

Bill No. CS for SB 1558, 1st Eng.

Amendment No. Barcode 791604

<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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Senator Saunders moved the following amendment:

Senate Amendment (with title amendment)
Delete everything after the enacting clause

and insert:

Section 1. It is the intent of the Legislature that the Medical Quality Assurance Trust Fund should be administered in a fiscally responsible manner. It is also the intent of the Legislature that the Department of Health reduce expenses wherever possible to ensure that the cost of regulation is reasonable and fair and does not serve as a barrier to licensure in this state. The Legislature adopts findings 1, 2, 4, 5, and 8 and the recommendations of the Auditor General's Medical Quality Assurance Operational Audit Report Number 01-063. In addition, the Legislature adopts recommendations 1, 2, 4, 5, and 7 of the Florida Senate Committee on Fiscal Policy Interim Project Report 2001-016.

Section 2. The Auditor General shall conduct a followup audit to the Medical Quality Assurance Operational Audit Report Number 01-063 to determine if the Department of

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1 Health has implemented the recommendations of that report. The
2 Auditor General shall complete the followup audit and issue a
3 report to the President of the Senate and the Speaker of the
4 House of Representatives no later than January 31, 2002.

5 Section 3. The contract between the Department of
6 Health and the Agency for Health Care Administration pursuant
7 to section 20.43(3), Florida Statutes, is not subject to the
8 provisions of section 216.346, Florida Statutes. The
9 Department of Health shall reimburse the Agency for Health
10 Care Administration for the agency's actual direct costs and
11 the agency's indirect costs incurred as a result of the
12 contract, subject to appropriated funds. The agency shall
13 provide to the department documentation, explanation, and
14 justification of all direct and indirect costs incurred, by
15 budget entity.

16 Section 4. The Office of Program Policy Analysis and
17 Government Accountability shall study the feasibility of
18 maintaining the entire Medical Quality Assurance function,
19 including enforcement, within a single department. The study
20 shall be completed and a report issued to the President of the
21 Senate and the Speaker of the House of Representatives no
22 later than November 30, 2001.

23 Section 5. Subsection (1) of section 456.004, Florida
24 Statutes, is amended, and subsection (10) is added to that
25 section, to read:

26 456.004 Department; powers and duties.--The
27 department, for the professions under its jurisdiction, shall:

28 (1) Adopt rules establishing a procedure for the
29 biennial renewal of licenses; however, the department may
30 issue up to a 4-year license to selected licensees
31 notwithstanding any other provisions of law to the contrary.

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1 The rules shall specify the expiration dates of licenses and
2 the process for tracking compliance with continuing education
3 requirements, financial responsibility requirements, and any
4 other conditions of renewal set forth in statute or rule. Fees
5 for such renewal shall not exceed the fee caps for individual
6 professions on an annualized basis as authorized by law.

7 (10) Set an examination fee that includes all costs to
8 develop, purchase, validate, administer, and defend the
9 examination and is an amount certain to cover all
10 administrative costs plus the actual per-applicant cost of the
11 examination.

12 Section 6. Section 456.025, Florida Statutes, is
13 amended to read:

14 456.025 Fees; receipts; disposition.--

15 (1) It is the intent of the Legislature that all costs
16 of regulating health care professions and practitioners shall
17 be borne solely by licensees and licensure applicants. It is
18 also the intent of the Legislature that fees should be
19 reasonable and not serve as a barrier to licensure. Moreover,
20 it is the intent of the Legislature that the department
21 operate as efficiently as possible and regularly report to the
22 Legislature additional methods to streamline operational
23 costs. Therefore, the boards in consultation with the
24 department, or the department if there is no board, shall, by
25 rule, set renewal fees which:

26 (a) Shall be based on revenue projections prepared
27 using generally accepted accounting procedures;

28 (b) Shall be adequate to cover all expenses relating
29 to that board identified in the department's long-range policy
30 plan, as required by s. 456.005;

31 (c) Shall be reasonable, fair, and not serve as a

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1 barrier to licensure;

2 (d) Shall be based on potential earnings from working
3 under the scope of the license;

4 (e) Shall be similar to fees imposed on similar
5 licensure types;

6 (f) Shall not be more than 10% greater than the fee
7 imposed for the previous biennium;

8 (g) Shall not be more than 10% greater than the actual
9 cost to regulate that profession for the previous biennium;

10 and

11 (h) Shall be subject to challenge pursuant to chapter
12 120.

13 (2) The chairpersons of the boards and councils listed
14 in s. 20.43(3)(g), shall meet annually at division
15 headquarters to review the long-range policy plan required by
16 s. 456.005 and current and proposed fee schedules. The
17 chairpersons shall make recommendations for any necessary
18 statutory changes relating to fees and fee caps. Such
19 recommendations shall be compiled by the Department of Health
20 and be included in the annual report to the Legislature
21 required by s. 456.026 as well as be included in the
22 long-range policy plan required by s. 456.005.

23 (2)~~(1)~~ Each board within the jurisdiction of the
24 department, or the department when there is no board, shall
25 determine by rule the amount of license fees for the
26 profession it regulates, based upon long-range estimates
27 prepared by the department of the revenue required to
28 implement laws relating to the regulation of professions by
29 the department and the board. Each board, or the department
30 if there is no board, shall ensure that license fees are
31 adequate to cover all anticipated costs and to maintain a

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

20 ~~(3)(2)~~ Each board, or the department if there is no
21 board, may charge a fee not to exceed \$25, as determined by
22 rule, for the issuance of a wall certificate pursuant to s.
23 456.013(2) requested by a licensee who was licensed prior to
24 July 1, 1998, or for the issuance of a duplicate wall
25 certificate requested by any licensee.

26 ~~(4)(3)~~ Each board, or the department if there is no
27 board, may, by rule, assess and collect a one-time fee from
28 each active status licensee and each inactive status licensee
29 in an amount necessary to eliminate a cash deficit or, if
30 there is not a cash deficit, in an amount sufficient to
31 maintain the financial integrity of the professions as

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

4 (5) If the cash balance of the trust fund at the end
5 of any fiscal year exceeds the total appropriation provided
6 for the regulation of the health care professions in the prior
7 fiscal year, the boards, in consultation with the department,
8 may lower the license renewal fees.

9 (6)(4) Each board authorized to approve continuing
10 education providers, or the department if there is no board,
11 shall may establish, by rule, a fee not to exceed \$250 for
12 anyone seeking approval to provide continuing education
13 courses or programs and shall may establish by rule a biennial
14 renewal fee not to exceed \$250 for the renewal of providership
15 of such courses. The fees collected from continuing education
16 providers shall be used for the purposes of reviewing course
17 provider applications, monitoring the integrity of the courses
18 provided, covering legal expenses incurred as a result of not
19 granting or renewing a providership, and developing and
20 maintaining an electronic continuing education tracking
21 system. The department shall implement an electronic
22 continuing education tracking system for each new biennial
23 renewal cycle for which electronic renewals are implemented
24 after the effective date of this act and shall integrate such
25 system into the licensure and renewal system. All approved
26 continuing education providers shall provide information on
27 course attendance to the department necessary to implement the
28 electronic tracking system. The department shall, by rule,
29 specify the form and procedures by which the information is to
30 be submitted. This subsection does not apply to continuing
31 education courses or providers approved by the board under

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1 ~~chapter 465.~~

2 (7)(5) All moneys collected by the department from
3 fees or fines or from costs awarded to the agency by a court
4 shall be paid into a trust fund used by the department to
5 implement this chapter. The Legislature shall appropriate
6 funds from this trust fund sufficient to carry out this
7 chapter and the provisions of law with respect to professions
8 regulated by the Division of Medical Quality Assurance within
9 the department and the boards. The department may contract
10 with public and private entities to receive and deposit
11 revenue pursuant to this section. The department shall
12 maintain separate accounts in the trust fund used by the
13 department to implement this chapter for every profession
14 within the department. To the maximum extent possible, the
15 department shall directly charge all expenses to the account
16 of each regulated profession. For the purpose of this
17 subsection, direct charge expenses include, but are not
18 limited to, costs for investigations, examinations, and legal
19 services. For expenses that cannot be charged directly, the
20 department shall provide for the proportionate allocation
21 among the accounts of expenses incurred by the department in
22 the performance of its duties with respect to each regulated
23 profession. The regulation by the department of professions,
24 as defined in this chapter, shall be financed solely from
25 revenue collected by it from fees and other charges and
26 deposited in the Medical Quality Assurance Trust Fund, and all
27 such revenue is hereby appropriated to the department.
28 However, it is legislative intent that each profession shall
29 operate within its anticipated fees. The department may not
30 expend funds from the account of a profession to pay for the
31 expenses incurred on behalf of another profession, except that

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1 the Board of Nursing must pay for any costs incurred in the
2 regulation of certified nursing assistants. The department
3 shall maintain adequate records to support its allocation of
4 agency expenses. The department shall provide any board with
5 reasonable access to these records upon request. On or before
6 October 1 of each year,the department shall provide each
7 board an annual report of revenue and direct and allocated
8 expenses related to the operation of that profession. The
9 board shall use these reports and the department's adopted
10 long-range plan to determine the amount of license fees. A
11 condensed version of this information, with the department's
12 recommendations, shall be included in the annual report to the
13 Legislature prepared under s. 456.026.

14 (8)~~(6)~~ The department shall provide a condensed
15 management report of budgets, finances, performance
16 statistics, and recommendations to each board at least once a
17 quarter. The department shall identify and include in such
18 presentations any changes, or projected changes, made to the
19 board's budget since the last presentation.

20 (9)~~(7)~~ If a duplicate license is required or requested
21 by the licensee, the board or, if there is no board, the
22 department may charge a fee as determined by rule not to
23 exceed \$25 before issuance of the duplicate license.

24 (10)~~(8)~~ The department or the appropriate board shall
25 charge a fee not to exceed \$25 for the certification of a
26 public record. The fee shall be determined by rule of the
27 department. The department or the appropriate board shall
28 assess a fee for duplicating a public record as provided in s.
29 119.07(1)(a) and (b).

30 Section 7. Subsection (1) of section 457.107, Florida
31 Statutes, is amended to read:

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1 457.107 Renewal of licenses; continuing education.--

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

5 Section 8. Section 458.31151, Florida Statutes, is
6 repealed.

7 Section 9. Subsection (1) of section 483.807, Florida
8 Statutes, is amended to read:

9 483.807 Fees; establishment; disposition.--

10 (1) The board, by rule, shall establish fees to be
11 paid for application, examination, reexamination, licensing
12 and renewal, registration, laboratory training program
13 application, reinstatement, and recordmaking and
14 recordkeeping. The board may also establish, by rule, a
15 delinquency fee. The board shall establish fees that are
16 adequate to ensure the continued operation of the board and to
17 fund the proportionate expenses incurred by the department in
18 carrying out its licensure and other related responsibilities
19 under this part. Fees shall be based on departmental estimates
20 of the revenue required to implement this part and the
21 provisions of law with respect to the regulation of clinical
22 laboratory personnel.

23 Section 10. Subsections (1), (3), and (4) of section
24 456.011, Florida Statutes, are amended to read:

25 456.011 Boards; organization; meetings; compensation
26 and travel expenses.--

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

29 (3) The board shall meet at least once annually and
30 may meet as often as is necessary. Meetings shall be conducted
31 through teleconferencing or other technological means, unless

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1 disciplinary hearings involving standard of care, sexual
2 misconduct, fraud, impairment, or felony convictions;
3 licensure denial hearings; or controversial rule hearings are
4 being conducted; or unless otherwise approved in advance of
5 the meeting by the director of the Division of Medical Quality
6 Assurance.The chairperson or a quorum of the board shall have
7 the authority to call ~~other~~ meetings, except as provided above
8 relating to in-person meetings. A quorum shall be necessary
9 for the conduct of official business by the board or any
10 committee thereof. Unless otherwise provided by law, 51
11 percent or more of the appointed members of the board or any
12 committee, when applicable, shall constitute a quorum. The
13 membership of committees of the board, except as otherwise
14 authorized pursuant to this chapter or the applicable practice
15 act, shall be composed of currently appointed members of the
16 board. The vote of a majority of the members of the quorum
17 shall be necessary for any official action by the board or
18 committee. Three consecutive unexcused absences or absences
19 constituting 50 percent or more of the board's meetings within
20 any 12-month period shall cause the board membership of the
21 member in question to become void, and the position shall be
22 considered vacant. The board, or the department when there is
23 no board, shall, by rule, define unexcused absences.

24 (4) Unless otherwise provided by law, a board member
25 or former board member serving on a probable cause panel shall
26 be compensated \$50 for each day in attendance at an official
27 meeting of the board and for each day of participation in any
28 other business involving the board. Each board shall adopt
29 rules defining the phrase "other business involving the
30 board," but the phrase may not routinely be defined to include
31 telephone conference calls that last less than 4 hours. A

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1 board member also shall be entitled to reimbursement for
2 expenses pursuant to s. 112.061. Travel out of state shall
3 require the prior approval of the secretary.

4 Section 11. Subsection (2) of section 456.013, Florida
5 Statutes, is amended to read:

6 456.013 Department; general licensing provisions.--

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

23 Section 12. Section 456.017, Florida Statutes, is
24 amended to read:

25 456.017 Department of Health; examinations.--

26 (1)(a) The department shall provide, contract, or
27 approve services for the development, preparation,
28 administration, scoring, score reporting, and evaluation of
29 all examinations, in consultation with the appropriate board.
30 The department shall certify that examinations developed and
31 approved by the department adequately and reliably measure an

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1 applicant's ability to practice the profession regulated by
2 the department. After an examination developed or approved by
3 the department has been administered, the board, or the
4 department when there is no board, may reject any question
5 which does not reliably measure the general areas of
6 competency specified in the rules of the board. The department
7 may contract for the preparation, administration, scoring,
8 score reporting, and evaluation of examinations, when such
9 services are available and approved by the board.

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

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1 appropriate.

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

21 2. The board, or the department when there is no
22 board, shall approve and begin administering a national
23 examination no later than December 31, 2001. Neither the board
24 nor the department may administer a state-developed written
25 examination after December 31, 2001, notwithstanding any other
26 provision of law. The examination may be administered
27 electronically if adequate security measures are used, as
28 determined by rule of the department.

29 3. The board, or the department when there is no
30 board, may administer a state-developed practical or clinical
31 examination, as required by the applicable practice act, if

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1 all costs of development, purchase, validation,
2 administration, review, and defense are paid by the
3 examination candidate prior to the administration of the
4 examination. If a national practical or clinical examination
5 is available and certified by the department pursuant to this
6 section, the board, or the department when there is no board,
7 may administer the national examination.

8 4. It is the intent of the Legislature to reduce the
9 costs associated with state examinations and to encourage the
10 use of national examinations whenever possible.

11 (d) Each board, or the department when there is no
12 board, shall adopt rules regarding the security and monitoring
13 of examinations. The department shall implement those rules
14 adopted by the respective boards. In order to maintain the
15 security of examinations, the department may employ the
16 procedures set forth in s. 456.065 to seek fines and
17 injunctive relief against an examinee who violates the
18 provisions of s. 456.018 or the rules adopted pursuant to this
19 paragraph. The department, or any agent thereof, may, for the
20 purposes of investigation, confiscate any written,
21 photographic, or recording material or device in the
22 possession of the examinee at the examination site which the
23 department deems necessary to enforce such provisions or
24 rules. The scores of candidates who have taken state-developed
25 examinations shall be provided to the candidates
26 electronically using a candidate identification number, and
27 the department shall post the aggregate scores on the
28 department's website without identifying the names of the
29 candidates.

30 (e) If the professional board with jurisdiction over
31 an examination concurs, the department may, for a fee, share

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1 with any other state's licensing authority or a national
2 testing entity an examination or examination item bank
3 developed by or for the department unless prohibited by a
4 contract entered into by the department for development or
5 purchase of the examination. The department, with the
6 concurrence of the appropriate board, shall establish
7 guidelines that ensure security of a shared exam and shall
8 require that any other state's licensing authority comply with
9 those guidelines. Those guidelines shall be approved by the
10 appropriate professional board. All fees paid by the user
11 shall be applied to the department's examination and
12 development program for professions regulated by this chapter.

13 (f) The department may adopt rules necessary to
14 administer this subsection.

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

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1 incorrectly or, if not feasible, the parts of the examination
2 failed. Applicants shall bear the actual cost for the
3 department to provide examination review pursuant to this
4 subsection. An applicant may waive in writing the
5 confidentiality of the applicant's examination grades.
6 Notwithstanding any other provisions, only candidates who fail
7 an examination by less than ten percent shall be entitled to
8 challenge the validity of the examination at hearing.

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

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

29 (5) For examinations developed by the department or a
30 contracted vendor, each board, or the department when there is
31 no board, may provide licensure examinations in an applicant's

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

15 (6) In addition to meeting any other requirements for
16 licensure by examination or by endorsement, and
17 notwithstanding the provisions in paragraph (1)(c), an
18 applicant may be required by a board, or the department when
19 there is no board, to certify competency in state laws and
20 rules relating to the applicable practice act. Beginning
21 October 1, 2001, all laws and rules examinations shall be
22 administered electronically unless the laws and rules
23 examination is administered concurrently with another written
24 examination for that profession or unless the electronic
25 administration would be substantially more expensive.

26 Section 13. Subsection (1) of section 456.035, Florida
27 Statutes, is amended to read:

28 456.035 Address of record.--

29 (1) Each licensee of the department is solely
30 responsible for notifying the department in writing of the
31 licensee's current mailing address and place of practice, as

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1 defined by rule of the board or the department if there is no
2 board. Electronic notification shall be allowed by the
3 department; however, it shall be the responsibility of the
4 licensee to ensure that the electronic notification was
5 received by the department. A licensee's failure to notify the
6 department of a change of address constitutes a violation of
7 this section, and the licensee may be disciplined by the board
8 or the department if there is no board.

9 Section 14. Subsections (2), (4), and (10) of section
10 456.073, Florida Statutes, are amended to read:

11 456.073 Disciplinary proceedings.--Disciplinary
12 proceedings for each board shall be within the jurisdiction of
13 the department.

14 (2) The department shall allocate sufficient and
15 adequately trained staff to expeditiously and thoroughly
16 determine legal sufficiency and investigate all legally
17 sufficient complaints. For purposes of this section, it is the
18 intent of the Legislature that the term "expeditiously" means
19 that the department complete the report of its initial
20 investigative findings and recommendations concerning the
21 existence of probable cause within 6 months after its receipt
22 of the complaint. The failure of the department, for
23 disciplinary cases under its jurisdiction, to comply with the
24 time limits of this section while investigating a complaint
25 against a licensee constitutes harmless error in any
26 subsequent disciplinary action unless a court finds that
27 either the fairness of the proceeding or the correctness of
28 the action may have been impaired by a material error in
29 procedure or a failure to follow prescribed procedure. When
30 its investigation is complete and legally sufficient, the
31 department shall prepare and submit to the probable cause

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1 panel of the appropriate regulatory board the investigative
2 report of the department. The report shall contain the
3 investigative findings and the recommendations of the
4 department concerning the existence of probable cause. The
5 department shall not recommend a letter of guidance in lieu of
6 finding probable cause if the subject has already been issued
7 a letter of guidance for a related offense.At any time after
8 legal sufficiency is found, the department may dismiss any
9 case, or any part thereof, if the department determines that
10 there is insufficient evidence to support the prosecution of
11 allegations contained therein. The department shall provide a
12 detailed report to the appropriate probable cause panel prior
13 to dismissal of any case or part thereof, and to the subject
14 of the complaint after dismissal of any case or part thereof,
15 under this section. For cases dismissed prior to a finding of
16 probable cause, such report is confidential and exempt from s.
17 119.07(1). The probable cause panel shall have access, upon
18 request, to the investigative files pertaining to a case prior
19 to dismissal of such case. If the department dismisses a case,
20 the probable cause panel may retain independent legal counsel,
21 employ investigators, and continue the investigation and
22 prosecution of the case as it deems necessary.

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

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

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

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1 complaint. A probable cause panel or a board may retain
2 independent legal counsel, employ investigators, and continue
3 the investigation as it deems necessary; all costs thereof
4 shall be paid from a trust fund used by the department to
5 implement this chapter. All proceedings of the probable cause
6 panel are exempt from s. 120.525.

7 (10) The complaint and all information obtained
8 pursuant to the investigation by the department are
9 confidential and exempt from s. 119.07(1) until 10 days after
10 probable cause has been found to exist by the probable cause
11 panel or by the department, or until the regulated
12 professional or subject of the investigation waives his or her
13 privilege of confidentiality, whichever occurs first. Upon
14 completion of the investigation and a recommendation by the
15 department to find probable cause, and pursuant to a written
16 request by the subject or the subject's attorney, the
17 department shall provide the subject an opportunity to inspect
18 the investigative file or, at the subject's expense, forward
19 to the subject a copy of the investigative file.
20 Notwithstanding s. 456.057, the subject may inspect or receive
21 a copy of any expert witness report or patient record
22 connected with the investigation if the subject agrees in
23 writing to maintain the confidentiality of any information
24 received under this subsection until 10 days after probable
25 cause is found and to maintain the confidentiality of patient
26 records pursuant to s. 456.057. The subject may file a written
27 response to the information contained in the investigative
28 file. Such response must be filed within 20 days of mailing by
29 the department, unless an extension of time has been granted
30 by the department. This subsection does not prohibit the
31 department from providing such information to any law

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1 enforcement agency or to any other regulatory agency.

2 Section 15. Section 456.081, Florida Statutes, is
3 amended to read:

4 456.081 Publication of information.--The department
5 and the boards shall have the authority to advise licensees
6 periodically, through the publication of a newsletter on the
7 department's website, about information that the department or
8 the board determines is of interest to the industry. Unless
9 otherwise prohibited by law, the department and the boards
10 shall publish a summary of final orders resulting in
11 disciplinary action fines, suspensions, or revocations, and
12 any other information the department or the board determines
13 is of interest to the public.

14 Section 16. Subsection (3) of section 456.079, Florida
15 Statutes, is amended to read:

16 456.079 Disciplinary guidelines.--

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

25 Section 17. Subsections (1) and (2) of section
26 457.109, Florida Statutes, are amended to read:

27 457.109 Disciplinary actions; grounds; action by the
28 board.--

29 (1) The following acts ~~shall~~ constitute grounds for
30 denial of a license or disciplinary action, as specified in s.
31 456.072(2)~~which the disciplinary actions specified in~~

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1 ~~subsection (2) may be taken:~~

2 (a) Attempting to obtain, obtaining, or renewing a
3 license to practice acupuncture by bribery, by fraudulent
4 misrepresentations, or through an error of the department.

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

9 (c) Being convicted or found guilty, regardless of
10 adjudication, in any jurisdiction of a crime which directly
11 relates to the practice of acupuncture or to the ability to
12 practice acupuncture. Any plea of nolo contendere shall be
13 considered a conviction for purposes of this chapter.

14 (d) False, deceptive, or misleading advertising or
15 advertising which claims that acupuncture is useful in curing
16 any disease.

17 (e) Advertising, practicing, or attempting to practice
18 under a name other than one's own.

19 (f) Failing to report to the department any person who
20 the licensee knows is in violation of this chapter or of the
21 rules of the department.

22 (g) Aiding, assisting, procuring, employing, or
23 advising any unlicensed person to practice acupuncture
24 contrary to this chapter or to a rule of the department.

25 (h) Failing to perform any statutory or legal
26 obligation placed upon a licensed acupuncturist.

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

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1 which are signed in the capacity as a licensed acupuncturist.

2 (j) Exercising influence within a
3 patient-acupuncturist relationship for purposes of engaging a
4 patient in sexual activity. A patient shall be presumed to be
5 incapable of giving free, full, and informed consent to sexual
6 activity with his or her acupuncturist.

7 (k) Making deceptive, untrue, or fraudulent
8 representations in the practice of acupuncture or employing a
9 trick or scheme in the practice of acupuncture when such
10 scheme or trick fails to conform to the generally prevailing
11 standards of treatment in the community.

12 (l) Soliciting patients, either personally or through
13 an agent, through the use of fraud, intimidation, undue
14 influence, or a form of overreaching or vexatious conduct. A
15 solicitation is any communication which directly or implicitly
16 requests an immediate oral response from the recipient.

17 (m) Failing to keep written medical records justifying
18 the course of treatment of the patient.

19 (n) Exercising influence on the patient to exploit the
20 patient for the financial gain of the licensee or of a third
21 party.

22 (o) Being unable to practice acupuncture with
23 reasonable skill and safety to patients by reason of illness
24 or use of alcohol, drugs, narcotics, chemicals, or any other
25 type of material or as a result of any mental or physical
26 condition. In enforcing this paragraph, upon a finding of the
27 secretary or the secretary's designee that probable cause
28 exists to believe that the licensee is unable to serve as an
29 acupuncturist due to the reasons stated in this paragraph, the
30 department shall have the authority to issue an order to
31 compel the licensee to submit to a mental or physical

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1 examination by a physician designated by the department. If
2 the licensee refuses to comply with such order, the
3 department's order directing such examination may be enforced
4 by filing a petition for enforcement in the circuit court
5 where the licensee resides or serves as an acupuncturist. The
6 licensee against whom the petition is filed shall not be named
7 or identified by initials in any public court record or
8 document, and the proceedings shall be closed to the public.
9 The department shall be entitled to the summary procedure
10 provided in s. 51.011. An acupuncturist affected under this
11 paragraph shall at reasonable intervals be afforded an
12 opportunity to demonstrate that he or she can resume the
13 competent practice of acupuncture with reasonable skill and
14 safety to patients. In any proceeding under this paragraph,
15 neither the record of proceedings nor the orders entered by
16 the department shall be used against an acupuncturist in any
17 other proceeding.

18 (p) Gross or repeated malpractice or the failure to
19 practice acupuncture with that level of care, skill, and
20 treatment which is recognized by a reasonably prudent similar
21 acupuncturist as being acceptable under similar conditions and
22 circumstances.

23 (q) Practicing or offering to practice beyond the
24 scope permitted by law or accepting and performing
25 professional responsibilities which the licensee knows or has
26 reason to know that he or she is not competent to perform.

27 (r) Delegating professional responsibilities to a
28 person when the licensee delegating such responsibilities
29 knows or has reason to know that such person is not qualified
30 by training, experience, or licensure to perform them.

31 (s) ~~Violating any provision of this chapter, a rule of~~

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1 ~~the department, or a lawful order of the board department~~
2 previously entered in a disciplinary hearing or failing to
3 comply with a lawfully issued subpoena of the department.

4 (t) Conspiring with another to commit an act, or
5 committing an act, which would tend to coerce, intimidate, or
6 preclude another licensee from lawfully advertising his or her
7 services.

8 (u) Fraud or deceit or gross negligence, incompetence,
9 or misconduct in the operation of a course of study.

10 (v) Failing to comply with state, county, or municipal
11 regulations or reporting requirements relating to public
12 health and the control of contagious and infectious diseases.

13 (w) Failing to comply with any rule of the board
14 relating to health and safety, including, but not limited to,
15 the sterilization of needles and equipment and the disposal of
16 potentially infectious materials.

17 (x) Violating any provision of this chapter or chapter
18 456, or any rules adopted pursuant thereto.

19 (2) The board may enter an order denying licensure or
20 imposing any of the penalties in s. 456.072(2) against any
21 applicant for licensure or licensee who is found guilty of
22 violating any provision of subsection (1) of this section or
23 who is found guilty of violating any provision of s.
24 456.072(1).~~When the board finds any person guilty of any of~~
25 ~~the acts set forth in subsection (1), it may enter an order~~
26 ~~imposing one or more of the following penalties:~~

27 ~~(a) Refusal to certify to the department an~~
28 ~~application for licensure.~~

29 ~~(b) Revocation or suspension of a license.~~

30 ~~(c) Restriction of practice.~~

31 ~~(d) Imposition of an administrative fine not to exceed~~

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1 ~~\$1,000 for each count or separate offense.~~

2 ~~(e) Issuance of a reprimand.~~

3 ~~(f) Placement of the acupuncturist on probation for a~~
4 ~~period of time and subject to such conditions as the board may~~
5 ~~specify.~~

6 Section 18. Subsections (1) and (2) of section
7 458.315, Florida Statutes, are amended to read:

8 458.315 Temporary certificate for practice in areas of
9 critical need.--Any physician who is licensed to practice in
10 any other state, whose license is currently valid, and who
11 pays an application fee of \$300 may be issued a temporary
12 certificate to practice in communities of Florida where there
13 is a critical need for physicians. A certificate may be
14 issued to a physician who will be employed by a county health
15 department, correctional facility, community health center
16 funded by s. 329, s. 330, or s. 340 of the United States
17 Public Health Services Act, or other entity that provides
18 health care to indigents and that is approved by the State
19 Health Officer. The Board of Medicine may issue this
20 temporary certificate with the following restrictions:

21 (1) The board shall determine the areas of critical
22 need, and the physician so certified may practice in any of
23 those areas for a time to be determined by the board. Such
24 areas shall include, but not be limited to, health
25 professional shortage areas designated by the United States
26 Department of Health and Human Services.

27 (a) A recipient of a temporary certificate for
28 practice in areas of critical need may use the license to work
29 for any approved employer in any area of critical need
30 approved by the board.

31 (b) The recipient of a temporary certificate for

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1 practice in areas of critical need shall, within 30 days after
2 accepting employment, notify the board of all approved
3 institutions in which the licensee practices and of all
4 approved institutions where practice privileges have been
5 denied.

6 (c) A physician practicing under a temporary
7 certificate is immune from civil liability for any act or
8 omission by such physician which results in personal injury or
9 property damage if:

10 1. The physician was acting in good faith within the
11 scope of his or her duties and was acting as an ordinary
12 reasonably prudent person would have acted under the same or
13 similar circumstances; and

14 2. The injury or damage was not caused by any wanton
15 or willful misconduct on the part of the physician in the
16 performance of such duties.

17 (2) The board may administer an abbreviated oral
18 examination to determine the physician's competency, but no
19 written regular examination is necessary. Within 60 days after
20 receipt of an application for a temporary certificate, the
21 board shall review the application and issue the temporary
22 certificate or notify the applicant of denial.

23 Section 19. Subsection (6) of section 458.320, Florida
24 Statutes, is amended to read:

25 458.320 Financial responsibility.--

26 (6) Any deceptive, untrue, or fraudulent
27 representation by the licensee with respect to any provision
28 of this section shall result in permanent disqualification
29 from any exemption to mandated financial responsibility as
30 provided in this section and shall constitute grounds for
31 disciplinary action under ~~as specified in~~ s. 458.331.

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1 Section 20. Subsections (1) and (2) of section
2 458.331, Florida Statutes, are amended to read:

3 458.331 Grounds for disciplinary action; action by the
4 board and department.--

5 (1) The following acts shall constitute grounds for
6 denial of a license or disciplinary action, as specified in s.
7 456.072(2)~~which the disciplinary actions specified in~~
8 ~~subsection (2) may be taken:~~

9 (a) Attempting to obtain, obtaining, or renewing a
10 license to practice medicine by bribery, by fraudulent
11 misrepresentations, or through an error of the department or
12 the board.

13 (b) Having a license or the authority to practice
14 medicine revoked, suspended, or otherwise acted against,
15 including the denial of licensure, by the licensing authority
16 of any jurisdiction, including its agencies or subdivisions.
17 The licensing authority's acceptance of a physician's
18 relinquishment of a license, stipulation, consent order, or
19 other settlement, offered in response to or in anticipation of
20 the filing of administrative charges against the physician's
21 license, shall be construed as action against the physician's
22 license.

23 (c) Being convicted or found guilty of, or entering a
24 plea of nolo contendere to, regardless of adjudication, a
25 crime in any jurisdiction which directly relates to the
26 practice of medicine or to the ability to practice medicine.

27 (d) False, deceptive, or misleading advertising.

28 (e) Failing to report to the department any person who
29 the licensee knows is in violation of this chapter or of the
30 rules of the department or the board. A treatment provider
31 approved pursuant to s. 456.076 shall provide the department

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1 or consultant with information in accordance with the
2 requirements of s. 456.076(3), (4), (5), and (6).

3 (f) Aiding, assisting, procuring, or advising any
4 unlicensed person to practice medicine contrary to this
5 chapter or to a rule of the department or the board.

6 (g) Failing to perform any statutory or legal
7 obligation placed upon a licensed physician.

8 (h) Making or filing a report which the licensee knows
9 to be false, intentionally or negligently failing to file a
10 report or record required by state or federal law, willfully
11 impeding or obstructing such filing or inducing another person
12 to do so. Such reports or records shall include only those
13 which are signed in the capacity as a licensed physician.

14 (i) Paying or receiving any commission, bonus,
15 kickback, or rebate, or engaging in any split-fee arrangement
16 in any form whatsoever with a physician, organization, agency,
17 or person, either directly or indirectly, for patients
18 referred to providers of health care goods and services,
19 including, but not limited to, hospitals, nursing homes,
20 clinical laboratories, ambulatory surgical centers, or
21 pharmacies. The provisions of this paragraph shall not be
22 construed to prevent a physician from receiving a fee for
23 professional consultation services.

24 (j) Exercising influence within a patient-physician
25 relationship for purposes of engaging a patient in sexual
26 activity. A patient shall be presumed to be incapable of
27 giving free, full, and informed consent to sexual activity
28 with his or her physician.

29 (k) Making deceptive, untrue, or fraudulent
30 representations in or related to the practice of medicine or
31 employing a trick or scheme in the practice of medicine.

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1 (1) Soliciting patients, either personally or through
2 an agent, through the use of fraud, intimidation, undue
3 influence, or a form of overreaching or vexatious conduct. A
4 solicitation is any communication which directly or implicitly
5 requests an immediate oral response from the recipient.

6 (m) Failing to keep legible, as defined by department
7 rule in consultation with the board, medical records that
8 identify the licensed physician or the physician extender and
9 supervising physician by name and professional title who is or
10 are responsible for rendering, ordering, supervising, or
11 billing for each diagnostic or treatment procedure and that
12 justify the course of treatment of the patient, including, but
13 not limited to, patient histories; examination results; test
14 results; records of drugs prescribed, dispensed, or
15 administered; and reports of consultations and
16 hospitalizations.

17 (n) Exercising influence on the patient or client in
18 such a manner as to exploit the patient or client for
19 financial gain of the licensee or of a third party, which
20 shall include, but not be limited to, the promoting or selling
21 of services, goods, appliances, or drugs.

22 (o) Promoting or advertising on any prescription form
23 of a community pharmacy unless the form shall also state "This
24 prescription may be filled at any pharmacy of your choice."

25 (p) Performing professional services which have not
26 been duly authorized by the patient or client, or his or her
27 legal representative, except as provided in s. 743.064, s.
28 766.103, or s. 768.13.

29 (q) Prescribing, dispensing, administering, mixing, or
30 otherwise preparing a legend drug, including any controlled
31 substance, other than in the course of the physician's

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1 professional practice. For the purposes of this paragraph, it
2 shall be legally presumed that prescribing, dispensing,
3 administering, mixing, or otherwise preparing legend drugs,
4 including all controlled substances, inappropriately or in
5 excessive or inappropriate quantities is not in the best
6 interest of the patient and is not in the course of the
7 physician's professional practice, without regard to his or
8 her intent.

9 (r) Prescribing, dispensing, or administering any
10 medicinal drug appearing on any schedule set forth in chapter
11 893 by the physician to himself or herself, except one
12 prescribed, dispensed, or administered to the physician by
13 another practitioner authorized to prescribe, dispense, or
14 administer medicinal drugs.

15 (s) Being unable to practice medicine with reasonable
16 skill and safety to patients by reason of illness or use of
17 alcohol, drugs, narcotics, chemicals, or any other type of
18 material or as a result of any mental or physical condition.
19 In enforcing this paragraph, the department shall have, upon a
20 finding of the secretary or the secretary's designee that
21 probable cause exists to believe that the licensee is unable
22 to practice medicine because of the reasons stated in this
23 paragraph, the authority to issue an order to compel a
24 licensee to submit to a mental or physical examination by
25 physicians designated by the department. If the licensee
26 refuses to comply with such order, the department's order
27 directing such examination may be enforced by filing a
28 petition for enforcement in the circuit court where the
29 licensee resides or does business. The licensee against whom
30 the petition is filed may not be named or identified by
31 initials in any public court records or documents, and the

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1 proceedings shall be closed to the public. The department
2 shall be entitled to the summary procedure provided in s.
3 51.011. A licensee or certificateholder affected under this
4 paragraph shall at reasonable intervals be afforded an
5 opportunity to demonstrate that he or she can resume the
6 competent practice of medicine with reasonable skill and
7 safety to patients.

8 (t) Gross or repeated malpractice or the failure to
9 practice medicine with that level of care, skill, and
10 treatment which is recognized by a reasonably prudent similar
11 physician as being acceptable under similar conditions and
12 circumstances. The board shall give great weight to the
13 provisions of s. 766.102 when enforcing this paragraph. As
14 used in this paragraph, "repeated malpractice" includes, but
15 is not limited to, three or more claims for medical
16 malpractice within the previous 5-year period resulting in
17 indemnities being paid in excess of \$25,000 each to the
18 claimant in a judgment or settlement and which incidents
19 involved negligent conduct by the physician. As used in this
20 paragraph, "gross malpractice" or "the failure to practice
21 medicine with that level of care, skill, and treatment which
22 is recognized by a reasonably prudent similar physician as
23 being acceptable under similar conditions and circumstances,"
24 shall not be construed so as to require more than one
25 instance, event, or act. Nothing in this paragraph shall be
26 construed to require that a physician be incompetent to
27 practice medicine in order to be disciplined pursuant to this
28 paragraph.

29 (u) Performing any procedure or prescribing any
30 therapy which, by the prevailing standards of medical practice
31 in the community, would constitute experimentation on a human

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1 subject, without first obtaining full, informed, and written
2 consent.

3 (v) Practicing or offering to practice beyond the
4 scope permitted by law or accepting and performing
5 professional responsibilities which the licensee knows or has
6 reason to know that he or she is not competent to perform. The
7 board may establish by rule standards of practice and
8 standards of care for particular practice settings, including,
9 but not limited to, education and training, equipment and
10 supplies, medications including anesthetics, assistance of and
11 delegation to other personnel, transfer agreements,
12 sterilization, records, performance of complex or multiple
13 procedures, informed consent, and policy and procedure
14 manuals.

15 (w) Delegating professional responsibilities to a
16 person when the licensee delegating such responsibilities
17 knows or has reason to know that such person is not qualified
18 by training, experience, or licensure to perform them.

19 (x) ~~Violating any provision of this chapter, a rule of~~
20 ~~the board or department, or~~ a lawful order of the board or
21 department previously entered in a disciplinary hearing or
22 failing to comply with a lawfully issued subpoena of the
23 department.

24 (y) Conspiring with another licensee or with any other
25 person to commit an act, or committing an act, which would
26 tend to coerce, intimidate, or preclude another licensee from
27 lawfully advertising his or her services.

28 (z) Procuring, or aiding or abetting in the procuring
29 of, an unlawful termination of pregnancy.

30 (aa) Presigning blank prescription forms.

31 (bb) Prescribing any medicinal drug appearing on

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1 Schedule II in chapter 893 by the physician for office use.

2 (cc) Prescribing, ordering, dispensing, administering,
3 supplying, selling, or giving any drug which is a Schedule II
4 amphetamine or a Schedule II sympathomimetic amine drug or any
5 compound thereof, pursuant to chapter 893, to or for any
6 person except for:

7 1. The treatment of narcolepsy; hyperkinesis;
8 behavioral syndrome characterized by the developmentally
9 inappropriate symptoms of moderate to severe distractability,
10 short attention span, hyperactivity, emotional lability, and
11 impulsivity; or drug-induced brain dysfunction;

12 2. The differential diagnostic psychiatric evaluation
13 of depression or the treatment of depression shown to be
14 refractory to other therapeutic modalities; or

15 3. The clinical investigation of the effects of such
16 drugs or compounds when an investigative protocol therefor is
17 submitted to, reviewed, and approved by the board before such
18 investigation is begun.

19 (dd) Failing to supervise adequately the activities of
20 those physician assistants, paramedics, emergency medical
21 technicians, or advanced registered nurse practitioners acting
22 under the supervision of the physician.

23 (ee) Prescribing, ordering, dispensing, administering,
24 supplying, selling, or giving growth hormones, testosterone or
25 its analogs, human chorionic gonadotropin (HCG), or other
26 hormones for the purpose of muscle building or to enhance
27 athletic performance. For the purposes of this subsection, the
28 term "muscle building" does not include the treatment of
29 injured muscle. A prescription written for the drug products
30 listed above may be dispensed by the pharmacist with the
31 presumption that the prescription is for legitimate medical

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1 use.

2 (ff) Prescribing, ordering, dispensing, administering,
3 supplying, selling, or giving amygdalin (laetrile) to any
4 person.

5 (gg) Misrepresenting or concealing a material fact at
6 any time during any phase of a licensing or disciplinary
7 process or procedure.

8 (hh) Improperly interfering with an investigation or
9 with any disciplinary proceeding.

10 (ii) Failing to report to the department any licensee
11 under this chapter or under chapter 459 who the physician or
12 physician assistant knows has violated the grounds for
13 disciplinary action set out in the law under which that person
14 is licensed and who provides health care services in a
15 facility licensed under chapter 395, or a health maintenance
16 organization certificated under part I of chapter 641, in
17 which the physician or physician assistant also provides
18 services.

19 (jj) Being found by any court in this state to have
20 provided corroborating written medical expert opinion attached
21 to any statutorily required notice of claim or intent or to
22 any statutorily required response rejecting a claim, without
23 reasonable investigation.

24 (kk) Failing to report to the board, in writing,
25 within 30 days if action as defined in paragraph (b) has been
26 taken against one's license to practice medicine in another
27 state, territory, or country.

28 (ll) Advertising or holding oneself out as a
29 board-certified specialist, if not qualified under s.
30 458.3312, in violation of this chapter.

31 (mm) Failing to comply with the requirements of ss.

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1 381.026 and 381.0261 to provide patients with information
2 about their patient rights and how to file a patient
3 complaint.

4 (nn) Violating any provision of this chapter or
5 chapter 456, or any rules adopted pursuant thereto.

6 (2) The board may enter an order denying licensure or
7 imposing any of the penalties in s. 456.072(2) against any
8 applicant for licensure or licensee who is found guilty of
9 violating any provision of subsection (1) of this section or
10 who is found guilty of violating any provision of s.

11 ~~456.072(1).When the board finds any person guilty of any of~~
12 ~~the grounds set forth in subsection (1), including conduct~~
13 ~~that would constitute a substantial violation of subsection~~
14 ~~(1) which occurred prior to licensure, it may enter an order~~
15 ~~imposing one or more of the following penalties:~~

16 ~~(a) Refusal to certify, or certification with~~
17 ~~restrictions, to the department an application for licensure,~~
18 ~~certification, or registration.~~

19 ~~(b) Revocation or suspension of a license.~~

20 ~~(c) Restriction of practice.~~

21 ~~(d) Imposition of an administrative fine not to exceed~~
22 ~~\$10,000 for each count or separate offense.~~

23 ~~(e) Issuance of a reprimand.~~

24 ~~(f) Placement of the physician on probation for a~~
25 ~~period of time and subject to such conditions as the board may~~
26 ~~specify, including, but not limited to, requiring the~~
27 ~~physician to submit to treatment, to attend continuing~~
28 ~~education courses, to submit to reexamination, or to work~~
29 ~~under the supervision of another physician.~~

30 ~~(g) Issuance of a letter of concern.~~

31 ~~(h) Corrective action.~~

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1 ~~(i) Refund of fees billed to and collected from the~~
2 ~~patient.~~

3 ~~(j) Imposition of an administrative fine in accordance~~
4 ~~with s. 381.0261 for violations regarding patient rights.~~

5
6 In determining what action is appropriate, the board must
7 first consider what sanctions are necessary to protect the
8 public or to compensate the patient. Only after those
9 sanctions have been imposed may the disciplining authority
10 consider and include in the order requirements designed to
11 rehabilitate the physician. All costs associated with
12 compliance with orders issued under this subsection are the
13 obligation of the physician.

14 Section 21. Subsection (2) of section 458.345, Florida
15 Statutes, is amended to read:

16 458.345 Registration of resident physicians, interns,
17 and fellows; list of hospital employees; prescribing of
18 medicinal drugs; penalty.--

19 (2) The board shall not certify to the department for
20 registration any applicant who is under investigation in any
21 state or jurisdiction for an act which would constitute
22 grounds the basis for ~~imposing a~~ disciplinary action under
23 ~~penalty specified in~~ s. 458.331(2)(b) until such time as the
24 investigation is completed, at which time the provisions of s.
25 458.331 shall apply.

26 Section 22. Subsection (7) of section 458.347, Florida
27 Statutes, is amended to read:

28 458.347 Physician assistants.--

29 (7) PHYSICIAN ASSISTANT LICENSURE.--

30 (g) The Board of Medicine may impose any of the
31 penalties authorized under ~~specified in~~ ss. 456.072 and

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1 458.331(2) upon a physician assistant if the physician
2 assistant or the supervising physician has been found guilty
3 of or is being investigated for any act that constitutes a
4 violation of this chapter or chapter 456.

5 Section 23. Subsection (6) of section 459.0085,
6 Florida Statutes, is amended to read:

7 459.0085 Financial responsibility.--

8 (6) Any deceptive, untrue, or fraudulent
9 representation by the licensee with respect to any provision
10 of this section shall result in permanent disqualification
11 from any exemption to mandated financial responsibility as
12 provided in this section and shall constitute grounds for
13 disciplinary action under ~~as specified in~~ s. 459.015.

14 Section 24. Subsections (1) and (2) of section
15 459.015, Florida Statutes, are amended to read:

16 459.015 Grounds for disciplinary action; action by the
17 board and department.--

18 (1) The following acts ~~shall~~ constitute grounds for
19 denial of a license or disciplinary action, as specified in s.
20 456.072(2) which the disciplinary actions specified in
21 subsection (2) may be taken:

22 (a) Attempting to obtain, obtaining, or renewing a
23 license to practice osteopathic medicine or a certificate
24 issued under this chapter by bribery, by fraudulent
25 misrepresentations, or through an error of the department or
26 the board.

27 (b) Having a license or the authority to practice
28 osteopathic medicine revoked, suspended, or otherwise acted
29 against, including the denial of licensure, by the licensing
30 authority of any jurisdiction, including its agencies or
31 subdivisions. The licensing authority's acceptance of a

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1 physician's relinquishment of license, stipulation, consent
2 order, or other settlement offered in response to or in
3 anticipation of the filing of administrative charges against
4 the physician shall be construed as action against the
5 physician's license.

6 (c) Being convicted or found guilty, regardless of
7 adjudication, of a crime in any jurisdiction which directly
8 relates to the practice of osteopathic medicine or to the
9 ability to practice osteopathic medicine. A plea of nolo
10 contendere shall create a rebuttable presumption of guilt to
11 the underlying criminal charges.

12 (d) False, deceptive, or misleading advertising.

13 (e) Failing to report to the department or the
14 department's impaired professional consultant any person who
15 the licensee or certificateholder knows is in violation of
16 this chapter or of the rules of the department or the board.
17 A treatment provider, approved pursuant to s. 456.076, shall
18 provide the department or consultant with information in
19 accordance with the requirements of s. 456.076(3), (4), (5),
20 and (6).

21 (f) Aiding, assisting, procuring, or advising any
22 unlicensed person to practice osteopathic medicine contrary to
23 this chapter or to a rule of the department or the board.

24 (g) Failing to perform any statutory or legal
25 obligation placed upon a licensed osteopathic physician.

26 (h) Giving false testimony in the course of any legal
27 or administrative proceedings relating to the practice of
28 medicine or the delivery of health care services.

29 (i) Making or filing a report which the licensee knows
30 to be false, intentionally or negligently failing to file a
31 report or record required by state or federal law, willfully

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1 impeding or obstructing such filing, or inducing another
2 person to do so. Such reports or records shall include only
3 those which are signed in the capacity as a licensed
4 osteopathic physician.

5 (j) Paying or receiving any commission, bonus,
6 kickback, or rebate, or engaging in any split-fee arrangement
7 in any form whatsoever with a physician, organization, agency,
8 person, partnership, firm, corporation, or other business
9 entity, for patients referred to providers of health care
10 goods and services, including, but not limited to, hospitals,
11 nursing homes, clinical laboratories, ambulatory surgical
12 centers, or pharmacies. The provisions of this paragraph
13 shall not be construed to prevent an osteopathic physician
14 from receiving a fee for professional consultation services.

15 (k) Refusing to provide health care based on a
16 patient's participation in pending or past litigation or
17 participation in any disciplinary action conducted pursuant to
18 this chapter, unless such litigation or disciplinary action
19 directly involves the osteopathic physician requested to
20 provide services.

21 (l) Exercising influence within a patient-physician
22 relationship for purposes of engaging a patient in sexual
23 activity. A patient shall be presumed to be incapable of
24 giving free, full, and informed consent to sexual activity
25 with his or her physician.

26 (m) Making deceptive, untrue, or fraudulent
27 representations in or related to the practice of osteopathic
28 medicine or employing a trick or scheme in the practice of
29 osteopathic medicine.

30 (n) Soliciting patients, either personally or through
31 an agent, through the use of fraud, intimidation, undue

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1 influence, or forms of overreaching or vexatious conduct. A
2 solicitation is any communication which directly or implicitly
3 requests an immediate oral response from the recipient.

4 (o) Failing to keep legible, as defined by department
5 rule in consultation with the board, medical records that
6 identify the licensed osteopathic physician or the osteopathic
7 physician extender and supervising osteopathic physician by
8 name and professional title who is or are responsible for
9 rendering, ordering, supervising, or billing for each
10 diagnostic or treatment procedure and that justify the course
11 of treatment of the patient, including, but not limited to,
12 patient histories; examination results; test results; records
13 of drugs prescribed, dispensed, or administered; and reports
14 of consultations and hospitalizations.

15 (p) Fraudulently altering or destroying records
16 relating to patient care or treatment, including, but not
17 limited to, patient histories, examination results, and test
18 results.

19 (q) Exercising influence on the patient or client in
20 such a manner as to exploit the patient or client for
21 financial gain of the licensee or of a third party which shall
22 include, but not be limited to, the promotion or sale of
23 services, goods, appliances, or drugs.

24 (r) Promoting or advertising on any prescription form
25 of a community pharmacy, unless the form shall also state
26 "This prescription may be filled at any pharmacy of your
27 choice."

28 (s) Performing professional services which have not
29 been duly authorized by the patient or client or his or her
30 legal representative except as provided in s. 743.064, s.
31 766.103, or s. 768.13.

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1 (t) Prescribing, dispensing, administering, supplying,
2 selling, giving, mixing, or otherwise preparing a legend drug,
3 including all controlled substances, other than in the course
4 of the osteopathic physician's professional practice. For the
5 purposes of this paragraph, it shall be legally presumed that
6 prescribing, dispensing, administering, supplying, selling,
7 giving, mixing, or otherwise preparing legend drugs, including
8 all controlled substances, inappropriately or in excessive or
9 inappropriate quantities is not in the best interest of the
10 patient and is not in the course of the osteopathic
11 physician's professional practice, without regard to his or
12 her intent.

13 (u) Prescribing or dispensing any medicinal drug
14 appearing on any schedule set forth in chapter 893 by the
15 osteopathic physician for himself or herself or administering
16 any such drug by the osteopathic physician to himself or
17 herself unless such drug is prescribed for the osteopathic
18 physician by another practitioner authorized to prescribe
19 medicinal drugs.

20 (v) Prescribing, ordering, dispensing, administering,
21 supplying, selling, or giving amygdalin (laetrile) to any
22 person.

23 (w) Being unable to practice osteopathic medicine with
24 reasonable skill and safety to patients by reason of illness
25 or use of alcohol, drugs, narcotics, chemicals, or any other
26 type of material or as a result of any mental or physical
27 condition. In enforcing this paragraph, the department shall,
28 upon a finding of the secretary or the secretary's designee
29 that probable cause exists to believe that the licensee is
30 unable to practice medicine because of the reasons stated in
31 this paragraph, have the authority to issue an order to compel

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1 a licensee to submit to a mental or physical examination by
2 physicians designated by the department. If the licensee
3 refuses to comply with such order, the department's order
4 directing such examination may be enforced by filing a
5 petition for enforcement in the circuit court where the
6 licensee resides or does business. The licensee against whom
7 the petition is filed shall not be named or identified by
8 initials in any public court records or documents, and the
9 proceedings shall be closed to the public. The department
10 shall be entitled to the summary procedure provided in s.
11 51.011. A licensee or certificateholder affected under this
12 paragraph shall at reasonable intervals be afforded an
13 opportunity to demonstrate that he or she can resume the
14 competent practice of medicine with reasonable skill and
15 safety to patients.

16 (x) Gross or repeated malpractice or the failure to
17 practice osteopathic medicine with that level of care, skill,
18 and treatment which is recognized by a reasonably prudent
19 similar osteopathic physician as being acceptable under
20 similar conditions and circumstances. The board shall give
21 great weight to the provisions of s. 766.102 when enforcing
22 this paragraph. As used in this paragraph, "repeated
23 malpractice" includes, but is not limited to, three or more
24 claims for medical malpractice within the previous 5-year
25 period resulting in indemnities being paid in excess of
26 \$25,000 each to the claimant in a judgment or settlement and
27 which incidents involved negligent conduct by the osteopathic
28 physician. As used in this paragraph, "gross malpractice" or
29 "the failure to practice osteopathic medicine with that level
30 of care, skill, and treatment which is recognized by a
31 reasonably prudent similar osteopathic physician as being

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1 acceptable under similar conditions and circumstances" shall
2 not be construed so as to require more than one instance,
3 event, or act. Nothing in this paragraph shall be construed to
4 require that an osteopathic physician be incompetent to
5 practice osteopathic medicine in order to be disciplined
6 pursuant to this paragraph. A recommended order by an
7 administrative law judge or a final order of the board finding
8 a violation under this paragraph shall specify whether the
9 licensee was found to have committed "gross malpractice,"
10 "repeated malpractice," or "failure to practice osteopathic
11 medicine with that level of care, skill, and treatment which
12 is recognized as being acceptable under similar conditions and
13 circumstances," or any combination thereof, and any
14 publication by the board shall so specify.

15 (y) Performing any procedure or prescribing any
16 therapy which, by the prevailing standards of medical practice
17 in the community, would constitute experimentation on human
18 subjects, without first obtaining full, informed, and written
19 consent.

20 (z) Practicing or offering to practice beyond the
21 scope permitted by law or accepting and performing
22 professional responsibilities which the licensee knows or has
23 reason to know that he or she is not competent to perform. The
24 board may establish by rule standards of practice and
25 standards of care for particular practice settings, including,
26 but not limited to, education and training, equipment and
27 supplies, medications including anesthetics, assistance of and
28 delegation to other personnel, transfer agreements,
29 sterilization, records, performance of complex or multiple
30 procedures, informed consent, and policy and procedure
31 manuals.

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1 (aa) Delegating professional responsibilities to a
2 person when the licensee delegating such responsibilities
3 knows or has reason to know that such person is not qualified
4 by training, experience, or licensure to perform them.

5 (bb) ~~Violating any provision of this chapter, a rule~~
6 ~~of the board or department, or~~ 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 board
9 or department.

10 (cc) Conspiring with another licensee or with any
11 other person to commit an act, or committing an act, which
12 would tend to coerce, intimidate, or preclude another licensee
13 from lawfully advertising his or her services.

14 (dd) Procuring, or aiding or abetting in the procuring
15 of, an unlawful termination of pregnancy.

16 (ee) Presigning blank prescription forms.

17 (ff) Prescribing any medicinal drug appearing on
18 Schedule II in chapter 893 by the osteopathic physician for
19 office use.

20 (gg) Prescribing, ordering, dispensing, administering,
21 supplying, selling, or giving any drug which is a Schedule II
22 amphetamine or Schedule II sympathomimetic amine drug or any
23 compound thereof, pursuant to chapter 893, to or for any
24 person except for:

25 1. The treatment of narcolepsy; hyperkinesis;
26 behavioral syndrome characterized by the developmentally
27 inappropriate symptoms of moderate to severe distractability,
28 short attention span, hyperactivity, emotional lability, and
29 impulsivity; or drug-induced brain dysfunction;

30 2. The differential diagnostic psychiatric evaluation
31 of depression or the treatment of depression shown to be

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1 refractory to other therapeutic modalities; or

2 3. The clinical investigation of the effects of such
3 drugs or compounds when an investigative protocol therefor is
4 submitted to, reviewed, and approved by the board before such
5 investigation is begun.

6 (hh) Failing to supervise adequately the activities of
7 those physician assistants, paramedics, emergency medical
8 technicians, advanced registered nurse practitioners, or other
9 persons acting under the supervision of the osteopathic
10 physician.

11 (ii) Prescribing, ordering, dispensing, administering,
12 supplying, selling, or giving growth hormones, testosterone or
13 its analogs, human chorionic gonadotropin (HCG), or other
14 hormones for the purpose of muscle building or to enhance
15 athletic performance. For the purposes of this subsection, the
16 term "muscle building" does not include the treatment of
17 injured muscle. A prescription written for the drug products
18 listed above may be dispensed by the pharmacist with the
19 presumption that the prescription is for legitimate medical
20 use.

21 (jj) Misrepresenting or concealing a material fact at
22 any time during any phase of a licensing or disciplinary
23 process or procedure.

24 (kk) Improperly interfering with an investigation or
25 with any disciplinary proceeding.

26 (ll) Failing to report to the department any licensee
27 under chapter 458 or under this chapter who the osteopathic
28 physician or physician assistant knows has violated the
29 grounds for disciplinary action set out in the law under which
30 that person is licensed and who provides health care services
31 in a facility licensed under chapter 395, or a health

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1 maintenance organization certificated under part I of chapter
 2 641, in which the osteopathic physician or physician assistant
 3 also provides services.

4 (mm) Being found by any court in this state to have
 5 provided corroborating written medical expert opinion attached
 6 to any statutorily required notice of claim or intent or to
 7 any statutorily required response rejecting a claim, without
 8 reasonable investigation.

9 (nn) Advertising or holding oneself out as a
 10 board-certified specialist in violation of this chapter.

11 (oo) Failing to comply with the requirements of ss.
 12 381.026 and 381.0261 to provide patients with information
 13 about their patient rights and how to file a patient
 14 complaint.

15 (pp) Violating any provision of this chapter or
 16 chapter 456, or any rules adopted pursuant thereto.

17 (2) The board may enter an order denying licensure or
 18 imposing any of the penalties in s. 456.072(2) against any
 19 applicant for licensure or licensee who is found guilty of
 20 violating any provision of subsection (1) of this section or
 21 who is found guilty of violating any provision of s.

22 ~~456.072(1). When the board finds any person guilty of any of~~
 23 ~~the grounds set forth in subsection (1), it may enter an order~~
 24 ~~imposing one or more of the following penalties:~~

25 (a) ~~Refusal to certify, or certify with restrictions,~~
 26 ~~to the department an application for certification, licensure,~~
 27 ~~renewal, or reactivation.~~

28 (b) ~~Revocation or suspension of a license or~~
 29 ~~certificate.~~

30 (c) ~~Restriction of practice.~~

31 (d) ~~Imposition of an administrative fine not to exceed~~

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- 1 ~~\$10,000 for each count or separate offense.~~
- 2 ~~(e) Issuance of a reprimand.~~
- 3 ~~(f) Issuance of a letter of concern.~~
- 4 ~~(g) Placement of the osteopathic physician on~~
- 5 ~~probation for a period of time and subject to such conditions~~
- 6 ~~as the board may specify, including, but not limited to,~~
- 7 ~~requiring the osteopathic physician to submit to treatment,~~
- 8 ~~attend continuing education courses, submit to reexamination,~~
- 9 ~~or work under the supervision of another osteopathic~~
- 10 ~~physician.~~
- 11 ~~(h) Corrective action.~~
- 12 ~~(i) Refund of fees billed to and collected from the~~
- 13 ~~patient.~~
- 14 ~~(j) Imposition of an administrative fine in accordance~~
- 15 ~~with s. 381.0261 for violations regarding patient rights.~~

17 In determining what action is appropriate, the board must
 18 first consider what sanctions are necessary to protect the
 19 public or to compensate the patient. Only after those
 20 sanctions have been imposed may the disciplining authority
 21 consider and include in the order requirements designed to
 22 rehabilitate the physician. All costs associated with
 23 compliance with orders issued under this subsection are the
 24 obligation of the physician.

25 Section 25. Paragraph (f) of subsection (7) of section
 26 459.022, Florida Statutes, is amended to read:

- 27 459.022 Physician assistants.--
- 28 (7) PHYSICIAN ASSISTANT LICENSURE.--
- 29 (f) The Board of Osteopathic Medicine may impose any
- 30 of the penalties authorized under ~~specified in~~ ss. 456.072 and
- 31 459.015(2) upon a physician assistant if the physician

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1 assistant or the supervising physician has been found guilty
2 of or is being investigated for any act that constitutes a
3 violation of this chapter or chapter 456.

4 Section 26. Subsections (1) and (2) of section
5 460.413, Florida Statutes, are amended to read:

6 460.413 Grounds for disciplinary action; action by
7 board or department.--

8 (1) The following acts ~~shall~~ constitute grounds for
9 denial of a license or disciplinary action, as specified in s.
10 456.072(2)~~which the disciplinary actions specified in~~
11 ~~subsection (2) may be taken:~~

12 (a) Attempting to obtain, obtaining, or renewing a
13 license to practice chiropractic medicine by bribery, by
14 fraudulent misrepresentations, or through an error of the
15 department or the board.

16 (b) Having a license to practice chiropractic medicine
17 revoked, suspended, or otherwise acted against, including the
18 denial of licensure, by the licensing authority of another
19 state, territory, or country.

20 (c) Being convicted or found guilty, regardless of
21 adjudication, of a crime in any jurisdiction which directly
22 relates to the practice of chiropractic medicine or to the
23 ability to practice chiropractic medicine. Any plea of nolo
24 contendere shall be considered a conviction for purposes of
25 this chapter.

26 (d) False, deceptive, or misleading advertising.

27 (e) Causing to be advertised, by any means whatsoever,
28 any advertisement which does not contain an assertion or
29 statement which would identify herself or himself as a
30 chiropractic physician or identify such chiropractic clinic or
31 related institution in which she or he practices or in which

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1 she or he is owner, in whole or in part, as a chiropractic
2 institution.

3 (f) Advertising, practicing, or attempting to practice
4 under a name other than one's own.

5 (g) Failing to report to the department any person who
6 the licensee knows is in violation of this chapter or of the
7 rules of the department or the board.

8 (h) Aiding, assisting, procuring, or advising any
9 unlicensed person to practice chiropractic medicine contrary
10 to this chapter or to a rule of the department or the board.

11 (i) Failing to perform any statutory or legal
12 obligation placed upon a licensed chiropractic physician.

13 (j) Making or filing a report which the licensee knows
14 to be false, intentionally or negligently failing to file a
15 report or record required by state or federal law, willfully
16 impeding or obstructing such filing or inducing another person
17 to do so. Such reports or records shall include only those
18 which are signed in the capacity of a licensed chiropractic
19 physician.

20 (k) Making misleading, deceptive, untrue, or
21 fraudulent representations in the practice of chiropractic
22 medicine or employing a trick or scheme in the practice of
23 chiropractic medicine when such trick or scheme fails to
24 conform to the generally prevailing standards of treatment in
25 the chiropractic medical community.

26 (l) Soliciting patients either personally or through
27 an agent, unless such solicitation falls into a category of
28 solicitations approved by rule of the board.

29 (m) Failing to keep legibly written chiropractic
30 medical records that identify clearly by name and credentials
31 the licensed chiropractic physician rendering, ordering,

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1 supervising, or billing for each examination or treatment
2 procedure and that justify the course of treatment of the
3 patient, including, but not limited to, patient histories,
4 examination results, test results, X rays, and diagnosis of a
5 disease, condition, or injury. X rays need not be retained
6 for more than 4 years.

7 (n) Exercising influence on the patient or client in
8 such a manner as to exploit the patient or client for
9 financial gain of the licensee or of a third party which shall
10 include, but not be limited to, the promotion or sale of
11 services, goods or appliances, or drugs.

12 (o) Performing professional services which have not
13 been duly authorized by the patient or client or her or his
14 legal representative except as provided in ss. 743.064,
15 766.103, and 768.13.

16 (p) Prescribing, dispensing, or administering any
17 medicinal drug except as authorized by s. 460.403(9)(c)2.,
18 performing any surgery, or practicing obstetrics.

19 (q) Being unable to practice chiropractic medicine
20 with reasonable skill and safety to patients by reason of
21 illness or use of alcohol, drugs, narcotics, chemicals, or any
22 other type of material or as a result of any mental or
23 physical condition. In enforcing this paragraph, upon a
24 finding by the secretary of the department, or his or her
25 designee, or the probable cause panel of the board that
26 probable cause exists to believe that the licensee is unable
27 to practice the profession because of reasons stated in this
28 paragraph, the department shall have the authority to compel a
29 licensee to submit to a mental or physical examination by a
30 physician designated by the department. If the licensee
31 refuses to comply with the department's order, the department

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1 may file a petition for enforcement in the circuit court of
2 the circuit in which the licensee resides or does business.
3 The department shall be entitled to the summary procedure
4 provided in s. 51.011. The record of proceedings to obtain a
5 compelled mental or physical examination shall not be used
6 against a licensee in any other proceedings. A chiropractic
7 physician affected under this paragraph shall at reasonable
8 intervals be afforded an opportunity to demonstrate that she
9 or he can resume the competent practice of chiropractic
10 medicine with reasonable skill and safety to patients.

11 (r) Gross or repeated malpractice or the failure to
12 practice chiropractic medicine at a level of care, skill, and
13 treatment which is recognized by a reasonably prudent
14 chiropractic physician as being acceptable under similar
15 conditions and circumstances. The board shall give great
16 weight to the standards for malpractice in s. 766.102 in
17 interpreting this provision. A recommended order by an
18 administrative law judge, or a final order of the board
19 finding a violation under this section shall specify whether
20 the licensee was found to have committed "gross malpractice,"
21 "repeated malpractice," or "failure to practice chiropractic
22 medicine with that level of care, skill, and treatment which
23 is recognized as being acceptable under similar conditions and
24 circumstances" or any combination thereof, and any publication
25 by the board shall so specify.

26 (s) Performing any procedure or prescribing any
27 therapy which, by the prevailing standards of chiropractic
28 medical practice in the community, would constitute
29 experimentation on human subjects, without first obtaining
30 full, informed, and written consent.

31 (t) Practicing or offering to practice beyond the

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1 scope permitted by law or accepting and performing
2 professional responsibilities which the licensee knows or has
3 reason to know that she or he is not competent to perform.

4 (u) Delegating professional responsibilities to a
5 person when the licensee delegating such responsibilities
6 knows or has reason to know that such person is not qualified
7 by training, experience, or licensure to perform them.

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

13 (w) Conspiring with another licensee or with any other
14 person to commit an act, or committing an act, which would
15 tend to coerce, intimidate, or preclude another licensee from
16 lawfully advertising her or his services.

17 (x) Submitting to any third-party payor a claim for a
18 service or treatment which was not actually provided to a
19 patient.

20 (y) Failing to preserve identity of funds and property
21 of a patient. As provided by rule of the board, money or other
22 property entrusted to a chiropractic physician for a specific
23 purpose, including advances for costs and expenses of
24 examination or treatment, is to be held in trust and must be
25 applied only to that purpose. Money and other property of
26 patients coming into the hands of a chiropractic physician are
27 not subject to counterclaim or setoff for chiropractic
28 physician's fees, and a refusal to account for and deliver
29 over such money and property upon demand shall be deemed a
30 conversion. This is not to preclude the retention of money or
31 other property upon which the chiropractic physician has a

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1 valid lien for services or to preclude the payment of agreed
2 fees from the proceeds of transactions for examinations or
3 treatments. Controversies as to the amount of the fees are
4 not grounds for disciplinary proceedings unless the amount
5 demanded is clearly excessive or extortionate, or the demand
6 is fraudulent. All funds of patients paid to a chiropractic
7 physician, other than advances for costs and expenses, shall
8 be deposited in one or more identifiable bank accounts
9 maintained in the state in which the chiropractic physician's
10 office is situated, and no funds belonging to the chiropractic
11 physician shall be deposited therein except as follows:

12 1. Funds reasonably sufficient to pay bank charges may
13 be deposited therein.

14 2. Funds belonging in part to a patient and in part
15 presently or potentially to the physician must be deposited
16 therein, but the portion belonging to the physician may be
17 withdrawn when due unless the right of the physician to
18 receive it is disputed by the patient, in which event the
19 disputed portion shall not be withdrawn until the dispute is
20 finally resolved.

21

22 Every chiropractic physician shall maintain complete records
23 of all funds, securities, and other properties of a patient
24 coming into the possession of the physician and render
25 appropriate accounts to the patient regarding them. In
26 addition, every chiropractic physician shall promptly pay or
27 deliver to the patient, as requested by the patient, the
28 funds, securities, or other properties in the possession of
29 the physician which the patient is entitled to receive.

30 (z) Offering to accept or accepting payment for
31 services rendered by assignment from any third-party payor

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1 after offering to accept or accepting whatever the third-party
2 payor covers as payment in full, if the effect of the offering
3 or acceptance is to eliminate or give the impression of
4 eliminating the need for payment by an insured of any required
5 deductions applicable in the policy of the insured.

6 (aa) Failing to provide, upon request of the insured,
7 a copy of a claim submitted to any third-party payor for
8 service or treatment of the insured.

9 (bb) Advertising a fee or charge for a service or
10 treatment which is different from the fee or charge the
11 licensee submits to third-party payors for that service or
12 treatment.

13 (cc) Advertising any reduced or discounted fees for
14 services or treatments, or advertising any free services or
15 treatments, without prominently stating in the advertisement
16 the usual fee of the licensee for the service or treatment
17 which is the subject of the discount, rebate, or free
18 offering.

19 (dd) Using acupuncture without being certified
20 pursuant to s. 460.403(9)(f).

21 (ee) Failing to report to the department any licensee
22 under chapter 458 or under chapter 459 who the chiropractic
23 physician or chiropractic physician's assistant knows has
24 violated the grounds for disciplinary action set out in the
25 law under which that person is licensed and who provides
26 health care services in a facility licensed under chapter 395,
27 or a health maintenance organization certificated under part I
28 of chapter 641, in which the chiropractic physician or
29 chiropractic physician's assistant also provides services.

30 (ff) Violating any provision of this chapter or
31 chapter 456, or any rules adopted pursuant thereto.

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1 (2) The board may enter an order denying licensure or
2 imposing any of the penalties in s. 456.072(2) against any
3 applicant for licensure or licensee who is found guilty of
4 violating any provision of subsection (1) of this section or
5 who is found guilty of violating any provision of s.
6 456.072(1).~~When the board finds any person guilty of any of~~
7 ~~the grounds set forth in subsection (1), it may enter an order~~
8 ~~imposing one or more of the following penalties:~~

9 ~~(a) Refusal to certify to the department an~~
10 ~~application for licensure.~~

11 ~~(b) Revocation or suspension of a license.~~

12 ~~(c) Restriction of practice.~~

13 ~~(d) Imposition of an administrative fine not to exceed~~
14 ~~\$10,000 for each count or separate offense.~~

15 ~~(e) Issuance of a reprimand.~~

16 ~~(f) Placement of the chiropractic physician on~~
17 ~~probation for a period of time and subject to such conditions~~
18 ~~as the board may specify, including requiring the chiropractic~~
19 ~~physician to submit to treatment, to attend continuing~~
20 ~~education courses, to submit to reexamination, or to work~~
21 ~~under the supervision of another chiropractic physician.~~

22 ~~(g) Imposition of costs of the investigation and~~
23 ~~prosecution.~~

24 ~~(h) Requirement that the chiropractic physician~~
25 ~~undergo remedial education.~~

26 ~~(i) Issuance of a letter of concern.~~

27 ~~(j) Corrective action.~~

28 ~~(k) Refund of fees billed to and collected from the~~
29 ~~patient or a third party.~~

30

31 In determining what action is appropriate, the board must

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1 first consider what sanctions are necessary to protect the
2 public or to compensate the patient. Only after those
3 sanctions have been imposed may the disciplining authority
4 consider and include in the order requirements designed to
5 rehabilitate the chiropractic physician. All costs associated
6 with compliance with orders issued under this subsection are
7 the obligation of the chiropractic physician.

8 Section 27. Subsections (1) and (2) of section
9 461.013, Florida Statutes, are amended to read:

10 461.013 Grounds for disciplinary action; action by the
11 board; investigations by department.--

12 (1) The following acts ~~shall~~ constitute grounds for
13 denial of a license or disciplinary action, as specified in s.
14 456.072(2) which the disciplinary actions specified in
15 subsection (2) may be taken:

16 (a) Attempting to obtain, obtaining, or renewing a
17 license to practice podiatric medicine by bribery, by
18 fraudulent misrepresentations, or through an error of the
19 department or the board.

20 (b) Having a license to practice podiatric medicine
21 revoked, suspended, or otherwise acted against, including the
22 denial of licensure, by the licensing authority of another
23 state, territory, or country.

24 (c) Being convicted or found guilty, regardless of
25 adjudication, of a crime in any jurisdiction which directly
26 relates to the practice of podiatric medicine or to the
27 ability to practice podiatric medicine. Any plea of nolo
28 contendere shall be considered a conviction for purposes of
29 this chapter.

30 (d) False, deceptive, or misleading advertising.

31 (e) Advertising, practicing, or attempting to practice

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1 under a name other than one's own.

2 (f) Failing to report to the department any person who
3 the licensee knows is in violation of this chapter or of the
4 rules of the department or the board.

5 (g) Aiding, assisting, procuring, permitting, or
6 advising any unlicensed person to practice podiatric medicine
7 contrary to this chapter or to rule of the department or the
8 board.

9 (h) Failing to perform any statutory or legal
10 obligation placed upon a licensed podiatric physician.

11 (i) Making or filing a report which the licensee knows
12 to be false, intentionally or negligently failing to file a
13 report or record required by state or federal law, willfully
14 impeding or obstructing such filing or inducing another person
15 to do so. Such report or records shall include only those
16 which are signed in the capacity of a licensed podiatric
17 physician.

18 (j) Making misleading, deceptive, untrue, or
19 fraudulent representations in the practice of podiatric
20 medicine or employing a trick or scheme in the practice of
21 podiatric medicine when such scheme or trick fails to conform
22 to the generally prevailing standards of treatment in the
23 podiatric community.

24 (k) Soliciting patients either personally or through
25 an agent, unless such solicitation falls into a category of
26 solicitations approved by rule of the board.

27 (l) Failing to keep written medical records justifying
28 the course of treatment of the patient, including, but not
29 limited to, patient histories, examination results, and test
30 results.

31 (m) Exercising influence on the patient or client in

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1 such a manner as to exploit the patient or client for
2 financial gain of the licensee or of a third party which shall
3 include, but not be limited to, the promotion or sale of
4 services, goods, appliances, or drugs and the promoting or
5 advertising on any prescription form of a community pharmacy
6 unless the form shall also state "This prescription may be
7 filled at any pharmacy of your choice."

8 (n) Performing professional services which have not
9 been duly authorized by the patient or client or her or his
10 legal representative except as provided in ss. 743.064,
11 766.103, and 768.13.

12 (o) Prescribing, dispensing, administering, mixing, or
13 otherwise preparing a legend drug, including all controlled
14 substances, other than in the course of the podiatric
15 physician's professional practice. For the purposes of this
16 paragraph, it shall be legally presumed that prescribing,
17 dispensing, administering, mixing, or otherwise preparing
18 legend drugs, including all controlled substances,
19 inappropriately or in excessive or inappropriate quantities is
20 not in the best interest of the patient and is not in the
21 course of the podiatric physician's professional practice,
22 without regard to her or his intent.

23 (p) Prescribing, dispensing, or administering any
24 medicinal drug appearing on any schedule set forth in chapter
25 893 by the podiatric physician to herself or himself except
26 those prescribed, dispensed, or administered to the podiatric
27 physician by another practitioner authorized to prescribe,
28 dispense, or administer them.

29 (q) Prescribing, ordering, dispensing, administering,
30 supplying, selling, or giving any amphetamine or
31 sympathomimetic amine drug or compound designated as a

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1 Schedule II controlled substance pursuant to chapter 893.
2 (r) Being unable to practice podiatric medicine with
3 reasonable skill and safety to patients by reason of illness
4 or use of alcohol, drugs, narcotics, chemicals, or any other
5 type of material or as a result of any mental or physical
6 condition. In enforcing this paragraph the department shall,
7 upon probable cause, have authority to compel a podiatric
8 physician to submit to a mental or physical examination by
9 physicians designated by the department. Failure of a
10 podiatric physician to submit to such examination when
11 directed shall constitute an admission of the allegations
12 against her or him, unless the failure was due to
13 circumstances beyond her or his control, consequent upon which
14 a default and final order may be entered without the taking of
15 testimony or presentation of evidence. A podiatric physician
16 affected under this paragraph shall at reasonable intervals be
17 afforded an opportunity to demonstrate that she or he can
18 resume the competent practice of podiatric medicine with
19 reasonable skill and safety to patients.

20 (s) Gross or repeated malpractice or the failure to
21 practice podiatric medicine at a level of care, skill, and
22 treatment which is recognized by a reasonably prudent
23 podiatric physician as being acceptable under similar
24 conditions and circumstances. The board shall give great
25 weight to the standards for malpractice in s. 766.102 in
26 interpreting this section. As used in this paragraph,
27 "repeated malpractice" includes, but is not limited to, three
28 or more claims for medical malpractice within the previous
29 5-year period resulting in indemnities being paid in excess of
30 \$10,000 each to the claimant in a judgment or settlement and
31 which incidents involved negligent conduct by the podiatric

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1 physicians. As used in this paragraph, "gross malpractice" or
2 "the failure to practice podiatric medicine with the level of
3 care, skill, and treatment which is recognized by a reasonably
4 prudent similar podiatric physician as being acceptable under
5 similar conditions and circumstances" shall not be construed
6 so as to require more than one instance, event, or act.

7 (t) Performing any procedure or prescribing any
8 therapy which, by the prevailing standards of podiatric
9 medical practice in the community, would constitute
10 experimentation on human subjects without first obtaining
11 full, informed, and written consent.

12 (u) Practicing or offering to practice beyond the
13 scope permitted by law or accepting and performing
14 professional responsibilities which the licensee knows or has
15 reason to know that she or he is not competent to perform.

16 (v) Delegating professional responsibilities to a
17 person when the licensee delegating such responsibilities
18 knows or has reason to know that such person is not qualified
19 by training, experience, or licensure to perform them.

20 (w) ~~Violating any provision of this chapter or chapter~~
21 ~~456, any rule of the board or department, or a lawful order of~~
22 ~~the board or department previously entered in a disciplinary~~
23 ~~hearing or failing to comply with a lawfully issued subpoena~~
24 ~~of the board or department.~~

25 (x) Conspiring with another licensee or with any other
26 person to commit an act, or committing an act, which would
27 tend to coerce, intimidate, or preclude another licensee from
28 lawfully advertising her or his services.

29 (y) Prescribing, ordering, dispensing, administering,
30 supplying, selling, or giving growth hormones, testosterone or
31 its analogs, human chorionic gonadotropin (HCG), or other

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1 hormones for the purpose of muscle building or to enhance
2 athletic performance. For the purposes of this subsection, the
3 term "muscle building" does not include the treatment of
4 injured muscle. A prescription written for any of the drug
5 products listed above may be dispensed by the pharmacist with
6 the presumption that the prescription is for legitimate
7 medical use.

8 (z) Fraud, deceit, or misconduct in the practice of
9 podiatric medicine.

10 (aa) Failing to report to the department any licensee
11 under chapter 458 or chapter 459 who the podiatric physician
12 knows has violated the grounds for disciplinary action set out
13 in the law under which that person is licensed and who
14 provides health care services in a facility licensed under
15 chapter 395, or a health maintenance organization certificated
16 under part I of chapter 641, in which the podiatric physician
17 also provides services.

18 (bb) Failing to comply with the requirements of ss.
19 381.026 and 381.0261 to provide patients with information
20 about their patient rights and how to file a patient
21 complaint.

22 (cc) Violating any provision of this chapter or
23 chapter 456, or any rules adopted pursuant thereto.

24 (2) The board may enter an order denying licensure or
25 imposing any of the penalties in s. 456.072(2) against any
26 applicant for licensure or licensee who is found guilty of
27 violating any provision of subsection (1) of this section or
28 who is found guilty of violating any provision of s.
29 ~~456.072(1).When the board finds any person guilty of any of~~
30 ~~the grounds set forth in subsection (1), it may enter an order~~
31 ~~imposing one or more of the following penalties:~~

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1 ~~(a) Refusal to certify to the department an~~
2 ~~application for licensure.~~

3 ~~(b) Revocation or suspension of a license.~~

4 ~~(c) Restriction of practice.~~

5 ~~(d) Imposition of an administrative fine not to exceed~~
6 ~~\$10,000 for each count or separate offense.~~

7 ~~(e) Issuance of a reprimand.~~

8 ~~(f) Placing the podiatric physician on probation for a~~
9 ~~period of time and subject to such conditions as the board may~~
10 ~~specify, including requiring the podiatric physician to submit~~
11 ~~to treatment, to attend continuing education courses, to~~
12 ~~submit to reexamination, and to work under the supervision of~~
13 ~~another podiatric physician.~~

14 ~~(g) Imposition of an administrative fine in accordance~~
15 ~~with s. 381.0261 for violations regarding patient rights.~~

16 Section 28. Subsections (1) and (2) of section 462.14,
17 Florida Statutes, are amended to read:

18 462.14 Grounds for disciplinary action; action by the
19 department.--

20 (1) The following acts constitute grounds for denial
21 of a license or disciplinary action, as specified in s.
22 456.072(2)~~which the disciplinary actions specified in~~
23 ~~subsection (2) may be taken:~~

24 (a) Attempting to obtain, obtaining, or renewing a
25 license to practice naturopathic medicine by bribery, by
26 fraudulent misrepresentation, or through an error of the
27 department.

28 (b) Having a license to practice naturopathic medicine
29 revoked, suspended, or otherwise acted against, including the
30 denial of licensure, by the licensing authority of another
31 state, territory, or country.

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1 (c) Being convicted or found guilty, regardless of
2 adjudication, of a crime in any jurisdiction which directly
3 relates to the practice of naturopathic medicine or to the
4 ability to practice naturopathic medicine. Any plea of nolo
5 contendere shall be considered a conviction for purposes of
6 this chapter.

7 (d) False, deceptive, or misleading advertising.

8 (e) Advertising, practicing, or attempting to practice
9 under a name other than one's own.

10 (f) Failing to report to the department any person who
11 the licensee knows is in violation of this chapter or of the
12 rules of the department.

13 (g) Aiding, assisting, procuring, or advising any
14 unlicensed person to practice naturopathic medicine contrary
15 to this chapter or to a rule of the department.

16 (h) Failing to perform any statutory or legal
17 obligation placed upon a licensed naturopathic physician.

18 (i) Making or filing a report which the licensee knows
19 to be false, intentionally or negligently failing to file a
20 report or record required by state or federal law, willfully
21 impeding or obstructing such filing or inducing another person
22 to do so. Such reports or records shall include only those
23 which are signed in the capacity as a licensed naturopathic
24 physician.

25 (j) Paying or receiving any commission, bonus,
26 kickback, or rebate, or engaging in any split-fee arrangement
27 in any form whatsoever with a physician, organization, agency,
28 or person, either directly or indirectly, for patients
29 referred to providers of health care goods and services,
30 including, but not limited to, hospitals, nursing homes,
31 clinical laboratories, ambulatory surgical centers, or

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1 pharmacies. The provisions of this paragraph shall not be
2 construed to prevent a naturopathic physician from receiving a
3 fee for professional consultation services.

4 (k) Exercising influence within a patient-physician
5 relationship for purposes of engaging a patient in sexual
6 activity. A patient shall be presumed to be incapable of
7 giving free, full, and informed consent to sexual activity
8 with her or his physician.

9 (l) Making deceptive, untrue, or fraudulent
10 representations in the practice of naturopathic medicine or
11 employing a trick or scheme in the practice of naturopathic
12 medicine when such scheme or trick fails to conform to the
13 generally prevailing standards of treatment in the medical
14 community.

15 (m) Soliciting patients, either personally or through
16 an agent, through the use of fraud, intimidation, undue
17 influence, or a form of overreaching or vexatious conduct. A
18 "solicitation" is any communication which directly or
19 implicitly requests an immediate oral response from the
20 recipient.

21 (n) Failing to keep written medical records justifying
22 the course of treatment of the patient, including, but not
23 limited to, patient histories, examination results, test
24 results, X rays, and records of the prescribing, dispensing
25 and administering of drugs.

26 (o) Exercising influence on the patient or client in
27 such a manner as to exploit the patient or client for the
28 financial gain of the licensee or of a third party, which
29 shall include, but not be limited to, the promoting or selling
30 of services, goods, appliances, or drugs and the promoting or
31 advertising on any prescription form of a community pharmacy

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1 unless the form also states "This prescription may be filled
2 at any pharmacy of your choice."

3 (p) Performing professional services which have not
4 been duly authorized by the patient or client, or her or his
5 legal representative, except as provided in s. 743.064, s.
6 766.103, or s. 768.13.

7 (q) Prescribing, dispensing, administering, mixing, or
8 otherwise preparing a legend drug, including any controlled
9 substance, other than in the course of the naturopathic
10 physician's professional practice. For the purposes of this
11 paragraph, it shall be legally presumed that prescribing,
12 dispensing, administering, mixing, or otherwise preparing
13 legend drugs, including all controlled substances,
14 inappropriately or in excessive or inappropriate quantities is
15 not in the best interest of the patient and is not in the
16 course of the naturopathic physician's professional practice,
17 without regard to her or his intent.

18 (r) Prescribing, dispensing, or administering any
19 medicinal drug appearing on any schedule set forth in chapter
20 893 by the naturopathic physician to herself or himself,
21 except one prescribed, dispensed, or administered to the
22 naturopathic physician by another practitioner authorized to
23 prescribe, dispense, or administer medicinal drugs.

24 (s) Being unable to practice naturopathic medicine
25 with reasonable skill and safety to patients by reason of
26 illness or use of alcohol, drugs, narcotics, chemicals, or any
27 other type of material or as a result of any mental or
28 physical condition. In enforcing this paragraph, the
29 department shall have, upon probable cause, authority to
30 compel a naturopathic physician to submit to a mental or
31 physical examination by physicians designated by the

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1 department. The failure of a naturopathic physician to submit
2 to such an examination when so directed shall constitute an
3 admission of the allegations against her or him upon which a
4 default and final order may be entered without the taking of
5 testimony or presentation of evidence, unless the failure was
6 due to circumstances beyond the naturopathic physician's
7 control. A naturopathic physician affected under this
8 paragraph shall at reasonable intervals be afforded an
9 opportunity to demonstrate that she or he can resume the
10 competent practice of naturopathic medicine with reasonable
11 skill and safety to patients. In any proceeding under this
12 paragraph, neither the record of proceedings nor the orders
13 entered by the department may be used against a naturopathic
14 physician in any other proceeding.

15 (t) Gross or repeated malpractice or the failure to
16 practice naturopathic medicine with that level of care, skill,
17 and treatment which is recognized by a reasonably prudent
18 similar physician as being acceptable under similar conditions
19 and circumstances. The department shall give great weight to
20 the provisions of s. 766.102 when enforcing this paragraph.

21 (u) Performing any procedure or prescribing any
22 therapy which, by the prevailing standards of medical practice
23 in the community, constitutes experimentation on a human
24 subject, without first obtaining full, informed, and written
25 consent.

26 (v) Practicing or offering to practice beyond the
27 scope permitted by law or accepting and performing
28 professional responsibilities which the licensee knows or has
29 reason to know that she or he is not competent to perform.

30 (w) Delegating professional responsibilities to a
31 person when the licensee delegating such responsibilities

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1 knows or has reason to know that such person is not qualified
2 by training, experience, or licensure to perform them.

3 (x) ~~Violating any provision of this chapter, any rule~~
4 ~~of the department, or a lawful order of the department~~
5 previously entered in a disciplinary hearing or failing to
6 comply with a lawfully issued subpoena of the department.

7 (y) Conspiring with another licensee or with any other
8 person to commit an act, or committing an act, which would
9 tend to coerce, intimidate, or preclude another licensee from
10 lawfully advertising her or his services.

11 (z) Procuring, or aiding or abetting in the procuring
12 of, an unlawful termination of pregnancy.

13 (aa) Presigning blank prescription forms.

14 (bb) Prescribing by the naturopathic physician for
15 office use any medicinal drug appearing on Schedule II in
16 chapter 893.

17 (cc) Prescribing, ordering, dispensing, administering,
18 supplying, selling, or giving any drug which is an amphetamine
19 or sympathomimetic amine drug, or a compound designated
20 pursuant to chapter 893 as a Schedule II controlled substance
21 to or for any person except for:

22 1. The treatment of narcolepsy; hyperkinesia;
23 behavioral syndrome in children characterized by the
24 developmentally inappropriate symptoms of moderate to severe
25 distractibility, short attention span, hyperactivity,
26 emotional lability, and impulsivity; or drug-induced brain
27 dysfunction.

28 2. The differential diagnostic psychiatric evaluation
29 of depression or the treatment of depression shown to be
30 refractory to other therapeutic modalities.

31 3. The clinical investigation of the effects of such

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1 drugs or compounds when an investigative protocol therefor is
 2 submitted to, reviewed, and approved by the department before
 3 such investigation is begun.

4 (dd) Prescribing, ordering, dispensing, administering,
 5 supplying, selling, or giving growth hormones, testosterone or
 6 its analogs, human chorionic gonadotropin (HCG), or other
 7 hormones for the purpose of muscle building or to enhance
 8 athletic performance. For the purposes of this subsection, the
 9 term "muscle building" does not include the treatment of
 10 injured muscle. A prescription written for the drug products
 11 listed above may be dispensed by the pharmacist with the
 12 presumption that the prescription is for legitimate medical
 13 use.

14 (ee) Violating any provision of this chapter or
 15 chapter 456, or any rules adopted pursuant thereto.

16 (2) The department may enter an order denying
 17 licensure or imposing any of the penalties in s. 456.072(2)
 18 against any applicant for licensure or licensee who is found
 19 guilty of violating any provision of subsection (1) of this
 20 section or who is found guilty of violating any provision of
 21 s. 456.072(1).~~When the department finds any person guilty of~~
 22 ~~any of the grounds set forth in subsection (1), it may enter~~
 23 ~~an order imposing one or more of the following penalties:~~

24 ~~(a) Refusal to certify to the department an~~
 25 ~~application for licensure.~~

26 ~~(b) Revocation or suspension of a license.~~

27 ~~(c) Restriction of practice.~~

28 ~~(d) Imposition of an administrative fine not to exceed~~
 29 ~~\$1,000 for each count or separate offense.~~

30 ~~(e) Issuance of a reprimand.~~

31 ~~(f) Placement of the naturopathic physician on~~

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1 ~~probation for a period of time and subject to such conditions~~
2 ~~as the department may specify, including, but not limited to,~~
3 ~~requiring the naturopathic physician to submit to treatment,~~
4 ~~to attend continuing education courses, to submit to~~
5 ~~reevaluation, or to work under the supervision of another~~
6 ~~naturopathic physician.~~

7 Section 29. Subsections (1) and (2) of section
8 463.016, Florida Statutes, are amended to read:

9 463.016 Grounds for disciplinary action; action by the
10 board.--

11 (1) The following acts ~~shall~~ constitute grounds for
12 denial of a license or disciplinary action, as specified in s.
13 456.072(2)~~which the disciplinary actions specified in~~
14 ~~subsection (2) may be taken:~~

15 (a) Procuring or attempting to procure a license to
16 practice optometry by bribery, by fraudulent
17 misrepresentations, or through an error of the department or
18 board.

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

22 (c) Having a license to practice optometry revoked,
23 suspended, or otherwise acted against, including the denial of
24 licensure, by the licensing authority of another jurisdiction.

25 (d) Being convicted or found guilty, regardless of
26 adjudication, of a crime in any jurisdiction which directly
27 relates to the practice of optometry or to the ability to
28 practice optometry. Any plea of nolo contendere shall be
29 considered a conviction for the purposes of this chapter.

30 (e) Making or filing a report or record which the
31 licensee knows to be false, intentionally or negligently

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1 failing to file a report or record required by state or
2 federal law, willfully impeding or obstructing such filing, or
3 inducing another person to do so. Such reports or records
4 shall include only those which are signed by the licensee in
5 her or his capacity as a licensed practitioner.

6 (f) Advertising goods or services in a manner which is
7 fraudulent, false, deceptive, or misleading in form or
8 content.

9 (g) Fraud or deceit, negligence or incompetency, or
10 misconduct in the practice of optometry.

11 (h) A violation or repeated violations of provisions
12 of this chapter, or of chapter 456, and any rules promulgated
13 pursuant thereto.

14 (i) Conspiring with another licensee or with any
15 person to commit an act, or committing an act, which would
16 coerce, intimidate, or preclude another licensee from lawfully
17 advertising her or his services.

18 (j) Willfully submitting to any third-party payor a
19 claim for services which were not provided to a patient.

20 (k) Failing to keep written optometric records about
21 the examinations, treatments, and prescriptions for patients.

22 (l) Willfully failing to report any person who the
23 licensee knows is in violation of this chapter or of rules of
24 the department or the board.

25 (m) Gross or repeated malpractice.

26 (n) Practicing with a revoked, suspended, inactive, or
27 delinquent license.

28 (o) Being unable to practice optometry with reasonable
29 skill and safety to patients by reason of illness or use of
30 alcohol, drugs, narcotics, chemicals, or any other type of
31 material or as a result of any mental or physical condition.

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1 A licensed practitioner affected under this paragraph shall at
2 reasonable intervals be afforded an opportunity to demonstrate
3 that she or he can resume the competent practice of optometry
4 with reasonable skill and safety to patients.

5 (p) Having been disciplined by a regulatory agency in
6 another state for any offense that would constitute a
7 violation of Florida laws or rules regulating optometry.

8 (q) Violating any provision of s. 463.014 or s.
9 463.015.

10 (r) Violating any lawful order of the board or
11 department, previously entered in a disciplinary hearing, or
12 failing to comply with a lawfully issued subpoena of the board
13 or department.

14 (s) Practicing or offering to practice beyond the
15 scope permitted by law or accepting and performing
16 professional responsibilities which the licensed practitioner
17 knows or has reason to know she or he is not competent to
18 perform.

19 (t) Violating any provision of this chapter or chapter
20 456, or any rules adopted pursuant thereto.

21 (2) The department may enter an order imposing any of
22 the penalties in s. 456.072(2) against any licensee who is
23 found guilty of violating any provision of subsection (1) of
24 this section or who is found guilty of violating any provision
25 of s. 456.072(1). ~~When the board finds any person guilty of~~
26 ~~any of the grounds set forth in subsection (1), it may enter~~
27 ~~an order imposing one or more of the following penalties:~~

28 ~~(a) Refusal to certify to the department an~~
29 ~~application for licensure.~~

30 ~~(b) Revocation or suspension of a license.~~

31 ~~(c) Imposition of an administrative fine not to exceed~~

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1 ~~\$5,000 for each count or separate offense.~~

2 ~~(d) Issuance of a reprimand.~~

3 ~~(e) Placement of the licensed practitioner on~~
4 ~~probation for a period of time and subject to such conditions~~
5 ~~as the board may specify, including requiring the licensed~~
6 ~~practitioner to submit to treatment, to attend continuing~~
7 ~~education courses, or to work under the supervision of another~~
8 ~~licensed practitioner.~~

9 Section 30. Subsections (1) and (2) of section
10 464.018, Florida Statutes, are amended to read:

11 464.018 Disciplinary actions.--

12 (1) The following acts constitute ~~shall be~~ grounds for
13 denial of a license or disciplinary action, as specified in s.
14 456.072(2)~~disciplinary action set forth in this section:~~

15 (a) Procuring, attempting to procure, or renewing a
16 license to practice nursing by bribery, by knowing
17 misrepresentations, or through an error of the department or
18 the board.

19 (b) Having a license to practice nursing revoked,
20 suspended, or otherwise acted against, including the denial of
21 licensure, by the licensing authority of another state,
22 territory, or country.

23 (c) Being convicted or found guilty of, or entering a
24 plea of nolo contendere to, regardless of adjudication, a
25 crime in any jurisdiction which directly relates to the
26 practice of nursing or to the ability to practice nursing.

27 (d) Being found guilty, regardless of adjudication, of
28 any of the following offenses:

29 1. A forcible felony as defined in chapter 776.

30 2. A violation of chapter 812, relating to theft,
31 robbery, and related crimes.

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- 1 3. A violation of chapter 817, relating to fraudulent
2 practices.
- 3 4. A violation of chapter 800, relating to lewdness
4 and indecent exposure.
- 5 5. A violation of chapter 784, relating to assault,
6 battery, and culpable negligence.
- 7 6. A violation of chapter 827, relating to child
8 abuse.
- 9 7. A violation of chapter 415, relating to protection
10 from abuse, neglect, and exploitation.
- 11 8. A violation of chapter 39, relating to child abuse,
12 abandonment, and neglect.
- 13 (e) Having been found guilty of, regardless of
14 adjudication, or entered a plea of nolo contendere or guilty
15 to, any offense prohibited under s. 435.03 or under any
16 similar statute of another jurisdiction; or having committed
17 an act which constitutes domestic violence as defined in s.
18 741.28.
- 19 (f) Making or filing a false report or record, which
20 the licensee knows to be false, intentionally or negligently
21 failing to file a report or record required by state or
22 federal law, willfully impeding or obstructing such filing or
23 inducing another person to do so. Such reports or records
24 shall include only those which are signed in the nurse's
25 capacity as a licensed nurse.
- 26 (g) False, misleading, or deceptive advertising.
- 27 (h) Unprofessional conduct, which shall include, but
28 not be limited to, any departure from, or the failure to
29 conform to, the minimal standards of acceptable and prevailing
30 nursing practice, in which case actual injury need not be
31 established.

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1 (i) Engaging or attempting to engage in the
2 possession, sale, or distribution of controlled substances as
3 set forth in chapter 893, for any other than legitimate
4 purposes authorized by this part.

5 (j) Being unable to practice nursing with reasonable
6 skill and safety to patients by reason of illness or use of
7 alcohol, drugs, narcotics, or chemicals or any other type of
8 material or as a result of any mental or physical condition.
9 In enforcing this paragraph, the department shall have, upon a
10 finding of the secretary or the secretary's designee that
11 probable cause exists to believe that the licensee is unable
12 to practice nursing because of the reasons stated in this
13 paragraph, the authority to issue an order to compel a
14 licensee to submit to a mental or physical examination by
15 physicians designated by the department. If the licensee
16 refuses to comply with such order, the department's order
17 directing such examination may be enforced by filing a
18 petition for enforcement in the circuit court where the
19 licensee resides or does business. The licensee against whom
20 the petition is filed shall not be named or identified by
21 initials in any public court records or documents, and the
22 proceedings shall be closed to the public. The department
23 shall be entitled to the summary procedure provided in s.
24 51.011. A nurse affected by the provisions of this paragraph
25 shall at reasonable intervals be afforded an opportunity to
26 demonstrate that she or he can resume the competent practice
27 of nursing with reasonable skill and safety to patients.

28 (k) Failing to report to the department any person who
29 the licensee knows is in violation of this part or of the
30 rules of the department or the board; however, if the licensee
31 verifies that such person is actively participating in a

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1 board-approved program for the treatment of a physical or
2 mental condition, the licensee is required to report such
3 person only to an impaired professionals consultant.

4 (1) Knowingly violating any provision of this part, a
5 rule of the board or the department, or a lawful order of the
6 board or department previously entered in a disciplinary
7 proceeding or failing to comply with a lawfully issued
8 subpoena of the department.

9 (m) Failing to report to the department any licensee
10 under chapter 458 or under chapter 459 who the nurse knows has
11 violated the grounds for disciplinary action set out in the
12 law under which that person is licensed and who provides
13 health care services in a facility licensed under chapter 395,
14 or a health maintenance organization certificated under part I
15 of chapter 641, in which the nurse also provides services.

16 (n) Violating any provision of this chapter or chapter
17 456, or any rules adopted pursuant thereto.

18 (2) The board may enter an order denying licensure or
19 imposing any of the penalties in s. 456.072(2) against any
20 applicant for licensure or licensee who is found guilty of
21 violating any provision of subsection (1) of this section or
22 who is found guilty of violating any provision of s.
23 ~~456.072(1). When the board finds any person guilty of any of~~
24 ~~the grounds set forth in subsection (1), it may enter an order~~
25 ~~imposing one or more of the following penalties:~~

26 ~~(a) Refusal to certify to the department an~~
27 ~~application for licensure.~~

28 ~~(b) Revocation or suspension of a license with~~
29 ~~reinstatement subject to the provisions of subsection (3).~~

30 ~~(c) Permanent revocation of a license.~~

31 ~~(d) Restriction of practice.~~

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1 ~~(e) Imposition of an administrative fine not to exceed~~
2 ~~\$1,000 for each count or separate offense.~~

3 ~~(f) Issuance of a reprimand.~~

4 ~~(g) Placement of the nurse on probation for a period~~
5 ~~of time and subject to such conditions as the board may~~
6 ~~specify, including requiring the nurse to submit to treatment,~~
7 ~~to attend continuing education courses, to take an~~
8 ~~examination, or to work under the supervision of another~~
9 ~~nurse.~~

10 Section 31. Subsection (3) of section 465.008, Florida
11 Statutes, is amended to read:

12 465.008 Renewal of license.--

13 ~~(3) Sixty days prior to the end of the biennium the~~
14 ~~department shall mail a notice of renewal to the last known~~
15 ~~address of the licensee.~~

16 Section 32. Subsections (1) and (2) of section
17 465.016, Florida Statutes, are amended to read:

18 465.016 Disciplinary actions.--

19 (1) The following acts constitute ~~shall be~~ grounds for
20 denial of a license or disciplinary action, as specified in s.
21 456.072(2)disciplinary action set forth in this section:

22 (a) Obtaining a license by misrepresentation or fraud
23 or through an error of the department or the board.

24 (b) Procuring or attempting to procure a license for
25 any other person by making or causing to be made any false
26 representation.

27 (c) Permitting any person not licensed as a pharmacist
28 in this state or not registered as an intern in this state, or
29 permitting a registered intern who is not acting under the
30 direct and immediate personal supervision of a licensed
31 pharmacist, to fill, compound, or dispense any prescriptions

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1 in a pharmacy owned and operated by such pharmacist or in a
2 pharmacy where such pharmacist is employed or on duty.

3 (d) Being unfit or incompetent to practice pharmacy by
4 reason of:

5 1. Habitual intoxication.

6 2. The misuse or abuse of any medicinal drug appearing
7 in any schedule set forth in chapter 893.

8 3. Any abnormal physical or mental condition which
9 threatens the safety of persons to whom she or he might sell
10 or dispense prescriptions, drugs, or medical supplies or for
11 whom she or he might manufacture, prepare, or package, or
12 supervise the manufacturing, preparation, or packaging of,
13 prescriptions, drugs, or medical supplies.

14 ~~(e) Violating any of the requirements of this chapter;~~
15 ~~or if licensed as a practitioner in this or any other state,~~
16 ~~violating any of the requirements of their respective practice~~
17 ~~act or violating chapter 499; 21 U.S.C. ss. 301-392, known as~~
18 ~~the Federal Food, Drug, and Cosmetic Act; 21 U.S.C. ss. 821 et~~
19 ~~seq., known as the Comprehensive Drug Abuse Prevention and~~
20 ~~Control Act; or chapter 893.~~

21 (f) Having been convicted or found guilty, regardless
22 of adjudication, in a court of this state or other
23 jurisdiction, of a crime which directly relates to the ability
24 to practice pharmacy or to the practice of pharmacy. A plea
25 of nolo contendere constitutes a conviction for purposes of
26 this provision.

27 (g) Using in the compounding of a prescription, or
28 furnishing upon prescription, an ingredient or article
29 different in any manner from the ingredient or article
30 prescribed, except as authorized in s. 465.019(6) or s.
31 465.025.

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1 (h) Having been disciplined by a regulatory agency in
2 another state for any offense that would constitute a
3 violation of this chapter.

4 (i) Compounding, dispensing, or distributing a legend
5 drug, including any controlled substance, other than in the
6 course of the professional practice of pharmacy. For purposes
7 of this paragraph, it shall be legally presumed that the
8 compounding, dispensing, or distributing of legend drugs in
9 excessive or inappropriate quantities is not in the best
10 interests of the patient and is not in the course of the
11 professional practice of pharmacy.

12 (j) Making or filing a report or record which the
13 licensee knows to be false, intentionally or negligently
14 failing to file a report or record required by federal or
15 state law, willfully impeding or obstructing such filing, or
16 inducing another person to do so. Such reports or records
17 include only those which the licensee is required to make or
18 file in her or his capacity as a licensed pharmacist.

19 (k) Failing to make prescription fee or price
20 information readily available by failing to provide such
21 information upon request and upon the presentation of a
22 prescription for pricing or dispensing. Nothing in this
23 section shall be construed to prohibit the quotation of price
24 information on a prescription drug to a potential consumer by
25 telephone.

26 (l) Placing in the stock of any pharmacy any part of
27 any prescription compounded or dispensed which is returned by
28 a patient; however, in a hospital, nursing home, correctional
29 facility, or extended care facility in which unit-dose
30 medication is dispensed to inpatients, each dose being
31 individually sealed and the individual unit dose or unit-dose

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1 system labeled with the name of the drug, dosage strength,
2 manufacturer's control number, and expiration date, if any,
3 the unused unit dose of medication may be returned to the
4 pharmacy for redispensing. Each pharmacist shall maintain
5 appropriate records for any unused or returned medicinal
6 drugs.

7 (m) Being unable to practice pharmacy with reasonable
8 skill and safety by reason of illness, use of drugs,
9 narcotics, chemicals, or any other type of material or as a
10 result of any mental or physical condition. A pharmacist
11 affected under this paragraph shall at reasonable intervals be
12 afforded an opportunity to demonstrate that she or he can
13 resume the competent practice of pharmacy with reasonable
14 skill and safety to her or his customers.

15 (n) Violating a rule of the board or department or
16 violating an order of the board or department previously
17 entered in a disciplinary hearing.

18 (o) Failing to report to the department any licensee
19 under chapter 458 or under chapter 459 who the pharmacist
20 knows has violated the grounds for disciplinary action set out
21 in the law under which that person is licensed and who
22 provides health care services in a facility licensed under
23 chapter 395, or a health maintenance organization certificated
24 under part I of chapter 641, in which the pharmacist also
25 provides services.

26 (p) Failing to notify the Board of Pharmacy in writing
27 within 20 days of the commencement or cessation of the
28 practice of the profession of pharmacy in Florida when such
29 commencement or cessation of the practice of the profession of
30 pharmacy in Florida was a result of a pending or completed
31 disciplinary action or investigation in another jurisdiction.

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1 (q) Using or releasing a patient's records except as
2 authorized by this chapter and chapter 456.

3 (r) Violating any provision of this chapter or chapter
4 456, or any rules adopted pursuant thereto.

5 (2) The board may enter an order denying licensure or
6 imposing any of the penalties in s. 456.072(2) against any
7 applicant for licensure or licensee who is found guilty of
8 violating any provision of subsection (1) of this section or
9 who is found guilty of violating any provision of s.

10 456.072(1).~~When the board finds any person guilty of any of~~
11 ~~the grounds set forth in subsection (1), it may enter an order~~
12 ~~imposing one or more of the following penalties:~~

13 ~~(a) Refusal to certify to the department an~~
14 ~~application for licensure.~~

15 ~~(b) Revocation or suspension of a license.~~

16 ~~(c) Imposition of an administrative fine not to exceed~~
17 ~~\$5,000 for each count or separate offense.~~

18 ~~(d) Issuance of a reprimand.~~

19 ~~(e) Placement of the pharmacist on probation for a~~
20 ~~period of time and subject to such conditions as the board may~~
21 ~~specify, including, but not limited to, requiring the~~
22 ~~pharmacist to submit to treatment, to attend continuing~~
23 ~~education courses, to submit to reexamination, or to work~~
24 ~~under the supervision of another pharmacist.~~

25 Section 33. Subsections (1) and (2) of section
26 466.028, Florida Statutes, are amended to read:

27 466.028 Grounds for disciplinary action; action by the
28 board.--

29 (1) The following acts ~~shall~~ constitute grounds for
30 denial of a license or disciplinary action, as specified in s.
31 456.072(2)~~which the disciplinary actions specified in~~

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1 ~~subsection (2) may be taken:~~

2 (a) Attempting to obtain, obtaining, or renewing a
3 license under this chapter by bribery, fraudulent
4 misrepresentations, or through an error of the department or
5 the board.

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

10 (c) Being convicted or found guilty of or entering a
11 plea of nolo contendere to, regardless of adjudication, a
12 crime in any jurisdiction which relates to the practice of
13 dentistry or dental hygiene. A plea of nolo contendere shall
14 create a rebuttable presumption of guilt to the underlying
15 criminal charges.

16 (d) Advertising goods or services in a manner which is
17 fraudulent, false, deceptive, or misleading in form or content
18 contrary to s. 466.019 or rules of the board adopted pursuant
19 thereto.

20 (e) Advertising, practicing, or attempting to practice
21 under a name other than one's own.

22 (f) Failing to report to the department any person who
23 the licensee knows, or has reason to believe, is clearly in
24 violation of this chapter or of the rules of the department or
25 the board.

26 (g) Aiding, assisting, procuring, or advising any
27 unlicensed person to practice dentistry or dental hygiene
28 contrary to this chapter or to a rule of the department or the
29 board.

30 (h) Being employed by any corporation, organization,
31 group, or person other than a dentist or a professional

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1 corporation or limited liability company composed of dentists
2 to practice dentistry.

3 (i) Failing to perform any statutory or legal
4 obligation placed upon a licensee.

5 (j) Making or filing a report which the licensee knows
6 to be false, failing to file a report or record required by
7 state or federal law, knowingly impeding or obstructing such
8 filing or inducing another person to do so. Such reports or
9 records shall include only those which are signed in the
10 capacity as a licensee.

11 (k) Committing any act which would constitute sexual
12 battery, as defined in chapter 794, upon a patient or
13 intentionally touching the sexual organ of a patient.

14 (l) Making deceptive, untrue, or fraudulent
15 representations in or related to the practice of dentistry.

16 (m) Failing to keep written dental records and medical
17 history records justifying the course of treatment of the
18 patient including, but not limited to, patient histories,
19 examination results, test results, and X rays, if taken.

20 (n) Failing to make available to a patient or client,
21 or to her or his legal representative or to the department if
22 authorized in writing by the patient, copies of documents in
23 the possession or under control of the licensee which relate
24 to the patient or client.

25 (o) Performing professional services which have not
26 been duly authorized by the patient or client, or her or his
27 legal representative, except as provided in ss. 766.103 and
28 768.13.

29 (p) Prescribing, procuring, dispensing, administering,
30 mixing, or otherwise preparing a legend drug, including any
31 controlled substance, other than in the course of the

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1 professional practice of the dentist. For the purposes of
2 this paragraph, it shall be legally presumed that prescribing,
3 procuring, dispensing, administering, mixing, or otherwise
4 preparing legend drugs, including all controlled substances,
5 in excessive or inappropriate quantities is not in the best
6 interest of the patient and is not in the course of the
7 professional practice of the dentist, without regard to her or
8 his intent.

9 (q) Prescribing, procuring, dispensing, or
10 administering any medicinal drug appearing on any schedule set
11 forth in chapter 893, by a dentist to herself or himself,
12 except those prescribed, dispensed, or administered to the
13 dentist by another practitioner authorized to prescribe them.

14 (r) Prescribing, procuring, ordering, dispensing,
15 administering, supplying, selling, or giving any drug which is
16 a Schedule II amphetamine or a Schedule II sympathomimetic
17 amine drug or a compound thereof, pursuant to chapter 893, to
18 or for any person except for the clinical investigation of the
19 effects of such drugs or compounds when an investigative
20 protocol therefor is submitted to, and reviewed and approved
21 by, the board before such investigation is begun.

22 (s) Being unable to practice her or his profession
23 with reasonable skill and safety to patients by reason of
24 illness or use of alcohol, drugs, narcotics, chemicals, or any
25 other type of material or as a result of any mental or
26 physical condition. In enforcing this paragraph, the
27 department shall have, upon a finding of the secretary or her
28 or his designee that probable cause exists to believe that the
29 licensee is unable to practice dentistry or dental hygiene
30 because of the reasons stated in this paragraph, the authority
31 to issue an order to compel a licensee to submit to a mental

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1 or physical examination by physicians designated by the
2 department. If the licensee refuses to comply with such
3 order, the department's order directing such examination may
4 be enforced by filing a petition for enforcement in the
5 circuit court where the licensee resides or does business.
6 The licensee against whom the petition is filed shall not be
7 named or identified by initials in any public court records or
8 documents, and the proceedings shall be closed to the public.
9 The department shall be entitled to the summary procedure
10 provided in s. 51.011. A licensee affected under this
11 paragraph shall at reasonable intervals be afforded an
12 opportunity to demonstrate that she or he can resume the
13 competent practice of her or his profession with reasonable
14 skill and safety to patients.

15 (t) Fraud, deceit, or misconduct in the practice of
16 dentistry or dental hygiene.

17 (u) Failure to provide and maintain reasonable
18 sanitary facilities and conditions.

19 (v) Failure to provide adequate radiation safeguards.

20 (w) Performing any procedure or prescribing any
21 therapy which, by the prevailing standards of dental practice
22 in the community, would constitute experimentation on human
23 subjects, without first obtaining full, informed, and written
24 consent.

25 (x) Being guilty of incompetence or negligence by
26 failing to meet the minimum standards of performance in
27 diagnosis and treatment when measured against generally
28 prevailing peer performance, including, but not limited to,
29 the undertaking of diagnosis and treatment for which the
30 dentist is not qualified by training or experience or being
31 guilty of dental malpractice. For purposes of this paragraph,

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1 it shall be legally presumed that a dentist is not guilty of
2 incompetence or negligence by declining to treat an individual
3 if, in the dentist's professional judgment, the dentist or a
4 member of her or his clinical staff is not qualified by
5 training and experience, or the dentist's treatment facility
6 is not clinically satisfactory or properly equipped to treat
7 the unique characteristics and health status of the dental
8 patient, provided the dentist refers the patient to a
9 qualified dentist or facility for appropriate treatment. As
10 used in this paragraph, "dental malpractice" includes, but is
11 not limited to, three or more claims within the previous
12 5-year period which resulted in indemnity being paid, or any
13 single indemnity paid in excess of \$5,000 in a judgment or
14 settlement, as a result of negligent conduct on the part of
15 the dentist.

16 (y) Practicing or offering to practice beyond the
17 scope permitted by law or accepting and performing
18 professional responsibilities which the licensee knows or has
19 reason to know that she or he is not competent to perform.

20 (z) Delegating professional responsibilities to a
21 person who is not qualified by training, experience, or
22 licensure to perform them.

23 ~~(aa) The violation or the repeated violation of this~~
24 ~~chapter, chapter 456, or any rule promulgated pursuant to~~
25 ~~chapter 456 or this chapter; the violation of a lawful order~~
26 ~~of the board or department previously entered in a~~
27 ~~disciplinary hearing; or failure to comply with a lawfully~~
28 ~~issued subpoena of the board or department.~~

29 (bb) Conspiring with another licensee or with any
30 person to commit an act, or committing an act, which would
31 tend to coerce, intimidate, or preclude another licensee from

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1 lawfully advertising her or his services.

2 (cc) Being adjudged mentally incompetent in this or
3 any other state, the discipline for which shall last only so
4 long as the adjudication.

5 (dd) Presigning blank prescription or laboratory work
6 order forms.

7 (ee) Prescribing, ordering, dispensing, administering,
8 supplying, selling, or giving growth hormones, testosterone or
9 its analogs, human chorionic gonadotropin (HCG), or other
10 hormones for the purpose of muscle building or to enhance
11 athletic performance. For the purposes of this subsection, the
12 term "muscle building" does not include the treatment of
13 injured muscle. A prescription written for the drug products
14 listed above may be dispensed by the pharmacist with the
15 presumption that the prescription is for legitimate medical
16 use.

17 (ff) Operating or causing to be operated a dental
18 office in such a manner as to result in dental treatment that
19 is below minimum acceptable standards of performance for the
20 community. This includes, but is not limited to, the use of
21 substandard materials or equipment, the imposition of time
22 limitations within which dental procedures are to be
23 performed, or the failure to maintain patient records as
24 required by this chapter.

25 (gg) Administering anesthesia in a manner which
26 violates rules of the board adopted pursuant to s. 466.017.

27 (hh) Failing to report to the department any licensee
28 under chapter 458 or chapter 459 who the dentist knows has
29 violated the grounds for disciplinary action set out in the
30 law under which that person is licensed and who provides
31 health care services in a facility licensed under chapter 395,

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1 or a health maintenance organization certificated under part I
2 of chapter 641, in which the dentist also provides services.

3 (ii) Failing to report to the board, in writing,
4 within 30 days if action has been taken against one's license
5 to practice dentistry in another state, territory, or country.

6 (jj) Advertising specialty services in violation of
7 this chapter.

8 (kk) Allowing any person other than another dentist or
9 a professional corporation or limited liability company
10 composed of dentists to direct, control, or interfere with a
11 dentist's clinical judgment; however, this paragraph may not
12 be construed to limit a patient's right of informed consent.
13 To direct, control, or interfere with a dentist's clinical
14 judgment may not be interpreted to mean dental services
15 contractually excluded, the application of alternative
16 benefits that may be appropriate given the dentist's
17 prescribed course of treatment, or the application of
18 contractual provisions and scope of coverage determinations in
19 comparison with a dentist's prescribed treatment on behalf of
20 a covered person by an insurer, health maintenance
21 organization, or a prepaid limited health service
22 organization.

23 (ll) Violating any provision of this chapter or
24 chapter 456, or any rules adopted pursuant thereto.

25 (2) The board may enter an order denying licensure or
26 imposing any of the penalties in s. 456.072(2) against any
27 applicant for licensure or licensee who is found guilty of
28 violating any provision of subsection (1) of this section or
29 who is found guilty of violating any provision of s.
30 456.072(1).~~When the board finds any applicant or licensee~~
31 ~~guilty of any of the grounds set forth in subsection (1), it~~

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1 ~~may enter an order imposing one or more of the following~~
2 ~~penalties:~~

- 3 ~~(a) Denial of an application for licensure.~~
- 4 ~~(b) Revocation or suspension of a license.~~
- 5 ~~(c) Imposition of an administrative fine not to exceed~~
6 ~~\$3,000 for each count or separate offense.~~
- 7 ~~(d) Issuance of a reprimand.~~
- 8 ~~(e) Placement of the licensee on probation for a~~
9 ~~period of time and subject to such conditions as the board may~~
10 ~~specify, including requiring the licensee to attend continuing~~
11 ~~education courses or demonstrate competency through a written~~
12 ~~or practical examination or to work under the supervision of~~
13 ~~another licensee.~~
- 14 ~~(f) Restricting the authorized scope of practice.~~

15 Section 34. Section 466.037, Florida Statutes, is
16 amended to read:

17 466.037 Suspension and revocation; administrative
18 fine.--The department may suspend or revoke the certificate of
19 any dental laboratory registered under s. 466.032, for failing
20 to comply with the provisions of this chapter or rules adopted
21 by the department under this chapter. The department may
22 impose an administrative fine ~~not to exceed \$500 for each~~
23 ~~count or separate offense.~~

24 Section 35. Subsections (1) and (2) of section
25 467.203, Florida Statutes, are amended to read:

26 467.203 Disciplinary actions; penalties.--

27 (1) The following acts constitute ~~shall be~~ grounds for
28 denial of a license or disciplinary action, as specified in s.
29 456.072(2)~~disciplinary action as set forth in this section:~~

30 (a) Procuring, attempting to procure, or renewing a
31 license to practice midwifery by bribery, by fraudulent

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1 misrepresentation, or through an error of the department.

2 (b) Having a license to practice midwifery revoked,
3 suspended, or otherwise acted against, including being denied
4 licensure, by the licensing authority of another state,
5 territory, or country.

6 (c) Being convicted or found guilty, regardless of
7 adjudication, in any jurisdiction of a crime which directly
8 relates to the practice of midwifery or to the ability to
9 practice midwifery. A plea of nolo contendere shall be
10 considered a conviction for purposes of this provision.

11 (d) Making or filing a false report or record, which
12 the licensee knows to be false; intentionally or negligently
13 failing to file a report or record required by state or
14 federal law; or willfully impeding or obstructing such filing
15 or inducing another to do so. Such reports or records shall
16 include only those which are signed in the midwife's capacity
17 as a licensed midwife.

18 (e) Advertising falsely, misleadingly, or deceptively.

19 (f) Engaging in unprofessional conduct, which
20 includes, but is not limited to, any departure from, or the
21 failure to conform to, the standards of practice of midwifery
22 as established by the department, in which case actual injury
23 need not be established.

24 (g) Being unable to practice midwifery with reasonable
25 skill and safety to patients by reason of illness;
26 drunkenness; or use of drugs, narcotics, chemicals, or other
27 materials or as a result of any mental or physical condition.
28 A midwife affected under this paragraph shall, at reasonable
29 intervals, be afforded an opportunity to demonstrate that he
30 or she can resume the competent practice of midwifery with
31 reasonable skill and safety.

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1 (h) Failing to report to the department any person who
2 the licensee knows is in violation of this chapter or of the
3 rules of the department.

4 ~~(i) Willfully or repeatedly Violating any provision of~~
5 ~~this chapter, any rule of the department, or any lawful order~~
6 ~~of the department previously entered in a disciplinary~~
7 ~~proceeding or failing to comply with a lawfully issued~~
8 ~~subpoena of the department.~~

9 (j) Violating any provision of this chapter or chapter
10 456, or any rules adopted pursuant thereto.

11 (2) The department may enter an order denying
12 licensure or imposing any of the penalties in s. 456.072(2)
13 against any applicant for licensure or licensee who is found
14 guilty of violating any provision of subsection (1) of this
15 section or who is found guilty of violating any provision of
16 s. 456.072(1).~~When the department finds any person guilty of~~
17 ~~any of the grounds set forth in subsection (1), it may enter~~
18 ~~an order imposing one or more of the following penalties:~~

19 ~~(a) Refusal to approve an application for licensure.~~

20 ~~(b) Revocation or suspension of a license.~~

21 ~~(c) Imposition of an administrative fine not to exceed~~
22 ~~\$1,000 for each count or separate offense.~~

23 ~~(d) Issuance of a reprimand.~~

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

31 Section 36. Subsections (1) and (2) of section

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1 468.1295, Florida Statutes, are amended to read:

2 468.1295 Disciplinary proceedings.--

3 (1) The following acts constitute grounds for denial
4 of a license or disciplinary action, as specified in s.

5 456.072(2)~~both disciplinary actions as set forth in~~
6 ~~subsection (2) and cease and desist or other related actions~~
7 ~~by the department as set forth in s. 456.065:~~

8 (a) Procuring or attempting to procure a license by
9 bribery, by fraudulent misrepresentation, or through an error
10 of the department or the board.

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

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

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

26 (e) Advertising goods or services in a manner which is
27 fraudulent, false, deceptive, or misleading in form or
28 content.

29 (f) Being proven guilty of fraud or deceit or of
30 negligence, incompetency, or misconduct in the practice of
31 speech-language pathology or audiology.

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1 (g) Violating a lawful order of the board or
2 department previously entered in a disciplinary hearing, or
3 failing to comply with a lawfully issued subpoena of the board
4 or department.

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

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

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

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

19 (l) Aiding, assisting, procuring, employing, or
20 advising any licensee or business entity to practice
21 speech-language pathology or audiology contrary to this part,
22 chapter 456, or any rule adopted pursuant thereto.

23 ~~(m) Violating any provision of this part or chapter~~
24 ~~456 or any rule adopted pursuant thereto.~~

25 ~~(m)~~(n) Misrepresenting the professional services
26 available in the fitting, sale, adjustment, service, or repair
27 of a hearing aid, or using any other term or title which might
28 connote the availability of professional services when such
29 use is not accurate.

30 ~~(n)~~(o) Representing, advertising, or implying that a
31 hearing aid or its repair is guaranteed without providing full

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1 disclosure of the identity of the guarantor; the nature,
2 extent, and duration of the guarantee; and the existence of
3 conditions or limitations imposed upon the guarantee.

4 (o)~~(p)~~ Representing, directly or by implication, that
5 a hearing aid utilizing bone conduction has certain specified
6 features, such as the absence of anything in the ear or
7 leading to the ear, or the like, without disclosing clearly
8 and conspicuously that the instrument operates on the bone
9 conduction principle and that in many cases of hearing loss
10 this type of instrument may not be suitable.

11 (p)~~(q)~~ Stating or implying that the use of any hearing
12 aid will improve or preserve hearing or prevent or retard the
13 progression of a hearing impairment or that it will have any
14 similar or opposite effect.

15 (q)~~(r)~~ Making any statement regarding the cure of the
16 cause of a hearing impairment by the use of a hearing aid.

17 (r)~~(s)~~ Representing or implying that a hearing aid is
18 or will be "custom-made," "made to order," or
19 "prescription-made," or in any other sense specially
20 fabricated for an individual, when such is not the case.

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

26 (t)~~(u)~~ Failing to notify the department in writing of
27 a change in current mailing and place-of-practice address
28 within 30 days after such change.

29 (u)~~(v)~~ Failing to provide all information as described
30 in ss. 468.1225(5)(b), 468.1245(1), and 468.1246.

31 (v)~~(w)~~ Exercising influence on a client in such a

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1 manner as to exploit the client for financial gain of the
2 licensee or of a third party.

3 (w)~~(x)~~ Practicing or offering to practice beyond the
4 scope permitted by law or accepting and performing
5 professional responsibilities the licensee or
6 certificateholder knows, or has reason to know, the licensee
7 or certificateholder is not competent to perform.

8 (x)~~(y)~~ Aiding, assisting, procuring, or employing any
9 unlicensed person to practice speech-language pathology or
10 audiology.

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

17 (z)~~(aa)~~ Committing any act upon a patient or client
18 which would constitute sexual battery or which would
19 constitute sexual misconduct as defined pursuant to s.
20 468.1296.

21 (aa)~~(bb)~~ Being unable to practice the profession for
22 which he or she is licensed or certified under this chapter
23 with reasonable skill or competence as a result of any mental
24 or physical condition or by reason of illness, drunkenness, or
25 use of drugs, narcotics, chemicals, or any other substance. In
26 enforcing this paragraph, upon a finding by the secretary, his
27 or her designee, or the board that probable cause exists to
28 believe that the licensee or certificateholder is unable to
29 practice the profession because of the reasons stated in this
30 paragraph, the department shall have the authority to compel a
31 licensee or certificateholder to submit to a mental or

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1 physical examination by a physician, psychologist, clinical
2 social worker, marriage and family therapist, or mental health
3 counselor designated by the department or board. If the
4 licensee or certificateholder refuses to comply with the
5 department's order directing the examination, such order may
6 be enforced by filing a petition for enforcement in the
7 circuit court in the circuit in which the licensee or
8 certificateholder resides or does business. The department
9 shall be entitled to the summary procedure provided in s.
10 51.011. A licensee or certificateholder affected under this
11 paragraph shall at reasonable intervals be afforded an
12 opportunity to demonstrate that he or she can resume the
13 competent practice for which he or she is licensed or
14 certified with reasonable skill and safety to patients.

15 (bb) Violating any provision of this chapter or
16 chapter 456, or any rules adopted pursuant thereto.

17 (2) The board may enter an order denying licensure or
18 imposing any of the penalties in s. 456.072(2) against any
19 applicant for licensure or licensee who is found guilty of
20 violating any provision of subsection (1) of this section or
21 who is found guilty of violating any provision of s.

22 ~~456.072(1). When the board finds any person guilty of any of~~
23 ~~the acts set forth in subsection (1), it may issue an order~~
24 ~~imposing one or more of the following penalties:~~

25 ~~(a) Refusal to certify, or to certify with~~
26 ~~restrictions, an application for licensure.~~

27 ~~(b) Suspension or permanent revocation of a license.~~

28 ~~(c) Issuance of a reprimand.~~

29 ~~(d) Restriction of the authorized scope of practice.~~

30 ~~(e) Imposition of an administrative fine not to exceed~~
31 ~~\$1,000 for each count or separate offense.~~

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1 ~~(f) Placement of the licensee or certificateholder on~~
2 ~~probation for a period of time and subject to such conditions~~
3 ~~as the board may specify. Those conditions may include, but~~
4 ~~are not limited to, requiring the licensee or~~
5 ~~certificateholder to undergo treatment, attend continuing~~
6 ~~education courses, submit to be reexamined, work under the~~
7 ~~supervision of another licensee, or satisfy any terms which~~
8 ~~are reasonably tailored to the violation found.~~

9 ~~(g) Corrective action.~~

10 Section 37. Subsections (1) and (2) of section
11 468.1755, Florida Statutes, are amended to read:

12 468.1755 Disciplinary proceedings.--

13 (1) The following acts ~~shall~~ constitute grounds for
14 denial of a license or disciplinary action, as specified in s.
15 456.072(2)~~which the disciplinary actions in subsection (2)~~
16 ~~may be taken:~~

17 (a) Violation of any provision of s. 456.072(1) or s.
18 468.1745(1).

19 (b) Attempting to procure a license to practice
20 nursing home administration by bribery, by fraudulent
21 misrepresentation, or through an error of the department or
22 the board.

23 (c) Having a license to practice nursing home
24 administration revoked, suspended, or otherwise acted against,
25 including the denial of licensure, by the licensing authority
26 of another state, territory, or country.

27 (d) Being convicted or found guilty, regardless of
28 adjudication, of a crime in any jurisdiction which relates to
29 the practice of nursing home administration or the ability to
30 practice nursing home administration. Any plea of nolo
31 contendere shall be considered a conviction for purposes of

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1 this part.

2 (e) Making or filing a report or record which the
3 licensee knows to be false, intentionally failing to file a
4 report or record required by state or federal law, willfully
5 impeding or obstructing such filing, or inducing another
6 person to impede or obstruct such filing. Such reports or
7 records shall include only those which are signed in the
8 capacity of a licensed nursing home administrator.

9 (f) Authorizing the discharge or transfer of a
10 resident for a reason other than those provided in ss. 400.022
11 and 400.0255.

12 (g) Advertising goods or services in a manner which is
13 fraudulent, false, deceptive, or misleading in form or
14 content.

15 (h) Fraud or deceit, negligence, incompetence, or
16 misconduct in the practice of nursing home administration.

17 ~~(i) A violation or repeated violations of this part,~~
18 ~~chapter 456, or any rules promulgated pursuant thereto.~~

19 (i)~~(j)~~ Violation of a lawful order of the board or
20 department previously entered in a disciplinary hearing or
21 failing to comply with a lawfully issued subpoena of the board
22 or department.

23 (j)~~(k)~~ Practicing with a revoked, suspended, inactive,
24 or delinquent license.

25 (k)~~(l)~~ Repeatedly acting in a manner inconsistent with
26 the health, safety, or welfare of the patients of the facility
27 in which he or she is the administrator.

28 (l)~~(m)~~ Being unable to practice nursing home
29 administration with reasonable skill and safety to patients by
30 reason of illness, drunkenness, use of drugs, narcotics,
31 chemicals, or any other material or substance or as a result

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1 of any mental or physical condition. In enforcing this
2 paragraph, upon a finding of the secretary or his or her
3 designee that probable cause exists to believe that the
4 licensee is unable to serve as a nursing home administrator
5 due to the reasons stated in this paragraph, the department
6 shall have the authority to issue an order to compel the
7 licensee to submit to a mental or physical examination by a
8 physician designated by the department. If the licensee
9 refuses to comply with such order, the department's order
10 directing such examination may be enforced by filing a
11 petition for enforcement in the circuit court where the
12 licensee resides or serves as a nursing home administrator.
13 The licensee against whom the petition is filed shall not be
14 named or identified by initials in any public court records or
15 documents, and the proceedings shall be closed to the public.
16 The department shall be entitled to the summary procedure
17 provided in s. 51.011. A licensee affected under this
18 paragraph shall have the opportunity, at reasonable intervals,
19 to demonstrate that he or she can resume the competent
20 practice of nursing home administration with reasonable skill
21 and safety to patients.

22 (m)~~(n)~~ Willfully or repeatedly violating any of the
23 provisions of the law, code, or rules of the licensing or
24 supervising authority or agency of the state or political
25 subdivision thereof having jurisdiction of the operation and
26 licensing of nursing homes.

27 (n)~~(o)~~ Paying, giving, causing to be paid or given, or
28 offering to pay or to give to any person a commission or other
29 valuable consideration for the solicitation or procurement,
30 either directly or indirectly, of nursing home usage.

31 (o)~~(p)~~ Willfully permitting unauthorized disclosure of

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1 information relating to a patient or his or her records.

2 ~~(p)(q)~~ Discriminating with respect to patients,
 3 employees, or staff on account of race, religion, color, sex,
 4 or national origin.

5 (q) Violating any provision of this chapter or chapter
 6 456, or any rules adopted pursuant thereto.

7 (2) The board may enter an order denying licensure or
 8 imposing any of the penalties in s. 456.072(2) against any
 9 applicant for licensure or licensee who is found guilty of
 10 violating any provision of subsection (1) of this section or
 11 who is found guilty of violating any provision of s.

12 ~~456.072(1).When the board finds any nursing home~~
 13 ~~administrator guilty of any of the grounds set forth in~~
 14 ~~subsection (1), it may enter an order imposing one or more of~~
 15 ~~the following penalties:~~

16 ~~(a) Denial of an application for licensure.~~

17 ~~(b) Revocation or suspension of a license.~~

18 ~~(c) Imposition of an administrative fine not to exceed~~
 19 ~~\$1,000 for each count or separate offense.~~

20 ~~(d) Issuance of a reprimand.~~

21 ~~(e) Placement of the licensee on probation for a~~
 22 ~~period of time and subject to such conditions as the board may~~
 23 ~~specify, including requiring the licensee to attend continuing~~
 24 ~~education courses or to work under the supervision of another~~
 25 ~~licensee.~~

26 ~~(f) Restriction of the authorized scope of practice.~~

27 Section 38. Section 468.217, Florida Statutes, is
 28 amended to read:

29 468.217 Denial of or refusal to renew license;
 30 suspension and revocation of license and other disciplinary
 31 measures.--

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- 1 (1) The following acts constitute grounds for denial
2 of a license or disciplinary action, as specified in s.
3 456.072(2)The board may deny or refuse to renew a license,
4 suspend or revoke a license, issue a reprimand, impose a fine,
5 or impose probationary conditions upon a licensee, when the
6 licensee or applicant for license has been guilty of
7 unprofessional conduct which has endangered, or is likely to
8 endanger, the health, welfare, or safety of the public. Such
9 unprofessional conduct includes:
- 10 (a) Attempting to obtain, obtaining, or renewing a
11 license to practice occupational therapy by bribery, by
12 fraudulent misrepresentation, or through an error of the
13 department or the board.
- 14 (b) Having a license to practice occupational therapy
15 revoked, suspended, or otherwise acted against, including the
16 denial of licensure, by the licensing authority of another
17 state, territory, or country.
- 18 (c) Being convicted or found guilty, regardless of
19 adjudication, of a crime in any jurisdiction which directly
20 relates to the practice of occupational therapy or to the
21 ability to practice occupational therapy. A plea of nolo
22 contendere shall be considered a conviction for the purposes
23 of this part.
- 24 (d) False, deceptive, or misleading advertising.
- 25 (e) Advertising, practicing, or attempting to practice
26 under a name other than one's own name.
- 27 (f) Failing to report to the department any person who
28 the licensee knows is in violation of this part or of the
29 rules of the department or of the board.
- 30 (g) Aiding, assisting, procuring, or advising any
31 unlicensed person to practice occupational therapy contrary to

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1 this part or to a rule of the department or the board.

2 (h) Failing to perform any statutory or legal
3 obligation placed upon a licensed occupational therapist or
4 occupational therapy assistant.

5 (i) Making or filing a report which the licensee knows
6 to be false, intentionally or negligently failing to file a
7 report or record required by state or federal law, willfully
8 impeding or obstructing such filing or inducing another person
9 to do so. Such reports or records include only those which
10 are signed in the capacity as a licensed occupational
11 therapist or occupational therapy assistant.

12 (j) Paying or receiving any commission, bonus,
13 kickback, or rebate to or from, or engaging in any split-fee
14 arrangement in any form whatsoever with, a physician,
15 organization, agency, or person, either directly or
16 indirectly, for patients referred to providers of health care
17 goods and services, including, but not limited to, hospitals,
18 nursing homes, clinical laboratories, ambulatory surgical
19 centers, or pharmacies. The provisions of this paragraph
20 shall not be construed to prevent an occupational therapist or
21 occupational therapy assistant from receiving a fee for
22 professional consultation services.

23 (k) Exercising influence within a patient-therapist
24 relationship for purposes of engaging a patient in sexual
25 activity. A patient is presumed to be incapable of giving
26 free, full, and informed consent to sexual activity with the
27 patient's occupational therapist or occupational therapy
28 assistant.

29 (l) Making deceptive, untrue, or fraudulent
30 representations in the practice of occupational therapy or
31 employing a trick or scheme in the practice of occupational

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1 therapy if such scheme or trick fails to conform to the
2 generally prevailing standards of treatment in the
3 occupational therapy community.

4 (m) Soliciting patients, either personally or through
5 an agent, through the use of fraud, intimidation, undue
6 influence, or a form of overreaching or vexatious conduct. A
7 "solicitation" is any communication which directly or
8 implicitly requests an immediate oral response from the
9 recipient.

10 (n) Failing to keep written records justifying the
11 course of treatment of the patient, including, but not limited
12 to, patient histories, examination results, and test results.

13 (o) Exercising influence on the patient or client in
14 such a manner as to exploit the patient or client for
15 financial gain of the licensee or of a third party which
16 includes, but is not limited to, the promoting or selling of
17 services, goods, appliances, or drugs.

18 (p) Performing professional services which have not
19 been duly authorized by the patient or client, or his or her
20 legal representative, except as provided in s. 768.13.

21 (q) Gross or repeated malpractice or the failure to
22 practice occupational therapy with that level of care, skill,
23 and treatment which is recognized by a reasonably prudent
24 similar occupational therapist or occupational therapy
25 assistant as being acceptable under similar conditions and
26 circumstances.

27 (r) Performing any procedure which, by the prevailing
28 standards of occupational therapy practice in the community,
29 would constitute experimentation on a human subject without
30 first obtaining full, informed, and written consent.

31 (s) Practicing or offering to practice beyond the

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1 scope permitted by law or accepting and performing
2 professional responsibilities which the licensee knows or has
3 reason to know that he or she is not competent to perform.

4 (t) Being unable to practice occupational therapy with
5 reasonable skill and safety to patients by reason of illness
6 or use of alcohol, drugs, narcotics, chemicals, or any other
7 type of material or as a result of any mental or physical
8 condition. In enforcing this paragraph, the department shall
9 have, upon probable cause, authority to compel an occupational
10 therapist or occupational therapy assistant to submit to a
11 mental or physical examination by physicians designated by the
12 department. The failure of an occupational therapist or
13 occupational therapy assistant to submit to such examination
14 when so directed constitutes an admission of the allegations
15 against him or her, upon which a default and final order may
16 be entered without the taking of testimony or presentation of
17 evidence, unless the failure was due to circumstances beyond
18 his or her control. An occupational therapist or occupational
19 therapy assistant affected under this paragraph shall at
20 reasonable intervals be afforded an opportunity to demonstrate
21 that he or she can resume the competent practice of
22 occupational therapy with reasonable skill and safety to
23 patients. In any proceeding under this paragraph, neither the
24 record of proceedings nor the orders entered by the board
25 shall be used against an occupational therapist or
26 occupational therapy assistant in any other proceeding.

27 (u) Delegating professional responsibilities to a
28 person when the licensee who is delegating such
29 responsibilities knows or has reason to know that such person
30 is not qualified by training, experience, or licensure to
31 perform them.

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1 (v) ~~Violating any provision of this part, a rule of~~
2 ~~the board or department, or~~ a lawful order of the board or
3 department previously entered in a disciplinary hearing or
4 failing to comply with a lawfully issued subpoena of the
5 department.

6 (w) Conspiring with another licensee or with any other
7 person to commit an act, or committing an act, which would
8 tend to coerce, intimidate, or preclude another licensee from
9 lawfully advertising his or her services.

10 (x) Violating any provision of this chapter or chapter
11 456, or any rules adopted pursuant thereto.

12 (2) The board may enter an order denying licensure or
13 imposing any of the penalties in s. 456.072(2) against any
14 applicant for licensure or licensee who is found guilty of
15 violating any provision of subsection (1) of this section or
16 who is found guilty of violating any provision of s.
17 456.072(1).

18 ~~(3)(2)~~ The board may not reinstate the license of an
19 occupational therapist or occupational therapy assistant, or
20 cause a license to be issued to a person it has deemed
21 unqualified, until such time as the board is satisfied that
22 such person has complied with all the terms and conditions set
23 forth in the final order and is capable of safely engaging in
24 the practice of occupational therapy.

25 Section 39. Subsections (1) and (2) of section
26 468.365, Florida Statutes, are amended to read:

27 468.365 Disciplinary grounds and actions.--

28 (1) The following acts constitute grounds for denial
29 of a license or disciplinary action, as specified in s.
30 456.072(2) which the disciplinary actions in subsection (2)
31 may be taken:

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

5 (b) Having licensure, certification, registration, or
6 other authority, by whatever name known, to deliver
7 respiratory care services revoked, suspended, or otherwise
8 acted against, including the denial of licensure,
9 certification, registration, or other authority to deliver
10 respiratory care services by the licensing authority of
11 another state, territory, or country.

12 (c) Being convicted or found guilty of, or entering a
13 plea of nolo contendere to, regardless of adjudication, a
14 crime in any jurisdiction which directly relates to
15 respiratory care services or to the ability to deliver such
16 services.

17 (d) Willfully making or filing a false report or
18 record, willfully failing to file a report or record required
19 by state or federal law, or willfully impeding or obstructing
20 such filing or inducing another person to do so. Such reports
21 or records include only those reports or records which require
22 the signature of a respiratory care practitioner or
23 respiratory therapist licensed pursuant to this part.

24 (e) Circulating false, misleading, or deceptive
25 advertising.

26 (f) Unprofessional conduct, which includes, but is not
27 limited to, any departure from, or failure to conform to,
28 acceptable standards related to the delivery of respiratory
29 care services, as set forth by the board in rules adopted
30 pursuant to this part.

31 (g) Engaging or attempting to engage in the

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1 possession, sale, or distribution of controlled substances, as
2 set forth by law, for any purpose other than a legitimate
3 purpose.

4 (h) Willfully failing to report any violation of this
5 part.

6 (i) ~~Willfully or repeatedly~~ Violating ~~a rule of the~~
7 ~~board or the department or~~ a lawful order of the board or
8 department previously entered in a disciplinary hearing.

9 ~~(j) Violation of any rule adopted pursuant to this~~
10 ~~part or chapter 456.~~

11 (j)~~(k)~~ Engaging in the delivery of respiratory care
12 services with a revoked, suspended, or inactive license.

13 (k)~~(l)~~ Permitting, aiding, assisting, procuring, or
14 advising any person who is not licensed pursuant to this part,
15 contrary to this part or to any rule of the department or the
16 board.

17 (l)~~(m)~~ Failing to perform any statutory or legal
18 obligation placed upon a respiratory care practitioner or
19 respiratory therapist licensed pursuant to this part.

20 (m)~~(n)~~ Accepting and performing professional
21 responsibilities which the licensee knows, or has reason to
22 know, she or he is not competent to perform.

23 (n)~~(o)~~ Delegating professional responsibilities to a
24 person when the licensee delegating such responsibilities
25 knows, or has reason to know, that such person is not
26 qualified by training, experience, or licensure to perform
27 them.

28 (o)~~(p)~~ Gross or repeated malpractice or the failure to
29 deliver respiratory care services with that level of care,
30 skill, and treatment which is recognized by a reasonably
31 prudent respiratory care practitioner or respiratory therapist

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1 with similar professional training as being acceptable under
2 similar conditions and circumstances.

3 (p)~~(q)~~ Paying or receiving any commission, bonus,
4 kickback, or rebate to or from, or engaging in any split-fee
5 arrangement in any form whatsoever with, a person,
6 organization, or agency, either directly or indirectly, for
7 goods or services rendered to patients referred by or to
8 providers of health care goods and services, including, but
9 not limited to, hospitals, nursing homes, clinical
10 laboratories, ambulatory surgical centers, or pharmacies. The
11 provisions of this paragraph shall not be construed to prevent
12 the licensee from receiving a fee for professional
13 consultation services.

14 (q)~~(r)~~ Exercising influence within a respiratory care
15 relationship for the purpose of engaging a patient in sexual
16 activity. A patient is presumed to be incapable of giving
17 free, full, and informed consent to sexual activity with the
18 patient's respiratory care practitioner or respiratory
19 therapist.

20 (r)~~(s)~~ Making deceptive, untrue, or fraudulent
21 representations in the delivery of respiratory care services
22 or employing a trick or scheme in the delivery of respiratory
23 care services if such a scheme or trick fails to conform to
24 the generally prevailing standards of other licensees within
25 the community.

26 (s)~~(t)~~ Soliciting patients, either personally or
27 through an agent, through the use of fraud, deception, or
28 otherwise misleading statements or through the exercise of
29 intimidation or undue influence.

30 (t)~~(u)~~ Failing to keep written respiratory care
31 records justifying the reason for the action taken by the

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1 licensee.

2 (u)~~(v)~~ Exercising influence on the patient in such a
3 manner as to exploit the patient for the financial gain of the
4 licensee or a third party, which includes, but is not limited
5 to, the promoting or selling of services, goods, appliances,
6 or drugs.

7 (v)~~(w)~~ Performing professional services which have not
8 been duly ordered by a physician licensed pursuant to chapter
9 458 or chapter 459 and which are not in accordance with
10 protocols established by the hospital, other health care
11 provider, or the board, except as provided in ss. 743.064,
12 766.103, and 768.13.

13 (w)~~(x)~~ Being unable to deliver respiratory care
14 services with reasonable skill and safety to patients by
15 reason of illness or use of alcohol, drugs, narcotics,
16 chemicals, or any other type of material as a result of any
17 mental or physical condition. In enforcing this paragraph,
18 the department shall, upon probable cause, have authority to
19 compel a respiratory care practitioner or respiratory
20 therapist to submit to a mental or physical examination by
21 physicians designated by the department. The cost of
22 examination shall be borne by the licensee being examined.
23 The failure of a respiratory care practitioner or respiratory
24 therapist to submit to such an examination when so directed
25 constitutes an admission of the allegations against her or
26 him, upon which a default and a final order may be entered
27 without the taking of testimony or presentation of evidence,
28 unless the failure was due to circumstances beyond her or his
29 control. A respiratory care practitioner or respiratory
30 therapist affected under this paragraph shall at reasonable
31 intervals be afforded an opportunity to demonstrate that she

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1 or he can resume the competent delivery of respiratory care
2 services with reasonable skill and safety to her or his
3 patients. In any proceeding under this paragraph, neither the
4 record of proceedings nor the orders entered by the board
5 shall be used against a respiratory care practitioner or
6 respiratory therapist in any other proceeding.

7 (x) Violating any provision of this chapter or chapter
8 456, or any rules adopted pursuant thereto.

9 (2) The board may enter an order denying licensure or
10 imposing any of the penalties in s. 456.072(2) against any
11 applicant for licensure or licensee who is found guilty of
12 violating any provision of subsection (1) of this section or
13 who is found guilty of violating any provision of s.

14 456.072(1). If the board finds any person guilty of any of the
15 grounds set forth in subsection (1), it may enter an order
16 imposing one or more of the following penalties:

17 (a) Denial of an application for licensure.

18 (b) Revocation or suspension of licensure.

19 (c) Imposition of an administrative fine not to exceed
20 \$1,000 for each count or separate offense.

21 (d) Placement of the respiratory care practitioner or
22 respiratory therapist on probation for such period of time and
23 subject to such conditions as the board may specify,
24 including, but not limited to, requiring the respiratory care
25 practitioner or respiratory therapist to submit to treatment,
26 to attend continuing education courses, or to work under the
27 supervision of another respiratory care practitioner or
28 respiratory therapist.

29 (e) Issuance of a reprimand.

30 Section 40. Subsections (1) and (2) of section
31 468.518, Florida Statutes, are amended to read:

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1 468.518 Grounds for disciplinary action.--

2 (1) The following acts constitute grounds for denial
3 of a license or disciplinary action, as specified in s.
4 456.072(2)which the disciplinary actions in subsection (2)
5 may be taken:

6 (a) Violating any provision of this part, any board or
7 agency rule adopted pursuant thereto, or any lawful order of
8 the board or agency previously entered in a disciplinary
9 hearing held pursuant to this part, or failing to comply with
10 a lawfully issued subpoena of the agency. The provisions of
11 this paragraph also apply to any order or subpoena previously
12 issued by the Department of Health during its period of
13 regulatory control over this part.

14 (b) Being unable to engage in dietetics and nutrition
15 practice or nutrition counseling with reasonable skill and
16 safety to patients by reason of illness or use of alcohol,
17 drugs, narcotics, chemicals, or any other type of material or
18 as a result of any mental or physical condition.

19 1. A licensee whose license is suspended or revoked
20 pursuant to this paragraph shall, at reasonable intervals, be
21 given an opportunity to demonstrate that he or she can resume
22 the competent practice of dietetics and nutrition or nutrition
23 counseling with reasonable skill and safety to patients.

24 2. Neither the record of the proceeding nor the orders
25 entered by the board in any proceeding under this paragraph
26 may be used against a licensee in any other proceeding.

27 (c) Attempting to procure or procuring a license to
28 practice dietetics and nutrition or nutrition counseling by
29 fraud or material misrepresentation of material fact.

30 (d) Having a license to practice dietetics and
31 nutrition or nutrition counseling revoked, suspended, or

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1 otherwise acted against, including the denial of licensure by
2 the licensing authority of another state, district, territory,
3 or country.

4 (e) Being convicted or found guilty of, or entering a
5 plea of nolo contendere to, regardless of adjudication, a
6 crime in any jurisdiction which directly relates to the
7 practice of dietetics and nutrition or nutrition counseling or
8 the ability to practice dietetics and nutrition or nutrition
9 counseling.

10 (f) Making or filing a report or record that the
11 licensee knows to be false, willfully failing to file a report
12 or record required by state or federal law, willfully impeding
13 or obstructing such filing, or inducing another person to
14 impede or obstruct such filing. Such reports or records
15 include only those that are signed in the capacity of a
16 licensed dietitian/nutritionist or licensed nutrition
17 counselor.

18 (g) Advertising goods or services in a manner that is
19 fraudulent, false, deceptive, or misleading in form or
20 content.

21 (h) Committing an act of fraud or deceit, or of
22 negligence, incompetency, or misconduct in the practice of
23 dietetics and nutrition or nutrition counseling.

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

26 (j) Treating or undertaking to treat human ailments by
27 means other than by dietetics and nutrition practice or
28 nutrition counseling.

29 (k) Failing to maintain acceptable standards of
30 practice as set forth by the board and the council in rules
31 adopted pursuant to this part.

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1 (1) Engaging directly or indirectly in the dividing,
2 transferring, assigning, rebating, or refunding of fees
3 received for professional services, or profiting by means of a
4 credit or other valuable consideration, such as an unearned
5 commission, discount, or gratuity, with any person referring a
6 patient or with any relative or business associate of the
7 referring person. Nothing in this part prohibits the members
8 of any regularly and properly organized business entity that
9 is composed of licensees under this part and recognized under
10 the laws of this state from making any division of their total
11 fees among themselves as they determine necessary.

12 (m) Advertising, by or on behalf of a licensee under
13 this part, any method of assessment or treatment which is
14 experimental or without generally accepted scientific
15 validation.

16 (n) Violating any provision of this chapter or chapter
17 456, or any rules adopted pursuant thereto.

18 (2) The board may enter an order denying licensure or
19 imposing any of the penalties in s. 456.072(2) against any
20 applicant for licensure or licensee who is found guilty of
21 violating any provision of subsection (1) of this section or
22 who is found guilty of violating any provision of s.
23 ~~456.072(1). When the board finds any licensee guilty of any of~~
24 ~~the grounds set forth in subsection (1), it may enter an order~~
25 ~~imposing one or more of the following penalties:~~

26 ~~(a) Denial of an application for licensure;~~

27 ~~(b) Revocation or suspension of a license;~~

28 ~~(c) Imposition of an administrative fine not to exceed~~
29 ~~\$1,000 for each violation;~~

30 ~~(d) Issuance of a reprimand or letter of guidance;~~

31 ~~(e) Placement of the licensee on probation for a~~

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1 ~~period of time and subject to such conditions as the board may~~
2 ~~specify, including requiring the licensee to attend continuing~~
3 ~~education courses or to work under the supervision of a~~
4 ~~licensed dietitian/nutritionist or licensed nutrition~~
5 ~~counselor; or~~

6 ~~(f) Restriction of the authorized scope of practice of~~
7 ~~the licensee.~~

8 Section 41. Section 468.719, Florida Statutes, is
9 amended to read:

10 468.719 Disciplinary actions.--

11 (1) The following acts constitute ~~shall be~~ grounds for
12 denial of a license or disciplinary action, as specified in s.
13 456.072(2)~~disciplinary actions provided for in subsection~~
14 ~~(2):~~

15 ~~(a) A violation of any law relating to the practice of~~
16 ~~athletic training, including, but not limited to, any~~
17 ~~violation of this part, s. 456.072, or any rule adopted~~
18 ~~pursuant thereto.~~

19 (a)~~(b)~~ Failing to include the athletic trainer's name
20 and license number in any advertising, including, but not
21 limited to, business cards and letterhead, related to the
22 practice of athletic training. Advertising shall not include
23 clothing or other novelty items.

24 (b)~~(c)~~ Committing incompetency or misconduct in the
25 practice of athletic training.

26 (c)~~(d)~~ Committing fraud or deceit in the practice of
27 athletic training.

28 (d)~~(e)~~ Committing negligence, gross negligence, or
29 repeated negligence in the practice of athletic training.

30 (e)~~(f)~~ While practicing athletic training, being
31 unable to practice athletic training with reasonable skill and

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1 safety to athletes by reason of illness or use of alcohol or
2 drugs or as a result of any mental or physical condition.

3 (f) Violating any provision of this chapter or chapter
4 456, or any rules adopted pursuant thereto.

5 (2) The board may enter an order denying licensure or
6 imposing any of the penalties in s. 456.072(2) against any
7 applicant for licensure or licensee who is found guilty of
8 violating any provision of subsection (1) of this section or
9 who is found guilty of violating any provision of s.
10 456.072(1).~~When the board finds any person guilty of any of~~
11 ~~the acts set forth in subsection (1), the board may enter an~~
12 ~~order imposing one or more of the penalties provided in s.~~
13 ~~456.072.~~

14 Section 42. Section 468.811, Florida Statutes, is
15 amended to read:

16 468.811 Disciplinary proceedings.--

17 (1) The following acts constitute ~~are~~ grounds for
18 denial of a license or disciplinary action, as specified in s.
19 456.072(2):~~disciplinary action against a licensee and the~~
20 ~~issuance of cease and desist orders or other related action by~~
21 ~~the department, pursuant to s. 456.072, against any person who~~
22 ~~engages in or aids in a violation.~~

23 (a) Attempting to procure a license by fraudulent
24 misrepresentation.

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

29 (c) Being convicted or found guilty of or pleading
30 nolo contendere to, regardless of adjudication, in any
31 jurisdiction, a crime that directly relates to the practice of

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1 orthotics, prosthetics, or pedorthics, including violations of
2 federal laws or regulations regarding orthotics, prosthetics,
3 or pedorthics.

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

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

13 ~~(f) Violation of this act or chapter 456, or any rules~~
14 ~~adopted thereunder.~~

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

19 (g)~~(h)~~ Practicing with a revoked, suspended, or
20 inactive license.

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

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

30 (j) Violating any provision of this chapter or chapter
31 456, or any rules adopted pursuant thereto.

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1 (2) The board may enter an order denying licensure or
2 imposing any of the penalties in s. 456.072(2) against any
3 applicant for licensure or licensee who is found guilty of
4 violating any provision of subsection (1) of this section or
5 who is found guilty of violating any provision of s.
6 456.072(1).~~The board may enter an order imposing one or more~~
7 ~~of the penalties in s. 456.072(2) against any person who~~
8 ~~violates any provision of subsection (1).~~

9 Section 43. Subsections (1) and (2) of section 478.52,
10 Florida Statutes, are amended to read:

11 478.52 Disciplinary proceedings.--

12 (1) The following acts constitute ~~are~~ grounds for
13 denial of a license or disciplinary action, as specified in s.
14 456.072(2)~~which the disciplinary actions in subsection (2)~~
15 ~~may be taken:~~

16 (a) Obtaining or attempting to obtain a license by
17 bribery, fraud, or knowing misrepresentation.

18 (b) Having a license or other authority to deliver
19 electrolysis services revoked, suspended, or otherwise acted
20 against, including denial of licensure, in another
21 jurisdiction.

22 (c) Being convicted or found guilty of, or entering a
23 plea of nolo contendere to, regardless of adjudication, a
24 crime, in any jurisdiction, which directly relates to the
25 practice of electrology.

26 (d) Willfully making or filing a false report or
27 record, willfully failing to file a report or record required
28 for electrologists, or willfully impeding or obstructing the
29 filing of a report or record required by this act or inducing
30 another person to do so.

31 (e) Circulating false, misleading, or deceptive

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1 advertising.

2 (f) Unprofessional conduct, including any departure
3 from, or failure to conform to, acceptable standards related
4 to the delivery of electrolysis services.

5 (g) Engaging or attempting to engage in the illegal
6 possession, sale, or distribution of any illegal or controlled
7 substance.

8 (h) Willfully failing to report any known violation of
9 this chapter.

10 (i) Willfully or repeatedly violating a rule adopted
11 under this chapter, or an order of the board or department
12 previously entered in a disciplinary hearing.

13 (j) Engaging in the delivery of electrolysis services
14 without an active license.

15 (k) Employing an unlicensed person to practice
16 electrology.

17 (l) Failing to perform any statutory or legal
18 obligation placed upon an electrologist.

19 (m) Accepting and performing professional
20 responsibilities which the licensee knows, or has reason to
21 know, she or he is not competent to perform.

22 (n) Delegating professional responsibilities to a
23 person the licensee knows, or has reason to know, is
24 unqualified by training, experience, or licensure to perform.

25 (o) Gross or repeated malpractice or the inability to
26 practice electrology with reasonable skill and safety.

27 (p) Judicially determined mental incompetency.

28 (q) Practicing or attempting to practice electrology
29 under a name other than her or his own.

30 (r) Being unable to practice electrology with
31 reasonable skill and safety because of a mental or physical

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1 condition or illness, or the use of alcohol, controlled
2 substances, or any other substance which impairs one's ability
3 to practice.

4 1. The department may, upon probable cause, compel a
5 licensee to submit to a mental or physical examination by
6 physicians designated by the department. The cost of an
7 examination shall be borne by the licensee, and her or his
8 failure to submit to such an examination constitutes an
9 admission of the allegations against her or him, consequent
10 upon which a default and a final order may be entered without
11 the taking of testimony or presentation of evidence, unless
12 the failure was due to circumstances beyond her or his
13 control.

14 2. A licensee who is disciplined under this paragraph
15 shall, at reasonable intervals, be afforded an opportunity to
16 demonstrate that she or he can resume the practice of
17 electrology with reasonable skill and safety.

18 3. In any proceeding under this paragraph, the record
19 of proceedings or the orders entered by the board may not be
20 used against a licensee in any other proceeding.

21 (s) Disclosing the identity of or information about a
22 patient without written permission, except for information
23 which does not identify a patient and which is used for
24 training purposes in an approved electrolysis training
25 program.

26 (t) Practicing or attempting to practice any permanent
27 hair removal except as described in s. 478.42(5).

28 (u) Operating any electrolysis facility unless it has
29 been duly licensed as provided in this chapter.

30 (v) Violating any provision of this chapter or chapter
31 456, or any rules adopted pursuant thereto.

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- 1 (2) The board may enter an order denying licensure or
2 imposing any of the penalties in s. 456.072(2) against any
3 applicant for licensure or licensee who is found guilty of
4 violating any provision of subsection (1) of this section or
5 who is found guilty of violating any provision of s.
6 456.072(1).~~When the board finds any person guilty of any of~~
7 ~~the grounds set forth in subsection (1), including conduct~~
8 ~~that would constitute a substantial violation of subsection~~
9 ~~(1) which occurred prior to licensure, it may enter an order~~
10 ~~imposing one or more of the following penalties:~~
11 ~~(a) Deny the application for licensure.~~
12 ~~(b) Revoke or suspend the license.~~
13 ~~(c) Impose an administrative fine not to exceed \$5,000~~
14 ~~for each count or separate offense.~~
15 ~~(d) Place the licensee on probation for a specified~~
16 ~~time and subject the licensee to such conditions as the board~~
17 ~~determines necessary, including, but not limited to, requiring~~
18 ~~treatment, continuing education courses, reexamination, or~~
19 ~~working under the supervision of another licensee.~~
20 ~~(e) Issue a reprimand to the licensee.~~
21 ~~(f) Restriction of a licensee's practice.~~
22 Section 44. Subsections (1) and (2) of section
23 480.046, Florida Statutes, are amended to read:
24 480.046 Grounds for disciplinary action by the
25 board.--
26 (1) The following acts shall constitute grounds for
27 denial of a license or disciplinary action, as specified in s.
28 456.072(2)~~which disciplinary actions specified in subsection~~
29 ~~(2) may be taken against a massage therapist or massage~~
30 ~~establishment licensed under this act:~~
31 (a) Attempting to procure a license to practice

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1 massage by bribery or fraudulent misrepresentation.

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

6 (c) Being convicted or found guilty, regardless of
7 adjudication, of a crime in any jurisdiction which directly
8 relates to the practice of massage or to the ability to
9 practice massage. Any plea of nolo contendere shall be
10 considered a conviction for purposes of this chapter.

11 (d) False, deceptive, or misleading advertising.

12 (e) Aiding, assisting, procuring, or advising any
13 unlicensed person to practice massage contrary to the
14 provisions of this chapter or to a rule of the department or
15 the board.

16 (f) Making deceptive, untrue, or fraudulent
17 representations in the practice of massage.

18 (g) Being unable to practice massage with reasonable
19 skill and safety by reason of illness or use of alcohol,
20 drugs, narcotics, chemicals, or any other type of material or
21 as a result of any mental or physical condition. In enforcing
22 this paragraph, the department shall have, upon probable
23 cause, authority to compel a massage therapist to submit to a
24 mental or physical examination by physicians designated by the
25 department. Failure of a massage therapist to submit to such
26 examination when so directed, unless the failure was due to
27 circumstances beyond her or his control, shall constitute an
28 admission of the allegations against her or him, consequent
29 upon which a default and final order may be entered without
30 the taking of testimony or presentation of evidence. A
31 massage therapist affected under this paragraph shall at

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1 reasonable intervals be afforded an opportunity to demonstrate
2 that she or he can resume the competent practice of massage
3 with reasonable skill and safety to clients.

4 (h) Gross or repeated malpractice or the failure to
5 practice massage with that level of care, skill, and treatment
6 which is recognized by a reasonably prudent massage therapist
7 as being acceptable under similar conditions and
8 circumstances.

9 (i) Practicing or offering to practice beyond the
10 scope permitted by law or accepting and performing
11 professional responsibilities which the licensee knows or has
12 reason to know that she or he is not competent to perform.

13 (j) Delegating professional responsibilities to a
14 person when the licensee delegating such responsibilities
15 knows or has reason to know that such person is not qualified
16 by training, experience, or licensure to perform.

17 (k) ~~Violating any provision of this chapter, a rule of~~
18 ~~the board or department, or~~ a lawful order of the board or
19 department previously entered in a disciplinary hearing, or
20 failing to comply with a lawfully issued subpoena of the
21 department.

22 (l) Refusing to permit the department to inspect the
23 business premises of the licensee during regular business
24 hours.

25 (m) Failing to keep the equipment and premises of the
26 massage establishment in a clean and sanitary condition.

27 (n) Practicing massage at a site, location, or place
28 which is not duly licensed as a massage establishment, except
29 that a massage therapist, as provided by rules adopted by the
30 board, may provide massage services, excluding colonic
31 irrigation, at the residence of a client, at the office of the

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1 client, at a sports event, at a convention, or at a trade
2 show.

3 (o) Violating any provision of this chapter or chapter
4 456, or any rules adopted pursuant thereto.

5 (2) The board may enter an order denying licensure or
6 imposing any of the penalties in s. 456.072(2) against any
7 applicant for licensure or licensee who is found guilty of
8 violating any provision of subsection (1) of this section or
9 who is found guilty of violating any provision of s.
10 456.072(1).~~When the board finds any person guilty of any of~~
11 ~~the grounds set forth in subsection (1), it may enter an order~~
12 ~~imposing one or more of the following penalties:~~

13 ~~(a) Refusal to license an applicant.~~

14 ~~(b) Revocation or suspension of a license.~~

15 ~~(c) Issuance of a reprimand or censure.~~

16 ~~(d) Imposition of an administrative fine not to exceed~~
17 ~~\$1,000 for each count or separate offense.~~

18 Section 45. Section 483.825, Florida Statutes, is
19 amended to read:

20 483.825 Grounds for disciplinary action.--

21 (1) The following acts constitute grounds for denial
22 of a license or disciplinary action, as specified in s.
23 456.072(2)~~which disciplinary actions specified in s. 483.827~~
24 ~~may be taken against applicants, registrants, and licensees~~
25 ~~under this part:~~

26 (a)~~(1)~~ Attempting to obtain, obtaining, or renewing a
27 license or registration under this part by bribery, by
28 fraudulent misrepresentation, or through an error of the
29 department or the board.

30 (b)~~(2)~~ Engaging in or attempting to engage in, or
31 representing herself or himself as entitled to perform, any

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1 clinical laboratory procedure or category of procedures not
2 authorized pursuant to her or his license.

3 (c)~~(3)~~ Demonstrating incompetence or making consistent
4 errors in the performance of clinical laboratory examinations
5 or procedures or erroneous reporting.

6 (d)~~(4)~~ Performing a test and rendering a report
7 thereon to a person not authorized by law to receive such
8 services.

9 (e)~~(5)~~ Has been convicted or found guilty of, or
10 entered a plea of nolo contendere to, regardless of
11 adjudication, a crime in any jurisdiction which directly
12 relates to the activities of clinical laboratory personnel or
13 involves moral turpitude or fraudulent or dishonest dealing.
14 The record of a conviction certified or authenticated in such
15 form as to be admissible in evidence under the laws of the
16 state shall be admissible as prima facie evidence of such
17 guilt.

18 (f)~~(6)~~ Having been adjudged mentally or physically
19 incompetent.

20 (g)~~(7)~~ ~~Violating or~~ Aiding and abetting in the
21 violation of any provision of this part or the rules adopted
22 hereunder.

23 (h)~~(8)~~ Reporting a test result when no laboratory test
24 was performed on a clinical specimen.

25 (i)~~(9)~~ Knowingly advertising false services or
26 credentials.

27 (j)~~(10)~~ Having a license revoked, suspended, or
28 otherwise acted against, including the denial of licensure, by
29 the licensing authority of another jurisdiction. The licensing
30 authority's acceptance of a relinquishment of a license,
31 stipulation, consent order, or other settlement, offered in

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1 response to or in anticipation of the filing of administrative
2 charges against the licensee, shall be construed as action
3 against the licensee.

4 (k)~~(11)~~ Failing to report to the board, in writing,
5 within 30 days that an action under subsection (5), subsection
6 (6), or subsection (10) has been taken against the licensee or
7 one's license to practice as clinical laboratory personnel in
8 another state, territory, country, or other jurisdiction.

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

29 (m)~~(13)~~ Delegating professional responsibilities to a
30 person when the licensee delegating such responsibilities
31 knows, or has reason to know, that such person is not

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1 qualified by training, experience, or licensure to perform
2 them.

3 (n)~~(14)~~ Violating a previous order of the board
4 entered in a disciplinary proceeding.

5 (o)~~(15)~~ Failing to report to the department a person
6 or other licensee who the licensee knows is in violation of
7 this chapter or the rules of the department or board adopted
8 hereunder.

9 (p)~~(16)~~ Making or filing a report which the licensee
10 knows to be false, intentionally or negligently failing to
11 file a report or record required by state or federal law,
12 willfully impeding or obstructing such filing or inducing
13 another person to do so, including, but not limited to,
14 impeding an agent of the state from obtaining a report or
15 record for investigative purposes. Such reports or records
16 shall include only those generated in the capacity as a
17 licensed clinical laboratory personnel.

18 (q)~~(17)~~ Paying or receiving any commission, bonus,
19 kickback, or rebate, or engaging in any split-fee arrangement
20 in any form whatsoever with a physician, organization, agency,
21 or person, either directly or indirectly for patients referred
22 to providers of health care goods and services including, but
23 not limited to, hospitals, nursing homes, clinical
24 laboratories, ambulatory surgical centers, or pharmacies. The
25 provisions of this subsection shall not be construed to
26 prevent a clinical laboratory professional from receiving a
27 fee for professional consultation services.

28 (r)~~(18)~~ Exercising influence on a patient or client in
29 such a manner as to exploit the patient or client for the
30 financial gain of the licensee or other third party, which
31 shall include, but not be limited to, the promoting, selling,

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1 or withholding of services, goods, appliances, referrals, or
2 drugs.

3 (s)~~(19)~~ Practicing or offering to practice beyond the
4 scope permitted by law or rule, or accepting or performing
5 professional services or responsibilities which the licensee
6 knows or has reason to know that he or she is not competent to
7 perform.

8 (t)~~(20)~~ Misrepresenting or concealing a material fact
9 at any time during any phase of the licensing, investigative,
10 or disciplinary process, procedure, or proceeding.

11 (u)~~(21)~~ Improperly interfering with an investigation
12 or any disciplinary proceeding.

13 (v)~~(22)~~ Engaging in or attempting to engage in sexual
14 misconduct, causing undue embarrassment or using disparaging
15 language or language of a sexual nature towards a patient,
16 exploiting superior/subordinate, professional/patient,
17 instructor/student relationships for personal gain, sexual
18 gratification, or advantage.

19 (w) Violating any provision of this chapter or chapter
20 456, or any rules adopted pursuant thereto.

21 (2) The board may enter an order denying licensure or
22 imposing any of the penalties in s. 456.072(2) against any
23 applicant for licensure or licensee who is found guilty of
24 violating any provision of subsection (1) of this section or
25 who is found guilty of violating any provision of s.
26 456.072(1).

27 (3) In determining the amount of the fine to be levied
28 for a violation, as provided in subsection (1), the following
29 factors shall be considered:

30 (a) The severity of the violation, including the
31 probability that death or serious harm to the health or safety

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1 of any person will result or has resulted, the severity of the
2 actual or potential harm, and the extent to which the
3 provisions of this part were violated.

4 (b) Actions taken by the licensee to correct the
5 violation or to remedy complaints.

6 (c) Any previous violation by the licensee.

7 (d) The financial benefit to the licensee of
8 committing or continuing the violation.

9 Section 46. Section 483.827, Florida Statutes, is
10 repealed.

11 Section 47. Subsection (6) of section 483.901, Florida
12 Statutes, is amended to read:

13 483.901 Medical physicists; definitions; licensure.--

14 (6) LICENSE REQUIRED.--An individual may not engage in
15 the practice of medical physics, including the specialties of
16 diagnostic radiological physics, therapeutic radiological
17 physics, medical nuclear radiological physics, or medical
18 health physics, without a license issued by the department for
19 the appropriate specialty.

20 (a) The department shall adopt rules to administer
21 this section which specify license application and renewal
22 fees, continuing education requirements, and standards for
23 practicing medical physics. The council shall recommend to
24 the department continuing education requirements that shall be
25 a condition of license renewal. The department shall require
26 a minimum of 24 hours per biennium of continuing education
27 offered by an organization recommended by the council and
28 approved by the department. The department, upon
29 recommendation of the council, may adopt rules to specify
30 continuing education requirements for persons who hold a
31 license in more than one specialty.

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1 (b) In order to apply for a medical physicist license
2 in one or more specialties, a person must file an individual
3 application for each specialty with the department. The
4 application must be on a form prescribed by the department and
5 must be accompanied by a nonrefundable application fee for
6 each specialty.

7 (c) The department may issue a license to an eligible
8 applicant if the applicant meets all license requirements. At
9 any time before the department issues a license, the applicant
10 may request in writing that the application be withdrawn. To
11 reapply, the applicant must submit a new application and an
12 additional nonrefundable application fee and must meet all
13 current licensure requirements.

14 (d) The department shall review each completed
15 application for a license which the department receives.

16 (e) On receipt of an application and fee as specified
17 in this section, the department may issue a license to
18 practice medical physics in this state on or after October 1,
19 1997, to a person who is board certified in the medical
20 physics specialty in which the applicant applies to practice
21 by the American Board of Radiology for diagnostic radiological
22 physics, therapeutic radiological physics, or medical nuclear
23 radiological physics; by the American Board of Medical Physics
24 for diagnostic radiological physics, therapeutic radiological
25 physics, or medical nuclear radiological physics; or by the
26 American Board of Health Physics or an equivalent certifying
27 body approved by the department.

28 (f) A licensee shall:

29 1. Display the license in a place accessible to the
30 public; and

31 2. Report immediately any change in the licensee's

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1 address or name to the department.

2 (g) The following acts constitute ~~are~~ grounds for
3 denial of a license or disciplinary action, as specified in s.
4 456.072(2)~~which the disciplinary actions in paragraph (h) may~~
5 ~~be taken:~~

6 1. Obtaining or attempting to obtain a license by
7 bribery, fraud, knowing misrepresentation, or concealment of
8 material fact or through an error of the department.

9 2. Having a license denied, revoked, suspended, or
10 otherwise acted against in another jurisdiction.

11 3. Being convicted or found guilty of, or entering a
12 plea of nolo contendere to, regardless of adjudication, a
13 crime in any jurisdiction which relates to the practice of, or
14 the ability to practice, the profession of medical physics.

15 4. Willfully failing to file a report or record
16 required for medical physics or willfully impeding or
17 obstructing the filing of a report or record required by this
18 section or inducing another person to do so.

19 5. Making misleading, deceptive, or fraudulent
20 representations in or related to the practice of medical
21 physics.

22 6. Willfully failing to report any known violation of
23 this section or any rule adopted thereunder.

24 ~~7. Willfully or repeatedly violating a rule adopted~~
25 ~~under this section or an order of the department.~~

26 ~~7.8.~~ Failing to perform any statutory or legal
27 obligation placed upon a licensee.

28 ~~8.9.~~ Aiding, assisting, procuring, employing, or
29 advising any unlicensed person to practice medical physics
30 contrary to this section or any rule adopted thereunder.

31 ~~9.10.~~ Delegating or contracting for the performance of

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1 professional responsibilities by a person when the licensee
2 delegating or contracting such responsibilities knows, or has
3 reason to know, such person is not qualified by training,
4 experience, and authorization to perform them.

5 ~~10.11.~~ Practicing or offering to practice beyond the
6 scope permitted by law or accepting and performing
7 professional responsibilities the licensee knows, or has
8 reason to know, the licensee is not competent to perform.

9 ~~11.12.~~ Gross or repeated malpractice or the inability
10 to practice medical physics with reasonable skill and safety.

11 ~~12.13.~~ Judicially determined mental incompetency.

12 ~~13.14.~~ Being unable to practice medical physics with
13 reasonable skill and safety because of a mental or physical
14 condition or illness or the use of alcohol, controlled
15 substances, or any other substance which impairs one's ability
16 to practice.

17 a. The department may, upon probable cause, compel a
18 licensee to submit to a mental or physical examination by
19 physicians designated by the department. The cost of an
20 examination shall be borne by the licensee, and the licensee's
21 failure to submit to such an examination constitutes an
22 admission of the allegations against the licensee, consequent
23 upon which a default and a final order may be entered without
24 the taking of testimony or presentation of evidence, unless
25 the failure was due to circumstances beyond the licensee's
26 control.

27 b. A licensee who is disciplined under this
28 subparagraph shall, at reasonable intervals, be afforded an
29 opportunity to demonstrate that the licensee can resume the
30 practice of medical physics with reasonable skill and safety.

31 c. With respect to any proceeding under this

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1 subparagraph, the record of proceedings or the orders entered
2 by the department may not be used against a licensee in any
3 other proceeding.

4 14. Violating any provision of this chapter or chapter
5 456, or any rules adopted pursuant thereto.

6 (h) The board may enter an order denying licensure or
7 imposing any of the penalties in s. 456.072(2) against any
8 applicant for licensure or licensee who is found guilty of
9 violating any provision of subsection (1) of this section or
10 who is found guilty of violating any provision of s.

11 456.072(1).When the department finds any person guilty of any
12 of the grounds set forth in paragraph (g), including conduct
13 that would constitute a substantial violation of paragraph (g)
14 which occurred prior to licensure, it may enter an order
15 imposing one or more of the following penalties:

16 1. ~~Deny the application for licensure.~~

17 2. ~~Revoke or suspend the license.~~

18 3. ~~Impose an administrative fine for each count or~~
19 ~~separate offense.~~

20 4. ~~Place the licensee on probation for a specified~~
21 ~~time and subject the licensee to such conditions as the~~
22 ~~department determines necessary, including requiring~~
23 ~~treatment, continuing education courses, or working under the~~
24 ~~monitoring or supervision of another licensee.~~

25 5. ~~Restrict a licensee's practice.~~

26 6. ~~Issue a reprimand to the licensee.~~

27 (i) The department may not issue or reinstate a
28 license to a person it has deemed unqualified until it is
29 satisfied that such person has complied with the terms and
30 conditions of the final order and that the licensee can safely
31 practice medical physics.

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1 (j) Upon receipt of a complete application and the fee
2 set forth by rule, the department may issue a
3 physicist-in-training certificate to a person qualified to
4 practice medical physics under direct supervision. The
5 department may establish by rule requirements for initial
6 certification and renewal of a physicist-in-training
7 certificate.

8 Section 48. Subsections (1) and (2) of section
9 484.014, Florida Statutes, are amended to read:

10 484.014 Disciplinary actions.--

11 (1) The following acts constitute ~~relating to the~~
12 ~~practice of opticianry shall be~~ grounds for denial of a
13 license or disciplinary action, as specified in s. 456.072(2)
14 ~~both disciplinary action against an optician as set forth in~~
15 ~~this section and cease and desist or other related action by~~
16 ~~the department as set forth in s. 456.065 against any person~~
17 ~~operating an optical establishment who engages in, aids, or~~
18 ~~abets any such violation:~~

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

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

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

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

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

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

9 ~~(g) Violation or repeated violation of this part or of~~
10 ~~chapter 456 or any rules promulgated pursuant thereto.~~

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

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

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

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

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

24 ~~(l)(m)~~ Failing to keep written prescription files.

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

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

31 ~~(o)(p)~~ Gross or repeated malpractice.

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

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

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

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

21 (t) Violating any provision of this chapter or chapter
22 456, or any rules adopted pursuant thereto.

23 (2) The board may enter an order denying licensure or
24 imposing any of the penalties in s. 456.072(2) against any
25 applicant for licensure or licensee who is found guilty of
26 violating any provision of subsection (1) of this section or
27 who is found guilty of violating any provision of s.
28 ~~456.072(1).When the board finds any person guilty of any of~~
29 ~~the grounds set forth in subsection (1), it may enter an order~~
30 ~~imposing one or more of the following penalties:~~

31 ~~(a) Refusal to certify to the department an~~

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1 ~~application for licensure.~~

2 ~~(b) Revocation or suspension of a license.~~

3 ~~(c) Imposition of an administrative fine not to exceed~~
4 ~~\$1,000 for each count or separate offense.~~

5 ~~(d) Issuance of a reprimand.~~

6 ~~(e) Placement of the optician on probation for a~~
7 ~~period of time and subject to such conditions as the board may~~
8 ~~specify, including requiring the optician to submit to~~
9 ~~treatment or to work under the supervision of another~~
10 ~~optician.~~

11 Section 49. Subsections (1) and (2) of section
12 484.056, Florida Statutes, are amended to read:

13 484.056 Disciplinary proceedings.--

14 (1) The following acts constitute relating to the
15 ~~practice of dispensing hearing aids shall be~~ grounds for
16 denial of a license or disciplinary action, as specified in s.
17 456.072(2)~~both disciplinary action against a hearing aid~~
18 ~~specialist as set forth in this section and cease and desist~~
19 ~~or other related action by the department as set forth in s.~~
20 ~~456.065 against any person owning or operating a hearing aid~~
21 ~~establishment who engages in, aids, or abets any such~~
22 ~~violation:~~

23 (a) Violation of any provision of s. 456.072(1), s.
24 484.0512, or s. 484.053.

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

28 (c) Having a license to dispense hearing aids revoked,
29 suspended, or otherwise acted against, including the denial of
30 licensure, by the licensing authority of another state,
31 territory, or country.

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1 (d) Being convicted or found guilty of, or entering a
2 plea of nolo contendere to, regardless of adjudication, a
3 crime in any jurisdiction which directly relates to the
4 practice of dispensing hearing aids or the ability to practice
5 dispensing hearing aids, including violations of any federal
6 laws or regulations regarding hearing aids.

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

15 (f) Advertising goods or services in a manner which is
16 fraudulent, false, deceptive, or misleading in form or
17 content.

18 (g) Proof that the licensee is guilty of fraud or
19 deceit or of negligence, incompetency, or misconduct in the
20 practice of dispensing hearing aids.

21 ~~(h) Violation or repeated violation of this part or of~~
22 ~~chapter 456, or any rules promulgated pursuant thereto.~~

23 (h)~~(i)~~ Violation of a lawful order of the board or
24 department previously entered in a disciplinary hearing or
25 failure to comply with a lawfully issued subpoena of the board
26 or department.

27 (i)~~(j)~~ Practicing with a revoked, suspended, inactive,
28 or delinquent license.

29 (j)~~(k)~~ Using, or causing or promoting the use of, any
30 advertising matter, promotional literature, testimonial,
31 guarantee, warranty, label, brand, insignia, or other

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1 representation, however disseminated or published, which is
2 misleading, deceiving, or untruthful.

3 (k)~~(l)~~ Showing or demonstrating, or, in the event of
4 sale, delivery of, a product unusable or impractical for the
5 purpose represented or implied by such action.

6 (l)~~(m)~~ Misrepresentation of professional services
7 available in the fitting, sale, adjustment, service, or repair
8 of a hearing aid, or use of the terms "doctor," "clinic,"
9 "clinical," "medical audiologist," "clinical audiologist,"
10 "research audiologist," or "audiologic" or any other term or
11 title which might connote the availability of professional
12 services when such use is not accurate.

13 (m)~~(n)~~ Representation, advertisement, or implication
14 that a hearing aid or its repair is guaranteed without
15 providing full disclosure of the identity of the guarantor;
16 the nature, extent, and duration of the guarantee; and the
17 existence of conditions or limitations imposed upon the
18 guarantee.

19 (n)~~(o)~~ Representing, directly or by implication, that
20 a hearing aid utilizing bone conduction has certain specified
21 features, such as the absence of anything in the ear or
22 leading to the ear, or the like, without disclosing clearly
23 and conspicuously that the instrument operates on the bone
24 conduction principle and that in many cases of hearing loss
25 this type of instrument may not be suitable.

26 (o)~~(p)~~ Making any predictions or prognostications as
27 to the future course of a hearing impairment, either in
28 general terms or with reference to an individual person.

29 (p)~~(q)~~ Stating or implying that the use of any hearing
30 aid will improve or preserve hearing or prevent or retard the
31 progression of a hearing impairment or that it will have any

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1 similar or opposite effect.

2 (g)~~(r)~~ Making any statement regarding the cure of the
3 cause of a hearing impairment by the use of a hearing aid.

4 (r)~~(s)~~ Representing or implying that a hearing aid is
5 or will be "custom-made," "made to order," or
6 "prescription-made" or in any other sense specially fabricated
7 for an individual person when such is not the case.

8 (s)~~(t)~~ Canvassing from house to house or by telephone
9 either in person or by an agent for the purpose of selling a
10 hearing aid, except that contacting persons who have evidenced
11 an interest in hearing aids, or have been referred as in need
12 of hearing aids, shall not be considered canvassing.

13 (t)~~(u)~~ Failure to submit to the board on an annual
14 basis, or such other basis as may be provided by rule,
15 certification of testing and calibration of audiometric
16 testing equipment on the form approved by the board.

17 (u)~~(v)~~ Failing to provide all information as described
18 in s. 484.051(1).

19 (v)~~(w)~~ Exercising influence on a client in such a
20 manner as to exploit the client for financial gain of the
21 licensee or of a third party.

22 (w) Violating any provision of this chapter or chapter
23 456, or any rules adopted pursuant thereto.

24 (2)(a) The board may enter an order denying licensure
25 or imposing any of the penalties in s. 456.072(2) against any
26 applicant for licensure or licensee who is found guilty of
27 violating any provision of subsection (1) of this section or
28 who is found guilty of violating any provision of s.
29 456.072(1). Except as provided in paragraph (b), when the
30 board finds any hearing aid specialist to be guilty of any of
31 the grounds set forth in subsection (1), it may enter an order

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1 ~~imposing one or more of the following penalties:~~
 2 1. ~~Denial of an application for licensure.~~
 3 2. ~~Revocation or suspension of a license.~~
 4 3. ~~Imposition of an administrative fine not to exceed~~
 5 ~~\$1,000 for each count or separate offense.~~
 6 4. ~~Issuance of a reprimand.~~
 7 5. ~~Placing the hearing aid specialist on probation for~~
 8 ~~a period of time and subject to such conditions as the board~~
 9 ~~may specify, including requiring the hearing aid specialist to~~
 10 ~~attend continuing education courses or to work under the~~
 11 ~~supervision of another hearing aid specialist.~~

12 6. ~~Restricting the authorized scope of practice.~~
 13 (b) The board shall revoke the license of any hearing
 14 aid specialist found guilty of canvassing as described in this
 15 section.

16 Section 50. Subsections (1) and (2) of section
 17 486.125, Florida Statutes, are amended to read:

18 486.125 Refusal, revocation, or suspension of license;
 19 administrative fines and other disciplinary measures.--

20 (1) The following acts ~~shall~~ constitute grounds for
 21 denial of a license or disciplinary action, as specified in s.
 22 456.072(2)~~which the disciplinary actions specified in~~
 23 ~~subsection (2) may be taken:~~

24 (a) Being unable to practice physical therapy with
 25 reasonable skill and safety to patients by reason of illness
 26 or use of alcohol, drugs, narcotics, chemicals, or any other
 27 type of material or as a result of any mental or physical
 28 condition.

29 1. In enforcing this paragraph, upon a finding of the
 30 secretary or the secretary's designee that probable cause
 31 exists to believe that the licensee is unable to practice

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1 physical therapy due to the reasons stated in this paragraph,
2 the department shall have the authority to compel a physical
3 therapist or physical therapist assistant to submit to a
4 mental or physical examination by a physician designated by
5 the department. If the licensee refuses to comply with such
6 order, the department's order directing such examination may
7 be enforced by filing a petition for enforcement in the
8 circuit court where the licensee resides or serves as a
9 physical therapy practitioner. The licensee against whom the
10 petition is filed shall not be named or identified by initials
11 in any public court records or documents, and the proceedings
12 shall be closed to the public. The department shall be
13 entitled to the summary procedure provided in s. 51.011.

14 2. A physical therapist or physical therapist
15 assistant whose license is suspended or revoked pursuant to
16 this subsection shall, at reasonable intervals, be given an
17 opportunity to demonstrate that she or he can resume the
18 competent practice of physical therapy with reasonable skill
19 and safety to patients.

20 3. Neither the record of proceeding nor the orders
21 entered by the board in any proceeding under this subsection
22 may be used against a physical therapist or physical therapist
23 assistant in any other proceeding.

24 (b) Having committed fraud in the practice of physical
25 therapy or deceit in obtaining a license as a physical
26 therapist or as a physical therapist assistant.

27 (c) Being convicted or found guilty regardless of
28 adjudication, of a crime in any jurisdiction which directly
29 relates to the practice of physical therapy or to the ability
30 to practice physical therapy. The entry of any plea of nolo
31 contendere shall be considered a conviction for purpose of

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1 this chapter.

2 (d) Having treated or undertaken to treat human
3 ailments by means other than by physical therapy, as defined
4 in this chapter.

5 (e) Failing to maintain acceptable standards of
6 physical therapy practice as set forth by the board in rules
7 adopted pursuant to this chapter.

8 (f) Engaging directly or indirectly in the dividing,
9 transferring, assigning, rebating, or refunding of fees
10 received for professional services, or having been found to
11 profit by means of a credit or other valuable consideration,
12 such as an unearned commission, discount, or gratuity, with
13 any person referring a patient or with any relative or
14 business associate of the referring person. Nothing in this
15 chapter shall be construed to prohibit the members of any
16 regularly and properly organized business entity which is
17 comprised of physical therapists and which is recognized under
18 the laws of this state from making any division of their total
19 fees among themselves as they determine necessary.

20 (g) Having a license revoked or suspended; having had
21 other disciplinary action taken against her or him; or having
22 had her or his application for a license refused, revoked, or
23 suspended by the licensing authority of another state,
24 territory, or country.

25 (h) Violating ~~any provision of this chapter, a rule of~~
26 ~~the board or department, or~~ a lawful order of the board or
27 department previously entered in a disciplinary hearing.

28 (i) Making or filing a report or record which the
29 licensee knows to be false. Such reports or records shall
30 include only those which are signed in the capacity of a
31 physical therapist.

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1 (j) Practicing or offering to practice beyond the
2 scope permitted by law or accepting and performing
3 professional responsibilities which the licensee knows or has
4 reason to know that she or he is not competent to perform,
5 including, but not limited to, specific spinal manipulation.

6 (k) Violating any provision of this chapter or chapter
7 456, or any rules adopted pursuant thereto.

8 (2) The board may enter an order denying licensure or
9 imposing any of the penalties in s. 456.072(2) against any
10 applicant for licensure or licensee who is found guilty of
11 violating any provision of subsection (1) of this section or
12 who is found guilty of violating any provision of s.

13 ~~456.072(1). When the board finds any person guilty of any of~~
14 ~~the grounds set forth in subsection (1), it may enter an order~~
15 ~~imposing one or more of the following penalties:~~

16 (a) ~~Refusal to certify to the department an~~
17 ~~application for licensure.~~

18 (b) ~~Revocation or suspension of a license.~~

19 (c) ~~Restriction of practice.~~

20 (d) ~~Imposition of an administrative fine not to exceed~~
21 ~~\$1,000 for each count or separate offense.~~

22 (e) ~~Issuance of a reprimand.~~

23 (f) ~~Placement of the physical therapist or physical~~
24 ~~therapist assistant on probation for a period of time and~~
25 ~~subject to such conditions as the board may specify,~~
26 ~~including, but not limited to, requiring the physical~~
27 ~~therapist or physical therapist assistant to submit to~~
28 ~~treatment, to attend continuing education courses, to submit~~
29 ~~to reexamination, or to work under the supervision of another~~
30 ~~physical therapist.~~

31 (g) ~~Recovery of actual costs of investigation and~~

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1 ~~prosecution.~~

2 Section 51. Section 490.009, Florida Statutes, is
3 amended to read:

4 490.009 Discipline.--

5 ~~(1) When the department or, in the case of~~
6 ~~psychologists, the board finds that an applicant, provisional~~
7 ~~licensee, or licensee whom it regulates under this chapter has~~
8 ~~committed any of the acts set forth in subsection (2), it may~~
9 ~~issue an order imposing one or more of the following~~
10 ~~penalties:~~

11 ~~(a) Denial of an application for licensure, either~~
12 ~~temporarily or permanently.~~

13 ~~(b) Revocation of an application for licensure, either~~
14 ~~temporarily or permanently.~~

15 ~~(c) Suspension for a period of up to 5 years or~~
16 ~~revocation of a license, after hearing.~~

17 ~~(d) Immediate suspension of a license pursuant to s.~~
18 ~~120.60(6).~~

19 ~~(e) Imposition of an administrative fine not to exceed~~
20 ~~\$5,000 for each count or separate offense.~~

21 ~~(f) Issuance of a public reprimand.~~

22 ~~(g) Placement of an applicant or licensee on probation~~
23 ~~for a period of time and subject to conditions specified by~~
24 ~~the department or, in the case of psychologists, by the board,~~
25 ~~including, but not limited to, requiring the applicant or~~
26 ~~licensee to submit to treatment, to attend continuing~~
27 ~~education courses, to submit to reexamination, or to work~~
28 ~~under the supervision of a designated licensee.~~

29 ~~(h) Restriction of practice.~~

30 ~~(1)(2) The following acts constitute of a licensee,~~
31 ~~provisional licensee, or applicant are grounds for denial of a~~

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1 license or disciplinary action, as specified in s. 456.072(2)
2 ~~which the disciplinary actions listed in subsection (1) may be~~
3 ~~taken:~~

4 (a) Attempting to obtain, obtaining, or renewing a
5 license under this chapter by bribery or fraudulent
6 misrepresentation or through an error of the board or
7 department.

8 (b) Having a license to practice a comparable
9 profession revoked, suspended, or otherwise acted against,
10 including the denial of certification or licensure by another
11 state, territory, or country.

12 (c) Being convicted or found guilty, regardless of
13 adjudication, of a crime in any jurisdiction which directly
14 relates to the practice of his or her profession or the
15 ability to practice his or her profession. A plea of nolo
16 contendere creates a rebuttable presumption of guilt of the
17 underlying criminal charges. However, the board shall allow
18 the person who is the subject of the disciplinary proceeding
19 to present any evidence relevant to the underlying charges and
20 circumstances surrounding the plea.

21 (d) False, deceptive, or misleading advertising or
22 obtaining a fee or other thing of value on the representation
23 that beneficial results from any treatment will be guaranteed.

24 (e) Advertising, practicing, or attempting to practice
25 under a name other than one's own.

26 (f) Maintaining a professional association with any
27 person who the applicant or licensee knows, or has reason to
28 believe, is in violation of this chapter or of a rule of the
29 department or, in the case of psychologists, of the department
30 or the board.

31 (g) Knowingly aiding, assisting, procuring, or

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1 advising any nonlicensed person to hold himself or herself out
2 as licensed under this chapter.

3 (h) Failing to perform any statutory or legal
4 obligation placed upon a person licensed under this chapter.

5 (i) Willfully making or filing a false report or
6 record; failing to file a report or record required by state
7 or federal law; willfully impeding or obstructing the filing
8 of a report or record; or inducing another person to make or
9 file a false report or record or to impede or obstruct the
10 filing of a report or record. Such report or record includes
11 only a report or record which requires the signature of a
12 person licensed under this chapter.

13 (j) Paying a kickback, rebate, bonus, or other
14 remuneration for receiving a patient or client, or receiving a
15 kickback, rebate, bonus, or other remuneration for referring a
16 patient or client to another provider of mental health care
17 services or to a provider of health care services or goods;
18 referring a patient or client to oneself for services on a
19 fee-paid basis when those services are already being paid for
20 by some other public or private entity; or entering into a
21 reciprocal referral agreement.

22 (k) Committing any act upon a patient or client which
23 would constitute sexual battery or which would constitute
24 sexual misconduct as defined in s. 490.0111.

25 (l) Making misleading, deceptive, untrue, or
26 fraudulent representations in the practice of any profession
27 licensed under this chapter.

28 (m) Soliciting patients or clients personally, or
29 through an agent, through the use of fraud, intimidation,
30 undue influence, or a form of overreaching or vexatious
31 conduct.

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1 (n) Failing to make available to a patient or client,
2 upon written request, copies of test results, reports, or
3 documents in the possession or under the control of the
4 licensee which have been prepared for and paid for by the
5 patient or client.

6 (o) Failing to respond within 30 days to a written
7 communication from the department concerning any investigation
8 by the department or to make available any relevant records
9 with respect to any investigation about the licensee's conduct
10 or background.

11 (p) Being unable to practice the profession for which
12 he or she is licensed under this chapter with reasonable skill
13 or competence as a result of any mental or physical condition
14 or by reason of illness; drunkenness; or excessive use of
15 drugs, narcotics, chemicals, or any other substance. In
16 enforcing this paragraph, upon a finding by the secretary, the
17 secretary's designee, or the board that probable cause exists
18 to believe that the licensee is unable to practice the
19 profession because of the reasons stated in this paragraph,
20 the department shall have the authority to compel a licensee
21 to submit to a mental or physical examination by psychologists
22 or physicians designated by the department or board. If the
23 licensee refuses to comply with the department's order, the
24 department may file a petition for enforcement in the circuit
25 court of the circuit in which the licensee resides or does
26 business. The licensee shall not be named or identified by
27 initials in the petition or in any other public court records
28 or documents, and the enforcement proceedings shall be closed
29 to the public. The department shall be entitled to the
30 summary procedure provided in s. 51.011. A licensee affected
31 under this paragraph shall be afforded an opportunity at

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1 reasonable intervals to demonstrate that he or she can resume
2 the competent practice for which he or she is licensed with
3 reasonable skill and safety to patients.

4 ~~(q) Violating provisions of this chapter, or of~~
5 ~~chapter 456, or any rules adopted pursuant thereto.~~

6 ~~(q)(r)~~ Performing any treatment or prescribing any
7 therapy which, by the prevailing standards of the mental
8 health professions in the community, would constitute
9 experimentation on human subjects, without first obtaining
10 full, informed, and written consent.

11 ~~(r)(s)~~ Failing to meet the minimum standards of
12 performance in professional activities when measured against
13 generally prevailing peer performance, including the
14 undertaking of activities for which the licensee is not
15 qualified by training or experience.

16 ~~(s)(t)~~ Delegating professional responsibilities to a
17 person whom the licensee knows or has reason to know is not
18 qualified by training or experience to perform such
19 responsibilities.

20 ~~(t)(u)~~ Violating a rule relating to the regulation of
21 the profession or a lawful order of the department previously
22 entered in a disciplinary hearing.

23 ~~(u)(v)~~ Failing to maintain in confidence a
24 communication made by a patient or client in the context of
25 such services, except as provided in s. 490.0147.

26 ~~(v)(w)~~ Making public statements which are derived from
27 test data, client contacts, or behavioral research and which
28 identify or damage research subjects or clients.

29 (w) Violating any provision of this chapter or chapter
30 456, or any rules adopted pursuant thereto.

31 (2) The department, or in the case of psychologists,

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1 the board, may enter an order denying licensure or imposing
2 any of the penalties in s. 456.072(2) against any applicant
3 for licensure or licensee who is found guilty of violating any
4 provision of subsection (1) of this section or who is found
5 guilty of violating any provision of s. 456.072(1).

6 Section 52. Section 491.009, Florida Statutes, is
7 amended to read:

8 491.009 Discipline.--

9 ~~(1) When the department or the board finds that an~~
10 ~~applicant, licensee, provisional licensee, registered intern,~~
11 ~~or certificateholder whom it regulates under this chapter has~~
12 ~~committed any of the acts set forth in subsection (2), it may~~
13 ~~issue an order imposing one or more of the following~~
14 ~~penalties:~~

15 ~~(a) Denial of an application for licensure,~~
16 ~~registration, or certification, either temporarily or~~
17 ~~permanently.~~

18 ~~(b) Revocation of an application for licensure,~~
19 ~~registration, or certification, either temporarily or~~
20 ~~permanently.~~

21 ~~(c) Suspension for a period of up to 5 years or~~
22 ~~revocation of a license, registration, or certificate, after~~
23 ~~hearing.~~

24 ~~(d) Immediate suspension of a license, registration,~~
25 ~~or certificate pursuant to s. 120.60(6).~~

26 ~~(e) Imposition of an administrative fine not to exceed~~
27 ~~\$1,000 for each count or separate offense.~~

28 ~~(f) Issuance of a public reprimand.~~

29 ~~(g) Placement of an applicant, licensee, registered~~
30 ~~intern, or certificateholder on probation for a period of time~~
31 ~~and subject to such conditions as the board may specify,~~

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1 ~~including, but not limited to, requiring the applicant,~~
2 ~~licensee, registered intern, or certificateholder to submit to~~
3 ~~treatment, to attend continuing education courses, to submit~~
4 ~~to reexamination, or to work under the supervision of a~~
5 ~~designated licensee or certificateholder.~~

6 ~~(h) Restriction of practice.~~

7 ~~(1)(2) The following acts constitute of a licensee,~~
8 ~~provisional licensee, registered intern, certificateholder, or~~
9 ~~applicant are grounds for denial of a license or disciplinary~~
10 ~~action, as specified in s. 456.072(2)which the disciplinary~~
11 ~~actions listed in subsection (1) may be taken:~~

12 (a) Attempting to obtain, obtaining, or renewing a
13 license, registration, or certificate under this chapter by
14 bribery or fraudulent misrepresentation or through an error of
15 the board or the department.

16 (b) Having a license, registration, or certificate to
17 practice a comparable profession revoked, suspended, or
18 otherwise acted against, including the denial of certification
19 or licensure by another state, territory, or country.

20 (c) Being convicted or found guilty of, regardless of
21 adjudication, or having entered a plea of nolo contendere to,
22 a crime in any jurisdiction which directly relates to the
23 practice of his or her profession or the ability to practice
24 his or her profession. However, in the case of a plea of nolo
25 contendere, the board shall allow the person who is the
26 subject of the disciplinary proceeding to present evidence in
27 mitigation relevant to the underlying charges and
28 circumstances surrounding the plea.

29 (d) False, deceptive, or misleading advertising or
30 obtaining a fee or other thing of value on the representation
31 that beneficial results from any treatment will be guaranteed.

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1 (e) Advertising, practicing, or attempting to practice
2 under a name other than one's own.

3 (f) Maintaining a professional association with any
4 person who the applicant, licensee, registered intern, or
5 certificateholder knows, or has reason to believe, is in
6 violation of this chapter or of a rule of the department or
7 the board.

8 (g) Knowingly aiding, assisting, procuring, or
9 advising any nonlicensed, nonregistered, or noncertified
10 person to hold himself or herself out as licensed, registered,
11 or certified under this chapter.

12 (h) Failing to perform any statutory or legal
13 obligation placed upon a person licensed, registered, or
14 certified under this chapter.

15 (i) Willfully making or filing a false report or
16 record; failing to file a report or record required by state
17 or federal law; willfully impeding or obstructing the filing
18 of a report or record; or inducing another person to make or
19 file a false report or record or to impede or obstruct the
20 filing of a report or record. Such report or record includes
21 only a report or record which requires the signature of a
22 person licensed, registered, or certified under this chapter.

23 (j) Paying a kickback, rebate, bonus, or other
24 remuneration for receiving a patient or client, or receiving a
25 kickback, rebate, bonus, or other remuneration for referring a
26 patient or client to another provider of mental health care
27 services or to a provider of health care services or goods;
28 referring a patient or client to oneself for services on a
29 fee-paid basis when those services are already being paid for
30 by some other public or private entity; or entering into a
31 reciprocal referral agreement.

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1 (k) 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. 491.0111.

4 (l) Making misleading, deceptive, untrue, or
5 fraudulent representations in the practice of any profession
6 licensed, registered, or certified under this chapter.

7 (m) Soliciting patients or clients personally, or
8 through an agent, through the use of fraud, intimidation,
9 undue influence, or a form of overreaching or vexatious
10 conduct.

11 (n) Failing to make available to a patient or client,
12 upon written request, copies of tests, reports, or documents
13 in the possession or under the control of the licensee,
14 registered intern, or certificateholder which have been
15 prepared for and paid for by the patient or client.

16 (o) Failing to respond within 30 days to a written
17 communication from the department or the board concerning any
18 investigation by the department or the board, or failing to
19 make available any relevant records with respect to any
20 investigation about the licensee's, registered intern's, or
21 certificateholder's conduct or background.

22 (p) Being unable to practice the profession for which
23 he or she is licensed, registered, or certified under this
24 chapter with reasonable skill or competence as a result of any
25 mental or physical condition or by reason of illness;
26 drunkenness; or excessive use of drugs, narcotics, chemicals,
27 or any other substance. In enforcing this paragraph, upon a
28 finding by the secretary, the secretary's designee, or the
29 board that probable cause exists to believe that the licensee,
30 registered intern, or certificateholder is unable to practice
31 the profession because of the reasons stated in this

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1 paragraph, the department shall have the authority to compel a
2 licensee, registered intern, or certificateholder to submit to
3 a mental or physical examination by psychologists, physicians,
4 or other licensees under this chapter, designated by the
5 department or board. If the licensee, registered intern, or
6 certificateholder refuses to comply with such order, the
7 department's order directing the examination may be enforced
8 by filing a petition for enforcement in the circuit court in
9 the circuit in which the licensee, registered intern, or
10 certificateholder resides or does business. The licensee,
11 registered intern, or certificateholder against whom the
12 petition is filed shall not be named or identified by initials
13 in any public court records or documents, and the proceedings
14 shall be closed to the public. The department shall be
15 entitled to the summary procedure provided in s. 51.011. A
16 licensee, registered intern, or certificateholder affected
17 under this paragraph shall at reasonable intervals be afforded
18 an opportunity to demonstrate that he or she can resume the
19 competent practice for which he or she is licensed,
20 registered, or certified with reasonable skill and safety to
21 patients.

22 ~~(q) Violating provisions of this chapter, or of~~
23 ~~chapter 456, or any rules adopted pursuant thereto.~~

24 (q)~~(r)~~ Performing any treatment or prescribing any
25 therapy which, by the prevailing standards of the mental
26 health professions in the community, would constitute
27 experimentation on human subjects, without first obtaining
28 full, informed, and written consent.

29 (r)~~(s)~~ Failing to meet the minimum standards of
30 performance in professional activities when measured against
31 generally prevailing peer performance, including the

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1 undertaking of activities for which the licensee, registered
2 intern, or certificateholder is not qualified by training or
3 experience.

4 (s)~~(t)~~ Delegating professional responsibilities to a
5 person whom the licensee, registered intern, or
6 certificateholder knows or has reason to know is not qualified
7 by training or experience to perform such responsibilities.

8 (t)~~(u)~~ Violating a rule relating to the regulation of
9 the profession or a lawful order of the department or the
10 board previously entered in a disciplinary hearing.

11 (u)~~(v)~~ Failure of the licensee, registered intern, or
12 certificateholder to maintain in confidence a communication
13 made by a patient or client in the context of such services,
14 except as provided in s. 491.0147.

15 (v)~~(w)~~ Making public statements which are derived from
16 test data, client contacts, or behavioral research and which
17 identify or damage research subjects or clients.

18 (w) Violating any provision of this chapter or chapter
19 456, or any rules adopted pursuant thereto.

20 (2) The department, or in the case of psychologists,
21 the board, may enter an order denying licensure or imposing
22 any of the penalties in s. 456.072(2) against any applicant
23 for licensure or licensee who is found guilty of violating any
24 provision of subsection (1) of this section or who is found
25 guilty of violating any provision of s. 456.072(1).

26 Section 53. Subsection (3) of section 456.065, Florida
27 Statutes, is amended to read:

28 456.065 Unlicensed practice of a health care
29 profession; intent; cease and desist notice; penalties;
30 enforcement; citations; fees; allocation and disposition of
31 moneys collected.--

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1 (3) Because all enforcement costs should be covered by
2 professions regulated by the department, the department shall
3 impose, upon initial licensure and each licensure renewal, a
4 special fee of \$5 per licensee to fund efforts to combat
5 unlicensed activity. Such fee shall be in addition to all
6 other fees collected from each licensee. ~~The board, with~~
7 ~~concurrence of the department, or the department when there is~~
8 ~~no board, may earmark \$5 of the current licensure fee for this~~
9 ~~purpose, if such board, or profession regulated by the~~
10 ~~department, is not in a deficit and has a reasonable cash~~
11 ~~balance.~~The department shall make direct charges to the
12 Medical Quality Assurance Trust Fund by profession. The
13 department shall seek board advice regarding enforcement
14 methods and strategies. The department shall directly credit
15 the Medical Quality Assurance Trust Fund, by profession, with
16 the revenues received from the department's efforts to enforce
17 licensure provisions. The department shall include all
18 financial and statistical data resulting from unlicensed
19 activity enforcement as a separate category in the quarterly
20 management report provided for in s. 456.025. For an
21 unlicensed activity account, a balance which remains at the
22 end of a renewal cycle may, with concurrence of the applicable
23 board and the department, be transferred to the operating fund
24 account of that profession. The department shall also use
25 these funds to inform and educate consumers generally on the
26 importance of using licensed health care practitioners.

27 Section 54. Paragraphs (e) and (f) of subsection (4)
28 of section 458.347, Florida Statutes, are amended to read:

29 458.347 Physician assistants.--

30 (4) PERFORMANCE OF PHYSICIAN ASSISTANTS.--

31 (e) A supervisory physician may delegate to a fully

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1 licensed physician assistant the authority to prescribe any
2 medication used in the supervisory physician's practice unless
3 ~~if~~ such medication is listed on the formulary created pursuant
4 to paragraph (f). A fully licensed physician assistant may
5 only prescribe such medication under the following
6 circumstances:

7 1. A physician assistant must clearly identify to the
8 patient that he or she is a physician assistant. Furthermore,
9 the physician assistant must inform the patient that the
10 patient has the right to see the physician prior to any
11 prescription being prescribed by the physician assistant.

12 2. The supervisory physician must notify the
13 department of his or her intent to delegate, on a
14 department-approved form, before delegating such authority and
15 notify the department of any change in prescriptive privileges
16 of the physician assistant.

17 3. The physician assistant must file with the
18 department, before commencing to prescribe, evidence that he
19 or she has completed a continuing medical education course of
20 at least 3 classroom hours in prescriptive practice, conducted
21 by an accredited program approved by the boards, which course
22 covers the limitations, responsibilities, and privileges
23 involved in prescribing medicinal drugs, or evidence that he
24 or she has received education comparable to the continuing
25 education course as part of an accredited physician assistant
26 training program.

27 4. The physician assistant must file with the
28 department, before commencing to prescribe, evidence that the
29 physician assistant has a minimum of 3 months of clinical
30 experience in the specialty area of the supervising physician.

31 5. The physician assistant must file with the

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1 department a signed affidavit that he or she has completed a
2 minimum of 10 continuing medical education hours in the
3 specialty practice in which the physician assistant has
4 prescriptive privileges with each licensure renewal
5 application.

6 6. The department shall issue a license and a
7 prescriber number to the physician assistant granting
8 authority for the prescribing of medicinal drugs authorized
9 within this paragraph upon completion of the foregoing
10 requirements.

11 7. The prescription must be written in a form that
12 complies with chapter 499 and must contain, in addition to the
13 supervisory physician's name, address, and telephone number,
14 the physician assistant's prescriber number. Unless it is a
15 drug sample dispensed by the physician assistant, the
16 prescription must be filled in a pharmacy permitted under
17 chapter 465 and must be dispensed in that pharmacy by a
18 pharmacist licensed under chapter 465. The appearance of the
19 prescriber number creates a presumption that the physician
20 assistant is authorized to prescribe the medicinal drug and
21 the prescription is valid.

22 8. The physician assistant must note the prescription
23 in the appropriate medical record, and the supervisory
24 physician must review and sign each notation. For dispensing
25 purposes only, the failure of the supervisory physician to
26 comply with these requirements does not affect the validity of
27 the prescription.

28 9. This paragraph does not prohibit a supervisory
29 physician from delegating to a physician assistant the
30 authority to order medication for a hospitalized patient of
31 the supervisory physician.

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1

2 This paragraph does not apply to facilities licensed pursuant
3 to chapter 395.

4 ~~(f)1. There is created a five-member committee~~
5 ~~appointed by the Secretary of Health. The committee must be~~
6 ~~composed of one fully licensed physician assistant licensed~~
7 ~~pursuant to this section or s. 459.022, two physicians~~
8 ~~licensed pursuant to this chapter, one of whom supervises a~~
9 ~~fully licensed physician assistant, one osteopathic physician~~
10 ~~licensed pursuant to chapter 459, and one pharmacist licensed~~
11 ~~pursuant to chapter 465 who is not licensed pursuant to this~~
12 ~~chapter or chapter 459. The council committee shall establish~~
13 ~~a formulary of medicinal drugs that for which a fully licensed~~
14 ~~physician assistant, licensed under this section or s.~~
15 ~~459.022, may not prescribe. The formulary must ~~may not~~ include~~
16 ~~controlled substances as defined in chapter 893,~~
17 ~~antineoplastics, antipsychotics, radiopharmaceuticals, general~~
18 ~~anesthetics and ~~or~~ radiographic contrast materials, and all ~~or~~~~
19 ~~any parenteral preparations except insulin and epinephrine.~~

20 2. In establishing the formulary, the council shall
21 consult with a pharmacist licensed under chapter 465, but not
22 licensed under this chapter or chapter 459, who shall be
23 selected by the Secretary of Health.

24 ~~3.2.~~ Only the council committee shall add to, delete
25 from, or modify the formulary. Any person who requests an
26 addition, deletion, or modification of a medicinal drug listed
27 on such formulary has the burden of proof to show cause why
28 such addition, deletion, or modification should be made.

29 ~~4.3.~~ The boards shall adopt the formulary required by
30 this paragraph, and each addition, deletion, or modification
31 to the formulary, by rule. Notwithstanding any provision of

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1 chapter 120 to the contrary, the formulary rule shall be
2 effective 60 days after the date it is filed with the
3 Secretary of State. Upon adoption of the formulary, the
4 department shall mail a copy of such formulary to each fully
5 licensed physician assistant, licensed under this section or
6 s. 459.022, and to each pharmacy licensed by the state. The
7 boards shall establish, by rule, a fee not to exceed \$200 to
8 fund the provisions of this paragraph and paragraph (e).

9 Section 55. Subsection (4) and paragraph (c) of
10 subsection (9) of section 459.022, Florida Statutes, are
11 amended to read:

12 459.022 Physician assistants.--

13 (4) PERFORMANCE OF PHYSICIAN ASSISTANTS.--

14 (a) The boards shall adopt, by rule, the general
15 principles that supervising physicians must use in developing
16 the scope of practice of a physician assistant under direct
17 supervision and under indirect supervision. These principles
18 shall recognize the diversity of both specialty and practice
19 settings in which physician assistants are used.

20 (b) This chapter does not prevent third-party payors
21 from reimbursing employers of physician assistants for covered
22 services rendered by licensed physician assistants.

23 (c) Licensed physician assistants may not be denied
24 clinical hospital privileges, except for cause, so long as the
25 supervising physician is a staff member in good standing.

26 (d) A supervisory physician may delegate to a licensed
27 physician assistant, pursuant to a written protocol, the
28 authority to act according to s. 154.04(1)(c). Such delegated
29 authority is limited to the supervising physician's practice
30 in connection with a county health department as defined and
31 established pursuant to chapter 154. The boards shall adopt

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1 rules governing the supervision of physician assistants by
2 physicians in county health departments.

3 (e) A supervisory physician may delegate to a fully
4 licensed physician assistant the authority to prescribe any
5 medication used in the supervisory physician's practice unless
6 ~~if~~ such medication is listed on the formulary created pursuant
7 to s. 458.347. A fully licensed physician assistant may only
8 prescribe such medication under the following circumstances:

9 1. A physician assistant must clearly identify to the
10 patient that she or he is a physician assistant. Furthermore,
11 the physician assistant must inform the patient that the
12 patient has the right to see the physician prior to any
13 prescription being prescribed by the physician assistant.

14 2. The supervisory physician must notify the
15 department of her or his intent to delegate, on a
16 department-approved form, before delegating such authority and
17 notify the department of any change in prescriptive privileges
18 of the physician assistant.

19 3. The physician assistant must file with the
20 department, before commencing to prescribe, evidence that she
21 or he has completed a continuing medical education course of
22 at least 3 classroom hours in prescriptive practice, conducted
23 by an accredited program approved by the boards, which course
24 covers the limitations, responsibilities, and privileges
25 involved in prescribing medicinal drugs, or evidence that she
26 or he has received education comparable to the continuing
27 education course as part of an accredited physician assistant
28 training program.

29 4. The physician assistant must file with the
30 department, before commencing to prescribe, evidence that the
31 physician assistant has a minimum of 3 months of clinical

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1 experience in the specialty area of the supervising physician.

2 5. The physician assistant must file with the
3 department a signed affidavit that she or he has completed a
4 minimum of 10 continuing medical education hours in the
5 specialty practice in which the physician assistant has
6 prescriptive privileges with each licensure renewal
7 application.

8 6. The department shall issue a license and a
9 prescriber number to the physician assistant granting
10 authority for the prescribing of medicinal drugs authorized
11 within this paragraph upon completion of the foregoing
12 requirements.

13 7. The prescription must be written in a form that
14 complies with chapter 499 and must contain, in addition to the
15 supervisory physician's name, address, and telephone number,
16 the physician assistant's prescriber number. Unless it is a
17 drug sample dispensed by the physician assistant, the
18 prescription must be filled in a pharmacy permitted under
19 chapter 465, and must be dispensed in that pharmacy by a
20 pharmacist licensed under chapter 465. The appearance of the
21 prescriber number creates a presumption that the physician
22 assistant is authorized to prescribe the medicinal drug and
23 the prescription is valid.

24 8. The physician assistant must note the prescription
25 in the appropriate medical record, and the supervisory
26 physician must review and sign each notation. For dispensing
27 purposes only, the failure of the supervisory physician to
28 comply with these requirements does not affect the validity of
29 the prescription.

30 9. This paragraph does not prohibit a supervisory
31 physician from delegating to a physician assistant the

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1 authority to order medication for a hospitalized patient of
2 the supervisory physician.

3
4 This paragraph does not apply to facilities licensed pursuant
5 to chapter 395.

6 ~~(f)1. There is created a five-member committee~~
7 ~~appointed by the Secretary of Health. The committee must be~~
8 ~~composed of one fully licensed physician assistant licensed~~
9 ~~pursuant to this section or s. 458.347, two physicians~~
10 ~~licensed pursuant to chapter 458, one of whom supervises a~~
11 ~~fully licensed physician assistant, one osteopathic physician~~
12 ~~licensed pursuant to this chapter, and one pharmacist licensed~~
13 ~~pursuant to chapter 465 who is not licensed pursuant to this~~
14 ~~chapter or chapter 458. The committee shall establish a~~
15 ~~formulary of medicinal drugs for which a fully licensed~~
16 ~~physician assistant may prescribe. The formulary may not~~
17 ~~include controlled substances as defined in chapter 893,~~
18 ~~antineoplastics, antipsychotics, radiopharmaceuticals, general~~
19 ~~anesthetics or radiographic contrast materials, or any~~
20 ~~parenteral preparations except insulin and epinephrine.~~

21 ~~2. Only the committee shall add to, delete from, or~~
22 ~~modify the formulary. Any person who requests an addition,~~
23 ~~deletion, or modification of a medicinal drug listed on such~~
24 ~~formulary has the burden of proof to show cause why such~~
25 ~~addition, deletion, or modification should be made.~~

26 ~~3. The boards shall adopt the formulary required by~~
27 ~~this paragraph, and each addition, deletion, or modification~~
28 ~~to the formulary, by rule. Notwithstanding any provision of~~
29 ~~chapter 120 to the contrary, the formulary rule shall be~~
30 ~~effective 60 days after the date it is filed with the~~
31 ~~Secretary of State. Upon adoption of the formulary, the~~

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1 ~~department shall mail a copy of such formulary to each fully~~
2 ~~licensed physician assistant and to each pharmacy licensed by~~
3 ~~the state. The boards shall establish, by rule, a fee not to~~
4 ~~exceed \$200 to fund the provisions of this paragraph and~~
5 ~~paragraph (e).~~

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

8 (c) The council shall:

9 1. Recommend to the department the licensure of
10 physician assistants.

11 2. Develop all rules regulating the use of physician
12 assistants by physicians under chapter 458 and this chapter,
13 except for rules relating to the formulary developed under s.
14 458.347~~(4)(f)~~. The council shall also develop rules to ensure
15 that the continuity of supervision is maintained in each
16 practice setting. The boards shall consider adopting a
17 proposed rule developed by the council at the regularly
18 scheduled meeting immediately following the submission of the
19 proposed rule by the council. A proposed rule submitted by
20 the council may not be adopted by either board unless both
21 boards have accepted and approved the identical language
22 contained in the proposed rule. The language of all proposed
23 rules submitted by the council must be approved by both boards
24 pursuant to each respective board's guidelines and standards
25 regarding the adoption of proposed rules. If either board
26 rejects the council's proposed rule, that board must specify
27 its objection to the council with particularity and include
28 any recommendations it may have for the modification of the
29 proposed rule.

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

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1 4. Address concerns and problems of practicing
2 physician assistants in order to improve safety in the
3 clinical practices of licensed physician assistants.

4 Section 56. Subsections (6) is added to section
5 456.003, Florida Statutes, to read:

6 456.003 Legislative intent; requirements.--

7 (6) Unless expressly and specifically granted in
8 statute, the duties conferred on the boards do not include the
9 enlargement, modification, or contravention of the lawful
10 scope of practice of the profession regulated by the boards.
11 This subsection shall not prohibit the boards, or the
12 department when there is no board, from taking disciplinary
13 action or issuing a declaratory statement.

14 Section 57. (1)(a) The Agency for Health Care
15 Administration shall create an Organ Transplant Task Force
16 within the Agency for Health Care Administration, which task
17 force must be funded by existing agency funds.

18 (b) Task force participants shall be responsible for
19 only the expenses that they generate individually through
20 participation. The agency shall be responsible for expenses
21 incidental to the production of any required data or reports.

22 (2) The task force shall consist of up to 15 members.
23 The task force chairperson shall be selected by majority vote
24 of a quorum present. Eight members shall constitute a quorum.
25 The membership shall include, but not be limited to, a balance
26 of members representing the Agency for Health Care
27 Administration, health care facilities that have existing
28 organ transplantation programs, individual organ transplant
29 health care practitioners, pediatric organ transplantation
30 programs, organ procurement agencies, and organ transplant
31 recipients or family members.

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1 (3) The task force shall meet for the purpose of
2 studying and making recommendations regarding current and
3 future supply of organs in relation to the number of existing
4 organ transplantation programs and the future necessity of the
5 issuance of a certificate of need for proposed organ
6 transplantation programs. At a minimum, the task force shall
7 submit a report to the Legislature which includes a summary of
8 the method of allocation and distribution of organs; a list of
9 facilities performing multiple organ transplants and the
10 number being performed; the number of Medicaid and charity
11 care patients who have received organ transplants by existing
12 organ transplant programs; suggested mechanisms for funding
13 organ transplants, which shall include, but need not limited
14 to, an organ transplant trust fund for the treatment of
15 Medicaid and charity patients; the impact of trends in health
16 care delivery and financing on organ transplantation; and the
17 number of certificates of need applications reviewed by the
18 Agency for Health Care Administration in the last 5 years,
19 including the number approved or denied and the number
20 litigated.

21 (4) The task force shall meet at the call of the
22 chairperson. The task force shall submit a report to the
23 Governor, the President of the Senate, and the Speaker of the
24 House of Representatives by January 15, 2002. The task force
25 is abolished effective December 31, 2002.

26 Section 58. Section 409.9205, Florida Statutes, is
27 amended to read:

28 409.9205 Medicaid Fraud Control Unit; ~~law enforcement~~
29 ~~officers.--~~

30 (1) Except as provided in s. 110.205, all positions in
31 the Medicaid Fraud Control Unit of the Department of Legal

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1 Affairs are hereby transferred to the Career Service System.

2 (2) All investigators employed by the Medicaid Fraud
3 Control Unit who have been certified under s. 943.1395 are law
4 enforcement officers of the state. Such investigators have
5 the authority to conduct criminal investigations, bear arms,
6 make arrests, and apply for, serve, and execute search
7 warrants, arrest warrants, capias, and other process
8 throughout the state pertaining to Medicaid fraud as described
9 in this chapter. The Attorney General shall provide
10 reasonable notice of criminal investigations conducted by the
11 Medicaid Fraud Control Unit to, and coordinate those
12 investigations with, the sheriffs of the respective counties.
13 ~~Investigators employed by the Medicaid Fraud Control Unit are~~
14 ~~not eligible for membership in the Special Risk Class of the~~
15 ~~Florida Retirement System under s. 121.0515.~~

16 Section 59. Subsection (1) of section 483.245, Florida
17 Statutes, is amended to read:

18 483.245 Rebates prohibited; penalties.--

19 (1) It is unlawful for any person to pay or receive
20 any commission, bonus, kickback, or rebate or engage in any
21 split-fee arrangement in any form whatsoever with any dialysis
22 facility, physician, surgeon, organization, agency, or person,
23 either directly or indirectly, for patients referred to a
24 clinical laboratory licensed under this part.

25 Section 60. Subsection (3) of section 232.435, Florida
26 Statutes, is amended to read:

27 232.435 Extracurricular athletic activities; athletic
28 trainers.--

29 (3)~~(a)~~ To the extent practicable, a school district
30 program should include the following employment classification
31 and advancement scheme:

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1 1. First responder.--To qualify as a first responder,
2 a person must possess a professional, temporary, part-time,
3 adjunct, or substitute certificate pursuant to s. 231.17, be
4 certified in cardiopulmonary resuscitation, first aid, and
5 have 15 semester hours in courses such as care and prevention
6 of athletic injuries, anatomy, physiology, nutrition,
7 counseling, and other similar courses approved by the
8 Commissioner of Education. This person may only administer
9 first aid and similar care.~~Teacher apprentice trainer I.--To~~
10 ~~qualify as a teacher apprentice trainer I, a person must~~
11 ~~possess a professional, temporary, part-time, adjunct, or~~
12 ~~substitute certificate pursuant to s. 231.17, be certified in~~
13 ~~first aid and cardiopulmonary resuscitation, and have earned a~~
14 ~~minimum of 6 semester hours or the equivalent number of~~
15 ~~inservice education points in the basic prevention and care of~~
16 ~~athletic injuries.~~

17 ~~2. Teacher apprentice trainer II.--To qualify as a~~
18 ~~teacher apprentice trainer II, a person must meet the~~
19 ~~requirements of teacher apprentice trainer I and also have~~
20 ~~earned a minimum of 15 additional semester hours or the~~
21 ~~equivalent number of inservice education points in such~~
22 ~~courses as anatomy, physiology, use of modalities, nutrition,~~
23 ~~counseling, and other courses approved by the Commissioner of~~
24 ~~Education.~~

25 ~~2.3. Teacher athletic trainer.--To qualify as a~~
26 ~~teacher athletic trainer, a person must possess a~~
27 ~~professional, temporary, part-time, adjunct, or substitute~~
28 ~~certificate pursuant to s. 232.17, and be licensed as required~~
29 ~~by part XIII of chapter 468 meet the requirements of teacher~~
30 ~~apprentice trainer II, be certified by the Department of~~
31 ~~Education or a nationally recognized athletic trainer~~

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1 ~~association, and perform one or more of the following~~
2 ~~functions: preventing athletic injuries; recognizing,~~
3 ~~evaluating, managing, treating, and rehabilitating athletic~~
4 ~~injuries; administering an athletic training program; and~~
5 ~~educating and counseling athletes.~~

6 ~~(b) If a school district uses the services of an~~
7 ~~athletic trainer who is not a teacher athletic trainer or a~~
8 ~~teacher apprentice trainer within the requirements of this~~
9 ~~section, such athletic trainer must be licensed as required by~~
10 ~~part XIII of chapter 468.~~

11 Section 61. Paragraph (b) of subsection (1) of section
12 383.14, Florida Statutes, is amended to read:

13 383.14 Screening for metabolic disorders, other
14 hereditary and congenital disorders, and environmental risk
15 factors.--

16 (1) SCREENING REQUIREMENTS.--To help ensure access to
17 the maternal and child health care system, the Department of
18 Health shall promote the screening of all infants born in
19 Florida for phenylketonuria and other metabolic, hereditary,
20 and congenital disorders known to result in significant
21 impairment of health or intellect, as screening programs
22 accepted by current medical practice become available and
23 practical in the judgment of the department. The department
24 shall also promote the identification and screening of all
25 infants born in this state and their families for
26 environmental risk factors such as low income, poor education,
27 maternal and family stress, emotional instability, substance
28 abuse, and other high-risk conditions associated with
29 increased risk of infant mortality and morbidity to provide
30 early intervention, remediation, and prevention services,
31 including, but not limited to, parent support and training

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1 programs, home visitation, and case management.
2 Identification, perinatal screening, and intervention efforts
3 shall begin prior to and immediately following the birth of
4 the child by the attending health care provider. Such efforts
5 shall be conducted in hospitals, perinatal centers, county
6 health departments, school health programs that provide
7 prenatal care, and birthing centers, and reported to the
8 Office of Vital Statistics.

9 (b) Postnatal screening.--A risk factor analysis using
10 the department's designated risk assessment instrument shall
11 also be conducted as part of the medical screening process
12 upon the birth of a child and submitted to the department's
13 Office of Vital Statistics for recording and other purposes
14 provided for in this chapter. The department's screening
15 process for risk assessment shall include a scoring mechanism
16 and procedures that establish thresholds for notification,
17 further assessment, referral, and eligibility for services by
18 professionals or paraprofessionals consistent with the level
19 of risk. Procedures for developing and using the screening
20 instrument, notification, referral, and care coordination
21 services, reporting requirements, management information, and
22 maintenance of a computer-driven registry in the Office of
23 Vital Statistics which ensures privacy safeguards must be
24 consistent with the provisions and plans established under
25 chapter 411, Pub. L. No. 99-457, and this chapter. Procedures
26 established for reporting information and maintaining a
27 confidential registry must include a mechanism for a
28 centralized information depository at the state and county
29 levels. The department shall coordinate with existing risk
30 assessment systems and information registries. The department
31 must ensure, to the maximum extent possible, that the

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1 screening information registry is integrated with the
2 department's automated data systems, including the Florida
3 On-line Recipient Integrated Data Access (FLORIDA) system.
4 Tests and screenings must be performed by the State Public
5 Health Laboratory, in coordination with Children's Medical
6 Services, at such times and in such manner as is prescribed by
7 the department after consultation with the Genetics and Infant
8 Screening Advisory Council and the State Coordinating Council
9 for School Readiness Programs.

10 Section 62. Section 395.0197, Florida Statutes, is
11 amended to read:

12 395.0197 Internal risk management program.--

13 (1) Every licensed facility shall, as a part of its
14 administrative functions, establish an internal risk
15 management program that includes all of the following
16 components:

17 (a) The investigation and analysis of the frequency
18 and causes of general categories and specific types of adverse
19 incidents to patients.

20 (b) The development of appropriate measures to
21 minimize the risk of adverse incidents to patients, including,
22 but not limited to:

23 1. Risk management and risk prevention education and
24 training of all nonphysician personnel as follows:

25 a. Such education and training of all nonphysician
26 personnel as part of their initial orientation; and

27 b. At least 1 hour of such education and training
28 annually for all ~~nonphysician~~ personnel of the licensed
29 facility working in clinical areas and providing patient care,
30 except those persons licensed as health care practitioners who
31 are required to complete continuing education coursework

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1 pursuant to chapter 456 or the respective practice act.

2 2. A prohibition, except when emergency circumstances
3 require otherwise, against a staff member of the licensed
4 facility attending a patient in the recovery room, unless the
5 staff member is authorized to attend the patient in the
6 recovery room and is in the company of at least one other
7 person. However, a licensed facility is exempt from the
8 two-person requirement if it has:

- 9 a. Live visual observation;
10 b. Electronic observation; or
11 c. Any other reasonable measure taken to ensure
12 patient protection and privacy.

13 3. A prohibition against an unlicensed person from
14 assisting or participating in any surgical procedure unless
15 the facility has authorized the person to do so following a
16 competency assessment, and such assistance or participation is
17 done under the direct and immediate supervision of a licensed
18 physician and is not otherwise an activity that may only be
19 performed by a licensed health care practitioner.

20 4. Development, implementation, and ongoing evaluation
21 of procedures, protocols, and systems to accurately identify
22 patients, planned procedures, and the correct site of the
23 planned procedure so as to minimize the performance of a
24 surgical procedure on the wrong patient, a wrong surgical
25 procedure, a wrong-site surgical procedure, or a surgical
26 procedure otherwise unrelated to the patient's diagnosis or
27 medical condition.

28 (c) The analysis of patient grievances that relate to
29 patient care and the quality of medical services.

30 (d) The development and implementation of an incident
31 reporting system based upon the affirmative duty of all health

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1 care providers and all agents and employees of the licensed
2 health care facility to report adverse incidents to the risk
3 manager, or to his or her designee, within 3 business days
4 after their occurrence.

5 (2) The internal risk management program is the
6 responsibility of the governing board of the health care
7 facility. Each licensed facility shall hire a risk manager,
8 licensed under s. 395.10974 ~~part IX of chapter 626~~, who is
9 responsible for implementation and oversight of such
10 facility's internal risk management program as required by
11 this section. A risk manager must not be made responsible for
12 more than four internal risk management programs in separate
13 licensed facilities, unless the facilities are under one
14 corporate ownership or the risk management programs are in
15 rural hospitals.

16 (3) In addition to the programs mandated by this
17 section, other innovative approaches intended to reduce the
18 frequency and severity of medical malpractice and patient
19 injury claims shall be encouraged and their implementation and
20 operation facilitated. Such additional approaches may include
21 extending internal risk management programs to health care
22 providers' offices and the assuming of provider liability by a
23 licensed health care facility for acts or omissions occurring
24 within the licensed facility.

25 (4) The agency shall, ~~after consulting with the~~
26 ~~Department of Insurance~~, adopt rules governing the
27 establishment of internal risk management programs to meet the
28 needs of individual licensed facilities. Each internal risk
29 management program shall include the use of incident reports
30 to be filed with an individual of responsibility who is
31 competent in risk management techniques in the employ of each

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1 licensed facility, such as an insurance coordinator, or who is
2 retained by the licensed facility as a consultant. The
3 individual responsible for the risk management program shall
4 have free access to all medical records of the licensed
5 facility. The incident reports are part of the workpapers of
6 the attorney defending the licensed facility in litigation
7 relating to the licensed facility and are subject to
8 discovery, but are not admissible as evidence in court. A
9 person filing an incident report is not subject to civil suit
10 by virtue of such incident report. As a part of each internal
11 risk management program, the incident reports shall be used to
12 develop categories of incidents which identify problem areas.
13 Once identified, procedures shall be adjusted to correct the
14 problem areas.

15 (5) For purposes of reporting to the agency pursuant
16 to this section, the term "adverse incident" means an event
17 over which health care personnel could exercise control and
18 which is associated in whole or in part with medical
19 intervention, rather than the condition for which such
20 intervention occurred, and which:

21 (a) Results in one of the following injuries:

- 22 1. Death;
- 23 2. Brain or spinal damage;
- 24 3. Permanent disfigurement;
- 25 4. Fracture or dislocation of bones or joints;
- 26 5. A resulting limitation of neurological, physical,
27 or sensory function which continues after discharge from the
28 facility;
- 29 6. Any condition that required specialized medical
30 attention or surgical intervention resulting from nonemergency
31 medical intervention, other than an emergency medical

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1 condition, to which the patient has not given his or her
2 informed consent; or

3 7. Any condition that required the transfer of the
4 patient, within or outside the facility, to a unit providing a
5 more acute level of care due to the adverse incident, rather
6 than the patient's condition prior to the adverse incident;

7 (b) Was the performance of a surgical procedure on the
8 wrong patient, a wrong surgical procedure, a wrong-site
9 surgical procedure, or a surgical procedure otherwise
10 unrelated to the patient's diagnosis or medical condition;

11 (c) Required the surgical repair of damage resulting
12 to a patient from a planned surgical procedure, where the
13 damage was not a recognized specific risk, as disclosed to the
14 patient and documented through the informed-consent process;
15 or

16 (d) Was a procedure to remove unplanned foreign
17 objects remaining from a surgical procedure.

18 (6)(a) Each licensed facility subject to this section
19 shall submit an annual report to the agency summarizing the
20 incident reports that have been filed in the facility for that
21 year. The report shall include:

22 1. The total number of adverse incidents.

23 2. A listing, by category, of the types of operations,
24 diagnostic or treatment procedures, or other actions causing
25 the injuries, and the number of incidents occurring within
26 each category.

27 3. A listing, by category, of the types of injuries
28 caused and the number of incidents occurring within each
29 category.

30 4. A code number using the health care professional's
31 licensure number and a separate code number identifying all

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1 other individuals directly involved in adverse incidents to
2 patients, the relationship of the individual to the licensed
3 facility, and the number of incidents in which each individual
4 has been directly involved. Each licensed facility shall
5 maintain names of the health care professionals and
6 individuals identified by code numbers for purposes of this
7 section.

8 5. A description of all malpractice claims filed
9 against the licensed facility, including the total number of
10 pending and closed claims and the nature of the incident which
11 led to, the persons involved in, and the status and
12 disposition of each claim. Each report shall update status and
13 disposition for all prior reports.

14 (b) The information reported to the agency pursuant to
15 paragraph (a) which relates to persons licensed under chapter
16 458, chapter 459, chapter 461, or chapter 466 shall be
17 reviewed by the agency. The agency shall determine whether
18 any of the incidents potentially involved conduct by a health
19 care professional who is subject to disciplinary action, in
20 which case the provisions of s. 456.073 shall apply.

21 (c) The report submitted to the agency shall also
22 contain the name and license number of the risk manager of the
23 licensed facility, a copy of its policy and procedures which
24 govern the measures taken by the facility and its risk manager
25 to reduce the risk of injuries and adverse incidents, and the
26 results of such measures. The annual report is confidential
27 and is not available to the public pursuant to s. 119.07(1) or
28 any other law providing access to public records. The annual
29 report is not discoverable or admissible in any civil or
30 administrative action, except in disciplinary proceedings by
31 the agency or the appropriate regulatory board. The annual

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1 report is not available to the public as part of the record of
2 investigation for and prosecution in disciplinary proceedings
3 made available to the public by the agency or the appropriate
4 regulatory board. However, the agency or the appropriate
5 regulatory board shall make available, upon written request by
6 a health care professional against whom probable cause has
7 been found, any such records which form the basis of the
8 determination of probable cause.

9 (7) The licensed facility shall notify the agency no
10 later than 1 business day after the risk manager or his or her
11 designee has received a report pursuant to paragraph (1)(d)
12 and can determine within 1 business day that any of the
13 following adverse incidents has occurred, whether occurring in
14 the licensed facility or arising from health care prior to
15 admission in the licensed facility:

16 (a) The death of a patient;

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

18 (c) The performance of a surgical procedure on the
19 wrong patient;

20 (d) The performance of a wrong-site surgical
21 procedure; or

22 (e) The performance of a wrong surgical procedure.
23

24 The notification must be made in writing and be provided by
25 facsimile device or overnight mail delivery. The notification
26 must include information regarding the identity of the
27 affected patient, the type of adverse incident, the initiation
28 of an investigation by the facility, and whether the events
29 causing or resulting in the adverse incident represent a
30 potential risk to other patients.

31 (8) Any of the following adverse incidents, whether

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1 occurring in the licensed facility or arising from health care
2 prior to admission in the licensed facility, shall be reported
3 by the facility to the agency within 15 calendar days after
4 its occurrence:

5 (a) The death of a patient;

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

7 (c) The performance of a surgical procedure on the
8 wrong patient;

9 (d) The performance of a wrong-site surgical
10 procedure;

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

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

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

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

21

22 The agency may grant extensions to this reporting requirement
23 for more than 15 days upon justification submitted in writing
24 by the facility administrator to the agency. The agency may
25 require an additional, final report. These reports shall not
26 be available to the public pursuant to s. 119.07(1) or any
27 other law providing access to public records, nor be
28 discoverable or admissible in any civil or administrative
29 action, except in disciplinary proceedings by the agency or
30 the appropriate regulatory board, nor shall they be available
31 to the public as part of the record of investigation for and

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1 prosecution in disciplinary proceedings made available to the
2 public by the agency or the appropriate regulatory board.
3 However, the agency or the appropriate regulatory board shall
4 make available, upon written request by a health care
5 professional against whom probable cause has been found, any
6 such records which form the basis of the determination of
7 probable cause. The agency may investigate, as it deems
8 appropriate, any such incident and prescribe measures that
9 must or may be taken in response to the incident. The agency
10 shall review each incident and determine whether it
11 potentially involved conduct by the health care professional
12 who is subject to disciplinary action, in which case the
13 provisions of s. 456.073 shall apply.

14 (9) The agency shall publish on the agency's website,
15 no less than quarterly, a summary and trend analysis of
16 adverse incident reports received pursuant to this section,
17 which shall not include information that would identify the
18 patient, the reporting facility, or the health care
19 practitioners involved. The agency shall publish on the
20 agency's website an annual summary and trend analysis of all
21 adverse incident reports and malpractice claims information
22 provided by facilities in their annual reports, which shall
23 not include information that would identify the patient, the
24 reporting facility, or the practitioners involved. The
25 purpose of the publication of the summary and trend analysis
26 is to promote the rapid dissemination of information relating
27 to adverse incidents and malpractice claims to assist in
28 avoidance of similar incidents and reduce morbidity and
29 mortality.

30 (10)(9) The internal risk manager of each licensed
31 facility shall:

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1 (a) Investigate every allegation of sexual misconduct
 2 which is made against a member of the facility's personnel who
 3 has direct patient contact, when the allegation is that the
 4 sexual misconduct occurred at the facility or on the grounds
 5 of the facility. ~~and~~

6 (b) Report every allegation of sexual misconduct to
 7 the administrator of the licensed facility.

8 (c) Notify the family or guardian of the victim, if a
 9 minor, that an allegation of sexual misconduct has been made
 10 and that an investigation is being conducted. ~~and~~

11 (d) Report to the Department of Health every
 12 allegation of sexual misconduct, as defined in chapter 456 and
 13 the respective practice act, by a licensed health care
 14 practitioner that involves a patient.

15 ~~(11)(10)~~ Any witness who witnessed or who possesses
 16 actual knowledge of the act that is the basis of an allegation
 17 of sexual abuse shall:

18 (a) Notify the local police; and

19 (b) Notify the hospital risk manager and the
 20 administrator.

21
 22 For purposes of this subsection, "sexual abuse" means acts of
 23 a sexual nature committed for the sexual gratification of
 24 anyone upon, or in the presence of, a vulnerable adult,
 25 without the vulnerable adult's informed consent, or a minor.
 26 "Sexual abuse" includes, but is not limited to, the acts
 27 defined in s. 794.011(1)(h), fondling, exposure of a
 28 vulnerable adult's or minor's sexual organs, or the use of the
 29 vulnerable adult or minor to solicit for or engage in
 30 prostitution or sexual performance. "Sexual abuse" does not
 31 include any act intended for a valid medical purpose or any

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1 act which may reasonably be construed to be a normal
2 caregiving action.

3 (12)~~(11)~~ A person who, with malice or with intent to
4 discredit or harm a licensed facility or any person, makes a
5 false allegation of sexual misconduct against a member of a
6 licensed facility's personnel is guilty of a misdemeanor of
7 the second degree, punishable as provided in s. 775.082 or s.
8 775.083.

9 (13)~~(12)~~ In addition to any penalty imposed pursuant
10 to this section, the agency shall require a written plan of
11 correction from the facility. For a single incident or series
12 of isolated incidents that are nonwillful violations of the
13 reporting requirements of this section, the agency shall first
14 seek to obtain corrective action by the facility. If the
15 correction is not demonstrated within the timeframe
16 established by the agency or if there is a pattern of
17 nonwillful violations of this section, the agency may impose
18 an administrative fine, not to exceed \$5,000 for any violation
19 of the reporting requirements of this section. The
20 administrative fine for repeated nonwillful violations shall
21 not exceed \$10,000 for any violation. The administrative fine
22 for each intentional and willful violation may not exceed
23 \$25,000 per violation, per day. The fine for an intentional
24 and willful violation of this section may not exceed \$250,000.
25 In determining the amount of fine to be levied, the agency
26 shall be guided by s. 395.1065(2)(b). This subsection does not
27 apply to the notice requirements under subsection (7).

28 (14)~~(13)~~ The agency shall have access to all licensed
29 facility records necessary to carry out the provisions of this
30 section. The records obtained by the agency under subsection
31 (6), subsection (8), or subsection (10)~~(9)~~ are not available

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1 to the public under s. 119.07(1), nor shall they be
2 discoverable or admissible in any civil or administrative
3 action, except in disciplinary proceedings by the agency or
4 the appropriate regulatory board, nor shall records obtained
5 pursuant to s. 456.071 be available to the public as part of
6 the record of investigation for and prosecution in
7 disciplinary proceedings made available to the public by the
8 agency or the appropriate regulatory board. However, the
9 agency or the appropriate regulatory board shall make
10 available, upon written request by a health care professional
11 against whom probable cause has been found, any such records
12 which form the basis of the determination of probable cause,
13 except that, with respect to medical review committee records,
14 s. 766.101 controls.

15 (15)~~(14)~~ The meetings of the committees and governing
16 board of a licensed facility held solely for the purpose of
17 achieving the objectives of risk management as provided by
18 this section shall not be open to the public under the
19 provisions of chapter 286. The records of such meetings are
20 confidential and exempt from s. 119.07(1), except as provided
21 in subsection(14)~~(13)~~.

22 (16)~~(15)~~ The agency shall review, as part of its
23 licensure inspection process, the internal risk management
24 program at each licensed facility regulated by this section to
25 determine whether the program meets standards established in
26 statutes and rules, whether the program is being conducted in
27 a manner designed to reduce adverse incidents, and whether the
28 program is appropriately reporting incidents under this
29 section ~~subsections (5), (6), (7), and (8)~~.

30 (17)~~(16)~~ There shall be no monetary liability on the
31 part of, and no cause of action for damages shall arise

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1 against, any risk manager, licensed under s. 395.10974 ~~part IX~~
2 ~~of chapter 626~~, for the implementation and oversight of the
3 internal risk management program in a facility licensed under
4 this chapter or chapter 390 as required by this section, for
5 any act or proceeding undertaken or performed within the scope
6 of the functions of such internal risk management program if
7 the risk manager acts without intentional fraud.

8 (18) A privilege against civil liability is hereby
9 granted to any licensed risk manager or licensed facility with
10 regard to information furnished pursuant to this chapter,
11 unless the licensed risk manager or facility acted in bad
12 faith or with malice in providing such information.

13 (19)~~(17)~~ If the agency, through its receipt of any
14 reports required under this section ~~the annual reports~~
15 ~~prescribed in subsection (6)~~ or through any investigation, has
16 a reasonable belief that conduct by a staff member or employee
17 of a licensed facility is grounds for disciplinary action by
18 the appropriate regulatory board, the agency shall report this
19 fact to such regulatory board.

20 ~~(18) The agency shall annually publish a report~~
21 ~~summarizing the information contained in the annual incident~~
22 ~~reports submitted by licensed facilities pursuant to~~
23 ~~subsection (6) and disciplinary actions reported to the agency~~
24 ~~pursuant to s. 395.0193. The report must, at a minimum,~~
25 ~~summarize:~~

26 ~~(a) Adverse incidents, by category of reported~~
27 ~~incident, and by type of professional involved.~~

28 ~~(b) Types of malpractice claims filed, by type of~~
29 ~~professional involved.~~

30 ~~(c) Disciplinary actions taken against professionals,~~
31 ~~by type of professional involved.~~

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1 (20) It shall be unlawful for any person to coerce,
2 intimidate, or preclude a risk manager from lawfully executing
3 his or her reporting obligations pursuant to this chapter.
4 Such unlawful action shall be subject to civil monetary
5 penalties not to exceed \$10,000 per violation.

6 Section 63. Section 395.10972, Florida Statutes, is
7 amended to read:

8 395.10972 Health Care Risk Manager Advisory
9 Council.--The Secretary of Health Care Administration may
10 appoint a seven-member ~~five-member~~ advisory council to advise
11 the agency on matters pertaining to health care risk managers.
12 The members of the council shall serve at the pleasure of the
13 secretary. The council shall designate a chair. The council
14 shall meet at the call of the secretary or at those times as
15 may be required by rule of the agency. The members of the
16 advisory council shall receive no compensation for their
17 services, but shall be reimbursed for travel expenses as
18 provided in s. 112.061. The council shall consist of
19 individuals representing the following areas:

20 (1) Two shall be active health care risk managers,
21 including one risk manager who is recommended by and a member
22 of the Florida Society of Healthcare Risk Management.

23 (2) One shall be an active hospital administrator.

24 (3) One shall be an employee of an insurer or
25 self-insurer of medical malpractice coverage.

26 (4) One shall be a representative of the
27 health-care-consuming public.

28 (5) Two shall be licensed health care practitioners,
29 one of whom shall be licensed as a physician under chapter 458
30 or chapter 459.

31 Section 64. Paragraph (b) of subsection (2) of section

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1 395.701, Florida Statutes, is amended to read:

2 395.701 Annual assessments on net operating revenues
3 for inpatient and outpatient services to fund public medical
4 assistance; administrative fines for failure to pay
5 assessments when due; exemption.--

6 (2)

7 (b) There is imposed upon each hospital an assessment
8 in an amount equal to 1 percent of the annual net operating
9 revenue for outpatient services for each hospital, such
10 revenue to be determined by the agency, based on the actual
11 experience of the hospital as reported to the agency. While
12 prior year report worksheets may be reconciled to the
13 hospital's audited financial statements, no additional audited
14 financial components may be required for the purposes of
15 determining the amount of the assessment imposed pursuant to
16 this section other than those in effect on July 1, 2000.

17 Within 6 months after the end of each hospital fiscal year,
18 the agency shall certify the amount of the assessment for each
19 hospital. The assessment shall be payable to and collected by
20 the agency in equal quarterly amounts, on or before the first
21 day of each calendar quarter, beginning with the first full
22 calendar quarter that occurs after the agency certifies the
23 amount of the assessment for each hospital. All moneys
24 collected pursuant to this subsection shall be deposited into
25 the Public Medical Assistance Trust Fund.

26 Section 65. Section 409.905, Florida Statutes, is
27 amended to read:

28 409.905 Mandatory Medicaid services.--The agency may
29 make payments for the following services, which are required
30 of the state by Title XIX of the Social Security Act,
31 furnished by Medicaid providers to recipients who are

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1 determined to be eligible on the dates on which the services
2 were provided. Any service under this section shall be
3 provided only when medically necessary and in accordance with
4 state and federal law. Mandatory services rendered by
5 providers in mobile units to Medicaid recipients may be
6 restricted by the agency. Nothing in this section shall be
7 construed to prevent or limit the agency from adjusting fees,
8 reimbursement rates, lengths of stay, number of visits, number
9 of services, or any other adjustments necessary to comply with
10 the availability of moneys and any limitations or directions
11 provided for in the General Appropriations Act or chapter 216.

12 (1) ADVANCED REGISTERED NURSE PRACTITIONER
13 SERVICES.--The agency shall pay for services provided to a
14 recipient by a licensed advanced registered nurse practitioner
15 who has a valid collaboration agreement with a licensed
16 physician on file with the Department of Health or who
17 provides anesthesia services in accordance with established
18 protocol required by state law and approved by the medical
19 staff of the facility in which the anesthetic service is
20 performed. Reimbursement for such services must be provided in
21 an amount that equals not less than 80 percent of the
22 reimbursement to a physician who provides the same services,
23 unless otherwise provided for in the General Appropriations
24 Act.

25 (2) EARLY AND PERIODIC SCREENING, DIAGNOSIS, AND
26 TREATMENT SERVICES.--The agency shall pay for early and
27 periodic screening and diagnosis of a recipient under age 21
28 to ascertain physical and mental problems and conditions and
29 provide treatment to correct or ameliorate these problems and
30 conditions. These services include all services determined by
31 the agency to be medically necessary for the treatment,

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1 correction, or amelioration of these problems, including
2 personal care, private duty nursing, durable medical
3 equipment, physical therapy, occupational therapy, speech
4 therapy, respiratory therapy, and immunizations.

5 (3) FAMILY PLANNING SERVICES.--The agency shall pay
6 for services necessary to enable a recipient voluntarily to
7 plan family size or to space children. These services include
8 information; education; counseling regarding the availability,
9 benefits, and risks of each method of pregnancy prevention;
10 drugs and supplies; and necessary medical care and followup.
11 Each recipient participating in the family planning portion of
12 the Medicaid program must be provided freedom to choose any
13 alternative method of family planning, as required by federal
14 law.

15 (4) HOME HEALTH CARE SERVICES.--The agency shall pay
16 for nursing and home health aide services, supplies,
17 appliances, and durable medical equipment, necessary to assist
18 a recipient living at home. An entity that provides services
19 pursuant to this subsection shall be licensed under part IV of
20 chapter 400 or part II of chapter 499, if appropriate. These
21 services, equipment, and supplies, or reimbursement therefor,
22 may be limited as provided in the General Appropriations Act
23 and do not include services, equipment, or supplies provided
24 to a person residing in a hospital or nursing facility. In
25 providing home health care services, the agency may require
26 prior authorization of care based on diagnosis.

27 (5) HOSPITAL INPATIENT SERVICES.--The agency shall pay
28 for all covered services provided for the medical care and
29 treatment of a recipient who is admitted as an inpatient by a
30 licensed physician or dentist to a hospital licensed under
31 part I of chapter 395. However, the agency shall limit the

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1 payment for inpatient hospital services for a Medicaid
2 recipient 21 years of age or older to 45 days or the number of
3 days necessary to comply with the General Appropriations Act.

4 (a) The agency is authorized to implement
5 reimbursement and utilization management reforms in order to
6 comply with any limitations or directions in the General
7 Appropriations Act, which may include, but are not limited to:
8 prior authorization for inpatient psychiatric days; enhanced
9 utilization and concurrent review programs for highly utilized
10 services; reduction or elimination of covered days of service;
11 adjusting reimbursement ceilings for variable costs; adjusting
12 reimbursement ceilings for fixed and property costs; and
13 implementing target rates of increase.

14 (b) A licensed hospital maintained primarily for the
15 care and treatment of patients having mental disorders or
16 mental diseases is not eligible to participate in the hospital
17 inpatient portion of the Medicaid program except as provided
18 in federal law. However, the department shall apply for a
19 waiver, within 9 months after June 5, 1991, designed to
20 provide hospitalization services for mental health reasons to
21 children and adults in the most cost-effective and lowest cost
22 setting possible. Such waiver shall include a request for the
23 opportunity to pay for care in hospitals known under federal
24 law as "institutions for mental disease" or "IMD's." The
25 waiver proposal shall propose no additional aggregate cost to
26 the state or Federal Government, and shall be conducted in
27 Hillsborough County, Highlands County, Hardee County, Manatee
28 County, and Polk County. The waiver proposal may incorporate
29 competitive bidding for hospital services, comprehensive
30 brokering, prepaid capitated arrangements, or other mechanisms
31 deemed by the department to show promise in reducing the cost

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1 of acute care and increasing the effectiveness of preventive
2 care. When developing the waiver proposal, the department
3 shall take into account price, quality, accessibility,
4 linkages of the hospital to community services and family
5 support programs, plans of the hospital to ensure the earliest
6 discharge possible, and the comprehensiveness of the mental
7 health and other health care services offered by participating
8 providers.

9 (c) Agency for Health Care Administration shall adjust
10 a hospital's current inpatient per diem rate to reflect the
11 cost of serving the Medicaid population at that institution
12 if:

13 1. The hospital experiences an increase in Medicaid
14 caseload by more than 25 percent in any year, primarily
15 resulting from the closure of a hospital in the same service
16 area occurring after July 1, 1995; or

17 2. The hospital's Medicaid per diem rate is at least
18 25 percent below the Medicaid per patient cost for that year.

19

20 No later than November 1, 2000, the agency must provide
21 estimated costs for any adjustment in a hospital inpatient per
22 diem pursuant to this paragraph to the Executive Office of the
23 Governor, the House of Representatives General Appropriations
24 Committee, and the Senate Budget Committee. Before the agency
25 implements a change in a hospital's inpatient per diem rate
26 pursuant to this paragraph, the Legislature must have
27 specifically appropriated sufficient funds in the 2001-2002
28 General Appropriations Act to support the increase in cost as
29 estimated by the agency. This paragraph is repealed on July 1,
30 2001.

31 (6) HOSPITAL OUTPATIENT SERVICES.--The agency shall

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1 pay for preventive, diagnostic, therapeutic, or palliative
2 care and other services provided to a recipient in the
3 outpatient portion of a hospital licensed under part I of
4 chapter 395, and provided under the direction of a licensed
5 physician or licensed dentist, except that payment for such
6 care and services is limited to \$1,500 per state fiscal year
7 per recipient, unless an exception has been made by the
8 agency, and with the exception of a Medicaid recipient under
9 age 21, in which case the only limitation is medical
10 necessity.

11 (7) INDEPENDENT LABORATORY SERVICES.--The agency shall
12 pay for medically necessary diagnostic laboratory procedures
13 ordered by a licensed physician or other licensed practitioner
14 of the healing arts which are provided for a recipient in a
15 laboratory that meets the requirements for Medicare
16 participation and is licensed under chapter 483, if required.

17 (8) NURSING FACILITY SERVICES.--The agency shall pay
18 for 24-hour-a-day nursing and rehabilitative services for a
19 recipient in a nursing facility licensed under part II of
20 chapter 400 or in a rural hospital, as defined in s. 395.602,
21 or in a Medicare certified skilled nursing facility operated
22 by a hospital, as defined by s. 395.002(11), that is licensed
23 under part I of chapter 395, and in accordance with provisions
24 set forth in s. 409.908(2)(a), which services are ordered by
25 and provided under the direction of a licensed physician.
26 However, if a nursing facility has been destroyed or otherwise
27 made uninhabitable by natural disaster or other emergency and
28 another nursing facility is not available, the agency must pay
29 for similar services temporarily in a hospital licensed under
30 part I of chapter 395 provided federal funding is approved and
31 available.

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1 (9) PHYSICIAN SERVICES.--The agency shall pay for
2 covered services and procedures rendered to a recipient by, or
3 under the personal supervision of, a person licensed under
4 state law to practice medicine or osteopathic medicine. These
5 services may be furnished in the physician's office, the
6 Medicaid recipient's home, a hospital, a nursing facility, or
7 elsewhere, but shall be medically necessary for the treatment
8 of an injury, illness, or disease within the scope of the
9 practice of medicine or osteopathic medicine as defined by
10 state law. The agency shall not pay for services that are
11 clinically unproven, experimental, or for purely cosmetic
12 purposes.

13 (10) PORTABLE X-RAY SERVICES.--The agency shall pay
14 for professional and technical portable radiological services
15 ordered by a licensed physician or other licensed practitioner
16 of the healing arts which are provided by a licensed
17 professional in a setting other than a hospital, clinic, or
18 office of a physician or practitioner of the healing arts, on
19 behalf of a recipient.

20 (11) RURAL HEALTH CLINIC SERVICES.--The agency shall
21 pay for outpatient primary health care services for a
22 recipient provided by a clinic certified by and participating
23 in the Medicare program which is located in a federally
24 designated, rural, medically underserved area and has on its
25 staff one or more licensed primary care nurse practitioners or
26 physician assistants, and a licensed staff supervising
27 physician or a consulting supervising physician.

28 (12) TRANSPORTATION SERVICES.--The agency shall ensure
29 that appropriate transportation services are available for a
30 Medicaid recipient in need of transport to a qualified
31 Medicaid provider for medically necessary and

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1 Medicaid-compensable services, provided a client's ability to
2 choose a specific transportation provider shall be limited to
3 those options resulting from policies established by the
4 agency to meet the fiscal limitations of the General
5 Appropriations Act. The agency may pay for transportation and
6 other related travel expenses as necessary only if these
7 services are not otherwise available.

8 Section 66. Section 409.906, Florida Statutes, is
9 amended to read:

10 409.906 Optional Medicaid services.--Subject to
11 specific appropriations, the agency may make payments for
12 services which are optional to the state under Title XIX of
13 the Social Security Act and are furnished by Medicaid
14 providers to recipients who are determined to be eligible on
15 the dates on which the services were provided. Any optional
16 service that is provided shall be provided only when medically
17 necessary and in accordance with state and federal law.
18 Optional services rendered by providers in mobile units to
19 Medicaid recipients may be restricted or prohibited by the
20 agency.Nothing in this section shall be construed to prevent
21 or limit the agency from adjusting fees, reimbursement rates,
22 lengths of stay, number of visits, or number of services, or
23 making any other adjustments necessary to comply with the
24 availability of moneys and any limitations or directions
25 provided for in the General Appropriations Act or chapter 216.
26 If necessary to safeguard the state's systems of providing
27 services to elderly and disabled persons and subject to the
28 notice and review provisions of s. 216.177, the Governor may
29 direct the Agency for Health Care Administration to amend the
30 Medicaid state plan to delete the optional Medicaid service
31 known as "Intermediate Care Facilities for the Developmentally

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1 Disabled." Optional services may include:

2 (1) ADULT DENTURE SERVICES.--The agency may pay for
3 dentures, the procedures required to seat dentures, and the
4 repair and reline of dentures, provided by or under the
5 direction of a licensed dentist, for a recipient who is age 21
6 or older. However, Medicaid will not provide reimbursement for
7 dental services provided in a mobile dental unit, except for a
8 mobile dental unit:

9 (a) Owned by, operated by, or having a contractual
10 agreement with the Department of Health and complying with
11 Medicaid's county health department clinic services program
12 specifications as a county health department clinic services
13 provider.

14 (b) Owned by, operated by, or having a contractual
15 arrangement with a federally qualified health center and
16 complying with Medicaid's federally qualified health center
17 specifications as a federally qualified health center
18 provider.

19 (c) Rendering dental services to Medicaid recipients,
20 21 years of age and older, at nursing facilities.

21 (d) Owned by, operated by, or having a contractual
22 agreement with a state-approved dental educational
23 institution.

24 (2) ADULT HEALTH SCREENING SERVICES.--The agency may
25 pay for an annual routine physical examination, conducted by
26 or under the direction of a licensed physician, for a
27 recipient age 21 or older, without regard to medical
28 necessity, in order to detect and prevent disease, disability,
29 or other health condition or its progression.

30 (3) AMBULATORY SURGICAL CENTER SERVICES.--The agency
31 may pay for services provided to a recipient in an ambulatory

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1 surgical center licensed under part I of chapter 395, by or
2 under the direction of a licensed physician or dentist.

3 (4) BIRTH CENTER SERVICES.--The agency may pay for
4 examinations and delivery, recovery, and newborn assessment,
5 and related services, provided in a licensed birth center
6 staffed with licensed physicians, certified nurse midwives,
7 and midwives licensed in accordance with chapter 467, to a
8 recipient expected to experience a low-risk pregnancy and
9 delivery.

10 (5) CASE MANAGEMENT SERVICES.--The agency may pay for
11 primary care case management services rendered to a recipient
12 pursuant to a federally approved waiver, and targeted case
13 management services for specific groups of targeted
14 recipients, for which funding has been provided and which are
15 rendered pursuant to federal guidelines. The agency is
16 authorized to limit reimbursement for targeted case management
17 services in order to comply with any limitations or directions
18 provided for in the General Appropriations Act.

19 Notwithstanding s. 216.292, the Department of Children and
20 Family Services may transfer general funds to the Agency for
21 Health Care Administration to fund state match requirements
22 exceeding the amount specified in the General Appropriations
23 Act for targeted case management services.

24 (6) CHILDREN'S DENTAL SERVICES.--The agency may pay
25 for diagnostic, preventive, or corrective procedures,
26 including orthodontia in severe cases, provided to a recipient
27 under age 21, by or under the supervision of a licensed
28 dentist. Services provided under this program include
29 treatment of the teeth and associated structures of the oral
30 cavity, as well as treatment of disease, injury, or impairment
31 that may affect the oral or general health of the individual.

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1 However, Medicaid will not provide reimbursement for dental
2 services provided in a mobile dental unit, except for a mobile
3 dental unit:

4 (a) Owned by, operated by, or having a contractual
5 agreement with the Department of Health and complying with
6 Medicaid's county health department clinic services program
7 specifications as a county health department clinic services
8 provider.

9 (b) Owned by, operated by, or having a contractual
10 arrangement with a federally qualified health center and
11 complying with Medicaid's federally qualified health center
12 specifications as a federally qualified health center
13 provider.

14 (c) Rendering dental services to Medicaid recipients,
15 21 years of age and older, at nursing facilities.

16 (d) Owned by, operated by, or having a contractual
17 agreement with a state-approved dental educational
18 institution.

19 (7) CHIROPRACTIC SERVICES.--The agency may pay for
20 manual manipulation of the spine and initial services,
21 screening, and X rays provided to a recipient by a licensed
22 chiropractic physician.

23 (8) COMMUNITY MENTAL HEALTH SERVICES.--The agency may
24 pay for rehabilitative services provided to a recipient by a
25 mental health or substance abuse provider licensed by the
26 agency and under contract with the agency or the Department of
27 Children and Family Services to provide such services. Those
28 services which are psychiatric in nature shall be rendered or
29 recommended by a psychiatrist, and those services which are
30 medical in nature shall be rendered or recommended by a
31 physician or psychiatrist. The agency must develop a provider

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1 enrollment process for community mental health providers which
2 bases provider enrollment on an assessment of service need.
3 The provider enrollment process shall be designed to control
4 costs, prevent fraud and abuse, consider provider expertise
5 and capacity, and assess provider success in managing
6 utilization of care and measuring treatment outcomes.
7 Providers will be selected through a competitive procurement
8 or selective contracting process. In addition to other
9 community mental health providers, the agency shall consider
10 for enrollment mental health programs licensed under chapter
11 395 and group practices licensed under chapter 458, chapter
12 459, chapter 490, or chapter 491. The agency is also
13 authorized to continue operation of its behavioral health
14 utilization management program and may develop new services if
15 these actions are necessary to ensure savings from the
16 implementation of the utilization management system. The
17 agency shall coordinate the implementation of this enrollment
18 process with the Department of Children and Family Services
19 and the Department of Juvenile Justice. The agency is
20 authorized to utilize diagnostic criteria in setting
21 reimbursement rates, to preauthorize certain high-cost or
22 highly utilized services, to limit or eliminate coverage for
23 certain services, or to make any other adjustments necessary
24 to comply with any limitations or directions provided for in
25 the General Appropriations Act.

26 (9) DIALYSIS FACILITY SERVICES.--Subject to specific
27 appropriations being provided for this purpose, the agency may
28 pay a dialysis facility that is approved as a dialysis
29 facility in accordance with Title XVIII of the Social Security
30 Act, for dialysis services that are provided to a Medicaid
31 recipient under the direction of a physician licensed to

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1 practice medicine or osteopathic medicine in this state,
2 including dialysis services provided in the recipient's home
3 by a hospital-based or freestanding dialysis facility.

4 (10) DURABLE MEDICAL EQUIPMENT.--The agency may
5 authorize and pay for certain durable medical equipment and
6 supplies provided to a Medicaid recipient as medically
7 necessary.

8 (11) HEALTHY START SERVICES.--The agency may pay for a
9 continuum of risk-appropriate medical and psychosocial
10 services for the Healthy Start program in accordance with a
11 federal waiver. The agency may not implement the federal
12 waiver unless the waiver permits the state to limit enrollment
13 or the amount, duration, and scope of services to ensure that
14 expenditures will not exceed funds appropriated by the
15 Legislature or available from local sources. If the Health
16 Care Financing Administration does not approve a federal
17 waiver for Healthy Start services, the agency, in consultation
18 with the Department of Health and the Florida Association of
19 Healthy Start Coalitions, is authorized to establish a
20 Medicaid certified-match program for Healthy Start services.
21 Participation in the Healthy Start certified-match program
22 shall be voluntary, and reimbursement shall be limited to the
23 federal Medicaid share to Medicaid-enrolled Healthy Start
24 coalitions for services provided to Medicaid recipients. The
25 agency shall take no action to implement a certified-match
26 program without ensuring that the amendment and review
27 requirements of ss. 216.177 and 216.181 have been met.

28 (12) HEARING SERVICES.--The agency may pay for hearing
29 and related services, including hearing evaluations, hearing
30 aid devices, dispensing of the hearing aid, and related
31 repairs, if provided to a recipient by a licensed hearing aid

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1 specialist, otolaryngologist, otologist, audiologist, or
2 physician.

3 (13) HOME AND COMMUNITY-BASED SERVICES.--The agency
4 may pay for home-based or community-based services that are
5 rendered to a recipient in accordance with a federally
6 approved waiver program.

7 (14) HOSPICE CARE SERVICES.--The agency may pay for
8 all reasonable and necessary services for the palliation or
9 management of a recipient's terminal illness, if the services
10 are provided by a hospice that is licensed under part VI of
11 chapter 400 and meets Medicare certification requirements.

12 (15) INTERMEDIATE CARE FACILITY FOR THE
13 DEVELOPMENTALLY DISABLED SERVICES.--The agency may pay for
14 health-related care and services provided on a 24-hour-a-day
15 basis by a facility licensed and certified as a Medicaid
16 Intermediate Care Facility for the Developmentally Disabled,
17 for a recipient who needs such care because of a developmental
18 disability.

19 (16) INTERMEDIATE CARE SERVICES.--The agency may pay
20 for 24-hour-a-day intermediate care nursing and rehabilitation
21 services rendered to a recipient in a nursing facility
22 licensed under part II of chapter 400, if the services are
23 ordered by and provided under the direction of a physician.

24 (17) OPTOMETRIC SERVICES.--The agency may pay for
25 services provided to a recipient, including examination,
26 diagnosis, treatment, and management, related to ocular
27 pathology, if the services are provided by a licensed
28 optometrist or physician.

29 (18) PHYSICIAN ASSISTANT SERVICES.--The agency may pay
30 for all services provided to a recipient by a physician
31 assistant licensed under s. 458.347 or s. 459.022.

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1 Reimbursement for such services must be not less than 80
2 percent of the reimbursement that would be paid to a physician
3 who provided the same services.

4 (19) PODIATRIC SERVICES.--The agency may pay for
5 services, including diagnosis and medical, surgical,
6 palliative, and mechanical treatment, related to ailments of
7 the human foot and lower leg, if provided to a recipient by a
8 podiatric physician licensed under state law.

9 (20) PRESCRIBED DRUG SERVICES.--The agency may pay for
10 medications that are prescribed for a recipient by a physician
11 or other licensed practitioner of the healing arts authorized
12 to prescribe medications and that are dispensed to the
13 recipient by a licensed pharmacist or physician in accordance
14 with applicable state and federal law.

15 (21) REGISTERED NURSE FIRST ASSISTANT SERVICES.--The
16 agency may pay for all services provided to a recipient by a
17 registered nurse first assistant as described in s. 464.027.
18 Reimbursement for such services may not be less than 80
19 percent of the reimbursement that would be paid to a physician
20 providing the same services.

21 (22) STATE HOSPITAL SERVICES.--The agency may pay for
22 all-inclusive psychiatric inpatient hospital care provided to
23 a recipient age 65 or older in a state mental hospital.

24 (23) VISUAL SERVICES.--The agency may pay for visual
25 examinations, eyeglasses, and eyeglass repairs for a
26 recipient, if they are prescribed by a licensed physician
27 specializing in diseases of the eye or by a licensed
28 optometrist.

29 (24) CHILD-WELFARE-TARGETED CASE MANAGEMENT.--The
30 Agency for Health Care Administration, in consultation with
31 the Department of Children and Family Services, may establish

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1 a targeted case-management pilot project in those counties
2 identified by the Department of Children and Family Services
3 and for the community-based child welfare project in Sarasota
4 and Manatee counties, as authorized under s. 409.1671. These
5 projects shall be established for the purpose of determining
6 the impact of targeted case management on the child welfare
7 program and the earnings from the child welfare program.
8 Results of the pilot projects shall be reported to the Child
9 Welfare Estimating Conference and the Social Services
10 Estimating Conference established under s. 216.136. The number
11 of projects may not be increased until requested by the
12 Department of Children and Family Services, recommended by the
13 Child Welfare Estimating Conference and the Social Services
14 Estimating Conference, and approved by the Legislature. The
15 covered group of individuals who are eligible to receive
16 targeted case management include children who are eligible for
17 Medicaid; who are between the ages of birth through 21; and
18 who are under protective supervision or postplacement
19 supervision, under foster-care supervision, or in shelter care
20 or foster care. The number of individuals who are eligible to
21 receive targeted case management shall be limited to the
22 number for whom the Department of Children and Family Services
23 has available matching funds to cover the costs. The general
24 revenue funds required to match the funds for services
25 provided by the community-based child welfare projects are
26 limited to funds available for services described under s.
27 409.1671. The Department of Children and Family Services may
28 transfer the general revenue matching funds as billed by the
29 Agency for Health Care Administration.

30 Section 67. Present subsections (7) through (11) of
31 section 456.013, Florida Statutes, are renumbered as

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1 subsections (8) through (12), respectively, and a new
2 subsection (7) is added to that section to read:

3 456.013 Department; general licensing provisions.--

4 (7) The boards, or the department when there is no
5 board, shall require the completion of a 2-hour course
6 relating to prevention of medical errors as part of the
7 licensure and renewal process. The 2-hour course shall count
8 towards the total number of continuing education hours
9 required for the profession. The course shall be approved by
10 the board or department, as appropriate, and shall include a
11 study of root-cause analysis, error reduction and prevention,
12 and patient safety. If the course is being offered by a
13 facility licensed pursuant to chapter 395 for its employees,
14 the board may approve up to 1 hour of the 2-hour course to be
15 specifically related to error reduction and prevention methods
16 used in that facility.

17 Section 68. Subsection (19) is added to section
18 456.057, Florida Statutes, to read:

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

21 (19) The board, or department when there is no board,
22 may temporarily or permanently appoint a person or entity as a
23 custodian of medical records in the event of the death of a
24 practitioner, the mental or physical incapacitation of the
25 practitioner, or the abandonment of medical records by a
26 practitioner. The custodian appointed shall comply with all
27 provisions of this section, including the release of patient
28 records.

29 Section 69. Subsection (3) is added to section
30 456.063, Florida Statutes, to read:

31 456.063 Sexual misconduct; disqualification for

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1 license, certificate, or registration.--

2 (3) Licensed health care practitioners shall report
3 allegations of sexual misconduct to the department, regardless
4 of the practice setting in which the alleged sexual misconduct
5 occurred.

6 Section 70. Paragraphs (c) and (q) of subsection (1)
7 of section 456.072, Florida Statutes, are amended, paragraphs
8 (aa), (bb), and (cc) are added to that subsection, paragraphs
9 (c), (d), and (e) of subsection (2) and subsection (4) are
10 amended, and paragraphs (i) and (j) are added to subsection
11 (2) of that section, to read:

12 456.072 Grounds for discipline; penalties;
13 enforcement.--

14 (1) The following acts shall constitute grounds for
15 which the disciplinary actions specified in subsection (2) may
16 be taken:

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

22 (q) ~~Violating any provision of this chapter, the~~
23 ~~applicable professional practice act, a rule of the department~~
24 ~~or the board, or a lawful order of the department or the~~
25 board, or failing to comply with a lawfully issued subpoena of
26 the department.

27 (aa) Performing or attempting to perform health care
28 services on the wrong patient, a wrong-site procedure, a wrong
29 procedure, or an unauthorized procedure or a procedure that is
30 medically unnecessary or otherwise unrelated to the patient's
31 diagnosis or medical condition. For the purposes of this

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1 paragraph, performing or attempting to perform health care
2 services includes the preparation of the patient.

3 (bb) Leaving a foreign body in a patient, such as a
4 sponge, clamp, forceps, surgical needle, or other
5 paraphernalia commonly used in surgical, examination, or other
6 diagnostic procedures. For the purposes of this paragraph, it
7 shall be legally presumed that retention of a foreign body is
8 not in the best interest of the patient and is not within the
9 standard of care of the profession, regardless of the intent
10 of the professional.

11 (cc) Violating any provision of this chapter, the
12 applicable practice act, or any rules adopted pursuant
13 thereto.

14 (2) When the board, or the department when there is no
15 board, finds any person guilty of the grounds set forth in
16 subsection (1) or of any grounds set forth in the applicable
17 practice act, including conduct constituting a substantial
18 violation of subsection (1) or a violation of the applicable
19 practice act which occurred prior to obtaining a license, it
20 may enter an order imposing one or more of the following
21 penalties:

22 (c) Restriction of practice or license, including, but
23 not limited to, restricting the licensee from practicing in
24 certain settings, restricting the licensee to work only under
25 designated conditions or in certain settings, restricting the
26 licensee from performing or providing designated clinical and
27 administrative services, restricting the licensee from
28 practicing more than a designated number of hours, or any
29 other restriction found to be necessary for the protection of
30 the public health, safety, and welfare.

31 (d) Imposition of an administrative fine not to exceed

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1 \$10,000 for each count or separate offense. If the violation
2 is for fraud or making a false or fraudulent representation,
3 the board, or the department if there is no board, must impose
4 a fine of \$10,000 per count or offense.

5 (e) Issuance of a reprimand or letter of concern.

6 (i) Refund of fees billed and collected from the
7 patient or a third party on behalf of the patient.

8 (j) Requirement that the practitioner undergo remedial
9 education.

10

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

19 (4) In addition to any other discipline imposed
20 through final order, or citation, entered on or after July 1,
21 2001, pursuant to this section or discipline imposed through
22 final order, or citation, entered on or after July 1, 2001,
23 for a violation of any practice act, the board, or the
24 department when there is no board, shall ~~may~~ assess costs
25 related to the investigation and prosecution of the case. In
26 any case where the board or the department imposes a fine or
27 assessment and the fine or assessment is not paid within a
28 reasonable time, such reasonable time to be prescribed in the
29 rules of the board, or the department when there is no board,
30 or in the order assessing such fines or costs, the department
31 or the Department of Legal Affairs may contract for the

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1 collection of, or bring a civil action to recover, the fine or
2 assessment.

3 Section 71. Paragraphs (a) and (c) of subsection (9)
4 of section 456.073, Florida Statutes, are amended, and,
5 effective upon this act becoming a law, subsection (13) is
6 added to that section, to read:

7 456.073 Disciplinary proceedings.--Disciplinary
8 proceedings for each board shall be within the jurisdiction of
9 the department.

10 (9)(a) The department shall periodically notify the
11 person who filed the complaint, as well as the patient or the
12 patient's legal representative, of the status of the
13 investigation, indicating whether probable cause has been
14 found and the status of any civil action or administrative
15 proceeding or appeal.

16 (c) In any disciplinary case for which probable cause
17 is not found, the department shall so inform the person who
18 filed the complaint and notify that person that he or she may,
19 within 60 days, provide any additional information to the
20 department ~~probable cause panel~~ which may be relevant to the
21 decision. To facilitate the provision of additional
22 information, the person who filed the complaint may receive,
23 upon request, a copy of the department's expert report that
24 supported the recommendation for closure, if such a report was
25 relied upon by the department. In no way does this require the
26 department to procure an expert opinion or report if none was
27 used. Additionally, the identity of the expert shall remain
28 confidential. In any administrative proceeding under s.
29 120.57, the person who filed the disciplinary complaint shall
30 have the right to present oral or written communication
31 relating to the alleged disciplinary violations or to the

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1 appropriate penalty.
2 (13) Notwithstanding any provision of law to the
3 contrary, an administrative complaint against a licensee shall
4 be filed within 6 years after the time of the incident or
5 occurrence giving rise to the complaint against the licensee.
6 If such incident or occurrence involved criminal actions,
7 diversion of controlled substances, sexual misconduct, or
8 impairment by the licensee, this subsection does not apply to
9 bar initiation of an investigation or filing of an
10 administrative complaint beyond the 6-year timeframe. In those
11 cases covered by this subsection in which it can be shown that
12 fraud, concealment, or intentional misrepresentation of fact
13 prevented the discovery of the violation of law, the period of
14 limitations is extended forward, but in no event to exceed 12
15 years after the time of the incident or occurrence.

16 Section 72. Subsection (1) of section 456.074, Florida
17 Statutes, is amended to read:

18 456.074 Certain health care practitioners; immediate
19 suspension of license.--

20 (1) The department shall issue an emergency order
21 suspending the license of any person licensed under chapter
22 458, chapter 459, chapter 460, chapter 461, chapter 462,
23 chapter 463, chapter 464, chapter 465, chapter 466, or chapter
24 484 who pleads guilty to, is convicted or found guilty of, or
25 who enters a plea of nolo contendere to, regardless of
26 adjudication, a felony under chapter 409, chapter 817,or
27 chapter 893 or under 21 U.S.C. ss. 801-970 or under 42 U.S.C.
28 ss. 1395-1396.

29 Section 73. Subsections (2) and (6) of section
30 456.077, Florida Statutes, are amended to read:

31 456.077 Authority to issue citations.--

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1 (2) The board, or the department if there is no board,
2 shall adopt rules designating violations for which a citation
3 may be issued. Such rules shall designate as citation
4 violations those violations for which there is no substantial
5 threat to the public health, safety, and welfare. Violations
6 for which a citation may be issued shall include violations of
7 continuing education requirements, failure to timely pay
8 required fees and fines, failure to comply with the
9 requirements of ss. 381.026 and 381.0261 regarding the
10 dissemination of information regarding patient rights, failure
11 to comply with advertising requirements, failure to timely
12 update practitioner profile and credentialing files, failure
13 to display signs, licenses, and permits, failure to have
14 required reference books available, and all other violations
15 that do not pose a direct and serious threat to the health and
16 safety of the patient.

17 (6) A board ~~created on or after January 1, 1992,~~ has 6
18 months in which to enact rules designating violations and
19 penalties appropriate for citation offenses. Failure to enact
20 such rules gives the department exclusive authority to adopt
21 rules as required for implementing this section. A board has
22 continuous authority to amend its rules adopted pursuant to
23 this section.

24 Section 74. Section 456.081, Florida Statutes, is
25 amended to read:

26 456.081 Publication of information.--The department
27 and the boards shall have the authority to advise licensees
28 periodically, through the publication of a newsletter, about
29 information that the department or the board determines is of
30 interest to the industry. The department and the boards shall
31 maintain a website which contains copies of the newsletter;

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1 information relating to adverse incident reports without
2 identifying the patient, practitioner, or facility in which
3 the adverse incident occurred until 10 days after probable
4 cause is found, at which time the name of the practitioner and
5 facility shall become public as part of the investigative
6 file; information about error prevention and safety
7 strategies; and information concerning best practices.Unless
8 otherwise prohibited by law, the department and the boards
9 shall publish on the website a summary of final orders entered
10 after July 1, 2001, resulting in disciplinary action ~~finer,~~
11 ~~suspensions, or revocations,~~ and any other information the
12 department or the board determines is of interest to the
13 public. In order to provide useful and timely information at
14 minimal cost, the department and boards may consult with, and
15 include information provided by, professional associations and
16 national organizations.

17 Section 75. Section 458.3147, Florida Statutes, is
18 created to read:

19 458.3147 Medical school eligibility of military
20 academy students or graduates.--Any Florida resident who is a
21 student at or a graduate of any of the United States military
22 academies who qualifies for assignment to the Medical Corps of
23 the United States military shall be admitted to any medical
24 school in the State University System.

25 Section 76. Subsection (9) of section 458.331, Florida
26 Statutes, is amended to read:

27 458.331 Grounds for disciplinary action; action by the
28 board and department.--

29 (9) When an investigation of a physician is
30 undertaken, the department shall promptly furnish to the
31 physician or the physician's attorney a copy of the complaint

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1 or document which resulted in the initiation of the
2 investigation. For purposes of this subsection, such
3 documents include, but are not limited to: the pertinent
4 portions of an annual report submitted to the department
5 pursuant to s. 395.0197(6); a report of an adverse incident
6 which is provided to the department pursuant to s.
7 395.0197~~(8)~~; a report of peer review disciplinary action
8 submitted to the department pursuant to s. 395.0193(4) or s.
9 458.337, providing that the investigations, proceedings, and
10 records relating to such peer review disciplinary action shall
11 continue to retain their privileged status even as to the
12 licensee who is the subject of the investigation, as provided
13 by ss. 395.0193(8) and 458.337(3); a report of a closed claim
14 submitted pursuant to s. 627.912; a presuit notice submitted
15 pursuant to s. 766.106(2); and a petition brought under the
16 Florida Birth-Related Neurological Injury Compensation Plan,
17 pursuant to s. 766.305(2). The physician may submit a written
18 response to the information contained in the complaint or
19 document which resulted in the initiation of the investigation
20 within 45 days after service to the physician of the complaint
21 or document. The physician's written response shall be
22 considered by the probable cause panel.

23 Section 77. Subsection (9) of section 459.015, Florida
24 Statutes, is amended to read:

25 459.015 Grounds for disciplinary action; action by the
26 board and department.--

27 (9) When an investigation of an osteopathic physician
28 is undertaken, the department shall promptly furnish to the
29 osteopathic physician or his or her attorney a copy of the
30 complaint or document which resulted in the initiation of the
31 investigation. For purposes of this subsection, such documents

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1 include, but are not limited to: the pertinent portions of an
2 annual report submitted to the department pursuant to s.
3 395.0197(6); a report of an adverse incident which is provided
4 to the department pursuant to s. 395.0197(8); a report of peer
5 review disciplinary action submitted to the department
6 pursuant to s. 395.0193(4) or s. 459.016, provided that the
7 investigations, proceedings, and records relating to such peer
8 review disciplinary action shall continue to retain their
9 privileged status even as to the licensee who is the subject
10 of the investigation, as provided by ss. 395.0193(8) and
11 459.016(3); a report of a closed claim submitted pursuant to
12 s. 627.912; a presuit notice submitted pursuant to s.
13 766.106(2); and a petition brought under the Florida
14 Birth-Related Neurological Injury Compensation Plan, pursuant
15 to s. 766.305(2). The osteopathic physician may submit a
16 written response to the information contained in the complaint
17 or document which resulted in the initiation of the
18 investigation within 45 days after service to the osteopathic
19 physician of the complaint or document. The osteopathic
20 physician's written response shall be considered by the
21 probable cause panel.

22 Section 78. Effective January 1, 2002, subsection (4)
23 of section 641.51, Florida Statutes, is amended to read:

24 641.51 Quality assurance program; second medical
25 opinion requirement.--

26 (4) The organization shall ensure that only a
27 physician with an active, unencumbered license ~~licensed~~ under
28 chapter 458 or chapter 459, ~~or an allopathic or osteopathic~~
29 ~~physician with an active, unencumbered license in another~~
30 ~~state with similar licensing requirements~~ may render an
31 adverse determination regarding a service provided by a

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1 physician licensed in this state. The organization shall
2 submit to the treating provider and the subscriber written
3 notification regarding the organization's adverse
4 determination within 2 working days after the subscriber or
5 provider is notified of the adverse determination. The written
6 notification must include the utilization review criteria or
7 benefits provisions used in the adverse determination,
8 identify the physician who rendered the adverse determination,
9 and be signed by an authorized representative of the
10 organization or the physician who rendered the adverse
11 determination. The organization must include with the
12 notification of an adverse determination information
13 concerning the appeal process for adverse determinations. This
14 provision does not create authority for the Board of Medicine
15 or Board of Osteopathic Medicine to regulate the organization;
16 however, the Board of Medicine and the Board of Osteopathic
17 Medicine continue to have jurisdiction over licensees of their
18 respective boards.

19 Section 79. Subsection (5) of section 465.019, Florida
20 Statutes, is amended to read:

21 465.019 Institutional pharmacies; permits.--

22 (5) All institutional pharmacies shall be under the
23 professional supervision of a consultant pharmacist, and the
24 compounding and dispensing of medicinal drugs shall be done
25 only by a licensed pharmacist. Every institutional pharmacy
26 that employs or otherwise utilizes pharmacy technicians shall
27 have a written policy and procedures manual specifying those
28 duties, tasks, and functions which a pharmacy technician is
29 allowed to perform.

30 Section 80. Section 465.0196, Florida Statutes, is
31 amended to read:

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1 465.0196 Special pharmacy permits.--Any person
2 desiring a permit to operate a pharmacy which does not fall
3 within the definitions set forth in s. 465.003(11)(a)1., 2.,
4 and 3. shall apply to the department for a special pharmacy
5 permit. If the board certifies that the application complies
6 with the applicable laws and rules of the board governing the
7 practice of the profession of pharmacy, the department shall
8 issue the permit. No permit shall be issued unless a licensed
9 pharmacist is designated to undertake the professional
10 supervision of the compounding and dispensing of all drugs
11 dispensed by the pharmacy. The licensed pharmacist shall be
12 responsible for maintaining all drug records and for providing
13 for the security of the area in the facility in which the
14 compounding, storing, and dispensing of medicinal drugs
15 occurs. The permittee shall notify the department within 10
16 days of any change of the licensed pharmacist responsible for
17 such duties. Every permittee that employs or otherwise
18 utilizes pharmacy technicians shall have a written policy and
19 procedures manual specifying those duties, tasks, and
20 functions which a pharmacy technician is allowed to perform.

21 Section 81. Effective upon this act becoming a law and
22 operating retroactively to July 1, 2000, section 22 of Chapter
23 2000-256, Laws of Florida, is amended to read:

24 Section 22. The amendments to ss. 395.701 and
25 395.7015, Florida Statutes, by this act shall take effect July
26 1, 2000 only upon the Agency for Health Care Administration
27 receiving written confirmation from the federal Health Care
28 Financing Administration that the changes contained in such
29 amendments will not adversely affect the use of the remaining
30 assessments as state match for the state's Medicaid program.

31 Section 82. The Department of Health and the Agency

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1 for Health Care Administration shall conduct a review of all
2 statutorily imposed reporting requirements for health care
3 practitioners and health facilities. The department and the
4 agency shall report back to the Legislature on or before
5 November 1, 2001, with recommendations and suggested statutory
6 changes to streamline reporting requirements to avoid
7 duplicative, overlapping, and unnecessary reports or data
8 elements.

9 Section 83. Paragraph (r) is added to subsection (1)
10 of section 468.1755, Florida Statutes, and, for the purpose of
11 incorporating the amendment to section 456.072(1), Florida
12 Statutes, in a reference thereto, paragraph (a) of subsection
13 (1) of that section is reenacted, to read:

14 468.1755 Disciplinary proceedings.--

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

17 (a) Violation of any provision of s. 456.072(1) or s.
18 468.1745(1).

19 (r) Failing to implement an ongoing quality assurance
20 program directed by an interdisciplinary team that meets at
21 least every other month.

22 (2) When the board finds any nursing home
23 administrator guilty of any of the grounds set forth in
24 subsection (1), it may enter an order imposing one or more of
25 the following penalties:

26 (a) Denial of an application for licensure.

27 (b) Revocation or suspension of a license.

28 (c) Imposition of an administrative fine not to exceed
29 \$1,000 for each count or separate offense.

30 (d) Issuance of a reprimand.

31 (e) Placement of the licensee on probation for a

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1 period of time and subject to such conditions as the board may
2 specify, including requiring the licensee to attend continuing
3 education courses or to work under the supervision of another
4 licensee.

5 (f) Restriction of the authorized scope of practice.

6 Section 84. For the purpose of incorporating the
7 amendment to section 468.1755(1), Florida Statutes, in
8 reference thereto, subsection (3) of section 468.1695, Florida
9 Statutes, and section 468.1735, Florida Statutes, are
10 reenacted to read:

11 468.1695 Licensure by examination.--

12 (3) The department shall issue a license to practice
13 nursing home administration to any applicant who successfully
14 completes the examination in accordance with this section and
15 otherwise meets the requirements of this part. The department
16 shall not issue a license to any applicant who is under
17 investigation in this state or another jurisdiction for an
18 offense which would constitute a violation of s. 468.1745 or
19 s. 468.1755. Upon completion of the investigation, the
20 provisions of s. 468.1755 shall apply.

21 468.1735 Provisional license.--The board may establish
22 by rule requirements for issuance of a provisional license. A
23 provisional license shall be issued only to fill a position of
24 nursing home administrator that unexpectedly becomes vacant
25 due to illness, sudden death of the administrator, or
26 abandonment of position and shall be issued for one single
27 period as provided by rule not to exceed 6 months. The
28 department shall not issue a provisional license to any
29 applicant who is under investigation in this state or another
30 jurisdiction for an offense which would constitute a violation
31 of s. 468.1745 or s. 468.1755. Upon completion of the

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1 investigation, the provisions of s. 468.1755 shall apply. The
2 provisional license may be issued to a person who does not
3 meet all of the licensing requirements established by this
4 part, but the board shall by rule establish minimal
5 requirements to ensure protection of the public health,
6 safety, and welfare. The provisional license shall be issued
7 to the person who is designated as the responsible person next
8 in command in the event of the administrator's departure. The
9 board may set an application fee not to exceed \$500 for a
10 provisional license.

11 Section 85. For the purpose of incorporating the
12 amendment to section 456.072(1), Florida Statutes, in a
13 reference thereto, paragraph (a) of subsection (1) of section
14 484.056, Florida Statutes, is reenacted to read:

15 484.056 Disciplinary proceedings.--

16 (1) The following acts relating to the practice of
17 dispensing hearing aids shall be grounds for both disciplinary
18 action against a hearing aid specialist as set forth in this
19 section and cease and desist or other related action by the
20 department as set forth in s. 456.065 against any person
21 owning or operating a hearing aid establishment who engages
22 in, aids, or abets any such violation:

23 (a) Violation of any provision of s. 456.072(1), s.
24 484.0512, or s. 484.053.

25 Section 86. Paragraph (a) of subsection (1), paragraph
26 (a) of subsection (7), and subsection (8) of section 766.101,
27 Florida Statutes, are amended to read:

28 766.101 Medical review committee, immunity from
29 liability.--

30 (1) As used in this section:

31 (a) The term "medical review committee" or "committee"

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1 means:

2 1.a. A committee of a hospital or ambulatory surgical
3 center licensed under chapter 395 or a health maintenance
4 organization certificated under part I of chapter 641,

5 b. A committee of a physician-hospital organization, a
6 provider-sponsored organization, or an integrated delivery
7 system,

8 c. A committee of a state or local professional
9 society of health care providers,

10 d. A committee of a medical staff of a licensed
11 hospital or nursing home, provided the medical staff operates
12 pursuant to written bylaws that have been approved by the
13 governing board of the hospital or nursing home,

14 e. A committee of the Department of Corrections or the
15 Correctional Medical Authority as created under s. 945.602, or
16 employees, agents, or consultants of either the department or
17 the authority or both,

18 f. A committee of a professional service corporation
19 formed under chapter 621 or a corporation organized under
20 chapter 607 or chapter 617, which is formed and operated for
21 the practice of medicine as defined in s. 458.305(3), and
22 which has at least 25 health care providers who routinely
23 provide health care services directly to patients,

24 g. A committee of a mental health treatment facility
25 licensed under chapter 394 or a community mental health center
26 as defined in s. 394.907, provided the quality assurance
27 program operates pursuant to the guidelines which have been
28 approved by the governing board of the agency,

29 h. A committee of a substance abuse treatment and
30 education prevention program licensed under chapter 397
31 provided the quality assurance program operates pursuant to

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1 the guidelines which have been approved by the governing board
2 of the agency,

3 i. A peer review or utilization review committee
4 organized under chapter 440, ~~or~~

5 j. A committee of the Department of Health, a county
6 health department, healthy start coalition, or certified rural
7 health network, when reviewing quality of care, or employees
8 of these entities when reviewing mortality records, or

9 k. A continuous quality improvement committee of a
10 pharmacy licensed pursuant to chapter 465,

11
12 which committee is formed to evaluate and improve the quality
13 of health care rendered by providers of health service or to
14 determine that health services rendered were professionally
15 indicated or were performed in compliance with the applicable
16 standard of care or that the cost of health care rendered was
17 considered reasonable by the providers of professional health
18 services in the area; or

19 2. A committee of an insurer, self-insurer, or joint
20 underwriting association of medical malpractice insurance, or
21 other persons conducting review under s. 766.106.

22 (7)(a) It is the intent of the Legislature to
23 encourage medical review committees to contribute further to
24 the quality of health care in this state by reviewing
25 complaints against physicians in the manner described in this
26 paragraph. Accordingly, the Department of Health ~~Business and~~
27 ~~Professional Regulation~~ may enter into a letter of agreement
28 with a professional society of physicians licensed under
29 chapter 458 or chapter 459, under which agreement the medical
30 or peer review committees of the professional society will
31 conduct a review of any complaint or case referred to the

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1 society by the department which involves a question as to
2 whether a physician's actions represented a breach of the
3 prevailing professional standard of care. The prevailing
4 professional standard of care is that level of care, skill,
5 and treatment which, in light of all relevant surrounding
6 circumstances, is recognized as acceptable and appropriate by
7 reasonably prudent similar health care providers. The letter
8 of agreement must specify that the professional society will
9 submit an advisory report to the department within a
10 reasonable time following the department's written and
11 appropriately supported request to the professional society.
12 The advisory report, which is not binding upon the department,
13 constitutes the professional opinion of the medical review
14 committee and must include:

15 1. A statement of relevant factual findings.

16 2. The judgment of the committee as to whether the
17 physician's actions represented a breach of the prevailing
18 professional standard of care.

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

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

8 Section 87. For the purpose of incorporating the
9 amendment to section 766.101(1)(a), Florida Statutes, in
10 references thereto, paragraph (a) of subsection (1) of section
11 440.105, Florida Statutes, and subsection (6) of section
12 626.989, Florida Statutes, are reenacted to read:

13 440.105 Prohibited activities; reports; penalties;
14 limitations.--

15 (1)(a) Any insurance carrier, any individual
16 self-insured, any commercial or group self-insurance fund, any
17 professional practitioner licensed or regulated by the
18 Department of Business and Professional Regulation, except as
19 otherwise provided by law, any medical review committee as
20 defined in s. 766.101, any private medical review committee,
21 and any insurer, agent, or other person licensed under the
22 insurance code, or any employee thereof, having knowledge or
23 who believes that a fraudulent act or any other act or
24 practice which, upon conviction, constitutes a felony or
25 misdemeanor under this chapter is being or has been committed
26 shall send to the Division of Insurance Fraud, Bureau of
27 Workers' Compensation Fraud, a report or information pertinent
28 to such knowledge or belief and such additional information
29 relative thereto as the bureau may require. The bureau shall
30 review such information or reports and select such information
31 or reports as, in its judgment, may require further

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1 investigation. It shall then cause an independent examination
2 of the facts surrounding such information or report to be made
3 to determine the extent, if any, to which a fraudulent act or
4 any other act or practice which, upon conviction, constitutes
5 a felony or a misdemeanor under this chapter is being
6 committed. The bureau shall report any alleged violations of
7 law which its investigations disclose to the appropriate
8 licensing agency and state attorney or other prosecuting
9 agency having jurisdiction with respect to any such violations
10 of this chapter. If prosecution by the state attorney or other
11 prosecuting agency having jurisdiction with respect to such
12 violation is not begun within 60 days of the bureau's report,
13 the state attorney or other prosecuting agency having
14 jurisdiction with respect to such violation shall inform the
15 bureau of the reasons for the lack of prosecution.

16 626.989 Investigation by department or Division of
17 Insurance Fraud; compliance; immunity; confidential
18 information; reports to division; division investigator's
19 power of arrest.--

20 (6) Any person, other than an insurer, agent, or other
21 person licensed under the code, or an employee thereof, having
22 knowledge or who believes that a fraudulent insurance act or
23 any other act or practice which, upon conviction, constitutes
24 a felony or a misdemeanor under the code, or under s. 817.234,
25 is being or has been committed may send to the Division of
26 Insurance Fraud a report or information pertinent to such
27 knowledge or belief and such additional information relative
28 thereto as the department may request. Any professional
29 practitioner licensed or regulated by the Department of
30 Business and Professional Regulation, except as otherwise
31 provided by law, any medical review committee as defined in s.

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1 766.101, any private medical review committee, and any
2 insurer, agent, or other person licensed under the code, or an
3 employee thereof, having knowledge or who believes that a
4 fraudulent insurance act or any other act or practice which,
5 upon conviction, constitutes a felony or a misdemeanor under
6 the code, or under s. 817.234, is being or has been committed
7 shall send to the Division of Insurance Fraud a report or
8 information pertinent to such knowledge or belief and such
9 additional information relative thereto as the department may
10 require. The Division of Insurance Fraud shall review such
11 information or reports and select such information or reports
12 as, in its judgment, may require further investigation. It
13 shall then cause an independent examination of the facts
14 surrounding such information or report to be made to determine
15 the extent, if any, to which a fraudulent insurance act or any
16 other act or practice which, upon conviction, constitutes a
17 felony or a misdemeanor under the code, or under s. 817.234,
18 is being committed. The Division of Insurance Fraud shall
19 report any alleged violations of law which its investigations
20 disclose to the appropriate licensing agency and state
21 attorney or other prosecuting agency having jurisdiction with
22 respect to any such violation, as provided in s. 624.310. If
23 prosecution by the state attorney or other prosecuting agency
24 having jurisdiction with respect to such violation is not
25 begun within 60 days of the division's report, the state
26 attorney or other prosecuting agency having jurisdiction with
27 respect to such violation shall inform the division of the
28 reasons for the lack of prosecution.

29 Section 88. Paragraph (c) of subsection (4) of section
30 766.1115, Florida Statutes, is amended to read:

31 766.1115 Health care providers; creation of agency

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1 relationship with governmental contractors.--

2 (4) CONTRACT REQUIREMENTS.--A health care provider
3 that executes a contract with a governmental contractor to
4 deliver health care services on or after April 17, 1992, as an
5 agent of the governmental contractor is an agent for purposes
6 of s. 768.28(9), while acting within the scope of duties
7 pursuant to the contract, if the contract complies with the
8 requirements of this section and regardless of whether the
9 individual treated is later found to be ineligible. A health
10 care provider under contract with the state may not be named
11 as a defendant in any action arising out of the medical care
12 or treatment provided on or after April 17, 1992, pursuant to
13 contracts entered into under this section. The contract must
14 provide that:

15 (c) Adverse incidents and information on treatment
16 outcomes must be reported by any health care provider to the
17 governmental contractor if such incidents and information
18 pertain to a patient treated pursuant to the contract. The
19 health care provider shall submit the reports required by s.
20 395.0197 ~~annually submit an adverse incident report that~~
21 ~~includes all information required by s. 395.0197(6)(a), unless~~
22 ~~the adverse incident involves a result described by s.~~
23 ~~395.0197(8), in which case it shall be reported within 15 days~~
24 ~~after the occurrence of such incident.~~ If an incident involves
25 a professional licensed by the Department of Health or a
26 facility licensed by the Agency for Health Care
27 Administration, the governmental contractor shall submit such
28 incident reports to the appropriate department or agency,
29 which shall review each incident and determine whether it
30 involves conduct by the licensee that is subject to
31 disciplinary action. All patient medical records and any

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1 identifying information contained in adverse incident reports
2 and treatment outcomes which are obtained by governmental
3 entities pursuant to this paragraph are confidential and
4 exempt from the provisions of s. 119.07(1) and s. 24(a), Art.
5 I of the State Constitution.

6 Section 89. Section 456.047, Florida Statutes, is
7 amended to read:

8 456.047 Standardized credentialing for health care
9 practitioners.--

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

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1 Division of Medical Quality Assurance in this program,
2 provided they meet the requirements of s. 456.039 or s.
3 456.0391.

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

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

14 (b) "Core credentials data" means data that is primary
15 source verified and includes the following data: ~~current name,~~
16 ~~any former name, and any alias, any professional education,~~
17 ~~professional training, licensure, current Drug Enforcement~~
18 ~~Administration certification, social security number,~~
19 ~~specialty board certification, Educational Commission for~~
20 ~~Foreign Medical Graduates certification, and hospital or other~~
21 ~~institutional affiliations, evidence of professional liability~~
22 ~~coverage or evidence of financial responsibility as required~~
23 ~~by s. 458.320, s. 459.0085, or s. 456.048, history of claims,~~
24 ~~suits, judgments, or settlements, final disciplinary action~~
25 ~~reported pursuant to s. 456.039(1)(a)8. or s. 456.0391(1)(a)8.~~
26 The department may by rule designate additional core
27 credentials data elements, and Medicare or Medicaid sanctions.

28 (c) "Credential" or "credentialing" means the process
29 of assessing and verifying the qualifications of a licensed
30 health care practitioner or applicant for licensure as a
31 health care practitioner.

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1 (d) "Credentials verification organization" means any
2 organization certified or accredited as a credentials
3 verification organization.

4 (e) "Department" means the Department of Health,
5 Division of Medical Quality Assurance.

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

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

17 (h) "Health care entity" means:

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

21 2. Any entity licensed by the Department of Insurance
22 as a prepaid health care plan or health maintenance
23 organization or as an insurer to provide coverage for health
24 care services through a network of providers or similar
25 organization licensed under chapter 627, chapter 636, chapter
26 641, or chapter 651; or

27 3. Any accredited medical school in this state.

28 (i) "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, chapter 461, or s. 464.012 or any person licensed

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

5 ~~(j) "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 (j)(k) "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 (k) "Primary source verification" means verification
23 of professional qualifications based on evidence obtained
24 directly from the issuing source of the applicable
25 qualification or from any other source deemed as a primary
26 source for such verification by the department or an
27 accrediting body approved by the department.

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

31 (m) "Specialty board certification" means

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1 certification in a specialty issued by a specialty board
2 recognized by the board in this state that regulates the
3 profession for which the health care practitioner is licensed
4 or seeking licensure.

5 (3) STANDARDIZED CREDENTIALS VERIFICATION PROGRAM.--

6 (a) Every health care practitioner shall:

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

11 2. Notify the department within 45 days of any
12 corrections, updates, or modifications to the core credentials
13 data either through his or her designated credentials
14 verification organization or by submitting the data directly.
15 Corrections, updates, and modifications to the core
16 credentials data provided the department under this section
17 shall comply with the updating requirements of s. 456.039(3)
18 or s. 456.0391(3) related to profiling.

19 (b) The department shall:

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

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

30 3. Charge a fee to access the core credentials data,
31 which may not exceed the actual cost, including prorated setup

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1 and operating costs, pursuant to the requirements of chapter
2 119.

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

9 (c) A registered credentials verification organization
10 may be designated by a health care practitioner to assist the
11 health care practitioner to comply with the requirements of
12 subparagraph (a)2. A designated credentials verification
13 organization shall:

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

16 2. Not provide the health care practitioner's core
17 credentials data, including all corrections, updates, and
18 modifications, without the authorization of the practitioner.

19 (d) This section shall not be construed to restrict in
20 any way the authority of the health care entity to credential
21 and to approve or deny an application for hospital staff
22 membership, clinical privileges, or managed care network
23 participation.

24 (4) DUPLICATION OF DATA PROHIBITED.--

25 (a) A health care entity or credentials verification
26 organization is prohibited from collecting or attempting to
27 collect duplicate core credentials data from any health care
28 practitioner if the information is available from the
29 department. This section shall not be construed to restrict
30 the right of any health care entity or credentials
31 verification organization to collect additional information

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1 from the health care practitioner which is not included in the
2 core credentials data file. This section shall not be
3 construed to prohibit a health care entity or credentials
4 verification organization from obtaining all necessary
5 attestation and release form signatures and dates.

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

16 (5) STANDARDS AND REGISTRATION.--Any credentials
17 verification organization that does business in this state
18 must be fully accredited or certified as a credentials
19 verification organization by a national accrediting
20 organization as specified in paragraph (2)(a) and must
21 register with the department. The department may charge a
22 reasonable registration fee, not to exceed an amount
23 sufficient to cover its actual expenses in providing and
24 enforcing such registration. The department shall establish by
25 rule for biennial renewal of such registration. Failure by a
26 registered credentials verification organization to maintain
27 full accreditation or certification, to provide data as
28 authorized by the health care practitioner, to report to the
29 department changes, updates, and modifications to a health
30 care practitioner's records within the time period specified
31 in subparagraph (3)(a)2., or to comply with the prohibition

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1 against collection of duplicate core credentials data from a
2 practitioner may result in denial of an application for
3 renewal of registration or in revocation or suspension of a
4 registration.

5 (6) PRIMARY SOURCE VERIFIED DATA.--Health care
6 entities and credentials verification organizations may rely
7 upon any data that has been primary source verified by the
8 department or its designee to meet primary source verification
9 requirements of national accrediting organizations.

10 (7)(6) LIABILITY.--No civil, criminal, or
11 administrative action may be instituted, and there shall be no
12 liability, against any registered credentials verification
13 organization or health care entity on account of its reliance
14 on any data obtained directly from the department.

15 (8)(7) LIABILITY INSURANCE REQUIREMENTS.--Each
16 credentials verification organization doing business in this
17 state shall maintain liability insurance appropriate to meet
18 the certification or accreditation requirements established in
19 this section.

20 (9)(8) RULES.--The department shall adopt rules
21 necessary to develop and implement the standardized core
22 credentials data collection program established by this
23 section.

24 Section 90. Section 232.61, Florida Statutes, is
25 amended to read:

26 232.61 Governing organization for athletics; adoption
27 of bylaws.--

28 (1) The organization shall adopt bylaws that, unless
29 specifically provided by statute, establish eligibility
30 requirements for all students who participate in high school
31 athletic competition in its member schools. The bylaws

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1 governing residence and transfer shall allow the student to be
2 eligible in the school in which he or she first enrolls each
3 school year, or makes himself or herself a candidate for an
4 athletic team by engaging in a practice prior to enrolling in
5 any member school. The student shall be eligible in that
6 school so long as he or she remains enrolled in that school.
7 Subsequent eligibility shall be determined and enforced
8 through the organization's bylaws.

9 (2) The organization shall ~~also~~ adopt bylaws that
10 specifically prohibit the recruiting of students for athletic
11 purposes. The bylaws shall prescribe penalties and an appeals
12 process for athletic recruiting violations.

13 (3) The organization shall adopt bylaws that require
14 all students participating in interscholastic athletic
15 competition or who are candidates for an interscholastic
16 athletic team to satisfactorily pass a medical evaluation each
17 year prior to participating in interscholastic athletic
18 competition or engaging in any practice, tryout, workout, or
19 other physical activity associated with the student's
20 candidacy for an interscholastic athletic team. Such medical
21 evaluation can only be administered by a practitioner licensed
22 under the provisions of chapter 458, chapter 459, chapter 460,
23 or s. 464.012, and in good standing with the practitioner's
24 regulatory board. The bylaws shall establish requirements for
25 eliciting a student's medical history and performing the
26 medical evaluation required under this subsection, which shall
27 include minimum standards for the physical capabilities
28 necessary for participation in interscholastic athletic
29 competition as contained in a uniform preparticipation
30 physical evaluation form. The evaluation form shall provide
31 place for the signature of the practitioner performing the

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1 evaluation with an attestation that each examination procedure
2 listed on the form was performed by the practitioner or by
3 someone under the direct supervision of the practitioner. The
4 form shall also contain a place for the practitioner to
5 indicate if a referral to another practitioner was made in
6 lieu of completion of a certain examination procedure. The
7 form shall provide a place for the practitioner to whom the
8 student was referred to complete the remaining sections and
9 attest to that portion of the examination. Practitioners
10 administering medical evaluations pursuant to this section
11 must know the minimum standards established by the
12 organization and certify that the student meets the standards.
13 If the practitioner determines that there are any abnormal
14 findings in the cardiovascular system, the student may not
15 participate unless a subsequent EKG or other cardiovascular
16 assessment indicates that the abnormality will not place the
17 student at risk during such participation. Results of such
18 medical evaluation must be provided to the school. No student
19 shall be eligible to participate in any interscholastic
20 athletic competition or engage in any practice, tryout,
21 workout, or other physical activity associated with the
22 student's candidacy for an interscholastic athletic team until
23 the results of the medical evaluation verifying that the
24 student has satisfactorily passed the evaluation have been
25 received and approved by the school.

26 (4) Notwithstanding the provisions of subsection (3),
27 a student may participate in interscholastic athletic
28 competition or be a candidate for an interscholastic athletic
29 team if the parent or guardian of the student objects in
30 writing to the student undergoing a medical evaluation because
31 such evaluation is contrary to his or her religious tenets or

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1 practices, provided that no person or entity shall be held
2 liable for any injury or other damages suffered by such
3 student.

4 Section 91. Section 240.4075, Florida Statutes, is
5 amended to read:

6 240.4075 Nursing Student Loan Forgiveness Program.--

7 (1) To encourage qualified personnel to seek
8 employment in areas of this state in which critical nursing
9 shortages exist, there is established the Nursing Student Loan
10 Forgiveness Program. The primary function of the program is
11 to increase employment and retention of registered nurses and
12 licensed practical nurses in nursing homes and hospitals in
13 the state and in state-operated medical and health care
14 facilities, public schools, birth centers, and federally
15 sponsored community health centers ~~and teaching hospitals~~ by
16 making repayments toward loans received by students from
17 federal or state programs or commercial lending institutions
18 for the support of postsecondary study in accredited or
19 approved nursing programs.

20 (2) To be eligible, a candidate must have graduated
21 from an accredited or approved nursing program and have
22 received a Florida license as a licensed practical nurse or a
23 registered nurse or a Florida certificate as an advanced
24 registered nurse practitioner.

25 (3) Only loans to pay the costs of tuition, books, and
26 living expenses shall be covered, at an amount not to exceed
27 \$4,000 for each year of education towards the degree obtained.

28 (4) Receipt of funds pursuant to this program shall be
29 contingent upon continued proof of employment in the
30 designated facilities in this state. Loan principal payments
31 shall be made by the Department of Health Education directly

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1 to the federal or state programs or commercial lending
2 institutions holding the loan as follows:

3 (a) Twenty-five percent of the loan principal and
4 accrued interest shall be retired after the first year of
5 nursing;

6 (b) Fifty percent of the loan principal and accrued
7 interest shall be retired after the second year of nursing;

8 (c) Seventy-five percent of the loan principal and
9 accrued interest shall be retired after the third year of
10 nursing; and

11 (d) The remaining loan principal and accrued interest
12 shall be retired after the fourth year of nursing.

13

14 In no case may payment for any nurse exceed \$4,000 in any
15 12-month period.

16 (5) There is created the Nursing Student Loan
17 Forgiveness Trust Fund to be administered by the Department of
18 Health Education pursuant to this section and s. 240.4076 and
19 department rules. The Comptroller shall authorize
20 expenditures from the trust fund upon receipt of vouchers
21 approved by the Department of Health Education. All moneys
22 collected from the private health care industry and other
23 private sources for the purposes of this section shall be
24 deposited into the Nursing Student Loan Forgiveness Trust
25 Fund. Any balance in the trust fund at the end of any fiscal
26 year shall remain therein and shall be available for carrying
27 out the purposes of this section and s. 240.4076.

28 (6) In addition to licensing fees imposed under part I
29 of chapter 464, there is hereby levied and imposed an
30 additional fee of \$5, which fee shall be paid upon licensure
31 or renewal of nursing licensure. Revenues collected from the

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1 shall increase the total funds available for loan forgiveness
2 and scholarships. Pledged contributions shall not be eligible
3 for matching prior to the actual collection of the total
4 private contribution for the year.

5 (8) The Department of Health Education may solicit
6 technical assistance relating to the conduct of this program
7 from the Department of Education Health.

8 (9) The Department of Health Education is authorized
9 to recover from the Nursing Student Loan Forgiveness Trust
10 Fund its costs for administering the Nursing Student Loan
11 Forgiveness Program.

12 (10) The Department of Health Education may adopt
13 rules necessary to administer this program.

14 (11) This section shall be implemented only as
15 specifically funded.

16 Section 92. Section 240.4076, Florida Statutes, is
17 amended to read:

18 240.4076 Nursing scholarship program.--

19 (1) There is established within the Department of
20 Health Education a scholarship program for the purpose of
21 attracting capable and promising students to the nursing
22 profession.

23 (2) A scholarship applicant shall be enrolled as a
24 full-time or part-time student in the upper division of an
25 approved nursing program leading to the award of a
26 baccalaureate degree or graduate degree to qualify for a
27 nursing faculty position or as an ~~or any~~ advanced registered
28 nurse practitioner ~~degree~~ or be enrolled as a full-time or
29 part-time student in an approved program leading to the award
30 of an associate degree in nursing ~~or a diploma in nursing~~.

31 (3) A scholarship may be awarded for no more than 2

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1 years, in an amount not to exceed \$8,000 per year. However,
2 registered nurses pursuing a graduate degree for a faculty
3 position or to practice as an advanced registered nurse
4 practitioner ~~degree~~ may receive up to \$12,000 per year.
5 Beginning July 1, 1998, these amounts shall be adjusted by the
6 amount of increase or decrease in the consumer price index for
7 urban consumers published by the United States Department of
8 Commerce.

9 (4) Credit for repayment of a scholarship shall be as
10 follows:

11 (a) For each full year of scholarship assistance, the
12 recipient agrees to work for 12 months in a faculty position
13 in a college of nursing or community college nursing program
14 in this state or at a health care facility in a medically
15 underserved area as approved by the Department of Health
16 ~~Education~~. Scholarship recipients who attend school on a
17 part-time basis shall have their employment service obligation
18 prorated in proportion to the amount of scholarship payments
19 received.

20 (b) Eligible health care facilities include nursing
21 homes and hospitals in this state, state-operated medical or
22 health care facilities, public schools, county health
23 departments, federally sponsored community health centers,
24 colleges of nursing in universities in this state, and
25 community college nursing programs in this state ~~or teaching~~
26 ~~hospitals as defined in s. 408.07~~. The recipient shall be
27 encouraged to complete the service obligation at a single
28 employment site. If continuous employment at the same site is
29 not feasible, the recipient may apply to the department for a
30 transfer to another approved health care facility.

31 (c) Any recipient who does not complete an appropriate

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1 program of studies or who does not become licensed shall repay
2 to the Department of Health Education, on a schedule to be
3 determined by the department, the entire amount of the
4 scholarship plus 18 percent interest accruing from the date of
5 the scholarship payment. Moneys repaid shall be deposited into
6 the Nursing Student Loan Forgiveness Trust Fund established in
7 s. 240.4075. However, the department may provide additional
8 time for repayment if the department finds that circumstances
9 beyond the control of the recipient caused or contributed to
10 the default.

11 (d) Any recipient who does not accept employment as a
12 nurse at an approved health care facility or who does not
13 complete 12 months of approved employment for each year of
14 scholarship assistance received shall repay to the Department
15 of Health Education an amount equal to two times the entire
16 amount of the scholarship plus interest accruing from the date
17 of the scholarship payment at the maximum allowable interest
18 rate permitted by law. Repayment shall be made within 1 year
19 of notice that the recipient is considered to be in default.
20 However, the department may provide additional time for
21 repayment if the department finds that circumstances beyond
22 the control of the recipient caused or contributed to the
23 default.

24 (5) Scholarship payments shall be transmitted to the
25 recipient upon receipt of documentation that the recipient is
26 enrolled in an approved nursing program. The Department of
27 Health Education shall develop a formula to prorate payments
28 to scholarship recipients so as not to exceed the maximum
29 amount per academic year.

30 (6) The Department of Health Education shall adopt
31 rules, including rules to address extraordinary circumstances

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1 that may cause a recipient to default on either the school
2 enrollment or employment contractual agreement, to implement
3 this section and may solicit technical assistance relating to
4 the conduct of this program from the Department of Health.

5 (7) The Department of Health Education is authorized
6 to recover from the Nursing Student Loan Forgiveness Trust
7 Fund its costs for administering the nursing scholarship
8 program.

9 Section 93. All powers, duties, and functions, rules,
10 records, personnel, property, and unexpended balances of
11 appropriations, allocations, or other funds of the Department
12 of Education relating to the Nursing Student Loan Forgiveness
13 Program and the nursing scholarship program are transferred by
14 a type two transfer, as defined in s. 20.06(2), Florida
15 Statutes, to the Department of Health.

16 Section 94. Effective July 1, 2003, section 464.005,
17 Florida Statutes, is amended to read:

18 464.005 Board headquarters.--The board shall maintain
19 its official headquarters in Tallahassee ~~the city in which it~~
20 ~~has been domiciled for the past 5 years.~~

21 Section 95. Subsections (1) and (2) of section
22 464.008, Florida Statutes, are amended to read:

23 464.008 Licensure by examination.--

24 (1) Any person desiring to be licensed as a registered
25 nurse or licensed practical nurse shall apply to the
26 department to take the licensure examination. The department
27 shall examine each applicant who:

28 (a) Has completed the application form and remitted a
29 fee set by the board not to exceed \$150 and has remitted an
30 examination fee set by the board not to exceed \$75 plus the
31 actual per applicant cost to the department for purchase of

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1 the examination from the National Council of State Boards of
2 Nursing or a similar national organization.

3 (b) Has provided sufficient information on or after
4 October 1, 1989, which must be submitted by the department for
5 a statewide criminal records correspondence check through the
6 Department of Law Enforcement.

7 (c) Is in good mental and physical health, is a
8 recipient of a high school diploma or the equivalent, and has
9 completed the requirements for graduation from an approved
10 program, or its equivalent as determined by the board, for the
11 preparation of registered nurses or licensed practical nurses,
12 whichever is applicable. Courses successfully completed in a
13 professional nursing program which are at least equivalent to
14 a practical nursing program may be used to satisfy the
15 education requirements for licensure as a licensed practical
16 nurse.

17 (d) Has the ability to communicate in the English
18 language, which may be determined by an examination given by
19 the department.

20 (2) Each applicant who passes the examination and
21 provides proof of meeting the educational requirements
22 specified in subsection (1)~~graduation from an approved~~
23 ~~nursing program~~ shall, unless denied pursuant to s. 464.018,
24 be entitled to licensure as a registered professional nurse or
25 a licensed practical nurse, whichever is applicable.

26 Section 96. Section 464.009, Florida Statutes, is
27 amended to read:

28 464.009 Licensure by endorsement.--

29 (1) The department shall issue the appropriate license
30 by endorsement to practice professional or practical nursing
31 to an applicant who, upon applying to the department and

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1 remitting a fee set by the board not to exceed \$100,
2 demonstrates to the board that he or she:

3 (a) Holds a valid license to practice professional or
4 practical nursing in another state of the United States,
5 provided that, when the applicant secured his or her original
6 license, the requirements for licensure were substantially
7 equivalent to or more stringent than those existing in Florida
8 at that time; or

9 (b) Meets the qualifications for licensure in s.
10 464.008 and has successfully completed a state, regional, or
11 national examination which is substantially equivalent to or
12 more stringent than the examination given by the department.

13 (2) Such examinations and requirements from other
14 states shall be presumed to be substantially equivalent to or
15 more stringent than those in this state. Such presumption
16 shall not arise until January 1, 1980. However, the board may,
17 by rule, specify states the examinations and requirements of
18 which shall not be presumed to be substantially equivalent to
19 those of this state.

20 (3) The applicant must submit to the department a set
21 of fingerprints on a form and under procedures specified by
22 the department, along with a payment in an amount equal to the
23 costs incurred by the Department of Health for the criminal
24 background check of the applicant. The Department of Health
25 shall submit the fingerprints provided by the applicant to the
26 Florida Department of Law Enforcement for a statewide criminal
27 history check, and the Florida Department of Law Enforcement
28 shall forward the fingerprints to the Federal Bureau of
29 Investigation for a national criminal history check of the
30 applicant. The Department of Health shall review the results
31 of the criminal history check, issue a license to an applicant

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1 who has met all of the other requirements for licensure and
2 has no criminal history, and shall refer all applicants with
3 criminal histories back to the board for determination as to
4 whether a license should be issued and under what conditions.

5 (4)(3) The department shall not issue a license by
6 endorsement to any applicant who is under investigation in
7 another state for an act which would constitute a violation of
8 this part or chapter 456 until such time as the investigation
9 is complete, at which time the provisions of s. 464.018 shall
10 apply.

11 (5) The department shall develop an electronic
12 applicant notification process and provide electronic
13 notification when the application has been received and when
14 background screenings have been completed, and shall issue a
15 license within 30 days after completion of all required data
16 collection and verification. This 30-day period to issue a
17 license shall be tolled if the applicant must appear before
18 the board due to information provided on the application or
19 obtained through screening and data collection and
20 verification procedures.

21 Section 97. Section 464.0195, Florida Statutes, is
22 created to read:

23 464.0195 Florida Center for Nursing; goals.--There is
24 established the Florida Center for Nursing to address issues
25 of supply and demand for nursing, including issues of
26 recruitment, retention, and utilization of nurse workforce
27 resources. The Legislature finds that the center will repay
28 the state's investment by providing an ongoing strategy for
29 the allocation of the state's resources directed towards
30 nursing. The primary goals for the center shall be to:

31 (1) Develop a strategic statewide plan for nursing

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1 manpower in this state by:

2 (a) Establishing and maintaining a database on nursing
3 supply and demand in the state, to include current supply and
4 demand, and future projections; and

5 (b) Selecting from the plan priorities to be
6 addressed.

7 (2) Convene various groups representative of nurses,
8 other health care providers, business and industry, consumers,
9 legislators, and educators to:

10 (a) Review and comment on data analysis prepared for
11 the center;

12 (b) Recommend systemic changes, including strategies
13 for implementation of recommended changes; and

14 (c) Evaluate and report the results of these efforts
15 to the Legislature and others.

16 (3) Enhance and promote recognition, reward, and
17 renewal activities for nurses in the state by:

18 (a) Promoting nursing excellence programs such as
19 magnet recognition by the American Nurses Credentialing
20 Center;

21 (b) Proposing and creating additional reward,
22 recognition, and renewal activities for nurses; and

23 (c) Promoting media and positive image-building
24 efforts for nursing.

25 Section 98. Section 464.0196, Florida Statutes, is
26 created to read:

27 464.0196 Florida Center for Nursing; board of
28 directors.--

29 (1) The Florida Center for Nursing shall be governed
30 by a policy-setting board of directors. The board shall
31 consist of 16 members, with a simple majority of the board

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1 being nurses representative of various practice areas. Other
2 members shall include representatives of other health care
3 professions, business and industry, health care providers, and
4 consumers. The members of the board shall be appointed by the
5 Governor as follows:

6 (a) Four members recommended by the President of the
7 Senate, at least one of whom shall be a registered nurse
8 recommended by the Florida Organization of Nurse Executives
9 and at least one other representative of the hospital industry
10 recommended by the Florida Hospital Association;

11 (b) Four members recommended by the Speaker of the
12 House of Representatives, at least one of whom shall be a
13 registered nurse recommended by the Florida Nurses Association
14 and at least one other representative of the long-term care
15 industry;

16 (c) Four members recommended by the Governor, two of
17 whom shall be registered nurses; and

18 (d) Four nurse educators recommended by the State
19 Board of Education, one of whom shall be a dean of a College
20 of Nursing at a state university, one other shall be a
21 director of a nursing program in a state community college.

22 (2) The initial terms of the members shall be as
23 follows:

24 (a) Of the members appointed pursuant to paragraph
25 (1)(a), two shall be appointed for terms expiring June 30,
26 2005, one for a term expiring June 30, 2004, and one for a
27 term expiring June 30, 2003.

28 (b) Of the members appointed pursuant to paragraph
29 (1)(b), one shall be appointed for a term expiring June 30,
30 2005, two for terms expiring June 30, 2004, and one for a term
31 expiring June 20, 2003.

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1 (c) Of the members appointed pursuant to paragraph
2 (1)(c), one shall be appointed for a term expiring June 30,
3 2005, one for a term expiring June 30, 2004, and two for terms
4 expiring June 30, 2003.

5 (d) Of the members appointed pursuant to paragraph
6 (1)(d), the terms of two members recommended by the State
7 Board of Education shall expire June 30, 2005; the term of the
8 member who is a dean of a College of Nursing at a state
9 university shall expire June 30, 2004; and the term of the
10 member who is a director of a state community college nursing
11 program shall expire June 30, 2003.

12
13 After the initial appointments expire, the terms of all the
14 members shall be for 3 years, with no member serving more than
15 two consecutive terms.

16 (3) The board shall have the following powers and
17 duties:

18 (a) To employ an executive director.

19 (b) To determine operational policy.

20 (c) To elect a chair and officers, to serve 2-year
21 terms. The chair and officers may not succeed themselves.

22 (d) To establish committees of the board as needed.

23 (e) To appoint a multidisciplinary advisory council
24 for input and advice on policy matters.

25 (f) To implement the major functions of the center as
26 established in the goals set out in s. 464.0195.

27 (g) To seek and accept nonstate funds for sustaining
28 the center and carrying out center policy.

29 (4) The members of the board are entitled to receive
30 per diem and allowances prescribed by law for state boards and
31 commissions.

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1 Section 99. Section 464.0197, Florida Statutes, is
2 created to read:

3 464.0197 Florida Center for Nursing; state budget
4 support.--The Legislature finds that it is imperative that the
5 state protect its investment and progress made in nursing
6 efforts to date. The Legislature finds that the Florida Center
7 for Nursing is the appropriate means to do so. The center
8 shall have state budget support for its operations so that it
9 may have adequate resources for the tasks the Legislature has
10 set out in s. 464.0195.

11 Section 100. The Board of Nursing within the
12 Department of Health shall hold in abeyance until July 1,
13 2002, the development of any rule pursuant to s. 464.019(2),
14 Florida Statutes, which relates to the establishment of
15 faculty/student clinical ratios. The Board of Nursing and the
16 Department of Education shall submit to the President of the
17 Senate and the Speaker of the House of Representatives by
18 December 31, 2001, an implementation plan that details both
19 the impact and the cost of any such proposed rule change.

20 Section 101. Subsection (1) of section 464.0205,
21 Florida Statutes, is amended to read:

22 464.0205 Retired volunteer nurse certificate.--

23 (1) Any retired practical or registered nurse desiring
24 to serve indigent, underserved, or critical need populations
25 in this state may apply to the department for a retired
26 volunteer nurse certificate by providing:

27 (a) A complete application.

28 ~~(b) An application and processing fee of \$25.~~

29 **(b)(c)** Verification that the applicant had been
30 licensed to practice nursing in any jurisdiction in the United
31 States for at least 10 years, had retired or plans to retire,

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1 intends to practice nursing only pursuant to the limitations
2 provided by the retired volunteer nurse certificate, and has
3 not committed any act that would constitute a violation under
4 s. 464.018(1).

5 (c)~~(d)~~ Proof that the applicant meets the requirements
6 for licensure under s. 464.008 or s. 464.009.

7 Section 102. The Florida Legislature's Office of
8 Program Policy Analysis and Government Accountability shall
9 study the feasibility of maintaining the entire Medical
10 Quality Assurance function, including enforcement, within one
11 department, as recommended by the Auditor General in
12 Operational Report Number 01-063. The study shall be completed
13 and a report issued to the Legislature on or before November
14 30, 2001.

15 Section 103. Effective October 1, 2001, section
16 456.0375, Florida Statutes, is created to read:

17 456.0375 Registration of certain clinics;
18 requirements; discipline; exemptions.--

19 (1)(a) As used in this section, the term "clinic"
20 means a business operating in a single structure or facility
21 or group of adjacent structures or facilities operating under
22 the same business name or management at which health care
23 services are provided to individuals and which tenders charges
24 for reimbursement for such services.

25 (b) For purposes of this section, the term "clinic"
26 does not include and the registration requirements in this
27 section do not apply to:

28 1. Entities licensed or registered by the state
29 pursuant to chapter 390, chapter 394, chapter 395, chapter
30 397, chapter 400, chapter 463, chapter 465, chapter 466,
31 chapter 478, chapter 480, or chapter 484.

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1 2. Entities exempt from federal taxation under 26
2 U.S.C. s. 501(c)(3).

3 3. Sole proprietorships, group practices,
4 partnerships, or corporations which provide health care
5 services by licensed health care practitioners pursuant to
6 chapter 457, chapter 458, chapter 459, chapter 460, chapter
7 461, chapter 462, chapter 463, chapter 466, chapter 467,
8 chapter 484, chapter 486, chapter 490, or chapter 491; part I,
9 part III, part X, part XIII, or part XIV of chapter 468; or s.
10 464.012, which are wholly owned by licensed health care
11 practitioners or wholly owned by licensed health care
12 practitioners and the spouse, parent, or child of a licensed
13 health care practitioner, so long as one of the owners who is
14 a licensed health care practitioner is supervising the
15 services performed therein and is legally responsible for the
16 entity's compliance with all federal and state laws. However,
17 no health care practitioner may supervise services beyond the
18 scope of the practitioner's license.

19 (2)(a) Every clinic, as defined in paragraph (1)(a),
20 must register, and at all times maintain a valid registration,
21 with the department. Each clinic location must be registered
22 separately even though operated under the same business name
23 or management, and each clinic must appoint a medical director
24 or clinic director.

25 (b) The department shall adopt rules necessary to
26 administer the registration program, including rules
27 establishing the specific registration procedures, forms, and
28 fees. Registration may be conducted electronically.
29 Registration fees must be calculated to reasonably cover the
30 cost of registration and must be of such amount that the total
31 fees collected do not exceed the cost of administering and

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1 enforcing compliance with this section. The registration
2 program must require:

3 1. The clinic to file the registration form with the
4 department within 60 days after the effective date of this
5 section or prior to the inception of operation. The
6 registration expires automatically 2 years after its date of
7 issuance and must be renewed biennially thereafter.

8 2. The registration form to contain the name,
9 residence, and business address, phone number, and license
10 number of the medical director or clinic director for the
11 clinic.

12 3. The clinic to display the registration certificate
13 in a conspicuous location within the clinic which is readily
14 visible to all patients.

15 (3)(a) Each clinic must employ or contract with a
16 physician maintaining a full and unencumbered physician
17 license in accordance with chapter 458, chapter 459, chapter
18 460, or chapter 461 to serve as the medical director. However,
19 if the clinic is limited to providing health care services
20 pursuant to chapter 457, chapter 484, chapter 486, chapter
21 490, or chapter 491 or part I, part III, part X, part XIII, or
22 part XIV of chapter 468, the clinic may appoint a health care
23 practitioner licensed under that chapter to serve as the
24 clinic director who is responsible for the clinic's
25 activities. A health care practitioner may not serve as the
26 clinic director if the services provided at the clinic are
27 beyond the scope of that practitioner's license.

28 (b) The medical director or clinic director must agree
29 in writing to accept responsibility for the following
30 activities on behalf of the clinic. The medical director or
31 the clinic director shall:

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1 this section. In determining the quality of supervision a
2 medical director or clinic director can provide, the
3 department shall consider the number of clinic employees, the
4 clinic location, and the services provided by the clinic.

5 (4)(a) All charges or reimbursement claims made by or
6 on behalf of a clinic that is required to be registered under
7 this section but that is not so registered are unlawful
8 charges and therefore are noncompensable and unenforceable.

9 (b) Any person establishing, operating, or managing an
10 unregistered clinic otherwise required to be registered under
11 this section commits a felony of the third degree, punishable
12 as provided in s. 775.082, s. 775.083, or s. 775.084.

13 (c) Any licensed health care practitioner who violates
14 this section is subject to discipline in accordance with this
15 chapter and the respective practice act.

16 (d) The department shall revoke the registration of
17 any clinic registered under this section for operating in
18 violation of the requirements of this section or the rules
19 adopted pursuant to this section.

20 (e) The department shall investigate allegations of
21 noncompliance with this section and the rules adopted pursuant
22 to this section.

23 Section 104. The sum of \$100,000 is appropriated from
24 the registration fees collected from clinics pursuant to s.
25 456.0375, Florida Statutes, and one-half of one full-time
26 equivalent position is authorized, to the Department of Health
27 for the purposes of regulating medical clinics pursuant to s.
28 456.0375, Florida Statutes. The appropriated funds shall be
29 deposited into the Medical Quality Assurance Trust Fund.

30 Section 105. Subsection (3) of section 456.031,
31 Florida Statutes, is amended to read:

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1 456.031 Requirement for instruction on domestic
2 violence.--

3 (3)(a) In lieu of completing a course as required in
4 subsection (1), a licensee or certificateholder may complete a
5 course in end-of-life care and palliative health care, if the
6 licensee or certificateholder has completed an approved
7 domestic violence course in the immediately preceding
8 biennium.

9 (b) In lieu of completing a course as required by
10 subsection (1), a person licensed under chapter 466 who has
11 completed an approved domestic-violence education course in
12 the immediately preceding 2 years may complete a course
13 approved by the Board of Dentistry.

14 Section 106. Subsection (9) of section 456.033,
15 Florida Statutes, is amended to read:

16 456.033 Requirement for instruction for certain
17 licensees on human immunodeficiency virus and acquired immune
18 deficiency syndrome.--

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

24 (b) In lieu of completing a course as required by
25 subsection (1), a person licensed under chapter 466 who has
26 completed an approved AIDS/HIV course in the immediately
27 preceding 2 years may complete a course approved by the Board
28 of Dentistry.

29 Section 107. (1) Subsection (9) is added to section
30 627.419, Florida Statutes, to read:

31 627.419 Construction of policies.--

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- 1 operation.
- 2 2. Biological effects of radiation.
- 3 3. Radiation exposure and monitoring.
- 4 4. Radiation safety and protection.
- 5 5. Evaluation of radiographic equipment and
- 6 accessories.
- 7 6. Radiographic exposure and technique factors.
- 8 7. Film processing.
- 9 8. Image quality assurance.
- 10 9. Patient positioning.
- 11 10. Administration and complications of contrast
- 12 media.
- 13 11. Specific fluoroscopic and digital X-ray imaging
- 14 procedures related to invasive cardiovascular technology.
- 15 (d) A person who is a general radiographer certified
- 16 pursuant to this part who is trained and skilled in radiologic
- 17 technology procedures appropriate to managing patients in the
- 18 course of radiation therapy treatment and who provides these
- 19 services while assisting a person registered with the American
- 20 Registry of Radiologic Technologists in radiation therapy
- 21 under the general supervision of a physician licensed under
- 22 chapter 458 or chapter 459 who is trained and skilled in
- 23 performing radiation therapy treatments, and who assists in
- 24 providing radiation therapy procedures. Such persons must
- 25 successfully complete a training program in the following
- 26 areas before performing radiologic technology duties:
- 27 1. Principles of radiation therapy treatment;
- 28 2. Biological effects of radiation;
- 29 3. Radiation exposure and monitoring;
- 30 4. Radiation safety and protection;
- 31 5. Evaluation and handling of radiographic treatment

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1 equipment and accessories; and

2 6. Patient positioning for radiation therapy
3 treatment.

4 Section 109. Subsections (8) and (9) of section
5 468.352, Florida Statutes, are amended to read:

6 468.352 Definitions.--As used in this part, unless the
7 context otherwise requires, the term:

8 (8) "Registered respiratory therapist" means any
9 person licensed pursuant to this part who is employed to
10 deliver respiratory care services under the order of a
11 physician licensed pursuant to chapter 458 or chapter 459, and
12 in accordance with protocols established by a hospital, other
13 health care provider, or the board, and who functions in
14 situations of unsupervised patient contact requiring
15 individual judgment.

16 (9) "Certified respiratory therapist" or "respiratory
17 care practitioner" means any person licensed pursuant to this
18 part who is employed to deliver respiratory care services
19 under the order of a physician licensed pursuant to chapter
20 458 or chapter 459, and in accordance with protocols
21 established by a hospital, other health care provider, or the
22 board.

23 Section 110. Subsections (1) and (2) of section
24 468.355, Florida Statutes, are amended to read:

25 468.355 Eligibility for licensure; temporary
26 licensure.--

27 (1) To be eligible for licensure by the board as a
28 certified respiratory therapist ~~respiratory care practitioner~~,
29 an applicant must:

30 (a) Be at least 18 years old.

31 (b) Possess a high school diploma or a graduate

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1 equivalency diploma.

2 (c) Meet at least one of the following criteria:

3 1. The applicant has successfully completed a training
4 program for respiratory therapy technicians or respiratory
5 therapists approved by the Commission on Accreditation of
6 Allied Health Education Programs, or the equivalent thereof,
7 as accepted by the board.

8 2. The applicant is currently a "Certified Respiratory
9 Therapist ~~Therapy Technician~~" certified by the National Board
10 for Respiratory Care, or the equivalent thereof, as accepted
11 by the board.

12 3. The applicant is currently a "Registered
13 Respiratory Therapist" registered by the National Board for
14 Respiratory Care, or the equivalent thereof, as accepted by
15 the board.

16
17 The criteria set forth in subparagraphs 2. and 3.
18 notwithstanding, the board shall periodically review the
19 examinations and standards of the National Board for
20 Respiratory Care and may reject those examinations and
21 standards if they are deemed inappropriate.

22 (2) To be eligible for licensure by the board as a
23 registered respiratory therapist, an applicant must:

24 (a) Be at least 18 years old.

25 (b) Possess a high school diploma or a graduate
26 equivalency diploma.

27 (c) Meet at least one of the following criteria:

28 1. The applicant has successfully completed a training
29 program for registered respiratory therapists approved by the
30 Commission on Accreditation of Allied Health Education
31 Programs, or the equivalent thereof, as accepted by the board.

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1 2. The applicant is currently a "Registered
2 Respiratory Therapist" registered by the National Board for
3 Respiratory Care, or the equivalent thereof, as accepted by
4 the board.

5
6 The criteria set forth in subparagraphs 1. and 2.
7 notwithstanding, the board shall periodically review the
8 examinations and standards of the National Board for
9 Respiratory Care and may reject those examinations and
10 standards if they are deemed inappropriate.

11 Section 111. Section 468.357, Florida Statutes, is
12 amended to read:

13 468.357 Licensure by examination.--

14 (1) A person who desires to be licensed as a certified
15 respiratory therapist ~~respiratory care practitioner~~ may submit
16 an application to take the examination, in accordance with
17 board rule.

18 (a) Each applicant may take the examination who is
19 determined by the board to have:

20 1. Completed the application form and remitted the
21 applicable fee set by the board;

22 2. Submitted required documentation as required in s.
23 468.355; and

24 3. Remitted an examination fee set by the examination
25 provider.

26 (b) Examinations for licensure of certified
27 respiratory therapist ~~respiratory care practitioners~~ must be
28 conducted no less than two times a year in such geographical
29 locations or by such methods as are deemed advantageous to the
30 majority of the applicants.

31 (c) The examination given for certified respiratory

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1 ~~therapist respiratory care practitioners~~ shall be the same as
2 that given by the National Board for Respiratory Care for
3 entry-level certification of respiratory therapists ~~therapy~~
4 ~~technicians~~. However, an equivalent examination may be
5 accepted by the board in lieu of that examination.

6 (2) Each applicant who passes the examination shall be
7 entitled to licensure as a certified respiratory therapist
8 ~~respiratory care practitioner~~, and the department shall issue
9 a license pursuant to this part to any applicant who
10 successfully completes the examination in accordance with this
11 section. However, the department shall not issue a license to
12 any applicant who is under investigation in another
13 jurisdiction for an offense which would constitute a violation
14 of this part. Upon completion of such an investigation, if the
15 applicant is found guilty of such an offense, the applicable
16 provisions of s. 468.365 will apply.

17 Section 112. Subsections (1) and (2) of section
18 468.358, Florida Statutes, are amended to read:

19 468.358 Licensure by endorsement.--

20 (1) Licensure as a certified respiratory therapist
21 ~~respiratory care practitioner~~ shall be granted by endorsement
22 to an individual who holds the "Certified Respiratory
23 Therapist ~~Therapy Technician~~" credential issued by the
24 National Board for Respiratory Care or an equivalent
25 credential acceptable to the board. Licensure by this
26 mechanism requires verification by oath and submission of
27 evidence satisfactory to the board that such credential is
28 held.

29 (2) Licensure as a registered respiratory therapist
30 shall be granted by endorsement to an individual who holds the
31 "Registered Respiratory Therapist" credential issued by the

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1 National Board for Respiratory Care or an equivalent
2 credential acceptable to the board. Licensure by this
3 mechanism requires verification by oath and submission of
4 evidence satisfactory to the board that such credential is
5 held.

6 Section 113. Section 468.359, Florida Statutes, is
7 amended to read:

8 468.359 Assumption of title and use of
9 abbreviations.--

10 (1) Only persons who are licensed pursuant to this
11 part as respiratory care practitioners have the right to use
12 the title "Respiratory Care Practitioner" and the abbreviation
13 "RCP."

14 (2) Only persons who are licensed pursuant to this
15 part as registered respiratory therapists have the right to
16 use the title "Registered Respiratory Therapist" and the
17 abbreviation "RRT," when delivering services pursuant to this
18 part ~~provided such persons have passed the Registry~~
19 ~~Examination for Respiratory Therapists given by the National~~
20 ~~Board for Respiratory Care.~~

21 (3) Only persons who are licensed pursuant to this
22 part as certified respiratory therapists have the right to use
23 the title "Certified Respiratory Therapist" and the
24 abbreviation "CRT" when delivering services pursuant to this
25 part. ~~graduates of board-approved programs for respiratory~~
26 ~~care practitioners may use the term "Graduate Respiratory~~
27 ~~Therapy Technician" and the abbreviation "GRTT."~~

28 (4) ~~Only persons who are graduates of board-approved~~
29 ~~programs for respiratory therapists may use the term "Graduate~~
30 ~~Respiratory Therapist" and the abbreviation "GRT."~~

31 (4)(5) No person in this state shall deliver

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1 respiratory care services; advertise as, or assume the title
2 of, respiratory care practitioner, certified respiratory
3 therapist, or registered respiratory therapist; or use the
4 abbreviation "RCP, "CRT," or "RRT" that would lead the public
5 to believe that such person is licensed pursuant to this part
6 unless such person is so licensed; or take any other action
7 that would lead the public to believe that such person is
8 licensed pursuant to this part unless such person is so
9 licensed.

10 Section 114. Subsections (2), (3), and (4) of section
11 468.1155, Florida Statutes, are amended to read:

12 468.1155 Provisional license; requirements.--

13 (2) The department shall issue a provisional license
14 to practice speech-language pathology to each applicant who
15 the board certifies has:

16 (a) Completed the application form and remitted the
17 required fees, including a nonrefundable application fee.

18 (b) Received a master's degree or is currently
19 enrolled in a doctoral degree program with a major emphasis in
20 speech-language pathology from an institution of higher
21 learning which is, or at the time the applicant was enrolled
22 and graduated, ~~was, accredited~~ by an accrediting agency
23 recognized by the Council for Higher Education ~~Commission on~~
24 ~~Recognition of Postsecondary~~ Accreditation or from an
25 institution which is ~~publicly recognized as~~ a member in good
26 standing with the Association of Universities and Colleges of
27 Canada. An applicant who graduated from or is currently
28 enrolled in a program at a university or college outside the
29 United States or Canada must present documentation of the
30 determination of equivalency to standards established by the
31 Council for Higher Education ~~Commission on Recognition of~~

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1 ~~Postsecondary~~ Accreditation in order to qualify. The
2 applicant must have completed 60 semester hours that include:

3 1. Fundamental information applicable to the normal
4 development and use of speech, hearing, and language;
5 information about training in management of speech, hearing,
6 and language disorders; and information supplementary to these
7 fields.

8 2. Six semester hours in audiology.

9 3. Thirty of the required 60 semester hours in courses
10 acceptable toward a graduate degree by the college or
11 university in which these courses were taken, of which 24
12 semester hours must be in speech-language pathology.

13 (c) Completed 300 supervised clinical clock hours with
14 200 clock hours in the area of speech-language pathology or
15 completed the number of clock hours required by an accredited
16 institution meeting national certification standards. The
17 supervised clinical clock hours shall be completed within the
18 training institution or one of its cooperating programs.

19 (3) The department shall issue a provisional license
20 to practice audiology to each applicant who the board
21 certifies has:

22 (a) Completed the application form and remitted the
23 required fees, including a nonrefundable application fee.

24 (b) Received a master's degree or is currently
25 enrolled in a doctoral degree program with a major emphasis in
26 audiology from an institution of higher learning which is, or
27 at the time the applicant was enrolled and graduated was,
28 accredited by an accrediting agency recognized by the Council
29 for Higher Education Commission on Recognition of
30 ~~Postsecondary~~ Accreditation or from an institution which is
31 ~~publicly recognized as~~ a member in good standing with the

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1 Association of Universities and Colleges of Canada. An
2 applicant who graduated from or is currently enrolled in a
3 program at a university or college outside the United States
4 or Canada must present documentation of the determination of
5 equivalency to standards established by the Council for Higher
6 Education Commission on Recognition of Postsecondary
7 Accreditation in order to qualify. The applicant must have
8 completed 60 semester hours that include:
9 1. Fundamental information applicable to the normal
10 development and use of speech, hearing, and language;
11 information about training in management of speech, hearing,
12 and language disorders; and information supplementary to these
13 fields.
14 2. Six semester hours in speech-language pathology.
15 3. Thirty of the required 60 semester hours in courses
16 acceptable toward a graduate degree by the college or
17 university in which these courses were taken, of which 24
18 semester hours must be in audiology.
19 (c) Completed 300 supervised clinical clock hours with
20 200 clock hours in the area of audiology or completed the
21 number of clock hours required by an accredited institution
22 meeting national certification standards. The supervised
23 clinical clock hours shall be completed within the training
24 institution or one of its cooperating programs.
25 (4) An applicant ~~for a provisional license~~ who has
26 received a master's degree or is currently enrolled in a
27 doctoral degree program with a major emphasis in
28 speech-language pathology as provided in subsection (2), or
29 audiology as provided in subsection (3), and who seeks
30 licensure in the area in which the applicant is not currently
31 licensed, must have completed 30 semester hours in courses

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1 acceptable toward a graduate degree and 200 supervised
 2 clinical clock hours in the second discipline from an
 3 accredited institution.

4 Section 115. Paragraph (b) of subsection (1) and
 5 paragraph (b) of subsection (2) of section 468.1215, Florida
 6 Statutes, are amended to read:

7 468.1215 Speech-language pathology assistant and
 8 audiology assistant; certification.--

9 (1) The department shall issue a certificate as a
 10 speech-language pathology assistant to each applicant who the
 11 board certifies has:

12 (b) Earned a bachelor's degree from a college or
 13 university accredited by a regional association of colleges
 14 and schools recognized by the Department of Education which
 15 includes at least 24 semester hours of coursework as approved
 16 by the board at an institution accredited by an accrediting
 17 agency recognized by the Council for Higher Education
 18 ~~Commission on Recognition of Postsecondary~~ Accreditation.

19 (2) The department shall issue a certificate as an
 20 audiology assistant to each applicant who the board certifies
 21 has:

22 (b) Completed at least 24 semester hours of coursework
 23 as approved by the board at an institution accredited by an
 24 accrediting agency recognized by the Council for Higher
 25 Education ~~Commission on Recognition of Postsecondary~~
 26 Accreditation.

27 Section 116. Subsection (3) of section 480.033,
 28 Florida Statutes, is amended to read:

29 480.033 Definitions.--As used in this act:

30 (3) "Massage" means the manipulation of the soft
 31 ~~superficial~~ tissues of the human body with the hand, foot,

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1 arm, or elbow, whether or not such manipulation is aided by
2 hydrotherapy, including colonic irrigation, or thermal
3 therapy; any electrical or mechanical device; or the
4 application to the human body of a chemical or herbal
5 preparation.

6 Section 117. Subsection (3) of section 484.002,
7 Florida Statutes, is amended, and subsection (8) is added to
8 that section, to read:

9 484.002 Definitions.--As used in this part:

10 (3) "Opticianry" means the preparation and dispensing
11 of lenses, spectacles, eyeglasses, contact lenses, and other
12 optical devices to the intended user or agent thereof, upon
13 the written prescription of a licensed allopathic or
14 osteopathic physician ~~medical doctor~~ or optometrist who is
15 duly licensed to practice or upon presentation of a duplicate
16 prescription. The selection of frame designs, the actual
17 sales transaction, and the transfer of physical possession of
18 lenses, spectacles, eyeglasses, contact lenses, and other
19 optical devices subsequent to performance of all services of
20 the optician shall not be considered the practice of
21 opticianry; however, such physical possession shall not be
22 transferred until the optician has completed the fitting of
23 the optical device upon the customer. The practice of
24 opticianry also includes the duplication of lenses accurately
25 as to power, without prescription. A board-certified optician
26 qualified and operating under rules established by the board
27 may fill, fit, adapt, or dispense any soft contact lens
28 prescription. Such optician may fill, fit, adapt, or dispense
29 any extended wear or hard contact lens prescription to the
30 extent authorized to do so by the prescribing allopathic or
31 osteopathic physician ~~medical doctor~~ or optometrist.

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1 (8) "Contact lenses" means a prescribed medical device
2 intended to be worn directly against the cornea of the eye to
3 correct vision conditions, act as a therapeutic device, or
4 provide a cosmetic effect.

5 (9) "Optical Dispensing" means interpreting but not
6 altering a prescription of a licensed physician or optometrist
7 and designing, adapting, fitting, or replacing the prescribed
8 optical aids, pursuant to such prescription, to or for the
9 intended wearer, duplicating lenses, accurately as to power
10 without a prescription and duplicating nonprescription eyewear
11 and parts of eyewear. "Optical Dispensing" does not include
12 selecting frames, transferring an optical aid to the wearer
13 after an optician has completed fitting it, or providing
14 instruction in the general care and use of an optical aid,
15 including placement, removal, hygiene, or cleaning.

16 Section 118. Subsection (2) of section 484.006,
17 Florida Statutes, is amended to read:

18 484.006 Certain rules prohibited.--

19 (2) No rule or policy of the board shall prohibit any
20 optician from practicing jointly with optometrists or
21 allopathic or osteopathic physicians ~~medical doctors~~ licensed
22 in this state.

23 Section 119. Subsections (1) and (2) of section
24 484.012, Florida Statutes, are amended to read:

25 484.012 Prescriptions; filing; duplication of
26 prescriptions; duplication of lenses.--

27 (1) Any prescription written by a duly licensed
28 allopathic or osteopathic physician ~~medical doctor~~ or
29 optometrist for any lenses, spectacles, eyeglasses, contact
30 lenses, or other optical devices shall be kept on file for a
31 period of 2 years with the optical establishment that fills

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1 such prescription. However, the licensed optician may
2 maintain a copy of the prescription.

3 (2) Upon request by the intended user of the
4 prescribed lenses, spectacles, eyeglasses, contact lenses, or
5 other optical devices, or by an agent of the intended user,
6 the optician who fills the original prescription shall
7 duplicate, on a form prescribed by rule of the board, the
8 original prescription. However, for medical reasons only, the
9 prescribing allopathic or osteopathic physician ~~medical doctor~~
10 or optometrist may, upon the original prescription, prohibit
11 its duplication. Any duplication shall be considered a valid
12 prescription to be filled for a period of 5 years from the
13 date of the original prescription, except that a contact lens
14 prescription shall be considered a valid prescription to be
15 filled for a period of 2 years from the date of the original
16 prescription.

17 Section 120. Section 484.015, Florida Statutes, is
18 amended to read:

19 484.015 Authority to inspect.--Duly authorized agents
20 and employees of the department shall have the power to
21 inspect in a lawful manner at all reasonable hours an any
22 establishment of any kind in the state in which lenses,
23 spectacles, eyeglasses, contact lenses, and any other optical
24 devices are prepared or ~~and~~ dispensed, for the purposes of:

25 (1) Determining if any provision of this part, or any
26 rule promulgated under its authority, is being violated;

27 (2) Securing samples or specimens of any lenses,
28 spectacles, eyeglasses, contact lenses, or other optical
29 devices, after paying or offering to pay for such sample or
30 specimen; or

31 (3) Securing such other evidence as may be needed for

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1 prosecution under this part.

2 Section 121. Subsection (1) of section 484.0445,
3 Florida Statutes, is amended to read:

4 484.0445 Training program.--

5 (1) The board shall establish by rule a training
6 program for a minimum not to exceed 6 months in length, which
7 may include a board-approved home study course. ~~Upon~~
8 ~~submitting to the department the registration fee, the~~
9 ~~applicant may register and enter the training program. Upon~~
10 ~~completion of the training program, the trainee shall take the~~
11 ~~first available written and practical examinations offered by~~
12 ~~the department. The department shall administer the written~~
13 ~~and practical examinations as prescribed by board rule. If~~
14 ~~the trainee fails either the written or the practical~~
15 ~~examination, she or he may repeat the training program one~~
16 ~~time and retake the failed examination, provided she or he~~
17 ~~takes the next available examination. No person may remain in~~
18 ~~trainee status or further perform any services authorized for~~
19 ~~a trainee if she or he fails either the written or the~~
20 ~~practical examination twice; but, a trainee may continue to~~
21 ~~function as a trainee until she or he has received the results~~
22 ~~of the examinations. Any applicant who has failed an~~
23 ~~examination twice and is no longer functioning as a trainee~~
24 ~~shall be eligible for reexamination as provided in s.~~
25 ~~484.045(2).~~

26 Section 122. Section 484.045, Florida Statutes, is
27 amended to read:

28 484.045 Licensure by examination.--

29 (1) Any person desiring to be licensed as a hearing
30 aid specialist shall apply to the department on a form
31 approved by the department to take the licensure examination,

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1 ~~which shall include a clinical practical component.~~

2 (2) The department shall license ~~examine~~ each
3 applicant who the board certifies:

4 (a) Has completed the application form and remitted
5 the required fees ~~applicable fee to the board and has paid the~~
6 ~~examination fee;~~

7 (b) Is of good moral character;

8 (c) Is 18 years of age or older;

9 (d) Is a graduate of an accredited high school or its
10 equivalent; ~~and~~

11 (e)1. Has met the requirements of the training program
12 ~~set forth in s. 484.0445; or~~

13 2.a. Has a valid, current license as a hearing aid
14 specialist or its equivalent from another state and has been
15 actively practicing in such capacity for at least 12 months;
16 or

17 b. Is currently certified by the National Board for
18 Certification in Hearing Instrument Sciences and has been
19 actively practicing for at least 12 months. ~~Persons qualifying~~
20 ~~under this sub-subparagraph need not take the written or~~
21 ~~practical examination, but must take and pass a test on~~
22 ~~Florida laws and rules relating to the fitting and dispensing~~
23 ~~of hearing aids.~~

24 (f) Has passed an examination, as prescribed by board
25 rule; and

26 (g) Has demonstrated, in a manner designated by rule
27 of the board, knowledge of state laws and rules relating to
28 the fitting and dispensing of hearing aids.

29 (3) A person who fails the examination may make
30 application for reexamination to the appropriate examining
31 entity, as prescribed by board rule.

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1 ~~(2) On or after October 1, 1990, every applicant who~~
2 ~~is qualified to take the examination shall be allowed to take~~
3 ~~the examination three times. If, after October 1, 1990, an~~
4 ~~applicant fails the examination three times, the applicant~~
5 ~~shall no longer be eligible to take the examination.~~

6 ~~(3) The department shall issue a license to practice~~
7 ~~dispensing hearing aids to any applicant who successfully~~
8 ~~completes the examination in accordance with this section.~~

9 Section 123. Effective January 1, 2002, subsection (1)
10 of section 490.012, Florida Statutes, is amended to read:

11 490.012 Violations; penalties; injunction.--

12 (1)(a) No person shall hold herself or himself out by
13 any professional title, name, or description incorporating the
14 word "psychologist" unless such person holds a valid, active
15 license as a psychologist under this chapter.

16 (b) No person shall hold herself or himself out by any
17 professional title, name, or description incorporating the
18 words "school psychologist" unless such person holds a valid,
19 active license as a school psychologist under this chapter or
20 is certified as a school psychologist by the Department of
21 Education.

22 ~~(c)(i)(a)~~ No person shall hold herself or himself out
23 by any title or description incorporating the words, or
24 permutations of them, ~~"psychologist," "psychology,"~~
25 ~~"psychological," "psychodiagnostic," or "school psychologist,"~~
26 or describe any test or report as psychological, unless such
27 person holds a valid, active license under this chapter or is
28 exempt from the provisions of this chapter.

29 ~~(d)(b)~~ No person shall hold herself or himself out by
30 any title or description incorporating the word, or a
31 permutation of the word, "psychotherapy" unless such person

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1 holds a valid, active license under chapter 458, chapter 459,
2 chapter 490, or chapter 491, or such person is certified as an
3 advanced registered nurse practitioner, pursuant to s.
4 464.012, who has been determined by the Board of Nursing as a
5 specialist in psychiatric mental health.

6 (e)~~(c)~~ No person licensed or provisionally licensed
7 pursuant to this chapter shall hold herself or himself out by
8 any title or description which indicates licensure other than
9 that which has been granted to her or him.

10 Section 124. Effective January 1, 2002, Florida
11 Statutes, is amended to read:

12 490.014 Exemptions.--

13 (1)(a) No provision of this chapter shall be construed
14 to limit the practice of physicians licensed pursuant to
15 chapter 458 or chapter 459 so long as they do not hold
16 themselves out to the public as psychologists or use a
17 professional title protected by this chapter.

18 (b) No provision of this chapter shall be construed to
19 limit the practice of nursing, clinical social work, marriage
20 and family therapy, mental health counseling, or other
21 recognized businesses or professions, or to prevent qualified
22 members of other professions from doing work of a nature
23 consistent with their training, so long as they do not hold
24 themselves out to the public as psychologists or use a title
25 or description protected by this chapter. Nothing in this
26 subsection shall be construed to exempt any person from the
27 provisions of s. 490.012.

28 (2) No person shall be required to be licensed or
29 provisionally licensed under this chapter who:

30 (a) Is a salaried employee of a government agency;
31 developmental services program, mental health, alcohol, or

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1 drug abuse facility operating pursuant to chapter 393, chapter
2 394, or chapter 397; subsidized child care program, subsidized
3 child care case management program, or child care resource and
4 referral program operating pursuant to chapter 402;
5 child-placing or child-caring agency licensed pursuant to
6 chapter 409; domestic violence center certified pursuant to
7 chapter 39; accredited academic institution; or research
8 institution, if such employee is performing duties for which
9 he or she was trained and hired solely within the confines of
10 such agency, facility, or institution, so long as the employee
11 is not held out to the public as a psychologist pursuant to s.
12 490.012(1)(a).

13 (b) Is a salaried employee of a private, nonprofit
14 organization providing counseling services to children, youth,
15 and families, if such services are provided for no charge, if
16 such employee is performing duties for which he or she was
17 trained and hired, so long as the employee is not held out to
18 the public as a psychologist pursuant to s. 490.012(1)(a).

19 (c) Is a student who is pursuing a course of study
20 which leads to a degree in medicine or a profession regulated
21 by this chapter who is providing services in a training
22 setting, provided such activities or services constitute part
23 of a supervised course of study, or is a graduate accumulating
24 the experience required for any licensure under this chapter,
25 provided such graduate or student is designated by a title
26 such as "intern" or "trainee" which clearly indicates the
27 in-training status of the student.

28 (d) Is certified in school psychology by the
29 Department of Education and is performing psychological
30 services as an employee of a public or private educational
31 institution. Such exemption shall not be construed to

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1 authorize any unlicensed practice which is not performed as a
2 direct employee of an educational institution.

3 (e) Is not a resident of the state but offers services
4 in this state, provided:

5 1. Such services are performed for no more than 5 days
6 in any month and no more than 15 days in any calendar year;
7 and

8 2. Such nonresident is licensed or certified by a
9 state or territory of the United States, or by a foreign
10 country or province, the standards of which were, at the date
11 of his or her licensure or certification, equivalent to or
12 higher than the requirements of this chapter in the opinion of
13 the department or, in the case of psychologists, in the
14 opinion of the board.

15 (f) Is a rabbi, priest, minister, or member of the
16 clergy of any religious denomination or sect when engaging in
17 activities which are within the scope of the performance of
18 his or her regular or specialized ministerial duties and for
19 which no separate charge is made, or when such activities are
20 performed, with or without charge, for or under the auspices
21 or sponsorship, individually or in conjunction with others, of
22 an established and legally cognizable church, denomination, or
23 sect, and when the person rendering service remains
24 accountable to the established authority thereof.

25 (3) No provision of this chapter shall be construed to
26 limit the practice of any individual who solely engages in
27 behavior analysis so long as he or she does not hold himself
28 or herself out to the public as possessing a license issued
29 pursuant to this chapter or use a title or description
30 protected by this chapter.

31 (4) Nothing in this section shall exempt any person

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1 from the provisions ~~provision~~ of s. 490.012(1)(a)-(b)~~(a)-(b)~~.

2 (5) Except as stipulated by the board, the exemptions
3 contained in this section do not apply to any person licensed
4 under this chapter whose license has been suspended or revoked
5 by the board or another jurisdiction.

6 Section 125. Effective January 1, 2002, paragraphs
7 (i), (j), and (k) of subsection (1) of section 491.012,
8 Florida Statutes, are amended to read:

9 491.012 Violations; penalty; injunction.--

10 (1) It is unlawful and a violation of this chapter for
11 any person to:

12 (i) Practice clinical social work in this state, ~~as~~
13 ~~the practice is defined in s. 491.003(7),~~ for compensation,
14 unless the person holds a valid, active license to practice
15 clinical social work issued pursuant to this chapter or is an
16 intern registered pursuant to s. 491.0045.

17 (j) Practice marriage and family therapy in this
18 state, ~~as the practice is defined in s. 491.003(8),~~ for
19 compensation, unless the person holds a valid, active license
20 to practice marriage and family therapy issued pursuant to
21 this chapter or is an intern registered pursuant to s.
22 491.0045.

23 (k) Practice mental health counseling in this state,
24 ~~as the practice is defined in s. 491.003(9),~~ for compensation,
25 unless the person holds a valid, active license to practice
26 mental health counseling issued pursuant to this chapter or is
27 an intern registered pursuant to s. 491.0045.

28 Section 126. Effective January 1, 2002, paragraphs (a)
29 and (b) of subsection (4) of section 491.014, Florida
30 Statutes, are amended to read:

31 491.014 Exemptions.--

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1 (4) No person shall be required to be licensed,
2 provisionally licensed, registered, or certified under this
3 chapter who:

4 (a) Is a salaried employee of a government agency;
5 developmental services program, mental health, alcohol, or
6 drug abuse facility operating pursuant to chapter 393, chapter
7 394, or chapter 397; subsidized child care program, subsidized
8 child care case management program, or child care resource and
9 referral program operating pursuant to chapter 402;
10 child-placing or child-caring agency licensed pursuant to
11 chapter 409; domestic violence center certified pursuant to
12 chapter 39; accredited academic institution; or research
13 institution, if such employee is performing duties for which
14 he or she was trained and hired solely within the confines of
15 such agency, facility, or institution, so long as the employee
16 is not held out to the public as a clinical social worker,
17 mental health counselor, or marriage and family therapist.

18 (b) Is a salaried employee of a private, nonprofit
19 organization providing counseling services to children, youth,
20 and families, if such services are provided for no charge, if
21 such employee is performing duties for which he or she was
22 trained and hired, so long as the employee is not held out to
23 the public as a clinical social worker, mental health
24 counselor, or marriage and family therapist.

25 Section 127. Subsection (4) of section 458.319,
26 Florida Statutes, is amended to read:

27 458.319 Renewal of license.--

28 (4) Notwithstanding the provisions of s. 456.033, a
29 physician may complete continuing education on end-of-life
30 care and palliative ~~health~~ care in lieu of continuing
31 education in AIDS/HIV, if that physician has completed the

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1 AIDS/HIV continuing education in the immediately preceding
2 biennium.

3 Section 128. Subsection (5) of section 459.008,
4 Florida Statutes, is amended to read:

5 459.008 Renewal of licenses and certificates.--

6 (5) Notwithstanding the provisions of s. 456.033, an
7 osteopathic physician may complete continuing education on
8 end-of-life and palliative ~~health~~ care in lieu of continuing
9 education in AIDS/HIV, if that physician has completed the
10 AIDS/HIV continuing education in the immediately preceding
11 biennium.

12 Section 129. Subsection (4) of section 765.101,
13 Florida Statutes, is amended to read:

14 765.101 Definitions.--As used in this chapter:

15 (4) "End-stage condition" means an irreversible ~~a~~
16 condition that is caused by injury, disease, or illness which
17 has resulted in progressively severe and permanent
18 deterioration, ~~indicated by incapacity and complete physical~~
19 ~~dependency~~ and for which, to a reasonable degree of medical
20 probability ~~certainty~~, treatment of the ~~irreversible~~ condition
21 would be ~~medically~~ ineffective.

22 Section 130. Subsection (4) of section 765.102,
23 Florida Statutes, is amended to read:

24 765.102 Legislative findings and intent.--

25 (4) The Legislature recognizes the need for all health
26 care professionals to rapidly increase their understanding of
27 end-of-life and palliative ~~health~~ care. Therefore, the
28 Legislature encourages the professional regulatory boards to
29 adopt appropriate standards and guidelines regarding
30 end-of-life care and pain management and encourages
31 educational institutions established to train health care

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1 professionals and allied health professionals to implement
2 curricula to train such professionals to provide end-of-life
3 care, including pain management and palliative care.

4 Section 131. Section 765.1025, Florida Statutes, is
5 created to read:

6 765.1025 Palliative care.--For purposes of this
7 chapter:

8 (1) Palliative care is the comprehensive management of
9 the physical, psychological, social, spiritual, and
10 existential needs of patients. Palliative care is especially
11 suited to the care of persons who have incurable, progressive
12 illness.

13 (2) Palliative care must include:

14 (a) An opportunity to discuss and plan for end-of-life
15 care.

16 (b) Assurance that physical and mental suffering will
17 be carefully attended to.

18 (c) Assurance that preferences for withholding and
19 withdrawing life-sustaining interventions will be honored.

20 (d) Assurance that the personal goals of the dying
21 person will be addressed.

22 (e) Assurance that the dignity of the dying person
23 will be a priority.

24 (f) Assurance that health care providers will not
25 abandon the dying person.

26 (g) Assurance that the burden to family and others
27 will be addressed.

28 (h) Assurance that advance directives for care will be
29 respected regardless of the location of care.

30 (i) Assurance that organizational mechanisms are in
31 place to evaluate the availability and quality of end-of-life,

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1 palliative, and hospice care services, including the
2 evaluation of administrative and regulatory barriers.

3 (j) Assurance that necessary health care services will
4 be provided and that relevant reimbursement policies are
5 available.

6 (k) Assurance that the goals expressed in paragraphs
7 (a)-(j) will be accomplished in a culturally appropriate
8 manner.

9 Section 132. Subsection (2) of section 765.1103,
10 Florida Statutes, is amended to read:

11 765.1103 Pain management and palliative care.--

12 (2) Health care providers and practitioners regulated
13 under chapter 458, chapter 459, or chapter 464 must, as
14 appropriate, comply with a request for pain management or
15 palliative care from a patient under their care or, for an
16 incapacitated patient under their care, from a surrogate,
17 proxy, guardian, or other representative permitted to make
18 health care decisions for the incapacitated patient.

19 Facilities regulated under chapter 400 or chapter 395 must
20 comply with the pain management or palliative care measures
21 ordered by the patient's physician.~~When the patient is~~
22 ~~receiving care as an admitted patient of a facility or a~~
23 ~~provider or is a subscriber of a health care facility, health~~
24 ~~care provider, or health care practitioner regulated under~~
25 ~~chapter 395, chapter 400, chapter 458, chapter 459, chapter~~
26 ~~464, or chapter 641, such facility, provider, or practitioner~~
27 ~~must, when appropriate, comply with a request for pain~~
28 ~~management or palliative care from a capacitated patient or an~~
29 ~~incapacitated patient's health care surrogate or proxy,~~
30 ~~court-appointed guardian as provided in chapter 744, or~~
31 ~~attorney in fact as provided in chapter 709. The~~

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1 ~~court-appointed guardian or attorney in fact must have been~~
2 ~~delegated authority to make health care decisions on behalf of~~
3 ~~the patient.~~

4 Section 133. Paragraph (b) of subsection (1) of
5 section 765.205, Florida Statutes, is amended to read:

6 765.205 Responsibility of the surrogate.--

7 (1) The surrogate, in accordance with the principal's
8 instructions, unless such authority has been expressly limited
9 by the principal, shall:

10 (b) Consult expeditiously with appropriate health care
11 providers to provide informed consent, and make only health
12 care decisions for the principal which he or she believes the
13 principal would have made under the circumstances if the
14 principal were capable of making such decisions. If there is
15 no indication of what the principal would have chosen, the
16 surrogate may consider the patient's best interest in deciding
17 that proposed treatments are to be withheld or that treatments
18 currently in effect are to be withdrawn.

19 Section 134. Subsections (2) and (3) of section
20 765.401, Florida Statutes, are amended to read:

21 765.401 The proxy.--

22 (2) Any health care decision made under this part must
23 be based on the proxy's informed consent and on the decision
24 the proxy reasonably believes the patient would have made
25 under the circumstances. If there is no indication of what the
26 patient would have chosen, the proxy may consider the
27 patient's best interest in deciding that proposed treatments
28 are to be withheld or that treatments currently in effect are
29 to be withdrawn.

30 (3) Before exercising the incapacitated patient's
31 rights to select or decline health care, the proxy must comply

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1 with the provisions of ss. 765.205 and 765.305, except that a
2 proxy's decision to withhold or withdraw life-prolonging
3 procedures must be supported by clear and convincing evidence
4 that the decision would have been the one the patient would
5 have chosen had the patient been competent or, if there is no
6 indication of what the patient would have chosen, that the
7 decision is in the patient's best interest.

8 Section 135. The Legislature finds that the area of
9 specialty training is of great importance to the citizens of
10 this state and that specialty training and certification
11 creates a higher level of proficiency for the practitioner and
12 improves the delivery of health care to Floridians. Because
13 much confusion exists among the patient population and
14 practitioners as to the requirements for board certification,
15 the Legislature directs the Department of Health to conduct a
16 study of the area of specialty certification relating to the
17 Board of Medicine, the Board of Osteopathic Medicine, and the
18 Board of Dentistry. The study should review current statutes
19 and rules to determine if any barriers exist in board
20 recognition of certifying organizations and if restrictions
21 placed on a licensee's speech both target an identifiable harm
22 and mitigate against such harm in a direct and effective
23 manner. A final report shall be provided no later than January
24 1, 2002, to the President of the Senate and the Speaker of the
25 House of Representatives for distribution to the chairs of the
26 health-care-related committees.

27 Section 136. Paragraph (d) of subsection (2) of
28 section 499.012, Florida Statutes, is amended to read:

29 499.012 Wholesale distribution; definitions; permits;
30 general requirements.--

31 (2) The following types of wholesaler permits are

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1 established:

2 (d) A retail pharmacy wholesaler's permit. A retail
3 pharmacy wholesaler is a retail pharmacy engaged in wholesale
4 distribution of prescription drugs within this state under the
5 following conditions:

6 1. The pharmacy must obtain a retail pharmacy
7 wholesaler's permit pursuant to ss. 499.001-499.081 and the
8 rules adopted under those sections.

9 2. The wholesale distribution activity does not exceed
10 30 percent of the total annual purchases of prescription
11 drugs. If the wholesale distribution activity exceeds the
12 30-percent maximum, the pharmacy must obtain a prescription
13 drug wholesaler's permit.

14 3. The transfer of prescription drugs that appear in
15 any schedule contained in chapter 893 is subject to chapter
16 893 and the federal Comprehensive Drug Abuse Prevention and
17 Control Act of 1970.

18 4. The transfer is between a retail pharmacy and
19 another retail pharmacy, a Modified Class II institutional
20 pharmacy, or a health care practitioner licensed in this state
21 and authorized by law to dispense or prescribe prescription
22 drugs.

23 5. All records of sales of prescription drugs subject
24 to this section must be maintained separate and distinct from
25 other records and comply with the recordkeeping requirements
26 of ss. 499.001-499.081.

27 Section 137. The Legislature finds that personal
28 identifying information, name, age, diagnosis, address, bank
29 account numbers, and debit and credit card numbers contained
30 in the records relating to an individual's personal health or
31 eligibility for health-related services made or received by

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1 the individual's physician and public or private health
2 facility should be held confidential. Furthermore, the
3 Legislature finds that every person has an expectation of and
4 a right to privacy in all matters concerning her or his
5 personal health when medical services are provided. Matters of
6 personal health are traditionally private and confidential
7 concerns between the patient and the health care provider. The
8 private and confidential nature of personal health matters
9 pervades both the public and private sectors. For these
10 reasons, it is the express intent of the Legislature to
11 protect confidential information and the individual's
12 expectations of the right to privacy in all matters regarding
13 her or his personal health and not to have such information
14 exploited for purposes of solicitation or marketing the sale
15 of goods and services.

16 Section 138. Subsection (5) of section 456.057,
17 Florida Statutes, is amended to read:

18 456.057 Ownership and control of patient records;
19 report or copies of records to be furnished.--

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

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

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1 ~~2.(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 ~~3.(c)~~ In any civil or criminal action, unless
6 otherwise prohibited by law, upon the issuance of a subpoena
7 from a court of competent jurisdiction and proper notice to
8 the patient or the patient's legal representative by the party
9 seeking such records.

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

15 (b) Absent a specific written release or authorization
16 permitting utilization of patient information for solicitation
17 or marketing the sale of goods or services, any use of that
18 information for those purposes is prohibited.

19 Section 139. Subsection (7) of section 395.3025,
20 Florida Statutes is amended to read:

21 395.3025 Patient and personnel records; copies;
22 examination.--

23 (7)(a) If the content of any record of patient
24 treatment is provided under this section, the recipient, if
25 other than the patient or the patient's representative, may
26 use such information only for the purpose provided and may not
27 further disclose any information to any other person or
28 entity, unless expressly permitted by the written consent of
29 the patient. A general authorization for the release of
30 medical information is not sufficient for this purpose. The
31 content of such patient treatment record is confidential and

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1 exempt from the provisions of s. 119.07(1) and s. 24(a), Art.
2 I of the State Constitution.

3 (b) Absent a specific written release or authorization
4 permitting utilization of patient information for solicitation
5 or marketing the sale of goods or services, any use of that
6 information for those purposes is prohibited.

7 Section 140. Subsection (1) of section 400.1415,
8 Florida Statutes, is amended to read:

9 400.1415 Patient records; penalties for alteration.--

10 (1) Any person who fraudulently alters, defaces, or
11 falsifies any medical record or releases medical records for
12 the purposes of solicitation or marketing the sale of goods or
13 services absent a specific written release or authorization
14 permitting utilization of patient information, or other
15 nursing home record, or causes or procures any of these
16 offenses to be committed, commits a misdemeanor of the second
17 degree, punishable as provided in s. 775.082 or s. 775.083.

18 Section 141. Section 626.9651, Florida Statutes, is
19 created to read:

20 626.9651 Privacy.--The department shall adopt rules
21 consistent with other provisions of the Florida Insurance Code
22 to govern the use of a consumer's nonpublic personal financial
23 and health information. These rules must be based on,
24 consistent with, and not more restrictive than the Privacy of
25 Consumer Financial and Health Information Regulation, adopted
26 September 26, 2000, by the National Association of Insurance
27 Commissioners; however, the rules must permit the use and
28 disclosure of nonpublic personal health information for
29 scientific, medical, or public policy research, in accordance
30 with federal law. In addition, these rules must be consistent
31 with, and not more restrictive than, the standards contained

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1 in Title V of the Gramm-Leach-Bliley Act of 1999, Pub. L. No.
2 106-102. If the department determines that a health insurer or
3 health maintenance organization is in compliance with, or is
4 actively undertaking compliance with, the consumer privacy
5 protection rules adopted by the United States Department of
6 Health and Human Services, in conformance with the Health
7 Insurance Portability and Affordability Act, that health
8 insurer or health maintenance organization is in compliance
9 with this section.

10 Section 142. Effective upon becoming law, subsections
11 (14), (15), and (16) are added to section 400.141, Florida
12 Statutes, to read:

13 400.141 Administration and management of nursing home
14 facilities.--Every licensed facility shall comply with all
15 applicable standards and rules of the agency and shall:

16 (14) Before November 30 of each year, subject to the
17 availability of an adequate supply of the necessary vaccine,
18 provide for immunizations against influenza viruses to all its
19 consenting residents in accordance with the recommendations of
20 the U.S. Centers for Disease Control and Prevention, subject
21 to exemptions for medical contraindications and religious or
22 personal beliefs. Subject to these exemptions, any consenting
23 person who becomes a resident of the facility after November
24 30 but before March 31 of the following year must be immunized
25 within 5 working days after becoming a resident. Immunization
26 shall not be provided to any resident who provides
27 documentation that he or she has been immunized as required by
28 this subsection. This subsection does not prohibit a resident
29 from receiving the immunization from his or her personal
30 physician if he or she so chooses. A resident who chooses to
31 receive the immunization from his or her personal physician

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1 shall provide proof of immunization to the facility. The
2 agency may adopt and enforce any rules necessary to comply
3 with or implement this subsection.

4 (15) Assess all residents for eligibility for
5 pneumococcal polysaccharide vaccination (PPV) and vaccinate
6 residents when indicated within 60 days after the effective
7 date of this act in accordance with the recommendations of the
8 U.S. Centers for Disease Control and Prevention, subject to
9 exemptions for medical contraindications and religious or
10 personal beliefs. Residents admitted after the effective date
11 of this act shall be assessed within 5 working days of
12 admission and, when indicated, vaccinated within 60 days in
13 accordance with the recommendations of the United States
14 Centers for Disease Control and Prevention, subject to
15 exemptions for medical contradictions and religious or
16 personal beliefs. Immunization shall not be provided to any
17 resident who provides documentation that he or she has been
18 immunized as required by this subsection. This subsection does
19 not prohibit a resident from receiving the immunization from
20 his or her personal physician if he or she so chooses. A
21 resident who chooses to receive the immunization from his or
22 her personal physician shall provide proof of immunization to
23 the facility. The agency may adopt and enforce any rules
24 necessary to comply with or implement this subsection.

25 (16) Annually encourage and promote to its employees
26 the benefits associated with immunizations against influenza
27 viruses in accordance with the recommendations of the U.S.
28 Centers for Disease Control and Prevention. The agency may
29 adopt and enforce any rules necessary to comply with or
30 implement this subsection.

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1 Facilities that have been awarded a Gold Seal under the
2 program established in s. 400.235 may develop a plan to
3 provide certified nursing assistant training as prescribed by
4 federal regulations and state rules and may apply to the
5 agency for approval of its program.

6 Section 143. There is established the Office of
7 Community Partners within the Department of Health for the
8 purpose of receiving, coordinating, and dispensing federal
9 funds set aside to expand the delivery of social services
10 through eligible private community organizations and programs.
11 The office shall provide policy direction and promote civic
12 initiatives which seek to preserve and strengthen families and
13 communities. The Department of Health, the Department of
14 Children and Family Services, the Department of Juvenile
15 Justice, and the Department of Corrections may request
16 transfer of general revenue funds between agencies, as
17 approved by the Legislative Budget Commission, as necessary to
18 match federal funds received by the Office of Community
19 Partners for these initiatives.

20 Section 144. Except as otherwise provided herein, this
21 act shall take effect July 1, 2001.

22
23

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

25 And the title is amended as follows:

26 On page 1, line 2, through page 3, line 23, delete all
27 of said lines

28

29 and insert:

30 An act relating to health care; providing
31 legislative intent and findings with respect to

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1 the Medical Quality Assurance Trust Fund and
2 function administered by the Department of
3 Health; requiring the Auditor General to do a
4 followup Medical Quality Assurance audit and
5 issue a report to the Legislature; requiring
6 the Department of Health to reimburse the
7 Agency for Health Care Administration for
8 certain costs; requiring the Office of Program
9 Policy Analysis and Government Accountability
10 to study the feasibility of maintaining the
11 Medical Quality Assurance function within a
12 single department and issue a report to the
13 Legislature; amending s. 456.004, F.S.;
14 providing requirements for rules relating to
15 biennial renewal of licenses; amending s.
16 456.025, F.S.; revising requirements relating
17 to the setting and use of fees for the
18 regulation of health care professions and
19 practitioners, including continuing education
20 fees; providing for an electronic continuing
21 education tracking system; repealing s.
22 458.31151, F.S.; repealing obsolete provisions;
23 amending s. 457.107, F.S.; for clarification of
24 acupuncture fees; amending s. 483.807, F.S.;
25 relating to clinical laboratory personnel fees;
26 amending s. 456.011, F.S.; requiring board
27 meetings to be conducted through
28 teleconferencing or other technological means
29 except under certain circumstances; amending s.
30 456.013, F.S.; requiring the department to
31 charge initial license fees; amending s.

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1 456.017, F.S.; providing for administration of
2 national examinations and termination of
3 state-administered written examinations;
4 providing for administration of
5 state-administered practical or clinical
6 examinations if paid for in advance by the
7 examination candidates; providing legislative
8 intent with respect to the use of national
9 examinations; providing for electronic access
10 to and posting of examination scores under
11 certain conditions; providing for the sharing
12 of examinations or examination item banks with
13 certain entities; clarifying circumstances
14 under which candidates may bring a challenge;
15 providing for electronic administration of
16 certain laws and rules examinations; amending
17 s. 456.035, F.S.; providing for electronic
18 notification of a licensee's current mailing
19 address and place of practice; amending s.
20 456.073, F.S.; authorizing a letter of guidance
21 in lieu of a finding of probable cause under
22 certain conditions; amending s. 456.081, F.S.;
23 providing for the posting of newsletters on the
24 department's website; amending s. 456.072,
25 F.S.; revising and providing grounds for
26 discipline of licensees; revising and providing
27 disciplinary actions; amending s. 456.079,
28 F.S.; requiring mitigating or aggravating
29 circumstances to be in the final order to be
30 considered in the imposition of penalties;
31 amending ss. 457.109, 458.320, 458.331,

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1 458.345, 458.347, 459.0085, 459.015, 459.022,
2 460.413, 461.013, 462.14, 463.016, 464.018,
3 465.008, 465.016, 466.028, 466.037, 467.203,
4 468.1295, 468.1755, 468.217, 468.365, 468.518,
5 468.719, 468.811, 478.52, 480.046, 483.825,
6 483.901, 484.014, 484.056, 486.125, 490.009,
7 and 491.009, F.S.; revising and conforming
8 provisions relating to disciplinary grounds and
9 penalties; amending s. 458.315, F.S.; providing
10 that a physician practicing under a temporary
11 certificate is immune from civil liability if
12 acting in good faith as a reasonably prudent
13 person and if the injury or damage is not
14 caused by willful misconduct; providing
15 requirements for the Board of Medicine in
16 issuing temporary certificates; amending s.
17 456.065, F.S.; requiring the unlicensed
18 activity fee to be in addition to all other
19 fees collected from each licensee; amending ss.
20 458.347 and 459.022, F.S.; allowing authorized
21 physician assistants to prescribe any
22 medication not listed on a formulary
23 established by the Council on Physician
24 Assistants; allowing authorized physician
25 assistants to dispense drug samples pursuant to
26 proper prescription; eliminating the formulary
27 committee and revising provisions relating to
28 creation and amendment of the formulary, to
29 conform; amending s. 456.003, F.S.; providing a
30 limitation on the duties of certain boards;
31 providing for the Agency for Health Care

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1 Administration to create the Organ Transplant
2 Task Force to study organ transplantation
3 programs; requiring the task force to study and
4 make recommendations on the necessity of the
5 issuance of certificates of need for such
6 programs and funding for organ transplantation;
7 providing a date for the task force to report
8 to the Governor and the Legislature; amending
9 s. 409.9205, F.S.; transferring positions in
10 the Medicaid Fraud Control Unit of the
11 Department of Legal Affairs to Career Services;
12 amending s. 483.245, F.S.; prohibiting rebate
13 or split-fee arrangements with dialysis
14 facilities for patient referrals to clinical
15 laboratories; providing penalties; amending s.
16 232.435, F.S.; providing training requirements
17 for a first responder and teacher athletic
18 trainer; amending s. 383.14, F.S.; amending
19 screening requirements for postnatal screening;
20 amending s. 395.0197, F.S.; revising provisions
21 relating to hospital and ambulatory surgical
22 center internal risk management programs;
23 modifying requirements for risk management and
24 prevention education and training; restricting
25 participation of unlicensed persons in surgical
26 procedures; requiring ongoing evaluation of
27 surgical procedures and protocols; eliminating
28 an annual report summarizing facility incident
29 reports and disciplinary actions; requiring the
30 Agency for Health Care Administration to
31 publish website summaries of adverse incident

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1 reports; requiring facility reporting of
2 allegations of sexual misconduct by health care
3 practitioners; providing certain civil
4 liability for licensed risk managers;
5 prohibiting intimidation of a risk manager;
6 providing a penalty; amending s. 395.10972,
7 F.S.; increasing membership on the Health Care
8 Risk Management Advisory Council; amending s.
9 395.701, F.S.; limiting the financial
10 information the agency may require to determine
11 the amount of hospital annual assessments;
12 amending s. 409.905, F.S.; providing that the
13 Agency for Health Care Administration may
14 restrict the provision of mandatory services by
15 mobile providers; amending s. 409.906, F.S.;
16 providing that the agency may restrict or
17 prohibit the provision of services by mobile
18 providers; providing that Medicaid will not
19 provide reimbursement for dental services
20 provided in mobile dental units, except for
21 certain units; amending s. 456.013, F.S.;
22 providing a professional continuing education
23 requirement relating to prevention of medical
24 errors; amending s. 456.057, F.S.; providing
25 for appointment of a records custodian under
26 certain circumstances; amending s. 456.063,
27 F.S.; requiring licensed health care
28 practitioners to report to the Department of
29 Health any allegations of sexual misconduct;
30 amending s. 456.072, F.S.; providing additional
31 grounds for disciplinary actions; clarifying a

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1 penalty involving restriction of professional
2 practice or license; providing additional
3 penalties; requiring assessment of costs
4 related to investigation and prosecution;
5 amending s. 456.073, F.S.; requiring the
6 Department of Health to notify the patient or
7 legal representative of the status of a
8 disciplinary case; requiring the department to
9 provide certain information to the complainant;
10 providing time limitations on the filing of
11 administrative complaints against licensees of
12 the department; amending s. 456.074, F.S.;
13 providing for an emergency order suspending the
14 license of a practitioner for fraud; amending
15 s. 456.077, F.S.; specifying violations for
16 which the Department of Health or a regulatory
17 board may issue citations; amending s. 456.081,
18 F.S.; requiring the Department of Health and
19 regulatory boards to maintain a website
20 containing specified information; creating s.
21 458.3147, F.S.; providing automatic admission
22 to any medical school in the State University
23 System for military academy students or
24 graduates who qualify for the Medical Corps of
25 the United States military; amending ss.
26 458.331 and 459.015, F.S.; conforming language
27 and cross references to changes made by the
28 act; amending s. 641.51, F.S.; revising adverse
29 determination provisions; amending ss. 465.019
30 and 465.0196, F.S.; requiring institutional
31 pharmacies and special pharmacy permittees that

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1 use pharmacy technicians to have a written
2 policy and procedures manual; directing the
3 Department of Health and the Agency for Health
4 Care Administration to review health care
5 practitioner and facility reporting
6 requirements; requiring a report to the
7 Legislature; amending s. 468.1755, F.S.;
8 providing an additional ground for disciplinary
9 action against a nursing home administrator;
10 reenacting ss. 468.1695(3) and 468.1735, F.S.,
11 to incorporate said amendment in references;
12 reenacting s. 484.056(1)(a), F.S., relating to
13 disciplinary action against hearing aid
14 specialists, to incorporate the amendment to s.
15 456.072(1), in a reference; amending s.
16 766.101, F.S.; providing that a continuous
17 quality improvement committee of a licensed
18 pharmacy is a medical review committee for
19 purposes of immunity from liability, and
20 reenacting ss. 440.105(1)(a) and 626.989(6),
21 F.S., to incorporate said amendment in
22 references; amending s. 766.1115, F.S.;
23 conforming provisions and cross-references to
24 changes made by the act; amending s. 456.047,
25 F.S.; providing intent; revising and providing
26 definitions; revising duties of the Department
27 of Health relating to file maintenance;
28 providing that primary source data verified by
29 the department or its designee may be relied
30 upon to meet accreditation purposes; amending
31 s. 232.61, F.S.; requiring the Florida High

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1 School Activities Association to adopt bylaws
2 which require students participating in
3 interscholastic athletic competition or who are
4 candidates for an interscholastic athletic team
5 to satisfactorily pass a medical evaluation
6 prior to participating in interscholastic
7 athletic competition or engaging in practice
8 with an interscholastic athletic team;
9 providing requirements with respect to such
10 evaluation; amending s. 240.4075, F.S.;
11 transferring the Nursing Student Loan
12 Forgiveness Program from the Department of
13 Education to the Department of Health;
14 including public schools, family practice
15 teaching hospitals, and specialty hospitals for
16 children as eligible facilities under the
17 program; exempting such facilities from the
18 fund-matching requirements of the program;
19 amending s. 240.4076, F.S.; transferring the
20 nursing scholarship program from the Department
21 of Education to the Department of Health;
22 providing requirements under the program for
23 students seeking to qualify for a nursing
24 faculty position and receive credit for work in
25 such a position; including nursing homes,
26 hospitals, public schools, colleges of nursing,
27 and community college nursing programs as
28 eligible facilities under the program;
29 transferring powers, duties, functions, rules,
30 records, personnel, property, and
31 appropriations and other funds relating to the

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1 Nursing Student Loan Forgiveness Program and
2 the nursing scholarship program from the
3 Department of Education to the Department of
4 Health; amending s. 464.005, F.S.; providing
5 for future relocation of the headquarters of
6 the Board of Nursing; amending s. 464.008,
7 F.S.; revising education requirements for
8 licensure by examination; amending s. 464.009,
9 F.S.; revising requirements for licensure by
10 endorsement; requiring submission of
11 fingerprints for a criminal history check and a
12 fee to cover the costs of such check; providing
13 for an electronic applicant notification
14 process; creating s. 464.0195, F.S.; creating
15 the Florida Center for Nursing and providing
16 its goals; creating s. 464.0196, F.S.;
17 providing for a board of directors; providing
18 for appointment of board members; providing for
19 staggered terms; providing powers and duties;
20 authorizing per diem and travel expenses;
21 creating s. 464.0197, F.S.; declaring state
22 budget support for the center; prohibiting the
23 Board of Nursing from developing any rule
24 relating to faculty/student clinical ratios
25 until a specified time; requiring the Board of
26 Nursing and the Department of Education to
27 submit to the Legislature an implementation
28 plan detailing the impact and cost of any such
29 proposed rule change; amending s. 464.0205,
30 F.S.; deleting the application and processing
31 fee for applicants for a retired volunteer

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1 nurse certificate; requiring study by Office of
2 Program Policy Analysis and Government
3 Accountability of the feasibility of
4 maintaining all of Medical Quality Assurance in
5 one state agency; creating s. 456.0375, F.S.;
6 requiring registration of certain clinics;
7 providing requirements, including fees;
8 providing rulemaking authority; requiring
9 medical directors or clinic directors for such
10 clinics and providing their duties and
11 responsibilities; providing an appropriation;
12 amending s. 456.031, F.S.; providing an
13 alternative by which licensees under ch. 466,
14 F.S., relating to dentistry, may comply with a
15 general requirement that they take
16 domestic-violence education courses; amending
17 s. 456.033, F.S.; providing an alternative by
18 which such licensees may comply with a general
19 requirement that they take AIDS/HIV education
20 courses; amending s. 627.419, F.S.; providing
21 for appeals from certain adverse determinations
22 relating to dental service claims; providing
23 applicability; amending s. 468.302, F.S.;

24 revising a provision relating to exemption from
25 certification to use radiation on human beings;
26 amending ss. 468.352, 468.355, 468.357,
27 468.358, and 468.359, F.S.; revising
28 definitions and provisions relating to
29 licensure and use of titles and abbreviations
30 to correct and conform terminology with respect
31 to respiratory therapists and respiratory care

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1 practitioners; amending ss. 468.1155 and
2 468.1215, F.S.; revising requirements for
3 licensure to practice speech-language pathology
4 or audiology and for certification of
5 speech-language pathology or audiology
6 assistants; amending s. 480.033, F.S.;
7 correcting terminology in the definition of
8 "massage"; amending s. 484.002, F.S.; amending
9 and creating definitions; amending ss. 484.002,
10 484.006, 484.012, F.S.; replacing references to
11 the term "medical doctor" with the term
12 "allopathic or osteopathic physician"; amending
13 s. 484.015, F.S.; revising inspection
14 authority; amending s. 484.0445, F.S.; removing
15 certain provisions relating to the training
16 program for hearing aid specialists; amending
17 s. 484.045, F.S.; revising requirements for
18 licensure as a hearing aid specialist by
19 examination; amending s. 490.012, F.S.;
20 prohibiting the use of certain titles or
21 descriptions relating to the practice of
22 psychology or school psychology unless properly
23 licensed; providing penalties; amending s.
24 490.014, F.S.; revising exemptions from
25 regulation under ch. 490, F.S., relating to
26 psychology; correcting a cross-reference;
27 amending s. 491.012, F.S.; revising
28 prohibitions against unlicensed practice of
29 clinical social work, marriage and family
30 therapy, and mental health counseling to
31 provide that practice by registered interns is

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1 lawful; amending s. 491.014, F.S.; revising
2 exemptions from licensure under ch. 491, F.S.,
3 relating to clinical, counseling, and
4 psychotherapy services, to prohibit the use by
5 certain employees of titles, names, or
6 descriptions protected by the chapter; amending
7 ss. 458.319, 459.008, and 765.102, F.S.;
8 conforming terminology relating to palliative
9 care; amending s. 765.101, F.S.; redefining the
10 term "end-stage condition" with respect to
11 health care advance directives; creating s.
12 765.1025, F.S.; prescribing the content and
13 suitability of palliative care; amending s.
14 765.1103, F.S.; revising provisions relating to
15 compliance with requests for pain management
16 and palliative care; amending s. 765.205, F.S.;
17 prescribing the standards of decisionmaking to
18 be used in certain circumstances by health care
19 surrogates, persons who have durable powers of
20 attorney for health care, and proxy
21 decisionmakers; amending s. 765.401, F.S.;
22 prescribing the standards of decisionmaking to
23 be used in certain circumstances by proxy
24 decisionmakers; requiring the Department of
25 Health to conduct an interim study on specialty
26 certification and provide a report to the
27 Legislature; amending s. 499.012, F.S.;
28 authorizing transfer of prescription drugs
29 between a retail pharmacy and a Modified Class
30 II institutional pharmacy under a retail
31 pharmacy wholesaler's permit; providing

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1 legislative intent; amending ss. 395.3025,
2 400.1415, and 456.057, F.S.; prohibiting the
3 use of a patient's medical records for purposes
4 of solicitation and marketing absent a specific
5 written release or authorization; providing
6 penalties; creating s. 626.9651, F.S.;
7 requiring the Department of Insurance to adopt
8 rules governing the use of a consumer's
9 nonpublic personal financial and health
10 information; providing standards for the rules;
11 amending s. 400.141, F.S.; prescribing duties
12 of nursing homes with respect to influenza and
13 pneumococcal polysaccharide vaccinations;
14 providing rulemaking authority; establishing
15 the Office of Community Partners within the
16 Department of Health to provide for delivery of
17 social services through eligible private
18 organizations and programs; providing procedure
19 for transfer of general revenue funds to match
20 federal funds received by the office; providing
21 effective dates.

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