

By Senator McKay

rb2000-10

1                   A reviser's bill to be entitled  
2           An act relating to the Florida Statutes;  
3           amending ss. 61.13015, 120.80, 215.37, 240.215,  
4           310.102, 316.1932, 316.1933, 337.162, 381.0039,  
5           383.32, 383.402, 383.410, 395.0193, 395.0197,  
6           395.3025, 400.491, 400.518, 400.94, 408.061,  
7           408.704, 409.2598, 440.13, 455.01, 455.203,  
8           455.207, 455.213, 455.214, 455.217, 455.218,  
9           455.2185, 455.225, 455.227, 455.2273, 455.228,  
10          455.243, 457.103, 458.307, 458.3115, 458.3124,  
11          458.319, 458.331, 458.343, 458.347, 458.351,  
12          459.004, 459.008, 459.015, 459.019, 459.022,  
13          459.026, 460.404, 460.4061, 460.407, 461.004,  
14          461.007, 461.013, 463.003, 463.016, 464.004,  
15          465.004, 465.006, 465.016, 465.017, 466.004,  
16          466.007, 466.018, 466.022, 466.028, 468.1135,  
17          468.1145, 468.1185, 468.1295, 468.1665,  
18          468.1755, 468.1756, 468.205, 468.219, 468.354,  
19          468.364, 468.365, 468.402, 468.4315, 468.453,  
20          468.456, 468.4571, 468.506, 468.507, 468.513,  
21          468.523, 468.526, 468.532, 468.535, 468.703,  
22          468.705, 468.707, 468.711, 468.719, 468.801,  
23          468.811, 468.823, 468.824, 468.825, 469.009,  
24          470.003, 470.036, 471.008, 471.015, 471.033,  
25          471.038, 472.015, 473.3035, 473.308, 473.311,  
26          473.323, 474.204, 474.214, 475.021, 475.181,  
27          475.25, 475.624, 476.204, 477.029, 480.044,  
28          481.2055, 481.213, 481.225, 481.2251, 481.306,  
29          481.311, 481.325, 483.805, 483.807, 483.901,  
30          484.014, 484.042, 484.056, 486.023, 486.115,  
31          486.172, 489.129, 489.533, 490.004, 490.00515,

1 490.009, 490.0141, 490.015, 491.004, 491.0047,  
2 491.009, 491.0141, 491.015, 492.103, 492.113,  
3 627.668, 627.912, 636.039, 641.27, 641.316,  
4 641.55, 766.106, 766.305, 766.314, 817.505, and  
5 937.031, F.S.; renumbering and amending ss.  
6 455.501, 455.504, 455.521, 455.534, 455.541,  
7 455.544, 455.557, 455.561, 455.564, 455.565,  
8 455.5651, 455.5653, 455.5654, 455.574, 455.577,  
9 455.581, 455.584, 455.587, 455.594, 455.597,  
10 455.604, 455.614, 455.617, 455.621, 455.624,  
11 455.627, 455.631, 455.637, 455.641, 455.644,  
12 455.651, 455.654, 455.667, 455.671, 455.681,  
13 455.687, 455.694, 455.698, 455.707, 455.711,  
14 455.712, and 455.717, F.S.; renumbering ss.  
15 455.507, 455.511, 455.514, 455.517, 455.524,  
16 455.527, 455.531, 455.537, 455.547, 455.551,  
17 455.554, 455.5652, 455.5655, 455.5656, 455.567,  
18 455.571, 455.601, 455.607, 455.611, 455.634,  
19 455.647, 455.657, 455.664, 455.674, 455.677,  
20 455.684, 455.691, 455.697, 455.699, 455.701,  
21 455.704, 455.714, 456.30, 456.31, 456.32,  
22 456.33, and 456.34, F.S., pursuant to s.  
23 11.242, F.S.; transferring sections that  
24 comprise part II of chapter 455, pertaining to  
25 regulation of health-related professions, to  
26 chapter 456; transferring sections that  
27 comprise present chapter 456, pertaining to  
28 hypnosis, to new chapter 485; and amending  
29 various provisions to correct cross-references  
30 to conform the Florida Statutes to such  
31 transfers.

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

2

3 Section 1. Subsection (1) of section 61.13015, Florida  
4 Statutes, is amended to read:

5 61.13015 Petition for suspension or denial of  
6 professional licenses and certificates.--

7 (1) An obligee may petition the court which entered  
8 the support order or the court which is enforcing the support  
9 order for an order to suspend or deny the license or  
10 certificate issued pursuant to chapters 231, 409, 455, 456,  
11 and 559 of any obligor with a delinquent child support  
12 obligation. However, no petition may be filed until the  
13 obligee has exhausted all other available remedies. The  
14 purpose of this section is to promote the public policy of s.  
15 409.2551.

16 Section 2. Paragraph (b) of subsection (4) and  
17 subsection (15) of section 120.80, Florida Statutes, are  
18 amended to read:

19 120.80 Exceptions and special requirements;  
20 agencies.--

21 (4) DEPARTMENT OF BUSINESS AND PROFESSIONAL  
22 REGULATION.--

23 (b) Professional regulation.--Notwithstanding s.  
24 120.57(1)(a), formal hearings may not be conducted by the  
25 Secretary of Business and Professional Regulation or a board  
26 or member of a board within the Department of Business and  
27 Professional Regulation for matters relating to the regulation  
28 of professions, as defined by ~~part I~~ of chapter 455.

29 (15) DEPARTMENT OF HEALTH.--Notwithstanding s.  
30 120.57(1)(a), formal hearings may not be conducted by the  
31 Secretary of Health, the director of the Agency for Health

1 Care Administration, or a board or member of a board within  
2 the Department of Health or the Agency for Health Care  
3 Administration for matters relating to the regulation of  
4 professions, as defined by ~~part II~~ of chapter 456 ~~455~~.  
5 Notwithstanding s. 120.57(1)(a), hearings conducted within the  
6 Department of Health in execution of the Special Supplemental  
7 Nutrition Program for Women, Infants, and Children; Child Care  
8 Food Program; Children's Medical Services Program; and the  
9 exemption from disqualification reviews for certified nurse  
10 assistants program need not be conducted by an administrative  
11 law judge assigned by the division. The Department of Health  
12 may contract with the Department of Children and Family  
13 Services for a hearing officer in these matters.

14 Section 3. Subsections (1), (2), and (4) of section  
15 215.37, Florida Statutes, are amended to read:

16 215.37 Department of Business and Professional  
17 Regulation and the boards to be financed from fees collected;  
18 moneys deposited in trust fund; service charge imposed and  
19 deposited into the General Revenue Fund; appropriation.--

20 (1) All fees, licenses, and other charges assessed to  
21 practitioners of professions, as defined in ~~part I~~ of chapter  
22 455, by the Department of Business and Professional Regulation  
23 or a board within the department shall be collected by the  
24 department and shall be deposited in the State Treasury into  
25 the Professional Regulation Trust Fund to the credit of the  
26 department.

27 (2) The regulation by the department of professions,  
28 as defined in ~~part I~~ of chapter 455, shall be financed solely  
29 from revenue collected by it from fees and other charges and  
30 deposited in the Professional Regulation Trust Fund, and all  
31 such revenue is hereby appropriated to the department.

1 However, it is legislative intent that each profession shall  
2 operate within its anticipated fees.

3 (4) The department shall submit a balanced legislative  
4 budget for its regulation of professions, as defined in ~~part I~~  
5 ~~of~~ chapter 455, by division and operating budgets as required  
6 of all governmental subdivisions in chapters 215 and 216, to  
7 be based upon anticipated revenues. Prior to development of  
8 the department's budget request to the Legislature, the  
9 department shall request that each board submit its proposed  
10 budget for the operation of the board, the board's office, and  
11 other activities or expanded programs of the board for  
12 possible inclusion in the department's budget request. Prior  
13 to submission of the department's budget request to the  
14 Legislature, each board, at a regularly scheduled board  
15 meeting, shall review the proposed request related to its  
16 regulation of a profession, as defined in ~~part I~~ ~~of~~ chapter  
17 455, and either approve the proposed request or submit to the  
18 secretary written exceptions to the department's proposed  
19 budget. Any board making such exceptions must specify its  
20 objections, the reasons for such exceptions, and proposed  
21 alternatives to the department's request. The secretary shall  
22 consider all exceptions. When a majority of boards agree on an  
23 exception, the secretary shall make adjustments to the  
24 department's budget request related to its regulation of  
25 professions, as defined in ~~part I~~ ~~of~~ chapter 455, to reflect  
26 the majority position. If appropriate, the secretary shall  
27 file an exception on behalf of the department. The secretary  
28 shall submit to the Legislature the department's amended  
29 budget request along with any unresolved exceptions.

30 Section 4. Subsection (3) of section 240.215, Florida  
31 Statutes, is amended to read:

1           240.215 Payment of costs of civil action against  
2 employees or members of the Board of Regents.--

3           (3) All faculty physicians employed by the Board of  
4 Regents who are subject to the requirements of s. 456.013  
5 ~~455.564~~ shall complete their risk management continuing  
6 education on issues specific to academic medicine. Such  
7 continuing education shall include instruction for the  
8 supervision of resident physicians as required by the  
9 Accreditation Council for Graduate Medical Education. The  
10 boards described in s. 456.013 ~~455.564~~ shall adopt rules to  
11 implement the provisions of this subsection.

12           Section 5. Subsection (1) of section 310.102, Florida  
13 Statutes, is amended to read:

14           310.102 Treatment programs for impaired pilots and  
15 deputy pilots.--

16           (1) The department shall, by rule, designate approved  
17 treatment programs for pilots and deputy pilots under this  
18 section. The department may adopt rules setting forth  
19 appropriate criteria for approval of treatment providers based  
20 on the policies and guidelines established by the Impaired  
21 Practitioners Committee under s. 456.075 ~~455.704~~.

22           Section 6. Paragraph (f) of subsection (1) of section  
23 316.1932, Florida Statutes, is amended to read:

24           316.1932 Breath, blood, and urine tests for alcohol,  
25 chemical substances, or controlled substances; implied  
26 consent; right to refuse.--

27           (1)

28           (f)1. The tests determining the weight of alcohol in  
29 the defendant's blood or breath shall be administered at the  
30 request of a law enforcement officer substantially in  
31 accordance with rules of the Department of Law Enforcement.

1 Such rules must specify precisely the test or tests that are  
2 approved by the Department of Law Enforcement for reliability  
3 of result and ease of administration, and must provide an  
4 approved method of administration which must be followed in  
5 all such tests given under this section. However, the failure  
6 of a law enforcement officer to request the withdrawal of  
7 blood does not affect the admissibility of a test of blood  
8 withdrawn for medical purposes.

9           2.a. Only a physician, certified paramedic, registered  
10 nurse, licensed practical nurse, other personnel authorized by  
11 a hospital to draw blood, or duly licensed clinical laboratory  
12 director, supervisor, technologist, or technician, acting at  
13 the request of a law enforcement officer, may withdraw blood  
14 for the purpose of determining its alcoholic content or the  
15 presence of chemical substances or controlled substances  
16 therein. However, the failure of a law enforcement officer to  
17 request the withdrawal of blood does not affect the  
18 admissibility of a test of blood withdrawn for medical  
19 purposes.

20           b. Notwithstanding any provision of law pertaining to  
21 the confidentiality of hospital records or other medical  
22 records, if a health care provider, who is providing medical  
23 care in a health care facility to a person injured in a motor  
24 vehicle crash, becomes aware, as a result of any blood test  
25 performed in the course of that medical treatment, that the  
26 person's blood-alcohol level meets or exceeds the  
27 blood-alcohol level specified in s. 316.193(1)(b), the health  
28 care provider may notify any law enforcement officer or law  
29 enforcement agency. Any such notice must be given within a  
30 reasonable time after the health care provider receives the  
31 test result. Any such notice shall be used only for the

1 purpose of providing the law enforcement officer with  
2 reasonable cause to request the withdrawal of a blood sample  
3 pursuant to this section.

4 c. The notice shall consist only of the name of the  
5 person being treated, the name of the person who drew the  
6 blood, the blood-alcohol level indicated by the test, and the  
7 date and time of the administration of the test.

8 d. Nothing contained in s. 395.3025(4), s. 456.057  
9 ~~455.667~~, or any applicable practice act affects the authority  
10 to provide notice under this section, and the health care  
11 provider is not considered to have breached any duty owed to  
12 the person under s. 395.3025(4), s. 456.057 ~~455.667~~, or any  
13 applicable practice act by providing notice or failing to  
14 provide notice. It shall not be a breach of any ethical,  
15 moral, or legal duty for a health care provider to provide  
16 notice or fail to provide notice.

17 e. A civil, criminal, or administrative action may not  
18 be brought against any person or health care provider  
19 participating in good faith in the provision of notice or  
20 failure to provide notice as provided in this section. Any  
21 person or health care provider participating in the provision  
22 of notice or failure to provide notice as provided in this  
23 section shall be immune from any civil or criminal liability  
24 and from any professional disciplinary action with respect to  
25 the provision of notice or failure to provide notice under  
26 this section. Any such participant has the same immunity with  
27 respect to participating in any judicial proceedings resulting  
28 from the notice or failure to provide notice.

29 3. The person tested may, at his or her own expense,  
30 have a physician, registered nurse, other personnel authorized  
31 by a hospital to draw blood, or duly licensed clinical



1 laboratory director, supervisor, technologist, or technician,  
2 or other person of his or her own choosing administer an  
3 independent test in addition to the test administered at the  
4 direction of the law enforcement officer for the purpose of  
5 determining the amount of alcohol in the person's blood or  
6 breath or the presence of chemical substances or controlled  
7 substances at the time alleged, as shown by chemical analysis  
8 of his or her blood or urine, or by chemical or physical test  
9 of his or her breath. The failure or inability to obtain an  
10 independent test by a person does not preclude the  
11 admissibility in evidence of the test taken at the direction  
12 of the law enforcement officer. The law enforcement officer  
13 shall not interfere with the person's opportunity to obtain  
14 the independent test and shall provide the person with timely  
15 telephone access to secure the test, but the burden is on the  
16 person to arrange and secure the test at the person's own  
17 expense.

18           4. Upon the request of the person tested, full  
19 information concerning the test taken at the direction of the  
20 law enforcement officer shall be made available to the person  
21 or his or her attorney.

22           5. A hospital, clinical laboratory, medical clinic, or  
23 similar medical institution or physician, certified paramedic,  
24 registered nurse, licensed practical nurse, other personnel  
25 authorized by a hospital to draw blood, or duly licensed  
26 clinical laboratory director, supervisor, technologist, or  
27 technician, or other person assisting a law enforcement  
28 officer does not incur any civil or criminal liability as a  
29 result of the withdrawal or analysis of a blood or urine  
30 specimen, or the chemical or physical test of a person's  
31 breath pursuant to accepted medical standards when requested

1 by a law enforcement officer, regardless of whether or not the  
2 subject resisted administration of the test.

3 Section 7. Paragraph (a) of subsection (2) of section  
4 316.1933, Florida Statutes, is amended to read:

5 316.1933 Blood test for impairment or intoxication in  
6 cases of death or serious bodily injury; right to use  
7 reasonable force.--

8 (2)(a) Only a physician, certified paramedic,  
9 registered nurse, licensed practical nurse, other personnel  
10 authorized by a hospital to draw blood, or duly licensed  
11 clinical laboratory director, supervisor, technologist, or  
12 technician, acting at the request of a law enforcement  
13 officer, may withdraw blood for the purpose of determining the  
14 alcoholic content thereof or the presence of chemical  
15 substances or controlled substances therein. However, the  
16 failure of a law enforcement officer to request the withdrawal  
17 of blood shall not affect the admissibility of a test of blood  
18 withdrawn for medical purposes.

19 1. Notwithstanding any provision of law pertaining to  
20 the confidentiality of hospital records or other medical  
21 records, if a health care provider, who is providing medical  
22 care in a health care facility to a person injured in a motor  
23 vehicle crash, becomes aware, as a result of any blood test  
24 performed in the course of that medical treatment, that the  
25 person's blood-alcohol level meets or exceeds the  
26 blood-alcohol level specified in s. 316.193(1)(b), the health  
27 care provider may notify any law enforcement officer or law  
28 enforcement agency. Any such notice must be given within a  
29 reasonable time after the health care provider receives the  
30 test result. Any such notice shall be used only for the  
31 purpose of providing the law enforcement officer with

1 reasonable cause to request the withdrawal of a blood sample  
2 pursuant to this section.

3           2. The notice shall consist only of the name of the  
4 person being treated, the name of the person who drew the  
5 blood, the blood-alcohol level indicated by the test, and the  
6 date and time of the administration of the test.

7           3. Nothing contained in s. 395.3025(4), s. 456.057  
8 ~~455.667~~, or any applicable practice act affects the authority  
9 to provide notice under this section, and the health care  
10 provider is not considered to have breached any duty owed to  
11 the person under s. 395.3025(4), s. 456.057 ~~455.667~~, or any  
12 applicable practice act by providing notice or failing to  
13 provide notice. It shall not be a breach of any ethical,  
14 moral, or legal duty for a health care provider to provide  
15 notice or fail to provide notice.

16           4. A civil, criminal, or administrative action may not  
17 be brought against any person or health care provider  
18 participating in good faith in the provision of notice or  
19 failure to provide notice as provided in this section. Any  
20 person or health care provider participating in the provision  
21 of notice or failure to provide notice as provided in this  
22 section shall be immune from any civil or criminal liability  
23 and from any professional disciplinary action with respect to  
24 the provision of notice or failure to provide notice under  
25 this section. Any such participant has the same immunity with  
26 respect to participating in any judicial proceedings resulting  
27 from the notice or failure to provide notice.

28           Section 8. Subsections (2) and (3) of section 337.162,  
29 Florida Statutes, are amended to read:

30           337.162 Professional services.--Professional services  
31 provided to the department that fall below acceptable

1 professional standards may result in transportation project  
2 delays, overruns, and reduced facility life. To minimize these  
3 effects and ensure that quality services are received, the  
4 Legislature hereby declares that licensed professionals shall  
5 be held accountable for the quality of the services they  
6 provide to the department.

7 (2) Any person who is employed by the department and  
8 who is licensed by the Department of Business and Professional  
9 Regulation and who, through the course of his or her  
10 employment, has knowledge or reason to believe that any person  
11 has violated the provisions of state professional licensing  
12 laws or rules shall submit a complaint about the violations to  
13 the Department of Business and Professional Regulation.  
14 Failure to submit a complaint about the violations may be  
15 grounds for disciplinary action pursuant to ~~part I of~~ chapter  
16 455 and the state licensing law applicable to that licensee.  
17 However, licensees under part II of chapter 475 are exempt  
18 from the provisions of s. 455.227(1)(i). The complaint  
19 submitted to the Department of Business and Professional  
20 Regulation and maintained by the department is confidential  
21 and exempt from s. 119.07(1).

22 (3) Any complaints submitted to the Department of  
23 Business and Professional Regulation pursuant to subsections  
24 (1) and (2) are confidential and exempt from s. 119.07(1)  
25 pursuant to ~~part I of~~ chapter 455 and applicable state law.

26 Section 9. Section 381.0039, Florida Statutes, is  
27 amended to read:

28 381.0039 Oversight of acquired immune deficiency  
29 syndrome education programs.--The Department of Education, the  
30 Department of Health, and the Department of Business and  
31 Professional Regulation are directed to establish an

1 interagency agreement to oversee the quality and cost  
2 efficiency of acquired immune deficiency syndrome education  
3 programs being administered in the state pursuant to chapters  
4 381, 456,943, and 945 ~~and part II of chapter 455~~. The  
5 interagency agreement shall also include development, where  
6 appropriate, of methods for coordinating educational programs  
7 for various professional groups.

8 Section 10. Subsection (3) of section 383.32, Florida  
9 Statutes, is amended to read:

10 383.32 Clinical records.--

11 (3) Clinical records shall be kept confidential in  
12 accordance with s. 456.057 ~~455.667~~ and exempt from the  
13 provisions of s. 119.07(1). A client's clinical records shall  
14 be open to inspection only under the following conditions:

15 (a) A consent to release information has been signed  
16 by the client; or

17 (b) The review is made by the agency for a licensure  
18 survey or complaint investigation.

19 Section 11. Paragraph (a) of subsection (8) of section  
20 383.402, Florida Statutes, is amended to read:

21 383.402 Child abuse death review; State Child Abuse  
22 Death Review Committee; local child abuse death review  
23 committees.--

24 (8) Notwithstanding any other law, the chairperson of  
25 the State Child Abuse Death Review Committee, or the  
26 chairperson of a local committee, shall be provided with  
27 access to any information or records that pertain to a child  
28 whose death is being reviewed by the committee and that are  
29 necessary for the committee to carry out its duties, including  
30 information or records that pertain to the child's family, as  
31 follows:

1 (a) Patient records in the possession of a public or  
2 private provider of medical, dental, or mental health care,  
3 including, but not limited to, a facility licensed under  
4 chapter 393, chapter 394, or chapter 395, or a health care  
5 practitioner as defined in s. 456.001 ~~455.501~~. Providers may  
6 charge a fee for copies not to exceed 50 cents per page for  
7 paper records and \$1 per fiche for microfiche records.

8 Section 12. Subsection (2) of section 383.410, Florida  
9 Statutes, is amended to read:

10 383.410 Confidentiality.--

11 (2) All information that is confidential or exempt  
12 from public records requirements by operation of law and that  
13 is obtained by a hospital or a health care practitioner as  
14 defined by s. 456.001 ~~455.501~~ from the State Child Abuse Death  
15 Review Committee or a local committee, or a panel or committee  
16 assembled by the state committee or a local committee pursuant  
17 to s. 383.402, shall retain that status and is exempt from s.  
18 119.07(1) and s. 24(a), Art. I of the State Constitution.

19 Section 13. Subsections (1) and (4) of section  
20 395.0193, Florida Statutes, are amended to read:

21 395.0193 Licensed facilities; peer review;  
22 disciplinary powers; agency or partnership with physicians.--

23 (1) It is the intent of the Legislature that good  
24 faith participants in the process of investigating and  
25 disciplining physicians pursuant to the state-mandated peer  
26 review process shall, in addition to receiving immunity from  
27 retaliatory tort suits pursuant to s. 456.073(12) ~~455.621(12)~~,  
28 be protected from federal antitrust suits filed under the  
29 Sherman Anti-Trust Act, 15 U.S.C.A. ss. 1 et seq. Such intent  
30 is within the public policy of the state to secure the  
31 provision of quality medical services to the public.

1           (4) Pursuant to ss. 458.337 and 459.016, any  
2 disciplinary actions taken under subsection (3) shall be  
3 reported in writing to the Division of Health Quality  
4 Assurance of the agency within 30 working days after its  
5 initial occurrence, regardless of the pendency of appeals to  
6 the governing board of the hospital. The notification shall  
7 identify the disciplined practitioner, the action taken, and  
8 the reason for such action. All final disciplinary actions  
9 taken under subsection (3), if different from those which were  
10 reported to the agency within 30 days after the initial  
11 occurrence, shall be reported within 10 working days to the  
12 Division of Health Quality Assurance of the agency in writing  
13 and shall specify the disciplinary action taken and the  
14 specific grounds therefor. The division shall review each  
15 report and determine whether it potentially involved conduct  
16 by the licensee that is subject to disciplinary action, in  
17 which case s. 456.073 ~~455-621~~ shall apply. The reports are not  
18 subject to inspection under s. 119.07(1) even if the  
19 division's investigation results in a finding of probable  
20 cause.

21           Section 14. Paragraph (b) of subsection (6) and  
22 subsections (8) and (13) of section 395.0197, Florida  
23 Statutes, are amended to read:

24           395.0197 Internal risk management program.--

25           (6)

26           (b) The information reported to the agency pursuant to  
27 paragraph (a) which relates to persons licensed under chapter  
28 458, chapter 459, chapter 461, or chapter 466 shall be  
29 reviewed by the agency. The agency shall determine whether  
30 any of the incidents potentially involved conduct by a health  
31

1 care professional who is subject to disciplinary action, in  
2 which case the provisions of s. 456.073 ~~455.621~~ shall apply.

3 (8) Any of the following adverse incidents, whether  
4 occurring in the licensed facility or arising from health care  
5 prior to admission in the licensed facility, shall be reported  
6 by the facility to the agency within 15 calendar days after  
7 its occurrence:

8 (a) The death of a patient;

9 (b) Brain or spinal damage to a patient;

10 (c) The performance of a surgical procedure on the  
11 wrong patient;

12 (d) The performance of a wrong-site surgical  
13 procedure;

14 (e) The performance of a wrong surgical procedure;

15 (f) The performance of a surgical procedure that is  
16 medically unnecessary or otherwise unrelated to the patient's  
17 diagnosis or medical condition;

18 (g) The surgical repair of damage resulting to a  
19 patient from a planned surgical procedure, where the damage is  
20 not a recognized specific risk, as disclosed to the patient  
21 and documented through the informed-consent process; or

22 (h) The performance of procedures to remove unplanned  
23 foreign objects remaining from a surgical procedure.

24  
25 The agency may grant extensions to this reporting requirement  
26 for more than 15 days upon justification submitted in writing  
27 by the facility administrator to the agency. The agency may  
28 require an additional, final report. These reports shall not  
29 be available to the public pursuant to s. 119.07(1) or any  
30 other law providing access to public records, nor be  
31 discoverable or admissible in any civil or administrative



1 action, except in disciplinary proceedings by the agency or  
2 the appropriate regulatory board, nor shall they be available  
3 to the public as part of the record of investigation for and  
4 prosecution in disciplinary proceedings made available to the  
5 public by the agency or the appropriate regulatory board.  
6 However, the agency or the appropriate regulatory board shall  
7 make available, upon written request by a health care  
8 professional against whom probable cause has been found, any  
9 such records which form the basis of the determination of  
10 probable cause. The agency may investigate, as it deems  
11 appropriate, any such incident and prescribe measures that  
12 must or may be taken in response to the incident. The agency  
13 shall review each incident and determine whether it  
14 potentially involved conduct by the health care professional  
15 who is subject to disciplinary action, in which case the  
16 provisions of s. 456.073 ~~455.621~~ shall apply.

17 (13) The agency shall have access to all licensed  
18 facility records necessary to carry out the provisions of this  
19 section. The records obtained by the agency under subsection  
20 (6), subsection (8), or subsection (9) are not available to  
21 the public under s. 119.07(1), nor shall they be discoverable  
22 or admissible in any civil or administrative action, except in  
23 disciplinary proceedings by the agency or the appropriate  
24 regulatory board, nor shall records obtained pursuant to s.  
25 456.071 ~~455.611~~ be available to the public as part of the  
26 record of investigation for and prosecution in disciplinary  
27 proceedings made available to the public by the agency or the  
28 appropriate regulatory board. However, the agency or the  
29 appropriate regulatory board shall make available, upon  
30 written request by a health care professional against whom  
31 probable cause has been found, any such records which form the

1 basis of the determination of probable cause, except that,  
2 with respect to medical review committee records, s. 766.101  
3 controls.

4 Section 15. Paragraph (e) of subsection (4) of section  
5 395.3025, Florida Statutes, is amended to read:

6 395.3025 Patient and personnel records; copies;  
7 examination.--

8 (4) Patient records are confidential and must not be  
9 disclosed without the consent of the person to whom they  
10 pertain, but appropriate disclosure may be made without such  
11 consent to:

12 (e) The agency upon subpoena issued pursuant to s.  
13 456.071 ~~455.611~~, but the records obtained thereby must be used  
14 solely for the purpose of the agency and the appropriate  
15 professional board in its investigation, prosecution, and  
16 appeal of disciplinary proceedings. If the agency requests  
17 copies of the records, the facility shall charge no more than  
18 its actual copying costs, including reasonable staff time. The  
19 records must be sealed and must not be available to the public  
20 pursuant to s. 119.07(1) or any other statute providing access  
21 to records, nor may they be available to the public as part of  
22 the record of investigation for and prosecution in  
23 disciplinary proceedings made available to the public by the  
24 agency or the appropriate regulatory board. However, the  
25 agency must make available, upon written request by a  
26 practitioner against whom probable cause has been found, any  
27 such records that form the basis of the determination of  
28 probable cause.

29 Section 16. Subsection (1) of section 400.491, Florida  
30 Statutes, is amended to read:

31 400.491 Clinical records.--

1           (1) The home health agency must maintain for each  
2 patient who receives skilled care a clinical record that  
3 includes pertinent past and current medical, nursing, social  
4 and other therapeutic information, the treatment orders, and  
5 other such information as is necessary for the safe and  
6 adequate care of the patient. When home health services are  
7 terminated, the record must show the date and reason for  
8 termination. Such records are considered patient records  
9 under s. 456.057 ~~455.241~~, and must be maintained by the home  
10 health agency for 5 years following termination of services.  
11 If a patient transfers to another home health agency, a copy  
12 of his or her record must be provided to the other home health  
13 agency upon request.

14           Section 17. Subsection (1) of section 400.518, Florida  
15 Statutes, is amended to read:

16           400.518 Prohibited referrals to home health  
17 agencies.--

18           (1) A physician licensed under chapter 458 or chapter  
19 459 must comply with s. 456.053 ~~455.654~~.

20           Section 18. Subsection (2) of section 400.94, Florida  
21 Statutes, is amended to read:

22           400.94 Patient records.--

23           (2) Such records are considered patient records under  
24 s. 456.057 ~~455.667~~ and must be maintained by the home medical  
25 equipment provider for 5 years following termination of  
26 services. If a patient transfers to another home medical  
27 equipment provider, a copy of his or her record must be  
28 provided to the other home medical equipment provider, upon  
29 request.

30           Section 19. Subsection (9) of section 408.061, Florida  
31 Statutes, is amended to read:

1           408.061 Data collection; uniform systems of financial  
2 reporting; information relating to physician charges;  
3 confidentiality of patient records; immunity.--

4           (9) The identity of any health care provider, health  
5 care facility, or health insurer who submits any data which is  
6 proprietary business information to the agency pursuant to the  
7 provisions of this section shall remain confidential and  
8 exempt from the provisions of s. 119.07(1) and s. 24(a), Art.  
9 I of the State Constitution. As used in this section,  
10 "proprietary business information" shall include, but not be  
11 limited to, information relating to specific provider contract  
12 reimbursement information; information relating to security  
13 measures, systems, or procedures; and information concerning  
14 bids or other contractual data, the disclosure of which would  
15 impair efforts to contract for goods or services on favorable  
16 terms or would injure the affected entity's ability to compete  
17 in the marketplace. Notwithstanding the provisions of this  
18 subsection, any information obtained or generated pursuant to  
19 the provisions of s. 407.61, either by the Health Care Cost  
20 Containment Board or by the Agency for Health Care  
21 Administration upon transfer to that agency of the duties and  
22 functions of the Health Care Cost Containment Board, is not  
23 confidential and exempt from the provisions of s. 119.07(1)  
24 and s. 24(a), Art. I of the State Constitution. Such  
25 proprietary business information may be used in published  
26 analyses and reports or otherwise made available for public  
27 disclosure in such manner as to preserve the confidentiality  
28 of the identity of the provider. This exemption shall not  
29 limit the use of any information used in conjunction with  
30 investigation or enforcement purposes under the provisions of  
31 s. 456.073 ~~455.621~~.

1           Section 20. Paragraph (b) of subsection (5) of section  
2 408.704, Florida Statutes, is amended to read:

3           408.704 Agency duties and responsibilities related to  
4 community health purchasing alliances.--The agency shall  
5 assist in developing a statewide system of community health  
6 purchasing alliances. To this end, the agency is responsible  
7 for:

8           (5) Establishing a data system for accountable health  
9 partnerships.

10           (b) The advisory data committee shall issue a report  
11 and recommendations on each of the following subjects as each  
12 is completed. A final report covering all subjects must be  
13 included in the final Florida Health Plan to be submitted to  
14 the Legislature on December 31, 1993. The report shall  
15 include recommendations regarding:

16           1. Types of data to be collected. Careful  
17 consideration shall be given to other data collection projects  
18 and standards for electronic data interchanges already in  
19 process in this state and nationally, to evaluating and  
20 recommending the feasibility and cost-effectiveness of various  
21 data collection activities, and to ensuring that data  
22 reporting is necessary to support the evaluation of providers  
23 with respect to cost containment, access, quality, control of  
24 expensive technologies, and customer satisfaction analysis.  
25 Data elements to be collected from providers include prices,  
26 utilization, patient outcomes, quality, and patient  
27 satisfaction. The completion of this task is the first  
28 priority of the advisory data committee. The agency shall  
29 begin implementing these data collection activities  
30 immediately upon receipt of the recommendations, but no later  
31 than January 1, 1994. The data shall be submitted by

1 hospitals, other licensed health care facilities, pharmacists,  
2 and group practices as defined in s. 456.053(3)(h)  
3 ~~455.654(3)(f)~~.

4         2. A standard data set, a standard cost-effective  
5 format for collecting the data, and a standard methodology for  
6 reporting the data to the agency, or its designee, and to the  
7 alliances. The reporting mechanisms must be designed to  
8 minimize the administrative burden and cost to health care  
9 providers and carriers. A methodology shall be developed for  
10 aggregating data in a standardized format for making  
11 comparisons between accountable health partnerships which  
12 takes advantage of national models and activities.

13         3. Methods by which the agency should collect,  
14 process, analyze, and distribute the data.

15         4. Standards for data interpretation. The advisory  
16 data committee shall actively solicit broad input from the  
17 provider community, carriers, the business community, and the  
18 general public.

19         5. Structuring the data collection process to:

20             a. Incorporate safeguards to ensure that the health  
21 care services utilization data collected is reviewed by  
22 experienced, practicing physicians licensed to practice  
23 medicine in this state;

24             b. Require that carrier customer satisfaction data  
25 conclusions are validated by the agency;

26             c. Protect the confidentiality of medical information  
27 to protect the patient's identity and to protect the privacy  
28 of individual physicians and patients. Proprietary data  
29 submitted by insurers, providers, and purchasers are  
30 confidential pursuant to s. 408.061; and  
31

1           d. Afford all interested professional medical and  
2 hospital associations and carriers a minimum of 60 days to  
3 review and comment before data is released to the public.

4           6. Developing a data collection implementation  
5 schedule, based on the data collection capabilities of  
6 carriers and providers.

7           Section 21. Subsections (1) and (2) of section  
8 409.2598, Florida Statutes, are amended to read:

9           409.2598 Suspension or denial of new or renewal  
10 licenses; registrations; certifications.--

11           (1) The Title IV-D agency may petition the court that  
12 entered the support order or the court that is enforcing the  
13 support order to deny or suspend the license, registration, or  
14 certificate issued under chapter 231, chapter 370, chapter  
15 372, chapter 409, ~~part II of~~ chapter 456 ~~455~~, or chapter 559  
16 or s. 328.42 of any obligor with a delinquent child support  
17 obligation or who fails, after receiving appropriate notice,  
18 to comply with subpoenas, orders to appear, orders to show  
19 cause, or similar orders relating to paternity or child  
20 support proceedings. However, a petition may not be filed  
21 until the Title IV-D agency has exhausted all other available  
22 remedies. The purpose of this section is to promote the public  
23 policy of the state as established in s. 409.2551.

24           (2) The Title IV-D agency is authorized to screen all  
25 applicants for new or renewal licenses, registrations, or  
26 certificates and current licenses, registrations, or  
27 certificates and current licensees, registration holders, and  
28 certificateholders of all licenses, registrations, and  
29 certificates issued under chapter 231, chapter 370, chapter  
30 372, chapter 409, ~~part II of~~ chapter 456 ~~455~~, or chapter 559  
31 or s. 328.42 to ensure compliance with any child support

1 obligation and any subpoenas, orders to appear, orders to show  
2 cause, or similar orders relating to paternity or child  
3 support proceedings. If the Title IV-D agency determines that  
4 an applicant, licensee, registration holder, or  
5 certificateholder is an obligor who is delinquent on a support  
6 obligation or who is not in compliance with a subpoena, order  
7 to appear, order to show cause, or similar order relating to  
8 paternity or child support proceedings, the Title IV-D agency  
9 shall certify the delinquency pursuant to s. 61.14.

10 Section 22. Paragraph (h) of subsection (3) and  
11 paragraph (c) of subsection (4) of section 440.13, Florida  
12 Statutes, are amended to read:

13 440.13 Medical services and supplies; penalty for  
14 violations; limitations.--

15 (3) PROVIDER ELIGIBILITY; AUTHORIZATION.--

16 (h) The provisions of s. 456.053 ~~455.654~~ are  
17 applicable to referrals among health care providers, as  
18 defined in subsection (1), treating injured workers.

19 (4) NOTICE OF TREATMENT TO CARRIER; FILING WITH  
20 DIVISION.--

21 (c) It is the policy for the administration of the  
22 workers' compensation system that there be reasonable access  
23 to medical information by all parties to facilitate the  
24 self-executing features of the law. Notwithstanding the  
25 limitations in s. 456.057 ~~455.667~~ and subject to the  
26 limitations in s. 381.004, upon the request of the employer,  
27 the carrier, or the attorney for either of them, the medical  
28 records of an injured employee must be furnished to those  
29 persons and the medical condition of the injured employee must  
30 be discussed with those persons, if the records and the  
31 discussions are restricted to conditions relating to the



1 workplace injury. Any such discussions may be held before or  
2 after the filing of a claim without the knowledge, consent, or  
3 presence of any other party or his or her agent or  
4 representative. A health care provider who willfully refuses  
5 to provide medical records or to discuss the medical condition  
6 of the injured employee, after a reasonable request is made  
7 for such information pursuant to this subsection, shall be  
8 subject by the division to one or more of the penalties set  
9 forth in paragraph (8)(b).

10 Section 23. Section 455.01, Florida Statutes, is  
11 amended to read:

12 455.01 Definitions.--As used in this chapter ~~part~~, the  
13 term:

14 (1) "Board" means any board or commission, or other  
15 statutorily created entity to the extent such entity is  
16 authorized to exercise regulatory or rulemaking functions,  
17 within the department, including the Florida Real Estate  
18 Commission; except that, for ss. 455.201-455.261, "board"  
19 means only a board, or other statutorily created entity to the  
20 extent such entity is authorized to exercise regulatory or  
21 rulemaking functions, within the Division of Certified Public  
22 Accounting, the Division of Professions, or the Division of  
23 Real Estate.

24 (2) "Consumer member" means a person appointed to  
25 serve on a specific board or who has served on a specific  
26 board, who is not, and never has been, a member or  
27 practitioner of the profession, or of any closely related  
28 profession, regulated by such board.

29 (3) "Department" means the Department of Business and  
30 Professional Regulation.

31

1           (4) "License" means any permit, registration,  
2 certificate, or license issued by the department.

3           (5) "Licensee" means any person issued a permit,  
4 registration, certificate, or license by the department.

5           (6) "Profession" means any activity, occupation,  
6 profession, or vocation regulated by the department in the  
7 Divisions of Certified Public Accounting, Professions, Real  
8 Estate, and Regulation.

9           Section 24. Subsection (5) of section 455.203, Florida  
10 Statutes, is amended to read:

11           455.203 Department; powers and duties.--The  
12 department, for the boards under its jurisdiction, shall:

13           (5) Adopt rules pursuant to ss. 120.536(1) and 120.54  
14 to implement the provisions of this chapter ~~part~~.

15           Section 25. Subsection (3) of section 455.207, Florida  
16 Statutes, is amended to read:

17           455.207 Boards; organization; meetings; compensation  
18 and travel expenses.--

19           (3) The board shall meet at least once annually and  
20 may meet as often as is necessary. The chairperson or a quorum  
21 of the board shall have the authority to call other meetings.  
22 A quorum shall be necessary for the conduct of official  
23 business by the board or any committee thereof. Unless  
24 otherwise provided by law, 51 percent or more of the appointed  
25 members of the board or any committee, when applicable, shall  
26 constitute a quorum. The membership of committees of the  
27 board, except as otherwise authorized pursuant to this chapter  
28 ~~part~~ or the applicable practice act, shall be composed of  
29 currently appointed members of the board. The vote of a  
30 majority of the members of the quorum shall be necessary for  
31 any official action by the board or committee. Three

1 consecutive unexcused absences or absences constituting 50  
2 percent or more of the board's meetings within any 12-month  
3 period shall cause the board membership of the member in  
4 question to become void, and the position shall be considered  
5 vacant. The board, or the department when there is no board,  
6 shall, by rule, define unexcused absences.

7 Section 26. Subsections (3) and (7) of section  
8 455.213, Florida Statutes, are amended to read:

9 455.213 General licensing provisions.--

10 (3) The board, or the department when there is no  
11 board, may refuse to issue an initial license to any applicant  
12 who is under investigation or prosecution in any jurisdiction  
13 for an action that would constitute a violation of this  
14 chapter part or the professional practice acts administered by  
15 the department and the boards, until such time as the  
16 investigation or prosecution is complete.

17 (7) Notwithstanding anything to the contrary, any  
18 elected official who is licensed pursuant to any practice act  
19 within the purview of this chapter part may hold employment  
20 for compensation with any public agency concurrent with such  
21 public service. Such dual service shall be disclosed  
22 according to any disclosure required by applicable law.

23 Section 27. Subsections (3) and (6) of section  
24 455.214, Florida Statutes, are amended to read:

25 455.214 Limited licenses.--

26 (3) The board, or the department when there is no  
27 board, may deny limited licensure to an applicant who has  
28 committed, or is under investigation or prosecution for, any  
29 act which would constitute the basis for discipline pursuant  
30 to the provisions of this chapter part or the applicable  
31 practice act.

1           (6) Each applicant granted a limited license is  
2 subject to all the provisions of this chapter part and the  
3 respective practice act under which the limited license is  
4 issued which are not in conflict with this section.

5           Section 28. Paragraph (f) of subsection (1) of section  
6 455.217, Florida Statutes, is amended to read:

7           455.217 Examinations.--This section shall be read in  
8 conjunction with the appropriate practice act associated with  
9 each regulated profession under this chapter.

10           (1) The Division of Technology, Licensure, and Testing  
11 of the Department of Business and Professional Regulation  
12 shall provide, contract, or approve services for the  
13 development, preparation, administration, scoring, score  
14 reporting, and evaluation of all examinations. The division  
15 shall seek the advice of the appropriate board in providing  
16 such services.

17           (f) If the professional board with jurisdiction over  
18 an examination concurs, the department may, for a fee, share  
19 with any other state's licensing authority an examination  
20 developed by or for the department unless prohibited by a  
21 contract entered into by the department for development or  
22 purchase of the examination. The department, with the  
23 concurrence of the appropriate board, shall establish  
24 guidelines that ensure security of a shared exam and shall  
25 require that any other state's licensing authority comply with  
26 those guidelines. Those guidelines shall be approved by the  
27 appropriate professional board. All fees paid by the user  
28 shall be applied to the department's examination and  
29 development program for professions regulated by this chapter  
30 ~~part~~. All fees paid by the user for professions not regulated  
31 by this chapter part shall be applied to offset the fees for

1 the development and administration of that profession's  
2 examination. If both a written and a practical examination  
3 are given, an applicant shall be required to retake only the  
4 portion of the examination for which he or she failed to  
5 achieve a passing grade, if he or she successfully passes that  
6 portion within a reasonable time of his or her passing the  
7 other portion.

8 Section 29. Subsections (4) and (6) of section  
9 455.218, Florida Statutes, are amended to read:

10 455.218 Foreign-trained professionals; special  
11 examination and license provisions.--

12 (4) The department shall examine any applicant who  
13 meets the requirements of subsections (1) and (2). Upon  
14 passing the examination and the issuance of the license, a  
15 licensee is subject to the administrative requirements of this  
16 chapter part and the respective practice act under which the  
17 license is issued. Each applicant so licensed is subject to  
18 all provisions of this chapter part and the respective  
19 practice act under which the license was issued.

20 (6) The department, for its boards, shall not issue an  
21 initial license to, or renew a license of, any applicant or  
22 licensee who is under investigation or prosecution in any  
23 jurisdiction for an action which would constitute a violation  
24 of this chapter part or the professional practice acts  
25 administered by the department and the boards until such time  
26 as the investigation or prosecution is complete, at which time  
27 the provisions of the professional practice acts shall apply.

28 Section 30. Subsection (1) of section 455.2185,  
29 Florida Statutes, is amended to read:

30 455.2185 Exemption for certain out-of-state or foreign  
31 professionals; limited practice permitted.--

1           (1) A professional of any other state or of any  
2 territory or other jurisdiction of the United States or of any  
3 other nation or foreign jurisdiction is exempt from the  
4 requirements of licensure under this chapter part and the  
5 applicable professional practice act under the agency with  
6 regulatory jurisdiction over the profession if that profession  
7 is regulated in this state under the agency with regulatory  
8 jurisdiction over the profession and if that person:

9           (a) Holds, if so required in the jurisdiction in which  
10 that person practices, an active license to practice that  
11 profession.

12           (b) Engages in the active practice of that profession  
13 outside the state.

14           (c) Is employed or designated in that professional  
15 capacity by a sports entity visiting the state for a specific  
16 sporting event.

17           Section 31. Paragraph (a) of subsection (1) of section  
18 455.225, Florida Statutes, is amended to read:

19           455.225 Disciplinary proceedings.--Disciplinary  
20 proceedings for each board shall be within the jurisdiction of  
21 the department.

22           (1)(a) The department, for the boards under its  
23 jurisdiction, shall cause to be investigated any complaint  
24 that is filed before it if the complaint is in writing, signed  
25 by the complainant, and legally sufficient. A complaint is  
26 legally sufficient if it contains ultimate facts that show  
27 that a violation of this chapter part, of any of the practice  
28 acts relating to the professions regulated by the department,  
29 or of any rule adopted by the department or a regulatory board  
30 in the department has occurred. In order to determine legal  
31 sufficiency, the department may require supporting information

1 or documentation. The department may investigate, and the  
2 department or the appropriate board may take appropriate final  
3 action on, a complaint even though the original complainant  
4 withdraws it or otherwise indicates a desire not to cause the  
5 complaint to be investigated or prosecuted to completion. The  
6 department may investigate an anonymous complaint if the  
7 complaint is in writing and is legally sufficient, if the  
8 alleged violation of law or rules is substantial, and if the  
9 department has reason to believe, after preliminary inquiry,  
10 that the violations alleged in the complaint are true. The  
11 department may investigate a complaint made by a confidential  
12 informant if the complaint is legally sufficient, if the  
13 alleged violation of law or rule is substantial, and if the  
14 department has reason to believe, after preliminary inquiry,  
15 that the allegations of the complainant are true. The  
16 department may initiate an investigation if it has reasonable  
17 cause to believe that a licensee or a group of licensees has  
18 violated a Florida statute, a rule of the department, or a  
19 rule of a board.

20 Section 32. Paragraphs (i), (j), and (q) of subsection  
21 (1) and subsection (4) of section 455.227, Florida Statutes,  
22 are amended to read:

23 455.227 Grounds for discipline; penalties;  
24 enforcement.--

25 (1) The following acts shall constitute grounds for  
26 which the disciplinary actions specified in subsection (2) may  
27 be taken:

28 (i) Failing to report to the department any person who  
29 the licensee knows is in violation of this chapter part, the  
30 chapter regulating the alleged violator, or the rules of the  
31 department or the board.

1           (j) Aiding, assisting, procuring, employing, or  
2 advising any unlicensed person or entity to practice a  
3 profession contrary to this chapter part, the chapter  
4 regulating the profession, or the rules of the department or  
5 the board.

6           (q) Violating any provision of this chapter part, the  
7 applicable professional practice act, a rule of the department  
8 or the board, or a lawful order of the department or the  
9 board, or failing to comply with a lawfully issued subpoena of  
10 the department.

11           (4) In addition to, or in lieu of, any other remedy or  
12 criminal prosecution, the department may file a proceeding in  
13 the name of the state seeking issuance of an injunction or a  
14 writ of mandamus against any person who violates any of the  
15 provisions of this chapter part, or any provision of law with  
16 respect to professions regulated by the department, or any  
17 board therein, or the rules adopted pursuant thereto.

18           Section 33. Subsection (1) of section 455.2273,  
19 Florida Statutes, is amended to read:

20           455.2273 Disciplinary guidelines.--

21           (1) Each board, or the department when there is no  
22 board, shall adopt, by rule, and periodically review the  
23 disciplinary guidelines applicable to each ground for  
24 disciplinary action which may be imposed by the board, or the  
25 department when there is no board, pursuant to this chapter  
26 ~~part~~, the respective practice acts, and any rule of the board  
27 or department.

28           Section 34. Subsection (1) of section 455.228, Florida  
29 Statutes, is amended to read:

30  
31



1           455.228 Unlicensed practice of a profession; cease and  
2 desist notice; civil penalty; enforcement; citations;  
3 allocation of moneys collected.--

4           (1) When the department has probable cause to believe  
5 that any person not licensed by the department, or the  
6 appropriate regulatory board within the department, has  
7 violated any provision of this chapter part or any statute  
8 that relates to the practice of a profession regulated by the  
9 department, or any rule adopted pursuant thereto, the  
10 department may issue and deliver to such person a notice to  
11 cease and desist from such violation. In addition, the  
12 department may issue and deliver a notice to cease and desist  
13 to any person who aids and abets the unlicensed practice of a  
14 profession by employing such unlicensed person. The issuance  
15 of a notice to cease and desist shall not constitute agency  
16 action for which a hearing under ss. 120.569 and 120.57 may be  
17 sought. For the purpose of enforcing a cease and desist order,  
18 the department may file a proceeding in the name of the state  
19 seeking issuance of an injunction or a writ of mandamus  
20 against any person who violates any provisions of such order.  
21 In addition to the foregoing remedies, the department may  
22 impose an administrative penalty not to exceed \$5,000 per  
23 incident pursuant to the provisions of chapter 120 or may  
24 issue a citation pursuant to the provisions of subsection (3).  
25 If the department is required to seek enforcement of the order  
26 for a penalty pursuant to s. 120.569, it shall be entitled to  
27 collect its attorney's fees and costs, together with any cost  
28 of collection.

29           Section 35. Section 455.243, Florida Statutes, is  
30 amended to read:

31

1           455.243 Authority to inspect.--Duly authorized agents  
2 and employees of the department shall have the power to  
3 inspect in a lawful manner at all reasonable hours any  
4 establishment at which the services of a licensee authorized  
5 to prescribe controlled substances specified in chapter 893  
6 are offered, for the purpose of determining if any of the  
7 provisions of this chapter part or any practice act of a  
8 profession or any rule adopted thereunder is being violated;  
9 or for the purpose of securing such other evidence as may be  
10 needed for prosecution.

11           Section 36. Section 455.501, Florida Statutes, is  
12 transferred, renumbered as section 456.001, Florida Statutes,  
13 and amended to read:

14           456.001 ~~455.501~~ Definitions.--As used in this chapter  
15 ~~part~~, the term:

16           (1) "Board" means any board or commission, or other  
17 statutorily created entity to the extent such entity is  
18 authorized to exercise regulatory or rulemaking functions,  
19 within the department, except that, for ss. 456.003-456.018,  
20 456.022, 456.023, 456.025-456.034, and 456.039-456.082  
21 ~~455.517-455.707~~, "board" means only a board, or other  
22 statutorily created entity to the extent such entity is  
23 authorized to exercise regulatory or rulemaking functions,  
24 within the Division of Medical Quality Assurance.

25           (2) "Consumer member" means a person appointed to  
26 serve on a specific board or who has served on a specific  
27 board, who is not, and never has been, a member or  
28 practitioner of the profession, or of any closely related  
29 profession, regulated by such board.

30           (3) "Department" means the Department of Health.

31

1           (4) "Health care practitioner" means any person  
2 licensed under chapter 457; chapter 458; chapter 459; chapter  
3 460; chapter 461; chapter 462; chapter 463; chapter 464;  
4 chapter 465; chapter 466; chapter 467; part I, part II, part  
5 III, part V, part X, part XIII, or part XIV of chapter 468;  
6 chapter 478; chapter 480; part III or part IV of chapter 483;  
7 chapter 484; chapter 486; chapter 490; or chapter 491.

8           (5) "License" means any permit, registration,  
9 certificate, or license issued by the department.

10           (6) "Licensee" means any person or entity issued a  
11 permit, registration, certificate, or license by the  
12 department.

13           (7) "Profession" means any activity, occupation,  
14 profession, or vocation regulated by the department in the  
15 Division of Medical Quality Assurance.

16           Section 37. Section 455.504, Florida Statutes, is  
17 transferred, renumbered as section 456.002, Florida Statutes,  
18 and amended to read:

19           456.002 ~~455.504~~ Applicability of part.--This chapter  
20 ~~part~~ applies only to the regulation by the department of  
21 professions.

22           Section 38. Section 455.517, Florida Statutes, is  
23 transferred and renumbered as section 456.003, Florida  
24 Statutes.

25           Section 39. Section 455.521, Florida Statutes, is  
26 transferred, renumbered as section 456.004, Florida Statutes,  
27 and amended to read:

28           456.004 ~~455.521~~ Department; powers and duties.--The  
29 department, for the professions under its jurisdiction, shall:

30           (1) Adopt rules establishing a procedure for the  
31 biennial renewal of licenses; however, the department may

1 issue up to a 4-year license to selected licensees  
2 notwithstanding any other provisions of law to the contrary.  
3 Fees for such renewal shall not exceed the fee caps for  
4 individual professions on an annualized basis as authorized by  
5 law.

6 (2) Appoint the executive director of each board,  
7 subject to the approval of the board.

8 (3) Submit an annual budget to the Legislature at a  
9 time and in the manner provided by law.

10 (4) Develop a training program for persons newly  
11 appointed to membership on any board. The program shall  
12 familiarize such persons with the substantive and procedural  
13 laws and rules and fiscal information relating to the  
14 regulation of the appropriate profession and with the  
15 structure of the department.

16 (5) Adopt rules pursuant to ss. 120.536(1) and 120.54  
17 to implement the provisions of this chapter part.

18 (6) Establish by rules procedures by which the  
19 department shall use the expert or technical advice of the  
20 appropriate board for the purposes of investigation,  
21 inspection, evaluation of applications, other duties of the  
22 department, or any other areas the department may deem  
23 appropriate.

24 (7) Require all proceedings of any board or panel  
25 thereof and all formal or informal proceedings conducted by  
26 the department, an administrative law judge, or a hearing  
27 officer with respect to licensing or discipline to be  
28 electronically recorded in a manner sufficient to assure the  
29 accurate transcription of all matters so recorded.

30  
31

1           (8) Select only those investigators, or consultants  
2 who undertake investigations, who meet criteria established  
3 with the advice of the respective boards.

4           (9) Allow applicants for new or renewal licenses and  
5 current licensees to be screened by the Title IV-D child  
6 support agency pursuant to s. 409.2598 to assure compliance  
7 with a support obligation. The purpose of this subsection is  
8 to promote the public policy of this state as established in  
9 s. 409.2551. The department shall, when directed by the court,  
10 suspend or deny the license of any licensee found to have a  
11 delinquent support obligation. The department shall issue or  
12 reinstate the license without additional charge to the  
13 licensee when notified by the court that the licensee has  
14 complied with the terms of the court order. The department  
15 shall not be held liable for any license denial or suspension  
16 resulting from the discharge of its duties under this  
17 subsection.

18           Section 40. Sections 455.524, 455.527, and 455.531,  
19 Florida Statutes, are transferred and renumbered as sections  
20 456.005, 456.006, and 456.007, Florida Statutes, respectively.

21           Section 41. Section 455.541, Florida Statutes, is  
22 transferred, renumbered as section 456.008, Florida Statutes,  
23 and amended to read:

24           456.008 ~~455.541~~ Accountability and liability of board  
25 members.--

26           (1) Each board member shall be accountable to the  
27 Governor for the proper performance of duties as a member of  
28 the board. The Governor shall investigate any legally  
29 sufficient complaint or unfavorable written report received by  
30 the Governor or by the department or a board concerning the  
31 actions of the board or its individual members. The Governor

1 may suspend from office any board member for malfeasance,  
2 misfeasance, neglect of duty, drunkenness, incompetence,  
3 permanent inability to perform his or her official duties, or  
4 commission of a felony.

5           (2) Each board member and each former board member  
6 serving on a probable cause panel shall be exempt from civil  
7 liability for any act or omission when acting in the member's  
8 official capacity, and the department shall defend any such  
9 member in any action against any board or member of a board  
10 arising from any such act or omission. In addition, the  
11 department may defend the member's company or business in any  
12 action against the company or business if the department  
13 determines that the actions from which the suit arises are  
14 actions taken by the member in the member's official capacity  
15 and were not beyond the member's statutory authority. In  
16 providing such defense, the department may employ or utilize  
17 the legal services of the Department of Legal Affairs or  
18 outside counsel retained pursuant to s. 287.059. Fees and  
19 costs of providing legal services provided under this  
20 subsection shall be paid from a trust fund used by the  
21 department to implement this chapter part, subject to the  
22 provisions of s. 456.025 ~~455.587~~.

23           Section 42. Section 455.594, Florida Statutes, is  
24 transferred, renumbered as section 456.009, Florida Statutes,  
25 and amended to read:

26           456.009 ~~455.594~~ Legal and investigative services.--

27           (1) The department shall provide board counsel for  
28 boards within the department by contracting with the  
29 Department of Legal Affairs, by retaining private counsel  
30 pursuant to s. 287.059, or by providing department staff  
31 counsel. The primary responsibility of board counsel shall be

1 to represent the interests of the citizens of the state. A  
2 board shall provide for the periodic review and evaluation of  
3 the services provided by its board counsel. Fees and costs of  
4 such counsel shall be paid from a trust fund used by the  
5 department to implement this chapter part, subject to the  
6 provisions of s. 456.025 ~~455.587~~. All contracts for  
7 independent counsel shall provide for periodic review and  
8 evaluation by the board and the department of services  
9 provided.

10 (2) The department may employ or use the legal  
11 services of outside counsel and the investigative services of  
12 outside personnel. However, no attorney employed or utilized  
13 by the department shall prosecute a matter and provide legal  
14 services to the board with respect to the same matter.

15 (3) Any person retained by the department under  
16 contract to review materials, make site visits, or provide  
17 expert testimony regarding any complaint or application filed  
18 with the department relating to a profession under the  
19 jurisdiction of the department shall be considered an agent of  
20 the department in determining the state insurance coverage and  
21 sovereign immunity protection applicability of ss. 284.31 and  
22 768.28.

23 Section 43. Section 455.534, Florida Statutes, is  
24 transferred, renumbered as section 456.011, Florida Statutes,  
25 and amended to read:

26 456.011 ~~455.534~~ Boards; organization; meetings;  
27 compensation and travel expenses.--

28 (1) Each board within the department shall comply with  
29 the provisions of this section.

30 (2) The board shall annually elect from among its  
31 number a chairperson and vice chairperson.

1           (3) The board shall meet at least once annually and  
2 may meet as often as is necessary. The chairperson or a quorum  
3 of the board shall have the authority to call other meetings.  
4 A quorum shall be necessary for the conduct of official  
5 business by the board or any committee thereof. Unless  
6 otherwise provided by law, 51 percent or more of the appointed  
7 members of the board or any committee, when applicable, shall  
8 constitute a quorum. The membership of committees of the  
9 board, except as otherwise authorized pursuant to this chapter  
10 ~~part~~ or the applicable practice act, shall be composed of  
11 currently appointed members of the board. The vote of a  
12 majority of the members of the quorum shall be necessary for  
13 any official action by the board or committee. Three  
14 consecutive unexcused absences or absences constituting 50  
15 percent or more of the board's meetings within any 12-month  
16 period shall cause the board membership of the member in  
17 question to become void, and the position shall be considered  
18 vacant. The board, or the department when there is no board,  
19 shall, by rule, define unexcused absences.

20           (4) Unless otherwise provided by law, a board member  
21 or former board member serving on a probable cause panel shall  
22 be compensated \$50 for each day in attendance at an official  
23 meeting of the board and for each day of participation in any  
24 other business involving the board. Each board shall adopt  
25 rules defining the phrase "other business involving the  
26 board," but the phrase may not routinely be defined to include  
27 telephone conference calls. A board member also shall be  
28 entitled to reimbursement for expenses pursuant to s. 112.061.  
29 Travel out of state shall require the prior approval of the  
30 secretary.

31



1           (5) When two or more boards have differences between  
2 them, the boards may elect to, or the secretary may request  
3 that the boards, establish a special committee to settle those  
4 differences. The special committee shall consist of three  
5 members designated by each board, who may be members of the  
6 designating board or other experts designated by the board,  
7 and of one additional person designated and agreed to by the  
8 members of the special committee. In the event the special  
9 committee cannot agree on the additional designee, upon  
10 request of the special committee, the secretary may select the  
11 designee. The committee shall recommend rules necessary to  
12 resolve the differences. If a rule adopted pursuant to this  
13 provision is challenged, the participating boards shall share  
14 the costs associated with defending the rule or rules. The  
15 department shall provide legal representation for any special  
16 committee established pursuant to this section.

17           Section 44. Section 455.544, Florida Statutes, is  
18 transferred, renumbered as section 456.012, Florida Statutes,  
19 and amended to read:

20           456.012 ~~455.544~~ Board rules; final agency action;  
21 challenges.--

22           (1) The secretary of the department shall have  
23 standing to challenge any rule or proposed rule of a board  
24 under its jurisdiction pursuant to s. 120.56. In addition to  
25 challenges for any invalid exercise of delegated legislative  
26 authority, the administrative law judge, upon such a challenge  
27 by the secretary, may declare all or part of a rule or  
28 proposed rule invalid if it:

29           (a) Does not protect the public from any significant  
30 and discernible harm or damages;

31

1 (b) Unreasonably restricts competition or the  
2 availability of professional services in the state or in a  
3 significant part of the state; or

4 (c) Unnecessarily increases the cost of professional  
5 services without a corresponding or equivalent public benefit.

6  
7 However, there shall not be created a presumption of the  
8 existence of any of the conditions cited in this subsection in  
9 the event that the rule or proposed rule is challenged.

10 (2) In addition, either the secretary or the board  
11 shall be a substantially interested party for purposes of s.  
12 120.54(7). The board may, as an adversely affected party,  
13 initiate and maintain an action pursuant to s. 120.68  
14 challenging the final agency action.

15 (3) No board created within the department shall have  
16 standing to challenge a rule or proposed rule of another  
17 board. However, if there is a dispute between boards  
18 concerning a rule or proposed rule, the boards may avail  
19 themselves of the provisions of s. 456.011(5)~~455.534(5)~~.

20 Section 45. Section 455.564, Florida Statutes, is  
21 transferred, renumbered as section 456.013, Florida Statutes,  
22 and amended to read:

23 456.013 ~~455.564~~ Department; general licensing  
24 provisions.--

25 (1) Any person desiring to be licensed in a profession  
26 within the jurisdiction of the department shall apply to the  
27 department in writing to take the licensure examination. The  
28 application shall be made on a form prepared and furnished by  
29 the department and shall require the social security number of  
30 the applicant. The form shall be supplemented as needed to  
31 reflect any material change in any circumstance or condition

1 stated in the application which takes place between the  
2 initial filing of the application and the final grant or  
3 denial of the license and which might affect the decision of  
4 the department. An incomplete application shall expire 1 year  
5 after initial filing. In order to further the economic  
6 development goals of the state, and notwithstanding any law to  
7 the contrary, the department may enter into an agreement with  
8 the county tax collector for the purpose of appointing the  
9 county tax collector as the department's agent to accept  
10 applications for licenses and applications for renewals of  
11 licenses. The agreement must specify the time within which the  
12 tax collector must forward any applications and accompanying  
13 application fees to the department.

14 (2) Before the issuance of any license, the department  
15 may charge an initial license fee as determined by rule of the  
16 applicable board or, if no such board exists, by rule of the  
17 department. Upon receipt of the appropriate license fee, the  
18 department shall issue a license to any person certified by  
19 the appropriate board, or its designee, as having met the  
20 licensure requirements imposed by law or rule. The license  
21 shall consist of a wallet-size identification card and a wall  
22 card measuring 6 1/2 inches by 5 inches. In addition to the  
23 two-part license, the department, at the time of initial  
24 licensure, shall issue a wall certificate suitable for  
25 conspicuous display, which shall be no smaller than 8 1/2  
26 inches by 14 inches. The licensee shall surrender to the  
27 department the wallet-size identification card, the wall card,  
28 and the wall certificate, if one has been issued by the  
29 department, if the licensee's license is revoked.

30 (3) The board, or the department when there is no  
31 board, may refuse to issue an initial license to any applicant

1 who is under investigation or prosecution in any jurisdiction  
2 for an action that would constitute a violation of this  
3 chapter part or the professional practice acts administered by  
4 the department and the boards, until such time as the  
5 investigation or prosecution is complete.

6 (4) When any administrative law judge conducts a  
7 hearing pursuant to the provisions of chapter 120 with respect  
8 to the issuance of a license by the department, the  
9 administrative law judge shall submit his or her recommended  
10 order to the appropriate board, which shall thereupon issue a  
11 final order. The applicant for licensure may appeal the final  
12 order of the board in accordance with the provisions of  
13 chapter 120.

14 (5) A privilege against civil liability is hereby  
15 granted to any witness for any information furnished by the  
16 witness in any proceeding pursuant to this section, unless the  
17 witness acted in bad faith or with malice in providing such  
18 information.

19 (6) As a condition of renewal of a license, the Board  
20 of Medicine, the Board of Osteopathic Medicine, the Board of  
21 Chiropractic Medicine, and the Board of Podiatric Medicine  
22 shall each require licensees which they respectively regulate  
23 to periodically demonstrate their professional competency by  
24 completing at least 40 hours of continuing education every 2  
25 years. The boards may require by rule that up to 1 hour of  
26 the required 40 or more hours be in the area of risk  
27 management or cost containment. This provision shall not be  
28 construed to limit the number of hours that a licensee may  
29 obtain in risk management or cost containment to be credited  
30 toward satisfying the 40 or more required hours. This  
31 provision shall not be construed to require the boards to

1 impose any requirement on licensees except for the completion  
2 of at least 40 hours of continuing education every 2 years.  
3 Each of such boards shall determine whether any specific  
4 continuing education requirements not otherwise mandated by  
5 law shall be mandated and shall approve criteria for, and the  
6 content of, any continuing education mandated by such board.  
7 Notwithstanding any other provision of law, the board, or the  
8 department when there is no board, may approve by rule  
9 alternative methods of obtaining continuing education credits  
10 in risk management. The alternative methods may include  
11 attending a board meeting at which another licensee is  
12 disciplined, serving as a volunteer expert witness for the  
13 department in a disciplinary case, or serving as a member of a  
14 probable cause panel following the expiration of a board  
15 member's term. Other boards within the Division of Medical  
16 Quality Assurance, or the department if there is no board, may  
17 adopt rules granting continuing education hours in risk  
18 management for attending a board meeting at which another  
19 licensee is disciplined, for serving as a volunteer expert  
20 witness for the department in a disciplinary case, or for  
21 serving as a member of a probable cause panel following the  
22 expiration of a board member's term.

23 (7) The respective boards within the jurisdiction of  
24 the department, or the department when there is no board, may  
25 adopt rules to provide for the use of approved videocassette  
26 courses, not to exceed 5 hours per subject, to fulfill the  
27 continuing education requirements of the professions they  
28 regulate. Such rules shall provide for prior approval of the  
29 board, or the department when there is no board, of the  
30 criteria for and content of such courses and shall provide for  
31 a videocassette course validation form to be signed by the

1 vendor and the licensee and submitted to the department, along  
2 with the license renewal application, for continuing education  
3 credit.

4           (8) Any board that currently requires continuing  
5 education for renewal of a license, or the department if there  
6 is no board, shall adopt rules to establish the criteria for  
7 continuing education courses. The rules may provide that up  
8 to a maximum of 25 percent of the required continuing  
9 education hours can be fulfilled by the performance of pro  
10 bono services to the indigent or to underserved populations or  
11 in areas of critical need within the state where the licensee  
12 practices. The board, or the department if there is no board,  
13 must require that any pro bono services be approved in advance  
14 in order to receive credit for continuing education under this  
15 subsection. The standard for determining indigency shall be  
16 that recognized by the Federal Poverty Income Guidelines  
17 produced by the United States Department of Health and Human  
18 Services. The rules may provide for approval by the board, or  
19 the department if there is no board, that a part of the  
20 continuing education hours can be fulfilled by performing  
21 research in critical need areas or for training leading to  
22 advanced professional certification. The board, or the  
23 department if there is no board, may make rules to define  
24 underserved and critical need areas. The department shall  
25 adopt rules for administering continuing education  
26 requirements adopted by the boards or the department if there  
27 is no board.

28           (9) Notwithstanding any law to the contrary, an  
29 elected official who is licensed under a practice act  
30 administered by the Division of Medical Quality Assurance may  
31 hold employment for compensation with any public agency

1 concurrent with such public service. Such dual service must  
2 be disclosed according to any disclosure required by  
3 applicable law.

4 (10) In any instance in which a licensee or applicant  
5 to the department is required to be in compliance with a  
6 particular provision by, on, or before a certain date, and if  
7 that date occurs on a Saturday, Sunday, or a legal holiday,  
8 then the licensee or applicant is deemed to be in compliance  
9 with the specific date requirement if the required action  
10 occurs on the first succeeding day which is not a Saturday,  
11 Sunday, or legal holiday.

12 (11) Pursuant to the federal Personal Responsibility  
13 and Work Opportunity Reconciliation Act of 1996, each party is  
14 required to provide his or her social security number in  
15 accordance with this section. Disclosure of social security  
16 numbers obtained through this requirement shall be limited to  
17 the purpose of administration of the Title IV-D program for  
18 child support enforcement.

19 Section 46. Section 455.647, Florida Statutes, is  
20 transferred and renumbered as section 456.014, Florida  
21 Statutes.

22 Section 47. Section 455.561, Florida Statutes, is  
23 transferred, renumbered as section 456.015, Florida Statutes,  
24 and amended to read:

25 456.015 ~~455.561~~ Limited licenses.--

26 (1) It is the intent of the Legislature that, absent a  
27 threat to the health, safety, and welfare of the public, the  
28 use of retired professionals in good standing to serve the  
29 indigent, underserved, or critical need populations of this  
30 state should be encouraged. To that end, the board, or the  
31 department when there is no board, may adopt rules to permit

1 practice by retired professionals as limited licensees under  
2 this section.

3 (2) Any person desiring to obtain a limited license,  
4 when permitted by rule, shall submit to the board, or the  
5 department when there is no board, an application and fee, not  
6 to exceed \$300, and an affidavit stating that the applicant  
7 has been licensed to practice in any jurisdiction in the  
8 United States for at least 10 years in the profession for  
9 which the applicant seeks a limited license. The affidavit  
10 shall also state that the applicant has retired or intends to  
11 retire from the practice of that profession and intends to  
12 practice only pursuant to the restrictions of the limited  
13 license granted pursuant to this section. If the applicant  
14 for a limited license submits a notarized statement from the  
15 employer stating that the applicant will not receive monetary  
16 compensation for any service involving the practice of her or  
17 his profession, the application and all licensure fees shall  
18 be waived.

19 (3) The board, or the department when there is no  
20 board, may deny limited licensure to an applicant who has  
21 committed, or is under investigation or prosecution for, any  
22 act which would constitute the basis for discipline pursuant  
23 to the provisions of this chapter ~~part~~ or the applicable  
24 practice act.

25 (4) The recipient of a limited license may practice  
26 only in the employ of public agencies or institutions or  
27 nonprofit agencies or institutions which meet the requirements  
28 of s. 501(c)(3) of the Internal Revenue Code, and which  
29 provide professional liability coverage for acts or omissions  
30 of the limited licensee. A limited licensee may provide  
31 services only to the indigent, underserved, or critical need



1 populations within the state. The standard for determining  
2 indigency shall be that recognized by the Federal Poverty  
3 Income Guidelines produced by the United States Department of  
4 Health and Human Services. The board, or the department when  
5 there is no board, may adopt rules to define underserved and  
6 critical need areas and to ensure implementation of this  
7 section.

8 (5) A board, or the department when there is no board,  
9 may provide by rule for supervision of limited licensees to  
10 protect the health, safety, and welfare of the public.

11 (6) Each applicant granted a limited license is  
12 subject to all the provisions of this chapter ~~part~~ and the  
13 respective practice act under which the limited license is  
14 issued which are not in conflict with this section.

15 (7) This section does not apply to chapter 458 or  
16 chapter 459.

17 Section 48. Section 455.571, Florida Statutes, is  
18 transferred and renumbered as section 456.016, Florida  
19 Statutes.

20 Section 49. Section 455.574, Florida Statutes, is  
21 transferred, renumbered as section 456.017, Florida Statutes,  
22 and amended to read:

23 456.017 ~~455.574~~ Department of Health; examinations.--

24 (1)(a) The department shall provide, contract, or  
25 approve services for the development, preparation,  
26 administration, scoring, score reporting, and evaluation of  
27 all examinations, in consultation with the appropriate board.  
28 The department shall certify that examinations developed and  
29 approved by the department adequately and reliably measure an  
30 applicant's ability to practice the profession regulated by  
31 the department. After an examination developed or approved by

1 the department has been administered, the board, or the  
2 department when there is no board, may reject any question  
3 which does not reliably measure the general areas of  
4 competency specified in the rules of the board. The department  
5 may contract for the preparation, administration, scoring,  
6 score reporting, and evaluation of examinations, when such  
7 services are available and approved by the board.

8 (b) For each examination developed by the department  
9 or contracted vendor, to the extent not otherwise specified by  
10 statute, the board, or the department when there is no board,  
11 shall by rule specify the general areas of competency to be  
12 covered by each examination, the relative weight to be  
13 assigned in grading each area tested, and the score necessary  
14 to achieve a passing grade, and fees, where applicable, to  
15 cover the actual cost for any purchase, development, and  
16 administration of required examinations. This subsection does  
17 not apply to national examinations approved and administered  
18 pursuant to paragraph (c). If a practical examination is  
19 deemed to be necessary, the rules shall specify the criteria  
20 by which examiners are to be selected, the grading criteria to  
21 be used by the examiner, the relative weight to be assigned in  
22 grading each criterion, and the score necessary to achieve a  
23 passing grade. When a mandatory standardization exercise for a  
24 practical examination is required by law, the board, or the  
25 department when there is no board, may conduct such exercise.  
26 Therefore, board members, or employees of the department when  
27 there is no board, may serve as examiners at a practical  
28 examination with the consent of the board or department, as  
29 appropriate.

30 (c) The board, or the department when there is no  
31 board, may approve by rule the use of any national examination

1 | which the department has certified as meeting requirements of  
2 | national examinations and generally accepted testing standards  
3 | pursuant to department rules. Providers of examinations  
4 | seeking certification by the department shall pay the actual  
5 | costs incurred by the department in making a determination  
6 | regarding the certification. The name and number of a  
7 | candidate may be provided to a national contractor for the  
8 | limited purpose of preparing the grade tape and information to  
9 | be returned to the board or department; or, to the extent  
10 | otherwise specified by rule, the candidate may apply directly  
11 | to the vendor of the national examination and supply test  
12 | score information to the department. The department may  
13 | delegate to the board the duty to provide and administer the  
14 | examination. Any national examination approved by a board, or  
15 | the department when there is no board, prior to October 1,  
16 | 1997, is deemed certified under this paragraph.

17 |         (d) Each board, or the department when there is no  
18 | board, shall adopt rules regarding the security and monitoring  
19 | of examinations. The department shall implement those rules  
20 | adopted by the respective boards. In order to maintain the  
21 | security of examinations, the department may employ the  
22 | procedures set forth in s. 456.065 ~~455.637~~ to seek fines and  
23 | injunctive relief against an examinee who violates the  
24 | provisions of s. 456.018 ~~455.577~~ or the rules adopted pursuant  
25 | to this paragraph. The department, or any agent thereof, may,  
26 | for the purposes of investigation, confiscate any written,  
27 | photographic, or recording material or device in the  
28 | possession of the examinee at the examination site which the  
29 | department deems necessary to enforce such provisions or  
30 | rules.

31 |

1           (e) If the professional board with jurisdiction over  
2 an examination concurs, the department may, for a fee, share  
3 with any other state's licensing authority an examination  
4 developed by or for the department unless prohibited by a  
5 contract entered into by the department for development or  
6 purchase of the examination. The department, with the  
7 concurrence of the appropriate board, shall establish  
8 guidelines that ensure security of a shared exam and shall  
9 require that any other state's licensing authority comply with  
10 those guidelines. Those guidelines shall be approved by the  
11 appropriate professional board. All fees paid by the user  
12 shall be applied to the department's examination and  
13 development program for professions regulated by this chapter  
14 ~~part~~.

15           (f) The department may adopt rules necessary to  
16 administer this subsection.

17           (2) For each examination developed by the department  
18 or a contracted vendor, the board, or the department when  
19 there is no board, shall adopt rules providing for  
20 reexamination of any applicants who failed an examination  
21 developed by the department or a contracted vendor. If both a  
22 written and a practical examination are given, an applicant  
23 shall be required to retake only the portion of the  
24 examination on which the applicant failed to achieve a passing  
25 grade, if the applicant successfully passes that portion  
26 within a reasonable time, as determined by rule of the board,  
27 or the department when there is no board, of passing the other  
28 portion. Except for national examinations approved and  
29 administered pursuant to this section, the department shall  
30 provide procedures for applicants who fail an examination  
31 developed by the department or a contracted vendor to review

1 their examination questions, answers, papers, grades, and  
2 grading key for the questions the candidate answered  
3 incorrectly or, if not feasible, the parts of the examination  
4 failed. Applicants shall bear the actual cost for the  
5 department to provide examination review pursuant to this  
6 subsection. An applicant may waive in writing the  
7 confidentiality of the applicant's examination grades.

8 (3) For each examination developed or administered by  
9 the department or a contracted vendor, an accurate record of  
10 each applicant's examination questions, answers, papers,  
11 grades, and grading key shall be kept for a period of not less  
12 than 2 years immediately following the examination, and such  
13 record shall thereafter be maintained or destroyed as provided  
14 in chapters 119 and 257. This subsection does not apply to  
15 national examinations approved and administered pursuant to  
16 this section.

17 (4) Meetings of any member of the department or of any  
18 board within the department held for the exclusive purpose of  
19 creating or reviewing licensure examination questions or  
20 proposed examination questions are exempt from the provisions  
21 of s. 286.011 and s. 24(b), Art. I of the State Constitution.  
22 Any public records, such as tape recordings, minutes, or  
23 notes, generated during or as a result of such meetings are  
24 confidential and exempt from the provisions of s. 119.07(1)  
25 and s. 24(a), Art. I of the State Constitution. However, these  
26 exemptions shall not affect the right of any person to review  
27 an examination as provided in subsection (2).

28 (5) For examinations developed by the department or a  
29 contracted vendor, each board, or the department when there is  
30 no board, may provide licensure examinations in an applicant's  
31 native language. Applicants for examination or reexamination

1 pursuant to this subsection shall bear the full cost for the  
2 department's development, preparation, administration,  
3 grading, and evaluation of any examination in a language other  
4 than English. Requests for translated examinations must be on  
5 file in the board office at least 6 months prior to the  
6 scheduled examination. When determining whether it is in the  
7 public interest to allow the examination to be translated into  
8 a language other than English, the board shall consider the  
9 percentage of the population who speak the applicant's native  
10 language. Applicants must apply for translation to the  
11 applicable board at least 6 months prior to the scheduled  
12 examination.

13 (6) In addition to meeting any other requirements for  
14 licensure by examination or by endorsement, an applicant may  
15 be required by a board, or the department when there is no  
16 board, to certify competency in state laws and rules relating  
17 to the applicable practice act.

18 Section 50. Section 455.577, Florida Statutes, is  
19 transferred, renumbered as section 456.018, Florida Statutes,  
20 and amended to read:

21 456.018 ~~455.577~~ Penalty for theft or reproduction of  
22 an examination.--In addition to, or in lieu of, any other  
23 discipline imposed pursuant to s. 456.072 ~~455.624~~, the theft  
24 of an examination in whole or in part or the act of  
25 reproducing or copying any examination administered by the  
26 department, whether such examination is reproduced or copied  
27 in part or in whole and by any means, constitutes a felony of  
28 the third degree, punishable as provided in s. 775.082, s.  
29 775.083, or s. 775.084.

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1           Section 51. Sections 455.511 and 455.514, Florida  
2 Statutes, are transferred and renumbered as sections 456.019  
3 and 456.021, Florida Statutes, respectively.

4           Section 52. Section 455.581, Florida Statutes, is  
5 transferred, renumbered as section 456.022, Florida Statutes,  
6 and amended to read:

7           456.022 ~~455.581~~ Foreign-trained professionals; special  
8 examination and license provisions.--

9           (1) When not otherwise provided by law, within its  
10 jurisdiction, the department shall by rule provide procedures  
11 under which exiled professionals may be examined within each  
12 practice act. A person shall be eligible for such examination  
13 if the person:

14           (a) Immigrated to the United States after leaving the  
15 person's home country because of political reasons, provided  
16 such country is located in the Western Hemisphere and lacks  
17 diplomatic relations with the United States;

18           (b) Applies to the department and submits a fee;

19           (c) Was a Florida resident immediately preceding the  
20 person's application;

21           (d) Demonstrates to the department, through submission  
22 of documentation verified by the applicant's respective  
23 professional association in exile, that the applicant was  
24 graduated with an appropriate professional or occupational  
25 degree from a college or university; however, the department  
26 may not require receipt of any documentation from the Republic  
27 of Cuba as a condition of eligibility under this section;

28           (e) Lawfully practiced the profession for at least 3  
29 years;

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1 (f) Prior to 1980, successfully completed an approved  
2 course of study pursuant to chapters 74-105 and 75-177, Laws  
3 of Florida; and

4 (g) Presents a certificate demonstrating the  
5 successful completion of a continuing education program which  
6 offers a course of study that will prepare the applicant for  
7 the examination offered under subsection (2). The department  
8 shall develop rules for the approval of such programs for its  
9 boards.

10 (2) Upon request of a person who meets the  
11 requirements of subsection (1) and submits an examination fee,  
12 the department, for its boards, shall provide a written  
13 practical examination which tests the person's current ability  
14 to practice the profession competently in accordance with the  
15 actual practice of the profession. Evidence of meeting the  
16 requirements of subsection (1) shall be treated by the  
17 department as evidence of the applicant's preparation in the  
18 academic and preprofessional fundamentals necessary for  
19 successful professional practice, and the applicant shall not  
20 be examined by the department on such fundamentals.

21 (3) The fees charged for the examinations offered  
22 under subsection (2) shall be established by the department,  
23 for its boards, by rule and shall be sufficient to develop or  
24 to contract for the development of the examination and its  
25 administration, grading, and grade reviews.

26 (4) The department shall examine any applicant who  
27 meets the requirements of subsections (1) and (2). Upon  
28 passing the examination and the issuance of the license, a  
29 licensee is subject to the administrative requirements of this  
30 chapter ~~part~~ and the respective practice act under which the  
31 license is issued. Each applicant so licensed is subject to



1 all provisions of this chapter part and the respective  
2 practice act under which the license was issued.

3 (5) Upon a request by an applicant otherwise qualified  
4 under this section, the examinations offered under subsection  
5 (2) may be given in the applicant's native language, provided  
6 that any translation costs are borne by the applicant.

7 (6) The department, for its boards, shall not issue an  
8 initial license to, or renew a license of, any applicant or  
9 licensee who is under investigation or prosecution in any  
10 jurisdiction for an action which would constitute a violation  
11 of this chapter part or the professional practice acts  
12 administered by the department and the boards until such time  
13 as the investigation or prosecution is complete, at which time  
14 the provisions of the professional practice acts shall apply.

15 Section 53. Section 455.584, Florida Statutes, is  
16 transferred, renumbered as section 456.023, Florida Statutes,  
17 and amended to read:

18 456.023 ~~455.584~~ Exemption for certain out-of-state or  
19 foreign professionals; limited practice permitted.--

20 (1) A professional of any other state or of any  
21 territory or other jurisdiction of the United States or of any  
22 other nation or foreign jurisdiction is exempt from the  
23 requirements of licensure under this chapter part and the  
24 applicable professional practice act under the agency with  
25 regulatory jurisdiction over the profession if that profession  
26 is regulated in this state under the agency with regulatory  
27 jurisdiction over the profession and if that person:

28 (a) Holds, if so required in the jurisdiction in which  
29 that person practices, an active license to practice that  
30 profession.

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1 (b) Engages in the active practice of that profession  
2 outside the state.

3 (c) Is employed or designated in that professional  
4 capacity by a sports entity visiting the state for a specific  
5 sporting event.

6 (2) A professional's practice under this section is  
7 limited to the members, coaches, and staff of the team for  
8 which that professional is employed or designated and to any  
9 animals used if the sporting event for which that professional  
10 is employed or designated involves animals. A professional  
11 practicing under authority of this section shall not have  
12 practice privileges in any licensed health care facility or  
13 veterinary facility without the approval of that facility.

14 Section 54. Section 455.507, Florida Statutes, is  
15 transferred and renumbered as section 456.024, Florida  
16 Statutes.

17 Section 55. Section 455.587, Florida Statutes, is  
18 transferred, renumbered as section 456.025, Florida Statutes,  
19 and amended to read:

20 456.025 ~~455.587~~ Fees; receipts; disposition.--

21 (1) Each board within the jurisdiction of the  
22 department, or the department when there is no board, shall  
23 determine by rule the amount of license fees for the  
24 profession it regulates, based upon long-range estimates  
25 prepared by the department of the revenue required to  
26 implement laws relating to the regulation of professions by  
27 the department and the board. Each board, or the department  
28 if there is no board, shall ensure that license fees are  
29 adequate to cover all anticipated costs and to maintain a  
30 reasonable cash balance, as determined by rule of the agency,  
31 with advice of the applicable board. If sufficient action is

1 not taken by a board within 1 year after notification by the  
2 department that license fees are projected to be inadequate,  
3 the department shall set license fees on behalf of the  
4 applicable board to cover anticipated costs and to maintain  
5 the required cash balance. The department shall include  
6 recommended fee cap increases in its annual report to the  
7 Legislature. Further, it is the legislative intent that no  
8 regulated profession operate with a negative cash balance. The  
9 department may provide by rule for advancing sufficient funds  
10 to any profession operating with a negative cash balance. The  
11 advancement may be for a period not to exceed 2 consecutive  
12 years, and the regulated profession must pay interest.  
13 Interest shall be calculated at the current rate earned on  
14 investments of a trust fund used by the department to  
15 implement this chapter ~~part~~. Interest earned shall be  
16 allocated to the various funds in accordance with the  
17 allocation of investment earnings during the period of the  
18 advance.

19 (2) Each board, or the department if there is no  
20 board, may charge a fee not to exceed \$25, as determined by  
21 rule, for the issuance of a wall certificate pursuant to s.  
22 456.013(2)~~455.564(2)~~ requested by a licensee who was licensed  
23 prior to July 1, 1998, or for the issuance of a duplicate wall  
24 certificate requested by any licensee.

25 (3) Each board, or the department if there is no  
26 board, may, by rule, assess and collect a one-time fee from  
27 each active and each voluntary inactive licensee in an amount  
28 necessary to eliminate a cash deficit or, if there is not a  
29 cash deficit, in an amount sufficient to maintain the  
30 financial integrity of the professions as required in this  
31

1 section. Not more than one such assessment may be made in any  
2 4-year period without specific legislative authorization.

3 (4) Each board authorized to approve continuing  
4 education providers, or the department if there is no board,  
5 may establish, by rule, a fee not to exceed \$250 for anyone  
6 seeking approval to provide continuing education courses and  
7 may establish by rule a biennial renewal fee not to exceed  
8 \$250 for the renewal of providership of such courses. This  
9 subsection does not apply to continuing education courses or  
10 providers approved by the board under chapter 465.

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

1 profession. The department may not expend funds from the  
2 account of a profession to pay for the expenses incurred on  
3 behalf of another profession. The department shall maintain  
4 adequate records to support its allocation of agency expenses.  
5 The department shall provide any board with reasonable access  
6 to these records upon request. The department shall provide  
7 each board an annual report of revenue and direct and  
8 allocated expenses related to the operation of that  
9 profession. The board shall use these reports and the  
10 department's adopted long-range plan to determine the amount  
11 of license fees. A condensed version of this information,  
12 with the department's recommendations, shall be included in  
13 the annual report to the Legislature prepared under s. 456.026  
14 ~~455.644~~.

15 (6) The department shall provide a condensed  
16 management report of budgets, finances, performance  
17 statistics, and recommendations to each board at least once a  
18 quarter. The department shall identify and include in such  
19 presentations any changes, or projected changes, made to the  
20 board's budget since the last presentation.

21 (7) If a duplicate license is required or requested by  
22 the licensee, the board or, if there is no board, the  
23 department may charge a fee as determined by rule not to  
24 exceed \$25 before issuance of the duplicate license.

25 (8) The department or the appropriate board shall  
26 charge a fee not to exceed \$25 for the certification of a  
27 public record. The fee shall be determined by rule of the  
28 department. The department or the appropriate board shall  
29 assess a fee for duplicating a public record as provided in s.  
30 119.07(1)(a) and (b).

31

1           Section 56. Section 455.644, Florida Statutes, is  
2 transferred, renumbered as section 456.026, Florida Statutes,  
3 and amended to read:

4           456.026 ~~455.644~~ Annual report concerning finances,  
5 administrative complaints, disciplinary actions, and  
6 recommendations.--The department is directed to prepare and  
7 submit a report to the President of the Senate and the Speaker  
8 of the House of Representatives by November 1 of each year. In  
9 addition to finances and any other information the Legislature  
10 may require, the report shall include statistics and relevant  
11 information, profession by profession, detailing:

12           (1) The revenues, expenditures, and cash balances for  
13 the prior year, and a review of the adequacy of existing fees.

14           (2) The number of complaints received and  
15 investigated.

16           (3) The number of findings of probable cause made.

17           (4) The number of findings of no probable cause made.

18           (5) The number of administrative complaints filed.

19           (6) The disposition of all administrative complaints.

20           (7) A description of disciplinary actions taken.

21           (8) A description of any effort by the department to  
22 reduce or otherwise close any investigation or disciplinary  
23 proceeding not before the Division of Administrative Hearings  
24 under chapter 120 or otherwise not completed within 1 year  
25 after the initial filing of a complaint under this chapter  
26 part.

27           (9) The status of the development and implementation  
28 of rules providing for disciplinary guidelines pursuant to s.  
29 456.079 ~~455.627~~.

30           (10) Such recommendations for administrative and  
31 statutory changes necessary to facilitate efficient and

1 cost-effective operation of the department and the various  
2 boards.

3 Section 57. Sections 455.551, 455.554, and 455.547,  
4 Florida Statutes, are transferred and renumbered as sections  
5 456.027, 456.028, and 456.029, Florida Statutes, respectively.

6 Section 58. Section 455.597, Florida Statutes, is  
7 transferred, renumbered as section 456.031, Florida Statutes,  
8 and amended to read:

9 456.031 ~~455.597~~ Requirement for instruction on  
10 domestic violence.--

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

28 (b) Each such licensee or certificateholder shall  
29 submit confirmation of having completed such course, on a form  
30 provided by the board, when submitting fees for each biennial  
31 renewal.

1 (c) The board may approve additional equivalent  
2 courses that may be used to satisfy the requirements of  
3 paragraph (a). Each licensing board that requires a licensee  
4 to complete an educational course pursuant to this subsection  
5 may include the hour required for completion of the course in  
6 the total hours of continuing education required by law for  
7 such profession unless the continuing education requirements  
8 for such profession consist of fewer than 30 hours biennially.

9 (d) Any person holding two or more licenses subject to  
10 the provisions of this subsection shall be permitted to show  
11 proof of having taken one board-approved course on domestic  
12 violence, for purposes of relicensure or recertification for  
13 additional licenses.

14 (e) Failure to comply with the requirements of this  
15 subsection shall constitute grounds for disciplinary action  
16 under each respective practice act and under s. 456.072(1)(k)  
17 ~~455.624(1)(k)~~. In addition to discipline by the board, the  
18 licensee shall be required to complete such course.

19 (2) The board shall also require, as a condition of  
20 granting a license under any chapter specified in paragraph  
21 (1)(a), that each applicant for initial licensure under the  
22 appropriate chapter complete an educational course acceptable  
23 to the board on domestic violence which is substantially  
24 equivalent to the course required in subsection (1). An  
25 applicant who has not taken such course at the time of  
26 licensure shall, upon submission of an affidavit showing good  
27 cause, be allowed 6 months to complete such requirement.

28 (3) Each board may adopt rules to carry out the  
29 provisions of this section.

30 (4) Each board shall report to the President of the  
31 Senate, the Speaker of the House of Representatives, and the



1 chairs of the appropriate substantive committees of the  
2 Legislature by March 1 of each year as to the implementation  
3 of and compliance with the requirements of this section.

4 Section 59. Section 455.601, Florida Statutes, is  
5 transferred and renumbered as section 456.032, Florida  
6 Statutes.

7 Section 60. Section 455.604, Florida Statutes, is  
8 transferred, renumbered as section 456.033, Florida Statutes,  
9 and amended to read:

10 456.033 ~~455.604~~ Requirement for instruction for  
11 certain licensees on human immunodeficiency virus and acquired  
12 immune deficiency syndrome.--

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

1           (2) Each such licensee or certificateholder shall  
2 submit confirmation of having completed said course, on a form  
3 as provided by the board, when submitting fees for each  
4 biennial renewal.

5           (3) The board shall have the authority to approve  
6 additional equivalent courses that may be used to satisfy the  
7 requirements in subsection (1). Each licensing board that  
8 requires a licensee to complete an educational course pursuant  
9 to this section may count the hours required for completion of  
10 the course included in the total continuing educational  
11 requirements as required by law.

12           (4) Any person holding two or more licenses subject to  
13 the provisions of this section shall be permitted to show  
14 proof of having taken one board-approved course on human  
15 immunodeficiency virus and acquired immune deficiency  
16 syndrome, for purposes of relicensure or recertification for  
17 additional licenses.

18           (5) Failure to comply with the above requirements  
19 shall constitute grounds for disciplinary action under each  
20 respective licensing chapter and s. 456.072(1)(e)  
21 ~~455.624(1)(e)~~. In addition to discipline by the board, the  
22 licensee shall be required to complete the course.

23           (6) The board shall require as a condition of granting  
24 a license under the chapters and parts specified in subsection  
25 (1) that an applicant making initial application for licensure  
26 complete an educational course acceptable to the board on  
27 human immunodeficiency virus and acquired immune deficiency  
28 syndrome. An applicant who has not taken a course at the time  
29 of licensure shall, upon an affidavit showing good cause, be  
30 allowed 6 months to complete this requirement.

31

1           (7) The board shall have the authority to adopt rules  
2 to carry out the provisions of this section.

3           (8) The board shall report to the Legislature by March  
4 1 of each year as to the implementation and compliance with  
5 the requirements of this section.

6           (9) In lieu of completing a course as required in  
7 subsection (1), the licensee may complete a course in  
8 end-of-life care and palliative health care, so long as the  
9 licensee completed an approved AIDS/HIV course in the  
10 immediately preceding biennium.

11           Section 61. Section 455.607, Florida Statutes, is  
12 transferred and renumbered as section 456.034, Florida  
13 Statutes.

14           Section 62. Section 455.717, Florida Statutes, is  
15 transferred, renumbered as section 456.035, Florida Statutes,  
16 and amended to read:

17           456.035 ~~455.717~~ Address of record.--

18           (1) Each licensee of the department is solely  
19 responsible for notifying the department in writing of the  
20 licensee's current mailing address and place of practice, as  
21 defined by rule of the board or the department if there is no  
22 board. A licensee's failure to notify the department of a  
23 change of address constitutes a violation of this section, and  
24 the licensee may be disciplined by the board or the department  
25 if there is no board.

26           (2) Notwithstanding any other law, service by regular  
27 mail to a licensee's last known address of record with the  
28 department constitutes adequate and sufficient notice to the  
29 licensee for any official communication to the licensee by the  
30 board or the department except when other service is required  
31 under s. 456.076 ~~455.707~~.

1           Section 63. Section 455.711, Florida Statutes, is  
2 transferred, renumbered as section 456.036, Florida Statutes,  
3 and amended to read:

4           456.036 ~~455.711~~ Inactive and delinquent status.--

5           (1) A licensee may practice a profession only if the  
6 licensee has an active status license. A licensee who  
7 practices a profession without an active status license is in  
8 violation of this section and s. 456.072 ~~455.624~~, and the  
9 board, or the department if there is no board, may impose  
10 discipline on the licensee.

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

17           (3) Each board, or the department if there is no  
18 board, shall by rule impose a fee for an inactive status  
19 license which is no greater than the fee for an active status  
20 license.

21           (4) An inactive status licensee may change to active  
22 status at any time, if the licensee meets all requirements for  
23 active status, pays any additional licensure fees necessary to  
24 equal those imposed on an active status licensee, pays any  
25 applicable reactivation fees as set by the board, or the  
26 department if there is no board, and meets all continuing  
27 education requirements as specified in this section.

28           (5) A licensee must apply with a complete application,  
29 as defined by rule of the board, or the department if there is  
30 no board, to renew an active status or inactive status license  
31 before the license expires. If a licensee fails to renew

1 before the license expires, the license becomes delinquent in  
2 the license cycle following expiration.

3 (6) A delinquent status licensee must affirmatively  
4 apply with a complete application, as defined by rule of the  
5 board, or the department if there is no board, for active or  
6 inactive status during the licensure cycle in which a licensee  
7 becomes delinquent. Failure by a delinquent status licensee to  
8 become active or inactive before the expiration of the current  
9 licensure cycle renders the license null without any further  
10 action by the board or the department. Any subsequent  
11 licensure shall be as a result of applying for and meeting all  
12 requirements imposed on an applicant for new licensure.

13 (7) Each board, or the department if there is no  
14 board, shall by rule impose an additional delinquency fee, not  
15 to exceed the biennial renewal fee for an active status  
16 license, on a delinquent status licensee when such licensee  
17 applies for active or inactive status.

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

23 (9) Each board, or the department if there is no  
24 board, may by rule impose reasonable conditions, excluding  
25 full reexamination but including part of a national  
26 examination or a special purpose examination to assess current  
27 competency, necessary to ensure that a licensee who has been  
28 on inactive status for more than two consecutive biennial  
29 licensure cycles and who applies for active status can  
30 practice with the care and skill sufficient to protect the  
31 health, safety, and welfare of the public. Reactivation

1 requirements may differ depending on the length of time  
2 licensees are inactive. The costs to meet reactivation  
3 requirements shall be borne by licensees requesting  
4 reactivation.

5 (10) Before reactivation, an inactive or delinquent  
6 licensee must meet the same continuing education requirements,  
7 if any, imposed on an active status licensee for all biennial  
8 licensure periods in which the licensee was inactive or  
9 delinquent.

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

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

19 Section 64. Section 455.712, Florida Statutes, is  
20 transferred, renumbered as section 456.037, Florida Statutes,  
21 and amended to read:

22 456.037 ~~455.712~~ Business establishments; requirements  
23 for active status licenses.--

24 (1) A business establishment regulated by the Division  
25 of Medical Quality Assurance pursuant to this chapter ~~part~~ may  
26 provide regulated services only if the business establishment  
27 has an active status license. A business establishment that  
28 provides regulated services without an active status license  
29 is in violation of this section and s. 456.072 ~~455.624~~, and  
30 the board, or the department if there is no board, may impose  
31 discipline on the business establishment.

1           (2) A business establishment must apply with a  
2 complete application, as defined by rule of the board, or the  
3 department if there is no board, to renew an active status  
4 license before the license expires. If a business  
5 establishment fails to renew before the license expires, the  
6 license becomes delinquent, except as otherwise provided in  
7 statute, in the license cycle following expiration.

8           (3) A delinquent business establishment must apply  
9 with a complete application, as defined by rule of the board,  
10 or the department if there is no board, for active status  
11 within 6 months after becoming delinquent. Failure of a  
12 delinquent business establishment to renew the license within  
13 the 6 months after the expiration date of the license renders  
14 the license null without any further action by the board or  
15 the department. Any subsequent licensure shall be as a result  
16 of applying for and meeting all requirements imposed on a  
17 business establishment for new licensure.

18           (4) The status or a change in status of a business  
19 establishment license does not alter in any way the right of  
20 the board, or of the department if there is no board, to  
21 impose discipline or to enforce discipline previously imposed  
22 on a business establishment for acts or omissions committed by  
23 the business establishment while holding a license, whether  
24 active or null.

25           (5) This section applies to any business establishment  
26 registered, permitted, or licensed by the department to do  
27 business. Business establishments include, but are not limited  
28 to, dental laboratories, electrology facilities, massage  
29 establishments, pharmacies, and health care services pools.

30  
31

1           Section 65. Section 455.714, Florida Statutes, is  
2 transferred and renumbered as section 456.038, Florida  
3 Statutes.

4           Section 66. Section 455.565, Florida Statutes, is  
5 transferred, renumbered as section 456.039, Florida Statutes,  
6 and amended to read:

7           456.039 ~~455.565~~ Designated health care professionals;  
8 information required for licensure.--

9           (1) Each person who applies for initial licensure as a  
10 physician under chapter 458, chapter 459, chapter 460, or  
11 chapter 461, except a person applying for registration  
12 pursuant to ss. 458.345 and 459.021, must, at the time of  
13 application, and each physician who applies for license  
14 renewal under chapter 458, chapter 459, chapter 460, or  
15 chapter 461, except a person registered pursuant to ss.  
16 458.345 and 459.021, must, in conjunction with the renewal of  
17 such license and under procedures adopted by the Department of  
18 Health, and in addition to any other information that may be  
19 required from the applicant, furnish the following information  
20 to the Department of Health:

21           (a)1. The name of each medical school that the  
22 applicant has attended, with the dates of attendance and the  
23 date of graduation, and a description of all graduate medical  
24 education completed by the applicant, excluding any coursework  
25 taken to satisfy medical licensure continuing education  
26 requirements.

27           2. The name of each hospital at which the applicant  
28 has privileges.

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

31



1           4. Any certification that the applicant has received  
2 from a specialty board that is recognized by the board to  
3 which the applicant is applying.

4           5. The year that the applicant began practicing  
5 medicine.

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

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

25          8. A description of any final disciplinary action  
26 taken within the previous 10 years against the applicant by  
27 the agency regulating the profession that the applicant is or  
28 has been licensed to practice, whether in this state or in any  
29 other jurisdiction, by a specialty board that is recognized by  
30 the American Board of Medical Specialities, the American  
31 Osteopathic Association, or a similar national organization,

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

14 (b) In addition to the information required under  
15 paragraph (a), each applicant who seeks licensure under  
16 chapter 458, chapter 459, or chapter 461, and who has  
17 practiced previously in this state or in another jurisdiction  
18 or a foreign country must provide the information required of  
19 licensees under those chapters pursuant to s. 456.049 ~~455.697~~.  
20 An applicant for licensure under chapter 460 who has practiced  
21 previously in this state or in another jurisdiction or a  
22 foreign country must provide the same information as is  
23 required of licensees under chapter 458, pursuant to s.  
24 456.049 ~~455.697~~.

25 (2) Before the issuance of the licensure renewal  
26 notice required by s. 456.038 ~~455.714~~, the Department of  
27 Health shall send a notice to each person licensed under  
28 chapter 458, chapter 459, chapter 460, or chapter 461, at the  
29 licensee's last known address of record with the department,  
30 regarding the requirements for information to be submitted by  
31 those practitioners pursuant to this section in conjunction

1 with the renewal of such license and under procedures adopted  
2 by the department.

3 (3) Each person who has submitted information pursuant  
4 to subsection (1) must update that information in writing by  
5 notifying the Department of Health within 45 days after the  
6 occurrence of an event or the attainment of a status that is  
7 required to be reported by subsection (1). Failure to comply  
8 with the requirements of this subsection to update and submit  
9 information constitutes a ground for disciplinary action under  
10 each respective licensing chapter and s. 456.072(1)(k)  
11 ~~455.624(1)(k)~~. For failure to comply with the requirements of  
12 this subsection to update and submit information, the  
13 department or board, as appropriate, may:

14 (a) Refuse to issue a license to any person applying  
15 for initial licensure who fails to submit and update the  
16 required information.

17 (b) Issue a citation to any licensee who fails to  
18 submit and update the required information and may fine the  
19 licensee up to \$50 for each day that the licensee is not in  
20 compliance with this subsection. The citation must clearly  
21 state that the licensee may choose, in lieu of accepting the  
22 citation, to follow the procedure under s. 456.073 ~~455.621~~. If  
23 the licensee disputes the matter in the citation, the  
24 procedures set forth in s. 456.073 ~~455.621~~ must be followed.  
25 However, if the licensee does not dispute the matter in the  
26 citation with the department within 30 days after the citation  
27 is served, the citation becomes a final order and constitutes  
28 discipline. Service of a citation may be made by personal  
29 service or certified mail, restricted delivery, to the subject  
30 at the licensee's last known address.

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1           (4)(a) An applicant for initial licensure must submit  
2 a set of fingerprints to the Department of Health in  
3 accordance with s. 458.311, s. 458.3115, s. 458.3124, s.  
4 458.313, s. 459.0055, s. 460.406, or s. 461.006.

5           (b) An applicant for renewed licensure must submit a  
6 set of fingerprints for the initial renewal of his or her  
7 license after January 1, 2000, to the agency regulating that  
8 profession in accordance with procedures established under s.  
9 458.319, s. 459.008, s. 460.407, or s. 461.007.

10           (c) The Department of Health shall submit the  
11 fingerprints provided by an applicant for initial licensure to  
12 the Florida Department of Law Enforcement for a statewide  
13 criminal history check, and the Florida Department of Law  
14 Enforcement shall forward the fingerprints to the Federal  
15 Bureau of Investigation for a national criminal history check  
16 of the applicant. The department shall submit the fingerprints  
17 provided by an applicant for a renewed license to the Florida  
18 Department of Law Enforcement for a statewide criminal history  
19 check, and the Florida Department of Law Enforcement shall  
20 forward the fingerprints to the Federal Bureau of  
21 Investigation for a national criminal history check for the  
22 initial renewal of the applicant's license after January 1,  
23 2000; for any subsequent renewal of the applicant's license,  
24 the department shall submit the required information for a  
25 statewide criminal history check of the applicant.

26           (5) Each person who is required to submit information  
27 pursuant to this section may submit additional information.  
28 Such information may include, but is not limited to:

29           (a) Information regarding publications in  
30 peer-reviewed medical literature within the previous 10 years.

31

1 (b) Information regarding professional or community  
2 service activities or awards.

3 (c) Languages, other than English, used by the  
4 applicant to communicate with patients and identification of  
5 any translating service that may be available at the place  
6 where the applicant primarily conducts his or her practice.

7 (d) An indication of whether the person participates  
8 in the Medicaid program.

9 Section 67. Section 455.5651, Florida Statutes, is  
10 transferred, renumbered as section 456.041, Florida Statutes,  
11 and amended to read:

12 456.041 ~~455.5651~~ Practitioner profile; creation.--

13 (1) Beginning July 1, 1999, the Department of Health  
14 shall compile the information submitted pursuant to s. 456.039  
15 ~~455.565~~ into a practitioner profile of the applicant  
16 submitting the information, except that the Department of  
17 Health may develop a format to compile uniformly any  
18 information submitted under s. 456.039(4)(b) ~~455.565(4)(b)~~.

19 (2) On the profile required under subsection (1), the  
20 department shall indicate if the information provided under s.  
21 456.039(1)(a)7 ~~455.565(1)(a)7~~ is not corroborated by a  
22 criminal history check conducted according to this subsection.  
23 If the information provided under s. 456.039(1)(a)7.  
24 ~~455.565(1)(a)7~~ is corroborated by the criminal history check,  
25 the fact that the criminal history check was performed need  
26 not be indicated on the profile. The department, or the board  
27 having regulatory authority over the practitioner acting on  
28 behalf of the department, shall investigate any information  
29 received by the department or the board when it has reasonable  
30 grounds to believe that the practitioner has violated any law  
31 that relates to the practitioner's practice.

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

9           (4) The Department of Health shall include, with  
10 respect to a practitioner licensed under chapter 458 or  
11 chapter 459, a statement of how the practitioner has elected  
12 to comply with the financial responsibility requirements of s.  
13 458.320 or s. 459.0085. The department shall include, with  
14 respect to practitioners licensed under chapter 458, chapter  
15 459, or chapter 461, information relating to liability actions  
16 which has been reported under s. 456.049 ~~455.697~~ or s. 627.912  
17 within the previous 10 years for any paid claim that exceeds  
18 \$5,000. Such claims information shall be reported in the  
19 context of comparing an individual practitioner's claims to  
20 the experience of other physicians within the same specialty  
21 to the extent such information is available to the Department  
22 of Health. If information relating to a liability action is  
23 included in a practitioner's practitioner profile, the profile  
24 must also include the following statement: "Settlement of a  
25 claim may occur for a variety of reasons that do not  
26 necessarily reflect negatively on the professional competence  
27 or conduct of the physician. A payment in settlement of a  
28 medical malpractice action or claim should not be construed as  
29 creating a presumption that medical malpractice has occurred."

30  
31

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

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

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

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

23           Section 68. Section 455.5652, Florida Statutes, is  
24 transferred and renumbered as section 456.042, Florida  
25 Statutes.

26           Section 69. Section 455.5653, Florida Statutes, is  
27 transferred, renumbered as section 456.043, Florida Statutes,  
28 and amended to read:

29           456.043 ~~455.5653~~ Practitioner profiles; data  
30 storage.--Effective upon this act becoming a law, the  
31 Department of Health must develop or contract for a computer

1 system to accommodate the new data collection and storage  
2 requirements under this act pending the development and  
3 operation of a computer system by the Department of Health for  
4 handling the collection, input, revision, and update of data  
5 submitted by physicians as a part of their initial licensure  
6 or renewal to be compiled into individual practitioner  
7 profiles. The Department of Health must incorporate any data  
8 required by this act into the computer system used in  
9 conjunction with the regulation of health care professions  
10 under its jurisdiction. The department must develop, by the  
11 year 2000, a schedule and procedures for each practitioner  
12 within a health care profession regulated within the Division  
13 of Medical Quality Assurance to submit relevant information to  
14 be compiled into a profile to be made available to the public.  
15 The Department of Health is authorized to contract with and  
16 negotiate any interagency agreement necessary to develop and  
17 implement the practitioner profiles. The Department of Health  
18 shall have access to any information or record maintained by  
19 the Agency for Health Care Administration, including any  
20 information or record that is otherwise confidential and  
21 exempt from the provisions of chapter 119 and s. 24(a), Art. I  
22 of the State Constitution, so that the Department of Health  
23 may corroborate any information that physicians are required  
24 to report under s. 456.039 ~~455.565~~.

25 Section 70. Section 455.5654, Florida Statutes, is  
26 transferred, renumbered as section 456.044, Florida Statutes,  
27 and amended to read:

28 456.044 ~~455.5654~~ Practitioner profiles; rules;  
29 workshops.--Effective upon this act becoming a law, the  
30 Department of Health shall adopt rules for the form of a  
31 practitioner profile that the agency is required to prepare.



1 The Department of Health, pursuant to chapter 120, must hold  
2 public workshops for purposes of rule development to implement  
3 this section. An agency to which information is to be  
4 submitted under this act may adopt by rule a form for the  
5 submission of the information required under s. 456.039  
6 ~~455.565~~.

7 Section 71. Sections 455.5655 and 455.5656, Florida  
8 Statutes, are transferred and renumbered as sections 456.045  
9 and 456.046, Florida Statutes, respectively.

10 Section 72. Section 455.557, Florida Statutes, is  
11 transferred, renumbered as section 456.047, Florida Statutes,  
12 and amended to read:

13 456.047 ~~455.557~~ Standardized credentialing for health  
14 care practitioners.--

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

1 department shall, with the approval of the applicable board,  
2 include other professions under the jurisdiction of the  
3 Division of Medical Quality Assurance in this program,  
4 provided they meet the requirements of s. 456.039 ~~455.565~~.

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

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

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

17 (c) "Core credentials data" means the following data:  
18 current name, any former name, and any alias, any professional  
19 education, professional training, licensure, current Drug  
20 Enforcement Administration certification, social security  
21 number, specialty board certification, Educational Commission  
22 for Foreign Medical Graduates certification, hospital or other  
23 institutional affiliations, evidence of professional liability  
24 coverage or evidence of financial responsibility as required  
25 by s. 458.320 or s. 459.0085, history of claims, suits,  
26 judgments, or settlements, final disciplinary action reported  
27 pursuant to s. 456.039(1)(a)8. ~~455.565(1)(a)8.~~, and Medicare  
28 or Medicaid sanctions.

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

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

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

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

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

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

19 (i) "Health care entity" means:

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

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

27 3. Any accredited medical school in this state.

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

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

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

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

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

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

30 (3) STANDARDIZED CREDENTIALS VERIFICATION PROGRAM.--

31 (a) Every health care practitioner shall:

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

5           2. Notify the department within 45 days of any  
6 corrections, updates, or modifications to the core credentials  
7 data either through his or her designated credentials  
8 verification organization or by submitting the data directly.  
9 Corrections, updates, and modifications to the core  
10 credentials data provided the department under this section  
11 shall comply with the updating requirements of s. 456.039(3)  
12 ~~455.565(3)~~related to profiling.

13           (b) The department shall:

14           1. Maintain a complete, current file of core  
15 credentials data on each health care practitioner, which shall  
16 include all updates provided in accordance with subparagraph  
17 (a)2.

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

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

28           4. Develop, in consultation with the advisory council,  
29 standardized forms to be used by the health care practitioner  
30 or designated credentials verification organization for the  
31 initial reporting of core credentials data, for the health

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

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

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

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

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

30 (d) This section shall not be construed to restrict in  
31 any way the authority of the health care entity to credential

1 and to approve or deny an application for hospital staff  
2 membership, clinical privileges, or managed care network  
3 participation.

4 (4) DUPLICATION OF DATA PROHIBITED.--

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

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

26 (5) STANDARDS AND REGISTRATION.--Any credentials  
27 verification organization that does business in this state  
28 must be fully accredited or certified as a credentials  
29 verification organization by a national accrediting  
30 organization as specified in paragraph (2)(b) and must  
31 register with the department. The department may charge a

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

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

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

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

30 (9) COUNCIL ABOLISHED; DEPARTMENT AUTHORITY.--The  
31 council shall be abolished October 1, 1999. After the council



1 is abolished, all duties of the department required under this  
2 section to be in consultation with the council may be carried  
3 out by the department on its own.

4 Section 73. Section 455.694, Florida Statutes, is  
5 transferred, renumbered as section 456.048, Florida Statutes,  
6 and amended to read:

7 456.048 ~~455.694~~ Financial responsibility requirements  
8 for certain health care practitioners.--

9 (1) As a prerequisite for licensure or license  
10 renewal, the Board of Acupuncture, the Board of Chiropractic  
11 Medicine, the Board of Podiatric Medicine, and the Board of  
12 Dentistry shall, by rule, require that all health care  
13 practitioners licensed under the respective board, and the  
14 Board of Nursing shall, by rule, require that advanced  
15 registered nurse practitioners certified under s. 464.012, and  
16 the department shall, by rule, require that midwives maintain  
17 medical malpractice insurance or provide proof of financial  
18 responsibility in an amount and in a manner determined by the  
19 board or department to be sufficient to cover claims arising  
20 out of the rendering of or failure to render professional care  
21 and services in this state.

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

25 (a) Any person licensed under chapter 457, chapter  
26 460, chapter 461, s. 464.012, chapter 466, or chapter 467 who  
27 practices exclusively as an officer, employee, or agent of the  
28 Federal Government or of the state or its agencies or its  
29 subdivisions. For the purposes of this subsection, an agent  
30 of the state, its agencies, or its subdivisions is a person  
31 who is eligible for coverage under any self-insurance or

1 insurance program authorized by the provisions of s.  
2 768.28(15) or who is a volunteer under s. 110.501(1).

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

16 (c) Any person holding a limited license pursuant to  
17 s. 456.015 ~~455.561~~, and practicing under the scope of such  
18 limited license.

19 (d) Any person licensed or certified under chapter  
20 457, chapter 460, chapter 461, s. 464.012, chapter 466, or  
21 chapter 467 who practices only in conjunction with his or her  
22 teaching duties at an accredited school or in its main  
23 teaching hospitals. Such person may engage in the practice of  
24 medicine to the extent that such practice is incidental to and  
25 a necessary part of duties in connection with the teaching  
26 position in the school.

27 (e) Any person holding an active license or  
28 certification under chapter 457, chapter 460, chapter 461, s.  
29 464.012, chapter 466, or chapter 467 who is not practicing in  
30 this state. If such person initiates or resumes practice in  
31

1 this state, he or she must notify the department of such  
2 activity.

3 (f) Any person who can demonstrate to the board or  
4 department that he or she has no malpractice exposure in the  
5 state.

6 (3) Notwithstanding the provisions of this section,  
7 the financial responsibility requirements of ss. 458.320 and  
8 459.0085 shall continue to apply to practitioners licensed  
9 under those chapters.

10 Section 74. Section 455.697, Florida Statutes, is  
11 transferred and renumbered as section 456.049, Florida  
12 Statutes.

13 Section 75. Section 455.698, Florida Statutes, is  
14 transferred, renumbered as section 456.051, Florida Statutes,  
15 and amended to read:

16 456.051 ~~455.698~~ Reports of professional liability  
17 actions; bankruptcies; Department of Health's responsibility  
18 to provide.--

19 (1) The report of a claim or action for damages for  
20 personal injury which is required to be provided to the  
21 Department of Health under s. 456.049 ~~455.697~~ or s. 627.912 is  
22 public information except for the name of the claimant or  
23 injured person, which remains confidential as provided in ss.  
24 456.049(2)(d) ~~455.697(2)(d)~~ and 627.912(2)(e). The Department  
25 of Health shall, upon request, make such report available to  
26 any person.

27 (2) Any information in the possession of the  
28 Department of Health which relates to a bankruptcy proceeding  
29 by a practitioner of medicine licensed under chapter 458, a  
30 practitioner of osteopathic medicine licensed under chapter  
31 459, a podiatric physician licensed under chapter 461, or a

1 dentist licensed under chapter 466 is public information. The  
2 Department of Health shall, upon request, make such  
3 information available to any person.

4 Section 76. Section 455.701, Florida Statutes, is  
5 transferred and renumbered as section 456.052, Florida  
6 Statutes.

7 Section 77. Section 455.654, Florida Statutes, is  
8 transferred, renumbered as section 456.053, Florida Statutes,  
9 and amended to read:

10 456.053 ~~455.654~~ Financial arrangements between  
11 referring health care providers and providers of health care  
12 services.--

13 (1) SHORT TITLE.--This section may be cited as the  
14 "Patient Self-Referral Act of 1992."

15 (2) LEGISLATIVE INTENT.--It is recognized by the  
16 Legislature that the referral of a patient by a health care  
17 provider to a provider of health care services in which the  
18 referring health care provider has an investment interest  
19 represents a potential conflict of interest. The Legislature  
20 finds these referral practices may limit or eliminate  
21 competitive alternatives in the health care services market,  
22 may result in overutilization of health care services, may  
23 increase costs to the health care system, and may adversely  
24 affect the quality of health care. The Legislature also  
25 recognizes, however, that it may be appropriate for providers  
26 to own entities providing health care services, and to refer  
27 patients to such entities, as long as certain safeguards are  
28 present in the arrangement. It is the intent of the  
29 Legislature to provide guidance to health care providers  
30 regarding prohibited patient referrals between health care  
31 providers and entities providing health care services and to

1 protect the people of Florida from unnecessary and costly  
2 health care expenditures.

3 (3) DEFINITIONS.--For the purpose of this section, the  
4 word, phrase, or term:

5 (a) "Board" means any of the following boards relating  
6 to the respective professions: the Board of Medicine as  
7 created in s. 458.307; the Board of Osteopathic Medicine as  
8 created in s. 459.004; the Board of Chiropractic Medicine as  
9 created in s. 460.404; the Board of Podiatric Medicine as  
10 created in s. 461.004; the Board of Optometry as created in s.  
11 463.003; the Board of Pharmacy as created in s. 465.004; and  
12 the Board of Dentistry as created in s. 466.004.

13 (b) "Comprehensive rehabilitation services" means  
14 services that are provided by health care professionals  
15 licensed under part I or part III of chapter 468 or chapter  
16 486 to provide speech, occupational, or physical therapy  
17 services on an outpatient or ambulatory basis.

18 (c) "Designated health services" means, for purposes  
19 of this section, clinical laboratory services, physical  
20 therapy services, comprehensive rehabilitative services,  
21 diagnostic-imaging services, and radiation therapy services.

22 (d) "Diagnostic imaging services" means magnetic  
23 resonance imaging, nuclear medicine, angiography,  
24 arteriography, computed tomography, positron emission  
25 tomography, digital vascular imaging, bronchography,  
26 lymphangiography, splenography, ultrasound, EEG, EKG, nerve  
27 conduction studies, and evoked potentials.

28 (e) "Direct supervision" means supervision by a  
29 physician who is present in the office suite and immediately  
30 available to provide assistance and direction throughout the  
31 time services are being performed.

1           (f) "Entity" means any individual, partnership, firm,  
2 corporation, or other business entity.

3           (g) "Fair market value" means value in arms length  
4 transactions, consistent with the general market value, and,  
5 with respect to rentals or leases, the value of rental  
6 property for general commercial purposes, not taking into  
7 account its intended use, and, in the case of a lease of  
8 space, not adjusted to reflect the additional value the  
9 prospective lessee or lessor would attribute to the proximity  
10 or convenience to the lessor where the lessor is a potential  
11 source of patient referrals to the lessee.

12           (h) "Group practice" means a group of two or more  
13 health care providers legally organized as a partnership,  
14 professional corporation, or similar association:

15           1. In which each health care provider who is a member  
16 of the group provides substantially the full range of services  
17 which the health care provider routinely provides, including  
18 medical care, consultation, diagnosis, or treatment, through  
19 the joint use of shared office space, facilities, equipment,  
20 and personnel;

21           2. For which substantially all of the services of the  
22 health care providers who are members of the group are  
23 provided through the group and are billed in the name of the  
24 group and amounts so received are treated as receipts of the  
25 group; and

26           3. In which the overhead expenses of and the income  
27 from the practice are distributed in accordance with methods  
28 previously determined by members of the group.

29           (i) "Health care provider" means any physician  
30 licensed under chapter 458, chapter 459, chapter 460, or  
31

1 chapter 461, or any health care provider licensed under  
2 chapter 463 or chapter 466.

3 (j) "Immediate family member" means a health care  
4 provider's spouse, child, child's spouse, grandchild,  
5 grandchild's spouse, parent, parent-in-law, or sibling.

6 (k) "Investment interest" means an equity or debt  
7 security issued by an entity, including, without limitation,  
8 shares of stock in a corporation, units or other interests in  
9 a partnership, bonds, debentures, notes, or other equity  
10 interests or debt instruments. The following investment  
11 interests shall be excepted from this definition:

12 1. An investment interest in an entity that is the  
13 sole provider of designated health services in a rural area;

14 2. An investment interest in notes, bonds, debentures,  
15 or other debt instruments issued by an entity which provides  
16 designated health services, as an integral part of a plan by  
17 such entity to acquire such investor's equity investment  
18 interest in the entity, provided that the interest rate is  
19 consistent with fair market value, and that the maturity date  
20 of the notes, bonds, debentures, or other debt instruments  
21 issued by the entity to the investor is not later than October  
22 1, 1996.

23 3. An investment interest in real property resulting  
24 in a landlord-tenant relationship between the health care  
25 provider and the entity in which the equity interest is held,  
26 unless the rent is determined, in whole or in part, by the  
27 business volume or profitability of the tenant or exceeds fair  
28 market value; or

29 4. An investment interest in an entity which owns or  
30 leases and operates a hospital licensed under chapter 395 or a  
31 nursing home facility licensed under chapter 400.

1           (1) "Investor" means a person or entity owning a legal  
2 or beneficial ownership or investment interest, directly or  
3 indirectly, including, without limitation, through an  
4 immediate family member, trust, or another entity related to  
5 the investor within the meaning of 42 C.F.R. s. 413.17, in an  
6 entity.

7           (m) "Outside referral for diagnostic imaging services"  
8 means a referral of a patient to a group practice or sole  
9 provider for diagnostic imaging services by a physician who is  
10 not a member of the group practice or of the sole provider's  
11 practice and who does not have an investment interest in the  
12 group practice or sole provider's practice, for which the  
13 group practice or sole provider billed for both the technical  
14 and the professional fee for the patient, and the patient did  
15 not become a patient of the group practice or sole provider's  
16 practice.

17           (n) "Patient of a group practice" or "patient of a  
18 sole provider" means a patient who receives a physical  
19 examination, evaluation, diagnosis, and development of a  
20 treatment plan if medically necessary by a physician who is a  
21 member of the group practice or the sole provider's practice.

22           (o) "Referral" means any referral of a patient by a  
23 health care provider for health care services, including,  
24 without limitation:

25           1. The forwarding of a patient by a health care  
26 provider to another health care provider or to an entity which  
27 provides or supplies designated health services or any other  
28 health care item or service; or

29           2. The request or establishment of a plan of care by a  
30 health care provider, which includes the provision of  
31



1 designated health services or other health care item or  
2 service.

3 3. The following orders, recommendations, or plans of  
4 care shall not constitute a referral by a health care  
5 provider:

6 a. By a radiologist for diagnostic-imaging services.

7 b. By a physician specializing in the provision of  
8 radiation therapy services for such services.

9 c. By a medical oncologist for drugs and solutions to  
10 be prepared and administered intravenously to such  
11 oncologist's patient, as well as for the supplies and  
12 equipment used in connection therewith to treat such patient  
13 for cancer and the complications thereof.

14 d. By a cardiologist for cardiac catheterization  
15 services.

16 e. By a pathologist for diagnostic clinical laboratory  
17 tests and pathological examination services, if furnished by  
18 or under the supervision of such pathologist pursuant to a  
19 consultation requested by another physician.

20 f. By a health care provider who is the sole provider  
21 or member of a group practice for designated health services  
22 or other health care items or services that are prescribed or  
23 provided solely for such referring health care provider's or  
24 group practice's own patients, and that are provided or  
25 performed by or under the direct supervision of such referring  
26 health care provider or group practice; provided, however,  
27 that effective July 1, 1999, a physician licensed pursuant to  
28 chapter 458, chapter 459, chapter 460, or chapter 461 may  
29 refer a patient to a sole provider or group practice for  
30 diagnostic imaging services, excluding radiation therapy  
31 services, for which the sole provider or group practice billed

1 both the technical and the professional fee for or on behalf  
2 of the patient, if the referring physician has no investment  
3 interest in the practice. The diagnostic imaging service  
4 referred to a group practice or sole provider must be a  
5 diagnostic imaging service normally provided within the scope  
6 of practice to the patients of the group practice or sole  
7 provider. The group practice or sole provider may accept no  
8 more that 15 percent of their patients receiving diagnostic  
9 imaging services from outside referrals, excluding radiation  
10 therapy services.

11 g. By a health care provider for services provided by  
12 an ambulatory surgical center licensed under chapter 395.

13 h. By a health care provider for diagnostic clinical  
14 laboratory services where such services are directly related  
15 to renal dialysis.

16 i. By a urologist for lithotripsy services.

17 j. By a dentist for dental services performed by an  
18 employee of or health care provider who is an independent  
19 contractor with the dentist or group practice of which the  
20 dentist is a member.

21 k. By a physician for infusion therapy services to a  
22 patient of that physician or a member of that physician's  
23 group practice.

24 l. By a nephrologist for renal dialysis services and  
25 supplies.

26 (p) "Present in the office suite" means that the  
27 physician is actually physically present; provided, however,  
28 that the health care provider is considered physically present  
29 during brief unexpected absences as well as during routine  
30 absences of a short duration if the absences occur during time  
31 periods in which the health care provider is otherwise

1 scheduled and ordinarily expected to be present and the  
2 absences do not conflict with any other requirement in the  
3 Medicare program for a particular level of health care  
4 provider supervision.

5 (q) "Rural area" means a county with a population  
6 density of no greater than 100 persons per square mile, as  
7 defined by the United States Census.

8 (r) "Sole provider" means one health care provider  
9 licensed under chapter 458, chapter 459, chapter 460, or  
10 chapter 461, who maintains a separate medical office and a  
11 medical practice separate from any other health care provider  
12 and who bills for his or her services separately from the  
13 services provided by any other health care provider. A sole  
14 provider shall not share overhead expenses or professional  
15 income with any other person or group practice.

16 (4) REQUIREMENTS FOR ACCEPTING OUTSIDE REFERRALS FOR  
17 DIAGNOSTIC IMAGING.--

18 (a) A group practice or sole provider accepting  
19 outside referrals for diagnostic imaging services is required  
20 to comply with the following conditions:

21 1. Diagnostic imaging services must be provided  
22 exclusively by a group practice physician or by a full-time or  
23 part-time employee of the group practice or of the sole  
24 provider's practice.

25 2. All equity in the group practice or sole provider's  
26 practice accepting outside referrals for diagnostic imaging  
27 must be held by the physicians comprising the group practice  
28 or the sole provider's practice, each of whom must provide at  
29 least 75 percent of his professional services to the group.  
30 Alternatively, the group must be incorporated under chapter  
31 617 and must be exempt under the provisions of s. 501(c)(3) of

1 the Internal Revenue Code and be part of a foundation in  
2 existence prior to January 1, 1999, that is created for the  
3 purpose of patient care, medical education, and research.

4 3. A group practice or sole provider may not enter  
5 into, extend or renew any contract with a practice management  
6 company that provides any financial incentives, directly or  
7 indirectly, based on an increase in outside referrals for  
8 diagnostic imaging services from any group or sole provider  
9 managed by the same practice management company.

10 4. The group practice or sole provider accepting  
11 outside referrals for diagnostic imaging services must bill  
12 for both the professional and technical component of the  
13 service on behalf of the patient, and no portion of the  
14 payment, or any type of consideration, either directly or  
15 indirectly, may be shared with the referring physician.

16 5. Group practices or sole providers that have a  
17 Medicaid provider agreement with the Agency for Health Care  
18 Administration must furnish diagnostic imaging services to  
19 their Medicaid patients and may not refer a Medicaid recipient  
20 to a hospital for outpatient diagnostic imaging services  
21 unless the physician furnishes the hospital with documentation  
22 demonstrating the medical necessity for such a referral. If  
23 necessary, the Agency for Health Care Administration may apply  
24 for a federal waiver to implement this subparagraph.

25 6. All group practices and sole providers accepting  
26 outside referrals for diagnostic imaging shall report annually  
27 to the Agency for Health Care Administration providing the  
28 number of outside referrals accepted for diagnostic imaging  
29 services and the total number of all patients receiving  
30 diagnostic imaging services.

31

1 (b) If a group practice or sole provider accepts an  
2 outside referral for diagnostic imaging services in violation  
3 of this subsection or if a group practice or sole provider  
4 accepts outside referrals for diagnostic imaging services in  
5 excess of the percentage limitation established in  
6 subparagraph (a)2., the group practice or the sole provider  
7 shall be subject to the penalties in subsection (5).

8 (c) Each managing physician member of a group practice  
9 and each sole provider who accepts outside referrals for  
10 diagnostic imaging services shall submit an annual attestation  
11 signed under oath to the Agency for Health Care Administration  
12 which shall include the annual report required under  
13 subparagraph (a)6. and which shall further confirm that each  
14 group practice or sole provider is in compliance with the  
15 percentage limitations for accepting outside referrals and the  
16 requirements for accepting outside referrals listed in  
17 paragraph (a). The agency may verify the report submitted by  
18 group practices and sole providers.

19 (5) PROHIBITED REFERRALS AND CLAIMS FOR  
20 PAYMENT.--Except as provided in this section:

21 (a) A health care provider may not refer a patient for  
22 the provision of designated health services to an entity in  
23 which the health care provider is an investor or has an  
24 investment interest.

25 (b) A health care provider may not refer a patient for  
26 the provision of any other health care item or service to an  
27 entity in which the health care provider is an investor  
28 unless:

29 1. The provider's investment interest is in registered  
30 securities purchased on a national exchange or  
31

1 over-the-counter market and issued by a publicly held  
2 corporation:  
3       a. Whose shares are traded on a national exchange or  
4 on the over-the-counter market; and  
5       b. Whose total assets at the end of the corporation's  
6 most recent fiscal quarter exceeded \$50 million; or  
7       2. With respect to an entity other than a publicly  
8 held corporation described in subparagraph 1., and a referring  
9 provider's investment interest in such entity, each of the  
10 following requirements are met:  
11       a. No more than 50 percent of the value of the  
12 investment interests are held by investors who are in a  
13 position to make referrals to the entity.  
14       b. The terms under which an investment interest is  
15 offered to an investor who is in a position to make referrals  
16 to the entity are no different from the terms offered to  
17 investors who are not in a position to make such referrals.  
18       c. The terms under which an investment interest is  
19 offered to an investor who is in a position to make referrals  
20 to the entity are not related to the previous or expected  
21 volume of referrals from that investor to the entity.  
22       d. There is no requirement that an investor make  
23 referrals or be in a position to make referrals to the entity  
24 as a condition for becoming or remaining an investor.  
25       3. With respect to either such entity or publicly held  
26 corporation:  
27       a. The entity or corporation does not loan funds to or  
28 guarantee a loan for an investor who is in a position to make  
29 referrals to the entity or corporation if the investor uses  
30 any part of such loan to obtain the investment interest.  
31

1           b. The amount distributed to an investor representing  
2 a return on the investment interest is directly proportional  
3 to the amount of the capital investment, including the fair  
4 market value of any preoperational services rendered, invested  
5 in the entity or corporation by that investor.

6           4. Each board and, in the case of hospitals, the  
7 Agency for Health Care Administration, shall encourage the use  
8 by licensees of the declaratory statement procedure to  
9 determine the applicability of this section or any rule  
10 adopted pursuant to this section as it applies solely to the  
11 licensee. Boards shall submit to the Agency for Health Care  
12 Administration the name of any entity in which a provider  
13 investment interest has been approved pursuant to this  
14 section, and the Agency for Health Care Administration shall  
15 adopt rules providing for periodic quality assurance and  
16 utilization review of such entities.

17           (c) No claim for payment may be presented by an entity  
18 to any individual, third-party payor, or other entity for a  
19 service furnished pursuant to a referral prohibited under this  
20 section.

21           (d) If an entity collects any amount that was billed  
22 in violation of this section, the entity shall refund such  
23 amount on a timely basis to the payor or individual, whichever  
24 is applicable.

25           (e) Any person that presents or causes to be presented  
26 a bill or a claim for service that such person knows or should  
27 know is for a service for which payment may not be made under  
28 paragraph (c), or for which a refund has not been made under  
29 paragraph (d), shall be subject to a civil penalty of not more  
30 than \$15,000 for each such service to be imposed and collected  
31 by the appropriate board.

1 (f) Any health care provider or other entity that  
2 enters into an arrangement or scheme, such as a cross-referral  
3 arrangement, which the physician or entity knows or should  
4 know has a principal purpose of assuring referrals by the  
5 physician to a particular entity which, if the physician  
6 directly made referrals to such entity, would be in violation  
7 of this section, shall be subject to a civil penalty of not  
8 more than \$100,000 for each such circumvention arrangement or  
9 scheme to be imposed and collected by the appropriate board.

10 (g) A violation of this section by a health care  
11 provider shall constitute grounds for disciplinary action to  
12 be taken by the applicable board pursuant to s. 458.331(2), s.  
13 459.015(2), s. 460.413(2), s. 461.013(2), s. 463.016(2), or s.  
14 466.028(2). Any hospital licensed under chapter 395 found in  
15 violation of this section shall be subject to the rules  
16 adopted by the Agency for Health Care Administration pursuant  
17 to s. 395.0185(2).

18 (h) Any hospital licensed under chapter 395 that  
19 discriminates against or otherwise penalizes a health care  
20 provider for compliance with this act.

21 (i) The provision of paragraph (a) shall not apply to  
22 referrals to the offices of radiation therapy centers managed  
23 by an entity or subsidiary or general partner thereof, which  
24 performed radiation therapy services at those same offices  
25 prior to April 1, 1991, and shall not apply also to referrals  
26 for radiation therapy to be performed at no more than one  
27 additional office of any entity qualifying for the foregoing  
28 exception which, prior to February 1, 1992, had a binding  
29 purchase contract on and a nonrefundable deposit paid for a  
30 linear accelerator to be used at the additional office. The  
31 physical site of the radiation treatment centers affected by



1 this provision may be relocated as a result of the following  
2 factors: acts of God; fire; strike; accident; war; eminent  
3 domain actions by any governmental body; or refusal by the  
4 lessor to renew a lease. A relocation for the foregoing  
5 reasons is limited to relocation of an existing facility to a  
6 replacement location within the county of the existing  
7 facility upon written notification to the Office of Licensure  
8 and Certification.

9 (j) A health care provider who meets the requirements  
10 of paragraphs (b) and (i) must disclose his or her investment  
11 interest to his or her patients as provided in s. 456.052  
12 ~~455.701~~.

13 Section 78. Sections 455.657, 455.684, and 455.691,  
14 Florida Statutes, are transferred and renumbered as sections  
15 456.054, 456.055, and 456.056, Florida Statutes, respectively.

16 Section 79. Section 455.667, Florida Statutes, is  
17 transferred, renumbered as section 456.057, Florida Statutes,  
18 and amended to read:

19 456.057 ~~455.667~~ Ownership and control of patient  
20 records; report or copies of records to be furnished.--

21 (1) As used in this section, the term "records owner"  
22 means any health care practitioner who generates a medical  
23 record after making a physical or mental examination of, or  
24 administering treatment or dispensing legend drugs to, any  
25 person; any health care practitioner to whom records are  
26 transferred by a previous records owner; or any health care  
27 practitioner's employer, including, but not limited to, group  
28 practices and staff-model health maintenance organizations,  
29 provided the employment contract or agreement between the  
30 employer and the health care practitioner designates the  
31 employer as the records owner.

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 s.  
11 400.211.

12           (b) Pharmacists and pharmacies licensed under chapter  
13 465.

14           (c) Dental hygienists licensed under s. 466.023.

15           (d) Nursing home administrators licensed under part II  
16 of chapter 468.

17           (e) Respiratory therapists regulated under part V of  
18 chapter 468.

19           (f) Athletic trainers licensed under part XIII of  
20 chapter 468.

21           (g) Electrologists licensed under chapter 478.

22           (h) Clinical laboratory personnel licensed under part  
23 III of chapter 483.

24           (i) Medical physicists licensed under part IV of  
25 chapter 483.

26           (j) Opticians and optical establishments licensed or  
27 permitted under part I of chapter 484.

28           (k) Persons or entities practicing under s.  
29 627.736(7).

30           (3) This section does not apply to facilities licensed  
31 under chapter 395.

1           (4) Any health care practitioner licensed by the  
2 department or a board within the department who makes a  
3 physical or mental examination of, or administers treatment or  
4 dispenses legend drugs to, any person shall, upon request of  
5 such person or the person's legal representative, furnish, in  
6 a timely manner, without delays for legal review, copies of  
7 all reports and records relating to such examination or  
8 treatment, including X rays and insurance information.  
9 However, when a patient's psychiatric, chapter 490  
10 psychological, or chapter 491 psychotherapeutic records are  
11 requested by the patient or the patient's legal  
12 representative, the health care practitioner may provide a  
13 report of examination and treatment in lieu of copies of  
14 records. Upon a patient's written request, complete copies of  
15 the patient's psychiatric records shall be provided directly  
16 to a subsequent treating psychiatrist. The furnishing of such  
17 report or copies shall not be conditioned upon payment of a  
18 fee for services rendered.

19           (5) Except as otherwise provided in this section and  
20 in s. 440.13(4)(c), such records may not be furnished to, and  
21 the medical condition of a patient may not be discussed with,  
22 any person other than the patient or the patient's legal  
23 representative or other health care practitioners and  
24 providers involved in the care or treatment of the patient,  
25 except upon written authorization of the patient. However,  
26 such records may be furnished without written authorization  
27 under the following circumstances:

28           (a) To any person, firm, or corporation that has  
29 procured or furnished such examination or treatment with the  
30 patient's consent.

31

1           (b) When compulsory physical examination is made  
2 pursuant to Rule 1.360, Florida Rules of Civil Procedure, in  
3 which case copies of the medical records shall be furnished to  
4 both the defendant and the plaintiff.

5           (c) In any civil or criminal action, unless otherwise  
6 prohibited by law, upon the issuance of a subpoena from a  
7 court of competent jurisdiction and proper notice to the  
8 patient or the patient's legal representative by the party  
9 seeking such records.

10           (d) For statistical and scientific research, provided  
11 the information is abstracted in such a way as to protect the  
12 identity of the patient or provided written permission is  
13 received from the patient or the patient's legal  
14 representative.

15           (6) Except in a medical negligence action or  
16 administrative proceeding when a health care practitioner or  
17 provider is or reasonably expects to be named as a defendant,  
18 information disclosed to a health care practitioner by a  
19 patient in the course of the care and treatment of such  
20 patient is confidential and may be disclosed only to other  
21 health care practitioners and providers involved in the care  
22 or treatment of the patient, or if permitted by written  
23 authorization from the patient or compelled by subpoena at a  
24 deposition, evidentiary hearing, or trial for which proper  
25 notice has been given.

26           (7)(a)1. The department may obtain patient records  
27 pursuant to a subpoena without written authorization from the  
28 patient if the department and the probable cause panel of the  
29 appropriate board, if any, find reasonable cause to believe  
30 that a health care practitioner has excessively or  
31 inappropriately prescribed any controlled substance specified

1 in chapter 893 in violation of this chapter ~~part~~ or any  
2 professional practice act or that a health care practitioner  
3 has practiced his or her profession below that level of care,  
4 skill, and treatment required as defined by this chapter ~~part~~  
5 or any professional practice act and also find that  
6 appropriate, reasonable attempts were made to obtain a patient  
7 release.

8           2. The department may obtain patient records and  
9 insurance information pursuant to a subpoena without written  
10 authorization from the patient if the department and the  
11 probable cause panel of the appropriate board, if any, find  
12 reasonable cause to believe that a health care practitioner  
13 has provided inadequate medical care based on termination of  
14 insurance and also find that appropriate, reasonable attempts  
15 were made to obtain a patient release.

16           3. The department may obtain patient records, billing  
17 records, insurance information, provider contracts, and all  
18 attachments thereto pursuant to a subpoena without written  
19 authorization from the patient if the department and probable  
20 cause panel of the appropriate board, if any, find reasonable  
21 cause to believe that a health care practitioner has submitted  
22 a claim, statement, or bill using a billing code that would  
23 result in payment greater in amount than would be paid using a  
24 billing code that accurately describes the services performed,  
25 requested payment for services that were not performed by that  
26 health care practitioner, used information derived from a  
27 written report of an automobile accident generated pursuant to  
28 chapter 316 to solicit or obtain patients personally or  
29 through an agent regardless of whether the information is  
30 derived directly from the report or a summary of that report  
31 or from another person, solicited patients fraudulently,

1 received a kickback as defined in s. 456.054 ~~455.657~~, violated  
2 the patient brokering provisions of s. 817.505, or presented  
3 or caused to be presented a false or fraudulent insurance  
4 claim within the meaning of s. 817.234(1)(a), and also find  
5 that, within the meaning of s. 817.234(1)(a), patient  
6 authorization cannot be obtained because the patient cannot be  
7 located or is deceased, incapacitated, or suspected of being a  
8 participant in the fraud or scheme, and if the subpoena is  
9 issued for specific and relevant records.

10 (b) Patient records, billing records, insurance  
11 information, provider contracts, and all attachments thereto  
12 obtained by the department pursuant to this subsection shall  
13 be used solely for the purpose of the department and the  
14 appropriate regulatory board in disciplinary proceedings. This  
15 section does not limit the assertion of the  
16 psychotherapist-patient privilege under s. 90.503 in regard to  
17 records of treatment for mental or nervous disorders by a  
18 medical practitioner licensed pursuant to chapter 458 or  
19 chapter 459 who has primarily diagnosed and treated mental and  
20 nervous disorders for a period of not less than 3 years,  
21 inclusive of psychiatric residency. However, the health care  
22 practitioner shall release records of treatment for medical  
23 conditions even if the health care practitioner has also  
24 treated the patient for mental or nervous disorders. If the  
25 department has found reasonable cause under this section and  
26 the psychotherapist-patient privilege is asserted, the  
27 department may petition the circuit court for an in camera  
28 review of the records by expert medical practitioners  
29 appointed by the court to determine if the records or any part  
30 thereof are protected under the psychotherapist-patient  
31 privilege.

1           (8) All patient records obtained by the department and  
2 any other documents maintained by the department which  
3 identify the patient by name are confidential and exempt from  
4 s. 119.07(1) and shall be used solely for the purpose of the  
5 department and the appropriate regulatory board in its  
6 investigation, prosecution, and appeal of disciplinary  
7 proceedings. The records shall not be available to the public  
8 as part of the record of investigation for and prosecution in  
9 disciplinary proceedings made available to the public by the  
10 department or the appropriate board.

11           (9) All records owners shall develop and implement  
12 policies, standards, and procedures to protect the  
13 confidentiality and security of the medical record. Employees  
14 of records owners shall be trained in these policies,  
15 standards, and procedures.

16           (10) Records owners are responsible for maintaining a  
17 record of all disclosures of information contained in the  
18 medical record to a third party, including the purpose of the  
19 disclosure request. The record of disclosure may be  
20 maintained in the medical record. The third party to whom  
21 information is disclosed is prohibited from further disclosing  
22 any information in the medical record without the expressed  
23 written consent of the patient or the patient's legal  
24 representative.

25           (11) Notwithstanding the provisions of s. 456.058  
26 ~~455.677~~, records owners shall place an advertisement in the  
27 local newspaper or notify patients, in writing, when they are  
28 terminating practice, retiring, or relocating, and no longer  
29 available to patients, and offer patients the opportunity to  
30 obtain a copy of their medical record.

31

1           (12) Notwithstanding the provisions of s. 456.058  
2 ~~455.677~~, records owners shall notify the appropriate board  
3 office when they are terminating practice, retiring, or  
4 relocating, and no longer available to patients, specifying  
5 who the new records owner is and where medical records can be  
6 found.

7           (13) Whenever a records owner has turned records over  
8 to a new records owner, the new records owner shall be  
9 responsible for providing a copy of the complete medical  
10 record, upon written request, of the patient or the patient's  
11 legal representative.

12           (14) Licensees in violation of the provisions of this  
13 section shall be disciplined by the appropriate licensing  
14 authority.

15           (15) The Attorney General is authorized to enforce the  
16 provisions of this section for records owners not otherwise  
17 licensed by the state, through injunctive relief and fines not  
18 to exceed \$5,000 per violation.

19           (16) A health care practitioner or records owner  
20 furnishing copies of reports or records or making the reports  
21 or records available for digital scanning pursuant to this  
22 section shall charge no more than the actual cost of copying,  
23 including reasonable staff time, or the amount specified in  
24 administrative rule by the appropriate board, or the  
25 department when there is no board.

26           (17) Nothing in this section shall be construed to  
27 limit health care practitioner consultations, as necessary.

28           (18) A records owner shall release to a health care  
29 practitioner who, as an employee of the records owner,  
30 previously provided treatment to a patient, those records that  
31 the health care practitioner actually created or generated



1 when the health care practitioner treated the patient.  
2 Records released pursuant to this subsection shall be released  
3 only upon written request of the health care practitioner and  
4 shall be limited to the notes, plans of care, and orders and  
5 summaries that were actually generated by the health care  
6 practitioner requesting the record.

7 Section 80. Section 455.677, Florida Statutes, is  
8 transferred and renumbered as section 456.058, Florida  
9 Statutes.

10 Section 81. Section 455.671, Florida Statutes, is  
11 transferred, renumbered as section 456.059, Florida Statutes,  
12 and amended to read:

13 456.059 ~~455.671~~ Communications confidential;  
14 exceptions.--Communications between a patient and a  
15 psychiatrist, as defined in s. 394.455, shall be held  
16 confidential and shall not be disclosed except upon the  
17 request of the patient or the patient's legal representative.  
18 Provision of psychiatric records and reports shall be governed  
19 by s. 456.057 ~~455.667~~. Notwithstanding any other provision of  
20 this section or s. 90.503, where:

21 (1) A patient is engaged in a treatment relationship  
22 with a psychiatrist;

23 (2) Such patient has made an actual threat to  
24 physically harm an identifiable victim or victims; and

25 (3) The treating psychiatrist makes a clinical  
26 judgment that the patient has the apparent capability to  
27 commit such an act and that it is more likely than not that in  
28 the near future the patient will carry out that threat,

29  
30 the psychiatrist may disclose patient communications to the  
31 extent necessary to warn any potential victim or to

1 communicate the threat to a law enforcement agency. No civil  
2 or criminal action shall be instituted, and there shall be no  
3 liability on account of disclosure of otherwise confidential  
4 communications by a psychiatrist in disclosing a threat  
5 pursuant to this section.

6 Section 82. Sections 455.674, 455.664, and 455.567,  
7 Florida Statutes, are transferred and renumbered as sections  
8 456.061, 456.062, and 456.063, Florida Statutes, respectively.

9 Section 83. Section 455.641, Florida Statutes, is  
10 transferred, renumbered as section 456.064, Florida Statutes,  
11 and amended to read:

12 456.064 ~~455.641~~ Unlicensed activities; fees;  
13 disposition.--In order to protect the public and to ensure a  
14 consumer-oriented department, it is the intent of the  
15 Legislature that vigorous enforcement of regulation for all  
16 professional activities is a state priority. All enforcement  
17 costs should be covered by professions regulated by the  
18 department. Therefore, the department shall impose, upon  
19 initial licensure and each renewal thereof, a special fee of  
20 \$5 per licensee. Such fee shall be in addition to all other  
21 fees collected from each licensee and shall fund efforts to  
22 combat unlicensed activity. The board with concurrence of the  
23 department, or the department when there is no board, may  
24 earmark \$5 of the current licensure fee for this purpose, if  
25 such board, or profession regulated by the department, is not  
26 in a deficit and has a reasonable cash balance. The department  
27 shall make direct charges to this fund by profession and shall  
28 not allocate indirect overhead. The department shall seek  
29 board advice regarding enforcement methods and strategies  
30 prior to expenditure of funds. The department shall directly  
31 credit, by profession, revenues received from the department's

1 efforts to enforce licensure provisions. The department shall  
2 include all financial and statistical data resulting from  
3 unlicensed activity enforcement as a separate category in the  
4 quarterly management report provided for in s. 456.025  
5 ~~455.587~~. The department shall not charge the account of any  
6 profession for the costs incurred on behalf of any other  
7 profession. For an unlicensed activity account, a balance  
8 which remains at the end of a renewal cycle may, with  
9 concurrence of the applicable board and the department, be  
10 transferred to the operating fund account of that profession.

11 Section 84. Section 455.637, Florida Statutes, is  
12 transferred, renumbered as section 456.065, Florida Statutes,  
13 and amended to read:

14 456.065 ~~455.637~~ Unlicensed practice of a profession;  
15 cease and desist notice; civil penalty; enforcement;  
16 citations; allocation of moneys collected.--

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

1 seeking issuance of an injunction or a writ of mandamus  
2 against any person who violates any provisions of such order.  
3 In addition to the foregoing remedies, the department may  
4 impose an administrative penalty not to exceed \$5,000 per  
5 incident pursuant to the provisions of chapter 120 or may  
6 issue a citation pursuant to the provisions of subsection (3).  
7 If the department is required to seek enforcement of the  
8 agency order for a penalty pursuant to s. 120.569, it shall be  
9 entitled to collect its attorney's fees and costs, together  
10 with any cost of collection.

11 (2) In addition to or in lieu of any remedy provided  
12 in subsection (1), the department may seek the imposition of a  
13 civil penalty through the circuit court for any violation for  
14 which the department may issue a notice to cease and desist  
15 under subsection (1). The civil penalty shall be no less than  
16 \$500 and no more than \$5,000 for each offense. The court may  
17 also award to the prevailing party court costs and reasonable  
18 attorney fees and, in the event the department prevails, may  
19 also award reasonable costs of investigation.

20 (3)(a) Notwithstanding the provisions of s. 456.073  
21 ~~455.621~~, the department shall adopt rules to permit the  
22 issuance of citations for unlicensed practice of a profession.  
23 The citation shall be issued to the subject and shall contain  
24 the subject's name and any other information the department  
25 determines to be necessary to identify the subject, a brief  
26 factual statement, the sections of the law allegedly violated,  
27 and the penalty imposed. The citation must clearly state that  
28 the subject may choose, in lieu of accepting the citation, to  
29 follow the procedure under s. 456.073 ~~455.621~~. If the subject  
30 disputes the matter in the citation, the procedures set forth  
31 in s. 456.073 ~~455.621~~ must be followed. However, if the

1 subject does not dispute the matter in the citation with the  
2 department within 30 days after the citation is served, the  
3 citation shall become a final order of the department. The  
4 penalty shall be a fine of not less than \$500 or more than  
5 \$5,000 or other conditions as established by rule.

6 (b) Each day that the unlicensed practice continues  
7 after issuance of a citation constitutes a separate violation.

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

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

15 (4) All fines, fees, and costs collected through the  
16 procedures set forth in this section shall be allocated to the  
17 professions in the manner provided for in s. 456.064 ~~455.641~~  
18 for the allocation of the fees assessed and collected to  
19 combat unlicensed practice of a profession.

20 (5) The provisions of this section apply only to the  
21 professional practice acts administered by the department.

22 Section 85. Section 455.634, Florida Statutes, is  
23 transferred and renumbered as section 456.066, Florida  
24 Statutes.

25 Section 86. Section 455.631, Florida Statutes, is  
26 transferred, renumbered as section 456.067, Florida Statutes,  
27 and amended to read:

28 456.067 ~~455.631~~ Penalty for giving false  
29 information.--In addition to, or in lieu of, any other  
30 discipline imposed pursuant to s. 456.072 ~~455.624~~, the act of  
31 knowingly giving false information in the course of applying

1 for or obtaining a license from the department, or any board  
2 thereunder, with intent to mislead a public servant in the  
3 performance of his or her official duties, or the act of  
4 attempting to obtain or obtaining a license from the  
5 department, or any board thereunder, to practice a profession  
6 by knowingly misleading statements or knowing  
7 misrepresentations constitutes a felony of the third degree,  
8 punishable as provided in s. 775.082, s. 775.083, or s.  
9 775.084.

10 Section 87. Section 455.699, Florida Statutes, is  
11 transferred and renumbered as section 456.068, Florida  
12 Statutes.

13 Section 88. Section 455.681, Florida Statutes, is  
14 transferred, renumbered as section 456.069, Florida Statutes,  
15 and amended to read:

16 456.069 ~~455.681~~ Authority to inspect.--In addition to  
17 the authority specified in s. 465.017, duly authorized agents  
18 and employees of the department shall have the power to  
19 inspect in a lawful manner at all reasonable hours:

20 (1) Any pharmacy; or

21 (2) Any establishment at which the services of a  
22 licensee authorized to prescribe controlled substances  
23 specified in chapter 893 are offered,

24

25 for the purpose of determining if any of the provisions of  
26 this chapter ~~part~~ or any practice act of a profession or any  
27 rule adopted thereunder is being violated; or for the purpose  
28 of securing such other evidence as may be needed for  
29 prosecution.

30

31

1           Section 89. Section 455.611, Florida Statutes, is  
2 transferred and renumbered as section 456.071, Florida  
3 Statutes.

4           Section 90. Section 455.624, Florida Statutes, is  
5 transferred, renumbered as section 456.072, Florida Statutes,  
6 and amended to read:

7           456.072 ~~455.624~~ Grounds for discipline; penalties;  
8 enforcement.--

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

12           (a) Making misleading, deceptive, or fraudulent  
13 representations in or related to the practice of the  
14 licensee's profession.

15           (b) Intentionally violating any rule adopted by the  
16 board or the department, as appropriate.

17           (c) Being convicted or found guilty of, or entering a  
18 plea of nolo contendere to, regardless of adjudication, a  
19 crime in any jurisdiction which relates to the practice of, or  
20 the ability to practice, a licensee's profession.

21           (d) Using a Class III or a Class IV laser device or  
22 product, as defined by federal regulations, without having  
23 complied with the rules adopted pursuant to s. 501.122(2)  
24 governing the registration of such devices.

25           (e) Failing to comply with the educational course  
26 requirements for human immunodeficiency virus and acquired  
27 immune deficiency syndrome.

28           (f) Having a license or the authority to practice the  
29 regulated profession revoked, suspended, or otherwise acted  
30 against, including the denial of licensure, by the licensing  
31 authority of any jurisdiction, including its agencies or

1 subdivisions, for a violation that would constitute a  
2 violation under Florida law. The licensing authority's  
3 acceptance of a relinquishment of licensure, stipulation,  
4 consent order, or other settlement, offered in response to or  
5 in anticipation of the filing of charges against the license,  
6 shall be construed as action against the license.

7 (g) Having been found liable in a civil proceeding for  
8 knowingly filing a false report or complaint with the  
9 department against another licensee.

10 (h) Attempting to obtain, obtaining, or renewing a  
11 license to practice a profession by bribery, by fraudulent  
12 misrepresentation, or through an error of the department or  
13 the board.

14 (i) Except as provided in s. 465.016, failing to  
15 report to the department any person who the licensee knows is  
16 in violation of this chapter part, the chapter regulating the  
17 alleged violator, or the rules of the department or the board.

18 (j) Aiding, assisting, procuring, employing, or  
19 advising any unlicensed person or entity to practice a  
20 profession contrary to this chapter part, the chapter  
21 regulating the profession, or the rules of the department or  
22 the board.

23 (k) Failing to perform any statutory or legal  
24 obligation placed upon a licensee.

25 (l) Making or filing a report which the licensee knows  
26 to be false, intentionally or negligently failing to file a  
27 report or record required by state or federal law, or  
28 willfully impeding or obstructing another person to do so.  
29 Such reports or records shall include only those that are  
30 signed in the capacity of a licensee.

31



1           (m) Making deceptive, untrue, or fraudulent  
2 representations in or related to the practice of a profession  
3 or employing a trick or scheme in or related to the practice  
4 of a profession.

5           (n) Exercising influence on the patient or client for  
6 the purpose of financial gain of the licensee or a third  
7 party.

8           (o) Practicing or offering to practice beyond the  
9 scope permitted by law or accepting and performing  
10 professional responsibilities the licensee knows, or has  
11 reason to know, the licensee is not competent to perform.

12           (p) Delegating or contracting for the performance of  
13 professional responsibilities by a person when the licensee  
14 delegating or contracting for performance of such  
15 responsibilities knows, or has reason to know, such person is  
16 not qualified by training, experience, and authorization when  
17 required to perform them.

18           (q) Violating any provision of this chapter part, the  
19 applicable professional practice act, a rule of the department  
20 or the board, or a lawful order of the department or the  
21 board, or failing to comply with a lawfully issued subpoena of  
22 the department.

23           (r) Improperly interfering with an investigation or  
24 inspection authorized by statute, or with any disciplinary  
25 proceeding.

26           (s) Failing to comply with the educational course  
27 requirements for domestic violence.

28           (t) Failing to comply with the requirements of ss.  
29 381.026 and 381.0261 to provide patients with information  
30 about their patient rights and how to file a patient  
31 complaint.

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

6           (v) Failing to comply with the requirements for  
7 profiling and credentialing, including, but not limited to,  
8 failing to provide initial information, failing to timely  
9 provide updated information, or making misleading, untrue,  
10 deceptive, or fraudulent representations on a profile,  
11 credentialing, or initial or renewal licensure application.

12           (w) Failing to report to the board, or the department  
13 if there is no board, in writing within 30 days after the  
14 licensee has been convicted or found guilty of, or entered a  
15 plea of nolo contendere to, regardless of adjudication, a  
16 crime in any jurisdiction. Convictions, findings,  
17 adjudications, and pleas entered into prior to the enactment  
18 of this paragraph must be reported in writing to the board, or  
19 department if there is no board, on or before October 1, 1999.

20           (x) Using information about people involved in motor  
21 vehicle accidents which has been derived from accident reports  
22 made by law enforcement officers or persons involved in  
23 accidents pursuant to s. 316.066, or using information  
24 published in a newspaper or other news publication or through  
25 a radio or television broadcast that has used information  
26 gained from such reports, for the purposes of commercial or  
27 any other solicitation whatsoever of the people involved in  
28 such accidents.

29           (2) When the board, or the department when there is no  
30 board, finds any person guilty of the grounds set forth in  
31 subsection (1) or of any grounds set forth in the applicable

1 practice act, including conduct constituting a substantial  
2 violation of subsection (1) or a violation of the applicable  
3 practice act which occurred prior to obtaining a license, it  
4 may enter an order imposing one or more of the following  
5 penalties:

- 6 (a) Refusal to certify, or to certify with  
7 restrictions, an application for a license.
- 8 (b) Suspension or permanent revocation of a license.
- 9 (c) Restriction of practice.
- 10 (d) Imposition of an administrative fine not to exceed  
11 \$10,000 for each count or separate offense.
- 12 (e) Issuance of a reprimand.
- 13 (f) Placement of the licensee on probation for a  
14 period of time and subject to such conditions as the board, or  
15 the department when there is no board, may specify. Those  
16 conditions may include, but are not limited to, requiring the  
17 licensee to undergo treatment, attend continuing education  
18 courses, submit to be reexamined, work under the supervision  
19 of another licensee, or satisfy any terms which are reasonably  
20 tailored to the violations found.
- 21 (g) Corrective action.
- 22 (h) Imposition of an administrative fine in accordance  
23 with s. 381.0261 for violations regarding patient rights.

24  
25 In determining what action is appropriate, the board, or  
26 department when there is no board, must first consider what  
27 sanctions are necessary to protect the public or to compensate  
28 the patient. Only after those sanctions have been imposed may  
29 the disciplining authority consider and include in the order  
30 requirements designed to rehabilitate the practitioner. All  
31

1 costs associated with compliance with orders issued under this  
2 subsection are the obligation of the practitioner.

3 (3) Notwithstanding subsection (2), if the ground for  
4 disciplinary action is the first-time failure of the licensee  
5 to satisfy continuing education requirements established by  
6 the board, or by the department if there is no board, the  
7 board or department, as applicable, shall issue a citation in  
8 accordance with s. 456.077 ~~455.617~~ and assess a fine, as  
9 determined by the board or department by rule. In addition,  
10 for each hour of continuing education not completed or  
11 completed late, the board or department, as applicable, may  
12 require the licensee to take 1 additional hour of continuing  
13 education for each hour not completed or completed late.

14 (4) In addition to any other discipline imposed  
15 pursuant to this section or discipline imposed for a violation  
16 of any practice act, the board, or the department when there  
17 is no board, may assess costs related to the investigation and  
18 prosecution of the case. In any case where the board or the  
19 department imposes a fine or assessment and the fine or  
20 assessment is not paid within a reasonable time, such  
21 reasonable time to be prescribed in the rules of the board, or  
22 the department when there is no board, or in the order  
23 assessing such fines or costs, the department or the  
24 Department of Legal Affairs may contract for the collection  
25 of, or bring a civil action to recover, the fine or  
26 assessment.

27 (5) In addition to, or in lieu of, any other remedy or  
28 criminal prosecution, the department may file a proceeding in  
29 the name of the state seeking issuance of an injunction or a  
30 writ of mandamus against any person who violates any of the  
31 provisions of this chapter ~~part~~, or any provision of law with

1 respect to professions regulated by the department, or any  
2 board therein, or the rules adopted pursuant thereto.

3 (6) In the event the board, or the department when  
4 there is no board, determines that revocation of a license is  
5 the appropriate penalty, the revocation shall be permanent.  
6 However, the board may establish by rule requirements for  
7 reapplication by applicants whose licenses have been  
8 permanently revoked. Such requirements may include, but shall  
9 not be limited to, satisfying current requirements for an  
10 initial license.

11 Section 91. Section 455.621, Florida Statutes, is  
12 transferred, renumbered as section 456.073, Florida Statutes,  
13 and amended to read:

14 456.073 ~~455.621~~ Disciplinary  
15 proceedings.--Disciplinary proceedings for each board shall be  
16 within the jurisdiction of the department.

17 (1) The department, for the boards under its  
18 jurisdiction, shall cause to be investigated any complaint  
19 that is filed before it if the complaint is in writing, signed  
20 by the complainant, and legally sufficient. A complaint is  
21 legally sufficient if it contains ultimate facts that show  
22 that a violation of this chapter part, of any of the practice  
23 acts relating to the professions regulated by the department,  
24 or of any rule adopted by the department or a regulatory board  
25 in the department has occurred. In order to determine legal  
26 sufficiency, the department may require supporting information  
27 or documentation. The department may investigate, and the  
28 department or the appropriate board may take appropriate final  
29 action on, a complaint even though the original complainant  
30 withdraws it or otherwise indicates a desire not to cause the  
31 complaint to be investigated or prosecuted to completion. The

1 department may investigate an anonymous complaint if the  
2 complaint is in writing and is legally sufficient, if the  
3 alleged violation of law or rules is substantial, and if the  
4 department has reason to believe, after preliminary inquiry,  
5 that the violations alleged in the complaint are true. The  
6 department may investigate a complaint made by a confidential  
7 informant if the complaint is legally sufficient, if the  
8 alleged violation of law or rule is substantial, and if the  
9 department has reason to believe, after preliminary inquiry,  
10 that the allegations of the complainant are true. The  
11 department may initiate an investigation if it has reasonable  
12 cause to believe that a licensee or a group of licensees has  
13 violated a Florida statute, a rule of the department, or a  
14 rule of a board. Except as provided in ss. 458.331(9),  
15 459.015(9), 460.413(5), and 461.013(6), when an investigation  
16 of any subject is undertaken, the department shall promptly  
17 furnish to the subject or the subject's attorney a copy of the  
18 complaint or document that resulted in the initiation of the  
19 investigation. The subject may submit a written response to  
20 the information contained in such complaint or document within  
21 20 days after service to the subject of the complaint or  
22 document. The subject's written response shall be considered  
23 by the probable cause panel. The right to respond does not  
24 prohibit the issuance of a summary emergency order if  
25 necessary to protect the public. However, if the secretary, or  
26 the secretary's designee, and the chair of the respective  
27 board or the chair of its probable cause panel agree in  
28 writing that such notification would be detrimental to the  
29 investigation, the department may withhold notification. The  
30 department may conduct an investigation without notification  
31

1 to any subject if the act under investigation is a criminal  
2 offense.

3 (2) The department shall allocate sufficient and  
4 adequately trained staff to expeditiously and thoroughly  
5 determine legal sufficiency and investigate all legally  
6 sufficient complaints. For purposes of this section, it is the  
7 intent of the Legislature that the term "expeditiously" means  
8 that the department complete the report of its initial  
9 investigative findings and recommendations concerning the  
10 existence of probable cause within 6 months after its receipt  
11 of the complaint. The failure of the department, for  
12 disciplinary cases under its jurisdiction, to comply with the  
13 time limits of this section while investigating a complaint  
14 against a licensee constitutes harmless error in any  
15 subsequent disciplinary action unless a court finds that  
16 either the fairness of the proceeding or the correctness of  
17 the action may have been impaired by a material error in  
18 procedure or a failure to follow prescribed procedure. When  
19 its investigation is complete and legally sufficient, the  
20 department shall prepare and submit to the probable cause  
21 panel of the appropriate regulatory board the investigative  
22 report of the department. The report shall contain the  
23 investigative findings and the recommendations of the  
24 department concerning the existence of probable cause. At any  
25 time after legal sufficiency is found, the department may  
26 dismiss any case, or any part thereof, if the department  
27 determines that there is insufficient evidence to support the  
28 prosecution of allegations contained therein. The department  
29 shall provide a detailed report to the appropriate probable  
30 cause panel prior to dismissal of any case or part thereof,  
31 and to the subject of the complaint after dismissal of any

1 case or part thereof, under this section. For cases dismissed  
2 prior to a finding of probable cause, such report is  
3 confidential and exempt from s. 119.07(1). The probable cause  
4 panel shall have access, upon request, to the investigative  
5 files pertaining to a case prior to dismissal of such case. If  
6 the department dismisses a case, the probable cause panel may  
7 retain independent legal counsel, employ investigators, and  
8 continue the investigation and prosecution of the case as it  
9 deems necessary.

10 (3) As an alternative to the provisions of subsections  
11 (1) and (2), when a complaint is received, the department may  
12 provide a licensee with a notice of noncompliance for an  
13 initial offense of a minor violation. Each board, or the  
14 department if there is no board, shall establish by rule those  
15 minor violations under this provision which do not endanger  
16 the public health, safety, and welfare and which do not  
17 demonstrate a serious inability to practice the profession.  
18 Failure of a licensee to take action in correcting the  
19 violation within 15 days after notice may result in the  
20 institution of regular disciplinary proceedings.

21 (4) The determination as to whether probable cause  
22 exists shall be made by majority vote of a probable cause  
23 panel of the board, or by the department, as appropriate. Each  
24 regulatory board shall provide by rule that the determination  
25 of probable cause shall be made by a panel of its members or  
26 by the department. Each board may provide by rule for multiple  
27 probable cause panels composed of at least two members. Each  
28 board may provide by rule that one or more members of the  
29 panel or panels may be a former board member. The length of  
30 term or repetition of service of any such former board member  
31 on a probable cause panel may vary according to the direction



1 of the board when authorized by board rule. Any probable cause  
2 panel must include one of the board's former or present  
3 consumer members, if one is available, is willing to serve,  
4 and is authorized to do so by the board chair. Any probable  
5 cause panel must include a present board member. Any probable  
6 cause panel must include a former or present professional  
7 board member. However, any former professional board member  
8 serving on the probable cause panel must hold an active valid  
9 license for that profession. All proceedings of the panel are  
10 exempt from s. 286.011 until 10 days after probable cause has  
11 been found to exist by the panel or until the subject of the  
12 investigation waives his or her privilege of confidentiality.  
13 The probable cause panel may make a reasonable request, and  
14 upon such request the department shall provide such additional  
15 investigative information as is necessary to the determination  
16 of probable cause. A request for additional investigative  
17 information shall be made within 15 days from the date of  
18 receipt by the probable cause panel of the investigative  
19 report of the department or the agency. The probable cause  
20 panel or the department, as may be appropriate, shall make its  
21 determination of probable cause within 30 days after receipt  
22 by it of the final investigative report of the department. The  
23 secretary may grant extensions of the 15-day and the 30-day  
24 time limits. In lieu of a finding of probable cause, the  
25 probable cause panel, or the department if there is no board,  
26 may issue a letter of guidance to the subject. If, within the  
27 30-day time limit, as may be extended, the probable cause  
28 panel does not make a determination regarding the existence of  
29 probable cause or does not issue a letter of guidance in lieu  
30 of a finding of probable cause, the department must make a  
31 determination regarding the existence of probable cause within

1 10 days after the expiration of the time limit. If the  
2 probable cause panel finds that probable cause exists, it  
3 shall direct the department to file a formal complaint against  
4 the licensee. The department shall follow the directions of  
5 the probable cause panel regarding the filing of a formal  
6 complaint. If directed to do so, the department shall file a  
7 formal complaint against the subject of the investigation and  
8 prosecute that complaint pursuant to chapter 120. However, the  
9 department may decide not to prosecute the complaint if it  
10 finds that probable cause has been improvidently found by the  
11 panel. In such cases, the department shall refer the matter to  
12 the board. The board may then file a formal complaint and  
13 prosecute the complaint pursuant to chapter 120. The  
14 department shall also refer to the board any investigation or  
15 disciplinary proceeding not before the Division of  
16 Administrative Hearings pursuant to chapter 120 or otherwise  
17 completed by the department within 1 year after the filing of  
18 a complaint. The department, for disciplinary cases under its  
19 jurisdiction, must establish a uniform reporting system to  
20 quarterly refer to each board the status of any investigation  
21 or disciplinary proceeding that is not before the Division of  
22 Administrative Hearings or otherwise completed by the  
23 department within 1 year after the filing of the complaint.  
24 Annually, the department if there is no board, or each board  
25 must establish a plan to reduce or otherwise close any  
26 investigation or disciplinary proceeding that is not before  
27 the Division of Administrative Hearings or otherwise completed  
28 by the department within 1 year after the filing of the  
29 complaint. A probable cause panel or a board may retain  
30 independent legal counsel, employ investigators, and continue  
31 the investigation as it deems necessary; all costs thereof

1 shall be paid from a trust fund used by the department to  
2 implement this chapter ~~part~~. All proceedings of the probable  
3 cause panel are exempt from s. 120.525.

4 (5) A formal hearing before an administrative law  
5 judge from the Division of Administrative Hearings shall be  
6 held pursuant to chapter 120 if there are any disputed issues  
7 of material fact. The administrative law judge shall issue a  
8 recommended order pursuant to chapter 120. If any party raises  
9 an issue of disputed fact during an informal hearing, the  
10 hearing shall be terminated and a formal hearing pursuant to  
11 chapter 120 shall be held.

12 (6) The appropriate board, with those members of the  
13 panel, if any, who reviewed the investigation pursuant to  
14 subsection (5) being excused, or the department when there is  
15 no board, shall determine and issue the final order in each  
16 disciplinary case. Such order shall constitute final agency  
17 action. Any consent order or agreed-upon settlement shall be  
18 subject to the approval of the department.

19 (7) The department shall have standing to seek  
20 judicial review of any final order of the board, pursuant to  
21 s. 120.68.

22 (8) Any proceeding for the purpose of summary  
23 suspension of a license, or for the restriction of the  
24 license, of a licensee pursuant to s. 120.60(6) shall be  
25 conducted by the secretary of the Department of Health or his  
26 or her designee, as appropriate, who shall issue the final  
27 summary order.

28 (9)(a) The department shall periodically notify the  
29 person who filed the complaint of the status of the  
30 investigation, indicating whether probable cause has been  
31

1 found and the status of any civil action or administrative  
2 proceeding or appeal.

3 (b) In any disciplinary case for which probable cause  
4 has been found, the department shall provide to the person who  
5 filed the complaint a copy of the administrative complaint  
6 and:

7 1. A written explanation of how an administrative  
8 complaint is resolved by the disciplinary process.

9 2. A written explanation of how and when the person  
10 may participate in the disciplinary process.

11 3. A written notice of any hearing before the Division  
12 of Administrative Hearings or the regulatory board at which  
13 final agency action may be taken.

14 (c) In any disciplinary case for which probable cause  
15 is not found, the department shall so inform the person who  
16 filed the complaint and notify that person that he or she may,  
17 within 60 days, provide any additional information to the  
18 probable cause panel which may be relevant to the decision. In  
19 any administrative proceeding under s. 120.57, the person who  
20 filed the disciplinary complaint shall have the right to  
21 present oral or written communication relating to the alleged  
22 disciplinary violations or to the appropriate penalty.

23 (10) The complaint and all information obtained  
24 pursuant to the investigation by the department are  
25 confidential and exempt from s. 119.07(1) until 10 days after  
26 probable cause has been found to exist by the probable cause  
27 panel or by the department, or until the regulated  
28 professional or subject of the investigation waives his or her  
29 privilege of confidentiality, whichever occurs first. Upon  
30 completion of the investigation and pursuant to a written  
31 request by the subject, the department shall provide the

1 subject an opportunity to inspect the investigative file or,  
2 at the subject's expense, forward to the subject a copy of the  
3 investigative file. Notwithstanding s. 456.057 ~~455.667~~, the  
4 subject may inspect or receive a copy of any expert witness  
5 report or patient record connected with the investigation if  
6 the subject agrees in writing to maintain the confidentiality  
7 of any information received under this subsection until 10  
8 days after probable cause is found and to maintain the  
9 confidentiality of patient records pursuant to s. 456.057  
10 ~~455.667~~. The subject may file a written response to the  
11 information contained in the investigative file. Such response  
12 must be filed within 20 days, unless an extension of time has  
13 been granted by the department. This subsection does not  
14 prohibit the department from providing such information to any  
15 law enforcement agency or to any other regulatory agency.

16 (11) A privilege against civil liability is hereby  
17 granted to any complainant or any witness with regard to  
18 information furnished with respect to any investigation or  
19 proceeding pursuant to this section, unless the complainant or  
20 witness acted in bad faith or with malice in providing such  
21 information.

22 (12)(a) No person who reports in any capacity, whether  
23 or not required by law, information to the department with  
24 regard to the incompetence, impairment, or unprofessional  
25 conduct of any health care provider licensed under chapter  
26 458, chapter 459, chapter 460, chapter 461, chapter 462,  
27 chapter 463, chapter 464, chapter 465, or chapter 466 shall be  
28 held liable in any civil action for reporting against such  
29 health care provider if such person acts without intentional  
30 fraud or malice.

31

1           (b) No facility licensed under chapter 395, health  
2 maintenance organization certificated under part I of chapter  
3 641, physician licensed under chapter 458, or osteopathic  
4 physician licensed under chapter 459 shall discharge, threaten  
5 to discharge, intimidate, or coerce any employee or staff  
6 member by reason of such employee's or staff member's report  
7 to the department about a physician licensed under chapter  
8 458, chapter 459, chapter 460, chapter 461, or chapter 466 who  
9 may be guilty of incompetence, impairment, or unprofessional  
10 conduct so long as such report is given without intentional  
11 fraud or malice.

12           (c) In any civil suit brought outside the protections  
13 of paragraphs (a) and (b) in which intentional fraud or malice  
14 is alleged, the person alleging intentional fraud or malice  
15 shall be liable for all court costs and for the other party's  
16 reasonable attorney's fees if intentional fraud or malice is  
17 not proved.

18           Section 92. Section 455.687, Florida Statutes, is  
19 transferred, renumbered as section 456.074, Florida Statutes,  
20 and amended to read:

21           456.074 ~~455.687~~ Certain health care practitioners;  
22 immediate suspension of license.--

23           (1) The department shall issue an emergency order  
24 suspending the license of any person licensed under chapter  
25 458, chapter 459, chapter 460, chapter 461, chapter 462,  
26 chapter 463, chapter 464, chapter 465, chapter 466, or chapter  
27 484 who pleads guilty to, is convicted or found guilty of, or  
28 who enters a plea of nolo contendere to, regardless of  
29 adjudication, a felony under chapter 409 or chapter 893 or  
30 under 21 U.S.C. ss. 801-970 or under 42 U.S.C. ss. 1395-1396.

31

1           (2) If the board has previously found any physician or  
2 osteopathic physician in violation of the provisions of s.  
3 458.331(1)(t) or s. 459.015(1)(x), in regard to her or his  
4 treatment of three or more patients, and the probable cause  
5 panel of the board finds probable cause of an additional  
6 violation of that section, then the Secretary of Health shall  
7 review the matter to determine if an emergency suspension or  
8 restriction order is warranted. Nothing in this section shall  
9 be construed so as to limit the authority of the secretary of  
10 the department to issue an emergency order.

11           (3) The department may issue an emergency order  
12 suspending or restricting the license of any health care  
13 practitioner as defined in s. 456.001(4)~~455.501(4)~~ who tests  
14 positive for any drug on any government or private-sector  
15 preemployment or employer-ordered confirmed drug test, as  
16 defined in s. 112.0455, when the practitioner does not have a  
17 lawful prescription and legitimate medical reason for using  
18 such drug. The practitioner shall be given 48 hours from the  
19 time of notification to the practitioner of the confirmed test  
20 result to produce a lawful prescription for the drug before an  
21 emergency order is issued.

22           Section 93. Section 455.704, Florida Statutes, is  
23 transferred and renumbered as section 456.075, Florida  
24 Statutes.

25           Section 94. Section 455.707, Florida Statutes, is  
26 transferred, renumbered as section 456.076, Florida Statutes,  
27 and amended to read:

28           456.076 ~~455.707~~ Treatment programs for impaired  
29 practitioners.--

30           (1) For professions that do not have impaired  
31 practitioner programs provided for in their practice acts, the

1 department shall, by rule, designate approved treatment  
2 programs under this section. The department may adopt rules  
3 setting forth appropriate criteria for approval of treatment  
4 providers based on the policies and guidelines established by  
5 the Impaired Practitioners Committee. The rules must specify  
6 the manner in which the consultant works with the department  
7 in intervention, requirements for evaluating and treating a  
8 professional, and requirements for the continued care and  
9 monitoring of a professional by the consultant at a  
10 department-approved treatment provider. The department shall  
11 not compel any impaired practitioner program in existence on  
12 October 1, 1992, to serve additional professions.

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

24 (3)(a) Whenever the department receives a written or  
25 oral legally sufficient complaint alleging that a licensee  
26 under the jurisdiction of the Division of Medical Quality  
27 Assurance within the department is impaired as a result of the  
28 misuse or abuse of alcohol or drugs, or both, or due to a  
29 mental or physical condition which could affect the licensee's  
30 ability to practice with skill and safety, and no complaint  
31 against the licensee other than impairment exists, the



1 reporting of such information shall not constitute a complaint  
2 within the meaning of s. 456.073 ~~455.621~~ if the probable cause  
3 panel of the appropriate board, or the department when there  
4 is no board, finds:

5         1. The licensee has acknowledged the impairment  
6 problem.

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

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

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

23         (b) If, however, the licensee agrees to withdraw from  
24 practice until such time as the consultant determines the  
25 licensee has satisfactorily completed an approved treatment  
26 program or evaluation, the probable cause panel, or the  
27 department when there is no board, shall not become involved  
28 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. 456.073 ~~455.621~~ and shall be exempt from the provisions  
3 of this 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 treatment program.

24 (4) In any disciplinary action for a violation other  
25 than impairment in which a licensee establishes the violation  
26 for which the licensee is being prosecuted was due to or  
27 connected with impairment and further establishes the licensee  
28 is satisfactorily progressing through or has successfully  
29 completed an approved treatment program pursuant to this  
30 section, such information may be considered by the board, or  
31 the department when there is no board, as a mitigating factor

1 in determining the appropriate penalty. This subsection does  
2 not limit mitigating factors the board may consider.

3 (5)(a) An approved treatment provider shall, upon  
4 request, disclose to the consultant all information in its  
5 possession regarding the issue of a licensee's impairment and  
6 participation in the treatment program. All information  
7 obtained by the consultant and department pursuant to this  
8 section is confidential and exempt from the provisions of s.  
9 119.07(1), subject to the provisions of this subsection and  
10 subsection (6). Failure to provide such information to the  
11 consultant is grounds for withdrawal of approval of such  
12 program or provider.

13 (b) If in the opinion of the consultant, after  
14 consultation with the treatment provider, an impaired licensee  
15 has not progressed satisfactorily in a treatment program, all  
16 information regarding the issue of a licensee's impairment and  
17 participation in a treatment program in the consultant's  
18 possession shall be disclosed to the department. Such  
19 disclosure shall constitute a complaint pursuant to the  
20 general provisions of s. 456.073 ~~455.621~~. Whenever the  
21 consultant concludes that impairment affects a licensee's  
22 practice and constitutes an immediate, serious danger to the  
23 public health, safety, or welfare, that conclusion shall be  
24 communicated to the secretary of the department.

25 (6) A consultant, licensee, or approved treatment  
26 provider who makes a disclosure pursuant to this section is  
27 not subject to civil liability for such disclosure or its  
28 consequences. The provisions of s. 766.101 apply to any  
29 officer, employee, or agent of the department or the board and  
30 to any officer, employee, or agent of any entity with which  
31 the department has contracted pursuant to this section.

1           Section 95. Section 455.617, Florida Statutes, is  
2 transferred, renumbered as section 456.077, Florida Statutes,  
3 and amended to read:

4           456.077 ~~455.617~~ Authority to issue citations.--

5           (1) Notwithstanding s. 456.073 ~~455.621~~, the board, or  
6 the department if there is no board, shall adopt rules to  
7 permit the issuance of citations. The citation shall be issued  
8 to the subject and shall contain the subject's name and  
9 address, the subject's license number if applicable, a brief  
10 factual statement, the sections of the law allegedly violated,  
11 and the penalty imposed. The citation must clearly state that  
12 the subject may choose, in lieu of accepting the citation, to  
13 follow the procedure under s. 456.073 ~~455.621~~. If the subject  
14 disputes the matter in the citation, the procedures set forth  
15 in s. 456.073 ~~455.621~~ must be followed. However, if the  
16 subject does not dispute the matter in the citation with the  
17 department within 30 days after the citation is served, the  
18 citation becomes a final order and constitutes discipline. The  
19 penalty shall be a fine or other conditions as established by  
20 rule.

21           (2) The board, or the department if there is no board,  
22 shall adopt rules designating violations for which a citation  
23 may be issued. Such rules shall designate as citation  
24 violations those violations for which there is no substantial  
25 threat to the public health, safety, and welfare.

26           (3) The department shall be entitled to recover the  
27 costs of investigation, in addition to any penalty provided  
28 according to board or department rule, as part of the penalty  
29 levied pursuant to the citation.

30  
31

1           (4) A citation must be issued within 6 months after  
2 the filing of the complaint that is the basis for the  
3 citation.

4           (5) Service of a citation may be made by personal  
5 service or certified mail, restricted delivery, to the subject  
6 at the subject's last known address.

7           (6) A board created on or after January 1, 1992, has 6  
8 months in which to enact rules designating violations and  
9 penalties appropriate for citation offenses. Failure to enact  
10 such rules gives the department exclusive authority to adopt  
11 rules as required for implementing this section. A board has  
12 continuous authority to amend its rules adopted pursuant to  
13 this section.

14           Section 96. Section 455.614, Florida Statutes, is  
15 transferred, renumbered as section 456.078, Florida Statutes,  
16 and amended to read:

17           456.078 ~~455.614~~ Mediation.--

18           (1) Notwithstanding the provisions of s. 456.073  
19 ~~455.621~~, the board, or the department when there is no board,  
20 shall adopt rules to designate which violations of the  
21 applicable professional practice act are appropriate for  
22 mediation. The board, or the department when there is no  
23 board, may designate as mediation offenses those complaints  
24 where harm caused by the licensee is economic in nature or can  
25 be remedied by the licensee.

26           (2) After the department determines a complaint is  
27 legally sufficient and the alleged violations are defined as  
28 mediation offenses, the department or any agent of the  
29 department may conduct informal mediation to resolve the  
30 complaint. If the complainant and the subject of the complaint  
31 agree to a resolution of a complaint within 14 days after

1 contact by the mediator, the mediator shall notify the  
2 department of the terms of the resolution. The department or  
3 board shall take no further action unless the complainant and  
4 the subject each fail to record with the department an  
5 acknowledgment of satisfaction of the terms of mediation  
6 within 60 days of the mediator's notification to the  
7 department. In the event the complainant and subject fail to  
8 reach settlement terms or to record the required  
9 acknowledgment, the department shall process the complaint  
10 according to the provisions of s. 456.073 ~~455.621~~.

11 (3) Conduct or statements made during mediation are  
12 inadmissible in any proceeding pursuant to s. 456.073 ~~455.621~~.  
13 Further, any information relating to the mediation of a case  
14 shall be subject to the confidentiality provisions of s.  
15 456.073 ~~455.621~~.

16 (4) No licensee shall go through the mediation process  
17 more than three times without approval of the department. The  
18 department may consider the subject and dates of the earlier  
19 complaints in rendering its decision. Such decision shall not  
20 be considered a final agency action for purposes of chapter  
21 120.

22 (5) Any board created on or after January 1, 1995,  
23 shall have 6 months to adopt rules designating which  
24 violations are appropriate for mediation, after which time the  
25 department shall have exclusive authority to adopt rules  
26 pursuant to this section. A board shall have continuing  
27 authority to amend its rules adopted pursuant to this section.

28 Section 97. Section 455.627, Florida Statutes, is  
29 transferred, renumbered as section 456.079, Florida Statutes,  
30 and amended to read:

31 456.079 ~~455.627~~ Disciplinary guidelines.--

1           (1) Each board, or the department if there is no  
2 board, shall adopt by rule and periodically review the  
3 disciplinary guidelines applicable to each ground for  
4 disciplinary action which may be imposed by the board, or the  
5 department if there is no board, pursuant to this chapter  
6 ~~part~~, the respective practice acts, and any rule of the board  
7 or department.

8           (2) The disciplinary guidelines shall specify a  
9 meaningful range of designated penalties based upon the  
10 severity and repetition of specific offenses, it being the  
11 legislative intent that minor violations be distinguished from  
12 those which endanger the public health, safety, or welfare;  
13 that such guidelines provide reasonable and meaningful notice  
14 to the public of likely penalties which may be imposed for  
15 proscribed conduct; and that such penalties be consistently  
16 applied by the board.

17           (3) A specific finding of mitigating or aggravating  
18 circumstances shall allow the board to impose a penalty other  
19 than that provided for in such guidelines. If applicable, the  
20 board, or the department if there is no board, shall adopt by  
21 rule disciplinary guidelines to designate possible mitigating  
22 and aggravating circumstances and the variation and range of  
23 penalties permitted for such circumstances.

24           (4) The department must review such disciplinary  
25 guidelines for compliance with the legislative intent as set  
26 forth herein to determine whether the guidelines establish a  
27 meaningful range of penalties and may also challenge such  
28 rules pursuant to s. 120.56.

29           (5) The administrative law judge, in recommending  
30 penalties in any recommended order, must follow the penalty  
31 guidelines established by the board or department and must

1 state in writing the mitigating or aggravating circumstances  
2 upon which the recommended penalty is based.

3 Section 98. Section 455.537, Florida Statutes, is  
4 transferred and renumbered as section 456.081, Florida  
5 Statutes.

6 Section 99. Section 455.651, Florida Statutes, is  
7 transferred, renumbered as section 456.082, Florida Statutes,  
8 and amended to read:

9 456.082 ~~455.651~~ Disclosure of confidential  
10 information.--

11 (1) No officer, employee, or person under contract  
12 with the department, or any board therein, or any subject of  
13 an investigation shall convey knowledge or information to any  
14 person who is not lawfully entitled to such knowledge or  
15 information about any public meeting or public record, which  
16 at the time such knowledge or information is conveyed is  
17 exempt from the provisions of s. 119.01, s. 119.07(1), or s.  
18 286.011.

19 (2) Any person who willfully violates any provision of  
20 this section is guilty of a misdemeanor of the first degree,  
21 punishable as provided in s. 775.082 or s. 775.083, and may be  
22 subject to discipline pursuant to s. 456.072 ~~455.624~~, and, if  
23 applicable, shall be removed from office, employment, or the  
24 contractual relationship.

25 (3) Any person injured as a result of a willful  
26 violation of this section shall have a civil cause of action  
27 for treble damages, reasonable attorney fees, and costs.

28 Section 100. Subsection (2) of section 457.103,  
29 Florida Statutes, is amended to read:

30 457.103 Board of Acupuncture; membership; appointment  
31 and terms.--



1           (2) All provisions of ~~part II of~~ chapter 456 ~~455~~  
2 relating to the board shall apply.

3           Section 101. Subsection (6) of section 458.307,  
4 Florida Statutes, is amended to read:

5           458.307 Board of Medicine.--

6           (6) All provisions of ~~part II of~~ chapter 456 ~~455~~  
7 relating to activities of the board shall apply.

8           Section 102. Paragraph (c) of subsection (1) and  
9 paragraph (a) of subsection (3) of section 458.3115, Florida  
10 Statutes, are amended to read:

11           458.3115 Restricted license; certain foreign-licensed  
12 physicians; examination; restrictions on practice; full  
13 licensure.--

14           (1)

15           (c) A person shall be eligible to take such  
16 examination for restricted licensure if the person:

17           1. Has taken, upon approval by the board, and  
18 completed, in November 1990 or November 1992, one of the  
19 special preparatory medical update courses authorized by the  
20 board and the University of Miami Medical School and  
21 subsequently passed the final course examination; upon  
22 approval by the board to take the course completed in 1990 or  
23 in 1992, has a certificate of successful completion of that  
24 course from the University of Miami or the Stanley H. Kaplan  
25 course; or can document to the department that he or she was  
26 one of the persons who took and successfully completed the  
27 Stanley H. Kaplan course that was approved by the board and  
28 supervised by the University of Miami. At a minimum, the  
29 documentation must include class attendance records and the  
30 test score on the final course examination;

31

1           2. Applies to the department and submits an  
2 application fee that is nonrefundable and equivalent to the  
3 fee required for full licensure;

4           3. Documents no less than 2 years of the active  
5 practice of medicine in any jurisdiction;

6           4. Submits an examination fee that is nonrefundable  
7 and equivalent to the fee required for full licensure plus the  
8 actual per-applicant cost to the department to provide either  
9 examination described in this section;

10          5. Has not committed any act or offense in this or any  
11 other jurisdiction that would constitute a substantial basis  
12 for disciplining a physician under chapter 456 or this chapter  
13 ~~or part II of chapter 455~~; and

14          6. Is not under discipline, investigation, or  
15 prosecution in this or any other jurisdiction for an act that  
16 would constitute a violation of chapter 456 or this chapter ~~or~~  
17 ~~part II of chapter 455~~ and that substantially threatened or  
18 threatens the public health, safety, or welfare.

19          (3)(a) A restricted license issued by the department  
20 under this section is valid for 2 years unless sooner revoked  
21 or suspended, and a restricted licensee is subject to the  
22 requirements of chapter 456, this chapter, ~~part II of chapter~~  
23 ~~455~~, and any other provision of law not in conflict with this  
24 section. Upon expiration of such restricted license, a  
25 restricted licensee shall become a full licensee if the  
26 restricted licensee:

27           1. Is not under discipline, investigation, or  
28 prosecution for a violation which poses a substantial threat  
29 to the public health, safety, or welfare; and

30           2. Pays all renewal fees required of a full licensee.

31

1           Section 103. Paragraph (d) of subsection (1) of  
2 section 458.3124, Florida Statutes, is amended to read:

3           458.3124 Restricted license; certain experienced  
4 foreign-trained physicians.--

5           (1) A person who was trained in a medical school that  
6 is listed in the World Directory of Medical Schools published  
7 by the World Health Organization and is located in a country  
8 other than the United States, Canada, or Puerto Rico may apply  
9 to take Step III of the United States Medical Licensing  
10 Examination, if the person:

11           (d) Is not subject to discipline, investigation, or  
12 prosecution in any jurisdiction for acts that threaten the  
13 public health, safety, or welfare or violate ~~part II of~~  
14 chapter 456 ~~455~~ or this chapter; and

15           Section 104. Subsections (1) and (4) of section  
16 458.319, Florida Statutes, are amended to read:

17           458.319 Renewal of license.--

18           (1) The department shall renew a license upon receipt  
19 of the renewal application, evidence that the applicant has  
20 actively practiced medicine or has been on the active teaching  
21 faculty of an accredited medical school for at least 2 years  
22 of the immediately preceding 4 years, and a fee not to exceed  
23 \$500; provided, however, that if the licensee is either a  
24 resident physician, assistant resident physician, fellow,  
25 house physician, or intern in an approved postgraduate  
26 training program, as defined by the board by rule, the fee  
27 shall not exceed \$100 per annum. If the licensee has not  
28 actively practiced medicine for at least 2 years of the  
29 immediately preceding 4 years, the board shall require that  
30 the licensee successfully complete a board-approved clinical  
31 competency examination prior to renewal of the license.

1 "Actively practiced medicine" means that practice of medicine  
2 by physicians, including those employed by any governmental  
3 entity in community or public health, as defined by this  
4 chapter, including physicians practicing administrative  
5 medicine. An applicant for a renewed license must also submit  
6 the information required under s. 456.039 ~~455.565~~ to the  
7 department on a form and under procedures specified by the  
8 department, along with payment in an amount equal to the costs  
9 incurred by the Department of Health for the statewide  
10 criminal background check of the applicant. The applicant must  
11 submit a set of fingerprints to the Department of Health on a  
12 form and under procedures specified by the department, along  
13 with payment in an amount equal to the costs incurred by the  
14 department for a national criminal background check of the  
15 applicant for the initial renewal of his or her license after  
16 January 1, 2000. If the applicant fails to submit either the  
17 information required under s. 456.039 ~~455.565~~ or a set of  
18 fingerprints to the department as required by this section,  
19 the department shall issue a notice of noncompliance, and the  
20 applicant will be given 30 additional days to comply. If the  
21 applicant fails to comply within 30 days after the notice of  
22 noncompliance is issued, the department or board, as  
23 appropriate, may issue a citation to the applicant and may  
24 fine the applicant up to \$50 for each day that the applicant  
25 is not in compliance with the requirements of s. 456.039  
26 ~~455.565~~. The citation must clearly state that the applicant  
27 may choose, in lieu of accepting the citation, to follow the  
28 procedure under s. 456.073 ~~455.621~~. If the applicant disputes  
29 the matter in the citation, the procedures set forth in s.  
30 456.073 ~~455.621~~ must be followed. However, if the applicant  
31 does not dispute the matter in the citation with the

1 department within 30 days after the citation is served, the  
2 citation becomes a final order and constitutes discipline.  
3 Service of a citation may be made by personal service or  
4 certified mail, restricted delivery, to the subject at the  
5 applicant's last known address. If an applicant has submitted  
6 fingerprints to the department for a national criminal history  
7 check upon initial licensure and is renewing his or her  
8 license for the first time, then the applicant need only  
9 submit the information and fee required for a statewide  
10 criminal history check.

11 (4) Notwithstanding the provisions of s. 456.033  
12 ~~455.604~~, a physician may complete continuing education on  
13 end-of-life care and palliative health care in lieu of  
14 continuing education in AIDS/HIV, if that physician has  
15 completed the AIDS/HIV continuing education in the immediately  
16 preceding biennium.

17 Section 105. Paragraph (e) of subsection (1) and  
18 subsection (6) of section 458.331, Florida Statutes, are  
19 amended to read:

20 458.331 Grounds for disciplinary action; action by the  
21 board and department.--

22 (1) The following acts shall constitute grounds for  
23 which the disciplinary actions specified in subsection (2) may  
24 be taken:

25 (e) Failing to report to the department any person who  
26 the licensee knows is in violation of this chapter or of the  
27 rules of the department or the board. A treatment provider  
28 approved pursuant to s. 456.076 ~~455.707~~ shall provide the  
29 department or consultant with information in accordance with  
30 the requirements of s. 456.076(3), (4), (5), and (6)  
31 ~~455.707(3), (4), (5), and (6)~~.

1           (6) Upon the department's receipt from an insurer or  
2 self-insurer of a report of a closed claim against a physician  
3 pursuant to s. 627.912 or from a health care practitioner of a  
4 report pursuant to s. 456.049 ~~455.697~~, or upon the receipt  
5 from a claimant of a presuit notice against a physician  
6 pursuant to s. 766.106, the department shall review each  
7 report and determine whether it potentially involved conduct  
8 by a licensee that is subject to disciplinary action, in which  
9 case the provisions of s. 456.073 ~~455.621~~ shall apply.  
10 However, if it is reported that a physician has had three or  
11 more claims with indemnities exceeding \$25,000 each within the  
12 previous 5-year period, the department shall investigate the  
13 occurrences upon which the claims were based and determine if  
14 action by the department against the physician is warranted.

15           Section 106. Section 458.343, Florida Statutes, is  
16 amended to read:

17           458.343 Subpoena of certain records.--Notwithstanding  
18 the provisions of s. 456.057 ~~455.667~~, the department may issue  
19 subpoenas duces tecum requiring the names and addresses of  
20 some or all of the patients of a physician against whom a  
21 complaint has been filed pursuant to s. 456.073 ~~455.621~~.

22           Section 107. Paragraph (g) of subsection (7) and  
23 subsections (10) and (16) of section 458.347, Florida  
24 Statutes, are amended to read:

25           458.347 Physician assistants.--

26           (7) PHYSICIAN ASSISTANT LICENSURE.--

27           (g) The Board of Medicine may impose any of the  
28 penalties specified in ss. 456.072 ~~455.624~~ and 458.331(2) upon  
29 a physician assistant if the physician assistant or the  
30 supervising physician has been found guilty of or is being  
31

1 investigated for any act that constitutes a violation of this  
2 chapter or ~~part II~~ of chapter 456 ~~455~~.

3 (10) INACTIVE AND DELINQUENT STATUS.--A license on  
4 inactive or delinquent status may be reactivated only as  
5 provided in s. 456.036 ~~455.711~~.

6 (16) LEGAL SERVICES.--Legal services shall be provided  
7 to the council pursuant to s. 456.009(1)~~455.594(1)~~.

8 Section 108. Subsection (5) of section 458.351,  
9 Florida Statutes, is amended to read:

10 458.351 Reports of adverse incidents in office  
11 practice settings.--

12 (5) The department shall review each incident and  
13 determine whether it potentially involved conduct by a health  
14 care professional who is subject to disciplinary action, in  
15 which case s. 456.073 ~~455.621~~ applies. Disciplinary action, if  
16 any, shall be taken by the board under which the health care  
17 professional is licensed.

18 Section 109. Subsection (4) of section 459.004,  
19 Florida Statutes, is amended to read:

20 459.004 Board of Osteopathic Medicine.--

21 (4) All provisions of ~~part II~~ of chapter 456 ~~455~~  
22 relating to activities of the board shall apply.

23 Section 110. Subsections (1) and (5) of section  
24 459.008, Florida Statutes, are amended to read:

25 459.008 Renewal of licenses and certificates.--

26 (1) The department shall renew a license or  
27 certificate upon receipt of the renewal application and fee.  
28 An applicant for a renewed license must also submit the  
29 information required under s. 456.039 ~~455.565~~ to the  
30 department on a form and under procedures specified by the  
31 department, along with payment in an amount equal to the costs

1 incurred by the Department of Health for the statewide  
2 criminal background check of the applicant. The applicant must  
3 submit a set of fingerprints to the Department of Health on a  
4 form and under procedures specified by the department, along  
5 with payment in an amount equal to the costs incurred by the  
6 department for a national criminal background check of the  
7 applicant for the initial renewal of his or her license after  
8 January 1, 2000. If the applicant fails to submit either the  
9 information required under s. 456.039 ~~455.565~~ or a set of  
10 fingerprints to the department as required by this section,  
11 the department shall issue a notice of noncompliance, and the  
12 applicant will be given 30 additional days to comply. If the  
13 applicant fails to comply within 30 days after the notice of  
14 noncompliance is issued, the department or board, as  
15 appropriate, may issue a citation to the applicant and may  
16 fine the applicant up to \$50 for each day that the applicant  
17 is not in compliance with the requirements of s. 456.039  
18 ~~455.565~~. The citation must clearly state that the applicant  
19 may choose, in lieu of accepting the citation, to follow the  
20 procedure under s. 456.073 ~~455.621~~. If the applicant disputes  
21 the matter in the citation, the procedures set forth in s.  
22 456.073 ~~455.621~~ must be followed. However, if the applicant  
23 does not dispute the matter in the citation with the  
24 department within 30 days after the citation is served, the  
25 citation becomes a final order and constitutes discipline.  
26 Service of a citation may be made by personal service or  
27 certified mail, restricted delivery, to the subject at the  
28 applicant's last known address. If an applicant has submitted  
29 fingerprints to the department for a national criminal history  
30 check upon initial licensure and is renewing his or her  
31 license for the first time, then the applicant need only



1 submit the information and fee required for a statewide  
2 criminal history check.

3 (5) Notwithstanding the provisions of s. 456.033  
4 ~~455.604~~, an osteopathic physician may complete continuing  
5 education on end-of-life and palliative health care in lieu of  
6 continuing education in AIDS/HIV, if that physician has  
7 completed the AIDS/HIV continuing education in the immediately  
8 preceding biennium.

9 Section 111. Paragraph (e) of subsection (1) and  
10 subsection (6) of section 459.015, Florida Statutes, are  
11 amended to read:

12 459.015 Grounds for disciplinary action by the  
13 board.--

14 (1) The following acts shall constitute grounds for  
15 which the disciplinary actions specified in subsection (2) may  
16 be taken:

17 (e) Failing to report to the department or the  
18 department's impaired professional consultant any person who  
19 the licensee or certificateholder knows is in violation of  
20 this chapter or of the rules of the department or the board.  
21 A treatment provider, approved pursuant to s. 456.076 ~~455.707~~,  
22 shall provide the department or consultant with information in  
23 accordance with the requirements of s. 456.076(3), (4), (5),  
24 and (6) ~~455.707(3), (4), (5), and (6)~~.

25 (6) Upon the department's receipt from an insurer or  
26 self-insurer of a report of a closed claim against an  
27 osteopathic physician pursuant to s. 627.912 or from a health  
28 care practitioner of a report pursuant to s. 456.049 ~~455.697~~,  
29 or upon the receipt from a claimant of a presuit notice  
30 against an osteopathic physician pursuant to s. 766.106, the  
31 department shall review each report and determine whether it

1 potentially involved conduct by a licensee that is subject to  
2 disciplinary action, in which case the provisions of s.  
3 456.073 ~~455.621~~ shall apply. However, if it is reported that  
4 an osteopathic physician has had three or more claims with  
5 indemnities exceeding \$25,000 each within the previous 5-year  
6 period, the department shall investigate the occurrences upon  
7 which the claims were based and determine if action by the  
8 department against the osteopathic physician is warranted.

9 Section 112. Section 459.019, Florida Statutes, is  
10 amended to read:

11 459.019 Subpoena of certain records.--Notwithstanding  
12 the provisions of s. 456.057 ~~455.667~~, the department may issue  
13 subpoenas duces tecum requiring the names and addresses of  
14 some or all of the patients of an osteopathic physician  
15 against whom a complaint has been filed pursuant to s. 456.073  
16 ~~455.621~~.

17 Section 113. Paragraph (f) of subsection (7) and  
18 subsections (10) and (16) of section 459.022, Florida  
19 Statutes, are amended to read:

20 459.022 Physician assistants.--

21 (7) PHYSICIAN ASSISTANT LICENSURE.--

22 (f) The Board of Osteopathic Medicine may impose any  
23 of the penalties specified in ss. 456.072 ~~455.624~~ and  
24 459.015(2) upon a physician assistant if the physician  
25 assistant or the supervising physician has been found guilty  
26 of or is being investigated for any act that constitutes a  
27 violation of this chapter or ~~part II~~ of chapter 456 ~~455~~.

28 (10) INACTIVE AND DELINQUENT STATUS.--A license on  
29 inactive or delinquent status may be reactivated only as  
30 provided in s. 456.036 ~~455.711~~.

31

1           (16) LEGAL SERVICES.--Legal services shall be provided  
2 to the council pursuant to s. 456.009(1)~~455.594(1)~~.

3           Section 114. Subsection (5) of section 459.026,  
4 Florida Statutes, is amended to read:

5           459.026 Reports of adverse incidents in office  
6 practice settings.--

7           (5) The department shall review each incident and  
8 determine whether it potentially involved conduct by a health  
9 care professional who is subject to disciplinary action, in  
10 which case s. 456.073 ~~455.621~~ applies. Disciplinary action, if  
11 any, shall be taken by the board under which the health care  
12 professional is licensed.

13           Section 115. Subsection (4) of section 460.404,  
14 Florida Statutes, is amended to read:

15           460.404 Board of Chiropractic Medicine; membership;  
16 appointment; terms.--

17           (4) All provisions of ~~part II of~~ chapter 456 ~~455~~  
18 relating to the board shall apply.

19           Section 116. Paragraph (c) of subsection (1) of  
20 section 460.4061, Florida Statutes, is amended to read:

21           460.4061 Restricted license.--

22           (1) An applicant for licensure as a chiropractic  
23 physician may apply to the department for a restricted license  
24 without undergoing a state or national written or clinical  
25 competency examination for licensure if the applicant  
26 initially applies not later than October 31, 1994, for the  
27 restricted license and:

28           (c) Has never been disciplined for an offense that  
29 would be a violation under this chapter or ~~part II of~~ chapter  
30 456 ~~455~~, imposed by another jurisdiction on the applicant's  
31 license to practice as a chiropractic physician.

1           Section 117. Subsection (1) of section 460.407,  
2 Florida Statutes, is amended to read:  
3           460.407 Renewal of license.--  
4           (1) The department shall renew a license upon receipt  
5 of the renewal application and the fee set by the board not to  
6 exceed \$500. An applicant for a renewed license must also  
7 submit the information required under s. 456.039 ~~455.565~~ to  
8 the department on a form and under procedures specified by the  
9 department, along with payment in an amount equal to the costs  
10 incurred by the Department of Health for the statewide  
11 criminal background check of the applicant. The applicant must  
12 submit a set of fingerprints to the Department of Health on a  
13 form and under procedures specified by the department, along  
14 with payment in an amount equal to the costs incurred by the  
15 department for a national criminal background check of the  
16 applicant for the initial renewal of his or her license after  
17 January 1, 2000. If the applicant fails to submit either the  
18 information required under s. 456.039 ~~455.565~~ or a set of  
19 fingerprints to the department as required by this section,  
20 the department shall issue a notice of noncompliance, and the  
21 applicant will be given 30 additional days to comply. If the  
22 applicant fails to comply within 30 days after the notice of  
23 noncompliance is issued, the department or board, as  
24 appropriate, may issue a citation to the applicant and may  
25 fine the applicant up to \$50 for each day that the applicant  
26 is not in compliance with the requirements of s. 456.039  
27 ~~455.565~~. The citation must clearly state that the applicant  
28 may choose, in lieu of accepting the citation, to follow the  
29 procedure under s. 456.073 ~~455.621~~. If the applicant disputes  
30 the matter in the citation, the procedures set forth in s.  
31 456.073 ~~455.621~~ must be followed. However, if the applicant

1 does not dispute the matter in the citation with the  
2 department within 30 days after the citation is served, the  
3 citation becomes a final order and constitutes discipline.  
4 Service of a citation may be made by personal service or  
5 certified mail, restricted delivery, to the subject at the  
6 applicant's last known address. If an applicant has submitted  
7 fingerprints to the department for a national criminal history  
8 check upon initial licensure and is renewing his or her  
9 license for the first time, then the applicant need only  
10 submit the information and fee required for a statewide  
11 criminal history check.

12 Section 118. Subsection (4) of section 461.004,  
13 Florida Statutes, is amended to read:

14 461.004 Board of Podiatric Medicine; membership;  
15 appointment; terms.--

16 (4) All provisions of ~~part II of~~ chapter 456 ~~455~~  
17 relating to the board shall apply. However, notwithstanding  
18 the requirement of s. 456.073(4) ~~455.621(4)~~ that the board  
19 provide by rule for the determination of probable cause by a  
20 panel composed of its members or by the department, the board  
21 may provide by rule that its probable cause panel may be  
22 composed of one current member of the board and one past  
23 member of the board, as long as the past member is a licensed  
24 podiatric physician in good standing. The past board member  
25 must be appointed to the panel by the chair of the board with  
26 the approval of the secretary for a maximum of 2 years.

27 Section 119. Subsection (1) of section 461.007,  
28 Florida Statutes, is amended to read:

29 461.007 Renewal of license.--

30 (1) The department shall renew a license upon receipt  
31 of the renewal application and a fee not to exceed \$350 set by

1 the board, and evidence that the applicant has actively  
2 practiced podiatric medicine or has been on the active  
3 teaching faculty of an accredited school of podiatric medicine  
4 for at least 2 years of the immediately preceding 4 years. If  
5 the licensee has not actively practiced podiatric medicine for  
6 at least 2 years of the immediately preceding 4 years, the  
7 board shall require that the licensee successfully complete a  
8 board-approved course prior to renewal of the license. For  
9 purposes of this subsection, "actively practiced podiatric  
10 medicine" means the licensed practice of podiatric medicine as  
11 defined in s. 461.003(5) by podiatric physicians, including  
12 podiatric physicians employed by any governmental entity, on  
13 the active teaching faculty of an accredited school of  
14 podiatric medicine, or practicing administrative podiatric  
15 medicine. An applicant for a renewed license must also submit  
16 the information required under s. 456.039 ~~455.565~~ to the  
17 department on a form and under procedures specified by the  
18 department, along with payment in an amount equal to the costs  
19 incurred by the Department of Health for the statewide  
20 criminal background check of the applicant. The applicant must  
21 submit a set of fingerprints to the Department of Health on a  
22 form and under procedures specified by the department, along  
23 with payment in an amount equal to the costs incurred by the  
24 department for a national criminal background check of the  
25 applicant for the initial renewal of his or her license after  
26 January 1, 2000. If the applicant fails to submit either the  
27 information required under s. 456.039 ~~455.565~~ or a set of  
28 fingerprints to the department as required by this section,  
29 the department shall issue a notice of noncompliance, and the  
30 applicant will be given 30 additional days to comply. If the  
31 applicant fails to comply within 30 days after the notice of

1 noncompliance is issued, the department or board, as  
2 appropriate, may issue a citation to the applicant and may  
3 fine the applicant up to \$50 for each day that the applicant  
4 is not in compliance with the requirements of s. 456.039  
5 ~~455.565~~. The citation must clearly state that the applicant  
6 may choose, in lieu of accepting the citation, to follow the  
7 procedure under s. 456.073 ~~455.621~~. If the applicant disputes  
8 the matter in the citation, the procedures set forth in s.  
9 456.073 ~~455.621~~ must be followed. However, if the applicant  
10 does not dispute the matter in the citation with the  
11 department within 30 days after the citation is served, the  
12 citation becomes a final order and constitutes discipline.  
13 Service of a citation may be made by personal service or  
14 certified mail, restricted delivery, to the subject at the  
15 applicant's last known address. If an applicant has submitted  
16 fingerprints to the department for a national criminal history  
17 check upon initial licensure and is renewing his or her  
18 license for the first time, then the applicant need only  
19 submit the information and fee required for a statewide  
20 criminal history check.

21 Section 120. Paragraph (w) of subsection (1) and  
22 paragraph (a) of subsection (5) of section 461.013, Florida  
23 Statutes, are amended to read:

24 461.013 Grounds for disciplinary action; action by the  
25 board; investigations by department.--

26 (1) The following acts shall constitute grounds for  
27 which the disciplinary actions specified in subsection (2) may  
28 be taken:

29 (w) Violating any provision of this chapter or ~~part II~~  
30 ~~of chapter~~ 456 ~~455~~, any rule of the board or department, or a  
31 lawful order of the board or department previously entered in

1 a disciplinary hearing or failing to comply with a lawfully  
2 issued subpoena of the board or department.

3 (5)(a) Upon the department's receipt from an insurer  
4 or self-insurer of a report of a closed claim against a  
5 podiatric physician pursuant to s. 627.912, or upon the  
6 receipt from a claimant of a presuit notice against a  
7 podiatric physician pursuant to s. 766.106, the department  
8 shall review each report and determine whether it potentially  
9 involved conduct by a licensee that is subject to disciplinary  
10 action, in which case the provisions of s. 456.073 ~~455.621~~  
11 shall apply. However, if it is reported that a podiatric  
12 physician has had three or more claims with indemnities  
13 exceeding \$25,000 each within the previous 5-year period, the  
14 department shall investigate the occurrences upon which the  
15 claims were based and determine if action by the department  
16 against the podiatric physician is warranted.

17 Section 121. Subsection (4) of section 463.003,  
18 Florida Statutes, is amended to read:

19 463.003 Board of Optometry.--

20 (4) All applicable provisions of ~~part II~~ of chapter  
21 456 ~~455~~ relating to activities of regulatory boards shall  
22 apply.

23 Section 122. Paragraph (h) of subsection (1) of  
24 section 463.016, Florida Statutes, is amended to read:

25 463.016 Grounds for disciplinary action; action by the  
26 board.--

27 (1) The following acts shall constitute grounds for  
28 which the disciplinary actions specified in subsection (2) may  
29 be taken:

30  
31



1           (h) A violation or repeated violations of provisions  
2 of this chapter, or of ~~part II of~~ chapter 456 ~~455~~, and any  
3 rules promulgated pursuant thereto.

4           Section 123. Subsection (4) of section 464.004,  
5 Florida Statutes, is amended to read:

6           464.004 Board of Nursing; membership; appointment;  
7 terms.--

8           (4) All provisions of ~~part II of~~ chapter 456 ~~455~~  
9 relating to activities of the board shall apply.

10          Section 124. Subsection (4) of section 465.004,  
11 Florida Statutes, is amended to read:

12          465.004 Board of Pharmacy.--

13          (4) All provisions of ~~part II of~~ chapter 456 ~~455~~  
14 relating to activities of the board shall apply.

15          Section 125. Section 465.006, Florida Statutes, is  
16 amended to read:

17          465.006 Disposition of fees; expenditures.--All moneys  
18 received under this chapter shall be deposited and expended  
19 pursuant to the provisions of s. 456.025 ~~455.587~~. All  
20 expenditures for duties of the board authorized by this  
21 chapter shall be paid upon presentation of vouchers approved  
22 by the executive director of the board.

23          Section 126. Paragraph (q) of subsection (1) of  
24 section 465.016, Florida Statutes, is amended to read:

25          465.016 Disciplinary actions.--

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

28          (q) Using or releasing a patient's records except as  
29 authorized by this chapter and chapter 456 ~~455~~.

30          Section 127. Subsection (2) of section 465.017,  
31 Florida Statutes, is amended to read:

1           465.017 Authority to inspect.--

2           (2) Except as permitted by this chapter, and chapters  
3 406, 409, 456 ~~455~~, 499, and 893, records maintained in a  
4 pharmacy relating to the filling of prescriptions and the  
5 dispensing of medicinal drugs shall not be furnished to any  
6 person other than to the patient for whom the drugs were  
7 dispensed, or her or his legal representative, or to the  
8 department pursuant to existing law, or, in the event that the  
9 patient is incapacitated or unable to request said records,  
10 her or his spouse except upon the written authorization of  
11 such patient. Such records may be furnished in any civil or  
12 criminal proceeding, upon the issuance of a subpoena from a  
13 court of competent jurisdiction and proper notice to the  
14 patient or her or his legal representative by the party  
15 seeking such records.

16           Section 128. Subsections (4) and (6) of section  
17 466.004, Florida Statutes, are amended to read:

18           466.004 Board of Dentistry.--

19           (4) The board is authorized to adopt rules pursuant to  
20 ss. 120.536(1) and 120.54 to implement the provisions of this  
21 chapter and ~~part II of~~ chapter 456 ~~455~~, including the  
22 establishment of a fee to defray the cost of duplicating any  
23 license certification or permit, not to exceed \$10 per  
24 duplication.

25           (6) All provisions of ~~part II of~~ chapter 456 ~~455~~  
26 relating to the board shall apply.

27           Section 129. Paragraph (b) of subsection (4) of  
28 section 466.007, Florida Statutes, is amended to read:

29           466.007 Examination of dental hygienists.--

30           (4) To be licensed as a dental hygienist in this  
31 state, an applicant must successfully complete the following:

1 (b) A practical or clinical examination. The  
2 practical or clinical examination shall test competency in  
3 areas to be established by rule of the board which shall  
4 include testing the ability to adequately perform a  
5 prophylaxis. On or after October 1, 1986, every applicant who  
6 is otherwise qualified shall be eligible to take the  
7 examination a total of three times, notwithstanding the number  
8 of times the applicant has previously failed. If an applicant  
9 fails the examination three times, the applicant shall no  
10 longer be eligible to take the examination unless he or she  
11 obtains additional educational requirements established by the  
12 board. The department shall require a mandatory  
13 standardization exercise pursuant to s. 456.017(1)(b)  
14 ~~455.574(1)(b)~~ for all examiners prior to each practical or  
15 clinical examination and shall retain for employment only  
16 those dentists and dental hygienists who have substantially  
17 adhered to the standard of grading established at such  
18 exercise. It is the intent of the Legislature that the  
19 examinations relate to those procedures which are actually  
20 performed by a dental hygienist in general practice.

21 Section 130. Subsection (1) of section 466.018,  
22 Florida Statutes, is amended to read:

23 466.018 Dentist of record; patient records.--

24 (1) Each patient shall have a dentist of record. The  
25 dentist of record shall remain primarily responsible for all  
26 dental treatment on such patient regardless of whether the  
27 treatment is rendered by the dentist or by another dentist,  
28 dental hygienist, or dental assistant rendering such treatment  
29 in conjunction with, at the direction or request of, or under  
30 the supervision of such dentist of record. The dentist of  
31 record shall be identified in the record of the patient. If

1 treatment is rendered by a dentist other than the dentist of  
2 record or by a dental hygienist or assistant, the name or  
3 initials of such person shall be placed in the record of the  
4 patient. In any disciplinary proceeding brought pursuant to  
5 this chapter or ~~part II of chapter 456~~ 455, it shall be  
6 presumed as a matter of law that treatment was rendered by the  
7 dentist of record unless otherwise noted on the patient record  
8 pursuant to this section. The dentist of record and any other  
9 treating dentist are subject to discipline pursuant to this  
10 chapter or ~~part II of chapter 456~~ 455 for treatment rendered  
11 the patient and performed in violation of such chapter. One of  
12 the purposes of this section is to ensure that the  
13 responsibility for each patient is assigned to one dentist in  
14 a multidentist practice of any nature and to assign primary  
15 responsibility to the dentist for treatment rendered by a  
16 dental hygienist or assistant under her or his supervision.  
17 This section shall not be construed to assign any  
18 responsibility to a dentist of record for treatment rendered  
19 pursuant to a proper referral to another dentist not in  
20 practice with the dentist of record or to prohibit a patient  
21 from voluntarily selecting a new dentist without permission of  
22 the dentist of record.

23 Section 131. Subsection (1) of section 466.022,  
24 Florida Statutes, is amended to read:

25 466.022 Peer review; records; immunity.--

26 (1) The Legislature finds that effective peer review  
27 of consumer complaints by professional associations of  
28 dentists is a valuable service to the public. In performing  
29 such service, any member of a peer review organization or  
30 committee shall, pursuant to s. 466.028(1)(f), report to the  
31 department the name of any licensee who he or she believes has

1 violated this chapter. Any such peer review committee member  
2 shall be afforded the privileges and immunities of any other  
3 complainant or witness which are provided by s. 456.073(11)  
4 ~~455.621(11)~~. Furthermore, a professional organization or  
5 association of dentists which sponsors, sanctions, or  
6 otherwise operates or participates in peer review activities  
7 is hereby afforded the same privileges and immunities afforded  
8 to any member of a duly constituted medical review committee  
9 by s. 766.101(3).

10 Section 132. Paragraph (aa) of subsection (1) and  
11 subsections (6) and (7) of section 466.028, Florida Statutes,  
12 are amended to read:

13 466.028 Grounds for disciplinary action; action by the  
14 board.--

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

18 (aa) The violation or the repeated violation of this  
19 chapter, ~~part II of chapter 456~~ 455, or any rule promulgated  
20 pursuant to ~~part II of chapter 456~~ 455 or this chapter; the  
21 violation of a lawful order of the board or department  
22 previously entered in a disciplinary hearing; or failure to  
23 comply with a lawfully issued subpoena of the board or  
24 department.

25 (6) Upon the department's receipt from an insurer or  
26 self-insurer of a report of a closed claim against a dentist  
27 pursuant to s. 627.912 or upon the receipt from a claimant of  
28 a presuit notice against a dentist pursuant to s. 766.106 the  
29 department shall review each report and determine whether it  
30 potentially involved conduct by a licensee that is subject to  
31 disciplinary action, in which case the provisions of s.

1 456.073 ~~455.621~~ shall apply. However, if it is reported that  
2 a dentist has had any indemnity paid in excess of \$25,000 in a  
3 judgment or settlement or has had three or more claims for  
4 dental malpractice within the previous 5-year period which  
5 resulted in indemnity being paid, the department shall  
6 investigate the occurrence upon which the claims were based  
7 and determine if action by the department against the dentist  
8 is warranted.

9 (7) Subject to the authority and conditions  
10 established in s. 456.073 ~~455.621~~, the probable cause panel of  
11 the board may recommend that the department seek a specified  
12 penalty in cases in which probable cause has been found and  
13 the panel has directed that an administrative complaint be  
14 filed. If the department seeks a penalty other than that  
15 recommended by the probable cause panel, the department shall  
16 provide the board with a written statement which sets forth  
17 the reasons therefor. Nothing in this subsection shall  
18 preclude a probable cause panel of any other board under the  
19 jurisdiction of the department from making similar  
20 recommendations as penalties.

21 Section 133. Subsection (5) of section 468.1135,  
22 Florida Statutes, is amended to read:

23 468.1135 Board of Speech-Language Pathology and  
24 Audiology.--

25 (5) All provisions of ~~part II of~~ chapter 456 ~~455~~  
26 relating to activities of regulatory boards shall apply to the  
27 board.

28 Section 134. Subsection (10) of section 468.1145,  
29 Florida Statutes, is amended to read:

30 468.1145 Fees; establishment; disposition.--

31

1           (10) All moneys derived from fees and fines imposed  
2 pursuant to this part shall be deposited as required by s.  
3 456.025 ~~455.587~~.

4           Section 135. Subsection (4) of section 468.1185,  
5 Florida Statutes, is amended to read:

6           468.1185 Licensure.--

7           (4) The board may refuse to certify any applicant who  
8 is under investigation in any jurisdiction for an act which  
9 would constitute a violation of this part or ~~part II~~ of  
10 chapter 456 ~~455~~ until the investigation is complete and  
11 disciplinary proceedings have been terminated.

12           Section 136. Subsection (1) of section 468.1295,  
13 Florida Statutes, is amended to read:

14           468.1295 Disciplinary proceedings.--

15           (1) The following acts constitute grounds for both  
16 disciplinary actions as set forth in subsection (2) and cease  
17 and desist or other related actions by the department as set  
18 forth in s. 456.065 ~~455.637~~:

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

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

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

29           (d) Making or filing a report or record which the  
30 licensee knows to be false, intentionally or negligently  
31 failing to file a report or records required by state or

1 federal law, willfully impeding or obstructing such filing, or  
2 inducing another person to impede or obstruct such filing.  
3 Such report or record shall include only those reports or  
4 records which are signed in one's capacity as a licensed  
5 speech-language pathologist or audiologist.

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

9 (f) Being proven guilty of fraud or deceit or of  
10 negligence, incompetency, or misconduct in the practice of  
11 speech-language pathology or audiology.

12 (g) Violating a lawful order of the board or  
13 department previously entered in a disciplinary hearing, or  
14 failing to comply with a lawfully issued subpoena of the board  
15 or department.

16 (h) Practicing with a revoked, suspended, inactive, or  
17 delinquent license.

18 (i) Using, or causing or promoting the use of, any  
19 advertising matter, promotional literature, testimonial,  
20 guarantee, warranty, label, brand, insignia, or other  
21 representation, however disseminated or published, which is  
22 misleading, deceiving, or untruthful.

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

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

30 (l) Aiding, assisting, procuring, employing, or  
31 advising any licensee or business entity to practice



1 speech-language pathology or audiology contrary to this part,  
2 ~~part II~~ of chapter 456 ~~455~~, or any rule adopted pursuant  
3 thereto.

4 (m) Violating any provision of this part or ~~part II~~ of  
5 chapter 456 ~~455~~ or any rule adopted pursuant thereto.

6 (n) Misrepresenting the professional services  
7 available in the fitting, sale, adjustment, service, or repair  
8 of a hearing aid, or using any other term or title which might  
9 connote the availability of professional services when such  
10 use is not accurate.

11 (o) Representing, advertising, or implying that a  
12 hearing aid or its repair is guaranteed without providing full  
13 disclosure of the identity of the guarantor; the nature,  
14 extent, and duration of the guarantee; and the existence of  
15 conditions or limitations imposed upon the guarantee.

16 (p) Representing, directly or by implication, that a  
17 hearing aid utilizing bone conduction has certain specified  
18 features, such as the absence of anything in the ear or  
19 leading to the ear, or the like, without disclosing clearly  
20 and conspicuously that the instrument operates on the bone  
21 conduction principle and that in many cases of hearing loss  
22 this type of instrument may not be suitable.

23 (q) Stating or implying that the use of any hearing  
24 aid will improve or preserve hearing or prevent or retard the  
25 progression of a hearing impairment or that it will have any  
26 similar or opposite effect.

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

29 (s) Representing or implying that a hearing aid is or  
30 will be "custom-made," "made to order," or

31

1 "prescription-made," or in any other sense specially  
2 fabricated for an individual, when such is not the case.

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

8 (u) Failing to notify the department in writing of a  
9 change in current mailing and place-of-practice address within  
10 30 days after such change.

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

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

16 (x) Practicing or offering to practice beyond the  
17 scope permitted by law or accepting and performing  
18 professional responsibilities the licensee or  
19 certificateholder knows, or has reason to know, the licensee  
20 or certificateholder is not competent to perform.

21 (y) Aiding, assisting, procuring, or employing any  
22 unlicensed person to practice speech-language pathology or  
23 audiology.

24 (z) Delegating or contracting for the performance of  
25 professional responsibilities by a person when the licensee  
26 delegating or contracting for performance of such  
27 responsibilities knows, or has reason to know, such person is  
28 not qualified by training, experience, and authorization to  
29 perform them.

30  
31

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

4           (bb) Being unable to practice the profession for which  
5 he or she is licensed or certified under this chapter with  
6 reasonable skill or competence as a result of any mental or  
7 physical condition or by reason of illness, drunkenness, or  
8 use of drugs, narcotics, chemicals, or any other substance. In  
9 enforcing this paragraph, upon a finding by the secretary, his  
10 or her designee, or the board that probable cause exists to  
11 believe that the licensee or certificateholder is unable to  
12 practice the profession because of the reasons stated in this  
13 paragraph, the department shall have the authority to compel a  
14 licensee or certificateholder to submit to a mental or  
15 physical examination by a physician, psychologist, clinical  
16 social worker, marriage and family therapist, or mental health  
17 counselor designated by the department or board. If the  
18 licensee or certificateholder refuses to comply with the  
19 department's order directing the examination, such order may  
20 be enforced by filing a petition for enforcement in the  
21 circuit court in the circuit in which the licensee or  
22 certificateholder resides or does business. The department  
23 shall be entitled to the summary procedure provided in s.  
24 51.011. A licensee or certificateholder affected under this  
25 paragraph shall at reasonable intervals be afforded an  
26 opportunity to demonstrate that he or she can resume the  
27 competent practice for which he or she is licensed or  
28 certified with reasonable skill and safety to patients.

29           Section 137. Subsection (4) of section 468.1665,  
30 Florida Statutes, is amended to read:

31

1           468.1665 Board of Nursing Home Administrators;  
2 membership; appointment; terms.--

3           (4) All provisions of ~~part II of~~ chapter 456 ~~455~~  
4 relating to activities of regulatory boards shall apply.

5           Section 138. Paragraphs (a) and (i) of subsection (1)  
6 of section 468.1755, Florida Statutes, are amended to read:

7           468.1755 Disciplinary proceedings.--

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

10           (a) Violation of any provision of s. 456.072(1)  
11 ~~455.624(1)~~ or s. 468.1745(1).

12           (i) A violation or repeated violations of this part,  
13 ~~part II of~~ chapter 456 ~~455~~, or any rules promulgated pursuant  
14 thereto.

15           Section 139. Section 468.1756, Florida Statutes, is  
16 amended to read:

17           468.1756 Statute of limitations.--An administrative  
18 complaint may only be filed pursuant to s. 456.073 ~~455.621~~ for  
19 an act listed in s. 468.1755(1)(c)-(q) within 4 years from the  
20 time of the incident giving rise to the complaint, or within 4  
21 years from the time the incident is discovered or should have  
22 been discovered.

23           Section 140. Subsection (5) of section 468.205,  
24 Florida Statutes, is amended to read:

25           468.205 Board of Occupational Therapy Practice.--

26           (5) All provisions of ~~part II of~~ chapter 456 ~~455~~  
27 relating to activities of the board shall apply.

28           Section 141. Subsection (1) of section 468.219,  
29 Florida Statutes, is amended to read:

30           468.219 Renewal of license; continuing education.--

31

1           (1) Licenses issued under this part are subject to  
2 biennial renewal as provided in s. 456.004 ~~455.521~~.

3           Section 142. Paragraph (c) of subsection (3) of  
4 section 468.354, Florida Statutes, is amended to read:

5           468.354 Board of Respiratory Care; organization;  
6 function.--

7           (3)

8           (c) All provisions of ~~part II of~~ chapter 456 ~~455~~,  
9 relating to boards apply to this part.

10          Section 143. Subsection (3) of section 468.364,  
11 Florida Statutes, is amended to read:

12          468.364 Fees; establishment; disposition.--

13          (3) All moneys collected by the department under this  
14 part shall be deposited as required by s. 456.025 ~~455.587~~.

15          Section 144. Paragraph (j) of subsection (1) of  
16 section 468.365, Florida Statutes, is amended to read:

17          468.365 Disciplinary grounds and actions.--

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

20          (j) Violation of any rule adopted pursuant to this  
21 part or ~~part II of~~ chapter 456 ~~455~~.

22          Section 145. Paragraph (b) of subsection (1) of  
23 section 468.402, Florida Statutes, is amended to read:

24          468.402 Duties of the department; authority to issue  
25 and revoke license; adoption of rules.--

26          (1) The department may take any one or more of the  
27 actions specified in subsection (5) against any person who  
28 has:

29          (b) Violated any provision of this part, ~~part I of~~  
30 chapter 455, any lawful disciplinary order of the department,  
31 or any rule of the department.

1           Section 146. Subsection (3) of section 468.4315,  
2 Florida Statutes, is amended to read:

3           468.4315 Regulatory Council of Community Association  
4 Managers.--

5           (3) To the extent the council is authorized to  
6 exercise functions otherwise exercised by a board pursuant to  
7 ~~part I~~ of chapter 455, the provisions of ~~part I~~ of chapter 455  
8 and s. 20.165 relating to regulatory boards shall apply,  
9 including, but not limited to, provisions relating to board  
10 rules and the accountability and liability of board members.  
11 All proceedings and actions of the council are subject to the  
12 provisions of chapter 120. In addition, the provisions of  
13 ~~part I~~ of chapter 455 and s. 20.165 shall apply to the  
14 department in carrying out the duties and authorities  
15 conferred upon the department by this part.

16           Section 147. Paragraphs (c) and (d) of subsection (2)  
17 of section 468.453, Florida Statutes, are amended to read:

18           468.453 Licensure required; qualifications;  
19 examination; bond.--

20           (2) A person shall be licensed as an athlete agent if  
21 the applicant:

22           (c) Passes an examination provided by the department  
23 which tests the applicant's proficiency to practice as an  
24 athlete agent, including, but not limited to, knowledge of the  
25 laws and rules of this state relating to athlete agents, this  
26 part, and ~~part I~~ of chapter 455.

27           (d) Has completed the application form and remitted an  
28 application fee not to exceed \$500, an examination fee not to  
29 exceed the actual cost for the examination plus \$500, an  
30 active licensure fee not to exceed \$2,000, and all other

31

1 applicable fees provided for in this part or in ~~part I of~~  
2 chapter 455.

3 Section 148. Paragraph (a) of subsection (1) of  
4 section 468.456, Florida Statutes, is amended to read:

5 468.456 Prohibited acts.--

6 (1) The following acts shall be grounds for the  
7 disciplinary actions provided for in subsection (3):

8 (a) A violation of any law relating to the practice as  
9 an athlete agent including, but not limited to, violations of  
10 this part and ~~part I of~~ chapter 455 and any rules promulgated  
11 thereunder.

12 Section 149. Subsection (1) of section 468.4571,  
13 Florida Statutes, is amended to read:

14 468.4571 Saving clauses.--

15 (1) An athlete agent registration valid on October 1,  
16 1995, shall remain in full force and effect until the  
17 expiration of the registration. Upon expiration of such valid  
18 registration, the registrant shall be entitled to licensure  
19 pursuant to this part, provided that any discipline in effect  
20 pursuant to that registration shall be continued as discipline  
21 under the new license. All regulation of athlete agents and  
22 all licenses or permits for athlete agents shall be applied  
23 for and renewed in accordance with this part and ~~part I of~~  
24 chapter 455.

25 Section 150. Section 468.506, Florida Statutes, is  
26 amended to read:

27 468.506 Dietetics and Nutrition Practice  
28 Council.--There is created the Dietetics and Nutrition  
29 Practice Council under the supervision of the board. The  
30 council shall consist of four persons licensed under this part  
31 and one consumer who is 60 years of age or older. Council

1 members shall be appointed by the board. Licensed members  
2 shall be appointed based on the proportion of licensees within  
3 each of the respective disciplines. Members shall be  
4 appointed for 4-year staggered terms. In order to be eligible  
5 for appointment, each licensed member must have been a  
6 licensee under this part for at least 3 years prior to his or  
7 her appointment. No council member shall serve more than two  
8 successive terms. The board may delegate such powers and  
9 duties to the council as it may deem proper to carry out the  
10 operations and procedures necessary to effectuate the  
11 provisions of this part. However, the powers and duties  
12 delegated to the council by the board must encompass both  
13 dietetics and nutrition practice and nutrition counseling. Any  
14 time there is a vacancy on the council, any professional  
15 association composed of persons licensed under this part may  
16 recommend licensees to fill the vacancy to the board in a  
17 number at least twice the number of vacancies to be filled,  
18 and the board may appoint from the submitted list, in its  
19 discretion, any of those persons so recommended. Any  
20 professional association composed of persons licensed under  
21 this part may file an appeal regarding a council appointment  
22 with the secretary of the department, whose decision shall be  
23 final. The board shall fix council members' compensation and  
24 pay their expenses in the same manner as provided in s.  
25 456.011 ~~455.534~~.

26 Section 151. Section 468.507, Florida Statutes, is  
27 amended to read:

28 468.507 Authority to adopt rules.--The board has  
29 authority to adopt rules pursuant to ss. 120.536(1) and 120.54  
30 to implement the provisions of this part and ~~part II of~~  
31 chapter 456 ~~455~~ conferring duties upon it. The powers and



1 duties of the board as set forth in this part shall in no way  
2 limit or interfere with the powers and duties of the board as  
3 set forth in chapter 458. All powers and duties of the board  
4 set forth in this part shall be supplemental and additional  
5 powers and duties to those conferred upon the board by chapter  
6 458.

7 Section 152. Subsection (3) of section 468.513,  
8 Florida Statutes, is amended to read:

9 468.513 Dietitian/nutritionist; licensure by  
10 endorsement.--

11 (3) The agency shall not issue a license by  
12 endorsement under this section to any applicant who is under  
13 investigation in any jurisdiction for any act which would  
14 constitute a violation of this part or ~~part II~~ of chapter 456  
15 ~~455~~ until such time as the investigation is complete and  
16 disciplinary proceedings have been terminated.

17 Section 153. Section 468.523, Florida Statutes, is  
18 amended to read:

19 468.523 Applicability of s. 20.165 and ~~pt. I~~ of ch.  
20 455.--All provisions of s. 20.165 and ~~part I~~ of chapter 455  
21 relating to activities of regulatory boards shall apply.

22 Section 154. Subsection (3) of section 468.526,  
23 Florida Statutes, is amended to read:

24 468.526 License required; fees.--

25 (3) Each employee leasing company and employee leasing  
26 company group licensee shall pay to the department upon the  
27 initial issuance of a license and upon each renewal thereafter  
28 a license fee not to exceed \$2,500 to be established by the  
29 board. In addition to the license fee, the board shall  
30 establish an annual assessment for each employee leasing  
31 company and each employee leasing company group sufficient to

1 cover all costs for regulation of the profession pursuant to  
2 this chapter, ~~part I~~ of chapter 455, and any other applicable  
3 provisions of law. The annual assessment shall:

4 (a) Be due and payable upon initial licensure and  
5 subsequent renewals thereof and 1 year before the expiration  
6 of any licensure period; and

7 (b) Be based on a fixed percentage, variable classes,  
8 or a combination of both, as determined by the board, of gross  
9 Florida payroll for employees leased to clients by the  
10 applicant or licensee during the period beginning five  
11 quarters before and ending one quarter before each assessment.  
12 It is the intent of the Legislature that the greater weight of  
13 total fees for licensure and assessments should be on larger  
14 companies and groups.

15 Section 155. Paragraph (i) of subsection (1) of  
16 section 468.532, Florida Statutes, is amended to read:

17 468.532 Discipline.--

18 (1) The following constitute grounds for which  
19 disciplinary action against a licensee may be taken by the  
20 board:

21 (i) Violating any provision of this part or any lawful  
22 order or rule issued under the provisions of this part or ~~part~~  
23 ~~I~~ of chapter 455.

24 Section 156. Subsection (1) of section 468.535,  
25 Florida Statutes, is amended to read:

26 468.535 Investigations; audits; review.--

27 (1) The department may make investigations, audits, or  
28 reviews within or outside this state as it deems necessary:

29 (a) To determine whether a person or company has  
30 violated or is in danger of violating any provision of this  
31

1 part, ~~part I~~ of chapter 455, or any rule or order thereunder;  
2 or

3 (b) To aid in the enforcement of this part or ~~part I~~  
4 of chapter 455.

5 Section 157. Subsections (2) and (5) of section  
6 468.703, Florida Statutes, are amended to read:

7 468.703 Board of Athletic Training.--

8 (2) Five members of the board must be licensed  
9 athletic trainers. One member of the board must be a physician  
10 licensed under chapter 458 or chapter 459. One member of the  
11 board must be a physician licensed under chapter 460. Two  
12 members of the board shall be consumer members, each of whom  
13 must be a resident of this state who has never worked as an  
14 athletic trainer, who has no financial interest in the  
15 practice of athletic training, and who has never been a  
16 licensed health care practitioner as defined in s. 456.001(4)  
17 ~~455.501(4)~~.

18 (5) All provisions of ~~part II~~ of chapter 456 ~~455~~  
19 relating to activities of the board shall apply.

20 Section 158. Section 468.705, Florida Statutes, is  
21 amended to read:

22 468.705 Rulemaking authority.--The board is authorized  
23 to adopt rules pursuant to ss. 120.536(1) and 120.54 to  
24 implement provisions of this part conferring duties upon it.  
25 The provisions of s. 456.011(5) ~~455.534(5)~~ shall apply to the  
26 board's activity. Such rules shall include, but not be limited  
27 to, the allowable scope of practice regarding the use of  
28 equipment, procedures, and medication, requirements for a  
29 written protocol between the athletic trainer and a  
30 supervising physician, licensure requirements, licensure  
31 examination, continuing education requirements, fees, records,

1 and reports to be filed by licensees, protocols, and any other  
2 requirements necessary to regulate the practice of athletic  
3 training.

4 Section 159. Subsection (2) of section 468.707,  
5 Florida Statutes, is amended to read:

6 468.707 Licensure by examination; requirements.--

7 (2) Pursuant to the requirements of s. 456.034  
8 ~~455.607~~, each applicant shall complete a continuing education  
9 course on human immunodeficiency virus and acquired immune  
10 deficiency syndrome as part of initial licensure.

11 Section 160. Subsections (1) and (3) of section  
12 468.711, Florida Statutes, are amended to read:

13 468.711 Renewal of license; continuing education.--

14 (1) The department shall renew a license upon receipt  
15 of the renewal application and fee, provided the applicant is  
16 in compliance with the provisions of this part, ~~part II of~~  
17 chapter 456 ~~455~~, and rules promulgated pursuant thereto.

18 (3) Pursuant to the requirements of s. 456.034  
19 ~~455.607~~, each licensee shall complete a continuing education  
20 course on human immunodeficiency virus and acquired immune  
21 deficiency syndrome as part of biennial relicensure.

22 Section 161. Paragraph (a) of subsection (1) and  
23 subsection (2) of section 468.719, Florida Statutes, are  
24 amended to read:

25 468.719 Disciplinary actions.--

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

28 (a) A violation of any law relating to the practice of  
29 athletic training, including, but not limited to, any  
30 violation of this part, s. 456.072 ~~455.624~~, or any rule  
31 adopted pursuant thereto.

1           (2) When the board finds any person guilty of any of  
2 the acts set forth in subsection (1), the board may enter an  
3 order imposing one or more of the penalties provided in s.  
4 456.072 ~~455.624~~.

5           Section 162. Subsection (4) of section 468.801,  
6 Florida Statutes, is amended to read:

7           468.801 Board of Orthotists and Prosthetists;  
8 appointment; membership; terms; headquarters.--

9           (4) The provisions of ~~part II of~~ chapter 456 ~~455~~  
10 relating to activities of regulatory boards apply to the  
11 board.

12           Section 163. Section 468.811, Florida Statutes, is  
13 amended to read:

14           468.811 Disciplinary proceedings.--

15           (1) The following acts are grounds for disciplinary  
16 action against a licensee and the issuance of cease and desist  
17 orders or other related action by the department, pursuant to  
18 s. 456.072 ~~455.624~~, against any person who engages in or aids  
19 in a violation.

20           (a) Attempting to procure a license by fraudulent  
21 misrepresentation.

22           (b) Having a license to practice orthotics,  
23 prosthetics, or pedorthics revoked, suspended, or otherwise  
24 acted against, including the denial of licensure in another  
25 jurisdiction.

26           (c) Being convicted or found guilty of or pleading  
27 nolo contendere to, regardless of adjudication, in any  
28 jurisdiction, a crime that directly relates to the practice of  
29 orthotics, prosthetics, or pedorthics, including violations of  
30 federal laws or regulations regarding orthotics, prosthetics,  
31 or pedorthics.

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

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

10 (f) Violation of this act or ~~part II of~~ chapter 456  
11 ~~455~~, or any rules adopted thereunder.

12 (g) Violation of an order of the board, agency, or  
13 department previously entered in a disciplinary hearing or  
14 failure to comply with a subpoena issued by the board, agency,  
15 or department.

16 (h) Practicing with a revoked, suspended, or inactive  
17 license.

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

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

27 (2) The board may enter an order imposing one or more  
28 of the penalties in s. 456.072(2)~~455.624(2)~~ against any  
29 person who violates any provision of subsection (1).

30 Section 164. Subsection (5) of section 468.823,  
31 Florida Statutes, is amended to read:

1           468.823 Certified nursing assistants; certification  
2 requirement.--

3           (5) A certified nursing assistant shall maintain a  
4 current address with the department in accordance with s.  
5 456.035 ~~455.717~~.

6           Section 165. Paragraph (b) of subsection (1) of  
7 section 468.824, Florida Statutes, is amended to read:

8           468.824 Denial, suspension, or revocation of  
9 certification; disciplinary actions.--

10           (1) The following acts constitute grounds for which  
11 the department may impose disciplinary sanctions as specified  
12 in subsection (2):

13           (b) Intentionally violating any provision of this  
14 chapter, chapter 456 ~~455~~, or the rules adopted by the  
15 department.

16  
17 After January 1, 2000, the department must notify an applicant  
18 seeking an exemption from disqualification from certification  
19 or employment of its decision to approve or deny the request  
20 within 30 days after the date the department receives all  
21 required documentation.

22           Section 166. Section 468.825, Florida Statutes, is  
23 amended to read:

24           468.825 Availability of disciplinary records and  
25 proceedings.--Pursuant to s. 456.073 ~~455.621~~, any complaint or  
26 record maintained by the Department of Health pursuant to the  
27 discipline of a certified nursing assistant and any proceeding  
28 held by the department to discipline a certified nursing  
29 assistant shall remain open and available to the public.

30           Section 167. Paragraph (b) of subsection (1) of  
31 section 469.009, Florida Statutes, is amended to read:

1           469.009 License revocation, suspension, and denial of  
2 issuance or renewal.--

3           (1) The department may revoke, suspend, or deny the  
4 issuance or renewal of a license; reprimand, censure, or place  
5 on probation any contractor, consultant, financially  
6 responsible officer, or business organization; require  
7 financial restitution to a consumer; impose an administrative  
8 fine not to exceed \$5,000 per violation; require continuing  
9 education; or assess costs associated with any investigation  
10 and prosecution if the contractor or consultant, or business  
11 organization or officer or agent thereof, is found guilty of  
12 any of the following acts:

13           (b) Violating any provision of ~~part I~~ of chapter 455.

14  
15 For the purposes of this subsection, construction is  
16 considered to be commenced when the contract is executed and  
17 the contractor has accepted funds from the customer or lender.

18           Section 168. Subsection (4) of section 470.003,  
19 Florida Statutes, is amended to read:

20           470.003 Board of Funeral Directors and Embalmers;  
21 membership; appointment; terms.--

22           (4) All provisions of ~~part I~~ of chapter 455 and s.  
23 20.165 relating to activities of regulatory boards shall  
24 apply.

25           Section 169. Paragraph (h) of subsection (1) of  
26 section 470.036, Florida Statutes, is amended to read:

27           470.036 Disciplinary proceedings.--

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

30  
31



1           (h) A violation or repeated violation of this chapter  
2 or of ~~part I~~ of chapter 455 and any rules promulgated pursuant  
3 thereto.

4           Section 170. Section 471.008, Florida Statutes, is  
5 amended to read:

6           471.008 Rules of the board.--The board has authority  
7 to adopt rules pursuant to ss. 120.536(1) and 120.54 to  
8 implement provisions of this chapter or ~~part I~~ of chapter 455  
9 conferring duties upon it.

10          Section 171. Subsection (4) of section 471.015,  
11 Florida Statutes, is amended to read:

12          471.015 Licensure.--

13          (4) The department shall not issue a license by  
14 endorsement to any applicant who is under investigation in  
15 another state for any act that would constitute a violation of  
16 ss. 471.001-471.037 or of ~~part I~~ of chapter 455 until such  
17 time as the investigation is complete and disciplinary  
18 proceedings have been terminated.

19          Section 172. Paragraphs (c) and (h) of subsection (1)  
20 of section 471.033, Florida Statutes, are amended to read:

21          471.033 Disciplinary proceedings.--

22          (1) The following acts constitute grounds for which  
23 the disciplinary actions in subsection (3) may be taken:

24          (c) Having a license to practice engineering revoked,  
25 suspended, or otherwise acted against, including the denial of  
26 licensure, by the licensing authority of another state,  
27 territory, or country, for any act that would constitute a  
28 violation of this chapter or ~~part I~~ of chapter 455.

29          (h) Violating ~~part I~~ of chapter 455.

30          Section 173. Subsections (4) and (5) of section  
31 471.038, Florida Statutes, are amended to read:

1           471.038 Florida Engineers Management Corporation.--  
2           (4) The Florida Engineers Management Corporation is  
3 created to provide administrative, investigative, and  
4 prosecutorial services to the board in accordance with the  
5 provisions of ~~part I~~ of chapter 455 and this chapter. The  
6 corporation may hire staff as necessary to carry out its  
7 functions. Such staff are not public employees for the  
8 purposes of chapter 110 or chapter 112. The provisions of s.  
9 768.28 apply to the corporation, which is deemed to be a  
10 corporation primarily acting as an instrumentality of the  
11 state, but which is not an agency within the meaning of s.  
12 20.03(11). The corporation shall:  
13           (a) Be a Florida corporation not for profit,  
14 incorporated under the provisions of chapter 617.  
15           (b) Provide administrative, investigative, and  
16 prosecutorial services to the board in accordance with the  
17 provisions of ~~part I~~ of chapter 455 and this chapter.  
18           (c) Receive, hold, and administer property and make  
19 expenditures for the benefit of the board.  
20           (d) Be approved by the board and the department to  
21 operate for the benefit of the board and in the best interest  
22 of the state.  
23           (e) Operate under a fiscal year that begins on July 1  
24 of each year and ends on June 30 of the following year.  
25           (f) Have a seven-member board of directors, five of  
26 whom are to be appointed by the board and must be registrants  
27 regulated by the board and two of whom are to be appointed by  
28 the secretary and must be laypersons not regulated by the  
29 board. The corporation shall select its officers in accordance  
30 with its bylaws. The members of the board of directors may be  
31

1 removed by the board, with the concurrence of the department,  
2 for the same reasons that a board member may be removed.

3 (g) Operate under a written contract with the  
4 department which is approved by the board and renewed  
5 annually. The initial contract must be entered into no later  
6 than March 1, 1998. The contract must provide for:

7 1. Approval of the articles of incorporation and  
8 bylaws of the corporation by the department and the board.

9 2. Submission by the corporation of an annual budget  
10 that complies with board rules for approval by the board and  
11 the department.

12 3. Annual certification by the board and the  
13 department that the corporation is complying with the terms of  
14 the contract in a manner consistent with the goals and  
15 purposes of the board and in the best interest of the state.  
16 This certification must be reported in the board's minutes.

17 4. Employment by the department of a contract  
18 administrator to actively supervise the administrative,  
19 investigative, and prosecutorial activities of the corporation  
20 to ensure compliance with the contract and the provisions of  
21 ~~part I~~ of chapter 455 and this chapter and to act as a liaison  
22 for the department, the board, and the corporation to ensure  
23 the effective operation of the corporation.

24 5. Funding of the corporation through appropriations  
25 allocated to the regulation of professional engineers from the  
26 Professional Regulation Trust Fund.

27 6. The reversion to the board, or the state if the  
28 board ceases to exist, of moneys and property held in trust by  
29 the corporation for the benefit of the board, if the  
30 corporation is no longer approved to operate for the board or  
31 the board ceases to exist.

1           7. The securing and maintaining by the corporation,  
2 during the term of the contract and for all acts performed  
3 during the term of the contract, of all liability insurance  
4 coverages in an amount to be approved by the department to  
5 defend, indemnify, and hold harmless the corporation and its  
6 officers and employees, the department and its employees, and  
7 the state against all claims arising from state and federal  
8 laws. Such insurance coverage must be with insurers qualified  
9 and doing business in the state. The corporation must provide  
10 proof of insurance to the department. The department and its  
11 employees and the state are exempt from and are not liable for  
12 any sum of money which represents a deductible, which sums  
13 shall be the sole responsibility of the corporation. Violation  
14 of this subparagraph shall be grounds for terminating the  
15 contract.

16           (h) Provide for an annual financial and compliance  
17 audit of its financial accounts and records by an independent  
18 certified public accountant in conjunction with the Auditor  
19 General. The annual audit report must be submitted to the  
20 board and the department for review and approval. Copies of  
21 the audit must be submitted to the secretary and the  
22 Legislature together with any other information requested by  
23 the secretary, the board, or the Legislature.

24           (i) Submit to the secretary, the board, and the  
25 Legislature, on or before January 1 of each year, a report on  
26 the status of the corporation which includes, but is not  
27 limited to, information concerning the programs and funds that  
28 have been transferred to the corporation. The report must  
29 include: the number of license applications received; the  
30 number approved and denied and the number of licenses issued;  
31 the number of examinations administered and the number of

1 applicants who passed or failed the examination; the number of  
2 complaints received; the number determined to be legally  
3 sufficient; the number dismissed; the number determined to  
4 have probable cause; the number of administrative complaints  
5 issued and the status of the complaints; and the number and  
6 nature of disciplinary actions taken by the board.

7 (5) The corporation may not exercise any authority  
8 specifically assigned to the board under ~~part I of~~ chapter 455  
9 or this chapter, including determining probable cause to  
10 pursue disciplinary action against a licensee, taking final  
11 action on license applications or in disciplinary cases, or  
12 adopting administrative rules under chapter 120.

13 Section 174. Subsection (4) of section 472.015,  
14 Florida Statutes, is amended to read:

15 472.015 Licensure.--

16 (4) The department shall not issue a license by  
17 endorsement to any applicant who is under investigation in  
18 another state for any act that would constitute a violation of  
19 ss. 472.001-472.041 or ~~part I of~~ chapter 455 until such time  
20 as the investigation is complete and disciplinary proceedings  
21 have been terminated.

22 Section 175. Subsection (1) of section 473.3035,  
23 Florida Statutes, is amended to read:

24 473.3035 Division of Certified Public Accounting.--

25 (1) All services concerning this chapter, including,  
26 but not limited to, recordkeeping services, examination  
27 services, legal services, and investigative services, and  
28 those services in ~~part I of~~ chapter 455 necessary to perform  
29 the duties of this chapter shall be provided by the Division  
30 of Certified Public Accounting. The board may, by majority  
31 vote, delegate a duty or duties to the appropriate division

1 within the department. The board may, by majority vote,  
2 rescind any such delegation of duties at any time.

3 Section 176. Subsection (5) of section 473.308,  
4 Florida Statutes, is amended to read:

5 473.308 Licensure.--

6 (5) The board may refuse to certify for licensure any  
7 applicant who is under investigation in another state for any  
8 act which would constitute a violation of this act or ~~part I~~  
9 ~~of~~ chapter 455, until such time as the investigation is  
10 complete and disciplinary proceedings have been terminated.

11 Section 177. Subsection (1) of section 473.311,  
12 Florida Statutes, is amended to read:

13 473.311 Renewal of license.--

14 (1) The department shall renew a license upon receipt  
15 of the renewal application and fee and upon certification by  
16 the board that the licensee has satisfactorily completed the  
17 continuing education requirements of s. 473.312 and has passed  
18 an examination approved by the board on ~~part I~~ of chapter 455  
19 and this chapter and the related administrative rules.

20 Section 178. Paragraph (h) of subsection (1) of  
21 section 473.323, Florida Statutes, is amended to read:

22 473.323 Disciplinary proceedings.--

23 (1) The following acts constitute grounds for which  
24 the disciplinary actions in subsection (3) may be taken:

25 (h) Violation of any rule adopted pursuant to this  
26 chapter or ~~part I~~ of chapter 455.

27 Section 179. Subsection (3) of section 474.204,  
28 Florida Statutes, is amended to read:

29 474.204 Board of Veterinary Medicine.--

30 (3) All provisions of ~~part I~~ of chapter 455 relating  
31 to activities of regulatory boards shall apply.

1           Section 180. Paragraph (f) of subsection (1) of  
2 section 474.214, Florida Statutes, is amended to read:

3           474.214 Disciplinary proceedings.--

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

6           (f) Violating any provision of this chapter or ~~part I~~  
7 ~~of~~ chapter 455, a rule of the board or department, or a lawful  
8 order of the board or department previously entered in a  
9 disciplinary hearing, or failing to comply with a lawfully  
10 issued subpoena of the department.

11          Section 181. Subsection (1) of section 475.021,  
12 Florida Statutes, is amended to read:

13          475.021 Division of Real Estate.--

14          (1) All services concerning this chapter, including,  
15 but not limited to, recordkeeping services, examination  
16 services, legal services, and investigative services, and  
17 those services in ~~part I~~ of chapter 455 necessary to perform  
18 the duties of this chapter shall be provided by the Division  
19 of Real Estate. The commission may, by majority vote,  
20 delegate a duty or duties to the appropriate division within  
21 the department. The commission may, by majority vote, rescind  
22 any such delegation of duties at any time.

23          Section 182. Subsection (3) of section 475.181,  
24 Florida Statutes, is amended to read:

25          475.181 Licensure.--

26          (3) The department may not issue a license to any  
27 applicant who is under investigation in any other state,  
28 territory, or jurisdiction of the United States or any foreign  
29 national jurisdiction for any act that would constitute a  
30 violation of this part or ~~part I~~ of chapter 455 until such  
31

1 time as the investigation is complete and disciplinary  
2 proceedings have been terminated.

3 Section 183. Paragraph (e) of subsection (1) of  
4 section 475.25, Florida Statutes, is amended to read:

5 475.25 Discipline.--

6 (1) The commission may deny an application for  
7 licensure, registration, or permit, or renewal thereof; may  
8 place a licensee, registrant, or permittee on probation; may  
9 suspend a license, registration, or permit for a period not  
10 exceeding 10 years; may revoke a license, registration, or  
11 permit; may impose an administrative fine not to exceed \$1,000  
12 for each count or separate offense; and may issue a reprimand,  
13 and any or all of the foregoing, if it finds that the  
14 licensee, registrant, permittee, or applicant:

15 (e) Has violated any of the provisions of this chapter  
16 or any lawful order or rule made or issued under the  
17 provisions of this chapter or ~~part I~~ of chapter 455.

18 Section 184. Subsection (4) of section 475.624,  
19 Florida Statutes, is amended to read:

20 475.624 Discipline.--The board may deny an application  
21 for registration, licensure, or certification; may investigate  
22 the actions of any appraiser registered, licensed, or  
23 certified under this part; may reprimand or impose an  
24 administrative fine not to exceed \$5,000 for each count or  
25 separate offense against any such appraiser; and may revoke or  
26 suspend, for a period not to exceed 10 years, the  
27 registration, license, or certification of any such appraiser,  
28 or place any such appraiser on probation, if it finds that the  
29 registered assistant, licensee, or certificateholder:

30  
31



1           (4) Has violated any of the provisions of this section  
2 or any lawful order or rule issued under the provisions of  
3 this section or ~~part I~~ of chapter 455.

4           Section 185. Paragraph (i) of subsection (1) of  
5 section 476.204, Florida Statutes, is amended to read:

6           476.204 Penalties.--

7           (1) It is unlawful for any person to:

8           (i) Violate or refuse to comply with any provision of  
9 this chapter or ~~part I~~ of chapter 455 or a rule or final order  
10 of the board.

11          Section 186. Paragraph (i) of subsection (1) of  
12 section 477.029, Florida Statutes, is amended to read:

13          477.029 Penalty.--

14          (1) It is unlawful for any person to:

15          (i) Violate or refuse to comply with any provision of  
16 this chapter or ~~part I~~ of chapter 455 or a rule or final order  
17 of the board or the department.

18          Section 187. Subsection (5) of section 480.044,  
19 Florida Statutes, is amended to read:

20          480.044 Fees; disposition.--

21          (5) All moneys collected by the department from fees  
22 authorized by this act shall be paid into the Medical Quality  
23 Assurance Trust Fund in the department and shall be applied in  
24 accordance with the provisions of s. 456.025 ~~455.587~~. The  
25 Legislature may appropriate any excess moneys from this fund  
26 to the General Revenue Fund.

27          Section 188. Section 481.2055, Florida Statutes, is  
28 amended to read:

29          481.2055 Authority to make rules.--The board has  
30 authority to adopt rules pursuant to ss. 120.536(1) and 120.54  
31

1 to implement provisions of this part and ~~part I~~ of chapter 455  
2 conferring duties upon it.

3 Section 189. Subsection (5) of section 481.213,  
4 Florida Statutes, is amended to read:

5 481.213 Licensure.--

6 (5) The board may refuse to certify any applicant who  
7 is under investigation in any jurisdiction for any act which  
8 would constitute a violation of this part or of ~~part I~~ of  
9 chapter 455 until such time as the investigation is complete  
10 and disciplinary proceedings have been terminated.

11 Section 190. Paragraphs (a) and (c) of subsection (1)  
12 of section 481.225, Florida Statutes, are amended to read:

13 481.225 Disciplinary proceedings against registered  
14 architects.--

15 (1) The following acts constitute grounds for which  
16 the disciplinary actions in subsection (3) may be taken:

17 (a) Violating any provision of s. 455.227(1), s.  
18 481.221, or s. 481.223, or any rule of the board or department  
19 lawfully adopted pursuant to this part or ~~part I~~ of chapter  
20 455.

21 (c) Having a license to practice architecture revoked,  
22 suspended, or otherwise acted against, including the denial of  
23 licensure, by the licensing authority of another state,  
24 territory, or country, for any act that would constitute a  
25 violation of this part or of ~~part I~~ of chapter 455.

26 Section 191. Paragraph (b) of subsection (1) of  
27 section 481.2251, Florida Statutes, is amended to read:

28 481.2251 Disciplinary proceedings against registered  
29 interior designers.--

30  
31

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

4           (b) Having a license to practice interior design  
5 revoked, suspended, or otherwise acted against, including the  
6 denial of licensure, by the licensing authority of another  
7 jurisdiction for any act which would constitute a violation of  
8 this part or of ~~part I~~ of chapter 455;

9           Section 192. Section 481.306, Florida Statutes, is  
10 amended to read:

11           481.306 Authority to make rules.--The board has  
12 authority to adopt rules pursuant to ss. 120.536(1) and 120.54  
13 to implement the provisions of this chapter and ~~part I~~ of  
14 chapter 455 conferring duties upon it.

15           Section 193. Subsection (5) of section 481.311,  
16 Florida Statutes, is amended to read:

17           481.311 Licensure.--

18           (5) The board may refuse to certify any applicant who  
19 is under investigation in any jurisdiction for any act which  
20 would constitute a violation of this act or of ~~part I~~ of  
21 chapter 455, until the investigation is complete and  
22 disciplinary proceedings have been terminated.

23           Section 194. Paragraph (h) of subsection (1) of  
24 section 481.325, Florida Statutes, is amended to read:

25           481.325 Disciplinary proceedings.--

26           (1) The following acts constitute grounds for which  
27 the disciplinary actions in subsection (3) may be taken:

28           (h) Violation of any rule adopted pursuant to this  
29 part or ~~part I~~ of chapter 455.

30           Section 195. Subsection (5) of section 483.805,  
31 Florida Statutes, is amended to read:

1           483.805 Board of Clinical Laboratory Personnel.--  
2           (5) All provisions of ~~part II~~ of chapter 456 ~~455~~  
3 relating to activities of regulatory boards shall apply to the  
4 board.

5           Section 196. Subsection (10) of section 483.807,  
6 Florida Statutes, is amended to read:

7           483.807 Fees; establishment; disposition.--

8           (10) All fees shall be established, collected, and  
9 deposited in accordance with s. 456.025 ~~455.587~~.

10           Section 197. Paragraph (j) of subsection (4) and  
11 paragraph (b) of subsection (5) of section 483.901, Florida  
12 Statutes, are amended to read:

13           483.901 Medical physicists; definitions; licensure.--

14           (4) COUNCIL.--The Advisory Council of Medical  
15 Physicists is created in the Department of Health to advise  
16 the department in regulating the practice of medical physics  
17 in this state.

18           (j) A council member may be removed from the council  
19 if the member:

20           1. Did not have the required qualifications at the  
21 time of appointment;

22           2. Does not maintain the required qualifications while  
23 serving on the council; or

24           3. Fails to attend the regularly scheduled council  
25 meetings in a calendar year as required by s. 456.011 ~~455.534~~.

26           (5) POWERS OF COUNCIL.--The council shall:

27           (b) Recommend practice standards for the practice of  
28 medical physics which are consistent with the Guidelines for  
29 Ethical Practice for Medical Physicists prepared by the  
30 American Association of Physicists in Medicine and  
31 disciplinary guidelines adopted under s. 456.079 ~~455.627~~.

1           Section 198. Subsection (1) of section 484.014,  
2 Florida Statutes, is amended to read:

3           484.014 Disciplinary actions.--

4           (1) The following acts relating to the practice of  
5 opticianry shall be grounds for both disciplinary action  
6 against an optician as set forth in this section and cease and  
7 desist or other related action by the department as set forth  
8 in s. 456.065 ~~455.637~~ against any person operating an optical  
9 establishment who engages in, aids, or abets any such  
10 violation:

11           (a) Procuring or attempting to procure a license by  
12 misrepresentation, bribery, or fraud or through an error of  
13 the department or the board.

14           (b) Procuring or attempting to procure a license for  
15 any other person by making or causing to be made any false  
16 representation.

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

24           (d) Failing to make fee or price information readily  
25 available by providing such information upon request or upon  
26 the presentation of a prescription.

27           (e) Advertising goods or services in a manner which is  
28 fraudulent, false, deceptive, or misleading in form or  
29 content.

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

1 (g) Violation or repeated violation of this part or of  
2 ~~part II of~~ chapter 456 455 or any rules promulgated pursuant  
3 thereto.

4 (h) Practicing with a revoked, suspended, inactive, or  
5 delinquent license.

6 (i) Violation of a lawful order of the board or  
7 department previously entered in a disciplinary hearing or  
8 failing to comply with a lawfully issued subpoena of the  
9 department.

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

11 (k) Conspiring with another licensee or with any  
12 person to commit an act, or committing an act, which would  
13 coerce, intimidate, or preclude another licensee from lawfully  
14 advertising her or his services.

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

17 (m) Failing to keep written prescription files.

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

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

24 (p) Gross or repeated malpractice.

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

29 (r) Being convicted or found guilty of, or entering a  
30 plea of nolo contendere to, regardless of adjudication, in a  
31 court of this state or other jurisdiction, a crime which

1 relates to the ability to practice opticianry or to the  
2 practice of opticianry.

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

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

14 Section 199. Subsection (4) of section 484.042,  
15 Florida Statutes, is amended to read:

16 484.042 Board of Hearing Aid Specialists; membership,  
17 appointment, terms.--

18 (4) All provisions of ~~part II~~ of chapter 456 ~~455~~  
19 relating to activities of regulatory boards apply to the  
20 board. However, notwithstanding the requirement of s.  
21 456.073(4)~~455.621(4)~~ that the board provide by rule for the  
22 determination of probable cause by a panel composed of its  
23 members or by the department, the board may provide by rule  
24 that its probable cause panel may be composed of one current  
25 member of the board and one past member of the board, as long  
26 as the past member is a licensed hearing aid specialist in  
27 good standing. The past board member shall be appointed to  
28 the panel for a maximum of 2 years by the chair of the board  
29 with the approval of the secretary.

30 Section 200. Subsection (1) of section 484.056,  
31 Florida Statutes, is amended to read:

1 484.056 Disciplinary proceedings.--

2 (1) The following acts relating to the practice of  
3 dispensing hearing aids shall be grounds for both disciplinary  
4 action against a hearing aid specialist as set forth in this  
5 section and cease and desist or other related action by the  
6 department as set forth in s. 456.065 ~~455.637~~ against any  
7 person owning or operating a hearing aid establishment who  
8 engages in, aids, or abets any such violation:

9 (a) Violation of any provision of s. 456.072(1)  
10 ~~455.624(1)~~, s. 484.0512, or s. 484.053.

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

14 (c) Having a license to dispense hearing aids revoked,  
15 suspended, or otherwise acted against, including the denial of  
16 licensure, by the licensing authority of another state,  
17 territory, or country.

18 (d) Being convicted or found guilty of, or entering a  
19 plea of nolo contendere to, regardless of adjudication, a  
20 crime in any jurisdiction which directly relates to the  
21 practice of dispensing hearing aids or the ability to practice  
22 dispensing hearing aids, including violations of any federal  
23 laws or regulations regarding hearing aids.

24 (e) Making or filing a report or record which the  
25 licensee knows to be false, intentionally or negligently  
26 failing to file a report or record required by state or  
27 federal law, willfully impeding or obstructing such filing, or  
28 inducing another person to impede or obstruct such filing.  
29 Such reports or records shall include only those reports or  
30 records which are signed in one's capacity as a licensed  
31 hearing aid specialist.



1           (f) Advertising goods or services in a manner which is  
2 fraudulent, false, deceptive, or misleading in form or  
3 content.

4           (g) Proof that the licensee is guilty of fraud or  
5 deceit or of negligence, incompetency, or misconduct in the  
6 practice of dispensing hearing aids.

7           (h) Violation or repeated violation of this part or of  
8 ~~part II of~~ chapter 456 ~~455~~, or any rules promulgated pursuant  
9 thereto.

10           (i) Violation of a lawful order of the board or  
11 department previously entered in a disciplinary hearing or  
12 failure to comply with a lawfully issued subpoena of the board  
13 or department.

14           (j) Practicing with a revoked, suspended, inactive, or  
15 delinquent license.

16           (k) Using, or causing or promoting the use of, any  
17 advertising matter, promotional literature, testimonial,  
18 guarantee, warranty, label, brand, insignia, or other  
19 representation, however disseminated or published, which is  
20 misleading, deceiving, or untruthful.

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

24           (m) Misrepresentation of professional services  
25 available in the fitting, sale, adjustment, service, or repair  
26 of a hearing aid, or use of the terms "doctor," "clinic,"  
27 "clinical," "medical audiologist," "clinical audiologist,"  
28 "research audiologist," or "audiologic" or any other term or  
29 title which might connote the availability of professional  
30 services when such use is not accurate.

31

1           (n) Representation, advertisement, or implication that  
2 a hearing aid or its repair is guaranteed without providing  
3 full disclosure of the identity of the guarantor; the nature,  
4 extent, and duration of the guarantee; and the existence of  
5 conditions or limitations imposed upon the guarantee.

6           (o) Representing, directly or by implication, that a  
7 hearing aid utilizing bone conduction has certain specified  
8 features, such as the absence of anything in the ear or  
9 leading to the ear, or the like, without disclosing clearly  
10 and conspicuously that the instrument operates on the bone  
11 conduction principle and that in many cases of hearing loss  
12 this type of instrument may not be suitable.

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

16           (q) Stating or implying that the use of any hearing  
17 aid will improve or preserve hearing or prevent or retard the  
18 progression of a hearing impairment or that it will have any  
19 similar or opposite effect.

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

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

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

31

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

5 (v) Failing to provide all information as described in  
6 s. 484.051(1).

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

10 Section 201. Sections 456.30, 456.31, 456.32, 456.33,  
11 and 456.34, Florida Statutes, are transferred and renumbered  
12 as sections 485.001, 485.002, 485.003, 485.004, and 485.005,  
13 Florida Statutes, respectively.

14 Section 202. Subsection (4) of section 486.023,  
15 Florida Statutes, is amended to read:

16 486.023 Board of Physical Therapy Practice.--

17 (4) All provisions of ~~part II of~~ chapter 456 ~~455~~  
18 relating to activities of the board shall apply.

19 Section 203. Section 486.115, Florida Statutes, is  
20 amended to read:

21 486.115 Disposition of fees.--All moneys collected by  
22 the department under this chapter shall be deposited and  
23 expended pursuant to the provisions of s. 456.025 ~~455.587~~.

24 Section 204. Section 486.172, Florida Statutes, is  
25 amended to read:

26 486.172 Application of s. 456.021 ~~455.514~~--The  
27 provisions of s. 456.021 ~~455.514~~ shall also be applicable to  
28 the provisions of this chapter.

29 Section 205. Paragraph (c) of subsection (1) and  
30 paragraph (a) of subsection (11) of section 489.129, Florida  
31 Statutes, are amended to read:

1           489.129 Disciplinary proceedings.--

2           (1) The board may take any of the following actions  
3 against any certificateholder or registrant: place on  
4 probation or reprimand the licensee, revoke, suspend, or deny  
5 the issuance or renewal of the certificate, registration, or  
6 certificate of authority, require financial restitution to a  
7 consumer for financial harm directly related to a violation of  
8 a provision of this part, impose an administrative fine not to  
9 exceed \$5,000 per violation, require continuing education, or  
10 assess costs associated with investigation and prosecution, if  
11 the contractor, financially responsible officer, or business  
12 organization for which the contractor is a primary qualifying  
13 agent, a financially responsible officer, or a secondary  
14 qualifying agent responsible under s. 489.1195 is found guilty  
15 of any of the following acts:

16           (c) Violating any provision of ~~part I of~~ chapter 455.

17  
18 For the purposes of this subsection, construction is  
19 considered to be commenced when the contract is executed and  
20 the contractor has accepted funds from the customer or lender.  
21 A contractor does not commit a violation of this subsection  
22 when the contractor relies on a building code interpretation  
23 rendered by a building official or person authorized by s.  
24 553.80 to enforce the building code, absent a finding of fraud  
25 or deceit in the practice of contracting, or gross negligence,  
26 repeated negligence, or negligence resulting in a significant  
27 danger to life or property on the part of the building  
28 official, in a proceeding under chapter 120.

29           (11)(a) Notwithstanding the provisions of chapters  
30 ~~chapter~~ 120 and ~~part I of chapter~~ 455, upon receipt of a  
31 legally sufficient consumer complaint alleging a violation of

1 this part, the department may provide by rule for binding  
2 arbitration between the complainant and the certificateholder  
3 or registrant, provided the following conditions exist:

4 1. There is evidence that the complainant has suffered  
5 or is likely to suffer monetary damages resulting from the  
6 violation of this part;

7 2. The certificateholder or registrant does not have a  
8 history of repeated or similar violations;

9 3. Reasonable grounds exist to believe that the public  
10 interest will be better served by arbitration than by  
11 disciplinary action; and

12 4. The complainant and certificateholder or registrant  
13 have not previously entered into private arbitration, and no  
14 civil court action based on the same transaction has been  
15 filed.

16 Section 206. Paragraph (a) of subsection (1) and  
17 paragraphs (a) and (e) of subsection (7) of section 489.533,  
18 Florida Statutes, are amended to read:

19 489.533 Disciplinary proceedings.--

20 (1) The following acts shall constitute grounds for  
21 disciplinary actions as provided in subsection (2):

22 (a) Failure to comply with any provision of ~~part I of~~  
23 chapter 455.

24

25 For the purposes of this subsection, construction is  
26 considered to be commenced when the contract is executed and  
27 the contractor has accepted funds from the customer or lender.

28 (7)(a) The department may, by rule, provide for a  
29 mediation process for the complainant and the licensee.

30 Notwithstanding the provisions of chapters ~~chapter~~ 120 and  
31 ~~part I of chapter~~ 455, upon receipt of a legally sufficient

1 consumer complaint alleging a violation of this part, both the  
2 licensee and the complainant may consent in writing to  
3 mediation within 15 days following notification of this  
4 process by the department. The department may suspend all  
5 action in the matter for 45 days when notice of consent to  
6 mediation is received by the department. If the mediation  
7 process is successfully concluded within the 60-day period,  
8 the department may close the case file with a notation of the  
9 disposition and the licensee's record shall reflect only that  
10 a complaint was filed and resolved through mediation. If  
11 mediation is rejected by either the complainant or licensee,  
12 or should said parties fail to reach a mediated solution  
13 within the 60-day period, the department shall process the  
14 complaint in the manner required by chapters ~~chapter~~ 120 and  
15 ~~part I of chapter~~ 455. The mediator shall provide a written  
16 report to the department of the mediation results within 10  
17 days of the conclusion of the mediation process as provided by  
18 rule.

19 (e) The department, in conjunction with the board,  
20 shall determine by rule the types of cases which may be  
21 included in the mediation process. The department may initiate  
22 or continue disciplinary action, pursuant to ~~part I of~~ chapter  
23 455 and this chapter against the licensee as determined by  
24 rule.

25 Section 207. Subsection (5) of section 490.004,  
26 Florida Statutes, is amended to read:

27 490.004 Board of Psychology.--

28 (5) All applicable provisions of ~~part II of~~ chapter  
29 456 ~~455~~ relating to activities of regulatory boards shall  
30 apply to the board.

31

1 Section 208. Section 490.00515, Florida Statutes, is  
2 amended to read:

3 490.00515 Exemptions from public records and meetings  
4 requirements.--The exemptions from s. 119.07(1) provided by  
5 ss. 456.073(2) and (10)~~455.621(2) and (10)~~and 456.076(3)(e)  
6 and (5)(a)~~455.707(3)(e) and (5)(a)~~also apply to information  
7 concerning a provisional psychologist regulated by the Agency  
8 for Health Care Administration and the Department of Health  
9 under this chapter, a registered clinical social worker  
10 intern, a registered marriage and family therapist intern, a  
11 registered mental health counselor intern, a provisional  
12 clinical social worker, a provisional marriage and family  
13 therapist, or a provisional mental health counselor regulated  
14 by the Agency for Health Care Administration and the  
15 Department of Health under chapter 491. The exemption from s.  
16 286.011 provided by s. 456.073(4)~~455.621(4)~~also applies to  
17 the proceedings of a probable cause panel with respect to an  
18 investigation concerning a provisional psychologist, a  
19 registered clinical social worker intern, a registered  
20 marriage and family therapist intern, a registered mental  
21 health counselor intern, a provisional clinical social worker,  
22 a provisional marriage and family therapist, or a provisional  
23 mental health counselor regulated by the agency and department  
24 under this chapter or chapter 491. This section is subject to  
25 the Open Government Sunset Review Act of 1995 in accordance  
26 with s. 119.15 and shall stand repealed on October 2, 2002,  
27 unless reviewed and saved from repeal through reenactment by  
28 the Legislature.

29 Section 209. Paragraph (q) of subsection (2) of  
30 section 490.009, Florida Statutes, is amended to read:

31 490.009 Discipline.--

1           (2) The following acts of a licensee, provisional  
2 licensee, or applicant are grounds for which the disciplinary  
3 actions listed in subsection (1) may be taken:

4           (q) Violating provisions of this chapter, or of ~~part~~  
5 ~~II of~~ chapter 456 ~~455~~, or any rules adopted pursuant thereto.

6           Section 210. Section 490.0141, Florida Statutes, is  
7 amended to read:

8           490.0141 Practice of hypnosis.--A licensed  
9 psychologist who is qualified as determined by the board may  
10 practice hypnosis as defined in s. 485.003(1)~~456.32(1)~~. The  
11 provisions of this chapter may not be interpreted to limit or  
12 affect the right of any person qualified pursuant to chapter  
13 485 ~~456~~ to practice hypnosis pursuant to that chapter or to  
14 practice hypnosis for nontherapeutic purposes, so long as such  
15 person does not hold herself or himself out to the public as  
16 possessing a license issued pursuant to this chapter or use a  
17 title protected by this chapter.

18           Section 211. Subsection (1) of section 490.015,  
19 Florida Statutes, is amended to read:

20           490.015 Duties of the department.--

21           (1) All functions reserved to boards under ~~part II of~~  
22 chapter 456 ~~455~~ shall be exercised by the department with  
23 respect to the regulation of school psychologists and in a  
24 manner consistent with the exercise of its regulatory  
25 functions.

26           Section 212. Subsection (6) of section 491.004,  
27 Florida Statutes, is amended to read:

28           491.004 Board of Clinical Social Work, Marriage and  
29 Family Therapy, and Mental Health Counseling.--

30  
31



1           (6) All applicable provisions of ~~part II~~ of chapter  
2 456 ~~455~~ relating to activities of regulatory boards shall  
3 apply to the board.

4           Section 213. Section 491.0047, Florida Statutes, is  
5 amended to read:

6           491.0047 Exemptions from public records and meetings  
7 requirements.--The exemptions from s. 119.07(1) provided by  
8 ss. 456.073(2) and ~~(10)~~455.621(2) and ~~(10)~~and 456.076(3)(e)  
9 and (5)(a)~~455.707(3)(e)~~ and ~~(5)(a)~~also apply to information  
10 concerning a provisional psychologist regulated by the Agency  
11 for Health Care Administration and the Department of Health  
12 under chapter 490, a registered clinical social worker intern,  
13 a registered marriage and family therapist intern, a  
14 registered mental health counselor intern, a provisional  
15 clinical social worker, a provisional marriage and family  
16 therapist, or a provisional mental health counselor regulated  
17 by the Agency for Health Care Administration and the  
18 Department of Health under this chapter. The exemption from  
19 s. 286.011 provided by s. 456.073(4)~~455.621(4)~~also applies  
20 to the proceedings of a probable cause panel with respect to  
21 an investigation concerning a provisional psychologist, a  
22 registered clinical social worker intern, a registered  
23 marriage and family therapist intern, a registered mental  
24 health counselor intern, a provisional clinical social worker,  
25 a provisional marriage and family therapist, or a provisional  
26 mental health counselor regulated by the agency and department  
27 under chapter 490 or this chapter. This section is subject to  
28 the Open Government Sunset Review Act of 1995 in accordance  
29 with s. 119.15 and shall stand repealed on October 2, 2002,  
30 unless reviewed and saved from repeal through reenactment by  
31 the Legislature.

1           Section 214. Paragraph (q) of subsection (2) of  
2 section 491.009, Florida Statutes, is amended to read:

3           491.009 Discipline.--

4           (2) The following acts of a licensee, provisional  
5 licensee, registered intern, certificateholder, or applicant  
6 are grounds for which the disciplinary actions listed in  
7 subsection (1) may be taken:

8           (q) Violating provisions of this chapter, or of ~~part~~  
9 ~~II~~ of chapter 456 ~~455~~, or any rules adopted pursuant thereto.

10          Section 215. Section 491.0141, Florida Statutes, is  
11 amended to read:

12          491.0141 Practice of hypnosis.--A person licensed  
13 under this chapter who is qualified as determined by the board  
14 may practice hypnosis as defined in s. 485.003(1)~~456.32(1)~~.  
15 The provisions of this chapter may not be interpreted to limit  
16 or affect the right of any person qualified pursuant to  
17 chapter 485 ~~456~~ to practice hypnosis pursuant to that chapter  
18 or to practice hypnosis for nontherapeutic purposes, so long  
19 as such person does not hold herself or himself out to the  
20 public as possessing a license issued pursuant to this chapter  
21 or use a title protected by this chapter.

22          Section 216. Subsection (1) of section 491.015,  
23 Florida Statutes, is amended to read:

24          491.015 Duties of the department as to certified  
25 master social workers.--

26          (1) All functions reserved to boards under ~~part II~~ of  
27 chapter 456 ~~455~~ shall be exercised by the department with  
28 respect to the regulation of certified master social workers  
29 and in a manner consistent with the exercise of its regulatory  
30 functions.

31

1           Section 217. Subsection (2) of section 492.103,  
2 Florida Statutes, is amended to read:

3           492.103 Board of Professional Geologists.--

4           (2) All provisions of ~~part I~~ of chapter 455 relating  
5 to activities of the board shall apply.

6           Section 218. Paragraph (h) of subsection (1) of  
7 section 492.113, Florida Statutes, is amended to read:

8           492.113 Disciplinary proceedings.--

9           (1) The following acts constitute grounds for which  
10 the disciplinary actions in subsection (3) may be taken:

11           (h) Violation of ~~part I~~ of chapter 455.

12           Section 219. Subsection (3) of section 627.668,  
13 Florida Statutes, is amended to read:

14           627.668 Optional coverage for mental and nervous  
15 disorders required; exception.--

16           (3) Insurers must maintain strict confidentiality  
17 regarding psychiatric and psychotherapeutic records submitted  
18 to an insurer for the purpose of reviewing a claim for  
19 benefits payable under this section. These records submitted  
20 to an insurer are subject to the limitations of s. 456.057  
21 ~~455.667~~, relating to the furnishing of patient records.

22           Section 220. Subsection (1) of section 627.912,  
23 Florida Statutes, is amended to read:

24           627.912 Professional liability claims and actions;  
25 reports by insurers.--

26           (1) Each self-insurer authorized under s. 627.357 and  
27 each insurer or joint underwriting association providing  
28 professional liability insurance to a practitioner of medicine  
29 licensed under chapter 458, to a practitioner of osteopathic  
30 medicine licensed under chapter 459, to a podiatric physician  
31 licensed under chapter 461, to a dentist licensed under

1 chapter 466, to a hospital licensed under chapter 395, to a  
2 crisis stabilization unit licensed under part IV of chapter  
3 394, to a health maintenance organization certificated under  
4 part I of chapter 641, to clinics included in chapter 390, to  
5 an ambulatory surgical center as defined in s. 395.002, or to  
6 a member of The Florida Bar shall report in duplicate to the  
7 Department of Insurance any claim or action for damages for  
8 personal injuries claimed to have been caused by error,  
9 omission, or negligence in the performance of such insured's  
10 professional services or based on a claimed performance of  
11 professional services without consent, if the claim resulted  
12 in:

13 (a) A final judgment in any amount.

14 (b) A settlement in any amount.

15

16 Reports shall be filed with the department and, if the insured  
17 party is licensed under chapter 458, chapter 459, chapter 461,  
18 or chapter 466, with the Department of Health, no later than  
19 30 days following the occurrence of any event listed in  
20 paragraph (a) or paragraph (b). The Department of Health shall  
21 review each report and determine whether any of the incidents  
22 that resulted in the claim potentially involved conduct by the  
23 licensee that is subject to disciplinary action, in which case  
24 the provisions of s. 456.073 ~~455.621~~ shall apply. The  
25 Department of Health, as part of the annual report required by  
26 s. 456.026 ~~455.644~~, shall publish annual statistics, without  
27 identifying licensees, on the reports it receives, including  
28 final action taken on such reports by the Department of Health  
29 or the appropriate regulatory board.

30 Section 221. Section 636.039, Florida Statutes, is  
31 amended to read:

1           636.039 Examination by the department.--The department  
2 shall examine the affairs, transactions, accounts, business  
3 records, and assets of any prepaid limited health service  
4 organization, in the same manner and subject to the same terms  
5 and conditions that apply to insurers under part II of chapter  
6 624, as often as it deems it expedient for the protection of  
7 the people of this state, but not less frequently than once  
8 every 3 years. In lieu of making its own financial  
9 examination, the department may accept an independent  
10 certified public accountant's audit report prepared on a  
11 statutory accounting basis consistent with this act. However,  
12 except when the medical records are requested and copies  
13 furnished pursuant to s. 456.057 ~~455.667~~, medical records of  
14 individuals and records of physicians providing service under  
15 contract to the prepaid limited health service organization  
16 are not subject to audit, but may be subject to subpoena by  
17 court order upon a showing of good cause. For the purpose of  
18 examinations, the department may administer oaths to and  
19 examine the officers and agents of a prepaid limited health  
20 service organization concerning its business and affairs. The  
21 expenses of examination of each prepaid limited health service  
22 organization by the department are subject to the same terms  
23 and conditions as apply to insurers under part II of chapter  
24 624. Expenses of all examinations of a prepaid limited health  
25 service organization may never exceed a maximum of \$20,000 for  
26 any 1-year period.

27           Section 222. Subsection (1) of section 641.27, Florida  
28 Statutes, is amended to read:

29           641.27 Examination by the department.--

30           (1) The department shall examine the affairs,  
31 transactions, accounts, business records, and assets of any

1 health maintenance organization as often as it deems it  
2 expedient for the protection of the people of this state, but  
3 not less frequently than once every 3 years. In lieu of  
4 making its own financial examination, the department may  
5 accept an independent certified public accountant's audit  
6 report prepared on a statutory accounting basis consistent  
7 with this part. However, except when the medical records are  
8 requested and copies furnished pursuant to s. 456.057 ~~455.667~~,  
9 medical records of individuals and records of physicians  
10 providing service under contract to the health maintenance  
11 organization shall not be subject to audit, although they may  
12 be subject to subpoena by court order upon a showing of good  
13 cause. For the purpose of examinations, the department may  
14 administer oaths to and examine the officers and agents of a  
15 health maintenance organization concerning its business and  
16 affairs. The examination of each health maintenance  
17 organization by the department shall be subject to the same  
18 terms and conditions as apply to insurers under chapter 624.  
19 In no event shall expenses of all examinations exceed a  
20 maximum of \$20,000 for any 1-year period. Any rehabilitation,  
21 liquidation, conservation, or dissolution of a health  
22 maintenance organization shall be conducted under the  
23 supervision of the department, which shall have all power with  
24 respect thereto granted to it under the laws governing the  
25 rehabilitation, liquidation, reorganization, conservation, or  
26 dissolution of life insurance companies.

27 Section 223. Paragraph (b) of subsection (2) and  
28 subsection (6) of section 641.316, Florida Statutes, are  
29 amended to read:

30 641.316 Fiscal intermediary services.--  
31 (2)

1           (b) The term "fiscal intermediary services  
2 organization" means a person or entity which performs  
3 fiduciary or fiscal intermediary services to health care  
4 professionals who contract with health maintenance  
5 organizations other than a fiscal intermediary services  
6 organization owned, operated, or controlled by a hospital  
7 licensed under chapter 395, an insurer licensed under chapter  
8 624, a third-party administrator licensed under chapter 626, a  
9 prepaid limited health service organization licensed under  
10 chapter 636, a health maintenance organization licensed under  
11 this chapter, or physician group practices as defined in s.  
12 456.053(3)(h)~~455.654(3)(f)~~.

13           (6) Any fiscal intermediary services organization,  
14 other than a fiscal intermediary services organization owned,  
15 operated, or controlled by a hospital licensed under chapter  
16 395, an insurer licensed under chapter 624, a third-party  
17 administrator licensed under chapter 626, a prepaid limited  
18 health service organization licensed under chapter 636, a  
19 health maintenance organization licensed under this chapter,  
20 or physician group practices as defined in s. 456.053(3)(h)  
21 ~~455.654(3)(f)~~, must register with the department and meet the  
22 requirements of this section. In order to register as a fiscal  
23 intermediary services organization, the organization must  
24 comply with ss. 641.21(1)(c) and (d) and 641.22(6). Should the  
25 department determine that the fiscal intermediary services  
26 organization does not meet the requirements of this section,  
27 the registration shall be denied. In the event that the  
28 registrant fails to maintain compliance with the provisions of  
29 this section, the department may revoke or suspend the  
30 registration. In lieu of revocation or suspension of the  
31

1 registration, the department may levy an administrative  
2 penalty in accordance with s. 641.25.

3 Section 224. Paragraphs (b) and (c) of subsection (5)  
4 and subsections (6) and (8) of section 641.55, Florida  
5 Statutes, are amended to read:

6 641.55 Internal risk management program.--

7 (5)

8 (b) The information reported to the agency under  
9 paragraph (a) which relates to providers licensed under  
10 chapter 458, chapter 459, chapter 461, or chapter 466 must  
11 also be reported to the agency quarterly. The agency shall  
12 review the information and determine whether any of the  
13 incidents potentially involved conduct by a licensee that is  
14 subject to disciplinary action, in which case s. 456.073  
15 ~~455.621~~ applies.

16 (c) Except as otherwise provided in this subsection,  
17 any identifying information contained in the annual report and  
18 the quarterly reports under paragraphs (a) and (b) is  
19 confidential and exempt from s. 119.07(1). This information  
20 must not be available to the public as part of the record of  
21 investigation for and prosecution in disciplinary proceedings  
22 made available to the public by the agency or the appropriate  
23 regulatory board. However, the agency shall make available,  
24 upon written request by a practitioner against whom probable  
25 cause has been found, any such information contained in the  
26 records that form the basis of the determination of probable  
27 cause under s. 456.073 ~~455.621~~.

28 (6) If an adverse or untoward incident, whether  
29 occurring in the facilities of the organization or arising  
30 from health care prior to enrollment by the organization or  
31



1 admission to the facilities of the organization or in a  
2 facility of one of its providers, results in:  
3 (a) The death of a patient;  
4 (b) Severe brain or spinal damage to a patient;  
5 (c) A surgical procedure being performed on the wrong  
6 patient; or  
7 (d) A surgical procedure unrelated to the patient's  
8 diagnosis or medical needs being performed on any patient,  
9  
10 the organization must report this incident to the agency  
11 within 3 working days after its occurrence. A more detailed  
12 followup report must be submitted to the agency within 10 days  
13 after the first report. The agency may require an additional,  
14 final report. Reports under this subsection must be sent  
15 immediately by the agency to the appropriate regulatory board  
16 whenever they contain references to a provider licensed under  
17 chapter 458, chapter 459, chapter 461, or chapter 466. These  
18 reports are confidential and are exempt from s. 119.07(1).  
19 This information is not available to the public as part of the  
20 record of investigation for and prosecution in disciplinary  
21 proceedings made available to the public by the agency or the  
22 appropriate regulatory board. However, the agency shall make  
23 available, upon written request by a practitioner against whom  
24 probable cause has been found, any such information contained  
25 in the records that form the basis of the determination of  
26 probable cause under s. 456.073 ~~455.621~~. The agency may  
27 investigate, as it deems appropriate, any such incident and  
28 prescribe measures that must or may be taken by the  
29 organization in response to the incident. The agency shall  
30 review each incident and determine whether it potentially  
31

1 involved conduct by the licensee which is subject to  
2 disciplinary action, in which case s. 456.073 ~~455.621~~ applies.  
3 (8) The agency and, upon subpoena issued under s.  
4 456.071 ~~455.611~~, the appropriate regulatory board must be  
5 given access to all organization records necessary to carry  
6 out the provisions of this section. Any identifying  
7 information contained in the records obtained under this  
8 section is confidential and exempt from s. 119.07(1). The  
9 identifying information contained in records obtained under s.  
10 456.071 ~~455.611~~ is exempt from s. 119.07(1) to the extent that  
11 it is part of the record of investigation for and prosecution  
12 in disciplinary proceedings made available to the public by  
13 the agency or the appropriate regulatory board. However, the  
14 agency must make available, upon written request by a  
15 practitioner against whom probable cause has been found, any  
16 such information contained in the records that form the basis  
17 of the determination of probable cause under s. 456.073  
18 ~~455.621~~, except that, with respect to medical review committee  
19 records, s. 766.101 controls.  
20  
21 The gross data compiled under this section or s. 395.0197  
22 shall be furnished by the agency upon request to organizations  
23 to be utilized for risk management purposes. The agency shall  
24 adopt rules necessary to carry out the provisions of this  
25 section.  
26 Section 225. Subsection (2) of section 766.106,  
27 Florida Statutes, is amended to read:  
28 766.106 Notice before filing action for medical  
29 malpractice; presuit screening period; offers for admission of  
30 liability and for arbitration; informal discovery; review.--  
31

1           (2) After completion of presuit investigation pursuant  
2 to s. 766.203 and prior to filing a claim for medical  
3 malpractice, a claimant shall notify each prospective  
4 defendant and, if any prospective defendant is a health care  
5 provider licensed under chapter 458, chapter 459, chapter 460,  
6 chapter 461, or chapter 466, the Department of Health by  
7 certified mail, return receipt requested, of intent to  
8 initiate litigation for medical malpractice. Notice to the  
9 Department of Health must include the full name and address of  
10 the claimant; the full names and any known addresses of any  
11 health care providers licensed under chapter 458, chapter 459,  
12 chapter 460, chapter 461, or chapter 466 who are prospective  
13 defendants identified at the time; the date and a summary of  
14 the occurrence giving rise to the claim; and a description of  
15 the injury to the claimant. The requirement for notice to the  
16 Department of Health does not impair the claimant's legal  
17 rights or ability to seek relief for his or her claim, and the  
18 notice provided to the department is not discoverable or  
19 admissible in any civil or administrative action. The  
20 Department of Health shall review each incident and determine  
21 whether it involved conduct by a licensee which is potentially  
22 subject to disciplinary action, in which case the provisions  
23 of s. 456.073 ~~455.621~~ apply.

24           Section 226. Subsection (4) of section 766.305,  
25 Florida Statutes, is amended to read:

26           766.305 Filing of claims and responses; medical  
27 disciplinary review.--

28           (4) Upon receipt of such petition, the Division of  
29 Medical Quality Assurance shall review the information therein  
30 and determine whether it involved conduct by a physician  
31 licensed under chapter 458 or an osteopathic physician

1 licensed under chapter 459 that is subject to disciplinary  
2 action, in which case the provisions of s. 456.073 ~~455.621~~  
3 shall apply.

4 Section 227. Paragraph (b) of subsection (4) of  
5 section 766.314, Florida Statutes, is amended to read:

6 766.314 Assessments; plan of operation.--

7 (4) The following persons and entities shall pay into  
8 the association an initial assessment in accordance with the  
9 plan of operation:

10 (b)1. On or before October 15, 1988, all physicians  
11 licensed pursuant to chapter 458 or chapter 459 as of October  
12 1, 1988, other than participating physicians, shall be  
13 assessed an initial assessment of \$250, which must be paid no  
14 later than December 1, 1988.

15 2. Any such physician who becomes licensed after  
16 September 30, 1988, and before January 1, 1989, shall pay into  
17 the association an initial assessment of \$250 upon licensure.

18 3. Any such physician who becomes licensed on or after  
19 January 1, 1989, shall pay an initial assessment equal to the  
20 most recent assessment made pursuant to this paragraph,  
21 paragraph (5)(a), or paragraph (7)(b).

22 4. However, if the physician is a physician specified  
23 in this subparagraph, the assessment is not applicable:

24 a. A resident physician, assistant resident physician,  
25 or intern in an approved postgraduate training program, as  
26 defined by the Board of Medicine or the Board of Osteopathic  
27 Medicine by rule;

28 b. A retired physician who has withdrawn from the  
29 practice of medicine but who maintains an active license as  
30 evidenced by an affidavit filed with the Department of Health.  
31 Prior to reentering the practice of medicine in this state, a

1 retired physician as herein defined must notify the Board of  
2 Medicine or the Board of Osteopathic Medicine and pay the  
3 appropriate assessments pursuant to this section;

4 c. A physician who holds a limited license pursuant to  
5 s. 458.317 and who is not being compensated for medical  
6 services;

7 d. A physician who is employed full time by the United  
8 States Department of Veterans Affairs and whose practice is  
9 confined to United States Department of Veterans Affairs  
10 hospitals; or

11 e. A physician who is a member of the Armed Forces of  
12 the United States and who meets the requirements of s. 456.024  
13 ~~455.507~~.

14 f. A physician who is employed full time by the State  
15 of Florida and whose practice is confined to state-owned  
16 correctional institutions, a county health department, or  
17 state-owned mental health or developmental services  
18 facilities, or who is employed full time by the Department of  
19 Health.

20 Section 228. Paragraph (b) of subsection (3) of  
21 section 817.505, Florida Statutes, is amended to read:

22 817.505 Patient brokering prohibited; exceptions;  
23 penalties.--

24 (3) This section shall not apply to:

25 (b) Any payment, compensation, or financial  
26 arrangement within a group practice as defined in s. 456.053  
27 ~~455.654~~, provided such payment, compensation, or arrangement  
28 is not to or from persons who are not members of the group  
29 practice.

30 Section 229. Section 937.031, Florida Statutes, is  
31 amended to read:

1           937.031 Dental records of missing persons; access and  
2 use.--When a person has been reported missing and has not been  
3 located within 30 days after such report, the law enforcement  
4 agency conducting the investigation of the missing person  
5 shall request the family or next of kin to provide written  
6 consent to contact the dentist of the missing person and  
7 request that person's dental records. Notwithstanding the  
8 provisions of s. 456.057 ~~455.667~~, a dentist, upon receipt of  
9 proof of written consent, shall release a copy of the dental  
10 records of the missing person to the law enforcement agency  
11 requesting such records, providing or encoding the dental  
12 records in a form requested by the Department of Law  
13 Enforcement. The law enforcement agency shall then enter the  
14 dental records into the criminal justice information system  
15 for the purpose of comparing such records to those of  
16 unidentified deceased persons.

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Reviser's note.--Transfers sections that  
comprise part II of chapter 455, pertaining to  
regulation of health-related professions, to  
chapter 456; transfers sections in present  
chapter 456, pertaining to hypnosis, to new  
chapter 485; and amends applicable references  
in the Florida Statutes to conform to such  
transfers.