrections or a private

18 (k) — For state veterans' nursing homes operated by
19 or on behalf of the Florida Department of Veterans' Affairs in

21 percent of the construction cost is federally funded and for
22 which the Federal Government pays a per diem rate not to

24 state nursing homes. These beds shall not be included in the
25 nursing home bed inventory.

27 (l) For combination within one nursing home facility
28 of need issued in the same planning subdistrict. An exemption
29 granted under this paragraph shall extend the validity period
30 _____
31 of the period beginning upon submission of the exemption

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1 request and ending with issuance of the exemption. The
2 longest validity period among the certificates shall be
3 applicable to each of the combined certificates.

4 (m) For division into two or more nursing home
5 facilities of beds or services authorized by one certificate
6 _____
7 granted under this paragraph shall extend the validity period
8 of the certificate of need to be divided by the length of the
9 _____
10 ending with issuance of the exemption.

11 (n) For the addition of hospital beds licensed under
12 _____
13 hospital-based distinct part skilled nursing unit in a number
14 that may not exceed 10 total beds or 10 percent of the
15 _____
16 whichever is greater. Beds for specialty burn units, neonatal
17 intensive care units, or comprehensive rehabilitation, or at a
18 _____
19 paragraph.

20 1. In addition to any other documentation otherwise
21 _____
22 under this paragraph must:

23 a. Certify that the prior 12-month average occupancy
24 _____
25 facility meets or exceeds 80 percent or, for a hospital-based
26 distinct part skilled nursing unit, the prior 12-month average
27 _____

28 b. Certify that any beds of the same type authorized
29 for the facility under this paragraph before the date of the
30 _____
31 operational for at least 12 months.

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1 2. The timeframes and monitoring process specified in
2 s. 408.040(2)(a)-(c) apply to any exemption issued under this
3 paragraph.

4 3. The agency shall count beds authorized under this
5 paragraph as approved beds in the published inventory of
6 _____

7 (o) For the addition of acute care beds, as authorized
8 by rule consistent with s. 395.003(4), in a number that may
9 _____
10 capacity, whichever is greater, for temporary beds in a
11 hospital that has experienced high seasonal occupancy within
12 _____
13 to emergency or exigent circumstances.

14 (p) For the addition of nursing home beds licensed
15 _____
16 10 percent of the number of beds licensed in the facility
17 being expanded, whichever is greater.

18 _____
19 the agency, a request for exemption submitted under this
20 paragraph must:

21 _____
22 facility has not had any class I or class II deficiencies
23 within the 30 months preceding the request for addition.

24 _____
25 facility has been designated as a Gold Seal nursing home under
26 s. 400.235.

27 _____
28 rate for the nursing home beds at the facility meets or
29 exceeds 96 percent.

30 _____
31 under this paragraph before the date of the current request

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1 for an exemption have been licensed and operational for at
2 least 12 months.

3 2. The timeframes and monitoring process specified in
4 s. 408.040(2)(a)-(c) apply to any exemption issued under this
5 paragraph.

6 3. The agency shall count beds authorized under this
7 paragraph as approved beds in the published inventory of
8 nursing home beds until the beds are licensed.

9 (4) A request for exemption under this subsection(3)
10 may be made at any time and is not subject to the batching
11 requirements of this section. The request shall be supported
12 by such documentation as the agency requires by rule. The
13 agency shall assess a fee of \$250 for each request for
14 exemption submitted under subsection (3).

15 Section 9. Paragraph (a) of subsection (1) of section
16 408.037, Florida Statutes, is amended to read:

17 408.037 Application content.--

18 (1) An application for a certificate of need must
19 contain:

20 (a) A detailed description of the proposed project and
21 statement of its purpose and need in relation to the local
22 health plan ~~and the state health plan.~~

23 Section 10. Section 408.038, Florida Statutes, is
24 amended to read:

25 408.038 Fees.--The agency department shall assess fees
26 on certificate-of-need applications. Such fees shall be for
27 the purpose of funding the functions of the local health
28 councils and the activities of the agency department and shall
29 be allocated as provided in s. 408.033. The fee shall be
30 determined as follows:

31 (1) A minimum base fee of \$5,000.

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1 (2) In addition to the base fee of \$5,000, 0.015 of
2 each dollar of proposed expenditure, except that a fee may not
3 exceed \$22,000.

4 Section 11. Subsections (3) and (4) and paragraphs (a)
5 and (b) of subsection (6) of section 408.039, Florida
6 Statutes, are amended to read:

7 408.039 Review process.--The review process for
8 certificates of need shall be as follows:

9 (3) APPLICATION PROCESSING.--

10 (a) An applicant shall file an application with the
11 agency department, and shall furnish a copy of the application
12 to the local health council and the agency department. Within
13 15 days after the applicable application filing deadline
14 established by agency department rule, the staff of the agency
15 department shall determine if the application is complete. If
16 the application is incomplete, the staff shall request
17 specific information from the applicant necessary for the
18 application to be complete; however, the staff may make only
19 one such request. If the requested information is not filed
20 with the agency department within 21 days of the receipt of
21 the staff's request, the application shall be deemed
22 incomplete and deemed withdrawn from consideration.

23 (b) Upon the request of any applicant or substantially
24 affected person within 14 days after notice that an
25 application has been filed, a public hearing may be held at
26 the agency's department's discretion if the agency department
27 determines that a proposed project involves issues of great
28 local public interest. The public hearing shall allow
29 applicants and other interested parties reasonable time to
30 present their positions and to present rebuttal information. A
31 recorded verbatim record of the hearing shall be maintained.

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1 The public hearing shall be held at the local level within 21
2 days after the application is deemed complete.

3 (4) STAFF RECOMMENDATIONS.--

4 (a) The agency's ~~department's~~ review of and final
5 agency action on applications shall be in accordance with the
6 district health plan, and statutory criteria, and the
7 implementing administrative rules. In the application review
8 process, the agency ~~department~~ shall give a preference, as
9 defined by rule of the agency ~~department~~, to an applicant
10 which proposes to develop a nursing home in a nursing home
11 geographically underserved area.

12 (b) Within 60 days after all the applications in a
13 review cycle are determined to be complete, the agency
14 ~~department~~ shall issue its State Agency Action Report and
15 Notice of Intent to grant a certificate of need for the
16 project in its entirety, to grant a certificate of need for
17 identifiable portions of the project, or to deny a certificate
18 of need. The State Agency Action Report shall set forth in
19 writing its findings of fact and determinations upon which its
20 decision is based. If a finding of fact or determination by
21 the agency ~~department~~ is counter to the district health plan
22 of the local health council, the agency ~~department~~ shall
23 provide in writing its reason for its findings, item by item,
24 to the local health council. If the agency ~~department~~ intends
25 to grant a certificate of need, the State Agency Action Report
26 or the Notice of Intent shall also include any conditions
27 which the agency ~~department~~ intends to attach to the
28 certificate of need. The agency ~~department~~ shall designate by
29 rule a senior staff person, other than the person who issues
30 the final order, to issue State Agency Action Reports and
31 Notices of Intent.

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2 agency _____ shall publish its proposed
decision set forth in the Notice of Intent in the Florida

4 Intent is issued.

5 (d) If no administrative hearing is requested pursuant

7 Notice of Intent shall become the final order of the agency
8 ~~department~~. The _____ ~~department~~
9 final order to the appropriate local health council.

10 (6) JUDICIAL REVIEW.--

12 application for a certificate of need has the right, within
13 not more than 30 days after the date of the final order, to

15 to s. 120.68. The agency ~~department~~ shall be a party in any

17 (b) In such judicial review, the court shall affirm
18 the final order of the _____ ~~department~~
19 is arbitrary, capricious, or not in compliance with ss.
20 408.031-408.045.

22 408.040, Florida Statutes, are amended to read:

23 408.040 Conditions and monitoring.--

25 predicated upon statements of intent expressed by an applicant
26 in the application for a certificate of need. _____
27 imposed on a certificate of need based on such statements of
intent shall be stated on the face of the certificate of need.

29 _____
30 ~~a new hospital or for the addition of beds to an existing~~
~~hospital shall include a statement of the number of beds~~

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1 ~~approved by category of service, including rehabilitation or~~
2 ~~psychiatric service, for which the agency has adopted by rule~~
3 ~~a specialty bed need methodology. All beds that are approved,~~
4 ~~but are not covered by any specialty bed need methodology,~~
5 ~~shall be designated as general.~~

(b)2.

7 other criteria specified in s. 408.035, a statement of intent
8 by the applicant _____ ~~to designate a~~
9 the annual patient days at beds of the facility _____
10 utilized for use by patients eligible for care under Title XIX

12 a nursing home in reliance upon an applicant's statements that
13 ~~to provide~~ a specified _____ number annual patient
14 _____ beds for use

15 care under Title XIX of the Social Security Act must include a
16 statement that such certification is a condition of issuance

18 shall notify the Medicaid program office and the Department of
19 Elderly Affairs when it imposes conditions as authorized in
20 paragraph _____ in an area in which a community
21 diversion pilot project is implemented.

(c)(b)

23 a modification of conditions imposed under paragraph (a) or
24 paragraph (b). If the holder of a certificate of need

26 modified, the agency shall reissue the certificate of need
27 with such modifications as may be appropriate. The agency

29 modification.

30 _____ ~~(c)~~ If the holder of a certificate of need fails to

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1 certificate was predicated, the agency may assess an
2 administrative fine against the certificateholder in an amount
3 not to exceed \$1,000 per failure per day. In assessing the
4 penalty, the agency shall take into account as mitigation the
5 relative lack of severity of a particular failure. Proceeds
6 of such penalties shall be deposited in the Public Medical
7 Assistance Trust Fund.

8 (2)(a) Unless the applicant has commenced
9 construction, if the project provides for construction, unless
10 the applicant has incurred an enforceable capital expenditure
11 commitment for a project, if the project does not provide for
12 construction, or unless subject to paragraph (b), a
13 certificate of need shall terminate 18 months after the date
14 of issuance, ~~except in the case of a multifacility project, as~~
15 ~~defined in s. 408.032, where the certificate of need shall~~
16 ~~terminate 2 years after the date of issuance.~~ The agency shall
17 monitor the progress of the holder of the certificate of need
18 in meeting the timetable for project development specified in
19 the application with the assistance of the local health
20 council as specified in s. 408.033(1)(b)5., and may revoke the
21 certificate of need, if the holder of the certificate is not
22 meeting such timetable and is not making a good-faith ~~good~~
23 ~~faith~~ effort, as defined by rule, to meet it.

24 (b) A certificate of need issued to an applicant
25 holding a provisional certificate of authority under chapter
26 651 shall terminate 1 year after the applicant receives a
27 valid certificate of authority from the Department of
28 Insurance.

29 (c) The certificate-of-need validity period for a
30 project shall be extended by the agency, to the extent that
31 the applicant demonstrates to the satisfaction of the agency

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1 that good-faith ~~good faith~~ commencement of the project is
2 being delayed by litigation or by governmental action or
3 inaction with respect to regulations or permitting precluding
4 commencement of the project.

5 ~~(d) If an application is filed to consolidate two or~~
6 ~~more certificates as authorized by s. 408.036(2)(f) or to~~
7 ~~divide a certificate of need into two or more facilities as~~
8 ~~authorized by s. 408.036(2)(g), the validity period of the~~
9 ~~certificate or certificates of need to be consolidated or~~
10 ~~divided shall be extended for the period beginning upon~~
11 ~~submission of the application and ending when final agency~~
12 ~~action and any appeal from such action has been concluded.~~
13 ~~However, no such suspension shall be effected if the~~
14 ~~application is withdrawn by the applicant.~~

15 Section 13. Section 408.044, Florida Statutes, is
16 amended to read:

17 408.044 Injunction.--Notwithstanding the existence or
18 pursuit of any other remedy, the agency ~~department~~ may
19 maintain an action in the name of the state for injunction or
20 other process against any person to restrain or prevent the
21 pursuit of a project subject to review under ss.
22 408.031-408.045, in the absence of a valid certificate of
23 need.

24 Section 14. Section 408.045, Florida Statutes, is
25 amended to read:

26 408.045 Certificate of need; competitive sealed
27 proposals.--

28 (1) The application, review, and issuance procedures
29 for a certificate of need for an intermediate care facility
30 for the developmentally disabled may be made by the agency
31 ~~department~~ by competitive sealed proposals.

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1 (2) The _____ department
2 regarding the issuance of the certificate of need in
3 accordance with the provisions of s. 287.057(15), rules
 agency _____ relating to intermediate care
5 facilities for the developmentally disabled, and the criteria

7 (3) Notification of the decision shall be issued to
8 all applicants not later than 28 calendar days after the date

10 (4) The procedures provided for under this section are
11 exempt from the batching cycle requirements and the public

13 (5) The agency ~~department~~ may use the competitive
15 need for other types of health care facilities and services if
16 the _____ department
17 when funding in whole or in part for such health care
18 facilities or services is authorized by the Legislature.

(1)(a) There is created a
20 _____
21 Care Administration.

(b) Workgroup participants shall be responsible for
23 _____
24 workgroup participation. The agency shall be responsible for
expenses incidental to the production of any required data or
26 _____

27 (2) The workgroup shall consist of 30 members, 10
appointed by the Governor, 10 appointed by the President of
29 _____
30 Representatives. The workgroup chairperson shall be selected
by majority vote of a quorum present. Sixteen members shall

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1 constitute a quorum. The membership shall include, but not be
 2 limited to, representatives from health care provider
 3 organizations, health care facilities, individual health care
 4 practitioners, local health councils, and consumer
 5 organizations, and persons with health care market expertise
 6 as a private-sector consultant.

7 _____
 8 (a) The Governor shall appoint one representative each
 9 from the hospital industry; nursing home industry; hospice
 10 _____
 11 three health care market consultants, one of whom is a
 12 recognized expert on hospital markets, one of whom is a
 13 _____
 14 and one of whom is a recognized expert on hospice markets; one
 15 representative from the Medicaid program; and one
 16 _____
 17 tertiary service.

18 _____
 19 (b) The President of the Senate shall appoint a
 20 _____
 21 not-for-profit hospital, a representative of a public
 22 hospital, two representatives of the nursing home industry,
 23 _____
 24 of a consumer organization, a representative from the
 25 Department of Elderly Affairs involved with the implementation
 26 _____
 27 care market consultant with expertise in health care
 28 economics.

29 _____
 30 appoint a representative from the Florida Hospital
 31 Association, a representative of the Association of Community

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1 the Florida League of Health Systems, a representative of the
2 Florida Health Care Association, a representative of the
3 Florida Association of Homes for the Aging, three
4 representatives of Florida Hospices and Palliative Care, one
5 representative of local health councils, and one
6 representative of a consumer organization.

7 (4) The workgroup shall study issues pertaining to the
8 _____
9 health care delivery and financing. The workgroup shall study
10 issues relating to implementation of the certificate-of-need
11 _____

12 (5) The workgroup shall meet at least annually, at the
13 request of the chairperson. The workgroup shall submit an
14 _____
15 December 31, 2002. The workgroup is abolished effective July
16 1, 2003.

17 Section 16. Subsection (7) of section 651.118, Florida

18 651.118 Agency for Health Care Administration;
19 certificates of need; sheltered beds; community beds.--

20
21 at the discretion of the continuing care provider, sheltered
22 nursing home beds may be used for persons who are not

23
24 continuing care contract for a period of up to 5 years after
25 the date of issuance of the initial nursing home license. A

26
27 request the Agency for Health Care Administration for an
28 extension, not to exceed 30 percent of the total sheltered

29
30 facility in the sheltered beds will not generate sufficient
31

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2 following:

3 (a) The facility has a net loss for the most recent
5 principles, excluding the effects of extraordinary or unusual
6 items, as demonstrated in the most recently audited financial

8 (b) The facility would have had a pro forma loss for
9 the most recent fiscal year, excluding the effects of
11 the amount of revenues from persons in sheltered beds who were
12 not residents, as reported on by a certified public

14
15 The agency shall be authorized to grant an extension to the
17 The agency may request a facility to use up to 25 percent of
18 the patient days generated by new admissions of nonresidents
20 those beds authorized for extended use if there is a
21 demonstrated need in the respective service area and if funds
23 prohibited from applying for additional sheltered beds under
24 the provision of subsection (2), unless additional residential
26 facility residents to the Agency for Health Care
27 Administration. _____
28 sheltered beds designated for inpatient hospice care as part
of a contractual arrangement with a hospice licensed under
30 _____
31 the 5-year period shall report such use to the Agency for

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1 Health Care Administration.For purposes of this subsection,
2 "resident" means a person who, upon admission to the facility,
3 initially resides in a part of the facility not licensed under
4 part II of chapter 400.

5 Section 17. Subsection (3) of section 400.464, Florida
6 Statutes, is repealed.

7 Section 18. Applications for certificates of need
8 submitted under section 408.031-408.045, Florida Statutes,
9 before the effective date of this act shall be governed by the
10 law in effect at the time the application was submitted.

11 Section 19. Pursuant to section 187 of chapter 99-397,
12 Laws of Florida, the Agency for Health Care Administration was
13 directed to conduct a detailed study and analysis of clinical
14 laboratory services for kidney dialysis patients in the State
15 of Florida and to report back to the Legislature no later than
16 February 1, 2000. The agency reported that additional time and
17 investigative resources were necessary to adequately respond
18 to the legislative directives. Therefore, the sum of \$230,000
19 from the Agency for Health Care Administration Tobacco
20 Settlement Trust Fund is appropriated to the Agency for Health
21 Care Administration to contract with the University of South
22 Florida to conduct a review of laboratory test utilization,
23 any self-referral to clinical laboratories, financial
24 arrangements among kidney dialysis centers, their medical
25 directors, referring physicians, and any business
26 relationships and affiliations with clinical laboratories, and
27 the quality and effectiveness of kidney dialysis treatment in
28 this state. A report on the findings from such review shall be
29 presented to the President of the Senate, the Speaker of the
30 House of Representatives, and the chairs of the appropriate
31 substantive committees of the Legislature no later than

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1 February 1, 2001.

2 Section 20. Subsections (1) and (3) of section
3 455.564, Florida Statutes, are amended to read:

4 455.564 Department; general licensing provisions.--

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

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1 department.

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

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

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

30 (c) In considering applications for licensure, the
31 board, or the department when there is no board, may require a

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1 personal appearance of the applicant. If the applicant is
2 required to appear, the time period in which a licensure
3 application must be granted or denied shall be tolled until
4 such time as the applicant appears. However, if the applicant
5 fails to appear before the board at either of the next two
6 regularly scheduled board meetings, or fails to appear before
7 the department within 30 days if there is no board, the
8 application for licensure shall be denied.

9 Section 21. Paragraph (d) is added to subsection (4)
10 of section 455.565, Florida Statutes, to read:

11 455.565 Designated health care professionals;
12 information required for licensure.--

13 (4)

14 (d) Any applicant for initial licensure or renewal of
15 licensure as a health care practitioner who submits to the
16 Department of Health a set of fingerprints or information
17 required for the criminal history check required under this
18 section shall not be required to provide a subsequent set of
19 fingerprints or other duplicate information required for a
20 criminal history check to the Agency for Health Care
21 Administration, the Department of Juvenile Justice, or the
22 Department of Children and Family Services for employment or
23 licensure with such agency or department if the applicant has
24 undergone a criminal history check as a condition of initial
25 licensure or licensure renewal as a health care practitioner
26 with the Department of Health or any of its regulatory boards,
27 notwithstanding any other provision of law to the contrary. In
28 lieu of such duplicate submission, the Agency for Health Care
29 Administration, the Department of Juvenile Justice, and the
30 Department of Children and Family Services shall obtain
31 criminal history information for employment or licensure of

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1 health care practitioners by such agency and departments from
2 the Department of Health's health care practitioner
3 credentialing system.

4 Section 22. 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).

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

26 (3) The Department of Health may include in each
27 practitioner's practitioner profile that criminal information
28 that directly relates to the practitioner's ability to
29 competently practice his or her profession. The department
30 must include in each practitioner's practitioner profile the
31 following statement: "The criminal history information, if

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1 any exists, may be incomplete; federal criminal history
2 information is not available to the public."

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

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

1 (6) The Department of Health may include in the
2 practitioner's practitioner profile any other information that

4 to a practitioner's ability to competently practice his or her
5 profession. However, the department must consult with the

7 such information is included in his or her profile.

8 (7) Upon the completion of a practitioner profile

10 practitioner who is the subject of the profile a copy of it.
11 The practitioner has a period of 30 days in which to review

13 Department of Health shall make the profile available to the
14 public at the end of the 30-day period. The department shall

16 Wide Web and other commonly used means of distribution.

17 (8) Making a practitioner profile available to the

19 for which a hearing under s. 120.57 may be sought.

20 Section 23. Section 455.5653, Florida Statutes, is

22 455.5653 Practitioner profiles; data
23 storage.--Effective upon this act becoming a law, the

25 system to accommodate the new data collection and storage
26 requirements under this act pending the development and

28 handling the collection, input, revision, and update of data
29 submitted by physicians as a part of their initial licensure

31 profiles. The Department of Health must incorporate any data

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1 required by this act into the computer system used in
3 under its jurisdiction. ~~The department must develop, by the~~
~~year 2000, a schedule and procedures for each practitioner~~
5 _____
6 ~~of Medical Quality Assurance to submit relevant information to~~
~~be compiled into a profile to be made available to the public.~~
8 The Department of Health is authorized to contract with and
10 implement the practitioner profiles. The Department of Health
11 shall have access to any information or record maintained by
13 information or record that is otherwise confidential and
14 exempt from the provisions of chapter 119 and s. 24(a), Art. I
16 may corroborate any information that practitioners ~~physicians~~
17 are required to report under s. 455.565.

19 amended to read:

20 455.5654 Practitioner profiles; rules;

22 Department of Health shall adopt rules for the form of a
23 practitioner profile that the agency is required to prepare.

25 public workshops for purposes of rule development to implement
26 this section. An agency to which information is to be

28 submission of the information required under s. 455.565.

29 Section 25. Subsection (1) of section 455.567, Florida

31 455.567 Sexual misconduct; disqualification for

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1 license, certificate, or registration.--

3 profession means violation of the professional relationship
4 through which the health care practitioner uses such

6 client, or an immediate family member, guardian, or
representative of the patient or client in, or to induce or

9 sexual activity outside the scope of the professional practice
10 of such health care profession. Sexual misconduct in the

12 Section 26. Paragraphs (f) and (u) of subsection (1),
14 455.624, Florida Statutes, are amended, and paragraphs (y) and

16 455.624 Grounds for discipline; penalties;

18 (1) The following acts shall constitute grounds for
20 be taken:

any
the

23 acted against, including the denial of licensure, by the

25 agencies or subdivisions, for a violation that would

27 authority's acceptance of a relinquishment of licensure,

29 response to or in anticipation of the filing of charges

31 license.

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1 (u) Engaging or attempting to engage in sexual
2 misconduct as defined and prohibited in s. 455.567(1)⌘
3 patient or client in verbal or physical sexual activity. For
4 the purposes of this section, a patient or client shall be
5 presumed to be incapable of giving free, full, and informed
6 consent to verbal or physical sexual activity.

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

27 (z) Testing positive for any drug, as defined in s.
28 112.0455, on any confirmed preemployment or employer-ordered
29 drug screening when the practitioner does not have a lawful
30 prescription and legitimate medical reason for using such
31 drug.

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

9 (c) Restriction of practice or license.

10
11 In determining what action is appropriate, the board, or
12 department when there is no board, must first consider what
13 sanctions are necessary to protect the public or to compensate
14 the patient. Only after those sanctions have been imposed may
15 the disciplining authority consider and include in the order
16 requirements designed to rehabilitate the practitioner. All
17 costs associated with compliance with orders issued under this
18 subsection are the obligation of the practitioner.

19 (3)(a) Notwithstanding subsection (2), if the ground
20 for disciplinary action is the first-time failure of the
21 licensee to satisfy continuing education requirements
22 established by the board, or by the department if there is no
23 board, the board or department, as applicable, shall issue a
24 citation in accordance with s. 455.617 and assess a fine, as
25 determined by the board or department by rule. In addition,
26 for each hour of continuing education not completed or
27 completed late, the board or department, as applicable, may
28 require the licensee to take 1 additional hour of continuing
29 education for each hour not completed or completed late.

30 (b) Notwithstanding subsection (2), if the ground for
31 disciplinary action is the first-time violation of a practice

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1 act for unprofessional conduct, as used in ss. 464.018(1)(h),
2 467.203(1)(f), 468.365(1)(f), and 478.52(1)(f), and no actual
3 harm to the patient occurred, the board or department, as
4 applicable, shall issue a citation in accordance with s.
5 455.617 and assess a penalty as determined by rule of the
6 board or department.

7 Section 27. For the purpose of incorporating the
8 amendment to section 455.624, Florida Statutes, in references
9 thereto, the sections or subdivisions of Florida Statutes set
10 forth below are reenacted to read:

11 455.577 Penalty for theft or reproduction of an
12 examination.--In addition to, or in lieu of, any other
13 discipline imposed pursuant to s. 455.624, the theft of an
14 examination in whole or in part or the act of reproducing or
15 copying any examination administered by the department,
16 whether such examination is reproduced or copied in part or in
17 whole and by any means, constitutes a felony of the third
18 degree, punishable as provided in s. 775.082, s. 775.083, or
19 s. 775.084.

20 455.631 Penalty for giving false information.--In
21 addition to, or in lieu of, any other discipline imposed
22 pursuant to s. 455.624, the act of knowingly giving false
23 information in the course of applying for or obtaining a
24 license from the department, or any board thereunder, with
25 intent to mislead a public servant in the performance of his
26 or her official duties, or the act of attempting to obtain or
27 obtaining a license from the department, or any board
28 thereunder, to practice a profession by knowingly misleading
29 statements or knowing misrepresentations constitutes a felony
30 of the third degree, punishable as provided in s. 775.082, s.
31 775.083, or s. 775.084.

1 455.651 Disclosure of confidential information.--

2 (2) Any person who willfully violates any provision of
4 punishable as provided in s. 775.082 or s. 775.083, and may be
5 subject to discipline pursuant to s. 455.624, and, if
7 contractual relationship.

8 455.712 Business establishments; requirements for

10 (1) A business establishment regulated by the Division
11 of Medical Quality Assurance pursuant to this part may provide
13 active status license. A business establishment that provides
14 regulated services without an active status license is in
16 the department if there is no board, may impose discipline on
17 the business establishment.

19 (7) PHYSICIAN ASSISTANT LICENSURE.--

20 (g) The Board of Medicine may impose any of the
22 physician assistant if the physician assistant or the
23 supervising physician has been found guilty of or is being
25 chapter or part II of chapter 455.

26 459.022 Physician assistants.--

28 (f) The Board of Osteopathic Medicine may impose any
29 of the penalties specified in ss. 455.624 and 459.015(2) upon
31 supervising physician has been found guilty of or is being

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1 investigated for any act that constitutes a violation of this
2 chapter or part II of chapter 455.

3 468.1755 Disciplinary proceedings.--

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

6 (a) Violation of any provision of s. 455.624(1) or s.
7 468.1745(1).

8 468.719 Disciplinary actions.--

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

11 (a) A violation of any law relating to the practice of
12 athletic training, including, but not limited to, any
13 violation of this part, s. 455.624, or any rule adopted
14 pursuant thereto.

15 (2) When the board finds any person guilty of any of
16 the acts set forth in subsection (1), the board may enter an
17 order imposing one or more of the penalties provided in s.
18 455.624.

19 468.811 Disciplinary proceedings.--

20 (1) The following acts are grounds for disciplinary
21 action against a licensee and the issuance of cease and desist
22 orders or other related action by the department, pursuant to
23 s. 455.624, against any person who engages in or aids in a
24 violation.

25 (a) Attempting to procure a license by fraudulent
26 misrepresentation.

27 (b) Having a license to practice orthotics,
28 prosthetics, or pedorthics revoked, suspended, or otherwise
29 acted against, including the denial of licensure in another
30 jurisdiction.

31 (c) Being convicted or found guilty of or pleading

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1 nolo contendere to, regardless of adjudication, in any
2 jurisdiction, a crime that directly relates to the practice of
3 orthotics, prosthetics, or pedorthics, including violations of
4 federal laws or regulations regarding orthotics, prosthetics,
5 or pedorthics.

6 (d) Filing a report or record that the licensee knows
7 is false, intentionally or negligently failing to file a
8 report or record required by state or federal law, willfully
9 impeding or obstructing such filing, or inducing another
10 person to impede or obstruct such filing. Such reports or
11 records include only reports or records that are signed in a
12 person's capacity as a licensee under this act.

13 (e) Advertising goods or services in a fraudulent,
14 false, deceptive, or misleading manner.

15 (f) Violation of this act or part II of chapter 455,
16 or any rules adopted thereunder.

17 (g) Violation of an order of the board, agency, or
18 department previously entered in a disciplinary hearing or
19 failure to comply with a subpoena issued by the board, agency,
20 or department.

21 (h) Practicing with a revoked, suspended, or inactive
22 license.

23 (i) Gross or repeated malpractice or the failure to
24 deliver orthotic, prosthetic, or pedorthic services with that
25 level of care and skill which is recognized by a reasonably
26 prudent licensed practitioner with similar professional
27 training as being acceptable under similar conditions and
28 circumstances.

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

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

4 484.056 Disciplinary proceedings.--

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

12 (a) Violation of any provision of s. 455.624(1), s.
13 484.0512, or s. 484.053.

14 Section 28. Section 455.704, Florida Statutes, is
15 repealed.

16 Section 29. Subsections (1), (2), and (3) of section
17 455.707, Florida Statutes, are amended to read:

18 455.707 Treatment programs for impaired
19 practitioners.--

20 (1) For professions that do not have impaired
21 practitioner programs provided for in their practice acts, the
22 department shall, by rule, designate approved impaired
23 practitioner treatment programs under this section. The
24 department may adopt rules setting forth appropriate criteria
25 for approval of treatment providers ~~based on the policies and~~
26 ~~guidelines established by the Impaired Practitioners~~
27 ~~Committee~~. The rules may ~~must~~ specify the manner in which the
28 consultant, retained as set forth in subsection (2), works
29 with the department in intervention, requirements for
30 evaluating and treating a professional, and requirements for
31 the continued care and monitoring of a professional by the

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1 consultant by an approved ~~at a department-approved~~ treatment
2 provider. ~~The department shall not compel any impaired~~
3 ~~practitioner program in existence on October 1, 1992, to serve~~
4 ~~additional professions.~~

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

16 (3)(a) Whenever the department receives a written or
17 oral legally sufficient complaint alleging that a licensee
18 under the jurisdiction of the Division of Medical Quality
19 Assurance within the department is impaired as a result of the
20 misuse or abuse of alcohol or drugs, or both, or due to a
21 mental or physical condition which could affect the licensee's
22 ability to practice with skill and safety, and no complaint
23 against the licensee other than impairment exists, the
24 reporting of such information shall not constitute grounds for
25 discipline pursuant to s. 455.624 or the corresponding grounds
26 for discipline within the applicable practice act ~~a complaint~~
27 ~~within the meaning of s. 455.621~~ if the probable cause panel
28 of the appropriate board, or the department when there is no
29 board, finds:

30 1. The licensee has acknowledged the impairment
31 problem.

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1 2. The licensee has voluntarily enrolled in an
2 appropriate, approved treatment program.

3 3. The licensee has voluntarily withdrawn from
4 practice or limited the scope of practice as required by the
5 consultant ~~determined by the panel, or the department when~~
6 ~~there is no board~~, in each case, until such time as the panel,
7 or the department when there is no board, is satisfied the
8 licensee has successfully completed an approved treatment
9 program.

10 4. The licensee has executed releases for medical
11 records, authorizing the release of all records of
12 evaluations, diagnoses, and treatment of the licensee,
13 including records of treatment for emotional or mental
14 conditions, to the consultant. The consultant shall make no
15 copies or reports of records that do not regard the issue of
16 the licensee's impairment and his or her participation in a
17 treatment program.

18 (b) If, however, the department has not received a
19 legally sufficient complaint and the licensee agrees to
20 withdraw from practice until such time as the consultant
21 determines the licensee has satisfactorily completed an
22 approved treatment program or evaluation, the probable cause
23 panel, or the department when there is no board, shall not
24 become involved in the licensee's case.

25 (c) Inquiries related to impairment treatment programs
26 designed to provide information to the licensee and others and
27 which do not indicate that the licensee presents a danger to
28 the public shall not constitute a complaint within the meaning
29 of s. 455.621 and shall be exempt from the provisions of this
30 subsection.

31 (d) Whenever the department receives a legally

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1 sufficient complaint alleging that a licensee is impaired as
2 described in paragraph (a) and no complaint against the
3 licensee other than impairment exists, the department shall
4 forward all information in its possession regarding the
5 impaired licensee to the consultant. For the purposes of this
6 section, a suspension from hospital staff privileges due to
7 the impairment does not constitute a complaint.

8 (e) The probable cause panel, or the department when
9 there is no board, shall work directly with the consultant,
10 and all information concerning a practitioner obtained from
11 the consultant by the panel, or the department when there is
12 no board, shall remain confidential and exempt from the
13 provisions of s. 119.07(1), subject to the provisions of
14 subsections (5) and (6).

15 (f) A finding of probable cause shall not be made as
16 long as the panel, or the department when there is no board,
17 is satisfied, based upon information it receives from the
18 consultant and the department, that the licensee is
19 progressing satisfactorily in an approved impaired
20 practitioner treatment program and no other complaint against
21 the licensee exists.

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

24 310.102 Treatment programs for impaired pilots and
25 deputy pilots.--

26 (1) The department shall, by rule, designate approved
27 treatment programs for impaired pilots and deputy pilots under
28 this section. The department may adopt rules setting forth
29 appropriate criteria for approval of treatment providers ~~based~~
30 ~~on the policies and guidelines established by the Impaired~~
31 ~~Practitioners Committee under s. 455.704.~~

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1 Section 31. Section 455.711, Florida Statutes, is
2 amended to read:

3 455.711 Licenses; active and inactive ~~and delinquent~~
4 status; delinquency.--

5 (1) A licensee may practice a profession only if the
6 licensee has an active status license. A licensee who
7 practices a profession without an active status license is in
8 violation of this section and s. 455.624, and the board, or
9 the department if there is no board, may impose discipline on
10 the licensee.

11 (2) Each board, or the department if there is no
12 board, shall permit a licensee to choose, at the time of
13 licensure renewal, an active or inactive status. ~~However, a~~
14 ~~licensee who changes from inactive to active status is not~~
15 ~~eligible to return to inactive status until the licensee~~
16 ~~thereafter completes a licensure cycle on active status.~~

17 (3) Each board, or the department if there is no
18 board, shall by rule impose a fee for renewal of an active or
19 inactive status license. The renewal fee for an inactive
20 status license may not exceed ~~which is no greater than~~ the fee
21 for an active status license.

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

24 (a) Active status licensees choosing inactive status
25 at the time of license renewal must pay the inactive status
26 renewal fee, and, if applicable, the delinquency fee and the
27 fee to change licensure status. Active status licensees
28 choosing inactive status at any other time than at the time of
29 license renewal must pay the fee to change licensure status.

30 (b) An inactive status licensee may change to active
31 status at any time, if the licensee meets all requirements for

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2 ~~_____~~
3 ~~applicable reactivation fees as set by the board, or the~~
4 ~~department if there is no board, and meets all continuing~~
5 ~~_____~~. Inactive
6 status licensees choosing active status at the time of license
7 renewal must pay the active status renewal fee, any applicable
8 reactivation fees as set by the board, or the department if
9 there is no board, and, if applicable, the delinquency fee and
10 the fee to change licensure status. Inactive status licensees
11 choosing active status at any other time than at the time of
12 license renewal must pay the difference between the inactive
13 status renewal fee and the active status renewal fee, if any
14 exists, any applicable reactivation fees as set by the board,
15 or the department if there is no board, and the fee to change
16 licensure status.

17 (5) A licensee must apply with a complete application,
18 as defined by rule of the board, or the department if there is
19 no board, to renew an active ~~status~~ or inactive status license
20 before the license expires. If a licensee fails to renew
21 before the license expires, the license becomes delinquent in
22 the license cycle following expiration.

23 (6) A delinquent ~~status~~ licensee must affirmatively
24 apply with a complete application, as defined by rule of the
25 board, or the department if there is no board, for active or
26 inactive status during the licensure cycle in which a licensee
27 becomes delinquent. Failure by a delinquent ~~status~~ licensee to
28 become active or inactive before the expiration of the current
29 licensure cycle renders the license null without any further
30 action by the board or the department. Any subsequent
31 licensure shall be as a result of applying for and meeting all

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2 (7) Each board, or the department if there is no
3 board, shall by rule impose an additional delinquency fee, not
5 license, on a delinquent ~~status~~
6 applies for active or inactive status.

7 (8) Each board, or the department if there is no
9 the biennial renewal fee for an active status license, for
10 processing a licensee's request to change licensure status at

12 (9) Each board, or the department if there is no
13 board, may by rule impose reasonable conditions, excluding
15 examination or a special purpose examination to assess current
16 competency, necessary to ensure that a licensee who has been
18 licensure cycles and who applies for active status can
19 practice with the care and skill sufficient to protect the
21 requirements may differ depending on the length of time
22 licensees are inactive. The costs to meet reactivation
24 reactivation.

25 (10) Before reactivation, an inactive _____
26 or a _____ who was inactive prior to becoming
27 _____ must meet the same continuing education
28 requirements, if any, imposed on an active status licensee for
30 inactive or delinquent.

31 (11) The status or a change in status of a licensee

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1 does not alter in any way the right of the board, or of the
2 department if there is no board, to impose discipline or to
3 enforce discipline previously imposed on a licensee for acts
4 or omissions committed by the licensee while holding a
5 license, whether active, inactive, or delinquent.

6 (12) This section does not apply to a business
7 establishment registered, permitted, or licensed by the
8 department to do business.

9 (13) The board, or the department when there is no
10 _____
11 as necessary to implement this section.

13 Statutes, is amended to read:

14 455.587 Fees; receipts; disposition.--

16 board, may, by rule, assess and collect a one-time fee from
17 each active _____ and each ~~voluntary~~ status
18 licensee in an amount necessary to eliminate a cash deficit

20 maintain the financial integrity of the professions as
21 required in this section. Not more than one such assessment
23 authorization.

24 Section 33. Subsection (1) of section 455.714, Florida

26 455.714 Renewal and cancellation notices.--

27 (1) At least 90 days before the end of a licensure

29 (a) Forward a licensure renewal notification to an
30 active or inactive _____ licensee at the licensee's last
31 known address of record with the department.

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

4 Section 34. Section 455.719, Florida Statutes, is
5 created to read:

6 455.719 Health care professionals; exemption from
7 disqualification from employment or contracting.--Any other
8 provision of law to the contrary notwithstanding, only the
9 appropriate regulatory board, or the department when there is
10 no board, may grant an exemption from disqualification from
11 employment or contracting as provided in s. 435.07 to a person
12 under the licensing jurisdiction of that board or the
13 department, as applicable.

14 Section 35. Section 455.637, Florida Statutes, is
15 amended to read:

16 455.637 Unlicensed practice of a health care
17 profession; intent; cease and desist notice; penalties ~~civil~~
18 penalty; enforcement; citations; fees; allocation and
19 disposition of moneys collected.--

20 (1) It is the intent of the Legislature that vigorous
21 enforcement of licensure regulation for all health care
22 professions is a state priority in order to protect Florida
23 residents and visitors from the potentially serious and
24 dangerous consequences of receiving medical and health care
25 services from unlicensed persons whose professional education
26 and training and other relevant qualifications have not been
27 approved through the issuance of a license by the appropriate
28 regulatory board or the department when there is no board. The
29 unlicensed practice of a health care profession or the
30 performance or delivery of medical or health care services to
31 patients in this state without a valid, active license to

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1 practice that profession, regardless of the means of the
2 performance or delivery of such services, is strictly
3 prohibited.

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

6 (a)~~(1)~~ When the department has probable cause to
7 believe that any person not licensed by the department, or the
8 appropriate regulatory board within the department, has
9 violated any provision of this part or any statute that
10 relates to the practice of a profession regulated by the
11 department, or any rule adopted pursuant thereto, the
12 department may issue and deliver to such person a notice to
13 cease and desist from such violation. In addition, the
14 department may issue and deliver a notice to cease and desist
15 to any person who aids and abets the unlicensed practice of a
16 profession by employing such unlicensed person. The issuance
17 of a notice to cease and desist shall not constitute agency
18 action for which a hearing under ss. 120.569 and 120.57 may be
19 sought. For the purpose of enforcing a cease and desist order,
20 the department may file a proceeding in the name of the state
21 seeking issuance of an injunction or a writ of mandamus
22 against any person who violates any provisions of such order.

23 (b) In addition to the foregoing remedies under
24 paragraph (a), the department may impose by citation an
25 administrative penalty not to exceed \$5,000 per incident
26 ~~pursuant to the provisions of chapter 120 or may issue a~~
27 ~~citation pursuant to the provisions of subsection (3). The~~
28 citation shall be issued to the subject and shall contain the
29 subject's name and any other information the department
30 determines to be necessary to identify the subject, a brief
31 factual statement, the sections of the law allegedly violated,

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1 and the penalty imposed. If the subject does not dispute the
2 matter in the citation with the department within 30 days
3 after the citation is served, the citation shall become a
4 final order of the department. The department may adopt rules
5 to implement this section. The penalty shall be a fine of not
6 less than \$500 nor more than \$5,000 as established by rule of
7 the department. Each day that the unlicensed practice
8 continues after issuance of a notice to cease and desist
9 constitutes a separate violation. The department shall be
10 entitled to recover the costs of investigation and prosecution
11 in addition to the fine levied pursuant to the citation.
12 Service of a citation may be made by personal service or by
13 mail to the subject at the subject's last known address or
14 place of practice. If the department is required to seek
15 enforcement of the cease and desist or agency order for a
16 penalty pursuant to s. 120.569, it shall be entitled to
17 collect its attorney's fees and costs, together with any cost
18 of collection.

19 (c)(2) In addition to or in lieu of any other
20 administrative remedy provided in subsection (1), the
21 department may seek the imposition of a civil penalty through
22 the circuit court for any violation for which the department
23 may issue a notice to cease and desist under subsection (1).
24 The civil penalty shall be no less than \$500 and no more than
25 \$5,000 for each offense. The court may also award to the
26 prevailing party court costs and reasonable attorney fees and,
27 in the event the department prevails, may also award
28 reasonable costs of investigation and prosecution.

29 (d) In addition to the administrative and civil
30 remedies under paragraphs (b) and (c) and in addition to the
31 criminal violations and penalties listed in the individual

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1 health care practice acts:

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

24 2. It is a felony of the second degree, punishable as
25 provided in s. 775.082, s. 775.083, or s. 775.084, to practice
26 a health care profession without an active, valid Florida
27 license to practice that profession when such practice results
28 in serious bodily injury. For purposes of this section,
29 "serious bodily injury" means death; brain or spinal damage;
30 disfigurement; fracture or dislocation of bones or joints;
31 limitation of neurological, physical, or sensory function; or

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1 any condition that required subsequent surgical repair. The
2 minimum penalty for violating this subparagraph shall be a
3 fine of \$1,000 and a minimum mandatory period of incarceration
4 of 1 year.

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

17 (3) Because all enforcement costs should be covered by
18 professions regulated by the department, the department shall
19 impose, upon initial licensure and each licensure renewal, a
20 special fee of \$5 per licensee to fund efforts to combat
21 unlicensed activity. Such fee shall be in addition to all
22 other fees collected from each licensee. The board with
23 concurrence of the department, or the department when there is
24 no board, may earmark \$5 of the current licensure fee for this
25 purpose, if such board, or profession regulated by the
26 department, is not in a deficit and has a reasonable cash
27 balance. The department shall make direct charges to the
28 Medical Quality Assurance Trust Fund by profession. The
29 department shall seek board advice regarding enforcement
30 methods and strategies. The department shall directly credit
31 the Medical Quality Assurance Trust Fund, by profession, with

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1 the revenues received from the department's efforts to enforce
2 licensure provisions. The department shall include all
3 financial and statistical data resulting from unlicensed
4 activity enforcement as a separate category in the quarterly
5 management report provided for in s. 455.587. For an
6 unlicensed activity account, a balance which remains at the
7 end of a renewal cycle may, with concurrence of the applicable
8 board and the department, be transferred to the operating fund
9 account of that profession. The department shall also use
10 these funds to inform and educate consumers generally on the
11 importance of using licensed health care practitioners.

12 ~~(3)(a) Notwithstanding the provisions of s. 455.621,~~
13 ~~the department shall adopt rules to permit the issuance of~~
14 ~~citations for unlicensed practice of a profession. The~~
15 ~~citation shall be issued to the subject and shall contain the~~
16 ~~subject's name and any other information the department~~
17 ~~determines to be necessary to identify the subject, a brief~~
18 ~~factual statement, the sections of the law allegedly violated,~~
19 ~~and the penalty imposed. The citation must clearly state that~~
20 ~~the subject may choose, in lieu of accepting the citation, to~~
21 ~~follow the procedure under s. 455.621. If the subject disputes~~
22 ~~the matter in the citation, the procedures set forth in s.~~
23 ~~455.621 must be followed. However, if the subject does not~~
24 ~~dispute the matter in the citation with the department within~~
25 ~~30 days after the citation is served, the citation shall~~
26 ~~become a final order of the department. The penalty shall be a~~
27 ~~fine of not less than \$500 or more than \$5,000 or other~~
28 ~~conditions as established by rule.~~

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

31 ~~(c) The department shall be entitled to recover the~~

1 ~~costs of investigation, in addition to any penalty provided~~
2 ~~according to department rule as part of the penalty levied~~

3 _____
4 ~~(d) Service of a citation may be made by personal~~
5 ~~service or certified mail, restricted delivery, to the subject~~

6 _____
7 ~~(4) All fines, fees, and costs collected through the~~
8 ~~procedures set forth in this section shall be allocated to the~~

9 _____
10 ~~allocation of the fees assessed and collected to combat~~
11 ~~unlicensed practice of a profession.~~

12 ~~_____ (5) The provisions of this section apply only to~~
13 ~~health care — professional practice acts administered by the~~
14 ~~department.~~

15 ~~(5) Nothing herein shall be construed to limit or~~
16 ~~_____~~
17 ~~dietary supplement, as defined by the Food, Drug, and Cosmetic~~
18 ~~Act, Title 21, s. 321, so long as the person selling, using,~~

19 _____
20 ~~with federal and state law.~~

21 created to read:

22 _____
23 _____
24 ~~to practice in approved cancer centers.--~~

25 ~~(1) Any physician who has been accepted for a course~~
26 ~~_____~~
27 ~~meets all of the qualifications set forth in this section may~~
28 ~~be issued a temporary certificate to practice in a~~

29 _____
30 ~~Center Visiting Physician Program. A certificate may be issued~~
31 ~~to a physician who will be training under the direct~~

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1 supervision of a physician employed by or under contract with
2 an approved cancer center for a period of no more than 1 year.
3 The purpose of the International Cancer Center Visiting
4 Physician Program is to provide to internationally respected
5 and highly qualified physicians advanced education and
6 training on cancer treatment techniques developed at an
7 approved cancer center. The board may issue this temporary
8 certificate in accordance with the restrictions set forth in
9 this section.

10 (2) A temporary certificate for practice in an
11 approved cancer center may be issued without examination to an
12 individual who:

13 (a) Is a graduate of an accredited medical school or
14 its equivalent, or is a graduate of a foreign medical school
15 listed with the World Health Organization;

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

18 (c) Has completed the application form adopted by the
19 board and remitted a nonrefundable application fee not to
20 exceed \$300;

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

24 (e) Meets the financial responsibility requirements of
25 s. 458.320; and

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

28 (3) The board shall by rule establish qualifications
29 for approval of cancer centers under this section, which at a
30 minimum shall require the cancer center to be licensed under
31 chapter 395 and have met the standards required to be a

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1 National Cancer Institute-designated cancer center. The board
2 shall review the cancer centers approved under this section
3 not less than annually to ascertain that the minimum
4 requirements of this chapter and the rules adopted thereunder
5 are being complied with. If it is determined that such minimum
6 requirements are not being met by an approved cancer center,
7 the board shall rescind its approval of that cancer center and
8 no temporary certificate for that cancer center shall be valid
9 until such time as the board reinstates its approval of that
10 cancer center.

11 (4) A recipient of a temporary certificate for
12 practice in an approved cancer center may use the certificate
13 to practice for the duration of the course of training at the
14 approved cancer center so long as the duration of the course
15 does not exceed 1 year. If at any time the cancer center is no
16 longer approved by the board, the temporary certificate shall
17 expire and the recipient shall no longer be authorized to
18 practice in this state.

19 (5) A recipient of a temporary certificate for
20 practice in an approved cancer center is limited to practicing
21 in facilities owned or operated by that approved cancer center
22 and is limited to only practicing under the direct supervision
23 of a physician who holds a valid, active, and unencumbered
24 license to practice medicine in this state issued under this
25 chapter or chapter 459.

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

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

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

7 (9) The board may adopt rules pursuant to ss.
8 120.536(1) and 120.54 as necessary to implement this section.

9 (10) Nothing in this section may be construed to
10 authorize a physician who is not licensed to practice medicine
11 in this state to qualify for or otherwise engage in the
12 practice of medicine in this state, except as provided in this
13 section.

14 Section 37. Paragraph (i) of subsection (1), and
15 subsection (4) of section 458.3145, Florida Statutes, are
16 amended to read:

17 458.3145 Medical faculty certificate.--

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

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

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

25 (c) Has completed the application form and remitted a
26 nonrefundable application fee not to exceed \$500;

27 (d) Has completed an approved residency or fellowship
28 of at least 1 year or has received training which has been
29 determined by the board to be equivalent to the 1-year
30 residency requirement;

31 (e) Is at least 21 years of age;

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- 1 (f) Is of good moral character;
- 2 (g) Has not committed any act in this or any other
3 jurisdiction which would constitute the basis for disciplining
4 a physician under s. 458.331;
- 5 (h) For any applicant who has graduated from medical
6 school after October 1, 1992, has completed, before entering
7 medical school, the equivalent of 2 academic years of
8 preprofessional, postsecondary education, as determined by
9 rule of the board, which must include, at a minimum, courses
10 in such fields as anatomy, biology, and chemistry; and
- 11 (i) Has been offered and has accepted a full-time
12 faculty appointment to teach in a program of medicine at:
- 13 1. The University of Florida,
14 2. The University of Miami,
15 3. The University of South Florida, ~~or~~
16 4. The Florida State University, or
17 54. The Mayo Medical School at the Mayo Clinic in
18 Jacksonville, Florida.
- 19 (2) The certificate authorizes the holder to practice
20 only in conjunction with his or her faculty position at an
21 accredited medical school and its affiliated clinical
22 facilities or teaching hospitals that are registered with the
23 Board of Medicine as sites at which holders of medical faculty
24 certificates will be practicing. Such certificate
25 automatically expires when the holder's relationship with the
26 medical school is terminated or after a period of 24 months,
27 whichever occurs sooner, and is renewable every 2 years by a
28 holder who applies to the board on a form prescribed by the
29 board and provides certification by the dean of the medical
30 school that the holder is a distinguished medical scholar and
31 an outstanding practicing physician.

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1 (3) The holder of a medical faculty certificate issued
2 under this section has all rights and responsibilities
3 prescribed by law for the holder of a license issued under s.
4 458.311, except as specifically provided otherwise by law.
5 Such responsibilities include compliance with continuing
6 medical education requirements as set forth by rule of the
7 board. A hospital or ambulatory surgical center licensed under
8 chapter 395, health maintenance organization certified under
9 chapter 641, insurer as defined in s. 624.03,
10 multiple-employer welfare arrangement as defined in s.
11 624.437, or any other entity in this state, in considering and
12 acting upon an application for staff membership, clinical
13 privileges, or other credentials as a health care provider,
14 may not deny the application of an otherwise qualified
15 physician for such staff membership, clinical privileges, or
16 other credentials solely because the applicant is a holder of
17 a medical faculty certificate under this section.

18 (4) In any year, the maximum number of extended
19 medical faculty certificateholders as provided in subsection
20 (2) may not exceed 15 persons at each institution named in
21 subparagraphs (1)(i)~~1-43~~. and at the facility named in s.
22 240.512 and may not exceed 5 persons at the institution named
23 in subparagraph (1)(i)~~54~~.

24 5. Annual review of all such certificate recipients
25 will be made by the deans of the accredited 4-year medical
26 schools within this state and reported to the Board of
27 Medicine.

28 (5) Notwithstanding subsection (1), any physician,
29 when providing medical care or treatment in connection with
30 the education of students, residents, or faculty at the
31 request of the dean of an accredited medical school within

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

17 Section 38. Subsection (5) is added to section
18 458.315, Florida Statutes, to read:

19 458.315 Temporary certificate for practice in areas of
20 critical need.--Any physician who is licensed to practice in
21 any other state, whose license is currently valid, and who
22 pays an application fee of \$300 may be issued a temporary
23 certificate to practice in communities of Florida where there
24 is a critical need for physicians. A certificate may be
25 issued to a physician who will be employed by a county health
26 department, correctional facility, community health center
27 funded by s. 329, s. 330, or s. 340 of the United States
28 Public Health Services Act, or other entity that provides
29 health care to indigents and that is approved by the State
30 Health Officer. The Board of Medicine may issue this
31 temporary certificate with the following restrictions:

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

10 Section 39. Section 458.345, Florida Statutes, is
11 amended to read:

12 458.345 Registration of resident physicians, interns,
13 and fellows; list of hospital employees; prescribing of
14 medicinal drugs; penalty.--

15 (1) Any person desiring to practice as a resident
16 physician, assistant resident physician, house physician,
17 intern, or fellow in fellowship training which leads to
18 subspecialty board certification in this state, or any person
19 desiring to practice as a resident physician, assistant
20 resident physician, house physician, intern, or fellow in
21 fellowship training in a teaching hospital in this state as
22 defined in s. 408.07(44) or s. 395.805(2), who does not hold a
23 valid, active license issued under this chapter shall apply to
24 the department to be registered and shall remit a fee not to
25 exceed \$300 as set by the board. The department shall
26 register any applicant the board certifies has met the
27 following requirements:

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

29 (b) Has not committed any act or offense within or
30 without the state which would constitute the basis for refusal
31 to certify an application for licensure pursuant to s.

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1 458.331.

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

4 (2) The board shall not certify to the department for
5 registration any applicant who is under investigation in any
6 state or jurisdiction for an act which would constitute the
7 basis for imposing a disciplinary penalty specified in s.
8 458.331(2)(b) until such time as the investigation is
9 completed, at which time the provisions of s. 458.331 shall
10 apply.

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

23 (4) Registration under this section shall
24 automatically expire after 2 years without further action by
25 the board or the department unless an application for renewal
26 is approved by the board. No person registered under this
27 section may be employed or utilized as a house physician or
28 act as a resident physician, an assistant resident physician,
29 an intern, or a fellow in fellowship training ~~which leads to a~~
30 ~~subspecialty board certification~~ in a hospital or teaching
31 hospital of this state for more than 2 years without a valid,

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1 active license or renewal of registration under this section.
2 Requirements for renewal of registration shall be established
3 by rule of the board. An application fee not to exceed \$300
4 as set by the board shall accompany the application for
5 renewal, except that resident physicians, assistant resident
6 physicians, interns, and fellows in fellowship training
7 registered under this section ~~which leads to subspecialty~~
8 ~~board certification~~ shall be exempt from payment of any
9 renewal fees.

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

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

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

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

23 (c) The use of the institutional identification number
24 and individual suffixes conforms to the requirements of the
25 federal Drug Enforcement Administration.

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

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

31 Section 40. Subsection (3) of section 458.348, Florida

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1 Statutes, is created to read:

2 458.348 Formal supervisory relationships, standing
3 orders, and established protocols; notice; standards.--

4 (3) PROTOCOLS REQUIRING DIRECT SUPERVISION.--All
5 protocols relating to electrolysis or electrology using laser
6 or light-based hair removal or reduction by persons other than
7 physicians licensed under this chapter or chapter 459 shall
8 require the person performing such service to be appropriately
9 trained and work only under the direct supervision and
10 responsibility of a physician licensed under this chapter or
11 chapter 459.

12 Section 41. Section 459.021, Florida Statutes, is
13 amended to read:

14 459.021 Registration of resident physicians, interns,
15 and fellows; list of hospital employees; penalty.--

16 (1) Any person who holds a degree of Doctor of
17 Osteopathic Medicine from a college of osteopathic medicine
18 recognized and approved by the American Osteopathic
19 Association who desires to practice as a resident physician,
20 assistant resident physician, house physician, intern, or
21 fellow in fellowship training which leads to subspecialty
22 board certification in this state, or any person desiring to
23 practice as a resident physician, assistant resident
24 physician, house physician, intern, or fellow in fellowship
25 training in a teaching hospital in this state as defined in s.
26 408.07(44) or s. 395.805(2), who does not hold an active
27 license issued under this chapter shall apply to the
28 department to be registered, on an application provided by the
29 department, within 30 days of commencing such a training
30 program and shall remit a fee not to exceed \$300 as set by the
31 board.

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1 (2) Any person required to be registered under this
2 section shall renew such registration annually. Such
3 registration shall be terminated upon the registrant's receipt
4 of an active license issued under this chapter. No person
5 shall be registered under this section for an aggregate of
6 more than 5 years, unless additional years are approved by the
7 board.

8 (3) Every hospital or teaching hospital having
9 employed or contracted with or utilized the services of a
10 person who holds a degree of Doctor of Osteopathic Medicine
11 from a college of osteopathic medicine recognized and approved
12 by the American Osteopathic Association as a resident
13 physician, assistant resident physician, house physician,
14 intern, or fellow in fellowship training registered under this
15 section which leads to subspecialty board certification shall
16 designate a person who shall furnish, on dates designated by
17 the board, in consultation with the department, to the
18 department a list of all such persons who have served in such
19 ~~the~~ hospital during the preceding 6-month period. The chief
20 executive officer of each such hospital shall provide the
21 executive director of the board with the name, title, and
22 address of the person responsible for filing such reports.

23 (4) The registration may be revoked or the department
24 may refuse to issue any registration for any cause which would
25 be a ground for its revocation or refusal to issue a license
26 to practice osteopathic medicine, as well as on the following
27 grounds:

28 (a) Omission of the name of an intern, resident
29 physician, assistant resident physician, house physician, or
30 fellow in fellowship training from the list of employees
31 required by subsection (3) to be furnished to the department

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1 by the hospital _____ served by the employee.

2 (b) Practicing osteopathic medicine outside of a bona

4 (5) It is a misdemeanor of the second degree,
5 punishable as provided in s. 775.082 or s. 775.083 for any
or teaching hospital, and also for the

8 having administrative authority in such a hospital:

10 such — hospital of any
person listed in subsection (3), unless such person is

12 a license to practice osteopathic medicine under this chapter.

13 (b) To fail to furnish to the department the list and

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

18 _____ pursuant to ss.
_____ as necessary to implement this section.

19 (8) Notwithstanding any provision of this section or

21 this section is subject to the provisions of s. 459.015.

22 (9) A person registered as a resident physician under

24 prescribe medicinal drugs described in schedules set out in
25 chapter 893 when:

27 use of a Drug Enforcement Administration number issued to the
28 hospital _____ by which the person is employed
29 or at which the person's services are used;

31 the identification number issued to such ~~the~~ hospital; and

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1 (c) The use of the institutional identification number
2 and individual suffixes conforms to the requirements of the
3 federal Drug Enforcement Administration.

4 Section 42. Subsection (nn) is added to section
5 458.331(1), Florida Statutes, to read:

6 458.331 Grounds for disciplinary action; action by the
7 board and department.--

8 (1) The following acts shall constitute grounds for
9 which the disciplinary actions specified in subsection (2) may
10 be taken:

11 (nn) Delegating ocular post-operative responsibilities
12 to a person not licensed under chapters 458 or 459.

13 Section 43. Subsection (pp) is added to section
14 459.015(1), Florida Statutes, to read:

15 459.015 Grounds for disciplinary action by the
16 board.--

17 (1) The following acts shall constitute grounds for
18 which the disciplinary actions specified in subsection (2) may
19 be taken:

20 (pp) Delegating ocular post-operative responsibilities
21 to a person not licensed under chapters 458 or 459.

22 Section 44. Paragraph (d) is added to subsection (9)
23 of section 458.347, Florida Statutes, to read:

24 458.347 Physician assistants.--

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

27 (a) The council shall consist of five members
28 appointed as follows:

29 1. The chairperson of the Board of Medicine shall
30 appoint three members who are physicians and members of the
31 Board of Medicine. One of the physicians must supervise a

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1 physician assistant in the physician's practice.

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

5 3. The secretary of the department or his or her
6 designee shall appoint a fully licensed physician assistant
7 licensed under this chapter or chapter 459.

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

18 (c) The council shall:

19 1. Recommend to the department the licensure of
20 physician assistants.

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

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1 contained in the proposed rule. The language of all proposed
 2 rules submitted by the council must be approved by both boards
 3 pursuant to each respective board's guidelines and standards
 4 regarding the adoption of proposed rules. If either board
 5 rejects the council's proposed rule, that board must specify
 6 its objection to the council with particularity and include
 7 any recommendations it may have for the modification of the
 8 proposed rule.

9 3. Make recommendations to the boards regarding all
 10 matters relating to physician assistants.

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

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

18 1. Refuse to certify the applicant for licensure;

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

21 3. Approve the applicant for conditional licensure.

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

29 Section 45. Paragraph (d) is added to subsection (9)
 30 of section 459.022, Florida Statutes, to read:

31 459.022 Physician assistants.--

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

3 (a) The council shall consist of five members
4 appointed as follows:

5 1. The chairperson of the Board of Medicine shall
6 appoint three members who are physicians and members of the
7 Board of Medicine. One of the physicians must supervise a
8 physician assistant in the physician's practice.

9 2. The chairperson of the Board of Osteopathic
10 Medicine shall appoint one member who is a physician and a
11 member of the Board of Osteopathic Medicine.

12 3. The secretary of the department or her or his
13 designee shall appoint a fully licensed physician assistant
14 licensed under chapter 458 or this chapter.

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

25 (c) The council shall:

26 1. Recommend to the department the licensure of
27 physician assistants.

28 2. Develop all rules regulating the use of physician
29 assistants by physicians under chapter 458 and this chapter,
30 except for rules relating to the formulary developed under s.
31 458.347(4)(f). The council shall also develop rules to ensure

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1 that the continuity of supervision is maintained in each
2 practice setting. The boards shall consider adopting a
3 proposed rule developed by the council at the regularly
4 scheduled meeting immediately following the submission of the
5 proposed rule by the council. A proposed rule submitted by
6 the council may not be adopted by either board unless both
7 boards have accepted and approved the identical language
8 contained in the proposed rule. The language of all proposed
9 rules submitted by the council must be approved by both boards
10 pursuant to each respective board's guidelines and standards
11 regarding the adoption of proposed rules. If either board
12 rejects the council's proposed rule, that board must specify
13 its objection to the council with particularity and include
14 any recommendations it may have for the modification of the
15 proposed rule.

16 3. Make recommendations to the boards regarding all
17 matters relating to physician assistants.

18 4. Address concerns and problems of practicing
19 physician assistants in order to improve safety in the
20 clinical practices of licensed physician assistants.

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

25 1. Refuse to certify the applicant for licensure;

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

28 3. Approve the applicant for conditional licensure.

29 Such conditions may include placement of the licensee on
30 probation for a period of time and subject to such conditions
31 as the Council may specify, including but not limited to,

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1 requiring the licensee to undergo treatment, to attend
2 continuing education courses, to work under the direct
3 supervision of a physician licensed in this state, or to take
4 corrective action.

5 Section 46. The amendment of s. 455.637, Florida
6 Statutes, by this act applies to offenses committed on or
7 after the effective date of such section.

8 Section 47. Section 455.641, Florida Statutes, is
9 repealed.

10 Section 48. For the purpose of incorporating the
11 amendment to section 455.637, Florida Statutes, in references
12 thereto, the sections or subdivisions of Florida Statutes set
13 forth below are reenacted to read:

14 455.574 Department of Health; examinations.--

15 (1)

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

30 468.1295 Disciplinary proceedings.--

31 (1) The following acts constitute grounds for both

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1 disciplinary actions as set forth in subsection (2) and cease
2 and desist or other related actions by the department as set
3 forth in s. 455.637:

4 (a) Procuring or attempting to procure a license by
5 bribery, by fraudulent misrepresentation, or through an error
6 of the department or the board.

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

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

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

22 (e) Advertising goods or services in a manner which is
23 fraudulent, false, deceptive, or misleading in form or
24 content.

25 (f) Being proven guilty of fraud or deceit or of
26 negligence, incompetency, or misconduct in the practice of
27 speech-language pathology or audiology.

28 (g) Violating a lawful order of the board or
29 department previously entered in a disciplinary hearing, or
30 failing to comply with a lawfully issued subpoena of the board
31 or department.

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1 (h) Practicing with a revoked, suspended, inactive, or
2 delinquent license.

3 (i) Using, or causing or promoting the use of, any
4 advertising matter, promotional literature, testimonial,
5 guarantee, warranty, label, brand, insignia, or other
6 representation, however disseminated or published, which is
7 misleading, deceiving, or untruthful.

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

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

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

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

21 (n) Misrepresenting the professional services
22 available in the fitting, sale, adjustment, service, or repair
23 of a hearing aid, or using any other term or title which might
24 connote the availability of professional services when such
25 use is not accurate.

26 (o) Representing, advertising, or implying that a
27 hearing aid or its repair is guaranteed without providing full
28 disclosure of the identity of the guarantor; the nature,
29 extent, and duration of the guarantee; and the existence of
30 conditions or limitations imposed upon the guarantee.

31 (p) Representing, directly or by implication, that a

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1 hearing aid utilizing bone conduction has certain specified
2 features, such as the absence of anything in the ear or
3 leading to the ear, or the like, without disclosing clearly
4 and conspicuously that the instrument operates on the bone
5 conduction principle and that in many cases of hearing loss
6 this type of instrument may not be suitable.

7 (q) Stating or implying that the use of any hearing
8 aid will improve or preserve hearing or prevent or retard the
9 progression of a hearing impairment or that it will have any
10 similar or opposite effect.

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

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

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

22 (u) Failing to notify the department in writing of a
23 change in current mailing and place-of-practice address within
24 30 days after such change.

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

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

30 (x) Practicing or offering to practice beyond the
31 scope permitted by law or accepting and performing

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1 professional responsibilities the licensee or
2 certificateholder knows, or has reason to know, the licensee
3 or certificateholder is not competent to perform.

4 (y) Aiding, assisting, procuring, or employing any
5 unlicensed person to practice speech-language pathology or
6 audiology.

7 (z) Delegating or contracting for the performance of
8 professional responsibilities by a person when the licensee
9 delegating or contracting for performance of such
10 responsibilities knows, or has reason to know, such person is
11 not qualified by training, experience, and authorization to
12 perform them.

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

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

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1 be enforced by filing a petition for enforcement in the
 2 circuit court in the circuit in which the licensee or
 3 certificateholder resides or does business. The department
 4 shall be entitled to the summary procedure provided in s.
 5 51.011. A licensee or certificateholder affected under this
 6 paragraph shall at reasonable intervals be afforded an
 7 opportunity to demonstrate that he or she can resume the
 8 competent practice for which he or she is licensed or
 9 certified with reasonable skill and safety to patients.

10 484.014 Disciplinary actions.--

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

18 (a) Procuring or attempting to procure a license by
 19 misrepresentation, bribery, or fraud or through an error of
 20 the department or the board.

21 (b) Procuring or attempting to procure a license for
 22 any other person by making or causing to be made any false
 23 representation.

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

31 (d) Failing to make fee or price information readily

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1 available by providing such information upon request or upon
2 the presentation of a prescription.

3 (e) Advertising goods or services in a manner which is
4 fraudulent, false, deceptive, or misleading in form or
5 content.

6 (f) Fraud or deceit, or negligence, incompetency, or
7 misconduct, in the authorized practice of opticianry.

8 (g) Violation or repeated violation of this part or of
9 part II of chapter 455 or any rules promulgated pursuant
10 thereto.

11 (h) Practicing with a revoked, suspended, inactive, or
12 delinquent license.

13 (i) Violation of a lawful order of the board or
14 department previously entered in a disciplinary hearing or
15 failing to comply with a lawfully issued subpoena of the
16 department.

17 (j) Violation of any provision of s. 484.012.

18 (k) Conspiring with another licensee or with any
19 person to commit an act, or committing an act, which would
20 coerce, intimidate, or preclude another licensee from lawfully
21 advertising her or his services.

22 (l) Willfully submitting to any third-party payor a
23 claim for services which were not provided to a patient.

24 (m) Failing to keep written prescription files.

25 (n) Willfully failing to report any person who the
26 licensee knows is in violation of this part or of rules of the
27 department or the board.

28 (o) Exercising influence on a client in such a manner
29 as to exploit the client for financial gain of the licensee or
30 of a third party.

31 (p) Gross or repeated malpractice.

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1 (q) Permitting any person not licensed as an optician
2 in this state to fit or dispense any lenses, spectacles,
3 eyeglasses, or other optical devices which are part of the
4 practice of opticianry.

5 (r) Being convicted or found guilty of, or entering a
6 plea of nolo contendere to, regardless of adjudication, in a
7 court of this state or other jurisdiction, a crime which
8 relates to the ability to practice opticianry or to the
9 practice of opticianry.

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

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

21 484.056 Disciplinary proceedings.--

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

29 (a) Violation of any provision of s. 455.624(1), s.
30 484.0512, or s. 484.053.

31 (b) Attempting to procure a license to dispense

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1 hearing aids by bribery, by fraudulent misrepresentations, or
2 through an error of the department or the board.

3 (c) Having a license to dispense hearing aids revoked,
4 suspended, or otherwise acted against, including the denial of
5 licensure, by the licensing authority of another state,
6 territory, or country.

7 (d) Being convicted or found guilty of, or entering a
8 plea of nolo contendere to, regardless of adjudication, a
9 crime in any jurisdiction which directly relates to the
10 practice of dispensing hearing aids or the ability to practice
11 dispensing hearing aids, including violations of any federal
12 laws or regulations regarding hearing aids.

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

21 (f) Advertising goods or services in a manner which is
22 fraudulent, false, deceptive, or misleading in form or
23 content.

24 (g) Proof that the licensee is guilty of fraud or
25 deceit or of negligence, incompetency, or misconduct in the
26 practice of dispensing hearing aids.

27 (h) Violation or repeated violation of this part or of
28 part II of chapter 455, or any rules promulgated pursuant
29 thereto.

30 (i) Violation of a lawful order of the board or
31 department previously entered in a disciplinary hearing or

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1 failure to comply with a lawfully issued subpoena of the board
2 or department.

3 (j) Practicing with a revoked, suspended, inactive, or
4 delinquent license.

5 (k) Using, or causing or promoting the use of, any
6 advertising matter, promotional literature, testimonial,
7 guarantee, warranty, label, brand, insignia, or other
8 representation, however disseminated or published, which is
9 misleading, deceiving, or untruthful.

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

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

20 (n) Representation, advertisement, or implication that
21 a hearing aid or its repair is guaranteed without providing
22 full disclosure of the identity of the guarantor; the nature,
23 extent, and duration of the guarantee; and the existence of
24 conditions or limitations imposed upon the guarantee.

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

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

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

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

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

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

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

23 (v) Failing to provide all information as described in
24 s. 484.051(1).

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

28 Section 49. Paragraphs (a) and (g) of subsection (3)
29 of section 921.0022, Florida Statutes, are amended to read:

30 921.0022 Criminal Punishment Code; offense severity
31 ranking chart.--

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(3) OFFENSE SEVERITY RANKING CHART			
Florida Statute	Felony Degree	Description	
		(a) LEVEL 1	
24.118(3)(a)	3rd	Counterfeit or altered state lottery ticket.	
212.054(2)(b)	3rd	Discretionary sales surtax; limitations, administration, and collection.	
212.15(2)(b)	3rd	Failure to remit sales taxes, amount greater than \$300 but less than \$20,000.	
319.30(5)	3rd	Sell, exchange, give away certificate of title or identification number plate.	
319.35(1)(a)	3rd	Tamper, adjust, change, etc., an odometer.	
320.26(1)(a)	3rd	Counterfeit, manufacture, or sell registration license plates or validation stickers.	
322.212(1)	3rd	Possession of forged, stolen, counterfeit, or unlawfully issued driver's license; possession of simulated identification.	
322.212(4)	3rd	Supply or aid in supplying unauthorized driver's license or identification card.	
322.212(5)(a)	3rd	False application for driver's license or identification card.	

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1	370.13(3)(a)	3rd	Molest any stone crab trap, line,
2			or buoy which is property of
3			licenseholder.
4	370.135(1)	3rd	Molest any blue crab trap, line,
5			or buoy which is property of
6			licenseholder.
7	372.663(1)	3rd	Poach any alligator or
8			crocodilia.
9	414.39(2)	3rd	Unauthorized use, possession,
10			forgery, or alteration of food
11			stamps, Medicaid ID, value
12			greater than \$200.
13	414.39(3)(a)	3rd	Fraudulent misappropriation of
14			public assistance funds by
15			employee/official, value more
16			than \$200.
17	443.071(1)	3rd	False statement or representation
18			to obtain or increase
19			unemployment compensation
20			benefits.
21	458.327(1)(a)	3rd	Unlicensed practice of medicine.
22	466.026(1)(a)	3rd	Unlicensed practice of dentistry
23			or dental hygiene.
24	509.151(1)	3rd	Defraud an innkeeper, food or
25			lodging value greater than \$300.
26	517.302(1)	3rd	Violation of the Florida
27			Securities and Investor
28			Protection Act.
29	562.27(1)	3rd	Possess still or still apparatus.
30	713.69	3rd	Tenant removes property upon
31			which lien has accrued, value

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1			more than \$50.
2	812.014(3)(c)	3rd	Petit theft (3rd conviction);
3			theft of any property not
4			specified in subsection (2).
5	812.081(2)	3rd	Unlawfully makes or causes to be
6			made a reproduction of a trade
7			secret.
8	815.04(4)(a)	3rd	Offense against intellectual
9			property (i.e., computer
10			programs, data).
11	817.52(2)	3rd	Hiring with intent to defraud,
12			motor vehicle services.
13	826.01	3rd	Bigamy.
14	828.122(3)	3rd	Fighting or baiting animals.
15	831.04(1)	3rd	Any erasure, alteration, etc., of
16			any replacement deed, map, plat,
17			or other document listed in s.
18			92.28.
19	831.31(1)(a)	3rd	Sell, deliver, or possess
20			counterfeit controlled
21			substances, all but s. 893.03(5)
22			drugs.
23	832.041(1)	3rd	Stopping payment with intent to
24			defraud \$150 or more.
25	832.05		
26	(2)(b)&(4)(c)	3rd	Knowing, making, issuing
27			worthless checks \$150 or more or
28			obtaining property in return for
29			worthless check \$150 or more.
30	838.015(3)	3rd	Bribery.
31			

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1	838.016(1)	3rd	Public servant receiving unlawful compensation.
2			
3	838.15(2)	3rd	Commercial bribe receiving.
4	838.16	3rd	Commercial bribery.
5	843.18	3rd	Fleeing by boat to elude a law enforcement officer.
6			
7	847.011(1)(a)	3rd	Sell, distribute, etc., obscene, lewd, etc., material (2nd conviction).
8			
9			
10	849.01	3rd	Keeping gambling house.
11	849.09(1)(a)-(d)	3rd	Lottery; set up, promote, etc., or assist therein, conduct or advertise drawing for prizes, or dispose of property or money by means of lottery.
12			
13			
14			
15			
16	849.23	3rd	Gambling-related machines; "common offender" as to property rights.
17			
18			
19	849.25(2)	3rd	Engaging in bookmaking.
20	860.08	3rd	Interfere with a railroad signal.
21	860.13(1)(a)	3rd	Operate aircraft while under the influence.
22			
23	893.13(2)(a)2.	3rd	Purchase of cannabis.
24	893.13(6)(a)	3rd	Possession of cannabis (more than 20 grams).
25			
26	893.13(7)(a)10.	3rd	Affix false or forged label to package of controlled substance.
27			
28	934.03(1)(a)	3rd	Intercepts, or procures any other person to intercept, any wire or oral communication.
29			
30			
31			(g) LEVEL 7

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1	316.193(3)(c)2.	3rd	DUI resulting in serious bodily
2			injury.
3	327.35(3)(c)2.	3rd	Vessel BUI resulting in serious
4			bodily injury.
5	402.319(2)	2nd	Misrepresentation and negligence
6			or intentional act resulting in
7			great bodily harm, permanent
8			disfiguration, permanent
9			disability, or death.
10	409.920(2)	3rd	Medicaid provider fraud.
11	<u>455.637(2)</u>	<u>3rd</u>	<u>Practicing a health care</u>
12			<u>profession without a license.</u>
13	<u>455.637(2)</u>	<u>2nd</u>	<u>Practicing a health care</u>
14			<u>profession without a license</u>
15			<u>which results in serious bodily</u>
16			<u>injury.</u>
17	<u>458.327(1)</u>	<u>3rd</u>	<u>Practicing medicine without a</u>
18			<u>license.</u>
19	<u>459.013(1)</u>	<u>3rd</u>	<u>Practicing osteopathic medicine</u>
20			<u>without a license.</u>
21	<u>460.411(1)</u>	<u>3rd</u>	<u>Practicing chiropractic medicine</u>
22			<u>without a license.</u>
23	<u>461.012(1)</u>	<u>3rd</u>	<u>Practicing podiatric medicine</u>
24			<u>without a license.</u>
25	<u>462.17</u>	<u>3rd</u>	<u>Practicing naturopathy without a</u>
26			<u>license.</u>
27	<u>463.015(1)</u>	<u>3rd</u>	<u>Practicing optometry without a</u>
28			<u>license.</u>
29	<u>464.016(1)</u>	<u>3rd</u>	<u>Practicing nursing without a</u>
30			<u>license.</u>
31			

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1	<u>465.015(2)</u>	<u>3rd</u>	<u>Practicing pharmacy without a</u>
2			<u>license.</u>
3	<u>466.026(1)</u>	<u>3rd</u>	<u>Practicing dentistry or dental</u>
4			<u>hygiene without a license.</u>
5	<u>467.201</u>	<u>3rd</u>	<u>Practicing midwifery without a</u>
6			<u>license.</u>
7	<u>468.366</u>	<u>3rd</u>	<u>Delivering respiratory care</u>
8			<u>services without a license.</u>
9	<u>483.828(1)</u>	<u>3rd</u>	<u>Practicing as clinical laboratory</u>
10			<u>personnel without a license.</u>
11	<u>483.901(9)</u>	<u>3rd</u>	<u>Practicing medical physics</u>
12			<u>without a license.</u>
13	<u>484.053</u>	<u>3rd</u>	<u>Dispensing hearing aids without a</u>
14			<u>license.</u>
15	494.0018(2)	1st	Conviction of any violation of
16			ss. 494.001-494.0077 in which the
17			total money and property
18			unlawfully obtained exceeded
19			\$50,000 and there were five or
20			more victims.
21	782.051(3)	2nd	Attempted felony murder of a
22			person by a person other than the
23			perpetrator or the perpetrator of
24			an attempted felony.
25	782.07(1)	2nd	Killing of a human being by the
26			act, procurement, or culpable
27			negligence of another
28			(manslaughter).
29	782.071	2nd	Killing of human being or viable
30			fetus by the operation of a motor
31			vehicle in a reckless manner

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1			(vehicular homicide).
2	782.072	2nd	Killing of a human being by the
3			operation of a vessel in a
4			reckless manner (vessel
5			homicide).
6	784.045(1)(a)1.	2nd	Aggravated battery; intentionally
7			causing great bodily harm or
8			disfigurement.
9	784.045(1)(a)2.	2nd	Aggravated battery; using deadly
10			weapon.
11	784.045(1)(b)	2nd	Aggravated battery; perpetrator
12			aware victim pregnant.
13	784.048(4)	3rd	Aggravated stalking; violation of
14			injunction or court order.
15	784.07(2)(d)	1st	Aggravated battery on law
16			enforcement officer.
17	784.08(2)(a)	1st	Aggravated battery on a person 65
18			years of age or older.
19	784.081(1)	1st	Aggravated battery on specified
20			official or employee.
21	784.082(1)	1st	Aggravated battery by detained
22			person on visitor or other
23			detainee.
24	784.083(1)	1st	Aggravated battery on code
25			inspector.
26	790.07(4)	1st	Specified weapons violation
27			subsequent to previous conviction
28			of s. 790.07(1) or (2).
29	790.16(1)	1st	Discharge of a machine gun under
30			specified circumstances.
31			

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1	796.03	2nd	Procuring any person under 16
2			years for prostitution.
3	800.04(5)(c)1.	2nd	Lewd or lascivious molestation;
4			victim less than 12 years of age;
5			offender less than 18 years.
6	800.04(5)(c)2.	2nd	Lewd or lascivious molestation;
7			victim 12 years of age or older
8			but less than 16 years; offender
9			18 years or older.
10	806.01(2)	2nd	Maliciously damage structure by
11			fire or explosive.
12	810.02(3)(a)	2nd	Burglary of occupied dwelling;
13			unarmed; no assault or battery.
14	810.02(3)(b)	2nd	Burglary of unoccupied dwelling;
15			unarmed; no assault or battery.
16	810.02(3)(d)	2nd	Burglary of occupied conveyance;
17			unarmed; no assault or battery.
18	812.014(2)(a)	1st	Property stolen, valued at
19			\$100,000 or more; property stolen
20			while causing other property
21			damage; 1st degree grand theft.
22	812.019(2)	1st	Stolen property; initiates,
23			organizes, plans, etc., the theft
24			of property and traffics in
25			stolen property.
26	812.131(2)(a)	2nd	Robbery by sudden snatching.
27	812.133(2)(b)	1st	Carjacking; no firearm, deadly
28			weapon, or other weapon.
29	825.102(3)(b)	2nd	Neglecting an elderly person or
30			disabled adult causing great
31			bodily harm, disability, or

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1			disfigurement.
2	825.1025(2)	2nd	Lewd or lascivious battery upon
3			an elderly person or disabled
4			adult.
5	825.103(2)(b)	2nd	Exploiting an elderly person or
6			disabled adult and property is
7			valued at \$20,000 or more, but
8			less than \$100,000.
9	827.03(3)(b)	2nd	Neglect of a child causing great
10			bodily harm, disability, or
11			disfigurement.
12	827.04(3)	3rd	Impregnation of a child under 16
13			years of age by person 21 years
14			of age or older.
15	837.05(2)	3rd	Giving false information about
16			alleged capital felony to a law
17			enforcement officer.
18	872.06	2nd	Abuse of a dead human body.
19	893.13(1)(c)1.	1st	Sell, manufacture, or deliver
20			cocaine (or other drug prohibited
21			under s. 893.03(1)(a), (1)(b),
22			(1)(d), (2)(a), or (2)(b)) within
23			1,000 feet of a child care
24			facility or school.
25	893.13(1)(e)	1st	Sell, manufacture, or deliver
26			cocaine or other drug prohibited
27			under s. 893.03(1)(a), (1)(b),
28			(1)(d), (2)(a), or (2)(b), within
29			1,000 feet of property used for
30			religious services or a specified
31			business site.

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1	893.13(4)(a)	1st	Deliver to minor cocaine (or
2			other s. 893.03(1)(a), (1)(b),
3			(1)(d), (2)(a), or (2)(b) drugs).
4	893.135(1)(a)1.	1st	Trafficking in cannabis, more
5			than 50 lbs., less than 2,000
6			lbs.
7	893.135		
8	(1)(b)1.a.	1st	Trafficking in cocaine, more than
9			28 grams, less than 200 grams.
10	893.135		
11	(1)(c)1.a.	1st	Trafficking in illegal drugs,
12			more than 4 grams, less than 14
13			grams.
14	893.135		
15	(1)(d)1.	1st	Trafficking in phencyclidine,
16			more than 28 grams, less than 200
17			grams.
18	893.135(1)(e)1.	1st	Trafficking in methaqualone, more
19			than 200 grams, less than 5
20			kilograms.
21	893.135(1)(f)1.	1st	Trafficking in amphetamine, more
22			than 14 grams, less than 28
23			grams.
24	893.135		
25	(1)(g)1.a.	1st	Trafficking in flunitrazepam, 4
26			grams or more, less than 14
27			grams.
28	Section 50. Subsection (1) of section 458.327, Florida		
29	Statutes, reads:		
30	458.327 Penalty for violations.--		
31	(1) Each of the following acts constitutes a felony of		

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1 the third degree, punishable as provided in s. 775.082, s.
2 775.083, or s. 775.084:

3 (a) The practice of medicine or an attempt to practice
4 medicine without a license to practice in Florida.

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

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

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

13 Section 51. Subsection (1) of section 459.013, Florida
14 Statutes, reads:

15 459.013 Penalty for violations.--

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

19 (a) The practice of osteopathic medicine, or an
20 attempt to practice osteopathic medicine, without an active
21 license or certificate issued pursuant to this chapter.

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

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

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

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1 Section 52. Subsection (1) of section 460.411, Florida
2 Statutes, reads:

3 460.411 Violations and penalties.--

4 (1) Each of the following acts constitutes a violation
5 of this chapter and is a felony of the third degree,
6 punishable as provided in s. 775.082, s. 775.083, or s.
7 775.084:

8 (a) Practicing or attempting to practice chiropractic
9 medicine without an active license or with a license
10 fraudulently obtained.

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

13 Section 53. Subsection (1) of section 461.012, Florida
14 Statutes, reads:

15 461.012 Violations and penalties.--

16 (1) Each of the following acts constitutes a violation
17 of this chapter and is a felony of the third degree,
18 punishable as provided in s. 775.082, s. 775.083, or s.
19 775.084:

20 (a) Practicing or attempting to practice podiatric
21 medicine without an active license or with a license
22 fraudulently obtained.

23 (b) Advertising podiatric services without an active
24 license obtained pursuant to this chapter or with a license
25 fraudulently obtained.

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

28 Section 54. Section 462.17, Florida Statutes, reads:

29 462.17 Penalty for offenses relating to
30 naturopathy.--Any person who shall:

31 (1) Sell, fraudulently obtain, or furnish any

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1 naturopathic diploma, license, record, or registration or aid
2 or abet in the same;

3 (2) Practice naturopathy under the cover of any
4 diploma, license, record, or registration illegally or
5 fraudulently obtained or secured or issued unlawfully or upon
6 fraudulent representations;

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

9 (4) Falsely impersonate another practitioner of a like
10 or different name;

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

16 (6) Practice naturopathy during the time her or his
17 license is suspended or revoked

18

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

21 Section 55. Subsection (1) of section 463.015, Florida
22 Statutes, reads:

23 463.015 Violations and penalties.--

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

27 (a) Practicing or attempting to practice optometry
28 without a valid active license issued pursuant to this
29 chapter.

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

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

3 Section 56. Subsection (1) of section 464.016, Florida
4 Statutes, reads:

5 464.016 Violations and penalties.--

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

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

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

14 (c) Knowingly employing unlicensed persons in the
15 practice of nursing.

16 (d) Obtaining or attempting to obtain a license or
17 certificate under this chapter by misleading statements or
18 knowing misrepresentation.

19 Section 57. Subsection (2) of section 465.015, Florida
20 Statutes, reads:

21 465.015 Violations and penalties.--

22 (2) It is unlawful for any person:

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

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

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1 a licensed pharmacist.

2 (c) To sell or dispense drugs as defined in s.
3 465.003(8) without first being furnished with a prescription.

4 (d) To sell samples or complimentary packages of drug
5 products.

6 Section 58. Subsection (1) of section 466.026, Florida
7 Statutes, reads:

8 466.026 Prohibitions; penalties.--

9 (1) Each of the following acts constitutes a felony of
10 the third degree, punishable as provided in s. 775.082, s.
11 775.083, or s. 775.084:

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

15 (b) Using or attempting to use a license issued
16 pursuant to this chapter which license has been suspended or
17 revoked.

18 (c) Knowingly employing any person to perform duties
19 outside the scope allowed such person under this chapter or
20 the rules of the board.

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

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

30 Section 59. Section 467.201, Florida Statutes, reads:

31 467.201 Violations and penalties.--Each of the

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1 following acts constitutes a felony of the third degree,
2 punishable as provided in s. 775.082, s. 775.083, or s.
3 775.084:

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

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

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

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

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

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

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

20 Section 60. Section 468.366, Florida Statutes, reads:
21 468.366 Penalties for violations.--

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

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

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

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1 representation.

2 (c) Deliver respiratory care services, as defined by
3 this part or by rule of the board, unless such person is duly
4 licensed to do so under the provisions of this part or unless
5 such person is exempted pursuant to s. 468.368.

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

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

16 (f) Knowingly employ unlicensed persons in the
17 delivery of respiratory care services, unless exempted by this
18 part.

19 (g) Knowingly conceal information relative to any
20 violation of this part.

21 (2) Any violation of this section is a felony of the
22 third degree, punishable as provided in s. 775.082, s.
23 775.083, or s. 775.084.

24 Section 61. Subsection (1) of section 483.828, Florida
25 Statutes, reads:

26 483.828 Penalties for violations.--

27 (1) Each of the following acts constitutes a felony of
28 the third degree, punishable as provided in s. 775.082, s.
29 775.083, or s. 775.084:

30 (a) Practicing as clinical laboratory personnel
31 without an active license.

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1 (b) Using or attempting to use a license to practice
2 as clinical laboratory personnel which is suspended or
3 revoked.

4 (c) Attempting to obtain or obtaining a license to
5 practice as clinical laboratory personnel by knowing
6 misrepresentation.

7 Section 62. Subsection (9) of section 483.901, Florida
8 Statutes, reads:

9 483.901 Medical physicists; definitions; licensure.--

10 (9) PENALTY FOR VIOLATIONS.--It is a felony of the
11 third degree, punishable as provided in s. 775.082, s.
12 775.083, or s. 775.084, to:

13 (a) Practice or attempt to practice medical physics or
14 hold oneself out to be a licensed medical physicist without
15 holding an active license.

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

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

20 Section 63. Section 484.053, Florida Statutes, reads:

21 484.053 Prohibitions; penalties.--

22 (1) A person may not:

23 (a) Practice dispensing hearing aids unless the person
24 is a licensed hearing aid specialist;

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

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

28 (d) Give false, incomplete, or forged evidence to the
29 board or a member thereof for the purposes of obtaining a
30 license;

31 (e) Use or attempt to use a hearing aid specialist

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1 license that is delinquent or has been suspended, revoked, or
2 placed on inactive status;

3 (f) Knowingly employ unlicensed persons in the
4 practice of dispensing hearing aids; or

5 (g) Knowingly conceal information relative to
6 violations of this part.

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

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

17 Section 64. Subsection (1) of section 457.102, Florida
18 Statutes, is amended to read:

19 457.102 Definitions.--As used in this chapter:

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

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1 Section 65. Section 457.105, Florida Statutes, is
2 amended to read:

3 457.105 Licensure qualifications and fees.--

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

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

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

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

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1 completion of academic courses in western anatomy, western
2 physiology, and western pathology;
3 (c) Has successfully completed a board-approved
4 national certification process, is actively licensed in a
5 state that has examination requirements that are substantially
6 equivalent to or more stringent than those of this state, or
7 passes an examination administered by the department, which
8 examination tests the applicant's competency and knowledge of
9 the practice of acupuncture and oriental medicine. At the
10 request of any applicant, oriental nomenclature for the points
11 shall be used in the examination. The examination shall
12 include a practical examination of the knowledge and skills
13 required to practice modern and traditional acupuncture and
14 oriental medicine, covering diagnostic and treatment
15 techniques and procedures; and
16 (d) Pays the required fees set by the board by rule
17 not to exceed the following amounts:
18 1. Examination fee: \$500 plus the actual per applicant
19 cost to the department for purchase of the written and
20 practical portions of the examination from a national
21 organization approved by the board.
22 2. Application fee: \$300.
23 3. Reexamination fee: \$500 plus the actual per
24 applicant cost to the department for purchase of the written
25 and practical portions of the examination from a national
26 organization approved by the board.
27 4. Initial biennial licensure fee: \$400, if licensed
28 in the first half of the biennium, and \$200, if licensed in
29 the second half of the biennium.
30 Section 66. Subsection (1) of section 457.107, Florida
31 Statutes, is amended to read:

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1 457.107 Renewal of licenses; continuing education.--

2 (1) The department shall renew a license upon receipt
3 of the renewal application and the fee set by the board by
4 rule, not to exceed \$500~~\$700~~.

5 Section 67. Section 483.824, Florida Statutes, is
6 amended to read:

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

13 (1) Be a physician licensed under chapter 458 or
14 chapter 459;

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

20 (3) For the subspecialty of oral pathology, be a
21 physician licensed under chapter 458 or chapter 459 or a
22 dentist licensed under chapter 466.

23 Section 68. February 6th of each year is designated
24 Florida Alzheimer's Disease Day.

25 Section 69. Subsection (11) of section 641.51, Florida
26 Statutes, is created to read:

27 641.51 Quality assurance program; second medical
28 opinion requirement.--

29 (11) If a contracted primary care physician, licensed
30 under Chapter 458 or Chapter 459, and the organization
31 determine that a subscriber requires examination by a licensed

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1 ophthalmologist for medically necessary, contractually covered
2 services, then the organization shall authorize the contracted
3 primary care physician to send the subscriber to a contracted
4 licensed ophthalmologist.

5 Section 70. This act shall not be construed to
6 prohibit anyone from seeking medical information on the
7 Internet from any site.

8 Section 71. Effective upon this act becoming a law:

9 (1) Any funds appropriated in Committee Substitute for
10 House Bill 2339, enacted in the 2000 Regular Session of the
11 Legislature, for the purpose of a review of current mandated
12 health coverages shall revert to the fund from which
13 appropriated, and such review may not be conducted.

14 (2) Notwithstanding any provision to the contrary
15 contained in Committee Substitute for House Bill 2339, enacted
16 in the 2000 Regular Session of the Legislature, the
17 establishment of a specialty hospital offering a range of
18 medical services restricted to a defined age or gender group
19 of the population or a restricted range of services
20 appropriate to the diagnosis, care, and treatment of patients
21 with specific categories of medical illnesses or disorders,
22 through the transfer of beds and services from an existing
23 hospital in the same county, is not exempt from the provisions
24 of section 408.036(1), Florida Statutes.

25 Section 72. Paragraph (n) of subsection (3), paragraph
26 (c) of subsection (5), and paragraphs (b) and (d) of
27 subsection (6) of section 627.6699, Florida Statutes, are
28 amended to read:

29 627.6699 Employee Health Care Access Act.--

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

31 (n) "Modified community rating" means a method used to

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1 develop carrier premiums which spreads financial risk across a
 2 large population and allows adjustments for age, gender,
 3 family composition, tobacco usage, and geographic area as
 4 determined under paragraph (5)(j); claims experience, health
 5 status, or duration of coverage as permitted under
 6 subparagraph (6)(b)5.; and administrative and acquisition
 7 expenses as permitted under subparagraph (6)(b)6.

8 (5) AVAILABILITY OF COVERAGE.--

9 (c) Every small employer carrier must, as a condition
 10 of transacting business in this state:

11 1. Beginning July 1, 2000, ~~January 1, 1994,~~ offer and
 12 issue all small employer health benefit plans on a
 13 guaranteed-issue basis to every eligible small employer, with
 14 2 3 to 50 eligible employees, that elects to be covered under
 15 such plan, agrees to make the required premium payments, and
 16 satisfies the other provisions of the plan. A rider for
 17 additional or increased benefits may be medically underwritten
 18 and may only be added to the standard health benefit plan.
 19 The increased rate charged for the additional or increased
 20 benefit must be rated in accordance with this section.

21 2. Beginning July 1, 2000, and until July 31, 2001,
 22 offer and issue basic and standard small employer health
 23 benefit plans on a guaranteed-issue basis to every eligible
 24 small employer which is eligible for guaranteed renewal, has
 25 less than two eligible employees, is not formed primarily for
 26 the purpose of buying health insurance, elects to be covered
 27 under such plan, agrees to make the required premium payments,
 28 and satisfies the other provisions of the plan. A rider for
 29 additional or increased benefits may be medically underwritten
 30 and may be added only to the standard benefit plan. The
 31 increased rate charged for the additional or increased benefit

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1 must be rated in accordance with this section. For purposes of
2 this subparagraph, a person, his or her spouse, and his or her
3 dependent children shall constitute a single eligible employee
4 if that person and spouse are employed by the same small
5 employer and either one has a normal work week of less than 25
6 hours.

7 3.2. Beginning August 1, 2001 ~~April 15, 1994~~, offer
8 and issue basic and standard small employer health benefit
9 plans on a guaranteed-issue basis, during a 31-day open
10 enrollment period of August 1 through August 31 of each year,
11 to every eligible small employer, with less than ~~one or~~ two
12 eligible employees, which small employer is not formed
13 primarily for the purpose of buying health insurance and which
14 elects to be covered under such plan, agrees to make the
15 required premium payments, and satisfies the other provisions
16 of the plan. Coverage provided under this subparagraph shall
17 begin on October 1 of the same year as the date of enrollment,
18 unless the small employer carrier and the small employer agree
19 to a different date. A rider for additional or increased
20 benefits may be medically underwritten and may only be added
21 to the standard health benefit plan. The increased rate
22 charged for the additional or increased benefit must be rated
23 in accordance with this section. For purposes of this
24 subparagraph, a person, his or her spouse, and his or her
25 dependent children constitute a single eligible employee if
26 that person and spouse are employed by the same small employer
27 and either that person or his or her spouse has a normal work
28 week of less than 25 hours.

29 ~~4.3. Offer to eligible small employers the standard~~
30 ~~and basic health benefit plans. This paragraph subparagraph~~
31 does not limit a carrier's ability to offer other health

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1 benefit plans to small employers if the standard and basic
2 health benefit plans are offered and rejected.

3 (6) RESTRICTIONS RELATING TO PREMIUM RATES.--

4 (b) For all small employer health benefit plans that
5 are subject to this section and are issued by small employer
6 carriers on or after January 1, 1994, premium rates for health
7 benefit plans subject to this section are subject to the
8 following:

9 1. Small employer carriers must use a modified
10 community rating methodology in which the premium for each
11 small employer must be determined solely on the basis of the
12 eligible employee's and eligible dependent's gender, age,
13 family composition, tobacco use, or geographic area as
14 determined under paragraph (5)(j) and in which the premium may
15 be adjusted as permitted by subparagraphs 5. and 6.

16 2. Rating factors related to age, gender, family
17 composition, tobacco use, or geographic location may be
18 developed by each carrier to reflect the carrier's experience.
19 The factors used by carriers are subject to department review
20 and approval.

21 3. Small employer carriers may not modify the rate for
22 a small employer for 12 months from the initial issue date or
23 renewal date, unless the composition of the group changes or
24 benefits are changed. However, a small employer carrier may
25 modify the rate one time prior to 12 months after the initial
26 issue date for a small employer who enrolls under a previously
27 issued group policy that has a common anniversary date for all
28 employers covered under the policy if:

29 a. The carrier discloses to the employer in a clear
30 and conspicuous manner the date of the first renewal and the
31 fact that the premium may increase on or after that date.

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1 b. The insurer demonstrates to the department that
2 efficiencies in administration are achieved and reflected in
3 the rates charged to small employers covered under the policy.

4 4. A carrier may issue a group health insurance policy
5 to a small employer health alliance or other group association
6 with rates that reflect a premium credit for expense savings
7 attributable to administrative activities being performed by
8 the alliance or group association if such expense savings are
9 specifically documented in the insurer's rate filing and are
10 approved by the department. Any such credit may not be based
11 on different morbidity assumptions or on any other factor
12 related to the health status or claims experience of any
13 person covered under the policy. Nothing in this subparagraph
14 exempts an alliance or group association from licensure for
15 any activities that require licensure under the Insurance
16 Code. A carrier issuing a group health insurance policy to a
17 small-employer health alliance or other group association
18 shall allow any properly licensed and appointed agent of that
19 carrier to market and sell the small-employer health alliance
20 or other group association policy. Such agent shall be paid
21 the usual and customary commission paid to any agent selling
22 the policy.~~Carriers participating in the alliance program, in~~
23 ~~accordance with ss. 408.70-408.706, may apply a different~~
24 ~~community rate to business written in that program.~~

25 5. Any adjustments in rates for claims experience,
26 health status, or duration of coverage may not be charged to
27 individual employees or dependents. For a small employer's
28 policy, such adjustments may not result in a rate for the
29 small employer which deviates more than 15 percent from the
30 carrier's approved rate. Any such adjustment must be applied
31 uniformly to the rates charged for all employees and

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1 dependents of the small employer. A small employer carrier may
2 make an adjustment to a small employer's renewal premium, not
3 to exceed 10 percent annually, due to the claims experience,
4 health status, or duration of coverage of the employees or
5 dependents of the small employer. Semiannually small group
6 carriers shall report information on forms adopted by rule by
7 the department to enable the department to monitor the
8 relationship of aggregate adjusted premiums actually charged
9 policyholders by each carrier to the premiums that would have
10 been charged by application of the carrier's approved modified
11 community rates. If the aggregate resulting from the
12 application of such adjustment exceeds the premium that would
13 have been charged by application of the approved modified
14 community rate by 5 percent for the current reporting period,
15 the carrier shall limit the application of such adjustments
16 only to minus adjustments beginning not more than 60 days
17 after the report is sent to the department. For any subsequent
18 reporting period, if the total aggregate adjusted premium
19 actually charged does not exceed the premium that would have
20 been charged by application of the approved modified community
21 rate by 5 percent, the carrier may apply both plus and minus
22 adjustments. A small employer carrier may provide a credit to
23 a small employer's premium based on administrative and
24 acquisition expense differences resulting from the size of the
25 group. Group size administrative and acquisition expense
26 factors may be developed by each carrier to reflect the
27 carrier's experience and are subject to department review and
28 approval.

29 6. A small employer carrier rating methodology may
30 include separate rating categories for one dependent child,
31 for two dependent children, and for three or more dependent

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1 children for family coverage of employees having a spouse and
2 dependent children or employees having dependent children
3 only. A small employer carrier may have fewer, but not
4 greater, numbers of categories for dependent children than
5 those specified in this subparagraph.

6 7. Small employer carriers may not use a composite
7 rating methodology to rate a small employer with fewer than 10
8 employees. For the purposes of this subparagraph, a "composite
9 rating methodology" means a rating methodology that averages
10 the impact of the rating factors for age and gender in the
11 premiums charged to all of the employees of a small employer.

12 (d) Notwithstanding s. 627.401(2), this section and
13 ss. 627.410 and 627.411 apply to any health benefit plan
14 provided by a small employer carrier that is an insurer, and
15 this section and s. 641.31 apply to any health benefit
16 provided by a small employer carrier that is a health
17 maintenance organization that provides coverage to one or more
18 employees of a small employer regardless of where the policy,
19 certificate, or contract is issued or delivered, if the health
20 benefit plan covers employees or their covered dependents who
21 are residents of this state.

22 Section 73. Section 641.201, Florida Statutes, is
23 amended to read:

24 641.201 Applicability of other laws.--Except as
25 provided in this part, health maintenance organizations shall
26 be governed by the provisions of this part and part III of
27 this chapter and shall be exempt from all other provisions of
28 the Florida Insurance Code except those provisions of the
29 Florida Insurance Code that are explicitly made applicable to
30 health maintenance organizations.

31 Section 74. Section 641.234, Florida Statutes, is

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1 amended to read:

2 641.234 Administrative, provider, and management
3 contracts.--

4 (1) The department may require a health maintenance
5 organization to submit any contract for administrative
6 services, contract with a provider other than an individual
7 physician, contract for management services, and contract with
8 an affiliated entity to the department.

9 (2) After review of a contract the department may
10 order the health maintenance organization to cancel the
11 contract in accordance with the terms of the contract and
12 applicable law if it determines:

13 (a) That the fees to be paid by the health maintenance
14 organization under the contract are so unreasonably high as
15 compared with similar contracts entered into by the health
16 maintenance organization or as compared with similar contracts
17 entered into by other health maintenance organizations in
18 similar circumstances that the contract is detrimental to the
19 subscribers, stockholders, investors, or creditors of the
20 health maintenance organization; or-

21 (b) That the contract is with an entity that is not
22 licensed under state statutes, if such license is required, or
23 is not in good standing with the applicable regulatory agency.

24 (3) All contracts for administrative services,
25 management services, provider services other than individual
26 physician contracts, and with affiliated entities entered into
27 or renewed by a health maintenance organization on or after
28 October 1, 1988, shall contain a provision that the contract
29 shall be canceled upon issuance of an order by the department
30 pursuant to this section.

31 Section 75. Subsection (2) of section 641.27, Florida

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1 Statutes, is amended to read:

2 641.27 Examination by the department.--

3 (2) The department may contract, at reasonable fees
4 for work performed, with qualified, impartial outside sources
5 to perform audits or examinations or portions thereof
6 pertaining to the qualification of an entity for issuance of a
7 certificate of authority or to determine continued compliance
8 with the requirements of this part, in which case the payment
9 must be made, directly to the contracted examiner by the
10 health maintenance organization examined, in accordance with
11 the rates and terms agreed to by the department and the
12 examiner. Any contracted assistance shall be under the direct
13 supervision of the department. The results of any contracted
14 assistance shall be subject to the review of, and approval,
15 disapproval, or modification by, the department.

16 Section 76. Section 641.226, Florida Statutes, is
17 created to read:

18 641.226 Application of federal solvency requirements
19 to provider-sponsored organizations.--The solvency
20 requirements of sections 1855 and 1856 of the Balanced Budget
21 Act of 1997 and rules adopted by the Secretary of the United
22 States Department of Health and Human Services apply to a
23 health maintenance organization that is a provider-sponsored
24 organization rather than the solvency requirements of this
25 part. However, if the provider-sponsored organization does not
26 meet the solvency requirements of this part, the organization
27 is limited to the issuance of Medicare+Choice plans to
28 eligible individuals. For the purposes of this section, the
29 terms "Medicare+Choice plans," "provider-sponsored
30 organizations," and "solvency requirements" have the same
31 meaning as defined in the federal act and federal rules and

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1 regulations.

2 Section 77. Section 641.39, Florida Statutes, is
3 created to read:

4 641.39 Soliciting or accepting new or renewal health
5 maintenance contracts by insolvent or impaired health
6 maintenance organization prohibited; penalty.--

7 (1) Whether or not delinquency proceedings as to a
8 health maintenance organization have been or are to be
9 initiated, a director or officer of a health maintenance
10 organization, except with the written permission of the
11 Department of Insurance, may not authorize or permit the
12 health maintenance organization to solicit or accept new or
13 renewal health maintenance contracts or provider contracts in
14 this state after the director or officer knew, or reasonably
15 should have known, that the health maintenance organization
16 was insolvent or impaired. As used in this section, the term
17 "impaired" means that the health maintenance organization does
18 not meet the requirements of s. 641.225.

19 (2) Any director or officer who violates this section
20 is guilty of a felony of the third degree, punishable as
21 provided in s. 775.082, s. 775.083, or s. 775.084.

22 Section 78. Section 641.2011, Florida Statutes, is
23 created to read:

24 641.2011 Insurance holding companies.--Part IV of
25 chapter 628 applies to health maintenance organizations
26 licensed under part I of chapter 641.

27 Section 79. Subsection (12) is added to section
28 216.136, Florida Statutes, to read:

29 216.136 Consensus estimating conferences; duties and
30 principals.--

31 (12) MANDATED HEALTH INSURANCE BENEFITS AND PROVIDERS

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1 ESTIMATING CONFERENCE.--

2 (a) Duties.--The Mandated Health Insurance Benefits
3 and Providers Estimating Conference shall:

4 1. Develop and maintain, with the Department of
5 Insurance, a system and program of data collection to assess
6 the impact of mandated benefits and providers, including costs
7 to employers and insurers, impact of treatment, cost savings
8 in the health care system, number of providers, and other
9 appropriate data.

10 2. Prescribe the format, content, and timing of
11 information that is to be submitted to the conference and used
12 by the conference in its assessment of proposed and existing
13 mandated benefits and providers. Such format, content, and
14 timing requirements are binding upon all parties submitting
15 information for the conference to use in its assessment of
16 proposed and existing mandated benefits and providers.

17 3. Provide assessments of proposed and existing
18 mandated benefits and providers and other studies of mandated
19 benefits and provider issues as requested by the Legislature
20 or the Governor. When a legislative measure containing a
21 mandated health insurance benefit or provider is proposed, the
22 standing committee of the Legislature which has jurisdiction
23 over the proposal shall request that the conference prepare
24 and forward to the Governor and the Legislature a study that
25 provides, for each measure, a cost-benefit analysis that
26 assesses the social and financial impact and the medical
27 efficacy according to prevailing medical standards of the
28 proposed mandate. The conference has 12 months after the
29 committee makes its request in which to complete and submit
30 the conference's report. The standing committee may not
31 consider such a proposed legislative measure until 12 months

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1 after it has requested the report and has received the
2 conference's report on the measure.

3 4. The standing committees of the Legislature which
4 have jurisdiction over health insurance matters shall request
5 that the conference assess the social and financial impact and
6 the medical efficacy of existing mandated benefits and
7 providers. The committees shall submit to the conference by
8 January 1, 2001, a schedule of evaluations that sets forth the
9 respective dates by which the conference must have completed
10 its evaluations of particular existing mandates.

11 (b) Principals.--The Executive Office of the Governor,
12 the Insurance Commissioner, the Agency for Health Care
13 Administration, the Director of the Division of Economic and
14 Demographic Research of the Joint Legislative Management
15 Committee, and professional staff of the Senate and the House
16 of Representatives who have health insurance expertise, or
17 their designees, are the principals of the Mandated Health
18 Insurance Benefits and Providers Estimating Conference. The
19 responsibility of presiding over sessions of the conference
20 shall be rotated among the principals.

21 Section 80. Section 624.215, Florida Statutes, is
22 amended to read:

23 624.215 Proposals for legislation which mandates
24 health benefit coverage; review by Legislature.--

25 (1) LEGISLATIVE INTENT.--The Legislature finds that
26 there is an increasing number of proposals which mandate that
27 certain health benefits be provided by insurers and health
28 maintenance organizations as components of individual and
29 group policies. The Legislature further finds that many of
30 these benefits provide beneficial social and health
31 consequences which may be in the public interest. However,

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1 the Legislature also recognizes that most mandated benefits
 2 contribute to the increasing cost of health insurance
 3 premiums. Therefore, it is the intent of the Legislature to
 4 conduct a systematic review of current and proposed mandated
 5 or mandatorily offered health coverages and to establish
 6 guidelines for such a review. This review will assist the
 7 Legislature in determining whether mandating a particular
 8 coverage is in the public interest.

9 (2) MANDATED HEALTH COVERAGE; REPORT TO THE MANDATED
 10 HEALTH INSURANCE BENEFITS AND PROVIDERS ESTIMATING CONFERENCE

11 ~~AGENCY FOR HEALTH CARE ADMINISTRATION AND LEGISLATIVE~~
 12 ~~COMMITTEES~~; GUIDELINES FOR ASSESSING IMPACT.--Every person or
 13 organization seeking consideration of a legislative proposal
 14 which would mandate a health coverage or the offering of a
 15 health coverage by an insurance carrier, health care service
 16 contractor, or health maintenance organization as a component
 17 of individual or group policies, shall submit to the Mandated
 18 Health Insurance Benefits and Providers Estimating Conference
 19 ~~Agency for Health Care Administration and the legislative~~
 20 ~~committees having jurisdiction~~ a report which assesses the
 21 social and financial impacts of the proposed coverage.
 22 Guidelines for assessing the impact of a proposed mandated or
 23 mandatorily offered health coverage must, to the extent that
 24 information is available, ~~shall~~ include:

25 (a) To what extent is the treatment or service
 26 generally used by a significant portion of the population.

27 (b) To what extent is the insurance coverage generally
 28 available.

29 (c) If the insurance coverage is not generally
 30 available, to what extent does the lack of coverage result in
 31 persons avoiding necessary health care treatment.

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1 (d) If the coverage is not generally available, to
 2 what extent does the lack of coverage result in unreasonable
 3 financial hardship.

4 (e) The level of public demand for the treatment or
 5 service.

6 (f) The level of public demand for insurance coverage
 7 of the treatment or service.

8 (g) The level of interest of collective bargaining
 9 agents in negotiating for the inclusion of this coverage in
 10 group contracts.

11 (h) A report of the extent to which ~~To what extent~~
 12 ~~will~~ the coverage will increase or decrease the cost of the
 13 treatment or service.

14 (i) A report of the extent to which ~~To what extent~~
 15 ~~will~~ the coverage will increase the appropriate uses of the
 16 treatment or service.

17 (j) A report of the extent to which ~~To what extent~~
 18 ~~will~~ the mandated treatment or service will be a substitute
 19 for a more expensive treatment or service.

20 (k) A report of the extent to which ~~To what extent~~
 21 ~~will~~ the coverage will increase or decrease the administrative
 22 expenses of insurance companies and the premium and
 23 administrative expenses of policyholders.

24 (l) A report as to the impact of this coverage on the
 25 total cost of health care.

26
 27 The reports required in paragraphs (h) through (l) shall be
 28 reviewed by the Mandated Health Insurance Benefits and
 29 Providers Estimating Conference using a certified actuary. The
 30 standing committee of the Legislature which has jurisdiction
 31 over the legislative proposal must request and receive a

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1 report from the Mandated Health Insurance Benefits and
2 Providers Estimating Conference before the committee considers
3 the proposal. The committee may not consider a legislative
4 proposal that would mandate a health coverage or the offering
5 of a health coverage by an insurance carrier, health care
6 service contractor, or health maintenance organization until
7 after the committee's request to the Mandated Health Insurance
8 Benefits and Providers Estimating Conference has been
9 answered. As used in this section, the term "health coverage
10 mandate" includes mandating the use of a type of provider.

11 Section 81. Subsection (4) of section 212.055, Florida
12 Statutes, is amended to read:

13 212.055 Discretionary sales surtaxes; legislative
14 intent; authorization and use of proceeds.--It is the
15 legislative intent that any authorization for imposition of a
16 discretionary sales surtax shall be published in the Florida
17 Statutes as a subsection of this section, irrespective of the
18 duration of the levy. Each enactment shall specify the types
19 of counties authorized to levy; the rate or rates which may be
20 imposed; the maximum length of time the surtax may be imposed,
21 if any; the procedure which must be followed to secure voter
22 approval, if required; the purpose for which the proceeds may
23 be expended; and such other requirements as the Legislature
24 may provide. Taxable transactions and administrative
25 procedures shall be as provided in s. 212.054.

26 (4) INDIGENT CARE AND TRAUMA CENTER SURTAX.--

27 (a) The governing body in each county the government
28 of which is not consolidated with that of one or more
29 municipalities, which has a population of at least 800,000
30 residents and is not authorized to levy a surtax under
31 subsection (5) or subsection (6), may levy, pursuant to an

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1 ordinance either approved by an extraordinary vote of the
2 governing body or conditioned to take effect only upon
3 approval by a majority vote of the electors of the county
4 voting in a referendum, a discretionary sales surtax at a rate
5 that may not exceed 0.5 percent.

6 (b) If the ordinance is conditioned on a referendum, a
7 statement that includes a brief and general description of the
8 purposes to be funded by the surtax and that conforms to the
9 requirements of s. 101.161 shall be placed on the ballot by
10 the governing body of the county. The following questions
11 shall be placed on the ballot:

12
13 FOR THE . . .CENTS TAX
14 AGAINST THE . . .CENTS TAX
15

16 (c) The ordinance adopted by the governing body
17 providing for the imposition of the surtax shall set forth a
18 plan for providing health care services to qualified
19 residents, as defined in paragraph (d). Such plan and
20 subsequent amendments to it shall fund a broad range of health
21 care services for both indigent persons and the medically
22 poor, including, but not limited to, primary care and
23 preventive care as well as hospital care. The plan must also
24 address the services to be provided by the Level I trauma
25 center.It shall emphasize a continuity of care in the most
26 cost-effective setting, taking into consideration both a high
27 quality of care and geographic access. Where consistent with
28 these objectives, it shall include, without limitation,
29 services rendered by physicians, clinics, community hospitals,
30 mental health centers, and alternative delivery sites, as well
31 as at least one regional referral hospital where appropriate.

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1 It shall provide that agreements negotiated between the county
2 and providers, including hospitals with a Level I trauma
3 center, will include reimbursement methodologies that take
4 into account the cost of services rendered to eligible
5 patients, recognize hospitals that render a disproportionate
6 share of indigent care, provide other incentives to promote
7 the delivery of charity care, promote the advancement of
8 technology in medical services, recognize the level of
9 responsiveness to medical needs in trauma cases, and require
10 cost containment including, but not limited to, case
11 management. It must also provide that any hospitals that are
12 owned and operated by government entities on May 21, 1991,
13 must, as a condition of receiving funds under this subsection,
14 afford public access equal to that provided under s. 286.011
15 as to meetings of the governing board, the subject of which is
16 budgeting resources for the rendition of charity care as that
17 term is defined in the Florida Hospital Uniform Reporting
18 System (FHURS) manual referenced in s. 408.07. The plan shall
19 also include innovative health care programs that provide
20 cost-effective alternatives to traditional methods of service
21 delivery and funding.

22 (d) For the purpose of this subsection, the term
23 "qualified resident" means residents of the authorizing county
24 who are:

25 1. Qualified as indigent persons as certified by the
26 authorizing county;

27 2. Certified by the authorizing county as meeting the
28 definition of the medically poor, defined as persons having
29 insufficient income, resources, and assets to provide the
30 needed medical care without using resources required to meet
31 basic needs for shelter, food, clothing, and personal

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1 expenses; or not being eligible for any other state or federal
2 program, or having medical needs that are not covered by any
3 such program; or having insufficient third-party insurance
4 coverage. In all cases, the authorizing county is intended to
5 serve as the payor of last resort; or

6 3. Participating in innovative, cost-effective
7 programs approved by the authorizing county.

8 (e) Moneys collected pursuant to this subsection
9 remain the property of the state and shall be distributed by
10 the Department of Revenue on a regular and periodic basis to
11 the clerk of the circuit court as ex officio custodian of the
12 funds of the authorizing county. The clerk of the circuit
13 court shall:

14 1. Maintain the moneys in an indigent health care
15 trust fund;

16 2. Invest any funds held on deposit in the trust fund
17 pursuant to general law; and

18 3. Disburse the funds, including any interest earned,
19 to any provider of health care services, as provided in
20 paragraphs (c) and (d), upon directive from the authorizing
21 county. However, if a county has a population of at least
22 800,000 residents and has levied the surtax authorized in this
23 subsection, notwithstanding any directive from the authorizing
24 county, on October 1 of each calendar year, the clerk of the
25 court shall issue a check in the amount of \$6.5 million to a
26 hospital in its jurisdiction that has a Level I trauma center
27 or shall issue a check in the amount of \$3.5 million to a
28 hospital in its jurisdiction that has a Level I trauma center
29 if that county enacts and implements a hospital lien law in
30 accordance with chapter 98-499, Laws of Florida. The issuance
31 of the checks on October 1 of each year is provided in

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1 recognition of the Level I trauma center status and shall be
 2 in addition to the base contract amount received during fiscal
 3 year 1999-2000 and any additional amount negotiated to the
 4 base contract. If the hospital receiving funds for its Level I
 5 trauma center status requests such funds to be used to
 6 generate federal matching funds under Medicaid, the clerk of
 7 the court shall instead issue a check to the Agency for Health
 8 Care Administration to accomplish that purpose to the extent
 9 that it is allowed through the General Appropriations Act.

10 (f) Notwithstanding any other provision of this
 11 section, a county shall not levy local option sales surtaxes
 12 authorized in this subsection and subsections (2) and (3) in
 13 excess of a combined rate of 1 percent.

14 (g) This subsection expires October 1, 2005.

15 Section 82. Except as otherwise provided in this act,
 16 this act shall take effect July 1, 2000.

17
 18

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

20 And the title is amended as follows:

21 Delete everything before the enacting clause

22

23 and insert:

24 A bill to be entitled
 25 An act relating to health care; amending s.
 26 400.408, F.S.; requiring field offices of the
 27 Agency for Health Care Administration to
 28 establish local coordinating workgroups to
 29 identify the operation of unlicensed assisted
 30 living facilities and to develop a plan to
 31 enforce state laws relating to unlicensed

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1 deleting the review of certain acquisitions;
2 specifying the types of bed increases subject
3 to review; deleting cost overruns from review;
4 deleting review of combinations or division of
5 nursing home certificates of need; providing
6 for expedited review of certain conversions of
7 licensed hospital beds; deleting the
8 requirement for an exemption for initiation or
9 expansion of obstetric services, provision of
10 respite care services, establishment of a
11 Medicare-certified home health agency, or
12 provision of a health service exclusively on an
13 outpatient basis; providing exemptions for
14 combinations or divisions of nursing home
15 certificates of need and additions of certain
16 hospital beds and nursing home beds within
17 specified limitations; requiring a fee for each
18 request for exemption; amending s. 408.037,
19 F.S.; deleting reference to the state health
20 plan; amending ss. 408.038, 408.039, 408.044,
21 and 408.045, F.S.; replacing "department" with
22 "agency"; clarifying the opportunity to
23 challenge an intended award of a certificate of
24 need; amending s. 408.040, F.S.; deleting an
25 obsolete reference; revising the format of
26 conditions related to Medicaid; creating a
27 certificate-of-need workgroup within the Agency
28 for Health Care Administration; providing for
29 expenses; providing membership, duties, and
30 meetings; providing for termination; amending
31 s. 651.118, F.S.; excluding a specified number

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1 of beds from a time limit imposed on extension
2 of authorization for continuing care
3 residential community providers to use
4 sheltered beds for nonresidents; requiring a
5 facility to report such use after the
6 expiration of the extension; repealing s.
7 400.464(3), F.S., relating to home health
8 agency licenses provided to certificate-of-need
9 exempt entities; providing applicability;
10 providing an appropriation for continued review
11 of clinical laboratory services for kidney
12 dialysis patients and requiring a report
13 thereon; amending s. 455.564, F.S.; revising
14 general licensing provisions for professions
15 under the jurisdiction of the Department of
16 Health; providing for processing of
17 applications from foreign or nonresident
18 applicants not yet having a social security
19 number; providing for temporary licensure of
20 such applicants; revising provisions relating
21 to ongoing criminal investigations or
22 prosecutions; requiring proof of restoration of
23 civil rights under certain circumstances;
24 authorizing requirement for personal appearance
25 prior to grant or denial of a license;
26 providing for tolling of application decision
27 deadlines under certain circumstances; amending
28 s. 455.565, F.S.; eliminating duplicative
29 submission of fingerprints and other
30 information required for criminal history
31 checks; providing for certain access to

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1 criminal history information through the
2 department's health care practitioner
3 credentialing system; amending s. 455.5651,
4 F.S.; authorizing the department to publish
5 certain information in practitioner profiles;
6 amending s. 455.5653, F.S.; deleting obsolete
7 language relating to scheduling and development
8 of practitioner profiles for additional health
9 care practitioners; providing the department
10 access to information on health care
11 practitioners maintained by the Agency for
12 Health Care Administration for corroboration
13 purposes; amending s. 455.5654, F.S.; providing
14 for adoption by rule of a form for submission
15 of profiling information; amending s. 455.567,
16 F.S.; expanding the prohibition against sexual
17 misconduct to cover violations against
18 guardians and representatives of patients or
19 clients; providing penalties; amending s.
20 455.624, F.S.; revising and providing grounds
21 for disciplinary action relating to having a
22 license to practice a regulated health care
23 profession acted against, sexual misconduct,
24 inability to practice properly due to alcohol
25 or substance abuse or a mental or physical
26 condition, and testing positive for a drug
27 without a lawful prescription therefor;
28 providing for restriction of license as a
29 disciplinary action; providing for issuance of
30 a citation and assessment of a fine for certain
31 first-time violations; reenacting ss. 455.577,

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1 455.631, 455.651(2), 455.712(1), 458.347(7)(g),
2 459.022(7)(f), 468.1755(1)(a), 468.719(1)(a)
3 and (2), 468.811, and 484.056(1)(a), F.S.,
4 relating to theft or reproduction of an
5 examination, giving false information,
6 disclosure of confidential information,
7 business establishments providing regulated
8 services without an active status license, and
9 practice violations by physician assistants,
10 nursing home administrators, athletic trainers,
11 orthotists, prosthetists, pedorthists, and
12 hearing aid specialists, to incorporate the
13 amendment to s. 455.624, F.S., in references
14 thereto; repealing s. 455.704, F.S., relating
15 to the Impaired Practitioners Committee;
16 amending s. 455.707, F.S., relating to impaired
17 practitioners, to conform; clarifying
18 provisions relating to complaints against
19 impaired practitioners; amending s. 310.102,
20 F.S.; revising and removing references, to
21 conform; amending s. 455.711, F.S.; revising
22 provisions relating to active and inactive
23 status licensure; eliminating reference to
24 delinquency as a licensure status; providing
25 rulemaking authority; amending ss. 455.587 and
26 455.714, F.S.; revising references, to conform;
27 creating s. 455.719, F.S.; providing that the
28 appropriate medical regulatory board, or the
29 department when there is no board, has
30 exclusive authority to grant exemptions from
31 disqualification from employment or contracting

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1 with respect to persons under the licensing
2 jurisdiction of that board or the department,
3 as applicable; amending s. 455.637, F.S.;
4 revising provisions relating to sanctions
5 against the unlicensed practice of a health
6 care profession; providing legislative intent;
7 revising and expanding provisions relating to
8 civil and administrative remedies; providing
9 criminal penalties; incorporating and modifying
10 the substance of current provisions that impose
11 a fee to combat unlicensed activity and provide
12 for disposition of the proceeds thereof;
13 providing statutory construction relating to
14 dietary supplements; reenacting ss. 458.327,
15 459.013, 460.411, 461.012, 462.17, 463.015,
16 464.016, 465.015, 466.026, 467.201, 468.366,
17 483.828, 483.901, 484.053, F.S.; providing
18 penalties; creating s. 458.3135, F.S.;
19 providing for temporary certification for
20 visiting physicians to practice in approved
21 cancer centers; providing certification
22 requirements; providing fees; providing for
23 approval of cancer centers and annual review of
24 such approval; providing practice limitations
25 and conditions; limiting the number of
26 certificates that may be issued; providing
27 rulemaking authority; amending s. 458.3145,
28 F.S.; adding medical schools to list of
29 programs at which medical faculty
30 certificateholders may practice; amending s.
31 458.315, F.S.; waiving application and

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1 licensure fees for physicians obtaining a
2 temporary certificate to practice in areas of
3 critical need when such practice is limited to
4 volunteer, uncompensated care for low-income
5 persons; amending ss. 458.345 and 459.021,
6 F.S.; providing for registration of persons
7 desiring to practice as a resident physician,
8 assistant resident physician, house physician,
9 intern, or fellow in fellowship training in a
10 statutory teaching hospital; providing
11 requirements; providing fees; providing
12 penalties; providing rulemaking authority;
13 amending s. 458.348, F.S.; requiring protocols
14 to contain specified requirements; creating s.
15 458.331(1)(nn), F.S.; providing ground for
16 discipline; creating s. 459.015(1)(pp), F.S.,
17 providing ground for discipline; amending s.
18 458.347, F.S.; providing authority to the
19 Council on Physician Assistants to refuse to
20 certify an applicant for licensure or place
21 restrictions or conditions on license; amending
22 s. 459.022, F.S.; providing authority to the
23 Council on Physician Assistants to refuse to
24 certify an applicant for licensure or place
25 restrictions or conditions on license;
26 providing applicability; repealing s. 455.641,
27 F.S., relating to unlicensed activity fees, to
28 conform; reenacting ss. 455.574(1)(d),
29 468.1295(1), 484.014(1), and 484.056(1), F.S.,
30 relating to violation of security provisions
31 for examinations and violations involving

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1 speech-language pathology, audiology,
2 opticianry, and the dispensing of hearing aids,
3 to incorporate the amendment to s. 455.637,
4 F.S., in references thereto; amending s.
5 921.0022, F.S.; modifying the criminal offense
6 severity ranking chart to add or increase the
7 level of various offenses relating to the
8 practice of a health care profession, the
9 practice of medicine, osteopathic medicine,
10 chiropractic medicine, podiatric medicine,
11 naturopathy, optometry, nursing, pharmacy,
12 dentistry, dental hygiene, midwifery,
13 respiratory therapy, and medical physics,
14 practicing as clinical laboratory personnel,
15 and the dispensing of hearing aids; amending s.
16 457.102, F.S.; revising the definition of
17 "acupuncture"; amending s. 457.105, F.S.;
18 revising licensure qualifications to practice
19 acupuncture; amending s. 457.107, F.S.;
20 modifying the fee for renewal of a license to
21 practice acupuncture; amending s. 483.824,
22 F.S.; revising qualifications of clinical
23 laboratory directors; designating Florida
24 Alzheimer's Disease Day; amending s. 641.51,
25 F.S.; providing for referral to ophthalmologist
26 under certain circumstances; providing that the
27 act not be construed to prohibit certain uses
28 of the Internet; providing that certain funds
29 appropriated to conduct a review of current
30 mandated health coverages revert to the fund
31 from which appropriated and that the review may

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1 not be conducted; abrogating certain exemptions
2 from s. 408.036(1), F.S., which are enacted in
3 the 2000 Regular Session; amending s. 627.6699,
4 F.S.; modifying definitions; requiring small
5 employer carriers to begin to offer and issue
6 all small employer benefit plans on a specified
7 date; deleting the requirement that basic and
8 standard small employer health benefit plans be
9 issued; providing additional requirements for
10 determining premium rates for benefit plans;
11 providing for applicability of the act to plans
12 provided by small employer carriers that are
13 insurers or health maintenance organizations
14 notwithstanding the provisions of certain other
15 specified statutes under specified conditions;
16 amending s. 641.201, F.S.; clarifying
17 applicability of the Florida Insurance Code to
18 health maintenance organizations; amending s.
19 641.234, F.S.; providing conditions under which
20 the Department of Insurance may order a health
21 maintenance organization to cancel a contract;
22 amending s. 641.27, F.S.; providing for payment
23 by a health maintenance organization of fees to
24 outside examiners appointed by the Department
25 of Insurance; creating s. 641.226, F.S.;
26 providing for application of federal solvency
27 requirements to provider-sponsored
28 organizations; creating s. 641.39, F.S.;
29 prohibiting the solicitation or acceptance of
30 contracts by insolvent or impaired health
31 maintenance organizations; providing a criminal

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1 penalty; creating s. 641.2011, F.S.; providing
2 that part IV of chapter 628, F.S., applies to
3 health maintenance organizations; amending s.
4 216.136, F.S.; creating the Mandated Health
5 Insurance Benefits and Providers Estimating
6 Conference; providing for membership and duties
7 of the conference; providing duties of
8 legislative committees that have jurisdiction
9 over health insurance matters; amending s.
10 624.215, F.S.; providing that certain
11 legislative proposals must be submitted to and
12 assessed by the conference, rather than the
13 Agency for Health Care Administration; amending
14 guidelines for assessing the impact of a
15 proposal to legislatively mandate certain
16 health coverage; providing prerequisites to
17 legislative consideration of such proposals;
18 amending s. 212.055, F.S.; expanding the
19 authorized use of the indigent care surtax to
20 include trauma centers; renaming the surtax;
21 requiring the plan set out in the ordinance to
22 include additional provisions concerning Level
23 I trauma centers; providing requirements for
24 annual disbursements to hospitals on October 1
25 to be in recognition of the Level I trauma
26 center status and to be in addition to a base
27 contract amount, plus any negotiated additions
28 to indigent care funding; authorizing funds
29 received to be used to generate federal
30 matching funds under certain conditions and
31 authorizing payment by the clerk of the court;

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1 providing effective dates.
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