

1 A bill to be entitled
2 An act relating to health care; amending s.
3 400.408, F.S.; requiring field offices of the
4 Agency for Health Care Administration to
5 establish local coordinating workgroups to
6 identify the operation of unlicensed assisted
7 living facilities and to develop a plan to
8 enforce state laws relating to unlicensed
9 assisted living facilities; requiring a report
10 to the agency of the workgroup's findings and
11 recommendations; requiring health care
12 practitioners to report known operations of
13 unlicensed facilities; prohibiting hospitals
14 and community mental health centers from
15 discharging a patient or client to an
16 unlicensed facility; amending s. 415.1034,
17 F.S.; requiring paramedics and emergency
18 medical technicians to report acts of abuse
19 committed against a disabled adult or elderly
20 person; amending s. 400.471, F.S.; deleting the
21 certificate-of-need requirement for licensure
22 of Medicare-certified home health agencies;
23 amending s. 408.032, F.S.; adding definitions
24 of "exemption" and "mental health services";
25 revising the term "health service"; deleting
26 the definitions of "home health agency,"
27 "institutional health service," "intermediate
28 care facility," "multifacility project," and
29 "respite care"; amending s. 408.033, F.S.;
30 deleting references to the state health plan;
31 amending s. 408.034, F.S.; deleting a reference

1 to licensing of home health agencies by the
2 Agency for Health Care Administration; amending
3 s. 408.035, F.S.; deleting obsolete
4 certificate-of-need review criteria and
5 revising other criteria; amending s. 408.036,
6 F.S.; revising provisions relating to projects
7 subject to review; deleting references to
8 Medicare-certified home health agencies;
9 deleting the review of certain acquisitions;
10 specifying the types of bed increases subject
11 to review; deleting cost overruns from review;
12 deleting review of combinations or division of
13 nursing home certificates of need; providing
14 for expedited review of certain conversions of
15 licensed hospital beds; deleting the
16 requirement for an exemption for initiation or
17 expansion of obstetric services, provision of
18 respite care services, establishment of a
19 Medicare-certified home health agency, or
20 provision of a health service exclusively on an
21 outpatient basis; providing exemptions for
22 combinations or divisions of nursing home
23 certificates of need and additions of certain
24 hospital beds and nursing home beds within
25 specified limitations; requiring a fee for each
26 request for exemption; amending s. 408.037,
27 F.S.; deleting reference to the state health
28 plan; amending ss. 408.038, 408.039, 408.044,
29 and 408.045, F.S.; replacing "department" with
30 "agency"; clarifying the opportunity to
31 challenge an intended award of a certificate of

1 need; amending s. 408.040, F.S.; deleting an
 2 obsolete reference; revising the format of
 3 conditions related to Medicaid; creating a
 4 certificate-of-need workgroup within the Agency
 5 for Health Care Administration; providing for
 6 expenses; providing membership, duties, and
 7 meetings; providing for termination; amending
 8 s. 651.118, F.S.; excluding a specified number
 9 of beds from a time limit imposed on extension
 10 of authorization for continuing care
 11 residential community providers to use
 12 sheltered beds for nonresidents; requiring a
 13 facility to report such use after the
 14 expiration of the extension; repealing s.
 15 400.464(3), F.S., relating to home health
 16 agency licenses provided to certificate-of-need
 17 exempt entities; providing applicability;
 18 providing an appropriation for continued review
 19 of clinical laboratory services for kidney
 20 dialysis patients and requiring a report
 21 thereon; amending s. 455.564, F.S.; revising
 22 general licensing provisions for professions
 23 under the jurisdiction of the Department of
 24 Health; providing for processing of
 25 applications from foreign or nonresident
 26 applicants not yet having a social security
 27 number; providing for temporary licensure of
 28 such applicants; revising provisions relating
 29 to ongoing criminal investigations or
 30 prosecutions; requiring proof of restoration of
 31 civil rights under certain circumstances;

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

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

1 delinquency as a licensure status; providing
 2 rulemaking authority; amending ss. 455.587 and
 3 455.714, F.S.; revising references, to conform;
 4 creating s. 455.719, F.S.; providing that the
 5 appropriate medical regulatory board, or the
 6 department when there is no board, has
 7 exclusive authority to grant exemptions from
 8 disqualification from employment or contracting
 9 with respect to persons under the licensing
 10 jurisdiction of that board or the department,
 11 as applicable; amending s. 455.637, F.S.;
 12 revising provisions relating to sanctions
 13 against the unlicensed practice of a health
 14 care profession; providing legislative intent;
 15 revising and expanding provisions relating to
 16 civil and administrative remedies; providing
 17 criminal penalties; incorporating and modifying
 18 the substance of current provisions that impose
 19 a fee to combat unlicensed activity and provide
 20 for disposition of the proceeds thereof;
 21 providing statutory construction relating to
 22 dietary supplements; reenacting ss. 458.327,
 23 459.013, 460.411, 461.012, 462.17, 463.015,
 24 464.016, 465.015, 466.026, 467.201, 468.366,
 25 483.828, 483.901, 484.053, F.S.; providing
 26 penalties; creating s. 458.3135, F.S.;
 27 providing for temporary certification for
 28 visiting physicians to practice in approved
 29 cancer centers; providing certification
 30 requirements; providing fees; providing for
 31 approval of cancer centers and annual review of

1 such approval; providing practice limitations
 2 and conditions; limiting the number of
 3 certificates that may be issued; providing
 4 rulemaking authority; amending s. 458.3145,
 5 F.S.; adding medical schools to list of
 6 programs at which medical faculty
 7 certificateholders may practice; amending s.
 8 458.315, F.S.; waiving application and
 9 licensure fees for physicians obtaining a
 10 temporary certificate to practice in areas of
 11 critical need when such practice is limited to
 12 volunteer, uncompensated care for low-income
 13 persons; amending ss. 458.345 and 459.021,
 14 F.S.; providing for registration of persons
 15 desiring to practice as a resident physician,
 16 assistant resident physician, house physician,
 17 intern, or fellow in fellowship training in a
 18 statutory teaching hospital; providing
 19 requirements; providing fees; providing
 20 penalties; providing rulemaking authority;
 21 amending s. 458.348, F.S.; requiring protocols
 22 to contain specified requirements; amending s.
 23 458.347, F.S.; providing authority to the
 24 Council on Physician Assistants to refuse to
 25 certify an applicant for licensure or place
 26 restrictions or conditions on license; amending
 27 s. 459.022, F.S.; providing authority to the
 28 Council on Physician Assistants to refuse to
 29 certify an applicant for licensure or place
 30 restrictions or conditions on license;
 31 providing applicability; repealing s. 455.641,

1 F.S., relating to unlicensed activity fees, to
2 conform; reenacting ss. 455.574(1)(d),
3 468.1295(1), 484.014(1), and 484.056(1), F.S.,
4 relating to violation of security provisions
5 for examinations and violations involving
6 speech-language pathology, audiology,
7 opticianry, and the dispensing of hearing aids,
8 to incorporate the amendment to s. 455.637,
9 F.S., in references thereto; amending s.
10 921.0022, F.S.; modifying the criminal offense
11 severity ranking chart to add or increase the
12 level of various offenses relating to the
13 practice of a health care profession, the
14 practice of medicine, osteopathic medicine,
15 chiropractic medicine, podiatric medicine,
16 naturopathy, optometry, nursing, pharmacy,
17 dentistry, dental hygiene, midwifery,
18 respiratory therapy, and medical physics,
19 practicing as clinical laboratory personnel,
20 and the dispensing of hearing aids; amending s.
21 457.102, F.S.; revising the definition of
22 "acupuncture"; amending s. 457.105, F.S.;
23 revising licensure qualifications to practice
24 acupuncture; amending s. 457.107, F.S.;
25 modifying the fee for renewal of a license to
26 practice acupuncture; amending s. 483.824,
27 F.S.; revising qualifications of clinical
28 laboratory directors; designating Florida
29 Alzheimer's Disease Day; amending s. 641.51,
30 F.S.; providing for referral to ophthalmologist
31 under certain circumstances; providing that the

1 act not be construed to prohibit certain uses
2 of the Internet; providing that certain funds
3 appropriated to conduct a review of current
4 mandated health coverages revert to the fund
5 from which appropriated and that the review may
6 not be conducted; abrogating certain exemptions
7 from s. 408.036(1), F.S., which are enacted in
8 the 2000 Regular Session; amending s. 627.6699,
9 F.S.; modifying definitions; requiring small
10 employer carriers to begin to offer and issue
11 all small employer benefit plans on a specified
12 date; deleting the requirement that basic and
13 standard small employer health benefit plans be
14 issued; providing additional requirements for
15 determining premium rates for benefit plans;
16 providing for applicability of the act to plans
17 provided by small employer carriers that are
18 insurers or health maintenance organizations
19 notwithstanding the provisions of certain other
20 specified statutes under specified conditions;
21 amending s. 641.201, F.S.; clarifying
22 applicability of the Florida Insurance Code to
23 health maintenance organizations; amending s.
24 641.234, F.S.; providing conditions under which
25 the Department of Insurance may order a health
26 maintenance organization to cancel a contract;
27 amending s. 641.27, F.S.; providing for payment
28 by a health maintenance organization of fees to
29 outside examiners appointed by the Department
30 of Insurance; creating s. 641.226, F.S. ;
31 providing for application of federal solvency

1 requirements to provider-sponsored
 2 organizations; creating s. 641.39, F.S.;
 3 prohibiting the solicitation or acceptance of
 4 contracts by insolvent or impaired health
 5 maintenance organizations; providing a criminal
 6 penalty; creating s. 641.2011, F.S.; providing
 7 that part IV of chapter 628, F.S., applies to
 8 health maintenance organizations; making an
 9 appropriation for the purpose of reviewing
 10 proposed mandated health coverages; amending s.
 11 212.055, F.S.; expanding the authorized use of
 12 the indigent care surtax to include trauma
 13 centers; renaming the surtax; requiring the
 14 plan set out in the ordinance to include
 15 additional provisions concerning Level I trauma
 16 centers; providing requirements for annual
 17 disbursements to hospitals on October 1 to be
 18 in recognition of the Level I trauma center
 19 status and to be in addition to a base contract
 20 amount, plus any negotiated additions to
 21 indigent care funding; authorizing funds
 22 received to be used to generate federal
 23 matching funds under certain conditions and
 24 authorizing payment by the clerk of the court;
 25 amending part XV of chapter 468, F.S., relating
 26 to certified nursing assistants, and
 27 transferring that part to chapter 464, F.S.,
 28 relating to nursing, to transfer from the
 29 Department of Health to the Board of Nursing
 30 responsibility and rulemaking authority for
 31 regulation of certified nursing assistants;

1 changing requirements for nursing assistants;
 2 transferring from the Department of Education
 3 to the board responsibility for approval of
 4 training programs; revising grounds for which
 5 the board may impose certain penalties;
 6 creating s. 464.2085, F.S.; creating and
 7 providing requirements for a Council on
 8 Certified Nursing Assistants; amending ss.
 9 20.43, 39.01, 39.304, 110.131, 232.46,
 10 240.4075, 246.081, 310.102, 381.0302, 384.30,
 11 384.31, 394.455, 395.0191, 400.021, 400.211,
 12 400.402, 400.407, 400.4255, 400.426, 400.462,
 13 400.464, 400.506, 400.6105, 401.23, 401.252,
 14 408.706, 409.908, 415.1085, 455.597, 455.604,
 15 455.667, 455.677, 455.694, 455.707, 458.348,
 16 464.001, 464.002, 464.003, 464.006, 464.009,
 17 464.016, 464.018, 464.019, 464.022, 464.023,
 18 464.027, 466.003, 467.003, 467.0125, 467.203,
 19 468.505, 483.041, 483.801, 491.0112, 550.24055,
 20 627.351, 627.357, 627.9404, 641.31, 766.101,
 21 766.110, 766.1115, 877.111, 945.602, 960.28,
 22 984.03, 985.03, F.S.; conforming references;
 23 revising application procedures for certified
 24 nursing assistants; revising registration
 25 requirements for certified nursing assistants;
 26 amending ss. 400.215, 400.512, F.S.; revising
 27 provisions relating to the granting of
 28 exemptions from disqualification for employment
 29 in nursing homes or home health agencies;
 30 amending s. 400.23, F.S.; authorizing licensed
 31 practical nurses in nursing home facilities to

1 supervise the activities of other licensed
 2 practical nurses, certified nursing assistants,
 3 and other unlicensed personnel working in such
 4 facilities in accordance with rules adopted by
 5 the Board of Nursing; amending s. 455.557,
 6 F.S.; including advanced registered nurse
 7 practitioners under the credentialing program;
 8 creating s. 455.56503, F.S.; requiring advanced
 9 registered nurse practitioners to submit
 10 information and fingerprints for profiling
 11 purposes; amending s. 455.5651, F.S.;
 12 authorizing the department to publish certain
 13 information in practitioner profiles; amending
 14 s. 455.5653, F.S.; deleting obsolete provisions
 15 relating to scheduling and development of
 16 practitioner profiles for additional health
 17 care practitioners; providing access to
 18 information on advanced registered nurse
 19 practitioners maintained by the Agency for
 20 Health Care Administration for corroboration
 21 purposes; amending s. 455.5654, F.S.; providing
 22 for adoption by rule of a form for submission
 23 of profiling information; repealing s.
 24 400.462(20), F.S., to delete the definition of
 25 "screening" under the Home Health Services Act;
 26 amending s. 400.471, F.S.; providing for an
 27 abuse registry background check through the
 28 Agency for Health Care Administration; amending
 29 s. 400.484, F.S.; providing for assessment of
 30 certain costs of an investigation that results
 31 in a successful prosecution; amending s.

1 400.487, F.S.; requiring home health service
2 agreements; revising requirements for
3 physician's treatment orders; providing for
4 supervisory visits by a registered nurse under
5 certain circumstances; deleting provisions
6 relating to service provision plans; amending
7 s. 400.497, F.S.; providing for a home health
8 aide competency test, criteria for the
9 frequency of onsite licensure surveys, and
10 information to be included in patients'
11 records; amending s. 400.506, F.S.; providing
12 for an abuse registry background check through
13 the Agency for Health Care Administration;
14 authorizing assessment of certain costs of an
15 investigation that results in a successful
16 prosecution; revising a cross reference; making
17 renewal of license contingent on payment or
18 arrangement for payment of any unpaid
19 assessment; amending s. 400.509, F.S.;
20 providing for an abuse registry background
21 check through the Agency for Health Care
22 Administration; authorizing assessment of
23 certain costs of an investigation that results
24 in a successful prosecution; making renewal of
25 registration contingent on payment or
26 arrangement for payment of any unpaid
27 assessment; amending s. 400.512, F.S.; revising
28 provisions relating to the screening of home
29 health agency, nurse registry, and companion
30 and homemaker service personnel; requiring the
31 Agency for Health Care Administration to

1 conduct the search for reports of confirmed
2 abuse; providing an exemption from liability
3 under certain conditions for providing opinions
4 on the job performance of former employees and
5 contract workers; providing conforming changes;
6 amending s. 455.587, F.S.; providing
7 requirements for funding regulation of
8 professions by the Department of Health;
9 providing an appropriation; amending s.
10 766.106, F.S.; providing that following the
11 initiation of a suit alleging medical
12 malpractice the claimant must provide notice to
13 the Department of Health along with a copy of
14 the service of process; requiring the Agency
15 for Health Care Administration to conduct a
16 study regarding implementation of the federal
17 "Ticket to Work and Work Incentives Act of
18 1999" in the state and report to the
19 Legislature; amending s. 240.241, F.S.;
20 providing for retention of sponsored-research
21 overhead; authorizing the Agency for Health
22 Care Administration to offer specialty prepaid
23 health plans to Medicaid recipients with HIV or
24 AIDS; providing conditions; requiring a report
25 to the Legislature; providing effective dates.

26
27 Be It Enacted by the Legislature of the State of Florida:

28
29 Section 1. Subsections (1) and (2) of section 400.408,
30 Florida Statutes, are amended to read:

31

1 400.408 Unlicensed facilities; referral of person for
2 residency to unlicensed facility; penalties; verification of
3 licensure status.--

4 (1)(a) It is unlawful to own, operate, or maintain an
5 assisted living facility without obtaining a license under
6 this part.

7 (b) Except as provided under paragraph (d), any person
8 who owns, operates, or maintains an unlicensed assisted living
9 facility commits a felony of the third degree, punishable as
10 provided in s. 775.082, s. 775.083, or s. 775.084. Each day of
11 continued operation is a separate offense.

12 (c) Any person found guilty of violating paragraph (a)
13 a second or subsequent time commits a felony of the second
14 degree, punishable as provided under s. 775.082, s. 775.083,
15 or s. 775.084. Each day of continued operation is a separate
16 offense.

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

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

29 (f) When a licensee has an interest in more than one
30 assisted living facility, and fails to license any one of
31 these facilities, the agency may revoke the license, impose a

1 moratorium, or impose a fine pursuant to s. 400.419, on any or
2 all of the licensed facilities until such time as the
3 unlicensed facility is licensed or ceases operation.

4 (g) If the agency determines that an owner is
5 operating or maintaining an assisted living facility without
6 obtaining a license and determines that a condition exists in
7 the facility that poses a threat to the health, safety, or
8 welfare of a resident of the facility, the owner is subject to
9 the same actions and fines imposed against a licensed facility
10 as specified in ss. 400.414 and 400.419.

11 (h) Any person aware of the operation of an unlicensed
12 assisted living facility must report that facility to the
13 agency. The agency shall provide to the department's elder
14 information and referral providers a list, by county, of
15 licensed assisted living facilities, to assist persons who are
16 considering an assisted living facility placement in locating
17 a licensed facility.

18 (i) Each field office of the Agency for Health Care
19 Administration shall establish a local coordinating workgroup
20 which includes representatives of local law enforcement
21 agencies, state attorneys, local fire authorities, the
22 Department of Children and Family Services, the district
23 long-term care ombudsman council, and the district human
24 rights advocacy committee to assist in identifying the
25 operation of unlicensed facilities and to develop and
26 implement a plan to ensure effective enforcement of state laws
27 relating to such facilities. The workgroup shall report its
28 findings, actions, and recommendations semi-annually to the
29 Director of Health Facility Regulation of the agency.

30 (2) It is unlawful to knowingly refer a person for
31 residency to an unlicensed assisted living facility; to an

1 assisted living facility the license of which is under denial
 2 or has been suspended or revoked; or to an assisted living
 3 facility that has a moratorium on admissions. Any person who
 4 violates this subsection commits a noncriminal violation,
 5 punishable by a fine not exceeding \$500 as provided in s.
 6 775.083.

7 (a) Any health care practitioner, as defined in s.
 8 455.501, which is aware of the operation of an unlicensed
 9 facility shall report that facility to the agency. Failure to
 10 report a facility that the practitioner knows or has
 11 reasonable cause to suspect is unlicensed shall be reported to
 12 the practitioner's licensing board.

13 (b) Any hospital or community mental health center
 14 licensed under chapter 395 or chapter 394 which knowingly
 15 discharges a patient or client to an unlicensed facility is
 16 subject to sanction by the agency.

17 (c)~~(a)~~ Any employee of the agency or department, or
 18 the Department of Children and Family Services, who knowingly
 19 refers a person for residency to an unlicensed facility; to a
 20 facility the license of which is under denial or has been
 21 suspended or revoked; or to a facility that has a moratorium
 22 on admissions is subject to disciplinary action by the agency
 23 or department, or the Department of Children and Family
 24 Services.

25 (d)~~(b)~~ The employer of any person who is under
 26 contract with the agency or department, or the Department of
 27 Children and Family Services, and who knowingly refers a
 28 person for residency to an unlicensed facility; to a facility
 29 the license of which is under denial or has been suspended or
 30 revoked; or to a facility that has a moratorium on admissions
 31

1 shall be fined and required to prepare a corrective action
2 plan designed to prevent such referrals.

3 (e)~~(c)~~ The agency shall provide the department and the
4 Department of Children and Family Services with a list of
5 licensed facilities within each county and shall update the
6 list at least quarterly.

7 (f)~~(d)~~ At least annually, the agency shall notify, in
8 appropriate trade publications, physicians licensed under
9 chapter 458 or chapter 459, hospitals licensed under chapter
10 395, nursing home facilities licensed under part II of this
11 chapter, and employees of the agency or the department, or the
12 Department of Children and Family Services, who are
13 responsible for referring persons for residency, that it is
14 unlawful to knowingly refer a person for residency to an
15 unlicensed assisted living facility and shall notify them of
16 the penalty for violating such prohibition. The department and
17 the Department of Children and Family Services shall, in turn,
18 notify service providers under contract to the respective
19 departments who have responsibility for resident referrals to
20 facilities. Further, the notice must direct each noticed
21 facility and individual to contact the appropriate agency
22 office in order to verify the licensure status of any facility
23 prior to referring any person for residency. Each notice must
24 include the name, telephone number, and mailing address of the
25 appropriate office to contact.

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

28 415.1034 Mandatory reporting of abuse, neglect, or
29 exploitation of disabled adults or elderly persons; mandatory
30 reports of death.--

31 (1) MANDATORY REPORTING.--

- 1 (a) Any person, including, but not limited to, any:
2 1. Physician, osteopathic physician, medical examiner,
3 chiropractic physician, nurse, paramedic, emergency medical
4 technician, or hospital personnel engaged in the admission,
5 examination, care, or treatment of disabled adults or elderly
6 persons;
7 2. Health professional or mental health professional
8 other than one listed in subparagraph 1.;
9 3. Practitioner who relies solely on spiritual means
10 for healing;
11 4. Nursing home staff; assisted living facility staff;
12 adult day care center staff; adult family-care home staff;
13 social worker; or other professional adult care, residential,
14 or institutional staff;
15 5. State, county, or municipal criminal justice
16 employee or law enforcement officer;
17 6. An employee of the Department of Business and
18 Professional Regulation conducting inspections of public
19 lodging establishments under s. 509.032;
20 ~~7.6.~~ Human rights advocacy committee or long-term care
21 ombudsman council member; or
22 ~~8.7.~~ Bank, savings and loan, or credit union officer,
23 trustee, or employee,
24
25 who knows, or has reasonable cause to suspect, that a disabled
26 adult or an elderly person has been or is being abused,
27 neglected, or exploited shall immediately report such
28 knowledge or suspicion to the central abuse registry and
29 tracking system on the single statewide toll-free telephone
30 number.
31

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

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

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

9 3. Name, address, and telephone number of each alleged
10 perpetrator.

11 4. Name, address, and telephone number of the
12 caregiver of the disabled adult or elderly person, if
13 different from the alleged perpetrator.

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

16 6. Description of the physical or psychological
17 injuries sustained.

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

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

23 Section 3. Subsections (2) and (11) of section
24 400.471, Florida Statutes, are amended to read:

25 400.471 Application for license; fee; provisional
26 license; temporary permit.--

27 (2) The applicant must file with the application
28 satisfactory proof that the home health agency is in
29 compliance with this part and applicable rules, including:
30
31

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

4 (b) The number and discipline of professional staff to
5 be employed; and

6 (c) Proof of financial ability to operate.
7

8 ~~If the applicant has applied for a certificate of need under~~
9 ~~ss. 408.0331-408.045 within the preceding 12 months, the~~
10 ~~applicant may submit the proof required during the~~
11 ~~certificate-of-need process along with an attestation that~~
12 ~~there has been no substantial change in the facts and~~
13 ~~circumstances underlying the original submission.~~

14 (11) The agency may not issue a license designated as
15 certified to a home health agency that fails to ~~receive a~~
16 ~~certificate of need under ss. 408.031-408.045 or that fails to~~
17 satisfy the requirements of a Medicare certification survey
18 from the agency.

19 Section 4. Section 408.032, Florida Statutes, is
20 amended to read:

21 408.032 Definitions.--As used in ss. 408.031-408.045,
22 the term:

23 (1) "Agency" means the Agency for Health Care
24 Administration.

25 (2) "Capital expenditure" means an expenditure,
26 including an expenditure for a construction project undertaken
27 by a health care facility as its own contractor, which, under
28 generally accepted accounting principles, is not properly
29 chargeable as an expense of operation and maintenance, which
30 is made to change the bed capacity of the facility, or
31 substantially change the services or service area of the

1 health care facility, health service provider, or hospice, and
2 which includes the cost of the studies, surveys, designs,
3 plans, working drawings, specifications, initial financing
4 costs, and other activities essential to acquisition,
5 improvement, expansion, or replacement of the plant and
6 equipment.

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

11 (4) "Commenced construction" means initiation of and
12 continuous activities beyond site preparation associated with
13 erecting or modifying a health care facility, including
14 procurement of a building permit applying the use of
15 agency-approved construction documents, proof of an executed
16 owner/contractor agreement or an irrevocable or binding forced
17 account, and actual undertaking of foundation forming with
18 steel installation and concrete placing.

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

21 District 1.--Escambia, Santa Rosa, Okaloosa, and Walton
22 Counties.

23 District 2.--Holmes, Washington, Bay, Jackson,
24 Franklin, Gulf, Gadsden, Liberty, Calhoun, Leon, Wakulla,
25 Jefferson, Madison, and Taylor Counties.

26 District 3.--Hamilton, Suwannee, Lafayette, Dixie,
27 Columbia, Gilchrist, Levy, Union, Bradford, Putnam, Alachua,
28 Marion, Citrus, Hernando, Sumter, and Lake Counties.

29 District 4.--Baker, Nassau, Duval, Clay, St. Johns,
30 Flagler, and Volusia Counties.

31 District 5.--Pasco and Pinellas Counties.

1 District 6.--Hillsborough, Manatee, Polk, Hardee, and
2 Highlands Counties.

3 District 7.--Seminole, Orange, Osceola, and Brevard
4 Counties.

5 District 8.--Sarasota, DeSoto, Charlotte, Lee, Glades,
6 Hendry, and Collier Counties.

7 District 9.--Indian River, Okeechobee, St. Lucie,
8 Martin, and Palm Beach Counties.

9 District 10.--Broward County.

10 District 11.--Dade and Monroe Counties.

11 (6) "Exemption" means the process by which a proposal
12 that would otherwise require a certificate of need may proceed
13 without a certificate of need.

14 (7)~~(6)~~ "Expedited review" means the process by which
15 certain types of applications are not subject to the review
16 cycle requirements contained in s. 408.039(1), and the letter
17 of intent requirements contained in s. 408.039(2).

18 (8)~~(7)~~ "Health care facility" means a hospital,
19 long-term care hospital, skilled nursing facility, hospice,
20 ~~intermediate care facility,~~ or intermediate care facility for
21 the developmentally disabled. A facility relying solely on
22 spiritual means through prayer for healing is not included as
23 a health care facility.

24 (9)~~(8)~~ "Health services" means diagnostic, curative,
25 or rehabilitative services and includes ~~alcohol treatment,~~
26 ~~drug abuse treatment,~~ and mental health services. Obstetric
27 services are not health services for purposes of ss.
28 408.031-408.045.

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

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

3 (11) "Hospital" means a health care facility licensed
4 under chapter 395.

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

10 ~~(13) "Intermediate care facility" means an institution
11 which provides, on a regular basis, health-related care and
12 services to individuals who do not require the degree of care
13 and treatment which a hospital or skilled nursing facility is
14 designed to provide, but who, because of their mental or
15 physical condition, require health-related care and services
16 above the level of room and board.~~

17 (12)~~(14)~~ "Intermediate care facility for the
18 developmentally disabled" means a residential facility
19 licensed under chapter 393 and certified by the Federal
20 Government pursuant to the Social Security Act as a provider
21 of Medicaid services to persons who are mentally retarded or
22 who have a related condition.

23 (13)~~(15)~~ "Long-term care hospital" means a hospital
24 licensed under chapter 395 which meets the requirements of 42
25 C.F.R. s. 412.23(e) and seeks exclusion from the Medicare
26 prospective payment system for inpatient hospital services.

27 (14) "Mental health services" means inpatient services
28 provided in a hospital licensed under chapter 395 and listed
29 on the hospital license as psychiatric beds for adults;
30 psychiatric beds for children and adolescents; intensive
31 residential treatment beds for children and adolescents;

1 substance abuse beds for adults; or substance abuse beds for
2 children and adolescents.

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

7 ~~(a) The aggregate total number of independent living~~
8 ~~units and assisted living facility units exceeds the number of~~
9 ~~nursing home beds.~~

10 ~~(b) The developer of the project has expended the sum~~
11 ~~of \$500,000 or more on the certificated and noncertificated~~
12 ~~elements of the project combined, exclusive of land costs, by~~
13 ~~the conclusion of the 18th month of the life of the~~
14 ~~certificate of need.~~

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

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

21 (15)(17) "Nursing home geographically underserved
22 area" means:

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

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

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

31

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

6 (16)~~(19)~~ "Skilled nursing facility" means an
7 institution, or a distinct part of an institution, which is
8 primarily engaged in providing, to inpatients, skilled nursing
9 care and related services for patients who require medical or
10 nursing care, or rehabilitation services for the
11 rehabilitation of injured, disabled, or sick persons.

12 (17)~~(20)~~ "Tertiary health service" means a health
13 service which, due to its high level of intensity, complexity,
14 specialized or limited applicability, and cost, should be
15 limited to, and concentrated in, a limited number of hospitals
16 to ensure the quality, availability, and cost-effectiveness of
17 such service. Examples of such service include, but are not
18 limited to, organ transplantation, specialty burn units,
19 neonatal intensive care units, comprehensive rehabilitation,
20 and medical or surgical services which are experimental or
21 developmental in nature to the extent that the provision of
22 such services is not yet contemplated within the commonly
23 accepted course of diagnosis or treatment for the condition
24 addressed by a given service. The agency shall establish by
25 rule a list of all tertiary health services.

26 (18)~~(21)~~ "Regional area" means any of those regional
27 health planning areas established by the agency to which local
28 and district health planning funds are directed to local
29 health councils through the General Appropriations Act.
30
31

1 Section 5. Paragraph (b) of subsection (1) and
2 paragraph (a) of subsection (3) of section 408.033, Florida
3 Statutes, are amended to read:

4 408.033 Local and state health planning.--

5 (1) LOCAL HEALTH COUNCILS.--

6 (b) Each local health council may:

7 1. Develop a district or regional area health plan
8 that permits ~~is consistent with the objectives and strategies~~
9 ~~in the state health plan, but that shall permit~~ each local
10 health council to develop strategies and set priorities for
11 implementation based on its unique local health needs. The
12 district or regional area health plan must contain preferences
13 for the development of health services and facilities, which
14 may be considered by the agency in its review of
15 certificate-of-need applications. The district health plan
16 shall be submitted to the agency and updated periodically. The
17 district health plans shall use a uniform format and be
18 submitted to the agency according to a schedule developed by
19 the agency in conjunction with the local health councils. The
20 schedule must provide for ~~coordination between the development~~
21 ~~of the state health plan and the district health plans and for~~
22 the development of district health plans by major sections
23 over a multiyear period. The elements of a district plan
24 which are necessary to the review of certificate-of-need
25 applications for proposed projects within the district may be
26 adopted by the agency as a part of its rules.

27 2. Advise the agency on health care issues and
28 resource allocations.

29 3. Promote public awareness of community health needs,
30 emphasizing health promotion and cost-effective health service
31 selection.

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

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

9 6. Advise and assist any regional planning councils
10 within each district that have elected to address health
11 issues in their strategic regional policy plans with the
12 development of the health element of the plans to address the
13 health goals and policies in the State Comprehensive Plan.

14 7. Advise and assist local governments within each
15 district on the development of an optional health plan element
16 of the comprehensive plan provided in chapter 163, to assure
17 compatibility with the health goals and policies in the State
18 Comprehensive Plan and district health plan. To facilitate
19 the implementation of this section, the local health council
20 shall annually provide the local governments in its service
21 area, upon request, with:

22 a. A copy and appropriate updates of the district
23 health plan;

24 b. A report of hospital and nursing home utilization
25 statistics for facilities within the local government
26 jurisdiction; and

27 c. Applicable agency rules and calculated need
28 methodologies for health facilities and services regulated
29 under s. 408.034 for the district served by the local health
30 council.

31

1 8. Monitor and evaluate the adequacy, appropriateness,
2 and effectiveness, within the district, of local, state,
3 federal, and private funds distributed to meet the needs of
4 the medically indigent and other underserved population
5 groups.

6 9. In conjunction with the Agency for Health Care
7 Administration, plan for services at the local level for
8 persons infected with the human immunodeficiency virus.

9 10. Provide technical assistance to encourage and
10 support activities by providers, purchasers, consumers, and
11 local, regional, and state agencies in meeting the health care
12 goals, objectives, and policies adopted by the local health
13 council.

14 11. Provide the agency with data required by rule for
15 the review of certificate-of-need applications and the
16 projection of need for health services and facilities in the
17 district.

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

19 (a) The agency, in conjunction with the local health
20 councils, is responsible for the coordinated planning of ~~all~~
21 health care services in the state ~~and for the preparation of~~
22 ~~the state health plan.~~

23 Section 6. Subsection (2) of section 408.034, Florida
24 Statutes, is amended to read:

25 408.034 Duties and responsibilities of agency;
26 rules.--

27 (2) In the exercise of its authority to issue licenses
28 to health care facilities and health service providers, as
29 provided under chapters 393, 395, and parts II, ~~IV~~, and VI of
30 chapter 400, the agency may not issue a license to any health
31 care facility, health service provider, hospice, or part of a

1 health care facility which fails to receive a certificate of
2 need or an exemption for the licensed facility or service.

3 Section 7. Section 408.035, Florida Statutes, is
4 amended to read:

5 408.035 Review criteria.--

6 ~~(1)~~ The agency shall determine the reviewability of
7 applications and shall review applications for
8 certificate-of-need determinations for health care facilities
9 and health services in context with the following criteria:

10 (1)~~(a)~~ The need for the health care facilities and
11 health services being proposed in relation to the applicable
12 district health plan, ~~except in emergency circumstances that~~
13 ~~pose a threat to the public health.~~

14 (2)~~(b)~~ The availability, quality of care, efficiency,
15 ~~appropriateness,~~accessibility, and extent of utilization of,
16 ~~and adequacy of like~~ and existing health care facilities and
17 health services in the service district of the applicant.

18 (3)~~(c)~~ The ability of the applicant to provide quality
19 of care and the applicant's record of providing quality of
20 care.

21 ~~(d) The availability and adequacy of other health care~~
22 ~~facilities and health services in the service district of the~~
23 ~~applicant, such as outpatient care and ambulatory or home care~~
24 ~~services, which may serve as alternatives for the health care~~
25 ~~facilities and health services to be provided by the~~
26 ~~applicant.~~

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

30 (4)~~(f)~~ The need in the service district of the
31 applicant for special health care ~~equipment and~~ services that

1 are not reasonably and economically accessible in adjoining
2 areas.

3 (5)~~(g)~~ The needs of need for research and educational
4 facilities, including, but not limited to, facilities with
5 institutional training programs and community training
6 programs for health care practitioners and for doctors of
7 osteopathic medicine and medicine at the student, internship,
8 and residency training levels.

9 (6)~~(h)~~ The availability of resources, including health
10 personnel, management personnel, and funds for capital and
11 operating expenditures, for project accomplishment and
12 operation; ~~the effects the project will have on clinical~~
13 ~~needs of health professional training programs in the service~~
14 ~~district; the extent to which the services will be accessible~~
15 ~~to schools for health professions in the service district for~~
16 ~~training purposes if such services are available in a limited~~
17 ~~number of facilities; the availability of alternative uses of~~
18 ~~such resources for the provision of other health services; and~~

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

22 (8)~~(i)~~ The immediate and long-term financial
23 feasibility of the proposal.

24 ~~(j) The special needs and circumstances of health~~
25 ~~maintenance organizations.~~

26 ~~(k) The needs and circumstances of those entities that~~
27 ~~provide a substantial portion of their services or resources,~~
28 ~~or both, to individuals not residing in the service district~~
29 ~~in which the entities are located or in adjacent service~~
30 ~~districts. Such entities may include medical and other health~~
31 ~~professions, schools, multidisciplinary clinics, and specialty~~

1 ~~services such as open-heart surgery, radiation therapy, and~~
2 ~~renal transplantation.~~

3 (9)(l) The extent to which the proposal will foster
4 competition that promotes quality and cost-effectiveness. ~~The~~
5 ~~probable impact of the proposed project on the costs of~~
6 ~~providing health services proposed by the applicant, upon~~
7 ~~consideration of factors including, but not limited to, the~~
8 ~~effects of competition on the supply of health services being~~
9 ~~proposed and the improvements or innovations in the financing~~
10 ~~and delivery of health services which foster competition and~~
11 ~~service to promote quality assurance and cost-effectiveness.~~

12 (10)(m) The costs and methods of the proposed
13 construction, including the costs and methods of energy
14 provision and the availability of alternative, less costly, or
15 more effective methods of construction.

16 (11)(n) The applicant's past and proposed provision of
17 health care services to Medicaid patients and the medically
18 indigent.

19 ~~(o) The applicant's past and proposed provision of~~
20 ~~services that promote a continuum of care in a multilevel~~
21 ~~health care system, which may include, but are not limited to,~~
22 ~~acute care, skilled nursing care, home health care, and~~
23 ~~assisted living facilities.~~

24 (12)(p) The applicant's designation as a Gold Seal
25 Program nursing facility pursuant to s. 400.235, when the
26 applicant is requesting additional nursing home beds at that
27 facility.

28 ~~(2) In cases of capital expenditure proposals for the~~
29 ~~provision of new health services to inpatients, the agency~~
30 ~~shall also reference each of the following in its findings of~~
31 ~~fact:~~

1 ~~(a) That less costly, more efficient, or more~~
2 ~~appropriate alternatives to such inpatient services are not~~
3 ~~available and the development of such alternatives has been~~
4 ~~studied and found not practicable.~~

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

8 ~~(c) In the case of new construction or replacement~~
9 ~~construction, that alternatives to the construction, for~~
10 ~~example, modernization or sharing arrangements, have been~~
11 ~~considered and have been implemented to the maximum extent~~
12 ~~practicable.~~

13 ~~(d) That patients will experience serious problems in~~
14 ~~obtaining inpatient care of the type proposed, in the absence~~
15 ~~of the proposed new service.~~

16 ~~(e) In the case of a proposal for the addition of beds~~
17 ~~for the provision of skilled nursing or intermediate care~~
18 ~~services, that the addition will be consistent with the plans~~
19 ~~of other agencies of the state responsible for the provision~~
20 ~~and financing of long-term care, including home health~~
21 ~~services.~~

22 Section 8. Section 408.036, Florida Statutes, is
23 amended to read:

24 408.036 Projects subject to review.--

25 (1) APPLICABILITY.--Unless exempt under subsection
26 (3), all health-care-related projects, as described in
27 paragraphs (a)-(h)~~(k)~~, are subject to review and must file an
28 application for a certificate of need with the agency. The
29 agency is exclusively responsible for determining whether a
30 health-care-related project is subject to review under ss.
31 408.031-408.045.

1 (a) The addition of beds by new construction or
2 alteration.

3 (b) The new construction or establishment of
4 additional health care facilities, including a replacement
5 health care facility when the proposed project site is not
6 located on the same site as the existing health care facility.

7 (c) The conversion from one type of health care
8 facility to another, ~~including the conversion from one level~~
9 ~~of care to another, in a skilled or intermediate nursing~~
10 ~~facility, if the conversion effects a change in the level of~~
11 ~~care of 10 beds or 10 percent of total bed capacity of the~~
12 ~~skilled or intermediate nursing facility within a 2-year~~
13 ~~period. If the nursing facility is certified for both skilled~~
14 ~~and intermediate nursing care, the provisions of this~~
15 ~~paragraph do not apply.~~

16 (d) An Any increase in the total licensed bed capacity
17 of a health care facility.

18 (e) ~~Subject to the provisions of paragraph (3)(i), The~~
19 ~~establishment of a Medicare-certified home health agency, the~~
20 ~~establishment of a hospice or hospice inpatient facility,~~
21 ~~except as provided in s. 408.043 or the direct provision of~~
22 ~~such services by a health care facility or health maintenance~~
23 ~~organization for those other than the subscribers of the~~
24 ~~health maintenance organization; except that this paragraph~~
25 ~~does not apply to the establishment of a Medicare-certified~~
26 ~~home health agency by a facility described in paragraph~~
27 ~~(3)(h).~~

28 (f) ~~An acquisition by or on behalf of a health care~~
29 ~~facility or health maintenance organization, by any means,~~
30 ~~which acquisition would have required review if the~~
31 ~~acquisition had been by purchase.~~

1 ~~(f)~~(g) The establishment of inpatient ~~institutional~~
2 health services by a health care facility, or a substantial
3 change in such services.

4 ~~(h)~~ The acquisition by any means of an existing health
5 care facility by any person, unless the person provides the
6 agency with at least 30 days' written notice of the proposed
7 acquisition, which notice is to include the services to be
8 offered and the bed capacity of the facility, and unless the
9 agency does not determine, within 30 days after receipt of
10 such notice, that the services to be provided and the bed
11 capacity of the facility will be changed.

12 ~~(i)~~ An increase in the cost of a project for which a
13 certificate of need has been issued when the increase in cost
14 exceeds 20 percent of the originally approved cost of the
15 project, except that a cost overrun review is not necessary
16 when the cost overrun is less than \$20,000.

17 ~~(g)~~(j) An increase in the number of beds for acute
18 care, nursing home care beds, specialty burn units, neonatal
19 intensive care units, comprehensive rehabilitation, mental
20 health services, or hospital-based distinct part skilled
21 nursing units, or at a long-term care hospital ~~psychiatric or~~
22 ~~rehabilitation beds.~~

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

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

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

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

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

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

31

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

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

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

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

21 (f) The conversion of mental health services beds
22 licensed under chapter 395 or hospital-based distinct part
23 skilled nursing unit beds to general acute care beds; the
24 conversion of mental health services beds between or among the
25 licensed bed categories defined as beds for mental health
26 services; or the conversion of general acute care beds to beds
27 for mental health services.

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

31

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

5
6 The agency shall develop rules to implement the provisions for
7 expedited review, including time schedule, application content
8 which may be reduced from the full requirements of s.
9 408.037(1), and application processing.

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

14 ~~(a) For the initiation or expansion of obstetric~~
15 ~~services.~~

16 (a)(b) For replacement of any expenditure to replace
17 or renovate any part of a licensed health care facility on the
18 same site, provided that the number of licensed beds in each
19 licensed bed category will not increase and, in the case of a
20 replacement facility, the project site is the same as the
21 facility being replaced.

22 ~~(c) For providing respite care services. An individual~~
23 ~~may be admitted to a respite care program in a hospital~~
24 ~~without regard to inpatient requirements relating to admitting~~
25 ~~order and attendance of a member of a medical staff.~~

26 (b)(d) For hospice services or home health services
27 provided by a rural hospital, as defined in s. 395.602, or for
28 swing beds in a such rural hospital, as defined in s. 395.602,
29 in a number that does not exceed one-half of its licensed
30 beds.

1 (c)~~(e)~~ For the conversion of licensed acute care
2 hospital beds to Medicare and Medicaid certified skilled
3 nursing beds in a rural hospital, as defined in s. 395.602, so
4 long as the conversion of the beds does not involve the
5 construction of new facilities. The total number of skilled
6 nursing beds, including swing beds, may not exceed one-half of
7 the total number of licensed beds in the rural hospital as of
8 July 1, 1993. Certified skilled nursing beds designated under
9 this paragraph, excluding swing beds, shall be included in the
10 community nursing home bed inventory. A rural hospital which
11 subsequently decertifies any acute care beds exempted under
12 this paragraph shall notify the agency of the decertification,
13 and the agency shall adjust the community nursing home bed
14 inventory accordingly.

15 (d)~~(f)~~ For the addition of nursing home beds at a
16 skilled nursing facility that is part of a retirement
17 community that provides a variety of residential settings and
18 supportive services and that has been incorporated and
19 operated in this state for at least 65 years on or before July
20 1, 1994. All nursing home beds must not be available to the
21 public but must be for the exclusive use of the community
22 residents.

23 (e)~~(g)~~ For an increase in the bed capacity of a
24 nursing facility licensed for at least 50 beds as of January
25 1, 1994, under part II of chapter 400 which is not part of a
26 continuing care facility if, after the increase, the total
27 licensed bed capacity of that facility is not more than 60
28 beds and if the facility has been continuously licensed since
29 1950 and has received a superior rating on each of its two
30 most recent licensure surveys.

31

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

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

25 (f)~~(j)~~ For an inmate health care facility built by or
26 for the exclusive use of the Department of Corrections as
27 provided in chapter 945. This exemption expires when such
28 facility is converted to other uses.

29 ~~(k) For an expenditure by or on behalf of a health~~
30 ~~care facility to provide a health service exclusively on an~~
31 ~~outpatient basis.~~

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

3 (h)~~(m)~~ For the delicensure of beds. A request for
4 exemption ~~An application~~ submitted under this paragraph must
5 identify the number, the category of beds ~~classification~~, and
6 the name of the facility in which the beds to be delicensed
7 are located.

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

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

13 a. The applicant must certify it will not provide
14 therapeutic cardiac catheterization pursuant to the grant of
15 the exemption.

16 b. The applicant must certify it will meet and
17 continuously maintain the minimum licensure requirements
18 adopted by the agency governing such programs pursuant to
19 subparagraph 2.

20 c. The applicant must certify it will provide a
21 minimum of 2 percent of its services to charity and Medicaid
22 patients.

23 2. The agency shall adopt licensure requirements by
24 rule which govern the operation of adult inpatient diagnostic
25 cardiac catheterization programs established pursuant to the
26 exemption provided in this paragraph. The rules shall ensure
27 that such programs:

28 a. Perform only adult inpatient diagnostic cardiac
29 catheterization services authorized by the exemption and will
30 not provide therapeutic cardiac catheterization or any other
31 services not authorized by the exemption.

1 b. Maintain sufficient appropriate equipment and
2 health personnel to ensure quality and safety.

3 c. Maintain appropriate times of operation and
4 protocols to ensure availability and appropriate referrals in
5 the event of emergencies.

6 d. Maintain appropriate program volumes to ensure
7 quality and safety.

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

10 3.a. The exemption provided by this paragraph shall
11 not apply unless the agency determines that the program is in
12 compliance with the requirements of subparagraph 1. and that
13 the program will, after beginning operation, continuously
14 comply with the rules adopted pursuant to subparagraph 2. The
15 agency shall monitor such programs to ensure compliance with
16 the requirements of subparagraph 2.

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

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

24 (III) If the exemption for a program expires pursuant
25 to sub-sub-subparagraph (I) or sub-sub-subparagraph (II), the
26 agency shall not grant an exemption pursuant to this paragraph
27 for an adult inpatient diagnostic cardiac catheterization
28 program located at the same hospital until 2 years following
29 the date of the determination by the agency that the program
30 failed to comply with the rules adopted pursuant to
31 subparagraph 2.

1 ~~4. The agency shall not grant any exemption under this~~
2 ~~paragraph until the adoption of the rules required under this~~
3 ~~paragraph, or until March 1, 1998, whichever comes first.~~
4 ~~However, if final rules have not been adopted by March 1,~~
5 ~~1998, the proposed rules governing the exemptions shall be~~
6 ~~used by the agency to grant exemptions under the provisions of~~
7 ~~this paragraph until final rules become effective.~~

8 ~~(j)(o)~~ For ~~any expenditure to provide~~ mobile surgical
9 facilities and related health care services provided under
10 contract with the Department of Corrections or a private
11 correctional facility operating pursuant to chapter 957.

12 ~~(k)(p)~~ For state veterans' nursing homes operated by
13 or on behalf of the Florida Department of Veterans' Affairs in
14 accordance with part II of chapter 296 for which at least 50
15 percent of the construction cost is federally funded and for
16 which the Federal Government pays a per diem rate not to
17 exceed one-half of the cost of the veterans' care in such
18 state nursing homes. These beds shall not be included in the
19 nursing home bed inventory.

20 (l) For combination within one nursing home facility
21 of the beds or services authorized by two or more certificates
22 of need issued in the same planning subdistrict. An exemption
23 granted under this paragraph shall extend the validity period
24 of the certificates of need to be consolidated by the length
25 of the period beginning upon submission of the exemption
26 request and ending with issuance of the exemption. The
27 longest validity period among the certificates shall be
28 applicable to each of the combined certificates.

29 (m) For division into two or more nursing home
30 facilities of beds or services authorized by one certificate
31 of need issued in the same planning subdistrict. An exemption

1 granted under this paragraph shall extend the validity period
2 of the certificate of need to be divided by the length of the
3 period beginning upon submission of the exemption request and
4 ending with issuance of the exemption.

5 (n) For the addition of hospital beds licensed under
6 chapter 395 for acute care, mental health services, or a
7 hospital-based distinct part skilled nursing unit in a number
8 that may not exceed 10 total beds or 10 percent of the
9 licensed capacity of the bed category being expanded,
10 whichever is greater. Beds for specialty burn units, neonatal
11 intensive care units, or comprehensive rehabilitation, or at a
12 long-term care hospital, may not be increased under this
13 paragraph.

14 1. In addition to any other documentation otherwise
15 required by the agency, a request for exemption submitted
16 under this paragraph must:

17 a. Certify that the prior 12-month average occupancy
18 rate for the category of licensed beds being expanded at the
19 facility meets or exceeds 80 percent or, for a hospital-based
20 distinct part skilled nursing unit, the prior 12-month average
21 occupancy rate meets or exceeds 96 percent.

22 b. Certify that any beds of the same type authorized
23 for the facility under this paragraph before the date of the
24 current request for an exemption have been licensed and
25 operational for at least 12 months.

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

29 3. The agency shall count beds authorized under this
30 paragraph as approved beds in the published inventory of
31 hospital beds until the beds are licensed.

1 (o) For the addition of acute care beds, as authorized
2 by rule consistent with s. 395.003(4), in a number that may
3 not exceed 10 total beds or 10 percent of licensed bed
4 capacity, whichever is greater, for temporary beds in a
5 hospital that has experienced high seasonal occupancy within
6 the prior 12-month period or in a hospital that must respond
7 to emergency circumstances.

8 (p) For the addition of nursing home beds licensed
9 under chapter 400 in a number not exceeding 10 total beds or
10 10 percent of the number of beds licensed in the facility
11 being expanded, whichever is greater.

12 1. In addition to any other documentation required by
13 the agency, a request for exemption submitted under this
14 paragraph must:

15 a. Effective until June 30, 2001, certify that the
16 facility has not had any class I or class II deficiencies
17 within the 30 months preceding the request for addition.

18 b. Effective on July 1, 2001, certify that the
19 facility has been designated as a Gold Seal nursing home under
20 s. 400.235.

21 c. Certify that the prior 12-month average occupancy
22 rate for the nursing home beds at the facility meets or
23 exceeds 96 percent.

24 d. Certify that any beds authorized for the facility
25 under this paragraph before the date of the current request
26 for an exemption have been licensed and operational for at
27 least 12 months.

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

31

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

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

10 Section 9. Paragraph (a) of subsection (1) of section
11 408.037, Florida Statutes, is amended to read:

12 408.037 Application content.--

13 (1) An application for a certificate of need must
14 contain:

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

18 Section 10. Section 408.038, Florida Statutes, is
19 amended to read:

20 408.038 Fees.--The agency department shall assess fees
21 on certificate-of-need applications. Such fees shall be for
22 the purpose of funding the functions of the local health
23 councils and the activities of the agency department and shall
24 be allocated as provided in s. 408.033. The fee shall be
25 determined as follows:

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

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

30
31

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

4 408.039 Review process.--The review process for
5 certificates of need shall be as follows:

6 (3) APPLICATION PROCESSING.--

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

20 (b) Upon the request of any applicant or substantially
21 affected person within 14 days after notice that an
22 application has been filed, a public hearing may be held at
23 the agency's ~~department's~~ discretion if the agency ~~department~~
24 determines that a proposed project involves issues of great
25 local public interest. The public hearing shall allow
26 applicants and other interested parties reasonable time to
27 present their positions and to present rebuttal information. A
28 recorded verbatim record of the hearing shall be maintained.
29 The public hearing shall be held at the local level within 21
30 days after the application is deemed complete.

31 (4) STAFF RECOMMENDATIONS.--

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

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

29 (c) The agency ~~department~~ shall publish its proposed
30 decision set forth in the Notice of Intent in the Florida
31

1 Administrative Weekly within 14 days after the Notice of
2 Intent is issued.

3 (d) If no administrative hearing is requested pursuant
4 to subsection (5), the State Agency Action Report and the
5 Notice of Intent shall become the final order of the agency
6 ~~department~~. The agency department shall provide a copy of the
7 final order to the appropriate local health council.

8 (6) JUDICIAL REVIEW.--

9 (a) A party to an administrative hearing for an
10 application for a certificate of need has the right, within
11 not more than 30 days after the date of the final order, to
12 seek judicial review in the District Court of Appeal pursuant
13 to s. 120.68. The agency department shall be a party in any
14 such proceeding.

15 (b) In such judicial review, the court shall affirm
16 the final order of the agency department, unless the decision
17 is arbitrary, capricious, or not in compliance with ss.
18 408.031-408.045.

19 Section 12. Subsections (1) and (2) of section
20 408.040, Florida Statutes, are amended to read:

21 408.040 Conditions and monitoring.--

22 (1)(a) The agency may issue a certificate of need
23 predicated upon statements of intent expressed by an applicant
24 in the application for a certificate of need. Any conditions
25 imposed on a certificate of need based on such statements of
26 intent shall be stated on the face of the certificate of need.

27 ~~1. Any certificate of need issued for construction of~~
28 ~~a new hospital or for the addition of beds to an existing~~
29 ~~hospital shall include a statement of the number of beds~~
30 ~~approved by category of service, including rehabilitation or~~
31 ~~psychiatric service, for which the agency has adopted by rule~~

1 ~~a specialty-bed-need methodology. All beds that are approved,~~
2 ~~but are not covered by any specialty-bed-need methodology,~~
3 ~~shall be designated as general.~~

4 ~~(b)2.~~ The agency may consider, in addition to the
5 other criteria specified in s. 408.035, a statement of intent
6 by the applicant that a specified ~~to designate~~ a percentage of
7 the annual patient days at ~~beds of~~ the facility will be
8 utilized for use by patients eligible for care under Title XIX
9 of the Social Security Act. Any certificate of need issued to
10 a nursing home in reliance upon an applicant's statements that
11 ~~to provide~~ a specified percentage number of annual patient
12 days will be utilized ~~beds for use~~ by residents eligible for
13 care under Title XIX of the Social Security Act must include a
14 statement that such certification is a condition of issuance
15 of the certificate of need. The certificate-of-need program
16 shall notify the Medicaid program office and the Department of
17 Elderly Affairs when it imposes conditions as authorized in
18 this paragraph ~~subparagraph~~ in an area in which a community
19 diversion pilot project is implemented.

20 ~~(c)(b)~~ A certificateholder may apply to the agency for
21 a modification of conditions imposed under paragraph (a) or
22 paragraph (b). If the holder of a certificate of need
23 demonstrates good cause why the certificate should be
24 modified, the agency shall reissue the certificate of need
25 with such modifications as may be appropriate. The agency
26 shall by rule define the factors constituting good cause for
27 modification.

28 ~~(d)(c)~~ If the holder of a certificate of need fails to
29 comply with a condition upon which the issuance of the
30 certificate was predicated, the agency may assess an
31 administrative fine against the certificateholder in an amount

1 not to exceed \$1,000 per failure per day. In assessing the
2 penalty, the agency shall take into account as mitigation the
3 relative lack of severity of a particular failure. Proceeds
4 of such penalties shall be deposited in the Public Medical
5 Assistance Trust Fund.

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

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

27 (c) The certificate-of-need validity period for a
28 project shall be extended by the agency, to the extent that
29 the applicant demonstrates to the satisfaction of the agency
30 that good-faith ~~good-faith~~ commencement of the project is
31 being delayed by litigation or by governmental action or

1 inaction with respect to regulations or permitting precluding
2 commencement of the project.

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

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

15 408.044 Injunction.--Notwithstanding the existence or
16 pursuit of any other remedy, the agency department may
17 maintain an action in the name of the state for injunction or
18 other process against any person to restrain or prevent the
19 pursuit of a project subject to review under ss.
20 408.031-408.045, in the absence of a valid certificate of
21 need.

22 Section 14. Section 408.045, Florida Statutes, is
23 amended to read:

24 408.045 Certificate of need; competitive sealed
25 proposals.--

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

30 (2) The agency department shall make a decision
31 regarding the issuance of the certificate of need in

1 accordance with the provisions of s. 287.057(15), rules
2 adopted by the ~~agency department~~ relating to intermediate care
3 facilities for the developmentally disabled, and the criteria
4 in s. 408.035, as further defined by rule.

5 (3) Notification of the decision shall be issued to
6 all applicants not later than 28 calendar days after the date
7 responses to a request for proposal are due.

8 (4) The procedures provided for under this section are
9 exempt from the batching cycle requirements and the public
10 hearing requirement of s. 408.039.

11 (5) The ~~agency department~~ may use the competitive
12 sealed proposal procedure for determining a certificate of
13 need for other types of health care facilities and services if
14 the ~~agency department~~ identifies an unmet health care need and
15 when funding in whole or in part for such health care
16 facilities or services is authorized by the Legislature.

17 Section 15. (1)(a) There is created a
18 certificate-of-need workgroup staffed by the Agency for Health
19 Care Administration.

20 (b) Workgroup participants shall be responsible for
21 only the expenses that they generate individually through
22 workgroup participation. The agency shall be responsible for
23 expenses incidental to the production of any required data or
24 reports.

25 (2) The workgroup shall consist of 30 members, 10
26 appointed by the Governor, 10 appointed by the President of
27 the Senate, and 10 appointed by the Speaker of the House of
28 Representatives. The workgroup chairperson shall be selected
29 by majority vote of a quorum present. Sixteen members shall
30 constitute a quorum. The membership shall include, but not be
31 limited to, representatives from health care provider

1 organizations, health care facilities, individual health care
2 practitioners, local health councils, and consumer
3 organizations, and persons with health care market expertise
4 as a private-sector consultant.

5 (3) Appointment to the workgroup shall be as follows:

6 (a) The Governor shall appoint one representative each
7 from the hospital industry; nursing home industry; hospice
8 industry; local health councils; a consumer organization; and
9 three health care market consultants, one of whom is a
10 recognized expert on hospital markets, one of whom is a
11 recognized expert on nursing home or long-term-care markets,
12 and one of whom is a recognized expert on hospice markets; one
13 representative from the Medicaid program; and one
14 representative from a health care facility that provides a
15 tertiary service.

16 (b) The President of the Senate shall appoint a
17 representative of a for-profit hospital, a representative of a
18 not-for-profit hospital, a representative of a public
19 hospital, two representatives of the nursing home industry,
20 two representatives of the hospice industry, a representative
21 of a consumer organization, a representative from the
22 Department of Elderly Affairs involved with the implementation
23 of a long-term-care community diversion program, and a health
24 care market consultant with expertise in health care
25 economics.

26 (c) The Speaker of the House of Representatives shall
27 appoint a representative from the Florida Hospital
28 Association, a representative of the Association of Community
29 Hospitals and Health Systems of Florida, a representative of
30 the Florida League of Health Systems, a representative of the
31 Florida Health Care Association, a representative of the

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

5 (4) The workgroup shall study issues pertaining to the
6 certificate-of-need program, including the impact of trends in
7 health care delivery and financing. The workgroup shall study
8 issues relating to implementation of the certificate-of-need
9 program.

10 (5) The workgroup shall meet at least annually, at the
11 request of the chairperson. The workgroup shall submit an
12 interim report by December 31, 2001, and a final report by
13 December 31, 2002. The workgroup is abolished effective July
14 1, 2003.

15 Section 16. Subsection (7) of section 651.118, Florida
16 Statutes, is amended to read:

17 651.118 Agency for Health Care Administration;
18 certificates of need; sheltered beds; community beds.--

19 (7) Notwithstanding the provisions of subsection (2),
20 at the discretion of the continuing care provider, sheltered
21 nursing home beds may be used for persons who are not
22 residents of the facility and who are not parties to a
23 continuing care contract for a period of up to 5 years after
24 the date of issuance of the initial nursing home license. A
25 provider whose 5-year period has expired or is expiring may
26 request the Agency for Health Care Administration for an
27 extension, not to exceed 30 percent of the total sheltered
28 nursing home beds, if the utilization by residents of the
29 facility in the sheltered beds will not generate sufficient
30 income to cover facility expenses, as evidenced by one of the
31 following:

1 (a) The facility has a net loss for the most recent
2 fiscal year as determined under generally accepted accounting
3 principles, excluding the effects of extraordinary or unusual
4 items, as demonstrated in the most recently audited financial
5 statement; or

6 (b) The facility would have had a pro forma loss for
7 the most recent fiscal year, excluding the effects of
8 extraordinary or unusual items, if revenues were reduced by
9 the amount of revenues from persons in sheltered beds who were
10 not residents, as reported on by a certified public
11 accountant.

12
13 The agency shall be authorized to grant an extension to the
14 provider based on the evidence required in this subsection.
15 The agency may request a facility to use up to 25 percent of
16 the patient days generated by new admissions of nonresidents
17 during the extension period to serve Medicaid recipients for
18 those beds authorized for extended use if there is a
19 demonstrated need in the respective service area and if funds
20 are available. A provider who obtains an extension is
21 prohibited from applying for additional sheltered beds under
22 the provision of subsection (2), unless additional residential
23 units are built or the provider can demonstrate need by
24 facility residents to the Agency for Health Care
25 Administration. The 5-year limit does not apply to up to five
26 sheltered beds designated for inpatient hospice care as part
27 of a contractual arrangement with a hospice licensed under
28 part VI of chapter 400. A facility that uses such beds after
29 the 5-year period shall report such use to the Agency for
30 Health Care Administration. For purposes of this subsection,
31 "resident" means a person who, upon admission to the facility,

1 initially resides in a part of the facility not licensed under
2 part II of chapter 400.

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

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

9 Section 19. Pursuant to section 187 of chapter 99-397,
10 Laws of Florida, the Agency for Health Care Administration was
11 directed to conduct a detailed study and analysis of clinical
12 laboratory services for kidney dialysis patients in the State
13 of Florida and to report back to the Legislature no later than
14 February 1, 2000. The agency reported that additional time and
15 investigative resources were necessary to adequately respond
16 to the legislative directives. Therefore, the sum of \$230,000
17 from the Agency for Health Care Administration Tobacco
18 Settlement Trust Fund is appropriated to the Agency for Health
19 Care Administration to contract with the University of South
20 Florida to conduct a review of laboratory test utilization,
21 any self-referral to clinical laboratories, financial
22 arrangements among kidney dialysis centers, their medical
23 directors, referring physicians, and any business
24 relationships and affiliations with clinical laboratories, and
25 the quality and effectiveness of kidney dialysis treatment in
26 this state. A report on the findings from such review shall be
27 presented to the President of the Senate, the Speaker of the
28 House of Representatives, and the chairs of the appropriate
29 substantive committees of the Legislature no later than
30 February 1, 2001.

31

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

3 455.564 Department; general licensing provisions.--

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

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

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

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

29 (c) In considering applications for licensure, the
30 board, or the department when there is no board, may require a
31 personal appearance of the applicant. If the applicant is

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

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

10 455.565 Designated health care professionals;
11 information required for licensure.--

12 (4)

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

1 the Department of Health's health care practitioner
2 credentialing system.

3 Section 22. Section 455.5651, Florida Statutes, is
4 amended to read:

5 455.5651 Practitioner profile; creation.--

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

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

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

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
3 is a public record of any governmental entity and that relates
4 to a practitioner's ability to competently practice his or her
5 profession. However, the department must consult with the
6 board having regulatory authority over the practitioner before
7 such information is included in his or her profile.

8 (7) Upon the completion of a practitioner profile
9 under this section, the Department of Health shall furnish the
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
12 the profile and to correct any factual inaccuracies in it. The
13 Department of Health shall make the profile available to the
14 public at the end of the 30-day period. The department shall
15 make the profiles available to the public through the World
16 Wide Web and other commonly used means of distribution.

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

20 Section 23. Section 455.5653, Florida Statutes, is
21 amended to read:

22 455.5653 Practitioner profiles; data
23 storage.--Effective upon this act becoming a law, the
24 Department of Health must develop or contract for a computer
25 system to accommodate the new data collection and storage
26 requirements under this act pending the development and
27 operation of a computer system by the Department of Health for
28 handling the collection, input, revision, and update of data
29 submitted by physicians as a part of their initial licensure
30 or renewal to be compiled into individual practitioner
31 profiles. The Department of Health must incorporate any data

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

18 Section 24. Section 455.5654, Florida Statutes, is
19 amended to read:

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

29 Section 25. Subsection (1) of section 455.567, Florida
30 Statutes, is amended to read:

31

1 455.567 Sexual misconduct; disqualification for
2 license, certificate, or registration.--

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

13 Section 26. Paragraphs (f) and (u) of subsection (1),
14 paragraph (c) of subsection (2), and subsection (3) of section
15 455.624, Florida Statutes, are amended, and paragraphs (y) and
16 (z) are added to subsection (1) of said section, to read:

17 455.624 Grounds for discipline; penalties;
18 enforcement.--

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

22 (f) Having a license or the authority to practice any
23 ~~the~~ regulated profession revoked, suspended, or otherwise
24 acted against, including the denial of licensure, by the
25 licensing authority of any jurisdiction, including its
26 agencies or subdivisions, for a violation that would
27 constitute a violation under Florida law. The licensing
28 authority's acceptance of a relinquishment of licensure,
29 stipulation, consent order, or other settlement, offered in
30 response to or in anticipation of the filing of charges
31

1 against the license, shall be construed as action against the
2 license.

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

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

29 (z) Testing positive for any drug, as defined in s.
30 112.0455, on any confirmed preemployment or employer-ordered
31 drug screening when the practitioner does not have a lawful

1 prescription and legitimate medical reason for using such
2 drug.

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

11 (c) Restriction of practice or license.

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

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

1 (b) Notwithstanding subsection (2), if the ground for
2 disciplinary action is the first-time violation of a practice
3 act for unprofessional conduct, as used in ss. 464.018(1)(h),
4 467.203(1)(f), 468.365(1)(f), and 478.52(1)(f), and no actual
5 harm to the patient occurred, the board or department, as
6 applicable, shall issue a citation in accordance with s.
7 455.617 and assess a penalty as determined by rule of the
8 board or department.

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

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

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

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

3 455.651 Disclosure of confidential information.--

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

10 455.712 Business establishments; requirements for
11 active status licenses.--

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

20 458.347 Physician assistants.--

21 (7) PHYSICIAN ASSISTANT LICENSURE.--

22 (g) The Board of Medicine may impose any of the
23 penalties specified in ss. 455.624 and 458.331(2) upon a
24 physician assistant if the physician assistant or the
25 supervising physician has been found guilty of or is being
26 investigated for any act that constitutes a violation of this
27 chapter or part II of chapter 455.

28 459.022 Physician assistants.--

29 (7) PHYSICIAN ASSISTANT LICENSURE.--

30 (f) The Board of Osteopathic Medicine may impose any
31 of the penalties specified in ss. 455.624 and 459.015(2) upon

1 a physician assistant if the physician assistant or the
2 supervising physician has been found guilty of or is being
3 investigated for any act that constitutes a violation of this
4 chapter or part II of chapter 455.

5 468.1755 Disciplinary proceedings.--

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

8 (a) Violation of any provision of s. 455.624(1) or s.
9 468.1745(1).

10 468.719 Disciplinary actions.--

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

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

17 (2) When the board finds any person guilty of any of
18 the acts set forth in subsection (1), the board may enter an
19 order imposing one or more of the penalties provided in s.
20 455.624.

21 468.811 Disciplinary proceedings.--

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

27 (a) Attempting to procure a license by fraudulent
28 misrepresentation.

29 (b) Having a license to practice orthotics,
30 prosthetics, or pedorthics revoked, suspended, or otherwise
31

1 acted against, including the denial of licensure in another
2 jurisdiction.

3 (c) Being convicted or found guilty of or pleading
4 nolo contendere to, regardless of adjudication, in any
5 jurisdiction, a crime that directly relates to the practice of
6 orthotics, prosthetics, or pedorthics, including violations of
7 federal laws or regulations regarding orthotics, prosthetics,
8 or pedorthics.

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

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

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

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

24 (h) Practicing with a revoked, suspended, or inactive
25 license.

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

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

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

7 484.056 Disciplinary proceedings.--

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

15 (a) Violation of any provision of s. 455.624(1), s.
16 484.0512, or s. 484.053.

17 Section 28. Section 455.704, Florida Statutes, is
18 repealed.

19 Section 29. Subsections (1), (2), and (3) of section
20 455.707, Florida Statutes, are amended to read:

21 455.707 Treatment programs for impaired
22 practitioners.--

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

1 with the department in intervention, requirements for
2 evaluating and treating a professional, and requirements for
3 the continued care and monitoring of a professional by the
4 consultant by an approved ~~at a department-approved~~ treatment
5 provider. ~~The department shall not compel any impaired~~
6 ~~practitioner program in existence on October 1, 1992, to serve~~
7 ~~additional professions.~~

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

19 (3)(a) Whenever the department receives a written or
20 oral legally sufficient complaint alleging that a licensee
21 under the jurisdiction of the Division of Medical Quality
22 Assurance within the department is impaired as a result of the
23 misuse or abuse of alcohol or drugs, or both, or due to a
24 mental or physical condition which could affect the licensee's
25 ability to practice with skill and safety, and no complaint
26 against the licensee other than impairment exists, the
27 reporting of such information shall not constitute grounds for
28 discipline pursuant to s. 455.624 or the corresponding grounds
29 for discipline within the applicable practice act ~~a complaint~~
30 ~~within the meaning of s. 455.621~~ if the probable cause panel
31

1 of the appropriate board, or the department when there is no
2 board, finds:

3 1. The licensee has acknowledged the impairment
4 problem.

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

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

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

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

29 (c) Inquiries related to impairment treatment programs
30 designed to provide information to the licensee and others and
31 which do not indicate that the licensee presents a danger to

1 the public shall not constitute a complaint within the meaning
2 of s. 455.621 and shall be exempt from the provisions of this
3 subsection.

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

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

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

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

28 310.102 Treatment programs for impaired pilots and
29 deputy pilots.--

30 (1) The department shall, by rule, designate approved
31 treatment programs for impaired pilots and deputy pilots under

1 this section. The department may adopt rules setting forth
2 appropriate criteria for approval of treatment providers ~~based~~
3 ~~on the policies and guidelines established by the Impaired~~
4 ~~Practitioners Committee under s. 455.704.~~

5 Section 31. Section 455.711, Florida Statutes, is
6 amended to read:

7 455.711 Licenses; active and inactive ~~and delinquent~~
8 ~~status; delinquency.--~~

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

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

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

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

28 (a) Active status licensees choosing inactive status
29 at the time of license renewal must pay the inactive status
30 renewal fee, and, if applicable, the delinquency fee and the
31 fee to change licensure status. Active status licensees

1 choosing inactive status at any other time than at the time of
2 license renewal must pay the fee to change licensure status.

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

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

27 (6) A delinquent ~~status~~ licensee must affirmatively
28 apply with a complete application, as defined by rule of the
29 board, or the department if there is no board, for active or
30 inactive status during the licensure cycle in which a licensee
31 becomes delinquent. Failure by a delinquent ~~status~~ licensee to

1 become active or inactive before the expiration of the current
2 licensure cycle renders the license null without any further
3 action by the board or the department. Any subsequent
4 licensure shall be as a result of applying for and meeting all
5 requirements imposed on an applicant for new licensure.

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

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

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

29 (10) Before reactivation, an inactive status licensee
30 or a delinquent licensee who was inactive prior to becoming
31 delinquent must meet the same continuing education

1 requirements, if any, imposed on an active status licensee for
2 all biennial licensure periods in which the licensee was
3 inactive or delinquent.

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

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

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

16 Section 32. Subsection (3) of section 455.587, Florida
17 Statutes, is amended to read:

18 455.587 Fees; receipts; disposition.--

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

28 Section 33. Subsection (1) of section 455.714, Florida
29 Statutes, is amended to read:

30 455.714 Renewal and cancellation notices.--

31

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

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

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

9 Section 34. Section 455.719, Florida Statutes, is
10 created to read:

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

19 Section 35. Section 455.637, Florida Statutes, is
20 amended to read:

21 455.637 Unlicensed practice of a health care
22 profession; intent; cease and desist notice; penalties ~~civil~~
23 ~~penalty~~; enforcement; citations; fees; allocation and
24 disposition of moneys collected.--

25 (1) It is the intent of the Legislature that vigorous
26 enforcement of licensure regulation for all health care
27 professions is a state priority in order to protect Florida
28 residents and visitors from the potentially serious and
29 dangerous consequences of receiving medical and health care
30 services from unlicensed persons whose professional education
31 and training and other relevant qualifications have not been

1 approved through the issuance of a license by the appropriate
2 regulatory board or the department when there is no board. The
3 unlicensed practice of a health care profession or the
4 performance or delivery of medical or health care services to
5 patients in this state without a valid, active license to
6 practice that profession, regardless of the means of the
7 performance or delivery of such services, is strictly
8 prohibited.

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

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

28 (b) In addition to the ~~foregoing~~ remedies under
29 paragraph (a), the department may impose by citation an
30 administrative penalty not to exceed \$5,000 per incident
31 ~~pursuant to the provisions of chapter 120 or may issue a~~

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

24 (c)(2) In addition to or in lieu of any other
25 administrative remedy ~~provided in subsection (1)~~, the
26 department may seek the imposition of a civil penalty through
27 the circuit court for any violation for which the department
28 may issue a notice to cease and desist ~~under subsection (1)~~.
29 The civil penalty shall be no less than \$500 and no more than
30 \$5,000 for each offense. The court may also award to the
31 prevailing party court costs and reasonable attorney fees and,

1 in the event the department prevails, may also award
2 reasonable costs of investigation and prosecution.

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

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

29 2. It is a felony of the second degree, punishable as
30 provided in s. 775.082, s. 775.083, or s. 775.084, to practice
31 a health care profession without an active, valid Florida

1 license to practice that profession when such practice results
2 in serious bodily injury. For purposes of this section,
3 "serious bodily injury" means death; brain or spinal damage;
4 disfigurement; fracture or dislocation of bones or joints;
5 limitation of neurological, physical, or sensory function; or
6 any condition that required subsequent surgical repair. The
7 minimum penalty for violating this subparagraph shall be a
8 fine of \$1,000 and a minimum mandatory period of incarceration
9 of 1 year.

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

22 (3) Because all enforcement costs should be covered by
23 professions regulated by the department, the department shall
24 impose, upon initial licensure and each licensure renewal, a
25 special fee of \$5 per licensee to fund efforts to combat
26 unlicensed activity. Such fee shall be in addition to all
27 other fees collected from each licensee. The board with
28 concurrence of the department, or the department when there is
29 no board, may earmark \$5 of the current licensure fee for this
30 purpose, if such board, or profession regulated by the
31 department, is not in a deficit and has a reasonable cash

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

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

1 ~~fine of not less than \$500 or more than \$5,000 or other~~
2 ~~conditions as established by rule.~~

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

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

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

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

17 ~~(4)(5) The provisions of this section apply only to~~
18 ~~health care the professional practice acts administered by the~~
19 ~~department.~~

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

26 Section 36. Section 458.3135, Florida Statutes, is
27 created to read:

28 458.3135 Temporary certificate for visiting physicians
29 to practice in approved cancer centers.--

30 (1) Any physician who has been accepted for a course
31 of training by a cancer center approved by the board and who

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

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

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

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

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

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

29 (e) Meets the financial responsibility requirements of
30 s. 458.320; and

31

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

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

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

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

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

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

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

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

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

20 Section 37. Paragraph (i) of subsection (1), and
21 subsection (4) of section 458.3145, Florida Statutes, are
22 amended to read:

23 458.3145 Medical faculty certificate.--

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

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

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

31

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

3 (d) Has completed an approved residency or fellowship
4 of at least 1 year or has received training which has been
5 determined by the board to be equivalent to the 1-year
6 residency requirement;

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

8 (f) Is of good moral character;

9 (g) Has not committed any act in this or any other
10 jurisdiction which would constitute the basis for disciplining
11 a physician under s. 458.331;

12 (h) For any applicant who has graduated from medical
13 school after October 1, 1992, has completed, before entering
14 medical school, the equivalent of 2 academic years of
15 preprofessional, postsecondary education, as determined by
16 rule of the board, which must include, at a minimum, courses
17 in such fields as anatomy, biology, and chemistry; and

18 (i) Has been offered and has accepted a full-time
19 faculty appointment to teach in a program of medicine at:

- 20 1. The University of Florida,
- 21 2. The University of Miami,
- 22 3. The University of South Florida, ~~or~~
- 23 4. The Florida State University, or

24 54. The Mayo Medical School at the Mayo Clinic in
25 Jacksonville, Florida.

26 (2) The certificate authorizes the holder to practice
27 only in conjunction with his or her faculty position at an
28 accredited medical school and its affiliated clinical
29 facilities or teaching hospitals that are registered with the
30 Board of Medicine as sites at which holders of medical faculty
31 certificates will be practicing. Such certificate

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

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

25 (4) In any year, the maximum number of extended
 26 medical faculty certificateholders as provided in subsection
 27 (2) may not exceed 15 persons at each institution named in
 28 subparagraphs (1)(i)1.-43. and at the facility named in s.
 29 240.512 and may not exceed 5 persons at the institution named
 30 in subparagraph (1)(i)54.
 31

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

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

25 Section 38. Subsection (5) is added to section
26 458.315, Florida Statutes, to read:

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

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

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

18 Section 39. Section 458.345, Florida Statutes, is
19 amended to read:

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

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

1 the department to be registered and shall remit a fee not to
2 exceed \$300 as set by the board. The department shall
3 register any applicant the board certifies has met the
4 following requirements:

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

6 (b) Has not committed any act or offense within or
7 without the state which would constitute the basis for refusal
8 to certify an application for licensure pursuant to s.
9 458.331.

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

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

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

31

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

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

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

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

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

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

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

9 Section 40. Subsection (3) of section 458.348, Florida
10 Statutes, is created to read:

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

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

21 Section 41. Section 459.021, Florida Statutes, is
22 amended to read:

23 459.021 Registration of resident physicians, interns,
24 and fellows; list of hospital employees; penalty.--

25 (1) Any person who holds a degree of Doctor of
26 Osteopathic Medicine from a college of osteopathic medicine
27 recognized and approved by the American Osteopathic
28 Association who desires to practice as a resident physician,
29 assistant resident physician, house physician, intern, or
30 fellow in fellowship training which leads to subspecialty
31 board certification in this state, or any person desiring to

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

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

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

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

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

11 (b) Practicing osteopathic medicine outside of a bona
12 fide hospital training program.

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

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

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

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

26 (7) The board shall promulgate rules pursuant to ss.
27 120.536(1) and 120.54 as necessary to implement this section.

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

31

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

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

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

11 (c) The use of the institutional identification number
12 and individual suffixes conforms to the requirements of the
13 federal Drug Enforcement Administration.

14 Section 42. Paragraph (d) is added to subsection (9)
15 of section 458.347, Florida Statutes, to read:

16 458.347 Physician assistants.--

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

19 (a) The council shall consist of five members
20 appointed as follows:

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

25 2. The chairperson of the Board of Osteopathic
26 Medicine shall appoint one member who is a physician and a
27 member of the Board of Osteopathic Medicine.

28 3. The secretary of the department or his or her
29 designee shall appoint a fully licensed physician assistant
30 licensed under this chapter or chapter 459.

31

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

11 (c) The council shall:

12 1. Recommend to the department the licensure of
13 physician assistants.

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

1 any recommendations it may have for the modification of the
2 proposed rule.

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

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

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

12 1. Refuse to certify the applicant for licensure;

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

15 3. Approve the applicant for conditional licensure.

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

23 Section 43. Paragraph (d) is added to subsection (9)
24 of section 459.022, Florida Statutes, to read:

25 459.022 Physician assistants.--

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

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

30 1. The chairperson of the Board of Medicine shall
31 appoint three members who are physicians and members of the

1 Board of Medicine. One of the physicians must supervise a
2 physician assistant in the physician's practice.

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

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

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

19 (c) The council shall:

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

22 2. Develop all rules regulating the use of physician
23 assistants by physicians under chapter 458 and this chapter,
24 except for rules relating to the formulary developed under s.
25 458.347(4)(f). The council shall also develop rules to ensure
26 that the continuity of supervision is maintained in each
27 practice setting. The boards shall consider adopting a
28 proposed rule developed by the council at the regularly
29 scheduled meeting immediately following the submission of the
30 proposed rule by the council. A proposed rule submitted by
31 the council may not be adopted by either board unless both

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

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

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

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

- 19 1. Refuse to certify the applicant for licensure;
20 2. Approve the applicant for licensure with
21 restrictions on the scope of practice or license; or
22 3. Approve the applicant for conditional licensure.

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

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1 Section 44. The amendment of s. 455.637, Florida
2 Statutes, by this act applies to offenses committed on or
3 after the effective date of such section.

4 Section 45. Section 455.641, Florida Statutes, is
5 repealed.

6 Section 46. For the purpose of incorporating the
7 amendment to section 455.637, Florida Statutes, in references
8 thereto, the sections or subdivisions of Florida Statutes set
9 forth below are reenacted to read:

10 455.574 Department of Health; examinations.--

11 (1)

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

26 468.1295 Disciplinary proceedings.--

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

31

1 (a) Procuring or attempting to procure a license by
2 bribery, by fraudulent misrepresentation, or through an error
3 of the department or the board.

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

7 (c) 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 speech-language pathology or audiology.

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

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

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

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

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

31

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

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

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

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

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

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

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

29 (p) Representing, directly or by implication, that a
30 hearing aid utilizing bone conduction has certain specified
31 features, such as the absence of anything in the ear or

1 leading to the ear, or the like, without disclosing clearly
2 and conspicuously that the instrument operates on the bone
3 conduction principle and that in many cases of hearing loss
4 this type of instrument may not be suitable.

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

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

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

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

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

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

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

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

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

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

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

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

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

9 484.014 Disciplinary actions.--

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

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

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

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

30
31

1 (d) Failing to make fee or price information readily
2 available by providing such information upon request or upon
3 the presentation of a prescription.

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

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

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

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

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

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

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

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

25 (m) Failing to keep written prescription files.

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

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

1 (p) Gross or repeated malpractice.

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

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

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

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

22 484.056 Disciplinary proceedings.--

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

30 (a) Violation of any provision of s. 455.624(1), s.
31 484.0512, or s. 484.053.

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

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

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

14 (e) 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 record 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 reports or records shall include only those reports or
20 records which are signed in one's capacity as a licensed
21 hearing aid specialist.

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

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

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

31

1 (i) Violation of a lawful order of the board or
2 department previously entered in a disciplinary hearing or
3 failure to comply with a lawfully issued subpoena of the board
4 or department.

5 (j) Practicing with a revoked, suspended, inactive, or
6 delinquent license.

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

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

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

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

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

1 conduction principle and that in many cases of hearing loss
2 this type of instrument may not be suitable.

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

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

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

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

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

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

25 (v) Failing to provide all information as described in
26 s. 484.051(1).

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 Section 47. Paragraphs (a) and (g) of subsection (3)
31 of section 921.0022, Florida Statutes, are amended to read:

1 921.0022 Criminal Punishment Code; offense severity
 2 ranking chart.--
 3 (3) OFFENSE SEVERITY RANKING CHART
 4
 5 Florida Felony
 6 Statute Degree Description
 7
 8 (a) LEVEL 1
 9 24.118(3)(a) 3rd Counterfeit or altered state
 10 lottery ticket.
 11 212.054(2)(b) 3rd Discretionary sales surtax;
 12 limitations, administration, and
 13 collection.
 14 212.15(2)(b) 3rd Failure to remit sales taxes,
 15 amount greater than \$300 but less
 16 than \$20,000.
 17 319.30(5) 3rd Sell, exchange, give away
 18 certificate of title or
 19 identification number plate.
 20 319.35(1)(a) 3rd Tamper, adjust, change, etc., an
 21 odometer.
 22 320.26(1)(a) 3rd Counterfeit, manufacture, or sell
 23 registration license plates or
 24 validation stickers.
 25 322.212(1) 3rd Possession of forged, stolen,
 26 counterfeit, or unlawfully issued
 27 driver's license; possession of
 28 simulated identification.
 29 322.212(4) 3rd Supply or aid in supplying
 30 unauthorized driver's license or
 31 identification card.

1	322.212(5)(a)	3rd	False application for driver's
2			license or identification card.
3	370.13(3)(a)	3rd	Molest any stone crab trap, line,
4			or buoy which is property of
5			licenseholder.
6	370.135(1)	3rd	Molest any blue crab trap, line,
7			or buoy which is property of
8			licenseholder.
9	372.663(1)	3rd	Poach any alligator or
10			crocodilia.
11	414.39(2)	3rd	Unauthorized use, possession,
12			forgery, or alteration of food
13			stamps, Medicaid ID, value
14			greater than \$200.
15	414.39(3)(a)	3rd	Fraudulent misappropriation of
16			public assistance funds by
17			employee/official, value more
18			than \$200.
19	443.071(1)	3rd	False statement or representation
20			to obtain or increase
21			unemployment compensation
22			benefits.
23	458.327(1)(a)	3rd	Unlicensed practice of medicine.
24	466.026(1)(a)	3rd	Unlicensed practice of dentistry
25			or dental hygiene.
26	509.151(1)	3rd	Defraud an innkeeper, food or
27			lodging value greater than \$300.
28	517.302(1)	3rd	Violation of the Florida
29			Securities and Investor
30			Protection Act.
31	562.27(1)	3rd	Possess still or still apparatus.

1	713.69	3rd	Tenant removes property upon
2			which lien has accrued, value
3			more than \$50.
4	812.014(3)(c)	3rd	Petit theft (3rd conviction);
5			theft of any property not
6			specified in subsection (2).
7	812.081(2)	3rd	Unlawfully makes or causes to be
8			made a reproduction of a trade
9			secret.
10	815.04(4)(a)	3rd	Offense against intellectual
11			property (i.e., computer
12			programs, data).
13	817.52(2)	3rd	Hiring with intent to defraud,
14			motor vehicle services.
15	826.01	3rd	Bigamy.
16	828.122(3)	3rd	Fighting or baiting animals.
17	831.04(1)	3rd	Any erasure, alteration, etc., of
18			any replacement deed, map, plat,
19			or other document listed in s.
20			92.28.
21	831.31(1)(a)	3rd	Sell, deliver, or possess
22			counterfeit controlled
23			substances, all but s. 893.03(5)
24			drugs.
25	832.041(1)	3rd	Stopping payment with intent to
26			defraud \$150 or more.
27	832.05		
28	(2)(b)&(4)(c)	3rd	Knowing, making, issuing
29			worthless checks \$150 or more or
30			obtaining property in return for
31			worthless check \$150 or more.

1	838.015(3)	3rd	Bribery.
2	838.016(1)	3rd	Public servant receiving unlawful
3			compensation.
4	838.15(2)	3rd	Commercial bribe receiving.
5	838.16	3rd	Commercial bribery.
6	843.18	3rd	Fleeing by boat to elude a law
7			enforcement officer.
8	847.011(1)(a)	3rd	Sell, distribute, etc., obscene,
9			lewd, etc., material (2nd
10			conviction).
11	849.01	3rd	Keeping gambling house.
12	849.09(1)(a)-(d)	3rd	Lottery; set up, promote, etc.,
13			or assist therein, conduct or
14			advertise drawing for prizes, or
15			dispose of property or money by
16			means of lottery.
17	849.23	3rd	Gambling-related machines;
18			"common offender" as to property
19			rights.
20	849.25(2)	3rd	Engaging in bookmaking.
21	860.08	3rd	Interfere with a railroad signal.
22	860.13(1)(a)	3rd	Operate aircraft while under the
23			influence.
24	893.13(2)(a)2.	3rd	Purchase of cannabis.
25	893.13(6)(a)	3rd	Possession of cannabis (more than
26			20 grams).
27	893.13(7)(a)10.	3rd	Affix false or forged label to
28			package of controlled substance.
29	934.03(1)(a)	3rd	Intercepts, or procures any other
30			person to intercept, any wire or
31			oral communication.

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

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			
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1	782.071	2nd	Killing of human being or viable
2			fetus by the operation of a motor
3			vehicle in a reckless manner
4			(vehicular homicide).
5	782.072	2nd	Killing of a human being by the
6			operation of a vessel in a
7			reckless manner (vessel
8			homicide).
9	784.045(1)(a)1.	2nd	Aggravated battery; intentionally
10			causing great bodily harm or
11			disfigurement.
12	784.045(1)(a)2.	2nd	Aggravated battery; using deadly
13			weapon.
14	784.045(1)(b)	2nd	Aggravated battery; perpetrator
15			aware victim pregnant.
16	784.048(4)	3rd	Aggravated stalking; violation of
17			injunction or court order.
18	784.07(2)(d)	1st	Aggravated battery on law
19			enforcement officer.
20	784.08(2)(a)	1st	Aggravated battery on a person 65
21			years of age or older.
22	784.081(1)	1st	Aggravated battery on specified
23			official or employee.
24	784.082(1)	1st	Aggravated battery by detained
25			person on visitor or other
26			detainee.
27	784.083(1)	1st	Aggravated battery on code
28			inspector.
29	790.07(4)	1st	Specified weapons violation
30			subsequent to previous conviction
31			of s. 790.07(1) or (2).

1	790.16(1)	1st	Discharge of a machine gun under
2			specified circumstances.
3	796.03	2nd	Procuring any person under 16
4			years for prostitution.
5	800.04(5)(c)1.	2nd	Lewd or lascivious molestation;
6			victim less than 12 years of age;
7			offender less than 18 years.
8	800.04(5)(c)2.	2nd	Lewd or lascivious molestation;
9			victim 12 years of age or older
10			but less than 16 years; offender
11			18 years or older.
12	806.01(2)	2nd	Maliciously damage structure by
13			fire or explosive.
14	810.02(3)(a)	2nd	Burglary of occupied dwelling;
15			unarmed; no assault or battery.
16	810.02(3)(b)	2nd	Burglary of unoccupied dwelling;
17			unarmed; no assault or battery.
18	810.02(3)(d)	2nd	Burglary of occupied conveyance;
19			unarmed; no assault or battery.
20	812.014(2)(a)	1st	Property stolen, valued at
21			\$100,000 or more; property stolen
22			while causing other property
23			damage; 1st degree grand theft.
24	812.019(2)	1st	Stolen property; initiates,
25			organizes, plans, etc., the theft
26			of property and traffics in
27			stolen property.
28	812.131(2)(a)	2nd	Robbery by sudden snatching.
29	812.133(2)(b)	1st	Carjacking; no firearm, deadly
30			weapon, or other weapon.
31			

1	825.102(3)(b)	2nd	Neglecting an elderly person or
2			disabled adult causing great
3			bodily harm, disability, or
4			disfigurement.
5	825.1025(2)	2nd	Lewd or lascivious battery upon
6			an elderly person or disabled
7			adult.
8	825.103(2)(b)	2nd	Exploiting an elderly person or
9			disabled adult and property is
10			valued at \$20,000 or more, but
11			less than \$100,000.
12	827.03(3)(b)	2nd	Neglect of a child causing great
13			bodily harm, disability, or
14			disfigurement.
15	827.04(3)	3rd	Impregnation of a child under 16
16			years of age by person 21 years
17			of age or older.
18	837.05(2)	3rd	Giving false information about
19			alleged capital felony to a law
20			enforcement officer.
21	872.06	2nd	Abuse of a dead human body.
22	893.13(1)(c)1.	1st	Sell, manufacture, or deliver
23			cocaine (or other drug prohibited
24			under s. 893.03(1)(a), (1)(b),
25			(1)(d), (2)(a), or (2)(b)) within
26			1,000 feet of a child care
27			facility or school.
28			
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1	893.13(1)(e)	1st	Sell, manufacture, or deliver
2			cocaine or other drug prohibited
3			under s. 893.03(1)(a), (1)(b),
4			(1)(d), (2)(a), or (2)(b), within
5			1,000 feet of property used for
6			religious services or a specified
7			business site.
8	893.13(4)(a)	1st	Deliver to minor cocaine (or
9			other s. 893.03(1)(a), (1)(b),
10			(1)(d), (2)(a), or (2)(b) drugs).
11	893.135(1)(a)1.	1st	Trafficking in cannabis, more
12			than 50 lbs., less than 2,000
13			lbs.
14	893.135		
15	(1)(b)1.a.	1st	Trafficking in cocaine, more than
16			28 grams, less than 200 grams.
17	893.135		
18	(1)(c)1.a.	1st	Trafficking in illegal drugs,
19			more than 4 grams, less than 14
20			grams.
21	893.135		
22	(1)(d)1.	1st	Trafficking in phencyclidine,
23			more than 28 grams, less than 200
24			grams.
25	893.135(1)(e)1.	1st	Trafficking in methaqualone, more
26			than 200 grams, less than 5
27			kilograms.
28	893.135(1)(f)1.	1st	Trafficking in amphetamine, more
29			than 14 grams, less than 28
30			grams.
31			

1 893.135

2 (1)(g)1.a. 1st Trafficking in flunitrazepam, 4
3 grams or more, less than 14
4 grams.

5 Section 48. Subsection (1) of section 458.327, Florida
6 Statutes, reads:

7 458.327 Penalty for violations.--

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

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

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

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

17 (d) Attempting to obtain or obtaining a position as a
18 medical practitioner or medical resident in a clinic or
19 hospital through knowing misrepresentation of education,
20 training, or experience.

21 Section 49. Subsection (1) of section 459.013, Florida
22 Statutes, reads:

23 459.013 Penalty for violations.--

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

27 (a) The practice of osteopathic medicine, or an
28 attempt to practice osteopathic medicine, without an active
29 license or certificate issued pursuant to this chapter.

30 (b) The practice of osteopathic medicine by a person
31 holding a limited license, osteopathic faculty certificate, or

1 other certificate issued under this chapter beyond the scope
2 of practice authorized for such licensee or certificateholder.

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

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

9 Section 50. Subsection (1) of section 460.411, Florida
10 Statutes, reads:

11 460.411 Violations and penalties.--

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

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

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

21 Section 51. Subsection (1) of section 461.012, Florida
22 Statutes, reads:

23 461.012 Violations and penalties.--

24 (1) Each of the following acts constitutes a violation
25 of this chapter and is a felony of the third degree,
26 punishable as provided in s. 775.082, s. 775.083, or s.
27 775.084:

28 (a) Practicing or attempting to practice podiatric
29 medicine without an active license or with a license
30 fraudulently obtained.

31

1 (b) Advertising podiatric services without an active
2 license obtained pursuant to this chapter or with a license
3 fraudulently obtained.

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

6 Section 52. Section 462.17, Florida Statutes, reads:
7 462.17 Penalty for offenses relating to
8 naturopathy.--Any person who shall:

9 (1) Sell, fraudulently obtain, or furnish any
10 naturopathic diploma, license, record, or registration or aid
11 or abet in the same;

12 (2) Practice naturopathy under the cover of any
13 diploma, license, record, or registration illegally or
14 fraudulently obtained or secured or issued unlawfully or upon
15 fraudulent representations;

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

18 (4) Falsely impersonate another practitioner of a like
19 or different name;

20 (5) Practice or advertise to practice naturopathy or
21 use in connection with her or his name any designation tending
22 to imply or to designate the person as a practitioner of
23 naturopathy without then being lawfully licensed and
24 authorized to practice naturopathy in this state; or

25 (6) Practice naturopathy during the time her or his
26 license is suspended or revoked

27
28 shall be guilty of a felony of the third degree, punishable as
29 provided in s. 775.082, s. 775.083, or s. 775.084.

30 Section 53. Subsection (1) of section 463.015, Florida
31 Statutes, reads:

1 463.015 Violations and penalties.--

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

5 (a) Practicing or attempting to practice optometry
6 without a valid active license issued pursuant to this
7 chapter.

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

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

12 Section 54. Subsection (1) of section 464.016, Florida
13 Statutes, reads:

14 464.016 Violations and penalties.--

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

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

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

23 (c) Knowingly employing unlicensed persons in the
24 practice of nursing.

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

28 Section 55. Subsection (2) of section 465.015, Florida
29 Statutes, reads:

30 465.015 Violations and penalties.--

31 (2) It is unlawful for any person:

1 (a) To make a false or fraudulent statement, either
2 for herself or himself or for another person, in any
3 application, affidavit, or statement presented to the board or
4 in any proceeding before the board.

5 (b) To fill, compound, or dispense prescriptions or to
6 dispense medicinal drugs if such person does not hold an
7 active license as a pharmacist in this state, is not
8 registered as an intern in this state, or is an intern not
9 acting under the direct and immediate personal supervision of
10 a licensed pharmacist.

11 (c) To sell or dispense drugs as defined in s.
12 465.003(8) without first being furnished with a prescription.

13 (d) To sell samples or complimentary packages of drug
14 products.

15 Section 56. Subsection (1) of section 466.026, Florida
16 Statutes, reads:

17 466.026 Prohibitions; penalties.--

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

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

24 (b) Using or attempting to use a license issued
25 pursuant to this chapter which license has been suspended or
26 revoked.

27 (c) Knowingly employing any person to perform duties
28 outside the scope allowed such person under this chapter or
29 the rules of the board.

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

1 (e) Selling or offering to sell a diploma conferring a
2 degree from a dental college or dental hygiene school or
3 college, or a license issued pursuant to this chapter, or
4 procuring such diploma or license with intent that it shall be
5 used as evidence of that which the document stands for, by a
6 person other than the one upon whom it was conferred or to
7 whom it was granted.

8 Section 57. Section 467.201, Florida Statutes, reads:

9 467.201 Violations and penalties.--Each of the
10 following acts constitutes a felony of the third degree,
11 punishable as provided in s. 775.082, s. 775.083, or s.
12 775.084:

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

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

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

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

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

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

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

29 Section 58. Section 468.366, Florida Statutes, reads:

30 468.366 Penalties for violations.--

31

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

3 (a) Sell or fraudulently obtain, attempt to obtain, or
4 furnish to any person a diploma, license, or record, or aid or
5 abet in the sale, procurement, or attempted procurement
6 thereof.

7 (b) Deliver respiratory care services, as defined by
8 this part or by rule of the board, under cover of any diploma,
9 license, or record that was illegally or fraudulently obtained
10 or signed or issued unlawfully or under fraudulent
11 representation.

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

16 (d) Use, in connection with his or her name, any
17 designation tending to imply that he or she is a respiratory
18 care practitioner or a respiratory therapist, duly licensed
19 under the provisions of this part, unless he or she is so
20 licensed.

21 (e) Advertise an educational program as meeting the
22 requirements of this part, or conduct an educational program
23 for the preparation of respiratory care practitioners or
24 respiratory therapists, unless such program has been approved
25 by the board.

26 (f) Knowingly employ unlicensed persons in the
27 delivery of respiratory care services, unless exempted by this
28 part.

29 (g) Knowingly conceal information relative to any
30 violation of this part.

31

1 (2) Any violation of this section is a felony of the
2 third degree, punishable as provided in s. 775.082, s.
3 775.083, or s. 775.084.

4 Section 59. Subsection (1) of section 483.828, Florida
5 Statutes, reads:

6 483.828 Penalties for violations.--

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

10 (a) Practicing as clinical laboratory personnel
11 without an active license.

12 (b) Using or attempting to use a license to practice
13 as clinical laboratory personnel which is suspended or
14 revoked.

15 (c) Attempting to obtain or obtaining a license to
16 practice as clinical laboratory personnel by knowing
17 misrepresentation.

18 Section 60. Subsection (9) of section 483.901, Florida
19 Statutes, reads:

20 483.901 Medical physicists; definitions; licensure.--

21 (9) PENALTY FOR VIOLATIONS.--It is a felony of the
22 third degree, punishable as provided in s. 775.082, s.
23 775.083, or s. 775.084, to:

24 (a) Practice or attempt to practice medical physics or
25 hold oneself out to be a licensed medical physicist without
26 holding an active license.

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

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

31 Section 61. Section 484.053, Florida Statutes, reads:

1 484.053 Prohibitions; penalties.--

2 (1) A person may not:

3 (a) Practice dispensing hearing aids unless the person
4 is a licensed hearing aid specialist;

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

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

8 (d) Give false, incomplete, or forged evidence to the
9 board or a member thereof for the purposes of obtaining a
10 license;

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

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

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

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

21 (3) If a person licensed under this part allows the
22 sale of a hearing aid by an unlicensed person not registered
23 as a trainee or fails to comply with the requirements of s.
24 484.0445(2) relating to supervision of trainees, the board
25 shall, upon determination of that violation, order the full
26 refund of moneys paid by the purchaser upon return of the
27 hearing aid to the seller's place of business.

28 Section 62. Subsection (1) of section 457.102, Florida
29 Statutes, is amended to read:

30 457.102 Definitions.--As used in this chapter:

31

1 (1) "Acupuncture" means a form of primary health care,
2 based on traditional Chinese medical concepts and modern
3 oriental medical techniques, that employs acupuncture
4 diagnosis and treatment, as well as adjunctive therapies and
5 diagnostic techniques, for the promotion, maintenance, and
6 restoration of health and the prevention of disease.
7 Acupuncture shall include, but not be limited to, the
8 insertion of acupuncture needles and the application of
9 moxibustion to specific areas of the human body and the use of
10 electroacupuncture, Qi Gong, oriental massage, herbal therapy,
11 dietary guidelines, and other adjunctive therapies, as defined
12 by board rule.

13 Section 63. Section 457.105, Florida Statutes, is
14 amended to read:

15 457.105 Licensure qualifications and fees.--

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

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

22 (a) Is 21 ~~18~~ years of age or older, has good moral
23 character, and has the ability to communicate in English,
24 which is demonstrated by having passed the national written
25 examination in English or, if such examination was passed in a
26 foreign language, by also having passed a nationally
27 recognized English proficiency examination;

28 (b) Has completed 60 college credits from an
29 accredited postsecondary institution as a prerequisite to
30 enrollment in an authorized 3-year course of study in
31 acupuncture and oriental medicine, and has completed a 3-year

1 course of study in acupuncture and oriental medicine, and
2 effective July 31, 2001, a 4-year course of study in
3 acupuncture and oriental medicine, which meets standards
4 established by the board by rule, which standards include, but
5 are not limited to, successful completion of academic courses
6 in western anatomy, western physiology, western pathology,
7 western biomedical terminology, first aid, and cardiopulmonary
8 resuscitation (CPR). However, any person who enrolled in an
9 authorized course of study in acupuncture before August 1,
10 1997, must have completed only a 2-year course of study which
11 meets standards established by the board by rule, which
12 standards must include, but are not limited to, successful
13 completion of academic courses in western anatomy, western
14 physiology, and western pathology;

15 (c) Has successfully completed a board-approved
16 national certification process, is actively licensed in a
17 state that has examination requirements that are substantially
18 equivalent to or more stringent than those of this state, or
19 passes an examination administered by the department, which
20 examination tests the applicant's competency and knowledge of
21 the practice of acupuncture and oriental medicine. At the
22 request of any applicant, oriental nomenclature for the points
23 shall be used in the examination. The examination shall
24 include a practical examination of the knowledge and skills
25 required to practice modern and traditional acupuncture and
26 oriental medicine, covering diagnostic and treatment
27 techniques and procedures; and

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

30 1. Examination fee: \$500 plus the actual per applicant
31 cost to the department for purchase of the written and

1 practical portions of the examination from a national
2 organization approved by the board.

3 2. Application fee: \$300.

4 3. Reexamination fee: \$500 plus the actual per
5 applicant cost to the department for purchase of the written
6 and practical portions of the examination from a national
7 organization approved by the board.

8 4. Initial biennial licensure fee: \$400, if licensed
9 in the first half of the biennium, and \$200, if licensed in
10 the second half of the biennium.

11 Section 64. Subsection (1) of section 457.107, Florida
12 Statutes, is amended to read:

13 457.107 Renewal of licenses; continuing education.--

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

17 Section 65. Section 483.824, Florida Statutes, is
18 amended to read:

19 483.824 Qualifications of clinical laboratory
20 director.--A clinical laboratory director must have 4 years of
21 clinical laboratory experience with 2 years of experience in
22 the specialty to be directed or be nationally board certified
23 in the specialty to be directed, and must meet one of the
24 following requirements:

25 (1) Be a physician licensed under chapter 458 or
26 chapter 459;

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

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

4 Section 66. February 6th of each year is designated
5 Florida Alzheimer's Disease Day.

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

8 641.51 Quality assurance program; second medical
9 opinion requirement.--

10 (11) If a contracted primary care physician, licensed
11 under Chapter 458 or Chapter 459, and the organization
12 determine that a subscriber requires examination by a licensed
13 ophthalmologist for medically necessary, contractually covered
14 services, then the organization shall authorize the contracted
15 primary care physician to send the subscriber to a contracted
16 licensed ophthalmologist.

17 Section 68. This act shall not be construed to
18 prohibit anyone from seeking medical information on the
19 Internet from any site.

20 Section 69. Effective upon this act becoming a law:

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

26 (2) Notwithstanding any provision to the contrary
27 contained in Committee Substitute for House Bill 2339, enacted
28 in the 2000 Regular Session of the Legislature, the
29 establishment of a specialty hospital offering a range of
30 medical services restricted to a defined age or gender group
31 of the population or a restricted range of services

1 appropriate to the diagnosis, care, and treatment of patients
2 with specific categories of medical illnesses or disorders,
3 through the transfer of beds and services from an existing
4 hospital in the same county, is not exempt from the provisions
5 of section 408.036(1), Florida Statutes.

6 Section 70. Paragraph (n) of subsection (3), paragraph
7 (c) of subsection (5), and paragraphs (b) and (d) of
8 subsection (6) of section 627.6699, Florida Statutes, are
9 amended to read:

10 627.6699 Employee Health Care Access Act.--

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

12 (n) "Modified community rating" means a method used to
13 develop carrier premiums which spreads financial risk across a
14 large population and allows adjustments for age, gender,
15 family composition, tobacco usage, and geographic area as
16 determined under paragraph (5)(j); claims experience, health
17 status, or duration of coverage as permitted under
18 subparagraph (6)(b)5.; and administrative and acquisition
19 expenses as permitted under subparagraph (6)(b)6.

20 (5) AVAILABILITY OF COVERAGE.--

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

23 1. ~~Beginning July 1, 2000, January 1, 1994,~~ offer and
24 issue all small employer health benefit plans on a
25 guaranteed-issue basis to every eligible small employer, with
26 2 ~~3~~ to 50 eligible employees, that elects to be covered under
27 such plan, agrees to make the required premium payments, and
28 satisfies the other provisions of the plan. A rider for
29 additional or increased benefits may be medically underwritten
30 and may only be added to the standard health benefit plan.

31

1 The increased rate charged for the additional or increased
 2 benefit must be rated in accordance with this section.

3 2. Beginning July 1, 2000, and until July 31, 2001,
 4 offer and issue basic and standard small employer health
 5 benefit plans on a guaranteed-issue basis to every eligible
 6 small employer which is eligible for guaranteed renewal, has
 7 less than two eligible employees, is not formed primarily for
 8 the purpose of buying health insurance, elects to be covered
 9 under such plan, agrees to make the required premium payments,
 10 and satisfies the other provisions of the plan. A rider for
 11 additional or increased benefits may be medically underwritten
 12 and may be added only to the standard benefit plan. The
 13 increased rate charged for the additional or increased benefit
 14 must be rated in accordance with this section. For purposes of
 15 this subparagraph, a person, his or her spouse, and his or her
 16 dependent children shall constitute a single eligible employee
 17 if that person and spouse are employed by the same small
 18 employer and either one has a normal work week of less than 25
 19 hours.

20 3.2. Beginning August 1, 2001 ~~April 15, 1994,~~ offer
 21 and issue basic and standard small employer health benefit
 22 plans on a guaranteed-issue basis, during a 31-day open
 23 enrollment period of August 1 through August 31 of each year,
 24 to every eligible small employer, with less than one or two
 25 eligible employees, which small employer is not formed
 26 primarily for the purpose of buying health insurance and which
 27 elects to be covered under such plan, agrees to make the
 28 required premium payments, and satisfies the other provisions
 29 of the plan. Coverage provided under this subparagraph shall
 30 begin on October 1 of the same year as the date of enrollment,
 31 unless the small employer carrier and the small employer agree

1 to a different date.A rider for additional or increased
2 benefits may be medically underwritten and may only be added
3 to the standard health benefit plan. The increased rate
4 charged for the additional or increased benefit must be rated
5 in accordance with this section. For purposes of this
6 subparagraph, a person, his or her spouse, and his or her
7 dependent children constitute a single eligible employee if
8 that person and spouse are employed by the same small employer
9 and either that person or his or her spouse has a normal work
10 week of less than 25 hours.

11 ~~4.3. Offer to eligible small employers the standard~~
12 ~~and basic health benefit plans.~~ This paragraph ~~subparagraph~~
13 does not limit a carrier's ability to offer other health
14 benefit plans to small employers if the standard and basic
15 health benefit plans are offered and rejected.

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

17 (b) For all small employer health benefit plans that
18 are subject to this section and are issued by small employer
19 carriers on or after January 1, 1994, premium rates for health
20 benefit plans subject to this section are subject to the
21 following:

22 1. Small employer carriers must use a modified
23 community rating methodology in which the premium for each
24 small employer must be determined solely on the basis of the
25 eligible employee's and eligible dependent's gender, age,
26 family composition, tobacco use, or geographic area as
27 determined under paragraph (5)(j) and in which the premium may
28 be adjusted as permitted by subparagraphs 5. and 6.

29 2. Rating factors related to age, gender, family
30 composition, tobacco use, or geographic location may be
31 developed by each carrier to reflect the carrier's experience.

1 The factors used by carriers are subject to department review
2 and approval.

3 3. Small employer carriers may not modify the rate for
4 a small employer for 12 months from the initial issue date or
5 renewal date, unless the composition of the group changes or
6 benefits are changed. However, a small employer carrier may
7 modify the rate one time prior to 12 months after the initial
8 issue date for a small employer who enrolls under a previously
9 issued group policy that has a common anniversary date for all
10 employers covered under the policy if:

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

14 b. The insurer demonstrates to the department that
15 efficiencies in administration are achieved and reflected in
16 the rates charged to small employers covered under the policy.

17 4. A carrier may issue a group health insurance policy
18 to a small employer health alliance or other group association
19 with rates that reflect a premium credit for expense savings
20 attributable to administrative activities being performed by
21 the alliance or group association if such expense savings are
22 specifically documented in the insurer's rate filing and are
23 approved by the department. Any such credit may not be based
24 on different morbidity assumptions or on any other factor
25 related to the health status or claims experience of any
26 person covered under the policy. Nothing in this subparagraph
27 exempts an alliance or group association from licensure for
28 any activities that require licensure under the Insurance
29 Code. A carrier issuing a group health insurance policy to a
30 small-employer health alliance or other group association
31 shall allow any properly licensed and appointed agent of that

1 carrier to market and sell the small-employer health alliance
2 or other group association policy. Such agent shall be paid
3 the usual and customary commission paid to any agent selling
4 the policy.~~Carriers participating in the alliance program, in~~
5 ~~accordance with ss. 408.70-408.706, may apply a different~~
6 ~~community rate to business written in that program.~~

7 5. Any adjustments in rates for claims experience,
8 health status, or duration of coverage may not be charged to
9 individual employees or dependents. For a small employer's
10 policy, such adjustments may not result in a rate for the
11 small employer which deviates more than 15 percent from the
12 carrier's approved rate. Any such adjustment must be applied
13 uniformly to the rates charged for all employees and
14 dependents of the small employer. A small employer carrier may
15 make an adjustment to a small employer's renewal premium, not
16 to exceed 10 percent annually, due to the claims experience,
17 health status, or duration of coverage of the employees or
18 dependents of the small employer. Semiannually small group
19 carriers shall report information on forms adopted by rule by
20 the department to enable the department to monitor the
21 relationship of aggregate adjusted premiums actually charged
22 policyholders by each carrier to the premiums that would have
23 been charged by application of the carrier's approved modified
24 community rates. If the aggregate resulting from the
25 application of such adjustment exceeds the premium that would
26 have been charged by application of the approved modified
27 community rate by 5 percent for the current reporting period,
28 the carrier shall limit the application of such adjustments
29 only to minus adjustments beginning not more than 60 days
30 after the report is sent to the department. For any subsequent
31 reporting period, if the total aggregate adjusted premium

1 actually charged does not exceed the premium that would have
2 been charged by application of the approved modified community
3 rate by 5 percent, the carrier may apply both plus and minus
4 adjustments. A small employer carrier may provide a credit to
5 a small employer's premium based on administrative and
6 acquisition expense differences resulting from the size of the
7 group. Group size administrative and acquisition expense
8 factors may be developed by each carrier to reflect the
9 carrier's experience and are subject to department review and
10 approval.

11 6. A small employer carrier rating methodology may
12 include separate rating categories for one dependent child,
13 for two dependent children, and for three or more dependent
14 children for family coverage of employees having a spouse and
15 dependent children or employees having dependent children
16 only. A small employer carrier may have fewer, but not
17 greater, numbers of categories for dependent children than
18 those specified in this subparagraph.

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

25 (d) Notwithstanding s. 627.401(2), this section and
26 ss. 627.410 and 627.411 apply to any health benefit plan
27 provided by a small employer carrier that is an insurer, and
28 this section and s. 641.31 apply to any health benefit
29 provided by a small employer carrier that is a health
30 maintenance organization that provides coverage to one or more
31 employees of a small employer regardless of where the policy,

1 certificate, or contract is issued or delivered, if the health
2 benefit plan covers employees or their covered dependents who
3 are residents of this state.

4 Section 71. Section 641.201, Florida Statutes, is
5 amended to read:

6 641.201 Applicability of other laws.--Except as
7 provided in this part, health maintenance organizations shall
8 be governed by the provisions of this part and part III of
9 this chapter and shall be exempt from all other provisions of
10 the Florida Insurance Code except those provisions of the
11 Florida Insurance Code that are explicitly made applicable to
12 health maintenance organizations.

13 Section 72. Section 641.234, Florida Statutes, is
14 amended to read:

15 641.234 Administrative, provider, and management
16 contracts.--

17 (1) The department may require a health maintenance
18 organization to submit any contract for administrative
19 services, contract with a provider other than an individual
20 physician, contract for management services, and contract with
21 an affiliated entity to the department.

22 (2) After review of a contract the department may
23 order the health maintenance organization to cancel the
24 contract in accordance with the terms of the contract and
25 applicable law if it determines:

26 (a) That the fees to be paid by the health maintenance
27 organization under the contract are so unreasonably high as
28 compared with similar contracts entered into by the health
29 maintenance organization or as compared with similar contracts
30 entered into by other health maintenance organizations in
31 similar circumstances that the contract is detrimental to the

1 subscribers, stockholders, investors, or creditors of the
2 health maintenance organization; ~~or-~~

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

6 (3) All contracts for administrative services,
7 management services, provider services other than individual
8 physician contracts, and with affiliated entities entered into
9 or renewed by a health maintenance organization on or after
10 October 1, 1988, shall contain a provision that the contract
11 shall be canceled upon issuance of an order by the department
12 pursuant to this section.

13 Section 73. Subsection (2) of section 641.27, Florida
14 Statutes, is amended to read:

15 641.27 Examination by the department.--

16 (2) The department may contract, at reasonable fees
17 for work performed, with qualified, impartial outside sources
18 to perform audits or examinations or portions thereof
19 pertaining to the qualification of an entity for issuance of a
20 certificate of authority or to determine continued compliance
21 with the requirements of this part, in which case the payment
22 must be made, directly to the contracted examiner by the
23 health maintenance organization examined, in accordance with
24 the rates and terms agreed to by the department and the
25 examiner. Any contracted assistance shall be under the direct
26 supervision of the department. The results of any contracted
27 assistance shall be subject to the review of, and approval,
28 disapproval, or modification by, the department.

29 Section 74. Section 641.226, Florida Statutes, is
30 created to read:

31

1 641.226 Application of federal solvency requirements
2 to provider-sponsored organizations.--The solvency
3 requirements of sections 1855 and 1856 of the Balanced Budget
4 Act of 1997 and rules adopted by the Secretary of the United
5 States Department of Health and Human Services apply to a
6 health maintenance organization that is a provider-sponsored
7 organization rather than the solvency requirements of this
8 part. However, if the provider-sponsored organization does not
9 meet the solvency requirements of this part, the organization
10 is limited to the issuance of Medicare+Choice plans to
11 eligible individuals. For the purposes of this section, the
12 terms "Medicare+Choice plans," "provider-sponsored
13 organizations," and "solvency requirements" have the same
14 meaning as defined in the federal act and federal rules and
15 regulations.

16 Section 75. Section 641.39, Florida Statutes, is
17 created to read:

18 641.39 Soliciting or accepting new or renewal health
19 maintenance contracts by insolvent or impaired health
20 maintenance organization prohibited; penalty.--

21 (1) Whether or not delinquency proceedings as to a
22 health maintenance organization have been or are to be
23 initiated, a director or officer of a health maintenance
24 organization, except with the written permission of the
25 Department of Insurance, may not authorize or permit the
26 health maintenance organization to solicit or accept new or
27 renewal health maintenance contracts or provider contracts in
28 this state after the director or officer knew, or reasonably
29 should have known, that the health maintenance organization
30 was insolvent or impaired. As used in this section, the term
31

1 "impaired" means that the health maintenance organization does
2 not meet the requirements of s. 641.225.

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

6 Section 76. Section 641.2011, Florida Statutes, is
7 created to read:

8 641.2011 Insurance holding companies.--Part IV of
9 chapter 628 applies to health maintenance organizations
10 licensed under part I of chapter 641.

11 Section 77. Notwithstanding any other provision of
12 law, the sum of \$200,000 is appropriated from the Insurance
13 Commissioner's Regulatory Trust Fund to the Office of
14 Legislative Services for the purpose of implementing the
15 legislative intent expressed in s. 624.215(1), Florida
16 Statutes, for a systematic review of proposed mandated health
17 coverages. The review must be conducted by certified actuaries
18 and other appropriate professionals and shall consist of an
19 assessment of the impact, including, but not limited to, the
20 costs and benefits, of mandated health coverages using the
21 guidelines provided in s. 624.215(2), Florida Statutes. This
22 assessment shall establish the aggregate cost of proposed
23 mandated health coverages. The term "mandated health
24 coverages" as used herein does not include health care
25 providers.

26 Section 78. Subsection (4) of section 212.055, Florida
27 Statutes, is amended to read:

28 212.055 Discretionary sales surtaxes; legislative
29 intent; authorization and use of proceeds.--It is the
30 legislative intent that any authorization for imposition of a
31 discretionary sales surtax shall be published in the Florida

1 Statutes as a subsection of this section, irrespective of the
2 duration of the levy. Each enactment shall specify the types
3 of counties authorized to levy; the rate or rates which may be
4 imposed; the maximum length of time the surtax may be imposed,
5 if any; the procedure which must be followed to secure voter
6 approval, if required; the purpose for which the proceeds may
7 be expended; and such other requirements as the Legislature
8 may provide. Taxable transactions and administrative
9 procedures shall be as provided in s. 212.054.

10 (4) INDIGENT CARE AND TRAUMA CENTER SURTAX.--

11 (a) The governing body in each county the government
12 of which is not consolidated with that of one or more
13 municipalities, which has a population of at least 800,000
14 residents and is not authorized to levy a surtax under
15 subsection (5) or subsection (6), may levy, pursuant to an
16 ordinance either approved by an extraordinary vote of the
17 governing body or conditioned to take effect only upon
18 approval by a majority vote of the electors of the county
19 voting in a referendum, a discretionary sales surtax at a rate
20 that may not exceed 0.5 percent.

21 (b) If the ordinance is conditioned on a referendum, a
22 statement that includes a brief and general description of the
23 purposes to be funded by the surtax and that conforms to the
24 requirements of s. 101.161 shall be placed on the ballot by
25 the governing body of the county. The following questions
26 shall be placed on the ballot:

27
28 FOR THE. . . .CENTS TAX
29 AGAINST THE. . . .CENTS TAX
30
31

1 (c) The ordinance adopted by the governing body
2 providing for the imposition of the surtax shall set forth a
3 plan for providing health care services to qualified
4 residents, as defined in paragraph (d). Such plan and
5 subsequent amendments to it shall fund a broad range of health
6 care services for both indigent persons and the medically
7 poor, including, but not limited to, primary care and
8 preventive care as well as hospital care. The plan must also
9 address the services to be provided by the Level I trauma
10 center.It shall emphasize a continuity of care in the most
11 cost-effective setting, taking into consideration both a high
12 quality of care and geographic access. Where consistent with
13 these objectives, it shall include, without limitation,
14 services rendered by physicians, clinics, community hospitals,
15 mental health centers, and alternative delivery sites, as well
16 as at least one regional referral hospital where appropriate.
17 It shall provide that agreements negotiated between the county
18 and providers, including hospitals with a Level I trauma
19 center,will include reimbursement methodologies that take
20 into account the cost of services rendered to eligible
21 patients, recognize hospitals that render a disproportionate
22 share of indigent care, provide other incentives to promote
23 the delivery of charity care, promote the advancement of
24 technology in medical services, recognize the level of
25 responsiveness to medical needs in trauma cases,and require
26 cost containment including, but not limited to, case
27 management. It must also provide that any hospitals that are
28 owned and operated by government entities on May 21, 1991,
29 must, as a condition of receiving funds under this subsection,
30 afford public access equal to that provided under s. 286.011
31 as to meetings of the governing board, the subject of which is

1 budgeting resources for the rendition of charity care as that
2 term is defined in the Florida Hospital Uniform Reporting
3 System (FHURS) manual referenced in s. 408.07. The plan shall
4 also include innovative health care programs that provide
5 cost-effective alternatives to traditional methods of service
6 delivery and funding.

7 (d) For the purpose of this subsection, the term
8 "qualified resident" means residents of the authorizing county
9 who are:

10 1. Qualified as indigent persons as certified by the
11 authorizing county;

12 2. Certified by the authorizing county as meeting the
13 definition of the medically poor, defined as persons having
14 insufficient income, resources, and assets to provide the
15 needed medical care without using resources required to meet
16 basic needs for shelter, food, clothing, and personal
17 expenses; or not being eligible for any other state or federal
18 program, or having medical needs that are not covered by any
19 such program; or having insufficient third-party insurance
20 coverage. In all cases, the authorizing county is intended to
21 serve as the payor of last resort; or

22 3. Participating in innovative, cost-effective
23 programs approved by the authorizing county.

24 (e) Moneys collected pursuant to this subsection
25 remain the property of the state and shall be distributed by
26 the Department of Revenue on a regular and periodic basis to
27 the clerk of the circuit court as ex officio custodian of the
28 funds of the authorizing county. The clerk of the circuit
29 court shall:

30 1. Maintain the moneys in an indigent health care
31 trust fund;

1 2. Invest any funds held on deposit in the trust fund
2 pursuant to general law; and

3 3. Disburse the funds, including any interest earned,
4 to any provider of health care services, as provided in
5 paragraphs (c) and (d), upon directive from the authorizing
6 county. However, if a county has a population of at least
7 800,000 residents and has levied the surtax authorized in this
8 subsection, notwithstanding any directive from the authorizing
9 county, on October 1 of each calendar year, the clerk of the
10 court shall issue a check in the amount of \$6.5 million to a
11 hospital in its jurisdiction that has a Level I trauma center
12 or shall issue a check in the amount of \$3.5 million to a
13 hospital in its jurisdiction that has a Level I trauma center
14 if that county enacts and implements a hospital lien law in
15 accordance with chapter 98-499, Laws of Florida. The issuance
16 of the checks on October 1 of each year is provided in
17 recognition of the Level I trauma center status and shall be
18 in addition to the base contract amount received during fiscal
19 year 1999-2000 and any additional amount negotiated to the
20 base contract. If the hospital receiving funds for its Level I
21 trauma center status requests such funds to be used to
22 generate federal matching funds under Medicaid, the clerk of
23 the court shall instead issue a check to the Agency for Health
24 Care Administration to accomplish that purpose to the extent
25 that it is allowed through the General Appropriations Act.

26 (f) Notwithstanding any other provision of this
27 section, a county shall not levy local option sales surtaxes
28 authorized in this subsection and subsections (2) and (3) in
29 excess of a combined rate of 1 percent.

30 (g) This subsection expires October 1, 2005.

31

1 Section 79. Sections 468.821 through 468.829, Florida
2 Statutes, are renumbered as sections 464.201 through 464.209,
3 respectively, designated as part II of chapter 464, Florida
4 Statutes, and amended to read:

5 464.201 ~~468.821~~ Definitions.--As used in this part,
6 the term:

7 (1) "Approved training program" means:

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

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

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

17 (3)~~(2)~~ "Certified nursing assistant" means a person
18 who meets the qualifications specified in this part and who is
19 certified by the board ~~department~~ as a certified nursing
20 assistant.

21 (4)~~(3)~~ "Department" means the Department of Health.

22 (5)~~(4)~~ "Registry" means the listing of certified
23 nursing assistants maintained by the board ~~department~~.

24 464.202 ~~468.822~~ Duties and powers of the board
25 ~~department~~.--The board ~~department~~ shall maintain, or contract
26 with or approve another entity to maintain, a state registry
27 of certified nursing assistants. The registry must consist of
28 the name of each certified nursing assistant in this state;
29 other identifying information defined by board ~~department~~
30 rule; certification status; the effective date of
31 certification; other information required by state or federal

1 law; information regarding any crime or any abuse, neglect, or
 2 exploitation as provided under chapter 435; and any
 3 disciplinary action taken against the certified nursing
 4 assistant. The registry shall be accessible to the public, the
 5 certificateholder, employers, and other state agencies. The
 6 ~~board department~~ shall adopt by rule testing procedures for
 7 use in certifying nursing assistants and shall adopt rules
 8 regulating the practice of certified nursing assistants to
 9 enforce this part. The ~~board department~~ may contract with or
 10 approve another entity or organization to provide the
 11 examination services, including the development and
 12 administration of examinations. The board shall require that
 13 the contract provider offer certified nursing assistant
 14 applications via the Internet, and may require the contract
 15 provider to accept certified nursing assistant applications
 16 for processing via the Internet. The board shall require the
 17 contract provider to provide the preliminary results of the
 18 certified nursing examination on the date the test is
 19 administered.The provider shall pay all reasonable costs and
 20 expenses incurred by the ~~board department~~ in evaluating the
 21 provider's application and performance during the delivery of
 22 services, including examination services and procedures for
 23 maintaining the certified nursing assistant registry.

24 464.203 ~~468.823~~ Certified nursing assistants;
 25 certification requirement.--

26 (1) The ~~board department~~ shall issue a certificate to
 27 practice as a certified nursing assistant to any person who
 28 demonstrates a minimum competency to read and write and
 29 successfully passes the required Level I or Level II screening
 30 pursuant to s. 400.215 and meets one of the following
 31 requirements:

1 (a) Has successfully completed an approved training
2 program and achieved a minimum score, established by rule of
3 the board department, on the nursing assistant competency
4 examination, which consists of a written portion and
5 skills-demonstration portion approved by the board department
6 and administered at a site and by personnel approved by the
7 department.

8 (b) Has achieved a minimum score, established by rule
9 of the board department, on the nursing assistant competency
10 examination, which consists of a written portion and
11 skills-demonstration portion, approved by the board department
12 and administered at a site and by personnel approved by the
13 department and:

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

16 (c) Is currently certified in another state; is listed
17 on that state's certified nursing assistant registry; and has
18 not been found to have committed abuse, neglect, or
19 exploitation in that state; ~~and has successfully completed a~~
20 ~~national nursing assistant evaluation in order to receive~~
21 ~~certification in that state.~~

22 (d) Has completed the curriculum developed under the
23 Enterprise Florida Jobs and Education Partnership Grant and
24 achieved a minimum score, established by rule of the board, on
25 the nursing assistant competency examination, which consists
26 of a written portion and skills-demonstration portion,
27 approved by the board and administered at a site and by
28 personnel approved by the department.

29 (2) If an applicant fails to pass the nursing
30 assistant competency examination in three attempts, the
31

1 applicant is not eligible for reexamination unless the
2 applicant completes an approved training program.

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

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

9 (5) A certified nursing assistant shall maintain a
10 current address with the board ~~department~~ in accordance with
11 s. 455.717.

12 464.204 ~~468.824~~ Denial, suspension, or revocation of
13 certification; disciplinary actions.--

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

17 (a) Obtaining or attempting to obtain certification or
18 an exemption, or possessing or attempting to possess
19 certification or a letter of exemption, by bribery,
20 misrepresentation, deceit, or through an error of the board
21 ~~department~~.

22 (b) Intentionally violating any provision of this
23 chapter, chapter 455, or the rules adopted by the board
24 ~~department~~.

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

29 (a) Denial, suspension, or revocation of
30 certification.

31

1 (b) Imposition of an administrative fine not to exceed
2 \$150 for each count or separate offense.

3 (c) Imposition of probation or restriction of
4 certification, including conditions such as corrective actions
5 as retraining or compliance with an approved treatment program
6 for impaired practitioners.

7 (3) The board department may, upon the request of a
8 certificateholder, exempt the certificateholder from
9 ~~disqualification of certification or disqualification of~~
10 employment in accordance with chapter 435 and issue a letter
11 of exemption. ~~After January 1, 2000,~~The board department must
12 notify an applicant seeking an exemption from disqualification
13 from certification or employment of its decision to approve or
14 deny the request within 30 days after the date the board
15 ~~department~~ receives all required documentation.

16 464.205 ~~468.825~~ Availability of disciplinary records
17 and proceedings.--Pursuant to s. 455.621, any complaint or
18 record maintained by the department ~~of Health~~ pursuant to the
19 discipline of a certified nursing assistant and any proceeding
20 held by the board department to discipline a certified nursing
21 assistant shall remain open and available to the public.

22 464.206 ~~468.826~~ Exemption from liability.--If an
23 employer terminates or denies employment to a certified
24 nursing assistant whose certification is inactive as shown on
25 the certified nursing assistant registry or whose name appears
26 on the central abuse registry and tracking system of the
27 Department of Children and Family Services or on a criminal
28 screening report of the Department of Law Enforcement, the
29 employer is not civilly liable for such termination and a
30 cause of action may not be brought against the employer for
31 damages, regardless of whether the employee has filed for an

1 exemption from the board ~~department~~ under s. 464.204(3)
 2 ~~468.824(1)~~. There may not be any monetary liability on the
 3 part of, and a cause of action for damages may not arise
 4 against, any licensed facility, its governing board or members
 5 thereof, medical staff, disciplinary board, agents,
 6 investigators, witnesses, employees, or any other person for
 7 any action taken in good faith without intentional fraud in
 8 carrying out this section.

9 464.207 ~~468.827~~ Penalties.--It is a misdemeanor of the
 10 first degree, punishable as provided under s. 775.082 or s.
 11 775.083, for any person, knowingly or intentionally, to fail
 12 to disclose, by false statement, misrepresentation,
 13 impersonation, or other fraudulent means, in any application
 14 for voluntary or paid employment or certification licensure
 15 regulated under this part, a material fact used in making a
 16 determination as to such person's qualifications to be an
 17 employee or certificateholder ~~licensee~~.

18 464.208 ~~468.828~~ Background screening information;
 19 rulemaking authority.--

20 (1) The Agency for Health Care Administration shall
 21 allow the board ~~department~~ to electronically access its
 22 background screening database and records, and the Department
 23 of Children and Family Services shall allow the board
 24 ~~department~~ to electronically access its central abuse registry
 25 and tracking system under chapter 415.

26 (2) An employer, or an agent thereof, may not use
 27 criminal records, juvenile records, or information obtained
 28 from the central abuse hotline under chapter 415 relating to
 29 vulnerable adults for any purpose other than determining if
 30 the person meets the requirements of this part. Such records
 31

1 and information obtained by the board ~~department~~ shall remain
2 confidential and exempt from s. 119.07(1).

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

9 (4) The board ~~department~~ shall adopt rules to
10 administer this part.

11 464.209 ~~468.829~~ Certified nursing assistant
12 registry.--

13 (1) By October 1, 1999, and by October 1 of every year
14 thereafter, each employer of certified nursing assistants
15 shall submit to the board ~~Department of Health~~ a list of the
16 names and social security numbers of each person employed by
17 the employer as a certified nursing assistant in a
18 nursing-related occupation for a minimum of 8 hours for
19 monetary compensation during the preceding 24 months.
20 Employers may submit such information electronically through
21 the department's Internet site.

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

26 (3) Each certified nursing assistant whose name is not
27 reported to the board ~~department~~ under subsection (1) on
28 October 1, 1999, shall be assigned an inactive certification
29 on January 1, 2000. A certified nursing assistant may remove
30 such an inactive certification by submitting documentation to
31 the board ~~department~~ that he or she was employed for a minimum

1 of 8 hours for monetary compensation as a certified nursing
2 assistant in a nursing-related occupation during the preceding
3 24 months.

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

5 Section 80. Section 464.2085, Florida Statutes, is
6 created to read:

7 464.2085 Council on Certified Nursing Assistants.--The
8 Council on Certified Nursing Assistants is created within the
9 department, under the Board of Nursing.

10 (1) The council shall consist of five members
11 appointed as follows:

12 (a) The chairperson of the Board of Nursing shall
13 appoint two members who are registered nurses. One of the
14 members must currently supervise a certified nursing assistant
15 in a licensed nursing home.

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

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

23 (2) The council shall:

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

26 (b) Develop all rules regulating the education,
27 training, and certification process for nursing assistants
28 certified under this chapter. The Board of Nursing shall
29 consider adopting a proposed rule developed by the council at
30 the regularly scheduled meeting immediately following the
31 submission of the proposed rule by the council.

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

3 (d) Address concerns and problems of certified nursing
4 assistants in order to improve safety in the practice of
5 certified nursing assistants.

6 Section 81. Paragraph (g) of subsection (3) of section
7 20.43, Florida Statutes, is amended to read:

8 20.43 Department of Health.--There is created a
9 Department of Health.

10 (3) The following divisions of the Department of
11 Health are established:

12 (g) Division of Medical Quality Assurance, which is
13 responsible for the following boards and professions
14 established within the division:

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

16 1.2. Health care services pools, as provided under s.
17 402.48.

18 ~~2.3.~~ The Board of Acupuncture, created under chapter
19 457.

20 ~~3.4.~~ The Board of Medicine, created under chapter 458.

21 ~~4.5.~~ The Board of Osteopathic Medicine, created under
22 chapter 459.

23 ~~5.6.~~ The Board of Chiropractic Medicine, created under
24 chapter 460.

25 ~~6.7.~~ The Board of Podiatric Medicine, created under
26 chapter 461.

27 ~~7.8.~~ Naturopathy, as provided under chapter 462.

28 ~~8.9.~~ The Board of Optometry, created under chapter
29 463.

30 ~~9.10.~~ The Board of Nursing, created under part I of
31 chapter 464.

- 1 10. Nursing assistants, as provided under part II of
2 chapter 464.
- 3 11. The Board of Pharmacy, created under chapter 465.
- 4 12. The Board of Dentistry, created under chapter 466.
- 5 13. Midwifery, as provided under chapter 467.
- 6 14. The Board of Speech-Language Pathology and
7 Audiology, created under part I of chapter 468.
- 8 15. The Board of Nursing Home Administrators, created
9 under part II of chapter 468.
- 10 16. The Board of Occupational Therapy, created under
11 part III of chapter 468.
- 12 17. Respiratory therapy, as provided under part V of
13 chapter 468.
- 14 18. Dietetics and nutrition practice, as provided
15 under part X of chapter 468.
- 16 19. The Board of Athletic Training, created under part
17 XIII of chapter 468.
- 18 20. The Board of Orthotists and Prosthetists, created
19 under part XIV of chapter 468.
- 20 21. Electrolysis, as provided under chapter 478.
- 21 22. The Board of Massage Therapy, created under
22 chapter 480.
- 23 23. The Board of Clinical Laboratory Personnel,
24 created under part III of chapter 483.
- 25 24. Medical physicists, as provided under part IV of
26 chapter 483.
- 27 25. The Board of Opticianry, created under part I of
28 chapter 484.
- 29 26. The Board of Hearing Aid Specialists, created
30 under part II of chapter 484.
- 31

1 27. The Board of Physical Therapy Practice, created
2 under chapter 486.

3 28. The Board of Psychology, created under chapter
4 490.

5 29. School psychologists, as provided under chapter
6 490.

7 30. The Board of Clinical Social Work, Marriage and
8 Family Therapy, and Mental Health Counseling, created under
9 chapter 491.

10

11 The department may contract with the Agency for Health Care
12 Administration who shall provide consumer complaint,
13 investigative, and prosecutorial services required by the
14 Division of Medical Quality Assurance, councils, or boards, as
15 appropriate.

16 Section 82. Subsection (38) of section 39.01, Florida
17 Statutes, is amended to read:

18 39.01 Definitions.--When used in this chapter, unless
19 the context otherwise requires:

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

25 Section 83. Paragraph (b) of subsection (1) of section
26 39.304, Florida Statutes, is amended to read:

27 39.304 Photographs, medical examinations, X rays, and
28 medical treatment of abused, abandoned, or neglected child.--

29

(1)

30

(b) If the areas of trauma visible on a child indicate
31 a need for a medical examination, or if the child verbally

1 complains or otherwise exhibits distress as a result of injury
2 through suspected child abuse, abandonment, or neglect, or is
3 alleged to have been sexually abused, the person required to
4 investigate may cause the child to be referred for diagnosis
5 to a licensed physician or an emergency department in a
6 hospital without the consent of the child's parents or legal
7 custodian. Such examination may be performed by any licensed
8 physician or an advanced registered nurse practitioner
9 licensed pursuant to part I of chapter 464. Any licensed
10 physician, or advanced registered nurse practitioner licensed
11 pursuant to part I of chapter 464, who has reasonable cause to
12 suspect that an injury was the result of child abuse,
13 abandonment, or neglect may authorize a radiological
14 examination to be performed on the child without the consent
15 of the child's parent or legal custodian.

16 Section 84. Paragraph (c) of subsection (6) of section
17 110.131, Florida Statutes, is amended to read:

18 110.131 Other-personal-services temporary
19 employment.--

20 (6)

21 (c) Notwithstanding the provisions of this section,
22 the agency head or his or her designee may extend the
23 other-personal-services employment of a health care
24 practitioner licensed pursuant to chapter 458, chapter 459,
25 chapter 460, chapter 461, chapter 463, part I of chapter 464,
26 chapter 466, chapter 468, chapter 483, chapter 486, or chapter
27 490 beyond 2,080 hours and may employ such practitioner on an
28 hourly or other basis.

29 Section 85. Subsection (1) of section 232.46, Florida
30 Statutes, is amended to read:

31

1 232.46 Administration of medication by school district
2 personnel.--

3 (1) Notwithstanding the provisions of the Nurse
4 Practice Act, part I of chapter 464, school district personnel
5 shall be authorized to assist students in the administration
6 of prescription medication when the following conditions have
7 been met:

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

19 (b) Each district school board shall adopt policies
20 and procedures governing the administration of prescription
21 medication by school district personnel. The policies and
22 procedures shall include, but not be limited to, the following
23 provisions:

24 1. For each prescribed medication, the student's
25 parent or guardian shall provide to the school principal a
26 written statement which shall grant to the principal or the
27 principal's designee permission to assist in the
28 administration of such medication and which shall explain the
29 necessity for such medication to be provided during the school
30 day, including any occasion when the student is away from
31 school property on official school business. The school

1 principal or the principal's trained designee shall assist the
2 student in the administration of such medication.

3 2. Each prescribed medication to be administered by
4 school district personnel shall be received, counted, and
5 stored in its original container. When the medication is not
6 in use, it shall be stored in its original container in a
7 secure fashion under lock and key in a location designated by
8 the principal.

9 Section 86. Subsection (6) of section 240.4075,
10 Florida Statutes, is amended to read:

11 240.4075 Nursing Student Loan Forgiveness Program.--

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

23 Section 87. Paragraph (b) of subsection (1) of section
24 246.081, Florida Statutes, is amended to read:

25 246.081 License, certificate of exemption, or
26 authorization required; exceptions.--

27 (1) The following colleges are not under the
28 jurisdiction of the board and are not required to obtain a
29 license, a certificate of exemption, permission to operate, or
30 an authorization from the board:

31

1 (b) Any college, school, or course licensed or
2 approved for establishment and operation under part I of
3 chapter 464, chapter 466, or chapter 475, or any other chapter
4 of the Florida Statutes, requiring licensing or approval as
5 defined in ss. 246.011-246.151.

6 Section 88. Subsection (2) of section 310.102, Florida
7 Statutes, is amended to read:

8 310.102 Treatment programs for impaired pilots and
9 deputy pilots.--

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

21 Section 89. Subsection (7) of section 381.0302,
22 Florida Statutes, is amended to read:

23 381.0302 Florida Health Services Corps.--

24 (7) The financial penalty for noncompliance with
25 participation requirements for persons who have received
26 financial payments under subsection (5) or subsection (6)
27 shall be determined in the same manner as in the National
28 Health Services Corps scholarship program. In addition,
29 noncompliance with participation requirements shall also
30 result in ineligibility for professional licensure or renewal
31 of licensure under chapter 458, chapter 459, chapter 460, part

1 I of chapter 464, chapter 465, or chapter 466. For a
2 participant who is unable to participate for reasons of
3 disability, the penalty is the actual amount of financial
4 assistance provided to the participant. Financial penalties
5 shall be deposited in the Florida Health Services Corps Trust
6 Fund and shall be used to provide additional scholarship and
7 financial assistance.

8 Section 90. Subsection (1) of section 384.30, Florida
9 Statutes, is amended to read:

10 384.30 Minors' consent to treatment.--

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

22 Section 91. Section 384.31, Florida Statutes, is
23 amended to read:

24 384.31 Serological testing of pregnant women; duty of
25 the attendant.--

26 (1) Every person, including every physician licensed
27 under chapter 458 or chapter 459 or midwife licensed under
28 part I of chapter 464 or chapter 467, attending a pregnant
29 woman for conditions relating to pregnancy during the period
30 of gestation and delivery shall take or cause to be taken a
31 sample of venous blood at a time or times specified by the

1 department. Each sample of blood shall be tested by a
2 laboratory approved for such purposes under part I of chapter
3 483 for sexually transmissible diseases as required by rule of
4 the department.

5 (2) At the time the venous blood sample is taken,
6 testing for human immunodeficiency virus (HIV) infection shall
7 be offered to each pregnant woman. The prevailing professional
8 standard of care in this state requires each health care
9 provider and midwife who attends a pregnant woman to counsel
10 the woman to be tested for human immunodeficiency virus (HIV).
11 Counseling shall include a discussion of the availability of
12 treatment if the pregnant woman tests HIV positive. If a
13 pregnant woman objects to HIV testing, reasonable steps shall
14 be taken to obtain a written statement of such objection,
15 signed by the patient, which shall be placed in the patient's
16 medical record. Every person, including every physician
17 licensed under chapter 458 or chapter 459 or midwife licensed
18 under part I of chapter 464 or chapter 467, who attends a
19 pregnant woman who has been offered and objects to HIV testing
20 shall be immune from liability arising out of or related to
21 the contracting of HIV infection or acquired immune deficiency
22 syndrome (AIDS) by the child from the mother.

23 Section 92. Subsection (23) of section 394.455,
24 Florida Statutes, is amended to read:

25 394.455 Definitions.--As used in this part, unless the
26 context clearly requires otherwise, the term:

27 (23) "Psychiatric nurse" means a registered nurse
28 licensed under part I of chapter 464 who has a master's degree
29 or a doctorate in psychiatric nursing and 2 years of
30 post-master's clinical experience under the supervision of a
31 physician.

1 Section 93. Paragraphs (a) and (b) of subsection (2)
2 and subsection (4) of section 395.0191, Florida Statutes, are
3 amended to read:

4 395.0191 Staff membership and clinical privileges.--

5 (2)(a) Each licensed facility shall establish rules
6 and procedures for consideration of an application for
7 clinical privileges submitted by an advanced registered nurse
8 practitioner licensed and certified under part I of chapter
9 464, in accordance with the provisions of this section. No
10 licensed facility shall deny such application solely because
11 the applicant is licensed under part I of chapter 464 or
12 because the applicant is not a participant in the Florida
13 Birth-Related Neurological Injury Compensation Plan.

14 (b) An advanced registered nurse practitioner who is
15 certified as a registered nurse anesthetist licensed under
16 part I of chapter 464 shall administer anesthesia under the
17 onsite medical direction of a professional licensed under
18 chapter 458, chapter 459, or chapter 466, and in accordance
19 with an established protocol approved by the medical staff.
20 The medical direction shall specifically address the needs of
21 the individual patient.

22 (4) Nothing herein shall restrict in any way the
23 authority of the medical staff of a licensed facility to
24 review for approval or disapproval all applications for
25 appointment and reappointment to all categories of staff and
26 to make recommendations on each applicant to the governing
27 board, including the delineation of privileges to be granted
28 in each case. In making such recommendations and in the
29 delineation of privileges, each applicant shall be considered
30 individually pursuant to criteria for a doctor licensed under
31 chapter 458, chapter 459, chapter 461, or chapter 466, or for

1 an advanced registered nurse practitioner licensed and
2 certified under part I of chapter 464, or for a psychologist
3 licensed under chapter 490, as applicable. The applicant's
4 eligibility for staff membership or clinical privileges shall
5 be determined by the applicant's background, experience,
6 health, training, and demonstrated competency; the applicant's
7 adherence to applicable professional ethics; the applicant's
8 reputation; and the applicant's ability to work with others
9 and by such other elements as determined by the governing
10 board, consistent with this part.

11 Section 94. Subsection (11) of section 400.021,
12 Florida Statutes, is amended to read:

13 400.021 Definitions.--When used in this part, unless
14 the context otherwise requires, the term:

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

18 Section 95. Section 400.211, Florida Statutes, is
19 amended to read:

20 400.211 Persons employed as nursing assistants;
21 certification requirement.--

22 (1) To serve as a nursing assistant in any nursing
23 home, a person must be certified as a nursing assistant under
24 part II ~~XV~~ of chapter 464 ~~468~~, unless the person is ~~except~~ a
25 registered nurse or practical nurse licensed in accordance
26 with part I of chapter 464 or an applicant for such licensure
27 who is permitted to practice nursing in accordance with rules
28 adopted by the Board of Nursing pursuant to part I of chapter
29 464, ~~to serve as a nursing assistant in any nursing home.~~

30 (2) The following categories of persons who are not
31 certified as nursing assistants under ~~this~~ part II of chapter

1 464 may be employed by a nursing facility for a period of 4
2 months:

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

5 (b) Persons who have been positively verified ~~by a~~
6 ~~state approved test site~~ as actively certified and on the
7 registry in another state with no findings of abuse, ~~but who~~
8 ~~have not completed the written examination required under this~~
9 ~~section.~~ or

10 (c) Persons who have preliminarily passed the state's
11 certification exam.

12

13 The certification requirement must be met within 4 months
14 after ~~of~~ initial employment as a nursing assistant in a
15 licensed nursing facility.

16 (3) Nursing homes shall require persons seeking
17 employment as a certified nursing assistant to submit an
18 employment history to the facility. The facility shall verify
19 the employment history unless, through diligent efforts, such
20 verification is not possible. There shall be no monetary
21 liability on the part of, and no cause of action for damages
22 shall arise against, a former employer who reasonably and in
23 good faith communicates his or her honest opinion about a
24 former employee's job performance.

25 Section 96. Paragraph (b) of subsection (4) of section
26 400.215, Florida Statutes, is amended to read:

27 400.215 Personnel screening requirement.--

28 (4)

29 (b) As provided in s. 435.07, the appropriate
30 regulatory board within the Department of Health, or that
31 department itself when there is no board, may grant an

1 exemption from disqualification to an employee or prospective
2 employee who is subject to this section and who has received a
3 professional license or certification from the Department of
4 Health or a regulatory board within that department.

5 Section 97. Paragraph (c) is added to subsection (3)
6 of section 400.23, Florida Statutes, to read:

7 400.23 Rules; evaluation and deficiencies; licensure
8 status.--

9 (3)

10 (c) Licensed practical nurses licensed under chapter
11 464 who are providing nursing services in nursing home
12 facilities under this part may supervise the activities of
13 other licensed practical nurses, certified nursing assistants,
14 and other unlicensed personnel providing services in such
15 facilities in accordance with rules adopted by the Board of
16 Nursing.

17 Section 98. Subsections (12) and (14) of section
18 400.402, Florida Statutes, are amended to read:

19 400.402 Definitions.--When used in this part, the
20 term:

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

30 (14) "Limited nursing services" means acts that may be
31 performed pursuant to part I of chapter 464 by persons

1 licensed thereunder while carrying out their professional
 2 duties but limited to those acts which the department
 3 specifies by rule. Acts which may be specified by rule as
 4 allowable limited nursing services shall be for persons who
 5 meet the admission criteria established by the department for
 6 assisted living facilities and shall not be complex enough to
 7 require 24-hour nursing supervision and may include such
 8 services as the application and care of routine dressings, and
 9 care of casts, braces, and splints.

10 Section 99. Paragraphs (a) and (b) of subsection (3)
 11 of section 400.407, Florida Statutes, are amended to read:

12 400.407 License required; fee, display.--

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

21 (a) A standard license shall be issued to facilities
 22 providing one or more of the services identified in s.
 23 400.402. Such facilities may also employ or contract with a
 24 person licensed under part I of chapter 464 to administer
 25 medications and perform other tasks as specified in s.
 26 400.4255.

27 (b) An extended congregate care license shall be
 28 issued to facilities providing, directly or through contract,
 29 services beyond those authorized in paragraph (a), including
 30 acts performed pursuant to part I of chapter 464 by persons
 31 licensed thereunder, and supportive services defined by rule

1 to persons who otherwise would be disqualified from continued
2 residence in a facility licensed under this part.

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

- 20 a. A class I or class II violation;
- 21 b. Three or more repeat or recurring class III
22 violations of identical or similar resident care standards as
23 specified in rule from which a pattern of noncompliance is
24 found by the agency;
- 25 c. Three or more class III violations that were not
26 corrected in accordance with the corrective action plan
27 approved by the agency;
- 28 d. Violation of resident care standards resulting in a
29 requirement to employ the services of a consultant pharmacist
30 or consultant dietitian;

31

1 e. Denial, suspension, or revocation of a license for
2 another facility under this part in which the applicant for an
3 extended congregate care license has at least 25 percent
4 ownership interest; or

5 f. Imposition of a moratorium on admissions or
6 initiation of injunctive proceedings.

7 2. Facilities that are licensed to provide extended
8 congregate care services shall maintain a written progress
9 report on each person who receives such services, which report
10 describes the type, amount, duration, scope, and outcome of
11 services that are rendered and the general status of the
12 resident's health. A registered nurse, or appropriate
13 designee, representing the agency shall visit such facilities
14 at least two times a year to monitor residents who are
15 receiving extended congregate care services and to determine
16 if the facility is in compliance with this part and with rules
17 that relate to extended congregate care. One of these visits
18 may be in conjunction with the regular biennial survey. The
19 monitoring visits may be provided through contractual
20 arrangements with appropriate community agencies. A
21 registered nurse shall serve as part of the team that
22 biennially inspects such facility. The agency may waive one of
23 the required yearly monitoring visits for a facility that has
24 been licensed for at least 24 months to provide extended
25 congregate care services, if, during the biennial inspection,
26 the registered nurse determines that extended congregate care
27 services are being provided appropriately, and if the facility
28 has no class I or class II violations and no uncorrected class
29 III violations. Before such decision is made, the agency shall
30 consult with the long-term care ombudsman council for the area
31 in which the facility is located to determine if any

1 complaints have been made and substantiated about the quality
2 of services or care. The agency may not waive one of the
3 required yearly monitoring visits if complaints have been made
4 and substantiated.

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

7 a. Demonstrate the capability to meet unanticipated
8 resident service needs.

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

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

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

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

27 f. Implement the concept of managed risk.

28 g. Provide, either directly or through contract, the
29 services of a person licensed pursuant to part I of chapter
30 464.

31

1 h. In addition to the training mandated in s. 400.452,
2 provide specialized training as defined by rule for facility
3 staff.

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

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

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

28 7. When a facility can no longer provide or arrange
29 for services in accordance with the resident's service plan
30 and needs and the facility's policy, the facility shall make
31

1 arrangements for relocating the person in accordance with s.
2 400.428(1)(k).

3 8. Failure to provide extended congregate care
4 services may result in denial of extended congregate care
5 license renewal.

6 9. No later than January 1 of each year, the
7 department, in consultation with the agency, shall prepare and
8 submit to the Governor, the President of the Senate, the
9 Speaker of the House of Representatives, and the chairs of
10 appropriate legislative committees, a report on the status of,
11 and recommendations related to, extended congregate care
12 services. The status report must include, but need not be
13 limited to, the following information:

14 a. A description of the facilities licensed to provide
15 such services, including total number of beds licensed under
16 this part.

17 b. The number and characteristics of residents
18 receiving such services.

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

21 d. An analysis of deficiencies cited during biennial
22 inspections.

23 e. The number of residents who required extended
24 congregate care services at admission and the source of
25 admission.

26 f. Recommendations for statutory or regulatory
27 changes.

28 g. The availability of extended congregate care to
29 state clients residing in facilities licensed under this part
30 and in need of additional services, and recommendations for
31

1 appropriations to subsidize extended congregate care services
2 for such persons.

3 h. Such other information as the department considers
4 appropriate.

5 Section 100. Paragraphs (a) and (c) of subsection (1)
6 and subsection (2) of section 400.4255, Florida Statutes, are
7 amended to read:

8 400.4255 Use of personnel; emergency care.--

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

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

29 (2) In facilities licensed to provide extended
30 congregate care, persons under contract to the facility,
31 facility staff, or volunteers, who are licensed according to

1 part I of chapter 464, or those persons exempt under s.
2 464.022(1), or those persons certified as nursing assistants
3 pursuant to part II of chapter 464 ~~s. 400.211~~, may also
4 perform all duties within the scope of their license or
5 certification, as approved by the facility administrator and
6 pursuant to this part.

7 Section 101. Subsection (3) of section 400.426,
8 Florida Statutes, is amended to read:

9 400.426 Appropriateness of placements; examinations of
10 residents.--

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

23 Section 102. Subsections (3) and (21) of section
24 400.462, Florida Statutes, are amended to read:

25 400.462 Definitions.--As used in this part, the term:

26 (3) "Certified nursing assistant" means any person who
27 has been issued a certificate under part II of chapter 464 ~~s.~~
28 ~~400.211~~. The licensed home health agency or licensed nurse
29 registry shall ensure that the certified nursing assistant
30 employed by or under contract with the home health agency or
31

1 licensed nurse registry is adequately trained to perform the
2 tasks of a home health aide in the home setting.

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

9 Section 103. Paragraph (c) of subsection (6) of
10 section 400.464, Florida Statutes, is amended to read:

11 400.464 Home health agencies to be licensed;
12 expiration of license; exemptions; unlawful acts; penalties.--

13 (6) The following are exempt from the licensure
14 requirements of this part:

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

22 Section 104. Paragraph (a) of subsection (10),
23 subsection (11), and paragraph (a) of subsection (15) of
24 section 400.506, Florida Statutes, are amended to read:

25 400.506 Licensure of nurse registries; requirements;
26 penalties.--

27 (10)(a) A nurse registry may refer for contract in
28 private residences registered nurses and licensed practical
29 nurses registered and licensed under part I of chapter 464,
30 certified nursing assistants certified under part II of
31 chapter 464 ~~s. 400.211~~, home health aides who present

1 documented proof of successful completion of the training
 2 required by rule of the agency, and companions or homemakers
 3 for the purposes of providing those services authorized under
 4 s. 400.509(1). Each person referred by a nurse registry must
 5 provide current documentation that he or she is free from
 6 communicable diseases.

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

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

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

1 and reduced to writing and timely signed by the physician.
2 The delivery of care under a medical plan of treatment must be
3 substantiated by the appropriate nursing notes or
4 documentation made by the nurse in compliance with nursing
5 practices established under part I of chapter 464.

6 Section 105. Subsection (1) of section 400.512,
7 Florida Statutes, is amended to read:

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

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

22 (b) The appropriate regulatory board within the
23 Department of Health, or that department itself when there is
24 no board, may, upon request of the licensed health care
25 practitioner, grant exemptions from disqualification from
26 employment or contracting under this section as provided in s.
27 435.07.

28 Section 106. Subsections (2) and (3) of section
29 400.6105, Florida Statutes, are amended to read:

30 400.6105 Staffing and personnel.--
31

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

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

16 Section 107. Subsection (20) of section 401.23,
17 Florida Statutes, is amended to read:

18 401.23 Definitions.--As used in this part, the term:

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

22 Section 108. Paragraph (c) of subsection (1) of
23 section 401.252, Florida Statutes, is amended to read:

24 401.252 Interfacility transfer.--

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

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

31

1 Section 109. Subsection (11) of section 408.706,
2 Florida Statutes, is amended to read:

3 408.706 Community health purchasing alliances;
4 accountable health partnerships.--

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

26 Section 110. Paragraph (d) of subsection (12) of
27 section 409.908, Florida Statutes, is amended to read:

28 409.908 Reimbursement of Medicaid providers.--Subject
29 to specific appropriations, the agency shall reimburse
30 Medicaid providers, in accordance with state and federal law,
31 according to methodologies set forth in the rules of the

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

18 (12)

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

1 less than 80 percent of the low medical risk fee. The agency
2 shall by rule determine, for the purpose of this paragraph,
3 what constitutes a high or low medical risk pregnant woman and
4 shall not pay more based solely on the fact that a caesarean
5 section was performed, rather than a vaginal delivery. The
6 agency shall by rule determine a prorated payment for
7 obstetrical services in cases where only part of the total
8 prenatal, delivery, or postpartum care was performed. The
9 Department of Health shall adopt rules for appropriate
10 insurance coverage for midwives licensed under chapter 467.
11 Prior to the issuance and renewal of an active license, or
12 reactivation of an inactive license for midwives licensed
13 under chapter 467, such licensees shall submit proof of
14 coverage with each application.

15 Section 111. Subsection (1) of section 415.1085,
16 Florida Statutes, is amended to read:

17 415.1085 Photographs, medical examinations, and X rays
18 of abused or neglected aged persons or disabled adults.--

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

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

13 Section 112. Paragraph (a) of subsection (1) of
14 section 455.597 Florida Statutes, is amended to read:

15 455.597 Requirement for instruction on domestic
16 violence.--

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

1 advocacy groups, that provide legal aid, shelter, victim
2 counseling, batterer counseling, or child protection services.

3 Section 113. Subsection (1) of section 455.604,
4 Florida Statutes, is amended to read:

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

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

27 Section 114. Paragraph (a) of subsection (2) of
28 section 455.667, Florida Statutes, is amended to read:

29 455.667 Ownership and control of patient records;
30 report or copies of records to be furnished.--

31

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

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

12 Section 115. Section 455.677, Florida Statutes, is
13 amended to read:

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

1 Section 116. Paragraph (b) of subsection (2) of
2 section 455.694, Florida Statutes, is amended to read:

3 455.694 Financial responsibility requirements for
4 certain health care practitioners.--

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

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

21 Section 117. Subsection (2) of section 455.707,
22 Florida Statutes, is amended to read:

23 455.707 Treatment programs for impaired
24 practitioners.--

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

1 shall assist the probable cause panel and department in
2 carrying out the responsibilities of this section. This shall
3 include working with department investigators to determine
4 whether a practitioner is, in fact, impaired.

5 Section 118. Subsection (2) of section 458.348,
6 Florida Statutes, is amended to read:

7 458.348 Formal supervisory relationships, standing
8 orders, and established protocols; notice; standards.--

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

28 Section 119. Section 464.001, Florida Statutes, is
29 amended to read:

30 464.001 Short title.--This part may be cited ~~chapter~~
31 ~~shall be known~~ as the "Nurse Practice Act."

1 Section 120. Section 464.002, Florida Statutes, is
2 amended to read:

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

9 Section 121. Section 464.003, Florida Statutes, is
10 amended to read:

11 464.003 Definitions.--As used in this part ~~chapter~~:

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

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

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

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

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

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

31

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

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

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

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

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

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

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

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

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

29 (7) "Approved program" means a nursing program
30 conducted in a school, college, or university which is
31

1 approved by the board pursuant to s. 464.019 for the education
2 of nurses.

3 Section 122. Section 464.006, Florida Statutes, is
4 amended to read:

5 464.006 Authority to make rules.--The board of ~~Nursing~~
6 has authority to adopt rules pursuant to ss. 120.536(1) and
7 120.54 to implement the provisions of this part ~~chapter~~
8 conferring duties upon it.

9 Section 123. Subsection (3) of section 464.009,
10 Florida Statutes, is amended to read:

11 464.009 Licensure by endorsement.--

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

18 Section 124. Paragraphs (a) and (d) of subsection (1)
19 and paragraph (b) of subsection (2) of section 464.016,
20 Florida Statutes, are amended to read:

21 464.016 Violations and penalties.--

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

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

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

31

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

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

6 Section 125. Paragraphs (i), (k), and (l) of
7 subsection (1) and subsection (4) of section 464.018, Florida
8 Statutes, are amended to read:

9 464.018 Disciplinary actions.--

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

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

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

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

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

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

3 Section 126. Subsections (1), (2), and (3) of section
4 464.019, Florida Statutes, are amended to read:

5 464.019 Approval of nursing programs.--

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

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

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

24 Section 127. Section 464.022, Florida Statutes, is
25 amended to read:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

25 Section 128. Section 464.023, Florida Statutes, is
26 amended to read:

27 464.023 Saving clauses.--

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

31

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

6 Section 129. Subsection (3) of section 464.027,
7 Florida Statutes, is amended to read:

8 464.027 Registered nurse first assistant.--

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

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

13 (b) Is certified in perioperative nursing; and

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

16 Section 130. Subsection (6) of section 466.003,
17 Florida Statutes, is amended to read:

18 466.003 Definitions.--As used in this chapter:

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

24 Section 131. Subsection (2) of section 467.003,
25 Florida Statutes, is amended to read:

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

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

1 Section 132. Paragraph (a) of subsection (2) of
2 section 467.0125, Florida Statutes, is amended to read:

3 467.0125 Licensure by endorsement.--

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

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

18 Section 133. Paragraph (e) of subsection (2) of
19 section 467.203, Florida Statutes, is amended to read:

20 467.203 Disciplinary actions; penalties.--

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

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

31

1 Section 134. Paragraph (a) of subsection (1) of
2 section 468.505, Florida Statutes, is amended to read:

3 468.505 Exemptions; exceptions.--

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

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

15 Section 135. Subsection (7) of section 483.041,
16 Florida Statutes, is amended to read:

17 483.041 Definitions.--As used in this part, the term:

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

27 Section 136. Subsection (5) of section 483.801,
28 Florida Statutes, is amended to read:

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

1 (5) Advanced registered nurse practitioners licensed
2 under part I of chapter 464 who perform provider-performed
3 microscopy procedures (PPMP) in an exclusive-use laboratory
4 setting.

5 Section 137. Paragraph (a) of subsection (4) of
6 section 491.0112, Florida Statutes, is amended to read:

7 491.0112 Sexual misconduct by a psychotherapist;
8 penalties.--

9 (4) For the purposes of this section:

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

16 Section 138. Subsection (5) of section 550.24055,
17 Florida Statutes, is amended to read:

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

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

27 Section 139. Paragraph (h) of subsection (4) of
28 section 627.351, Florida Statutes, is amended to read:

29 627.351 Insurance risk apportionment plans.--

30 (4) MEDICAL MALPRACTICE RISK APPORTIONMENT.--

31 (h) As used in this subsection:

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

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

30 3. "Health care facility" means any hospital licensed
 31 under chapter 395, health maintenance organization

1 certificated under part I of chapter 641, ambulatory surgical
2 center licensed under chapter 395, or other medical facility
3 as defined in subparagraph 2.

4 Section 140. Paragraph (b) of subsection (1) of
5 section 627.357, Florida Statutes, is amended to read:

6 627.357 Medical malpractice self-insurance.--

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

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

- 9 1. Hospital licensed under chapter 395.
- 10 2. Physician licensed, or physician assistant
11 licensed, under chapter 458.
- 12 3. Osteopathic physician or physician assistant
13 licensed under chapter 459.
- 14 4. Podiatric physician licensed under chapter 461.
- 15 5. Health maintenance organization certificated under
16 part I of chapter 641.
- 17 6. Ambulatory surgical center licensed under chapter
18 395.
- 19 7. Chiropractic physician licensed under chapter 460.
- 20 8. Psychologist licensed under chapter 490.
- 21 9. Optometrist licensed under chapter 463.
- 22 10. Dentist licensed under chapter 466.
- 23 11. Pharmacist licensed under chapter 465.
- 24 12. Registered nurse, licensed practical nurse, or
25 advanced registered nurse practitioner licensed or registered
26 under part I of chapter 464.
- 27 13. Other medical facility.
- 28 14. Professional association, partnership,
29 corporation, joint venture, or other association established
30 by the individuals set forth in subparagraphs 2., 3., 4., 7.,
31 8., 9., 10., 11., and 12. for professional activity.

1 Section 141. Subsection (6) of section 627.9404,
2 Florida Statutes, is amended to read:

3 627.9404 Definitions.--For the purposes of this part:

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

9 Section 142. Subsection (21) of section 641.31,
10 Florida Statutes, is amended to read:

11 641.31 Health maintenance contracts.--

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

18 Section 143. Subsection (8) of section 766.101,
19 Florida Statutes, is amended to read:

20 766.101 Medical review committee, immunity from
21 liability.--

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

1 information furnished concerns patient care at a facility
2 licensed pursuant to part I of chapter 395 where both persons
3 provide health care services, if the information is not
4 intentionally fraudulent, and if the information is within the
5 scope of the functions of the committee, department, or board.
6 However, if such information is otherwise available from
7 original sources, it is not immune from discovery or use in a
8 civil action merely because it was presented during a
9 proceeding of the committee, department, or board.

10 Section 144. Subsection (2) of section 766.110,
11 Florida Statutes, is amended to read:

12 766.110 Liability of health care facilities.--

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

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

16 Section 145. Paragraph (d) of subsection (3) of
17 section 766.1115, Florida Statutes, is amended to read:

18 766.1115 Health care providers; creation of agency
19 relationship with governmental contractors.--

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

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

22 1. A birth center licensed under chapter 383.

23 2. An ambulatory surgical center licensed under
24 chapter 395.

25 3. A hospital licensed under chapter 395.

26 4. A physician or physician assistant licensed under
27 chapter 458.

28 5. An osteopathic physician or osteopathic physician
29 assistant licensed under chapter 459.

30 6. A chiropractic physician licensed under chapter
31 460.

1 7. A podiatric physician licensed under chapter 461.

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

8 9. A midwife licensed under chapter 467.

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

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

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

17 13. A dentist or dental hygienist licensed under
18 chapter 466.

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

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

30 Section 146. Subsection (1) of section 877.111,
31 Florida Statutes, is amended to read:

1 877.111 Inhalation, ingestion, possession, sale,
2 purchase, or transfer of harmful chemical substances;
3 penalties.--

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

20 Section 147. Subsection (6) of section 945.602,
21 Florida Statutes, is amended to read:

22 945.602 State of Florida Correctional Medical
23 Authority; creation; members.--

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

27 Section 148. Subsection (2) of section 960.28, Florida
28 Statutes, is amended to read:

29 960.28 Payment for victims' initial forensic physical
30 examinations.--

31

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

29 Section 149. Subsection (36) of section 984.03,
30 Florida Statutes, is amended to read:

31

1 984.03 Definitions.--When used in this chapter, the
2 term:

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

8 Section 150. Subsection (37) of section 985.03,
9 Florida Statutes, is amended to read:

10 985.03 Definitions.--When used in this chapter, the
11 term:

12 (37) "Licensed health care professional" means a
13 physician licensed under chapter 458, an osteopathic physician
14 licensed under chapter 459, a nurse licensed under part I of
15 chapter 464, a physician assistant licensed under chapter 458
16 or chapter 459, or a dentist licensed under chapter 466.

17 Section 151. Section 455.557, Florida Statutes, is
18 amended to read:

19 455.557 Standardized credentialing for health care
20 practitioners.--

21 (1) INTENT.--The Legislature recognizes that an
22 efficient and effective health care practitioner credentialing
23 program helps to ensure access to quality health care and also
24 recognizes that health care practitioner credentialing
25 activities have increased significantly as a result of health
26 care reform and recent changes in health care delivery and
27 reimbursement systems. Moreover, the resulting duplication of
28 health care practitioner credentialing activities is
29 unnecessarily costly and cumbersome for both the practitioner
30 and the entity granting practice privileges. Therefore, it is
31 the intent of this section that a credentials collection

1 program be established which provides that, once a health care
2 practitioner's core credentials data are collected, they need
3 not be collected again, except for corrections, updates, and
4 modifications thereto. Participation under this section shall
5 initially include those individuals licensed under chapter
6 458, chapter 459, chapter 460, ~~or~~ chapter 461, or s. 464.012.
7 However, the department shall, with the approval of the
8 applicable board, include other professions under the
9 jurisdiction of the Division of Medical Quality Assurance in
10 this program, provided they meet the requirements of s.
11 455.565 or s. 455.56503.

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

13 ~~(a) "Advisory council" or "council" means the~~
14 ~~Credentials Advisory Council.~~

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

24 (b)~~(c)~~ "Core credentials data" means the following
25 data: current name, any former name, and any alias, any
26 professional education, professional training, licensure,
27 current Drug Enforcement Administration certification, social
28 security number, specialty board certification, Educational
29 Commission for Foreign Medical Graduates certification,
30 hospital or other institutional affiliations, evidence of
31 professional liability coverage or evidence of financial

1 responsibility as required by s. 458.320, ~~or~~ s. 459.0085, or
2 s. 455.694, history of claims, suits, judgments, or
3 settlements, final disciplinary action reported pursuant to s.
4 455.565(1)(a)8. or s. 455.56503(1)(a)8., and Medicare or
5 Medicaid sanctions.

6 (c)~~(d)~~ "Credential" or "credentialing" means the
7 process of assessing and verifying the qualifications of a
8 licensed health care practitioner or applicant for licensure
9 as a health care practitioner.

10 (d)~~(e)~~ "Credentials verification organization" means
11 any organization certified or accredited as a credentials
12 verification organization.

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

15 (f)~~(g)~~ "Designated credentials verification
16 organization" means the credentials verification organization
17 which is selected by the health care practitioner, if the
18 health care practitioner chooses to make such a designation.

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

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

27 1. Any health care facility or other health care
28 organization licensed or certified to provide approved medical
29 and allied health services in this state;

30 2. Any entity licensed by the Department of Insurance
31 as a prepaid health care plan or health maintenance

1 organization or as an insurer to provide coverage for health
2 care services through a network of providers; or
3 3. Any accredited medical school in this state.
4 (i)~~(j)~~ "Health care practitioner" means any person
5 licensed, or, for credentialing purposes only, any person
6 applying for licensure, under chapter 458, chapter 459,
7 chapter 460, ~~or~~ chapter 461, or s. 464.012 or any person
8 licensed or applying for licensure under a chapter
9 subsequently made subject to this section by the department
10 with the approval of the applicable board, except a person
11 registered or applying for registration pursuant to s. 458.345
12 or s. 459.021.
13 (j)~~(k)~~ "Hospital or other institutional affiliations"
14 means each hospital or other institution for which the health
15 care practitioner or applicant has provided medical services.
16 Submission of such information under this section must
17 include, for each hospital or other institution, the name and
18 address of the hospital or institution, the staff status of
19 the health care practitioner or applicant at that hospital or
20 institution, and the dates of affiliation with that hospital
21 or institution.
22 (k)~~(l)~~ "National accrediting organization" means an
23 organization that awards accreditation or certification to
24 hospitals, managed care organizations, credentials
25 verification organizations, or other health care
26 organizations, including, but not limited to, the Joint
27 Commission on Accreditation of Healthcare Organizations, the
28 American Accreditation HealthCare Commission/URAC, and the
29 National Committee for Quality Assurance.
30
31

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

4 ~~(m)(n)~~ "Specialty board certification" means
5 certification in a specialty issued by a specialty board
6 recognized by the board in this state that regulates the
7 profession for which the health care practitioner is licensed
8 or seeking licensure.

9 (3) STANDARDIZED CREDENTIALS VERIFICATION PROGRAM.--

10 (a) Every health care practitioner shall:

11 1. Report all core credentials data to the department
12 which is not already on file with the department, either by
13 designating a credentials verification organization to submit
14 the data or by submitting the data directly.

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

23 (b) The department shall:

24 1. Maintain a complete, current file of core
25 credentials data on each health care practitioner, which shall
26 include all updates provided in accordance with subparagraph
27 (a)2.

28 2. Release the core credentials data that is otherwise
29 confidential or exempt from the provisions of chapter 119 and
30 s. 24(a), Art. I of the State Constitution and any
31

1 corrections, updates, and modifications thereto, if authorized
2 by the health care practitioner.

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

8 4. ~~Develop, in consultation with the advisory council,~~
9 standardized forms to be used by the health care practitioner
10 or designated credentials verification organization for the
11 initial reporting of core credentials data, for the health
12 care practitioner to authorize the release of core credentials
13 data, and for the subsequent reporting of corrections,
14 updates, and modifications thereto.

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

31

1 (c) A registered credentials verification organization
2 may be designated by a health care practitioner to assist the
3 health care practitioner to comply with the requirements of
4 subparagraph (a)2. A designated credentials verification
5 organization shall:

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

8 2. Not provide the health care practitioner's core
9 data, including all corrections, updates, and modifications,
10 without the authorization of the practitioner.

11 (d) This section shall not be construed to restrict in
12 any way the authority of the health care entity to credential
13 and to approve or deny an application for hospital staff
14 membership, clinical privileges, or managed care network
15 participation.

16 (4) DUPLICATION OF DATA PROHIBITED.--

17 (a) A health care entity or credentials verification
18 organization is prohibited from collecting or attempting to
19 collect duplicate core credentials data from any health care
20 practitioner if the information is available from the
21 department. This section shall not be construed to restrict
22 the right of any health care entity or credentials
23 verification organization to collect additional information
24 from the health care practitioner which is not included in the
25 core credentials data file. This section shall not be
26 construed to prohibit a health care entity or credentials
27 verification organization from obtaining all necessary
28 attestation and release form signatures and dates.

29 (b) Effective July 1, 2002, a state agency in this
30 state which credentials health care practitioners may not
31 collect or attempt to collect duplicate core credentials data

1 from any individual health care practitioner if the
2 information is already available from the department. This
3 section shall not be construed to restrict the right of any
4 such state agency to request additional information not
5 included in the core credential data file, but which is deemed
6 necessary for the agency's specific credentialing purposes.

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

28 (6) LIABILITY.--No civil, criminal, or administrative
29 action may be instituted, and there shall be no liability,
30 against any registered credentials verification organization
31

1 or health care entity on account of its reliance on any data
2 obtained directly from the department.

3 (7) LIABILITY INSURANCE REQUIREMENTS.--Each
4 credentials verification organization doing business in this
5 state shall maintain liability insurance appropriate to meet
6 the certification or accreditation requirements established in
7 this section.

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

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

17 Section 152. Section 455.56503, Florida Statutes, is
18 created to read:

19 455.56503 Advanced registered nurse practitioners;
20 information required for certification.--

21 (1)(a) Each person who applies for initial
22 certification under s. 464.012 must, at the time of
23 application, and each person certified under s. 464.012 who
24 applies for certification renewal must, in conjunction with
25 the renewal of such certification and under procedures adopted
26 by the Department of Health, and in addition to any other
27 information that may be required from the applicant, furnish
28 the following information to the Department of Health:

29 1. The name of each school or training program that
30 the applicant has attended, with the months and years of
31 attendance and the month and year of graduation, and a

1 description of all graduate professional education completed
2 by the applicant, excluding any coursework taken to satisfy
3 continuing education requirements.

4 2. The name of each location at which the applicant
5 practices.

6 3. The address at which the applicant will primarily
7 conduct his or her practice.

8 4. Any certification or designation that the applicant
9 has received from a specialty or certification board that is
10 recognized or approved by the regulatory board or department
11 to which the applicant is applying.

12 5. The year that the applicant received initial
13 certification and began practicing the profession in any
14 jurisdiction and the year that the applicant received initial
15 certification in this state.

16 6. Any appointment which the applicant currently holds
17 to the faculty of a school related to the profession and an
18 indication as to whether the applicant has had the
19 responsibility for graduate education within the most recent
20 10 years.

21 7. A description of any criminal offense of which the
22 applicant has been found guilty, regardless of whether
23 adjudication of guilt was withheld, or to which the applicant
24 has pled guilty or nolo contendere. A criminal offense
25 committed in another jurisdiction which would have been a
26 felony or misdemeanor if committed in this state must be
27 reported. If the applicant indicates that a criminal offense
28 is under appeal and submits a copy of the notice for appeal of
29 that criminal offense, the department must state that the
30 criminal offense is under appeal if the criminal offense is
31 reported in the applicant's profile. If the applicant

1 indicates to the department that a criminal offense is under
2 appeal, the applicant must, within 15 days after the
3 disposition of the appeal, submit to the department a copy of
4 the final written order of disposition.

5 8. A description of any final disciplinary action
6 taken within the previous 10 years against the applicant by a
7 licensing or regulatory body in any jurisdiction, by a
8 specialty board that is recognized by the board or department,
9 or by a licensed hospital, health maintenance organization,
10 prepaid health clinic, ambulatory surgical center, or nursing
11 home. Disciplinary action includes resignation from or
12 nonrenewal of staff membership or the restriction of
13 privileges at a licensed hospital, health maintenance
14 organization, prepaid health clinic, ambulatory surgical
15 center, or nursing home taken in lieu of or in settlement of a
16 pending disciplinary case related to competence or character.
17 If the applicant indicates that the disciplinary action is
18 under appeal and submits a copy of the document initiating an
19 appeal of the disciplinary action, the department must state
20 that the disciplinary action is under appeal if the
21 disciplinary action is reported in the applicant's profile.

22 (b) In addition to the information required under
23 paragraph (a), each applicant for initial certification or
24 certification renewal must provide the information required of
25 licensees pursuant to s. 455.697.

26 (2) The Department of Health shall send a notice to
27 each person certified under s. 464.012 at the
28 certificateholder's last known address of record regarding the
29 requirements for information to be submitted by advanced
30 registered nurse practitioners pursuant to this section in
31 conjunction with the renewal of such certificate.

1 (3) Each person certified under s. 464.012 who has
2 submitted information pursuant to subsection (1) must update
3 that information in writing by notifying the Department of
4 Health within 45 days after the occurrence of an event or the
5 attainment of a status that is required to be reported by
6 subsection (1). Failure to comply with the requirements of
7 this subsection to update and submit information constitutes a
8 ground for disciplinary action under chapter 464 and s.
9 455.624(1)(k). For failure to comply with the requirements of
10 this subsection to update and submit information, the
11 department or board, as appropriate, may:

12 (a) Refuse to issue a certificate to any person
13 applying for initial certification who fails to submit and
14 update the required information.

15 (b) Issue a citation to any certificateholder who
16 fails to submit and update the required information and may
17 fine the certificateholder up to \$50 for each day that the
18 certificateholder is not in compliance with this subsection.
19 The citation must clearly state that the certificateholder may
20 choose, in lieu of accepting the citation, to follow the
21 procedure under s. 455.621. If the certificateholder disputes
22 the matter in the citation, the procedures set forth in s.
23 455.621 must be followed. However, if the certificateholder
24 does not dispute the matter in the citation with the
25 department within 30 days after the citation is served, the
26 citation becomes a final order and constitutes discipline.
27 Service of a citation may be made by personal service or
28 certified mail, restricted delivery, to the subject at the
29 certificateholder's last known address.

30 (4)(a) An applicant for initial certification under s.
31 464.012 must submit a set of fingerprints to the Department of

1 Health on a form and under procedures specified by the
2 department, along with payment in an amount equal to the costs
3 incurred by the Department of Health for a national criminal
4 history check of the applicant.

5 (b) An applicant for renewed certification who has not
6 previously submitted a set of fingerprints to the Department
7 of Health for purposes of certification must submit a set of
8 fingerprints to the department as a condition of the initial
9 renewal of his or her certificate after the effective date of
10 this section. The applicant must submit the fingerprints on a
11 form and under procedures specified by the department, along
12 with payment in an amount equal to the costs incurred by the
13 Department of Health for a national criminal history check.
14 For subsequent renewals, the applicant for renewed
15 certification must only submit information necessary to
16 conduct a statewide criminal history check, along with payment
17 in an amount equal to the costs incurred by the Department of
18 Health for a statewide criminal history check.

19 (c)1. The Department of Health shall submit the
20 fingerprints provided by an applicant for initial
21 certification to the Florida Department of Law Enforcement for
22 a statewide criminal history check, and the Florida Department
23 of Law Enforcement shall forward the fingerprints to the
24 Federal Bureau of Investigation for a national criminal
25 history check of the applicant.

26 2. The department shall submit the fingerprints
27 provided by an applicant for the initial renewal of
28 certification to the Florida Department of Law Enforcement for
29 a statewide criminal history check, and the Florida Department
30 of Law Enforcement shall forward the fingerprints to the
31 Federal Bureau of Investigation for a national criminal

1 history check for the initial renewal of the applicant's
2 certificate after the effective date of this section.

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

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

28 (5) Each person who is required to submit information
29 pursuant to this section may submit additional information to
30 the Department of Health. Such information may include, but is
31 not limited to:

1 (a) Information regarding publications in
2 peer-reviewed professional literature within the previous 10
3 years.

4 (b) Information regarding professional or community
5 service activities or awards.

6 (c) Languages, other than English, used by the
7 applicant to communicate with patients or clients and
8 identification of any translating service that may be
9 available at the place where the applicant primarily conducts
10 his or her practice.

11 (d) An indication of whether the person participates
12 in the Medicaid program.

13 Section 153. Section 455.5651, Florida Statutes, is
14 amended to read:

15 455.5651 Practitioner profile; creation.--

16 (1) Beginning July 1, 1999, the Department of Health
17 shall compile the information submitted pursuant to s. 455.565
18 into a practitioner profile of the applicant submitting the
19 information, except that the Department of Health may develop
20 a format to compile uniformly any information submitted under
21 s. 455.565(4)(b). Beginning July 1, 2001, the Department of
22 Health may compile the information submitted pursuant to s.
23 455.56503 into a practitioner profile of the applicant
24 submitting the information.

25 (2) On the profile published ~~required~~ under subsection
26 (1), the department shall indicate if the information provided
27 under s. 455.565(1)(a)7. or s. 455.56503(1)(a)7.is not
28 corroborated by a criminal history check conducted according
29 to this subsection. If the information provided under s.
30 455.565(1)(a)7. or s. 455.56503(1)(a)7.is corroborated by the
31 criminal history check, the fact that the criminal history

1 check was performed need not be indicated on the profile. The
2 department, or the board having regulatory authority over the
3 practitioner acting on behalf of the department, shall
4 investigate any information received by the department or the
5 board when it has reasonable grounds to believe that the
6 practitioner has violated any law that relates to the
7 practitioner's practice.

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

16 (4) The Department of Health shall include, with
17 respect to a practitioner licensed under chapter 458 or
18 chapter 459, a statement of how the practitioner has elected
19 to comply with the financial responsibility requirements of s.
20 458.320 or s. 459.0085. The department shall include, with
21 respect to practitioners subject to s. 455.694, a statement of
22 how the practitioner has elected to comply with the financial
23 responsibility requirements of that section.The department
24 shall include, with respect to practitioners licensed under
25 chapter 458, chapter 459, or chapter 461, information relating
26 to liability actions which has been reported under s. 455.697
27 or s. 627.912 within the previous 10 years for any paid claim
28 that exceeds \$5,000. Such claims information shall be reported
29 in the context of comparing an individual practitioner's
30 claims to the experience of other practitioners ~~physicians~~
31 within the same specialty, or profession if the practitioner

1 is not a specialist,to the extent such information is
 2 available to the Department of Health. If information relating
 3 to a liability action is included in a practitioner's
 4 practitioner profile, the profile must also include the
 5 following statement: "Settlement of a claim may occur for a
 6 variety of reasons that do not necessarily reflect negatively
 7 on the professional competence or conduct of the practitioner
 8 ~~physician~~. A payment in settlement of a medical malpractice
 9 action or claim should not be construed as creating a
 10 presumption that medical malpractice has occurred."

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

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

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

30
 31

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

4 Section 154. Section 455.5653, Florida Statutes, is
5 amended to read:

6 455.5653 Practitioner profiles; data
7 storage.--Effective upon this act becoming a law, the
8 Department of Health must develop or contract for a computer
9 system to accommodate the new data collection and storage
10 requirements under this act pending the development and
11 operation of a computer system by the Department of Health for
12 handling the collection, input, revision, and update of data
13 submitted by physicians as a part of their initial licensure
14 or renewal to be compiled into individual practitioner
15 profiles. The Department of Health must incorporate any data
16 required by this act into the computer system used in
17 conjunction with the regulation of health care professions
18 under its jurisdiction. ~~The department must develop, by the~~
19 ~~year 2000, a schedule and procedures for each practitioner~~
20 ~~within a health care profession regulated within the Division~~
21 ~~of Medical Quality Assurance to submit relevant information to~~
22 ~~be compiled into a profile to be made available to the public.~~
23 The Department of Health is authorized to contract with and
24 negotiate any interagency agreement necessary to develop and
25 implement the practitioner profiles. The Department of Health
26 shall have access to any information or record maintained by
27 the Agency for Health Care Administration, including any
28 information or record that is otherwise confidential and
29 exempt from the provisions of chapter 119 and s. 24(a), Art. I
30 of the State Constitution, so that the Department of Health
31

1 may corroborate any information that ~~practitioners~~ physicians
2 are required to report under s. 455.565 or s. 455.56503.

3 Section 155. Section 455.5654, Florida Statutes, is
4 amended to read:

5 455.5654 Practitioner profiles; rules;
6 workshops.--Effective upon this act becoming a law, the
7 Department of Health shall adopt rules for the form of a
8 practitioner profile that the agency is required to prepare.
9 The Department of Health, pursuant to chapter 120, must hold
10 public workshops for purposes of rule development to implement
11 this section. An agency to which information is to be
12 submitted under this act may adopt by rule a form for the
13 submission of the information required under s. 455.565 or s.
14 455.56503.

15 Section 156. Subsection (20) of section 400.462,
16 Florida Statutes, is repealed.

17 Section 157. Paragraph (d) of subsection (4) of
18 section 400.471, Florida Statutes, is amended to read:

19 400.471 Application for license; fee; provisional
20 license; temporary permit.--

21 (4) Each applicant for licensure must comply with the
22 following requirements:

23 (d) A provisional license may be granted to an
24 applicant when each individual required by this section to
25 undergo background screening has met the standards for the
26 abuse registry background check through the agency and the
27 Department of Law Enforcement background check, but the agency
28 has not yet received background screening results from the
29 Federal Bureau of Investigation. A standard license may be
30 granted to the licensee upon the agency's receipt of a report
31 of the results of the Federal Bureau of Investigation

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

13 Section 158. Subsection (3) is added to section
14 400.484, Florida Statutes, to read:

15 400.484 Right of inspection; deficiencies; fines.--

16 (3) In addition to any other penalties imposed
17 pursuant to this section or part, the agency may assess costs
18 related to an investigation that results in a successful
19 prosecution, excluding costs associated with an attorney's
20 time.

21 Section 159. Section 400.487, Florida Statutes, is
22 amended to read:

23 400.487 Home health service agreements; physician's
24 treatment orders; patient assessment; establishment and review
25 of plan of care; provision of services; orders not to
26 resuscitate.--

27 (1) Services provided by a home health agency must be
28 covered by an agreement between the home health agency and the
29 patient or the patient's legal representative specifying the
30 home health services to be provided, the rates or charges for
31 services paid with private funds, and the method of payment. A

1 ~~The~~ home health agency providing skilled care must make an
 2 assessment of the patient's needs within 48 hours after the
 3 start of services.

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

13 (3) A home health agency shall arrange for supervisory
 14 visits by a registered nurse to the home of a patient
 15 receiving home health aide services in accordance with the
 16 patient's direction and approval. ~~If a client is accepted for~~
 17 ~~home health aide services or homemaker or companion services~~
 18 ~~and such services do not require a physician's order, the home~~
 19 ~~health agency shall establish a service provision plan and~~
 20 ~~maintain a record of the services provided.~~

21 (4) Each patient ~~or client~~ has the right to be
 22 informed of and to participate in the planning of his or her
 23 care. Each patient must be provided, upon request, a copy of
 24 the plan of care ~~or service provision plan~~ established and
 25 maintained for that patient ~~or client~~ by the home health
 26 agency.

27 (5) When nursing services are ordered, the home health
 28 agency to which a patient has been admitted for care must
 29 provide the initial admission visit, all service evaluation
 30 visits, and the discharge visit by qualified personnel who are
 31 on the payroll of, and to whom an IRS payroll form W-2 will be

1 issued by, the home health agency. Services provided by others
2 under contractual arrangements to a home health agency must be
3 monitored and managed by the admitting home health agency. The
4 admitting home health agency is fully responsible for ensuring
5 that all care provided through its employees or contract staff
6 is delivered in accordance with this part and applicable
7 rules.

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

11 (7) Home health agency personnel may withhold or
12 withdraw cardiopulmonary resuscitation if presented with an
13 order not to resuscitate executed pursuant to s. 401.45. The
14 agency shall adopt rules providing for the implementation of
15 such orders. Home health personnel and agencies shall not be
16 subject to criminal prosecution or civil liability, nor be
17 considered to have engaged in negligent or unprofessional
18 conduct, for withholding or withdrawing cardiopulmonary
19 resuscitation pursuant to such an order and rules adopted by
20 the agency.

21 Section 160. Section 400.497, Florida Statutes, is
22 amended to read:

23 400.497 Rules establishing minimum standards.--The
24 agency shall adopt, publish, and enforce rules to implement
25 this part, including, as applicable, ss. 400.506 and 400.509,
26 which must provide reasonable and fair minimum standards
27 relating to:

28 (1) The home health aide competency test and home
29 health aide training.~~The qualifications, minimum training~~
30 ~~requirements, and supervision requirements of all home health~~
31 ~~agency personnel.~~The agency shall create the home health aide

1 competency test and establish the curriculum and instructor
 2 qualifications for home health aide training. Licensed home
 3 health agencies may provide this training and shall furnish
 4 documentation of such training to other licensed home health
 5 agencies upon request. Successful passage of the competency
 6 test by home health aides may be substituted for the training
 7 required under this section and any rule adopted pursuant
 8 thereto.

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

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

29 (3) The criteria for the frequency of onsite licensure
 30 surveys.

31 ~~(4)(3)~~ Licensure application and renewal.

1 ~~(5)(4)~~ The ~~administration of the home health agency,~~
2 ~~including~~ requirements for onsite and electronic accessibility
3 of supervisory personnel of home health agencies.

4 ~~(5)~~ ~~Procedures for administering drugs and~~
5 ~~biologicals.~~

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

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

11 ~~(7)(8)~~ Geographic service areas.

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

15 Section 161. Paragraph (d) of subsection (2) and
16 subsection (13) of section 400.506, Florida Statutes, are
17 amended, subsection (17) is renumbered as subsection (18), and
18 a new subsection (17) is added to said section, to read:

19 400.506 Licensure of nurse registries; requirements;
20 penalties.--

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

23 (d) A provisional license may be granted to an
24 applicant when each individual required by this section to
25 undergo background screening has met the standards for the
26 abuse registry background check through the agency and the
27 Department of Law Enforcement background check, but the agency
28 has not yet received background screening results from the
29 Federal Bureau of Investigation. A standard license may be
30 granted to the applicant upon the agency's receipt of a report
31 of the results of the Federal Bureau of Investigation

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

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

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

30 Section 162. Paragraph (d) of subsection (4) of
31 section 400.509, Florida Statutes, is amended, subsection (14)

1 is renumbered as subsection (15), and a new subsection (14) is
2 added to said section, to read:

3 400.509 Registration of particular service providers
4 exempt from licensure; certificate of registration; regulation
5 of registrants.--

6 (4) Each applicant for registration must comply with
7 the following requirements:

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

29 (14) In addition to any other penalties imposed
30 pursuant to this section or part, the agency may assess costs
31 related to an investigation that results in a successful

1 prosecution, excluding costs associated with an attorney's
2 time. If the agency imposes such an assessment and the
3 assessment is not paid, and if challenged is not the subject
4 of a pending appeal, prior to the renewal of the registration,
5 the registration shall not be issued until the assessment is
6 paid or arrangements for payment of the assessment are made.

7 Section 163. Section 400.512, Florida Statutes, is
8 amended to read:

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

17 (1) The agency may grant exemptions from
18 disqualification from employment or contracting under this
19 section as provided in s. 435.07.

20 (2) The administrator of each home health agency, the
21 managing employee of each nurse registry, and the managing
22 employee of each companion or homemaker service registered
23 under s. 400.509 must sign an affidavit annually, under
24 penalty of perjury, stating that all personnel hired,
25 contracted with, or registered on or after October 1, 1994,
26 who enter the home of a patient or client in their service
27 capacity have been screened and that its remaining personnel
28 have worked for the home health agency or registrant
29 continuously since before October 1, 1994.

30 (3) As a prerequisite to operating as a home health
31 agency, nurse registry, or companion or homemaker service

1 under s. 400.509, the administrator or managing employee,
2 respectively, must submit to the agency his or her name and
3 any other information necessary to conduct a complete
4 screening according to this section. The agency shall submit
5 the information to the Department of Law Enforcement and shall
6 conduct a search for any report of confirmed abuse ~~the~~
7 ~~department's abuse hotline for state processing.~~ The agency
8 shall review the record of the administrator or manager with
9 respect to the offenses specified in this section and shall
10 notify the owner of its findings. If disposition information
11 is missing on a criminal record, the administrator or manager,
12 upon request of the agency, must obtain and supply within 30
13 days the missing disposition information to the agency.
14 Failure to supply missing information within 30 days or to
15 show reasonable efforts to obtain such information will result
16 in automatic disqualification.

17 (4) Proof of compliance with the screening
18 requirements of chapter 435 shall be accepted in lieu of the
19 requirements of this section if the person has been
20 continuously employed or registered without a breach in
21 service that exceeds 180 days, the proof of compliance is not
22 more than 2 years old, and the person has been screened
23 through the agency for any reports of confirmed abuse ~~central~~
24 ~~abuse registry and tracking system of the department~~ and for
25 any criminal record from ~~by~~ the Department of Law Enforcement.
26 A home health agency, nurse registry, or companion or
27 homemaker service registered under s. 400.509 shall directly
28 provide proof of compliance to another home health agency,
29 nurse registry, or companion or homemaker service registered
30 under s. 400.509. The recipient home health agency, nurse
31 registry, or companion or homemaker service registered under

1 s. 400.509 may not accept any proof of compliance directly
 2 from the person who requires screening. Proof of compliance
 3 with the screening requirements of this section shall be
 4 provided upon request to the person screened by the home
 5 health agencies; nurse registries; or companion or homemaker
 6 services registered under s. 400.509.

7 (5)(a) There is no monetary liability on the part of,
 8 and no cause of action for damages arises against, a licensed
 9 home health agency, licensed nurse registry, or companion or
 10 homemaker service registered under s. 400.509, that, upon
 11 notice of a confirmed report of adult abuse, neglect, or
 12 exploitation through the agency, terminates the employee or
 13 contractor against whom the report was issued, whether or not
 14 the employee or contractor has filed for an exemption with the
 15 agency in accordance with chapter 435 and whether or not the
 16 time for filing has expired.

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

25 (6) The costs of processing the statewide
 26 correspondence criminal records checks ~~and the search of the~~
 27 ~~department's central abuse hotline~~ must be borne by the home
 28 health agency; the nurse registry; or the companion or
 29 homemaker service registered under s. 400.509, or by the
 30 person being screened, at the discretion of the home health
 31 agency, nurse registry, or s. 400.509 registrant.

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

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

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

13 3. Use information from the criminal records or the
14 agency's reports of confirmed abuse ~~central abuse hotline~~
15 obtained under this section for any purpose other than
16 screening that person for employment as specified in this
17 section or release such information to any other person for
18 any purpose other than screening for employment under this
19 section.

20 (b) It is a felony of the third degree, punishable
21 under s. 775.082, s. 775.083, or s. 775.084, for any person
22 willfully, knowingly, or intentionally to use information from
23 the juvenile records of a person obtained under this section
24 for any purpose other than screening for employment under this
25 section.

26 Section 164. Subsection (5) of section 455.587,
27 Florida Statutes, is amended to read:

28 455.587 Fees; receipts; disposition.--

29 (5) All moneys collected by the department from fees
30 or fines or from costs awarded to the agency by a court shall
31 be paid into a trust fund used by the department to implement

1 this part. The Legislature shall appropriate funds from this
2 trust fund sufficient to carry out this part and the
3 provisions of law with respect to professions regulated by the
4 Division of Medical Quality Assurance within the department
5 and the boards. The department may contract with public and
6 private entities to receive and deposit revenue pursuant to
7 this section. The department shall maintain separate accounts
8 in the trust fund used by the department to implement this
9 part for every profession within the department. To the
10 maximum extent possible, the department shall directly charge
11 all expenses to the account of each regulated profession. For
12 the purpose of this subsection, direct charge expenses
13 include, but are not limited to, costs for investigations,
14 examinations, and legal services. For expenses that cannot be
15 charged directly, the department shall provide for the
16 proportionate allocation among the accounts of expenses
17 incurred by the department in the performance of its duties
18 with respect to each regulated profession. The regulation by
19 the department of professions, as defined in this part, shall
20 be financed solely from revenue collected by it from fees and
21 other charges and deposited in the Medical Quality Assurance
22 Trust Fund, and all such revenue is hereby appropriated to the
23 department. However, it is legislative intent that each
24 profession shall operate within its anticipated fees.The
25 department may not expend funds from the account of a
26 profession to pay for the expenses incurred on behalf of
27 another profession, except that the Board of Nursing must pay
28 for any costs incurred in the regulation of certified nursing
29 assistants. The department shall maintain adequate records to
30 support its allocation of agency expenses. The department
31 shall provide any board with reasonable access to these

1 records upon request. The department shall provide each board
 2 an annual report of revenue and direct and allocated expenses
 3 related to the operation of that profession. The board shall
 4 use these reports and the department's adopted long-range plan
 5 to determine the amount of license fees. A condensed version
 6 of this information, with the department's recommendations,
 7 shall be included in the annual report to the Legislature
 8 prepared under s. 455.644.

9 Section 165. There is appropriated from the Medical
 10 Quality Assurance Trust Fund to the Department of Health the
 11 sum of \$280,000 to implement the provisions of this act.

12 Section 166. Subsection (2) of section 766.106,
 13 Florida Statutes, is amended to read:

14 766.106 Notice before filing action for medical
 15 malpractice; presuit screening period; offers for admission of
 16 liability and for arbitration; informal discovery; review.--

17 (2) After completion of presuit investigation pursuant
 18 to s. 766.203 and prior to filing a claim for medical
 19 malpractice, a claimant shall notify each prospective
 20 defendant ~~and, if any prospective defendant is a health care~~
 21 ~~provider licensed under chapter 458, chapter 459, chapter 460,~~
 22 ~~chapter 461, or chapter 466, the Department of Health by~~
 23 certified mail, return receipt requested, of intent to
 24 initiate litigation for medical malpractice. Following the
 25 initiation of a suit alleging medical malpractice with a court
 26 of competent jurisdiction, and service of the complaint upon a
 27 defendant, the claimant shall provide a copy of the complaint
 28 to the Department of Health.~~Notice to the Department of~~
 29 ~~Health must include the full name and address of the claimant;~~
 30 ~~the full names and any known addresses of any health care~~
 31 ~~providers licensed under chapter 458, chapter 459, chapter~~

1 ~~460, chapter 461, or chapter 466 who are prospective~~
2 ~~defendants identified at the time; the date and a summary of~~
3 ~~the occurrence giving rise to the claim; and a description of~~
4 ~~the injury to the claimant.~~The requirement of providing the
5 complaint for notice to the Department of Health does not
6 impair the claimant's legal rights or ability to seek relief
7 for his or her claim, ~~and the notice provided to the~~
8 ~~department is not discoverable or admissible in any civil or~~
9 ~~administrative action.~~ The Department of Health shall review
10 each incident and determine whether it involved conduct by a
11 licensee which is potentially subject to disciplinary action,
12 in which case the provisions of s. 455.621 apply.

13 Section 167. The Agency for Health Care Administration
14 is directed to conduct a cost and feasibility study regarding
15 the implementation of the federal "Ticket to Work and Work
16 Incentives Act of 1999" in Florida and to report its findings
17 to the Speaker of the House of Representatives and the
18 President of the Senate no later than December 1, 2000.

19 Section 168. Subsection (11) of section 240.241,
20 Florida Statutes, is amended to read:

21 240.241 Divisions of sponsored research at state
22 universities.--

23 (11) The sponsored research programs of the Institute
24 of Food and Agricultural Sciences, the University of Florida
25 Health Science Center,and the engineering and industrial
26 experiment station shall continue to be centered at the
27 University of Florida as heretofore provided by law. Indirect
28 cost reimbursements of all grants deposited in the Division of
29 Sponsored Research shall be distributed directly to the above
30 units in direct proportion to the amounts earned by each unit.

31

1 Section 169. The Agency for Health Care Administration
2 is authorized to contract with specialty prepaid health plans
3 and pay them on a prepaid capitated basis to provide Medicaid
4 benefits to Medicaid-eligible recipients who have human
5 immunodeficiency syndrome (HIV) or acquired immunodeficiency
6 syndrome (AIDS). The agency shall apply for and is authorized
7 to implement federal waivers or other necessary federal
8 authorization to implement the prepaid health plans authorized
9 by this section. The agency shall procure the specialty
10 prepaid health plans through a competitive procurement. In
11 awarding a contract to a managed care plan, the agency shall
12 take into account price, quality, accessibility, linkages to
13 community-based organizations, and the comprehensiveness of
14 the benefit package offered by the plan. The agency may bid
15 the HIV/AIDS specialty plans on a county, regional, or
16 statewide basis. Qualified plans must be licensed under
17 chapter 641, Florida Statutes. The agency shall monitor and
18 evaluate the implementation of this waiver program if it is
19 approved by the Federal Government and shall report on its
20 status to the President of the Senate and the Speaker of the
21 House of Representatives by February 1, 2001.

22 Section 170. Except as otherwise provided in this act,
23 this act shall take effect July 1, 2000.